

TOWN OF HOLLISTON  
GENERAL BY-LAWS  
May 2022

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## **ARTICLE I TOWN MEETINGS**

**#1. DATE AND TIME OF ANNUAL MEETING.** The Town will hold two regularly scheduled Annual Town Meetings. The first such meeting, which shall be deemed to be the Spring Annual Town Meeting shall be held on the second Monday of May and shall continue on the evenings of successive business days until all the Articles in the warrant have been addressed. The Spring Town Meeting shall be primarily concerned with the determination of matters involving the expenditure of town funds, including, but not limited to, the adoption of an annual operating budget for all town agencies, the capital improvement program and for the purpose of electing officers and for the determination of all other matters to be decided by ballot of the voters. The second such meeting, the Fall Annual Town Meeting shall be held on the third Monday in October, and shall continue on the evenings of successive business days until the warrant has been dissolved

*Approved 5/5/1998, Amended: 5/9/2005, 5/10/2011, 5/10/2016, 5/10/2021*

**#2. WARRANT OF ANNUAL MEETING.** The warrant for the Annual Meeting shall state the time and place of holding the meeting and the subjects to be acted upon. No action shall be valid and no motion shall be entertained unless the subject matter thereof is contained in the warrant. The Select Board may insert in the warrant for the Annual Meeting any subject the Select Board may deem appropriate and shall insert in the warrant all subjects, requested of it in writing by ten (10) or more registered voters of the Town.

*Amended 5/10/2021*

**#3. NOTICE OF ANNUAL MEETING.** The Select Board shall give notice of the Annual Town Meeting by:

- a. announcing publicly and posting notice of the date of the first session in a conspicuous place or places on or within the Town Hall and on the Town's website four months before the meeting is to be held; and
- b. sending a copy of the warrant to the Moderator and the Chairperson of the Finance Committee forthwith after the completion of the warrant by the Select Board; and
- c. posting an attested copy of the warrant on the Town's website and in a conspicuous place or places on or within the Town Hall at least seven (7) days before the date of the meeting; and
- d. distributing printed copies of the warrant and the Finance Committee's recommendations to voters at the Senior Center, the Town Hall and the Public Library; and posting the warrant and Finance Committee's recommendations to voters on the Town's web site in a form capable of being copied; both at least seven (7) days prior to the date of the meeting.

*Amended May 5, 2008, May 9, 2017, May 10, 2021*

**#4. CALLING OF SPECIAL MEETINGS.** The Select Board may call Special Town Meetings at such times as it may deem necessary in accordance with the General Laws. In addition, the Select Board shall call a Special Town Meeting upon the request in writing of two hundred (200) registered voters or twenty (20%) percent of the total number of registered voters of the Town, whichever number is the lesser. Such meeting shall be held not later than forty-five (45) days after the receipt of such request.

**#5. WARRANT OF SPECIAL MEETINGS.** The warrant for a Special Meeting shall state the time and place of holding the meeting and the subjects to be acted upon. No action shall be valid and no motion shall be entertained unless the subject matter thereof is contained in the warrant. The Select Board may insert in the warrant for a Special Town Meeting any subject it deems appropriate and shall insert all legal articles requested of it by petition in writing from one hundred (100) registered voters of the Town or by ten (10%) percent of the total registered voters of the Town, whichever number is the lesser. Once the warrant for a Special Town Meeting is opened by the Select Board, the warrant shall remain open for at least forty-eight (48) hours. No article proposing to amend, alter or in any way change the General By-laws or Zoning By-laws will be included in any warrant for a Special Town Meeting unless the requirements of Section 10 of Chapter 39 of the General By-laws have been met or unless the Select Board initiate such proposal.

*Amended: 5/4/1987, 5/10/2021*

**#6. NOTICE OF SPECIAL MEETING.** The Select Board shall give notice of all Special Town Meetings at least fourteen (14) days before the date of the meeting by:

- a. sending a copy of the warrant to the Moderator and to the Chairperson of the Finance Committee forthwith after the completion of the warrant by the Select Board; and
- b. posting notice of the meeting on the Town's website including a summary of each article in the warrant in numerical order; and
- c. posting notice of the meeting and an attested copy of the warrant in a conspicuous place or places on or within the Town Hall and, at the discretion of the Select Board, other public places in the Town; and
- d. distributing printed copies of the warrant and the Finance Committee's recommendations to voters at the Senior Center, the Town Hall and the Public Library; and posting the warrant and Finance Committee's recommendations to voters on the Town's web site in a form capable of being copied; both at least seven (7) days prior to the date of the meeting.

*Amended 5/ 5/2008, 5/10/2021*

**#7. DISTRIBUTION OF WARRANT AT SPECIAL MEETINGS.** The Select Board shall make available at each session of any Special Town Meeting, copies of the warrant for distribution at the Meeting. In lieu of including on such copies a complete description of all parcels of land mentioned in the warrant, the Select Board may substitute a brief description of any such parcel.

**#8. RECORDING OF MINUTES.** In addition to the taking of minutes, all sessions of the Annual and Special Town Meetings shall be recorded by tape or other similar means and such recordings shall be kept in the custody of the Town Clerk for a period of no less than ten (10) years.

**#9. QUORUMS.** At all Town Meetings one hundred (100) registered voters of the Town shall be necessary to constitute a quorum for the transaction of Town business; but a lesser number may from time to time adjourn any such Meeting. Notwithstanding the above, whenever an article at a Special Town Meeting involves only the transfer of funds within Town accounts, forty (40) registered voters of the Town shall be necessary to constitute a quorum for the transaction of such article or to

postpone an article requiring a quorum of one hundred (100) to a time certain. For the purposes of this Section "free cash" shall not be considered a Town account.

**#10. ORDER OF ARTICLES.** All articles in the warrant shall be taken up in the order of their arrangement unless otherwise decided by a two-thirds (2/3) vote of the voters present and voting.

**#11. LENGTH OF SPEECHES.** Except in the discretion of the Moderator, no person shall speak more than two times or more than a total of fifteen (15) minutes upon any question without obtaining leave of the Meeting unless to correct an error or answer a question.

**#12. MOTIONS.** Any action taken by a Town Meeting shall be by vote upon a motion. All motions, if required by the Moderator, shall be reduced to writing before being submitted to the Meeting. Any motions included in the Finance Committee Report on the warrant shall be considered as motions presented to the Meeting, but any registered voter may present a different motion on a question and this motion shall take precedence over any prepared motion in the Finance Committee Report.

**#13. RULES FOR MOTIONS OR POINTS.** For the purposes of establishing rules for the most common motions or points, the following schedule shall be controlling:

Rank of Motion in Order of Precedence	Motions or Points	Second Required	Debatable	Amendable	Vote Required	May Reconsider	May Interrupt Debate to make a motion
1	Adjourn to a fixed time or recess	Yes	Yes	Yes	Majority	No	No
2	Point of no quorum	No	No	No	None	No	Yes
3	Fix time and date to which to adjourn	Yes	Yes	Yes	Majority	Yes	No
4	Point of personal privilege	No	No	No	None	No	Yes
5	Reconsideration (see S. 15)	Yes	Yes	No	Majority	No	Yes
6	Lay on the table	Yes	Yes	No	Majority	Yes	No
7	Move the question (see S. 14)	Yes	No	No	Majority	No	No
8	Extend the speaker's time (see S. 11)	Yes	No	No	2/3	No	No
9	Postpone an article to a time certain	Yes	Yes	Yes	Majority	Yes	No
10	Commit or refer a matter	Yes	Yes	Yes	Majority	Yes	No
11	Amend (not amendable more than twice)	Yes	Yes	Yes	Majority	Yes	No
12	Postpone indefinitely (if not main motion)	Yes	Yes	No	Majority	Yes	No
None	Main motion	Yes	Yes	Yes	Variable	Yes	No
None	Take from the table	Yes	No	No	Majority	No	No
None	Advance an article from order in Warrant	Yes	Yes	Yes	2/3	No	No
*	Point of order or procedural information	No	No	No	None	No	Yes
*	Appeal ruling of Moderator	Yes	Yes	No	3/4	No	Yes
*	Divide a question	Yes	Yes	Yes	Majority	Yes	No

\*Same rank as motion out of which it arises.

**#14. MOVING THE QUESTION.** A motion to move the question need not be recognized by the Moderator unless the Moderator is satisfied that various views on the subject have had an opportunity to be heard. A motion to move the question shall not be made by the last speaker on the question under debate.

**#15. RECONSIDERATION.** Any voter may make a motion to reconsider. No vote shall be reconsidered unless the motion to reconsider is made at the same session and within one-half hour of the original vote. No question shall be twice reconsidered except by a two-thirds (2/3) vote of the voters present and voting. If a motion to reconsider passes, the subject question must be voted upon at the same session as the original vote.

**#16. VOTING PROCEDURE.** After the voters have had the opportunity to be heard on a motion, the Moderator may call for a voice vote, hand vote and/or secret ballot. A hand vote shall be used if requested by three (3) or more voters. Notwithstanding the above, a secret ballot shall be used if so voted by a majority prior to the initial vote on the motion or if requested by three (3) voters after a preceding hand vote on the motion is decided by five percent (5%) or less of the total votes cast. Any vote tellers required shall first be selected from the members of the Board of Registrars present and then from such other registered voters appointed by the Moderator who have not previously spoken at the Meeting on the subject to be voted. The Town Clerk shall have ready at each Town Meeting an up-to-date voter registration list and a sufficient supply of ballots. All ballots used on any vote shall be identical. Ballots used on subsequent votes shall be easily distinguishable from ballots used in a previous vote.

**#17. ADJOURNMENT.** No new article or line item may be considered at any Town Meeting after 11:00 p.m. unless two-thirds (2/3) of the voters present and voting vote to continue the session. Any adjournment shall be to a date, time and place specified by vote of the meeting unless the warrant is completely acted upon or unless otherwise provided by these By-laws.

## **ARTICLE II TOWN ELECTIONS**

**#1. ANNUAL ELECTION.** The Town shall have an Annual election where registered voters may elect certain Town officers and vote on other matters to be determined by official ballot.

**#2. DATE & TIME.** The election shall be held, pursuant to a warrant, on the Tuesday following the third Friday in May, at which time the polls shall open at 7:00 A.M. and remain open continuously until 8:00 P.M.

**#3. WARRANT OF TOWN ELECTION.** The warrant for the Annual Town election shall state the date of the election, the place or places for balloting, the time of opening and closing of the polls, the names of all the offices to be voted for, the names of the candidates for each office and any questions submitted to the voters, all in the order in which they appear on the ballot.

**#4. NOTICE OF ANNUAL ELECTION.** The Select Board shall give notice of the Annual election at least seven (7) days before the date of the election by:

- a. posting an attested copy of the warrant calling the election in a conspicuous place or places on or within the Town Hall; and
- b. publishing notice of the election in one or more newspapers having substantial circulation in the Town.

## **ARTICLE III SELECT BOARD**

**#1. MEMBERSHIP AND TERM OF OFFICE.** The Town shall have a Select Board, consisting of three (3) members, elected for a term of three (3) years each, and so elected that the term of only one (1) shall expire in any one year.

**#2. GENERAL POWERS & DUTIES.** The Select Board shall have any and all powers granted to them under General Laws and shall serve as the Chief Executive Board of the Town. They shall have general supervision over all matters not assigned by the General Laws or these By-laws to other Town officers, boards, committees or commissions.

**#3. POWER TO ENFORCE BY-LAWS.** The Select Board shall have the power and responsibility to enforce the provisions of these By-laws.

**#4. POWER TO APPOINT.** The Select Board shall have the power to appoint various officers, constables and members of Town boards, commissions and committees as provided or allowed by the General Laws, legislative special acts and these By-laws.

*Amended 5/10/2021*

**#5. POWER OVER POLICE DEPT.** The Select Board shall be responsible for the direction of the police department and shall appoint a chief of police and such other officers and special officers as the Board deems necessary, subject to legislative special acts.

*Amended 5/10/2021*

**#6. POWER OVER FIRE DEPT.** The Select Board shall be responsible for the direction of the fire department and shall appoint a chief of the fire department and such other officers and firefighters as the Board deems necessary, subject to legislative special acts.

*Amended 5/10/2021*

**#7. POWER TO INVESTIGATE.** The Select Board may investigate the conduct and operation of any Town department and may hold hearings on matters within its authority at which the Board shall have the power to summon witnesses to testify and produce records concerning any Town office or department.

**#8. PROPERTY.** The Select Board shall have control over all Town owned real and personal property except that property which by law or vote of the Town is placed in charge of any other board, officer or department and shall have control over land acquired by the Town through foreclosure of tax titles.

**#9. LICENSING AUTHORITY.** The Select Board may issue permits and licenses for a variety of purposes as provided by the General Laws and these By-laws and shall act as the licensing authority of the Town except where otherwise provided by law or the zoning By-laws. The Select Board may license suitable persons to act as pawnbrokers or as dealers in junk, old metals or second-hand articles and may make rules and regulations relative to such businesses and their supervision.

*Amended 5/8/2012*

**#10. POWER TO SET FEES.** The Select Board shall determine the fees or fee schedules for all licenses and permits to be granted by the Town unless otherwise provided by law or these By-laws.

**#11. TOWN COUNSEL.** The Select Board shall employ an attorney to act as Town Counsel and may employ such special or additional counsel as the Board deems in the best interest of the Town.

**#12. LEGAL CLAIMS.** The Select Board shall act as the agents of the Town to institute and prosecute legal actions in the name of the Town and to defend legal actions against the Town in all matters where no other provision is provided. The Select Board may settle claims when authorized

by vote of the Town or, if a claim or offer of settlement is not in excess of two thousand (\$2,000) dollars, when advised by the Town Counsel that the claim is valid or the proposed settlement is advisable and reasonable.

**#13. LOW VALUE PERSONAL PROPERTY.** The Select Board may authorize any board or officer in charge of a department to sell on behalf of the Town any departmental personal property or material no longer required by such department and not exceeding \$400 in value.

**#14. HIGHWAY SURVEYORS.** The Select Board shall be elected Highway Surveyors simultaneously with their election as Select Board. As Highway Surveyors, they shall have the exclusive control of the ordinary repair of public ways within the Town and shall be responsible for the removal of snow and other obstructions on said ways.

**#15. TALENT BANK.** The Select Board shall organize and manage an electronic Talent Bank site to identify registered voters who are interested in serving the community on a Town committee, board, commission or task force and to identify and describe the opportunities to serve.

*Approved 5/10/2021*

#### **ARTICLE IV FINANCE COMMITTEE**

**Section 1.** The Town shall have a Finance Committee, consisting of seven members, elected for a term of three years each, and so elected that the term of no more than three nor less than two shall expire in any one year.

**Section 2.** No person holding any other elected or appointed office and no person employed by the Town, shall be eligible to serve as a member of the Finance Committee, except that, any member of the Finance Committee who holds another appointed office on the effective date of this amendment shall be allowed to continue in such appointed office for so long as he or she remains as a member of the Finance Committee.

*Approved 9/26/1998 Amended 10/26/2015*

**Section 3.** The Finance Committee shall, promptly after the Annual election and assumption of office of new members, meet for the purpose of organization, and shall elect from its members a Chairman, Vice Chairman and Clerk.

*Amended 10/26/2015*

**Section 4.** The Finance Committee shall consider any and all municipal questions for the purpose of making reports or recommendations to the Town, including but not limited to matters relating to the appropriation, the borrowing and the expenditure of money, municipal debt, property valuations and assessments, and the administration of the Town offices and departments.

**Section 5.** The various Town boards, officers and committees involved with the expenditure of money shall, on or before a date specified by the Finance Committee, prepare detailed estimates of the amounts deemed by them necessary for the administration of their respective offices and departments for the ensuing fiscal year, with explanatory statements of the reasons for any changes from the amounts appropriated for the same purpose in the preceding year.

**Section 6.** All officers, boards, or committees of the Town, elected or appointed shall on request, furnish to the Finance Committee or to any delegated member or authorized agent thereof any desired information about Town affairs and Town funds under their control relevant to financial decisions.

*Amended 10/26/2015*

**Section 7.** The Finance Committee shall submit, at least seven days prior to any Town Meeting, a printed report of its recommendations to the voters including a copy of the warrant and an explanation of its recommendations. The report submitted prior to the Annual Town Meeting shall also contain an appropriate form which would encourage citizen participation in Town boards and committees. No appropriation shall be made until a report thereon has been received from the Finance Committee.

*Section 7 passed May 4, 1987*

## **ARTICLE V SCHOOL COMMITTEE**

**#1. MEMBERSHIP AND TERM OF OFFICE.** The Town shall have a School Committee, consisting of seven (7) members, elected for a term of three (3) years each, and so elected that the term of no more than three (3) nor less than two (2) shall expire in any one year.

**#2. GENERAL POWERS AND DUTIES.** The School Committee shall have general charge of the Holliston public schools and such functions and powers as provided in the General Laws, including but not limited to Chapter 71.

## **ARTICLE VI TOWN CLERK**

**Section 1.** The Town shall have a Town Clerk who shall be elected for a term of three (3) years and he or she shall assume office on the seventh day succeeding his or her election or until qualified as required by General Laws, Chapter 41, Section 107, as amended.

**Section 2.** The Town Clerk, as soon as practicable after a motion of the Town Meeting has been passed which relates to or affects the duties of any officer, board, department, committee, commission, authority or trusteeship of the Town, shall furnish a copy of the motion to said officer, board, department, committee, commission, authority or trusteeship.

**Section 3.** The Town Clerk shall promptly notify each person who is elected or appointed to any office, board, committee, commission, authority or trusteeship in the Town.

**Section 4.** The Town Clerk shall see that every conveyance to the Town of any interest in land is duly recorded in the proper registry, and shall have the custody of all such recorded instruments after the same are returned from the registry. He or she shall keep copies of any deeds executed and delivered by the Town of any interest in land.

**Section 5.** The Town Clerk shall, as soon as an order or vote appropriating money becomes effective, certify to the Assessors, Auditor and Town Treasurer, each appropriation in detail, and the provisions made for Meeting the same, if specified in the appropriation order or vote.

**Section 6.** The Town Clerk shall during the month of December notify in writing the chairman of any committee which has made no report to the Town since the last Annual Meeting, that a report must be filed with the Select Board on or before February 1.

**Section 7. Non-Substantive Renumbering.** The Town Clerk, or an agent designated by the Town Clerk, shall be authorized to assign appropriate numbers to sections, subsections, paragraphs and subparagraphs of Town general bylaws and zoning bylaws, where no such numbers are approved by Town Meeting, and if such are approved by Town Meeting, after consultation with the Town Administrator, to make non-substantive, editorial revisions to ensure consistent and appropriate sequencing and numbering, provided that such editorial revisions shall be identified by a footnote or other convention, or take any other action relative thereto.

*Amended 5/10/2021*

## **ARTICLE VII TOWN MODERATOR**

**Section 1.** The Town shall have a Moderator who shall be elected for a term of three (3) years. The Town Moderator shall serve as Moderator of all Town Meetings, except as otherwise provided by law.

## **ARTICLE VIII TREASURER AND COLLECTOR OF TAXES**

**Section 1.** The Town shall have a Treasurer and Collector of Taxes who shall be appointed by the Town Administrator and he or she shall give bond Annually for the faithful performance of the duties of said office in a form required by law and in a sum as shall be fixed by the Select Board in an amount not less than required by law.

*Approved 5/5/98*

## **ARTICLE IX PLANNING BOARD**

**Section 1.** The Town shall have a Planning Board, consisting of five (5) members, elected for a term of five (5) years each, and so elected that the term of only one (1) will expire in any one (1) year.

**Section 2.** The Planning Board shall have the functions and powers as provided in the General Laws as amended, including but not limited to Chapter 40A and Chapter 41.

**Section 3.** After a road has been designated by the Town as a scenic road, any repair, maintenance, reconstruction or paving work done with respect thereto shall not involve or include the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the Planning Board after a public hearing duly advertised as provided in General Laws, Chapter 40, Section 15C as amended.

## **ARTICLE X ASSESSORS**

**Section 1.** The Town shall have a Board of Assessors, consisting of three (3) members, elected for a term of three (3) years each, and so elected that the term of only one (1) will expire in any one (1) year.

**Section 2.** At their first Meeting after such Annual election, the Assessors shall organize by choosing one of their members as chairman and another as secretary or clerk of said board.

**Section 3.** During his or her term of office, no assessor shall hold the office of Collector of Taxes or Deputy Collector of Taxes.

**Section 4.** The Assessors shall be responsible for determining or estimating the value of property in the Town for the purpose of taxation in accordance with the General Laws of Massachusetts. When making any assessment, the Assessors shall use their best skill and judgement, and shall assess all taxable property truly and impartially, neither overvaluing nor undervaluing.

**Section 5.** All applicants for a tax abatement shall be treated in a fair manner and, if such applicant requests in writing, shall be given a reasonable opportunity to present, in person, his or her case for abatement before the board.

## **ARTICLE XI PARK COMMISSION**

**Section 1.** The Town shall have a Park Commission, consisting of five (5) members, elected for a term of three (3) years each, and so elected that the term of no more than two (2) shall expire in any one (1) year. At the first election after enactment of this by-law, two (2) commissioners shall be elected for a term of three (3) years and one commissioner for a term of two (2) years.

**Section 2.** The Park Commission shall have the over-all supervision and administration of recreational programs and facilities conducted and maintained by the Town.

**Section 3.** No person shall damage or destroy any real or personal property belonging to the Town and under the jurisdiction of the Park Commission.

**Section 4.** No person shall within any park or playground area:

- a. break any glass or throw any stone or missile;
- b. have possession of or discharge any destructive weapon, firearm, fireworks, torpedo or explosive, except by written permission of the Park Commissioners;
- c. make a fire except where allowed by the Park Commissioners;
- d. paint, or affix any sign, notice, circular, program, placard or other advertising device except by written consent of the Park Commissioners;
- e. drop or place and suffer to remain any piece of paper, garbage or other refuse, except in the receptacles designated therefor, nor throw a lighted match, cigar, cigarette or other burning substance in said receptacles or upon the ground; or
- f. bring or cause to be brought within any area under the control of said Park Commissioners any garbage, refuse or material for the sole purpose of depositing same within said receptacles.

**Section 5.** No person shall refuse or neglect to obey any rule, posted by sign, concerning the use of any area under the care and control of the Park Commissioners.

**Section 6.** No person shall operate a boat on Lake Winthrop, which is powered by an internal combustion engine except as approved by the Park Commission for safety or rescue purposes.

## **ARTICLE XII EMERGENCY MANAGEMENT**

**Section 1. Emergency Management Department.** There shall be an Emergency Management Department under the supervision of an Emergency Management Director. The department seeks to maximize survival of persons and preservation of property in the Town in the event of a natural or man-made disaster by effective planning and by making use of all manpower, equipment, available shelter protection and other resources during an actual emergency. The department functions as the emergency preparedness department consistent with Chapter 639 of the Acts of 1950 and is responsible for coordinating and planning all disaster emergency functions and services within the Town among all municipal and non-municipal agencies and departments. The department updates and exercises a plan of pre-emergency actions known as the Comprehensive Emergency Management Plan; mitigates emergencies; and assists in responses to hazardous materials incidents and administers cost recovery and other reimbursement programs.

**Section 2. Emergency Management Director.** The department shall be under the direction of an Emergency Management Director (hereinafter called the "Director") who shall be appointed annually by the Select Board. The Director shall have direct responsibility for the organization, administration and operation of the department, subject to the direction and control of the appointing authority. The Director may make such expenditures as may be necessary to carry out the mission of the department. The Director may also accept and may receive, on behalf of the Town, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of emergency management, offered by the federal government or any agency or officer thereof or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The Director shall cause appropriate records to be kept of all matters relating to such gifts, grants or loans.

*Amended 5/7/2007*

## **ARTICLE XIII WIRE INSPECTOR**

**Section 1.** The Select Board shall appoint annually, in April, an inspector of wires to be known as the Wire Inspector, who shall hold office until his or her successor is appointed and qualified.

**Section 2.** The duties of the Wire Inspector shall be the enforcement of the rules and regulations as established under General Laws, Chapter 166, Section 32, as amended.

**Section 3.** The Wire Inspector may, so far as is necessary for the performance of his or her duties, enter any building within the Town after reasonable notice.

**Section 4.** The Select Board may at any time appoint for such terms as they determine, one or more Assistant Wire Inspectors to act in the absence or disability of the Wire Inspector and while so acting each of them shall have and may exercise all of the powers and duties of the Wire Inspector.

**Section 5.** The installation and maintenance of all electrical wires shall be under the supervision of the Wire Inspector and all wires and structures supporting or carrying the same, and all devices connected thereto shall be in accordance with the then latest edition of the Massachusetts Department of Public Safety Electrical Code and the Holliston Building Code.

**Section 6.** Every corporation or person proposing to install wires designed to carry a current of electricity for light, heat or power purposes, shall give notice thereof to the Wire Inspector before commencing any work. Such notice shall indicate the general character of the proposed installation and the number, rating and kind of current consuming devices to be connected. Upon receipt of such notice, a permit for the commencement of the work as described shall be issued by the Wire Inspector, provided all requirements as stated above have been observed. There shall be a fee for each such permit payable to the Town when issued. Fees shall be determined by a schedule as maintained on file at the office of the Building Inspector.

## **ARTICLE XIV GAS INSPECTOR**

**Section 1.** The Select Board shall appoint annually, in April, an inspector of gas piping and gas appliances to be known as the Gas Inspector who shall hold office until his or her successor is appointed and qualified.

**Section 2.** The duties of the Gas Inspector shall be the enforcement of the rules and regulations as established under General Laws, Chapter 25, Section 12H, as amended.

**Section 3.** The Gas Inspector may, in so far as is necessary for the performance of his or her duties, enter any building or mobile home within the Town after reasonable notice.

**Section 4.** The Select Board may at any time appoint for such terms as they determine, one or more Assistant Gas Inspectors to act in the absence or disability of the Gas Inspector and while so acting each of them shall have and may exercise all of the powers and duties of the Gas Inspector.

**Section 5.** Every corporation or person proposing installation of any gas lines or fixtures for heat or utility purposes shall give notice to the Gas Inspector before commencing any work. This notice shall indicate the general character of the proposed work. If approved, a permit for the commencement of the work as described shall be issued by the Gas Inspector. There shall be a fee according to a schedule maintained on file in the Building Inspector's office, for each such permit payable to the Town when issued.

**Section 6.** This article shall apply to the use of natural, manufactured and bottled gas.

## **ARTICLE XV INSPECTOR OF BUILDINGS**

**Section 1.** The Town Administrator shall appoint annually, in March, an Inspector of Buildings. (Approved 5/5/98.)

**Section 2.** The duty of the Inspector of Buildings shall be to enforce the rules and regulations relating to buildings and trailers as established by the State Building Code, these By-laws and the General Laws, as amended.

**Section 3.** The Inspector of Buildings may, so far as is necessary for the performance of his or her duties, enter any building within the Town after reasonable notice.

**Section 4.** The Select Board may at any time appoint for such terms as they determine, one or more Assistant Inspectors of Buildings to act in the absence or disability of the Inspector of Buildings and while so acting each of them shall have and may exercise all of the powers and duties of the Inspector of Buildings.

**Section 5.** The Inspector of Buildings shall act as agent for the Select Board, and under its supervision shall be responsible for the issuance of all building and occupancy permits, the maintenance of a file of applications, plot plans and permits, and general enforcement of the Zoning By-laws.

**Section 6.** Building permits and occupancy permits issued under authority of the Inspector of Buildings shall be in conformity with a published schedule of fees on file in the office of the Inspector of Buildings and payment for such permits shall be made to the Town, when issued.

**Section 7.** The Inspector of Buildings shall determine and designate numbers for all buildings abutting upon or adjacent to a street as he or she may deem best for public convenience. No owner of any building shall neglect or refuse to affix to such building the street number designated by said Inspector of Buildings.

## **ARTICLE XVI TAX COLLECTOR**

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

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

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

**Section 4.** The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A (C.268A) of the General Laws in the business or activity conducted in or on said property.

**Section 5.** This article shall not apply to the following licenses and permits: open burning under Section thirteen of Chapter forty-eight (S.13, C.48); bicycle permits under Section eleven A of chapter eighty-five (S.11A, C.85); sales of articles for charitable purposes under Section thirty-three of chapter one hundred and one (S. 33, C. 101); children work permits under Section sixty-nine of chapter one hundred and forty-nine (S. 69, C. 149); clubs and associations dispensing food or alcoholic beverages under Section twenty-one E of Chapter one hundred and forty (S. 21E, C. 140); dog licenses under Section one hundred and thirty-seven of Chapter one hundred and forty (S. 137, C.140); fishing, hunting and trapping licenses under Section twelve of Chapter one hundred and thirty-one (S.12, C. 131); marriage licenses under Section twenty-eight of Chapter two hundred and seven (S.28, C. 207); and theatrical events and public exhibition permits under Section one hundred and eighty-one of Chapter one hundred and forty (S.181, C. 140).

*Passed May 4, 1987      Amended May 9, 2017*

## **ARTICLE XVII RECYCLING & WASTE DISPOSAL**

**Section 1.** In order to protect the environment and resources, and to provide for the proper disposal of solid waste, the Town hereby establishes a program of recycling in conjunction with the disposal of solid waste within the Town.

**Section 2.** No person shall deposit any refuse or rubbish within the Town other than at times and places in accordance with regulations established by the Select Board. The following items are excluded from the collection of solid waste: auto parts, such as large pieces of body metal and engine blocks, building materials, such as wood greater than six (6) feet long and greater than sixty (60) pounds, earth, stones, tree trunks, large tree limbs, hazardous materials and auto batteries.

In addition, and in accordance with the following schedule, the following recyclable materials shall be removed from the solid waste stream and recycled in accordance with procedures for recycling established by the Select Board:

July 1, 1991 - newspapers, glass, aluminum containers and high density polyethylene (HDPE) containers.

January 1, 1992 - leaves, tires and white goods.

January 1, 1993 - compostable yard waste and recyclable metal containers.

January 1, 1995 - recyclable paper and single polymer plastics.

**Section 3.** There shall be established a Recycling Committee consisting of seven (7) members appointed in May by the Select Board for a term of three (3) years each and so appointed that the term of not more than three (3) nor less than two (2) shall terminate in any one (1) year. The Committee shall be responsible for the coordination of recycling efforts within the Town. The Recycling Committee shall make recommendations to the Select Board, who shall establish and amend procedures and programs for the collection and disposal of recyclable materials.

The Committee shall elect from its membership in May of each year, a Chairman, Vice-Chairman and Secretary. The Committee shall submit an Annual Report to the Select Board for inclusion in the Annual Report of the Town.

*Approved 7/24/91*

## **ARTICLE XVIII PUBLIC WAYS AND PLACES**

**Section 1.** No person over twelve (12) years of age shall operate any cycle or similar vehicle upon any sidewalk.

**Section 2.** A person shall be guilty of disorderly conduct if:

- a. his or her presence in a public place is unlawful because he or she:
  - (1) engages in a course of abusive or offensive language, gestures or conduct toward a person in a public place under circumstances in which the person reasonably fears imminent injury to his or her person or property; or
  - (2) obstructs vehicular or pedestrian passage on a public way; or
  - (3) fouls a public way by willfully defecating, urinating or expectorating on it; or
  - (4) makes an unreasonably loud noise which disturbs others; and
- b. a police officer informs such person of the circumstances which render his or her presence in the public place unlawful according to one or more of the standards enumerated in subsection a. and orders him or her to move; and
- c. he or she refuses to do so.

As used in this Section "public place" shall mean a place to which the public at large or a substantial group has access including a public way and "public way" shall mean any public highway or sidewalk, private way dedicated to public use and any way or parking lot upon which the public has a right of access or has access as invitees or licensees.

**Section 3.** The Superintendent of Streets, for the purpose of removing or plowing snow or removing ice from any way, may remove or cause to be removed to a public garage or some other convenient place any vehicle interfering with such work and the owner thereof shall be liable in contract to the Town for all reasonable costs of such removal and storage.

**Section 4.** No person shall operate for recreational purposes a snowmobile, motorcycle, minibike, all terrain vehicle (ATV's), or any other motor driven vehicle, on or through the land of another, without first obtaining written permission from the property owner or tenant.

All such vehicles must be equipped with an operating exhaust muffler that meets or exceeds the current state standards for sound suppression. The operation of such vehicles, except when registered for highway use shall be limited to the hours from 8 o'clock in the morning to 11 o'clock in the evening, unless a special permit is obtained from the Select Board. The operation of such vehicles on Town owned property is permitted only on those areas designated for the purpose by the appropriate authority.

**Section 5.** No person shall drink or consume any alcoholic beverages, as defined in General Laws, Chapter 138, Section 1, as amended, while in, on or upon any public way, public park, playground, recreation or conservation area, or private way or area to which the public has a right of access as invitees or licensees, without the consent of the authority responsible for the maintenance and protection thereof, if public, or the owner or person in control thereof, if private. All alcoholic beverages used in violation of this by-law shall be seized as evidence of the offense and safely held until final adjudication of the complaint against the person or persons charged, at which time the evidence seized shall be returned to the person or persons entitled to lawful possession. Any person convicted of a violation of this Section shall be punished by a fine of no less than \$20.00 for the first offense and a fine of no less than \$50.00 for a second or subsequent offense committed during any twelve-month period. Any person who violates this Section may be arrested by a police officer without a warrant if the violation occurs in the presence of the officer.

**Section 6.** Except in an emergency, no person shall park or leave parked on a public way between the hours of 9:00 P.M. and 7:00 A.M. a truck cab, a truck trailer or a truck which weighs unloaded 2 1/2 tons or more. If such prohibition causes a substantial hardship to any person, the Select Board, after a public hearing, may grant desirable relief and may impose limitations both of time and use, providing such relief is made without substantial detriment to the public good and without creating a nuisance or devaluation of surrounding property.

## **ARTICLE XIX BOARD OF HEALTH**

**Section 1.** The Town shall have a Board of Health, consisting of three (3) members, elected for a term of three (3) years each, and so elected that the term of only one will expire in any one year.

**Section 2.** The Board of Health may make such reasonable health regulations as they see fit and shall publish the same in a newspaper having substantial circulation in the Town. All regulations of the Board of Health shall be in writing and available for public inspection.

**Section 3.** The Board of Health shall investigate all nuisances, sources of filth and causes of sickness within the Town which may, in its opinion, be injurious to the public health, shall destroy, remove or prevent the same as the case may require, and shall make regulations for the public health and safety relative thereto and to articles capable of containing or conveying infection or contagion or of creating sickness brought into or conveyed from the Town. Whoever violates any such regulation shall forfeit not more than one hundred dollars.

**Section 4.** The Board of Health may appoint agents or directors of public health in accordance with General Laws, Chapter 111, Section 30, as amended. An agent or director of public health appointed

to make sanitary inspections may make complaint of violations of any law, ordinance or by-law relative to the public health.

## **ARTICLE XX BOARD OF LIBRARY TRUSTEES**

**Section 1.** The Town shall have a Board of Library Trustees, consisting of six (6) members, elected for a term of three (3) years each and so elected that the term of only two (2) will expire in any one year.

**Section 2.** The board shall, from its own number, annually choose a chairman and secretary and the Town Treasurer shall act as treasurer of the board.

**Section 3.** The board shall have the custody and management of the library and reading room and all property owned by the Town relating thereto. All money raised and appropriated by the Town for its support and maintenance shall be expended by the board, and all money or property which the Town may receive by gift or bequest for said library and reading room shall be administered by the board in accordance with the provisions of such gift or bequest. The Board of Trustees, for the purpose of improving the services of said library, may enter into an agreement with the board or boards of any neighboring library or libraries, to pay for services in common, such payments to be shared in accordance with the terms of such agreement. The Town's public library may loan its books or other library material to any other free Town public library or to citizens of other Towns or non-residents, under such written conditions and regulations as may be made by the Board of Trustees. The Town may raise money to pay the expenses of so borrowing books and other library material from the library of any other Town.

**Section 4.** The board shall make an Annual Report to the Town of its receipts and expenditures and of the property in its custody, with a statement of any unexpected balance of money and of gifts or bequests which it holds in behalf of the Town, with its recommendations.

**Section 5.** It shall be the policy of the Board of Trustees and Librarian to select books and other library materials for values of interest, information and enlightenment to all the people of the community and to offer as wide a variety of opinion and expression as is practicable. In no case should books or other library materials be excluded because of the race or nationality or the social, political or religious views of the authors, and no books or other library materials should be proscribed or removed from the Town library only because of partisan or doctrinal disapproval.

## **ARTICLE XXI EQUAL OPPORTUNITY**

**Section 1.** It shall be the policy of the Town of Holliston to provide equal opportunity to all persons without discrimination because of race, color, religious creed, national origin, sex, age or ancestry of any individual.

**Section 2.** No Town agency shall knowingly enter into any contract for the purchase of goods or services or for the construction, maintenance, renovation or repair of any building, structure, street, way, utility or other public work with any contractor, sub-contractor or supplier which does not provide equal employment opportunity for all qualified persons without regard to race, color, religious creed, national origin, sex, age or ancestry, unless based upon a bonafide occupational qualification.

**Section 3.** All contracts for goods and services made with the Town in excess of ten thousand dollars (\$10,000) shall include provisions designed to insure compliance with this by-law and Chapter 151B of the General Laws, as amended.

## **ARTICLE XXII REMOVAL OF EARTH PRODUCTS**

**Section 1.** The removal from any premises of more than ten (10) cubic yards of earth products, including sod, loam, sand or gravel, shall be prohibited except when incidental to and in connection with the construction of a building or street or other activity authorized in the zoning by-law or Article XLI Stormwater Management and Land Disturbance By-Law.

**Section 2.** Removal of earth products prohibited by Section 1 of Article XXII may be authorized by the Board of Appeals by Special Permit provided it determines that the activities involved are not harmful or detrimental to the present or future character of the neighborhood or the Town. Before issuing such a special permit the petitioner shall file a bond or other security satisfactory to the board to guarantee performance of the conditions of the special permit. The permit issued shall be granted only to the petitioner as a personal right and shall not be transferable. *Approved 8/24/90*

**Section 3.** All areas which are disturbed, topsoil removed therefrom shall be stockpiled on site until completion of operations and promptly thereafter each disturbed area, on which structures, parking lots or ways are not in place, shall be recovered with topsoil to a depth of at least that which previously existed, but, in any event, with no less than four inches (4) of compacted topsoil in the uppermost layer.

**Section 4.** Removal of earth products other than specifically permitted in the zoning by-law or in this by-law is prohibited.

**Section 5.** Notwithstanding any other Section of this article, removal from the Town of Holliston of soil, loam or other earth products suitable for growing vegetable matter, in excess of one bushel, shall be prohibited.

**Section 6.** The penalty for a violation of any Section of this article shall be as follows: for the first offense, fifty dollars (\$50); for the second offense, one hundred dollars (\$100); and for each subsequent offense, two hundred dollars (\$200). *Amended A.T.M. 5/5/2008*

## **ARTICLE XXIII COUNCIL ON AGING**

**Section 1.** The Town shall have a Council on Aging, consisting of seven members (7), appointed in June by the Select Board for a term of three years (3) each, and so appointed that the term of not more than three (3) nor less than two (2) shall terminate in any one year.

**Section 2.** The council shall have the power to coordinate and carry out programs designed to meet the problems of the aging in cooperation with programs of the Department of Elder Affairs.

**Section 3.** The council shall elect from its membership, in June of each year, a chairman, vice-chairman, secretary and treasurer.

**Section 4.** The council shall submit an Annual report to the Town and shall send a copy thereof to the Department of Elder Affairs.

**Section 5.** The council may appoint such clerks and other employees as it may require.

*Amended 5/5/2014*

## **ARTICLE XXIV MISCELLANEOUS**

**Section 1.** Any person excavating land or any person in charge of such excavation and any owner of land in the Town of Holliston which has been excavated shall erect barriers or take other suitable measures within two days after such person has been notified in writing by the Select Board or Building Inspector that in their opinion such excavation constitutes a hazard to public safety. The penalty for violation of this Section shall be a fine not exceeding two hundred dollars (\$200) for each day of a violation of such notice, commencing with the fourth day thereof.

**Section 2.** No person shall injure, mutilate or destroy any property or equipment, real or personal, belonging to the Town of Holliston, including any shade trees or stone walls within the right-of-way of any designated scenic roads.

*Amended ATM 5/00*

**Section 3.** No person shall refuse or neglect to obey any rule, posted by sign, concerning the use of any area under the jurisdiction of the School Department; nor shall they refuse or neglect to obey any reasonable direction of a police officer, custodian or School Department employee during the time they are on School Department property.

**Section 4.** No person shall enter upon the premises of another for the purpose of committing any wanton or malicious act, nor for the purpose or with intention of invading the privacy of another by peeping into the window of a house or spying upon any person or person's resident therein.

**Section 5.** No person shall post, affix, or in any way attach any poster, handbill, notice, advertisement or placard to or upon any post, wall, fence, building or structure without permission of the owner or his agent.

**Section 6.** No person shall write, paint, mark, stamp or cut any symbol, notice or advertisement upon or into any wall, fence, post, street, sidewalk, tree, rock, ledge, building or structure without the permission of the owner or his agent.

**Section 7.** No person shall have more than one (1) unregistered car or truck ungaraged on his or her premises at any one time. If such prohibition causes a substantial hardship to any person, the Select Board, after a public hearing, may grant desirable relief and may impose limitations both of time and use, provided such relief is made without substantial detriment to the public good and without creating a nuisance, unsightliness or devaluation of surrounding property. This Section shall not apply to unregistered cars or trucks on the property of a business operated in a lawful place and manner when necessary to the operation of such business.

**Section 8.** Unless otherwise provided in these By-laws or by the General Laws, a violation of each by-law creating a duty to act or refrain from acting shall be punishable by a fine of not more than three hundred dollars (\$300) per offense. Each day of a continuing offense shall be considered a separate offense. Whoever violates any provision of these By-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in General Laws Chapter 40, Section 21D in the following manner:

a. A written warning, clearly stating the nature of the violation, the Section of the by-law violated, the required corrective action and the right of appeal to the Select Board, shall be issued to an alleged violator. This warning may be appealed to the Selectman within twenty-one (21) days from receipt.

b. Thirty (30) days after issuance of the warning, a fine may be imposed in accordance with the provisions of General Laws Chapter 40, Section 21D if the violation is not corrected or an appeal has not been made to the Select Board within the aforementioned twenty-one (21) days or upon appeal, the Select Board find that the warning is legitimate. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following By-laws and Sections of By-laws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each Section, if any, shall also be enforcing persons for such Sections. Any fine imposed may be appealed to the Clerk-Magistrate of the Framingham District Court.

*Amended ATM 5/00*

<b>Article XI</b>	Park Property Regulations	\$25.00
<b>Article XV</b>	Section 7 Numbering of buildings (Building Inspector, Fire Chief)	\$25.00
<b>Article XVIII</b>	Section 4 Operation of off road vehicles	\$25.00
<b>Article XVIII</b>	Section 6 Nighttime parking of trucks	\$25.00
<b>Article XXII</b>	Removal of earth products (Building Inspector)	\$25.00
<b>Article XXIV</b>	Section 1 Dangerous excavations (Building Inspector)	\$25.00
<b>Article XXIV</b>	Section 3 Stone Wall and/or Shade Tree Destruction (Planning Board, Building Inspector) (Added 5/00 & A.G. Approved 9/00)	\$100.00
<b>Article XXIV</b>	Section 8 Unregistered vehicles (Building Inspector)	\$25.00
<b>Article XXIV</b>	Section 13 Enclosure of swimming pools (Building Inspector)	\$25.00
<b>Article XXIX</b>	Dog restraint (Dog Officer) (Approved 5/9/88)	\$25.00

**Section 9.** No person shall discharge a firearm within 200 feet (200') of Mill or Factory Pond. No person shall fire or discharge any firearm of any kind or hunt by bow or air rifle within the limits of any park, playground or any public property, except with the consent of the Select Board, or except with the consent of the controlling governmental body thereof; or hunt by firearm, or bow, or air rifle on any private property, except with the consent of the owner or legal occupant thereof. Any person violating any of the provisions of this by-law shall be fined not more than two hundred dollars (\$200)

for each offense. This by-law shall not apply to the lawful defense of life or property or to any law enforcement officer acting in the discharge of his/her duties. *Approved 10/12/89*

## **Section 10. Demolition Delay**

### Purpose

This By-law is adopted to protect and preserve buildings and structures within Holliston which reflect or constitute distinctive features of the architectural, cultural, economic, political or social history of the Town. The intent of the By-law is not to permanently prevent demolition but rather to provide an opportunity to develop preservation solutions for properties threatened with demolition.

To achieve these purposes, the Holliston Historical Commission is empowered to advise the Holliston Building Inspector with respect to the issuance of permits for demolition, and the issuance of demolition permits for significant buildings and structures is regulated as provided in this By-law.

### Definitions:

“Building or Structures”- Any combination of building materials giving support or forming a permanent shelter for persons, animals, or property.

“Business Day”- A day which is not a legal municipal holiday, Saturday or Sunday.

“Commission”- The Holliston Historical Commission.

“Demolition”- The act of substantially or totally pulling down, destroying, removing, or razing a building or structure, or commencing the work of total or substantial destruction with the intent of completing the same.

“Historically Significant Building or Structure”- Any building or structure, or portion thereof, within the Town which is in whole or in part seventy-five (75) or more years old or is of unknown age and may be deemed to be significant if the Historical Commission, at a public meeting, finds the building

or structure is significant to the architectural, cultural, political, economic or social history of the Town.

### Procedure

The Building Inspector shall forward a copy of each demolition permit application for a building or structure to the Commission within five (5) business days of the filing of such application.

Within thirty (30) days from its receipt of a demolition permit application, 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 or she so chooses. If the Commission determines that the building or structure is not historically significant the Commission shall so notify the Building Inspector in writing and the Building Inspector may issue a demolition permit.

If the Commission determines that the building or structure is historically significant, the Commission shall notify the Building Inspector in writing that a demolition review must be made prior to the issuance of any demolition permit. If the Commission fails to notify the Building Inspector of its determination within thirty (30) days of its receipt of the application, then the building or structure shall be deemed not historically significant and the Building Inspector may issue a demolition permit.

### Demolition Plan Review

Not more than sixty (60) days after the Commission's determination that a building or structure is historically significant, the applicant for the permit shall submit to the Commission ten (10) copies of a demolition plan which shall include the following information:

- (i) A map showing the location of the building or structure to be demolished on its property and with reference to neighboring properties;
- (ii) Photographs of all street façade elevations
- (iii) A description of the building or structure, or part thereof, to be demolished;
- (iv) The reason for the proposed demolition and data supporting said reason, including where applicable, data sufficient to establish any economic justification for demolition;
- (v) A brief description of the proposed reuse of the property on which the building or structure to be demolished is located.

Upon receipt of the plan referenced above, the Commission shall fix a reasonable time for a public hearing on the application and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least fourteen (14) days before said hearing and also, within seven (7) days of said hearing, mail a copy of said notice to the applicant and abutters. The expense of the hearing notice and the mailing to abutters shall be borne by the applicant.

After said public hearing, and within sixty (60) days from receipt of the demolition plan, the Commission shall file a written report with the Building Inspector on the demolition plan which shall include the following:

- (i) A description of the age, architectural style, historical associations and importance of the building or structure to be demolished;
- (ii) A determination as to whether or not the building or structure should be preferably preserved.

If the building or structure is not determined to be preferably preserved or if the Commission fails to file its report with the Building Inspector within the time period set forth above, then the Building Inspector may issue a demolition permit.

If the Commission determines that the building or structure is preferably preserved, it may impose a demolition delay of six (6) months from the date of such determination. Written notice of its determination and the period of delay imposed shall be mailed promptly to the applicant and/or property owner, and a copy thereof shall be furnished to the Building Inspector who shall not issue a demolition permit during the period specified therein. However, such permit may be issued prior to the end of such period if the Historical Commission notifies the Building Inspector that the applicant and/or property owner (i) has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who has agreed to preserve, rehabilitate, restore or relocate same, or (ii) has agreed to alternatives to demolition or has agreed to accept a demolition permit on specified conditions approved by the Commission.

### Responsibilities of the Owner

Once a building or structure has been determined to be a preferably preserved building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to secure the building, a subsequent destruction of the building at any time during the six (6) months demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a violation of this By-law.

The Commission shall also notify the Massachusetts Historical Commission, Town Administrator, Community Preservation Committee and any other interested parties in an effort to obtain assistance in preservation funding or in finding an adaptive use of the building which will result in its preservation. The Commission shall invite the owner of record of the building or structure to participate in an investigation of alternatives to demolition including but not limited to incorporation of the building into future development of the site, adaptive re-use of the building or structure, seeking a new owner willing to purchase and preserve, restore or rehabilitate the building or part thereof, or moving the building.

#### Emergency Demolition

If the condition of a building or structure poses a serious and imminent threat to the public health or safety due to its deteriorated condition, the owner of such building may request the issuance of an emergency demolition permit from the Building Inspector. As soon as practicable after the receipt of such a request, the Building Inspector shall inspect the property with a member of the Commission or designee. After the inspection of the building or structure, the Building Inspector 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 Building Inspector finds that the condition of the building or structure poses a serious and imminent threat to public health and safety, and that there is no reasonable alternative to the immediate demolition thereof, he may issue an emergency demolition permit to the owner of the building or structure. Whenever the Building Inspector issues an emergency demolition permit under this provision he shall prepare a written report describing the condition of the building or structure and the basis for his decision to issue an emergency demolition permit with the Commission. Nothing in this section shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by Chapter 143, sections 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 8 of said Chapter 143 with regard to any building or structure identified as an Historically Significant Building in this By-law, the Building Inspector shall request the Chairman of the Commission or his designee to accompany the 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.

#### Enforcement and Remedies

The Commission and/or Building Inspector are each specifically authorized to institute all actions and proceedings, in law or in equity, as they may deem necessary and appropriate to obtain compliance with the requirements of the By-law or to prevent a threatened violation thereof.

No building permit shall be issued with respect to any premises upon which a building or structure seventy-five (75) years or more old or of undetermined age has been voluntarily demolished otherwise than pursuant to a demolition permit granted after compliance with the provisions of this By-law for a period of two (2) years after the date of the completion of such demolition. As used herein "premises" refers to the parcel of land upon which the demolished building or structure was located and all adjoining parcels of land under which the demolished building or structure was located and all adjoining parcels of land under common ownership or control.

Any demolition permit issued pursuant to the provisions of this By-law will expire as provided in the State Building Code.

#### Severability

In case any section, paragraph, or part of this bylaw is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect; or take any action relative thereto.

(Approved ATM 5/8/2006)

**Section 11.** All members of any Town board, commission or committee, whether elected or appointed, shall vote and be recorded.

**Section 12.** Whenever allowed by law, all Town officers, except constables, shall pay into the Town treasury all fees and other charges received by them by virtue of their office.

**Section 13.** It shall be unlawful for any solicitor or canvasser as defined in this by-law to engage in such business within the Town of Holliston without first obtaining a license therefor in compliance with the provisions of this by-law. The provisions of this by-law shall not apply to any person residing within the Town of Holliston and engaging in the pursuit of soliciting for charitable, benevolent, fraternal, religious, or political activities, nor to any person exempted under Chapter 101 of the General Laws, or to any person duly licensed under Chapter 101 of the General Laws, or to any person exempted by any other General Law, nor shall this by-law be construed to prevent persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon such customers or from making calls upon such customers for the purpose of soliciting an order for future periodic deliveries.

A solicitor or canvasser is defined as any person who, for himself, or for another person, firm or corporation, travels by foot, automobile or any other type of conveyance from house to house or other residential units, taking or attempting to lease or to take orders for the sale of goods, wares, merchandise, or service, or taking or attempting to take contributions for any purpose, including, without limitation, the selling, distributing, exposing for sale or soliciting of orders for magazines, books, periodicals, or other articles of a commercial nature, the contracting of all home improvements or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale, whether or not he is collecting advance payment of such retail sales. Applicants for a license shall file with the Chief of Police a written application signed under the penalties of perjury. At the time of filing the application, each applicant shall pay a fee of \$25.00 to the Town of Holliston. Upon receipt of the application, the Chief of Police shall investigate the applicant's reputation as to morals and integrity. After such investigation the Chief of Police shall approve or disapprove the application and notify the applicant of his decision. In the event that the application is approved, the license shall be issued. Any applicant shall have the right of appeal to the Select Board.

Such license when issued shall contain the signature of the Chief of Police and shall show the name, address and photograph of said licensee, the date of issuance and the length of time the same shall be operative, as well as the license number. The Chief of Police shall keep a record of all licensees issued for a period of three (3) years. Solicitors and canvassers when engaged in the business of soliciting or canvassing are required to display an identifying badge issued by the Chief of Police by wearing said badge on an outer garment.

Each licensee is required to possess an individual license. No license shall be transferred. Each license issued under the provisions of this by-law shall continue in force for one (1) year from the date of its issuance unless sooner revoked. The Chief of Police is hereby vested with jurisdiction over the revocation of such licenses. The Police Officers of the Town of Holliston shall enforce this By-law. An applicant requesting renewal of a license must do so in the same manner as required for an original license. (Approved 9/12/88).

**Section 14.** Solid waste collection and removal bills issued by the Town shall be due and payable on or before the sixtieth day after the date of mailing of the bills. Payment shall be deemed to be timely if it is postmarked on or before the sixtieth day after the date of the mailing of the bills. Interest charges shall be assessed on all late payments at the rate of fourteen percent (14%) per annum. *A late fee of \$5.00 will be assessed on all late payments upon issuance of a Delinquent Notice by the Town.*

*Approved 5/9/05*

**Section 15.** Any municipal board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix reasonable fees for all such licenses, permits or certificates issued pursuant to statutes or regulations wherein the entire proceeds of the fee remain with the Town, and may fix reasonable charges to be paid for any services rendered or work performed by the Town or any department thereof, for any person or class of persons.

No such fee may be implemented or charged until after a public hearing has been held by the appropriate board or officer for the purpose of receiving and considering public comment regarding the proposed fee. Notice of any such hearing must be published at least seven (7) days prior to the hearing in a newspaper of general circulation in the Town and posted on the official bulletin board at Town Hall.

*A.G. approved 8/26/92*

**Section 16.** It shall be unlawful to obstruct or park a vehicle in any fire lane, such fire lane to be designated by the Select Board upon the recommendation of the Fire Chief and to be posted as such. Fire lanes shall generally be a distance of twelve (12) feet from the curbing of a sidewalk in a commercial or multi-dwelling unit area. In the absence of a sidewalk, a fire lane shall generally be a distance of eighteen (18) feet from the building. (A.G. approved 6/5/96).

**Section 17.** Trench Safety (Promulgated under MGL 82A, sec.2 and 520 CMR 14:00)

1. Purpose: Whereas, the Commonwealth of Massachusetts Department of Public Safety and Division of Occupational Safety have promulgated regulations in accordance with Chapter 82A of the General Laws relative to excavation and trench safety; and,

Whereas, the Town of Holliston has been directed by these regulations to designate an officer or board within the town as the local ‘permitting authority’; and,

Whereas, the local permitting authority shall be responsible for the issuance of required trench permits on both municipal and private property, the collection of optional permit fees, and for the enforcement of these requirements for the protection of the General Public;

Now therefore, the Select Board is hereby designated as the local “permitting authority” for issuing trench permits under the regulations.

2. Definitions:

- a. Trench – A trench is defined as a subsurface excavation greater than three feet (3’) in depth, and is fifteen feet (15’) or less between the soil walls as measured from the bottom.

3. Authority:

- a. The Select Board may designate by vote certain Building Department and Highway Department staff to act as their agent for permit processing and approval and for the enforcement of trench rules and regulations and conditions of permits.
- b. The Select Board may, from time to time, and after a public hearing, enact fees to cover the costs of processing said permits and for enforcement thereof.
- c. The Select Board may, from time to time, and after a public hearing, enact local rules and regulations consistent with Chapter 82A relative to the trench permitting process, the standard and special conditions for issued permits, and the enforcement of issued permits.”

*Approved 5/4/2009*

**Section 18.** (Public Consumption of Marijuana or Tetrahydrocannabinol). No person shall 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 street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier.

This By-law 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, as amended, or by noncriminal disposition pursuant to Massachusetts General Laws Chapter 40, section 21D, as amended, by the Select Board, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this By-law shall be \$300.00 for each offense. Any penalty imposed under this By-law shall be in addition to any civil penalty imposed under Massachusetts General Laws Chapter 94C, section 32L, as amended (\$100 for a first offense). Said fines shall be issued by way of a Town By-law Citation given in hand or mailed (first class) to the last and usual address of the violator.

*Approved 5/8/2012*

**Section 19.** Every keeper of a jewelry store, within which the manager and/or owner chooses to receive for resale or consignment any articles of personal property, of any value, shall take a digital photograph of the item and a copy of the person’s license for every purchase of said articles of personal property. Such photograph and copy of license *shall* at all times be open to the inspection by the personnel of the Police Department, and every manager and/or owner of said stores or shops shall keep said record in a suitable and conspicuous place in the store or shop, and all articles of merchandise noted in the photograph shall be associated and connected with the person who delivered said personal property to the manager and/or owner. The manager and/or owner shall allow the personnel of the Police Department to inspect said personal property during store or shop hours or upon any other reasonably and mutually acceptable place and time determined by the manager and/or owner and the inspecting party. Said personal property taken in, or purchased by the manager and/or owner shall not be resold or consigned for a period of thirty (30) days from the date of the taking custody or purchasing by the manager and/or owner; or take any action relative thereto.

*Approved 5/8/2012*

**Section 20.** Consistent with G.L. c. 94G, § 3(a)(2), “marijuana retailers” as defined in G.L. c. 94G, § 1 shall be prohibited within the Town of Holliston. This By-law 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, as amended, or by noncriminal disposition pursuant to Massachusetts General Laws Chapter 40, section 21D, as amended, by the Select Board, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this By-law shall be \$300.00 for each offense.

*Approved 10/29/2018, Amended 5/9/2022*

## **ARTICLE XXV EFFECTIVITY OF BY-LAWS**

**Section 1.** These By-laws shall take effect after their approval, in accordance with General Laws, Chapter 40, Section 32, as amended, and all general By-laws (as distinguished from the zoning By-laws and the building code) heretofore adopted by the Town are hereby repealed, without, however, affecting any suit, prosecution, or said proceeding pending at the time of repeal, for an offense committed or for recovery of a penalty incurred under the by-law repealed.

**Section 2.** If any part of these By-laws is found invalid, the validity of the remaining provisions shall not be affected thereby.

## **ARTICLE XXVI GENERAL PROVISIONS FOR TOWN COMMITTEES**

**Section 1.** All committees, except as otherwise provided by law or by vote of the Town Meeting, shall be appointed by the Select Board as soon as possible after the passage of the vote creating the committee. In choosing a committee by nominations from the floor, no person shall nominate from the floor more than one member of such committee until others have had an opportunity to make nominations.

**Section 2.** Unless otherwise provided, the first named member of a committee shall promptly call all the members of the committee together for the purpose of organization and election of officers. Each committee shall thereafter proceed with its duties and report to the appointing authority as promptly as possible.

**Section 3.** No report of a committee shall be acted upon at a Town Meeting, other than to be received or published and distributed, unless it has been included in the warrant.

**Section 4.** A vote by a Town Meeting to accept a final report of a committee shall, unless otherwise provided, discharge the committee, but it shall not operate as an adoption of the recommendations of such report without a vote duly passed to that effect.

**Section 5.** All Annual reports of committees shall be in writing and shall be permanently filed for preservation with the Town Clerk, and if the Select Board deem best, or the Town so votes, the report of any committee shall be published as part of the next Annual Town report. The Annual Town report, and the reports of the boards, commissions, committees, officers and officials of the Town required to be contained therein, shall be for the last completed fiscal year, commencing with the fiscal year ending June thirtieth, nineteen hundred and ninety. Such report shall be prepared and distributed not later than the third Monday in December of each year and all reports required to be contained in the Annual Report must be filed with the Select Board no later than September 1.

*Approved 8/24/1990*

**Section 6.** The chairman of any appointed committee shall notify the Select Board whenever one of the committee members is absent without cause from five (5) consecutive Meetings, and the Select

Board may, within their discretion, remove such member from said committee and appoint a replacement.

**Section 7.** Any Town Meeting or other Town body established by law or by-law may create committees under its authority. Any such committee shall be appointed for terms of one year or less. At the end of each term, such committee shall submit to the appointing authority a written report of its progress and activities. No such committee shall be re-appointed until the report is submitted. Any such committee shall be dissolved automatically upon the completion of its specific assignment.

**Section 8.** No Town board, committee or commission, or any subcommittee, shall convene a meeting or sponsor an event at any time during a Town election or Town Meeting, except as may be required by the Open Meeting Law for the purpose of taking official action as part of a Town Meeting or to take emergency action as that term is defined in the Open Meeting Law.

*Approved 7/24/1991*

## **ARTICLE XXVII BOARD OF APPEALS**

**Section 1.** The Town shall have a Board of Appeals, consisting of three (3) members, appointed by the Select Board, in April, for a term of three (3) years each, and so appointed that the term of only one shall expire in any one year. The Select Board shall appoint annually, in April, two (2) associate members to the Board of Appeals. The chairman of the Board of Appeals may designate any such associate member to sit on the board in case of the absence, inability to act or interest on the part of a member thereof, or in the event of a vacancy on the board, until such vacancy is filled.

**Section 2.** The Board of Appeals shall have the functions and powers as provided in the General Laws, including but not limited to Chapters 40A and 41, as amended.

**Section 3.** If any part of this article is in conflict with the Zoning By-laws, the language of the Zoning By-laws shall be controlling.

## **ARTICLE XXVIII VACANCIES**

**Section 1.** If there is a failure at an election to choose a Select Board, or Town Clerk, or if a person chosen shall not accept such office, or if a vacancy shall occur, such office may be filled by the Town pursuant to General Laws, Chapter 41, Section 10, as amended.

**Section 2.** If there is a failure to elect, or a vacancy occurs in any Town office other than the offices of Select Board, and Town Clerk, the Select Board shall in writing appoint a person to fill such vacancy.

**Section 3.** If there is a vacancy in a board consisting of two (2) or more members, other than the Select Board, Board of Appeals, Conservation Commission and any board under the sole authority of the Select Board, the remaining member or members shall give written notice thereof, within one month of said vacancy, to the Select Board, who, with the remaining member or members of such board, shall after one week's notice, fill such vacancy by roll call vote. The Select Board shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the ballots of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall be a registered voter of the Town.

**Section 4.** A vacancy in the office of the Board of Appeals, Conservation Commission or any board under the sole authority of the Select Board shall be filled by the Select Board.

## **ARTICLE XXIX ANIMAL CONTROL**

### **Section 1. General**

Statement of Purpose - This By-law is intended to guide those persons owning or keeping dogs in their role as responsible pet owners so as not to adversely affect the residents of Holliston.

Reference to Massachusetts General Laws - Any reference to a “section” in this By-law shall mean Chapter 140 of the Massachusetts General Laws, unless otherwise stated. The provisions of Massachusetts General Laws Chapter 140, sections 136A through 174D inclusive, as may be amended from time to time and except as modified herein, are incorporated into this By-law relating to the regulations of dogs.

If any provision of this bylaw shall be deemed unenforceable, the remaining provisions shall continue in full force and effect.

### **Section 2. Definitions**

Unless otherwise set out in this By-law, any term defined in section 136A shall have the same meaning in this By-law, and shall be expressly incorporated herein.

**ANIMAL CONTROL OFFICER:** The person or firm appointed to enforce the provisions of this By-Law.

**OWNER:** Any person or persons, individual, partnership, company, firm, association or corporation owning, keeping or harboring a dog within the Town.

**LICENSE PERIOD:** From January 1<sup>st</sup> of each year to December 31<sup>st</sup> of the same year.

**KENNEL:** One pack or collection of four (4) or more dogs on a single premise.

### **Section 3. License Required.**

Any owner or keeper of a dog six (6) months of age or older in the Town of Holliston shall cause said dog to be licensed within thirty (30) days of its becoming six (6) months old or thirty (30) days of becoming its owner or keeper, whichever shall last occur, as required by Massachusetts General Laws, Chapter 140 commencing on January 2nd of each year.

The registering, numbering, describing and licensing of a dog shall be done by the Town Clerk on a form prescribed and supplied by the Town Clerk, and shall be subject to the conditions expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing livestock, fowls or wildlife.

The owner of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable materials, to which shall be securely attached a tag on a form prescribed by and distributed by the Town Clerk when a license is issued. Such tag shall state “Town of Holliston”, the year of issue and tag number. The Town Clerk shall maintain a record of the identifying numbers. If any such tag is lost, the owner shall secure a substitute tag issued by the Town Clerk. The Town Clerk shall not grant any license until and unless a current rabies vaccination certificate for the animal to be licensed has been presented.

#### **Section 4. Rabies Vaccination.**

When applying for a license the applicant must show proof of rabies vaccination by a veterinarian's certificate or a notarized letter from a veterinarian that a certification was issued, dated within the last three (3) years, if the dog is six (6) months of age or older, as required by Massachusetts General Laws, Chapter 140, section 145B, as amended, and shall cause such dog to be re-vaccinated at intervals recommended by the vaccine's manufacturer.

Unvaccinated dogs acquired or brought into the Town shall be vaccinated within thirty (30) days after acquisition or entry into the Town or upon reaching the age of six (6) months, whichever comes later.

Unvaccinated dogs shall be re-vaccinated in accordance with rules and regulations adopted and promulgated by the Department of Public Health.

#### **Section 5. Penalties for Unlicensed Dogs.**

In addition to the requirement that a dog shall be duly licensed as required by law, the owner of a dog or dogs which is not licensed on or before April 30<sup>th</sup> in any year shall be subject to a fine of \$50.00.

*Amended 10/28/2013*

#### **Section 6. Disposition of Collected Fees and Fines.**

All fees and/or fines collected in relation to the control of dogs within the Town of Holliston, unless otherwise approved by the Select Board or controlled by law, shall be deposited with the Town Treasurer weekly and deposited into the general fund.

#### **Section 7. Dogs Running at Large.**

A person who owns or keeps a dog in the Town shall restrain such dog from running at large during such hours as determined by the Select Board and filed with the Animal Control Officer and the Town Clerk. The Town Clerk shall provide a copy of the regulations to each licensee at the time of the first licensing of the dog.

#### **Section 8. Animal Control Officer Powers and Duties.**

The Animal Control Officer shall seek out, catch and confine any dogs within the Town that are found on property where said dog is trespassing and the owner or person in control of such property wants the dog removed, if said dog is in violation of any section of this By-Law.

It shall be the duty of the Animal Control Officer to keep accurate and detailed records of the impoundment and disposition of all dogs held in custody; a monthly telephone log of all calls regarding dogs; all bite cases reported and the investigation of same; and to submit quarterly reports to the Select Board and Board of Health.

If any person shall make a complaint in writing to the Animal Control Officer that any dog owned or harbored within the Town is a nuisance by reason of vicious disposition or excessive barking or other disturbance, the Animal Control Officer shall investigate such complaint, which may include an examination under oath of the complainant, and submit a written report to the Select Board of findings and recommendations, together with the written complaint. Upon receipt of such report and examination of the complainant under oath, the Select Board may make such order concerning the restraint muzzling or disposal of such dog as may be deemed necessary. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to enable the Select Board to issue their order following receipt of the report of the Animal Control Officer. If the Select Board fail to act during the period of the interim order, upon expiration of the period the interim order automatically is vacated.

The Animal Control Officer may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed fourteen (14) days, any dog for any of the following reasons:

(a) for having bitten any person; (b) if found at large or unmuzzled, as the case may be, while an order for the restraint of such dog is in effect; (c) if found in a school, school yard or public recreational area; (d) for having killed or maimed or otherwise damaged any other domesticated animal; (e) for chasing any vehicle upon any public way or way open to public travel in the Town; (f) for any violation of Section 11.

Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Animal Control Officer shall submit in writing to the Select Board a report of action and the reasons therefor. Upon receipt of such report, the Select Board may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. If the Select Board fail to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order automatically is vacated. The owner of the animal shall have the right to appeal the interim order to the Select Board, who may vacate the order.

### **Section 9. Animal Control Officer Authorization.**

The Select Board shall annually appoint the Animal Control Officer who shall have, in addition to any other statutory authority contained in Massachusetts General Laws Chapter 140, the authority to enter a complaint before the Select Board for the purpose of obtaining an order with respect to the control or disposition of a dog found to be uncontrollable or whose owner or keeper is unresponsive to any other penalties contained in this bylaw.

### **Section 10. Kennels.**

Any owner or keeper of four dogs or more, six months of age or older, shall apply to the Town Clerk for a kennel license. Kennel licenses shall not be issued unless a report has been received from the Animal Control Officer. The report of the Animal Control Officer shall be based on the annual inspection of the premises as provided in General Laws Chapter 140, Section 137C, in addition to complaints, if any, registered and violations committed in the previous twelve (12) month period against the owner/keeper. The Town Clerk shall, upon application and without charge, issue a kennel license to any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse and for the relief of suffering among animals.

The Animal Control Officer may at any time inspect any kennel located in the Town.

Petitions or complaints against any such kennel shall be filed with the Select Board. The Board, as well as the Town Administrator or their designee, shall have investigatory powers over any such petitions or complaints. Said investigation shall be conducted by the Town Administrator or his designee, who within seven (7) days after the filing of such petition or complaint, shall give notice to all parties of interest of a public hearing to be held before the Select Board within twenty-one (21) days after the date of such notice. After such public hearing, the Board may make an order either revoking or suspending such kennel license or otherwise regulating such kennel, or dismissing said petition. Within ten (10) days after receipt of such order, the holder of such license may bring a petition in the district court as outlined in section 137c. Any person maintaining a kennel after the license has been revoked or while such license is suspended, shall be punished as set forth in the penalty provision of this By-law.

### **Section 11. Property Damage.**

An owner or keeper of dogs, if known, is responsible for any damages caused to property, livestock or fowl belonging to any other resident. Whoever suffers loss by the worrying, maiming or killing of his livestock or fowls by dogs, whose owner/keeper is unknown, may inform the Animal Control

Officer who shall proceed to the premises where the damage was done and determine whether the same was inflicted by dogs, and, if so, appraise the amount thereof, not to exceed fifty dollars (\$50.00). The Animal Control Officer shall submit a report of the damages found to the Select Board who shall examine all bills for damages and issue an order upon the Treasurer for such amounts as they decide to be just and shall notify all interested parties of their decision. The Treasurer shall pay all orders drawn upon him in full for the above purposes. The Town shall have the right to seek reimbursement of any expense incurred from the animal owner. No reimbursement shall be made for damage by a dog to dogs, cats and other pets.

### **Section 12. Penalties.**

In addition to any other remedy provided by law, a complaint in the district court may be instituted by the Animal Control Officer for any violation of this Article pursuant to General Laws Chapter 140, section 173A, as amended. Any person convicted of a violation of this Article shall be punished by a fine of twenty-five dollars (\$25.00) for the first offense and fifty dollars (\$50.00) for the second or subsequent offense committed during any twelve (12) month period. Each day shall constitute a separate and succeeding offense.

Enforcement of this By-law under the Non-Criminal Disposition process shall be carried out by the Animal Control Officer, any person having police powers or other persons so designated by the Select Board.

### **Section 13. Dog Waste.**

If any dog, cat or other animal kept as a pet shall defecate upon any land, public or private, within the areas encompassed by regulation, other than with the permission of the landowner thereof, then the owner, keeper or person then walking or otherwise in charge of said animal shall immediately remove or cause to be removed from said property or area all feces so deposited by said animal. Unless said feces are removed, the owner, keeper or person walking or otherwise in charge of said animal (or if said owner, keeper or person shall be a minor then the parent or guardian) shall each be deemed to be in violation of this Article. This regulation shall not apply to an animal accompanying any handicapped person who, by reason of his or her handicap, is physically unable to comply with the requirements of this Section 13.

*Approved 5/9/2005 (replaced by-law "Dogs")*

## **ARTICLE XXX RESTRICTION ON THE SALE OF ANIMALS**

**Section 1. Restrictions on the Sale of Animals** No pet store shall sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of cats or dogs or rabbits, except for a dog, cat or rabbit displayed by a shelter or animal rescue organization.

Nothing in this section shall prohibit pet stores from collaborating with an animal care facility or animal rescue organization to offer space for such entities to showcase adoptable dogs and cats. The animal rescue organizations must be in compliance with all relevant local, state, and federal guidelines, including but not limited to registration and approval as a 501C3 nonprofit charity, in possession of a current Certificate of Solicitation from the Massachusetts Attorney General's Office, in compliance with state and local kennel bylaws, and be listed as an approved animal rescue operation by the Massachusetts Department of Agricultural Resources.

**Section 2. Transparency.** Any pet shop operating within Holliston, Massachusetts must display prominently a sign next to each available animal the name of the organization and location the animal was received from, and make documentation validating this statement available to consumers as well as animal control officers and other town officials upon request.

**Section 3. Recordkeeping.** Each pet shop shall maintain records sufficient to document the source of each animal it acquires, for at least a period of two years following the date of acquisition. Such records shall be made available immediately upon request to the Holliston Animal Control Officer, Holliston Animal Inspector, Holliston Police or any of their designees.

**Section 4. Penalties.** Any person or entity, except as provided by law, who sells a dog, cat, or rabbit in violation of these bylaws shall be fined three hundred (\$300.00) dollars per violation. Each animal sold or offered for sale in violation of this bylaw shall constitute a separate offense.

**Section 5. Enforcement.** The Holliston Animal Inspector, Holliston Animal Control Officer, Holliston Police, or any of their designees shall have the authority to enforce all violations of these sections.

**Section 6. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall continue in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

**Section 7. Applicability.** If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulations, rule, ordinance, order, or policy, then the provisions of these sections shall control.

**Section 8. Effective Date.** This ordinance shall become effective 90 days after passage.

### **Definitions**

*Animal care facility* means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations.

*Animal rescue organization* means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include any entity housed on the premises of a breeder or broker, obtains dogs from a breeder or broker in exchange for payment or compensation, or resells dogs obtained from a breeder or broker and provides payment or compensation to such breeder or broker.

*Breeder* means a person who maintains dogs, cats, or rabbits for the purposes of breeding and selling its offspring.

*Broker* means a person who transfers dogs, cats, or rabbits at wholesale for resale by another.

*Cat* means a member of the species of domestic cat, *Felis catus*, including kittens.

*Dog* means a member of the species of domestic dog, *Canis familiaris*, including puppies.

*Flea market* means a building, structure, or open area occupied by one or more vendors, other than retail stores, for sale to the public of new or used goods or products.

*Offer for sale* means to sell, offer for sale or adoption, advertise for the sale of, barter, auction, give away or otherwise dispose of a dog or cat.

*Pet shop* means a retail establishment where dogs and cats are sold, exchanged, bartered or offered for sale as pet animals to the general public at retail. Such definition shall not include an animal care facility or animal rescue organization, as defined.

*Rabbit* means a small mammal of the family Leporidae of the order Langomorpha Oryctogus cuniculus”

*Accepted ATM July 20, 2020*

## **ARTICLE XXXI WETLANDS PROTECTION**

### **Section 1. Membership**

The Town shall have a Conservation Commission consisting of seven (7) members appointed by the Select Board in for a term of three years each and so appointed that no more than three (3) nor less than two (2) shall expire in any one year.

### **Section 2. Purpose**

The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Holliston by controlling activities deemed by the Holliston Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, fisheries, wildlife, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the “resource area values protected by this bylaw”).

This bylaw is intended to utilize the Home Rule authority of the Town so as to protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 §40; the “Act”) to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and regulations thereunder (310

CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Holliston.

### **Section 3. Jurisdiction**

Except as permitted by the Conservation Commission no person shall commence to remove, fill, dredge, build upon, discharge into, or otherwise alter the following resource areas:

- A. Any wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, and any lands under water bodies and/or intermittent or perennial streams, brooks and creeks;
- B. lands adjoining the resource areas specified in Section II.A out to a distance of 100 feet, known as the buffer zone;
- C. perennial rivers, streams, brooks and creeks;
- D. lands adjoining the resource areas specified in Section II.C out to a distance of 200 feet, known as the riverfront area;
- E. any lands subject to flooding or inundation by groundwater or surface water;

Collectively the areas specified in Sections II.A-E, constitute the “resource areas protected by this bylaw”. Said resource areas shall be protected whether or not they border surface waters.

#### **Section 4. Exemptions and Exceptions**

The applications and permits required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04.

The applications and permits 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, sewer, drainage, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this bylaw shall not be required for emergency projects necessary for the protection of the health and 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 prior to commencement of work or within 24 hours after commencement; provided that the 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 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 by 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.

Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) shall not apply under this bylaw.

#### **Section 5. Applications, Application Fees and Consultant Fees**

##### **A. Applications and Application Fees**

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The application may be in the form of a Notice of Intent, Abbreviated Notice of Intent, Abbreviated Notice of Resource Area Delineation, or Request for Determination of Applicability, or other form as the Commission specifies in its regulations. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw.

The Commission may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination of

Applicability ("RDA") or Abbreviated Notice of Resource Area Delineation ("ANRAD") shall include information and plans as are deemed necessary by the Commission.

At the time of an application, the applicant shall pay a filing fee specified in regulations of the Commission. The fee shall be deposited into a dedicated account for use only for wetlands protection activities, including but not limited to administration of this Bylaw. The filing fee is in addition to that required by the Wetlands Protection Act and Department of Environmental Protection ("DEP") wetland regulations (310 CMR 10.00). The Commission may waive the filing fee for a government agency.

### **B. Consultant Fees**

Pursuant to G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon an applicant for the purpose of securing outside consultants including but not limited to engineers, wetlands scientists, wildlife biologists, attorneys, or other experts in order to aid in the review of a proposed project(s). Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide an applicant with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and DEP of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the Select Board, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

### **Section 6. Notice and Hearings**

Any person filing a permit application with the Conservation Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or

delivered, shall be filed with the Commission. When a person requesting a Determination of Applicability is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any permit application provided that written notice is given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the Town of Holliston. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in §VI.

The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and regulations (310 CMR 10.00).

### **Section 7. Coordination with Other Boards**

Any person filing a permit application with the Conservation Commission shall provide at the same time, by certified mail (return receipt requested) or hand delivery, notice of such filing to the Select Board, Planning Board, Board of Appeals, Board of Health, Building Inspector, and other Town of Holliston officials or boards as designated by the Commission in its regulations. Notice shall be provided in the same manner to the Conservation Commission of an adjoining municipality if the permit application pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the above boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

### **Section 8. Permits and Conditions**

The Conservation Commission, after a public hearing, shall determine whether the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw. The Commission shall take into account the extent to which the applicant has avoided, minimized, and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

The Commission shall issue a permit approving the activities which are subject to the permit application, or the land and water uses which will result therefrom, after it determines that said activities, or uses which will result therefrom, will not have a significant individual or cumulative effect on the resource area values protected by this bylaw and comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with

those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. The Commission may issue a Determination of Applicability that no further permit application need be filed with the Commission for a proposed activity within jurisdiction of this bylaw as long as the activity complies with conditions that the Commission imposes in said determination.

The Commission within 21 days of the close of the public hearing shall issue or deny a permit for the activities requested.

The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

In reviewing activities within the buffer zone, the Commission shall presume such areas are important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. This presumption is rebuttable and may be overcome by credible evidence from a competent source that such buffer zones are not important to protection of other resource areas. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss or degradation of wildlife and wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of buffer zones, including without limitation, area strips of continuous, undisturbed vegetative cover. Such design specifications, performance standards, and other measures and safeguards shall apply unless the applicant convinces the Commission that the buffer zone area or part of it may be disturbed without harm to the values protected by the bylaw.

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the credible evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to

provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation but, because of the high likelihood of failure of replication, only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success.

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision to require a wildlife habitat study shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who meets or exceeds the minimum qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60) and, when required by the Commission, has direct professional experience with the wildlife species or wildlife habitat at issue.

The Commission shall presume that all areas meeting the definition of "vernal pools" under §IX of this bylaw, including the adjacent buffer zone area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential vernal pool habitat functions. Any formal evaluation should be performed by an individual who meets or exceeds the minimum qualifications under the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60) and, when required by the Commission, has direct professional experience with the wildlife species or wildlife habitat at issue.

A permit, Order of Conditions, ("OOC"), Determination of Applicability ("DOA"), or Order of Resource Area Delineation ("ORAD") shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed for one or more additional one-year periods, provided that a request for a renewal is received in writing by the Commission thirty (30) days prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

For good cause the Commission may revoke any permit, OOC, DOA, or ORAD or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §V and §VI, and after a public hearing.

Amendments to permits, OOCs, DOAs, or ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

The Commission may combine the decision issued under this bylaw with the OOC, DOA, ORAD, or Certificate of Compliance ("COC") issued under the Wetlands Protection Act and regulations.

No work proposed in any application shall be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

## Section 9. Regulations

After public notice and public hearing, the Conservation Commission shall promulgate and amend rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall reiterate the terms defined in this bylaw, define additional terms not inconsistent with the bylaw, and impose filing and consultant fees.

## Section 10. Definitions

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

The term “**agriculture**” shall refer to the definition as provided by G.L. Ch. 128, §1A.

The term “**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 preexisting 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, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting or trimming of trees, shrubs, or undergrowth
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term “**bank**” shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term “**buffer zone**”, as defined in Section II.B above, is that resource area which extends one hundred feet (100') from the edge of those wetland resource areas identified in Section II.A.

- a. **50-Foot No-Disturbance Zone** is that portion of the Buffer Zone which extends fifty (50) feet from the edge of those wetland resource areas identified in Section II.A; however, it is possible that these resource areas will overlap in some instances (e.g., Riverfront Area and Land Subject to Flooding). Disturbance of any kind is prohibited within this Zone including but not limited to grading, landscaping, vegetation removal, pruning, cutting, filling, excavation, roadway construction and /or driveway construction.
- b. **100-Foot No-Disturbance Zone** is that buffer zone area that extends one hundred (100) feet from the edge of any Vernal Pool that is located in an upland area or, in the case of a larger wetland resource area that encompasses the pool, within one hundred (100) feet from the edge of the said larger wetland resource area. Disturbance of any kind is prohibited within

**this Zone including but not limited to grading, landscaping, vegetation removal, pruning, cutting, filling, excavating, roadway construction and/or driveway construction. The extent and location of this No-Disturbance Zone is subject to change based on the results of a biological and/or habitat evaluation, which may be required to determine the migratory pathways and other important habitat usage of Vernal Pool breeders.**

The term “**build upon**” shall mean construction of any kind of structure, whether on land or in water; and/or placing of obstructions or objects in water (other than fish or shellfish traps, pens or trays used in conjunction with aquaculture, or aids to navigation).

The term “**cumulative adverse effect**” shall mean an effect on a resource area(s) that is significant when considered in combination with other activities that have occurred, are occurring simultaneously or that are reasonably likely to occur within that resource area(s), whether such other activities have occurred or are contemplated as a separate phase of the same project or activities, or as a result of unrelated projects or activities.

The term “**discharge into**” means, without limitation, any outfall of water that empties into a resource area or buffer zone, including infiltration.

The term “**erosion control**” means the prevention of the detachment or movement of soil or rock fragments by water, wind, ice, or gravity.

The term “**groundwater**” shall mean all subsurface water contained in natural geologic formations or artificial fill including soil water in the zone of aeration. Activities within 100 feet of resource areas shall not significantly alter the existing quality or elevation of naturally occurring groundwater.

The term “**permits**” shall collectively refer to Orders of Conditions, Notice(s) of Non-Significance, Enforcement Order(s), Determinations of Applicability, and/or Orders of Resource Area Delineation.

The term “**person**” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term “**pond**” shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

The term “**private water supply**” shall mean any source or volume of surface or groundwater demonstrated to be in any private use or shown to have potential for private use for domestic purposes.

The term “**public water supply**” shall mean any source or volume of surface water or groundwater demonstrated to be in public use or approved for water supply pursuant to M.G.L. c. 111, Section 160 by the Division of Water Supply of the Department of Environmental Protection or shown to have a potential for public use.

The term “**rare species**” shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of

Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

The term “**recreation**” shall mean any leisure activity or sport taking place in, on, or within 100 feet of a resource area which is dependent on the resource area and its values directly or indirectly for its conduct and enjoyment. Recreational activities include, but are not limited to, the following: noncommercial fishing and hunting, boating, swimming, walking, painting, birdwatching and aesthetic enjoyment. Structures and activities in or within 100 feet of a resource area shall not have a significant effect on public recreational values. Notwithstanding this definition, new or expanded recreational activities shall not have a significant effect on other wetlands values identified in §I of this chapter.

The term “**spring**” shall mean any point in the natural environment where water discharges to the surface of the earth from underground.

The term “**vernal pool**” shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression.

The term “**wildlife**” shall mean all non-domesticated mammals, birds, reptiles, amphibians, fishes or invertebrates. Special consideration shall only be given to members of the class Insecta if they are rare or endangered as defined by the Massachusetts Natural Heritage Program or its successor, or if they are a major food source of other wildlife, but not if the insect species is determined by the Commission and the Board of Health to constitute a pest whose protection under the By-law would be a risk to man at the proposed project site.

The term “**wildlife habitat**” shall mean areas having plant community composition and structure, hydrologic regime, or other characteristics sufficient to provide shelter, nutrient sourcing, growing conditions, nesting or breeding sites conducive to the propagation and preservation of wildlife. Except as otherwise provided in this bylaw or in associated regulations of the Conservation Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

## **Section 11. Security**

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

A. By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this

municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant, shall not impose on the Commission any monitoring, reporting, or maintenance duties or obligations, and a charitable corporation or trust must be a grantee in addition to the Commission.

## **Section 12. Enforcement**

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Conservation 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, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions.

Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Select Board and 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.

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

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations with specific penalties pursuant to the non-criminal disposition procedure set forth in G.L. Ch. 40 §21D, which has been adopted by the Town in Article XXIV §9 of the general bylaws. The penalty shall be \$100 for the first violation, \$200 for the second violation, and \$300 for each and all successive violations.

## **Section 13. 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 permit application will not have unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

## **Section 14. Appeals**

A decision of the Conservation Commission shall be reviewable in the superior court in accordance with G.L. Ch. 249 §4.

### **Section 15. Relation to the Wetlands Protection Act**

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

### **Section 16. 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, approval or determination which previously has been issued.

## **ARTICLE XXXII ACCOUNTANT**

**Section 1.** The Town shall have an Accountant who shall be appointed by the Town Administrator. (Approved 5/5/98).

**Section 2.** The Accountant shall examine the books and accounts of all Town officers and committees entrusted with the receipt, custody or expenditure of money, and all original bills and vouchers on which money has been or may be paid from the Town's treasury.

**Section 3.** The Accountant shall have such other functions and powers as provided in the General Laws as amended, including but not limited to Chapter 41.

*Article XXXII Personnel Board deleted ATM 5/6/2019*

## **ARTICLE XXXIII TREE WARDEN**

**Section 1.** The Town shall have a Tree Warden who shall be appointed by the Select Board for a term of one year. *Approved STM 10/25/1999*

**Section 2.** Except as otherwise provided by law, the Tree Warden shall be responsible for the setting out, care and maintenance and removal of all public shade trees, shrubs and other plants in the Town and shall enforce all the provisions of law for their preservation.

**Section 3.** The Tree Warden shall have the functions and powers as provided in the General Laws, including but not limited to Chapter 87, as amended.

## **ARTICLE XXXIV CAPITAL IMPROVEMENT PROGRAM**

**Section 1. DEFINITION.** The Town shall have a Capital Improvement Program. A capital improvement shall be defined to include, but not be limited to, all permanent buildings, land, roads, and bridges, purchases, leases, and equipment. The dollar amount and the expected useful life necessary to qualify as a capital improvement shall be determined by the Finance Committee based on prevalent conditions, economic and otherwise.

**Section 2. ADMINISTRATION.** The Capital Improvement Program shall include the following provisions: Each Town board, committee, and department which proposes capital expenditures shall provide annually to the Finance Committee, on or before a date specified by the Finance Committee, a Capital Improvement Program Report which shall include:

- a. A summary of its contents.
- b. A list of all capital improvements proposed to be undertaken during the next five (5) years, with supporting information as to the needs of each such capital improvement.
- c. Cost estimates, methods of financing, recommended priorities and time schedules, and expected useful life for each improvement, and
- d. The estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be revised annually with regard to the capital improvements still pending and/or in the process of being acquired, improved, or constructed.

**Section 3. SUB-COMMITTEE.** In order to review and summarize the various Capital Improvement Program Reports, the Finance Committee may appoint a sub-committee in its stead. Such a committee shall have as its chairperson a member of the Finance Committee. Except for members of the Finance Committee, no person holding any Town office, elected or appointed and no employee of the Town shall be eligible to serve as a voting member on any capital improvement review sub-committee. The Executive Secretary shall be a nonvoting member of any such subcommittee for the purpose of fulfilling those duties outlined in Article XXXV of this by-law. The Finance Committee may appoint other Town employees or persons holding Town office as nonvoting ex-officio members of any such sub-committee.

*Amended S.T.M. 11/21/1991*

**Section 4. REPORT.** The resulting review and summary shall be known as the Annual Capital Improvement Summary. This summary, along with the Finance Committee's relevant recommendations, shall be included in and published as a separate Section in the Annual Finance Committee Report and in the Town Report.

## **ARTICLE XXXV TOWN ADMINISTRATOR**

The Select Board of the Town of Holliston, by an affirmative vote of at least a majority of the full membership of the board shall appoint a Town administrator for an indefinite term and shall fix the compensation for such person within the amount annually appropriated for that purpose. The position of Town administrator shall not be subject to the By-laws of the Town relative to personnel, nor shall it be included in any certification of any collective bargaining unit. The Town administrator shall have the duties and responsibilities set forth in Chapter 94 of the Acts of 1994.

## **ARTICLE XXXVI WATER SUPPLY EMERGENCY**

**Section 1. AUTHORITY:** This Article is adopted by the Town of Holliston under its home rule powers, its police powers to protect public health and welfare and its specific authorization under General Laws Chapter 40, Section 21(7), and 21D.

**Section 2. PURPOSE:** The purpose of this Article is to protect, preserve and maintain the public health, safety and welfare, whenever there is in force a state of water supply emergency, by providing for enforcement of duly imposed restrictions, requirements, provisions or conditions imposed by the Town of Holliston or by the Department of Environmental Protection and included in the Town of Holliston plan approved by the Department of Environmental Protection to abate the emergency or by any other duly authorized local, state or federal governmental body or officer.

**Section 3. DEFINITIONS:** For the purpose of this Article, the following terms shall have the meanings indicated:

**Section 4. ENFORCEMENT AUTHORITY-** The Town of Holliston Director of Public Works or their designee, having the responsibility for the operation and maintenance of the water supply, the Health Department, the Town police, special police and any other locally designated body having police powers.

**Section 5. STATE OF WATER SUPPLY EMERGENCY -** A state of water supply emergency declared by the Department of Environmental Protection pursuant to General Laws Chapter 21G, Section 15 and General Laws Chapter 40, Section 41A, or by the Governor or any other duly authorized local, state or federal governmental body or official.

**Section 6. ACTIONS IN THE EVENT OF WATER EMERGENCIES -** The following shall apply to all users of water supplied by the Town of Holliston.

A. Following notification by the Town of Holliston of the existence of a State of Water Supply Emergency, no person shall violate any provisions, condition, requirements or restriction included in a plan approved by Department of Environmental Protection which has as its purpose of abatement of a water supply emergency.

B. Notification of any provisions, restrictions, requirements or conditions with which users of water supplied by the Town of Holliston are required to comply to abate a situation of water emergency shall be sufficient for purposes of this Article if it is published on the Town of Holliston web site, via the Town's Emergency Notification System, or by such other notice as is reasonably calculated to reach and inform all users of the Town of Holliston water supply. In the event of a water emergency the Enforcement Authority may implement the following restrictions:

C. The following restrictions may be imposed:

Restriction level	Compliance rule	Imposition level
Stage 1	Voluntary	2.5 MGD* pumping rate
Stage 2	Voluntary odd/even	2.6 MGD pumping rate
Stage 3	Mandatory odd/even	2.8 MGD pumping rate

Stage 4	Total water ban	3.0 MGD with low tank levels
*MGD = million gallons/day		

All conditions due to heat waves, drought, or other water emergency deemed necessary by the Director of Public Works or their designee.

D. The restrictions in section C may be imposed irrespective of pumping rate due to heat waves, drought, or other water emergency deemed necessary by the Enforcement Authority.

## **Section 7. VIOLATIONS AND PENALTIES:**

A. **CRIMINAL COMPLAINT:** Any person who violates any provision of this by-law may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation, or offense, brought in such manner, shall be three hundred dollars. Each day or portion thereof shall constitute a separate offense. Each condition violated shall constitute a separate offense.

B. **NONCRIMINAL DISPOSITION.** Any person who violates any provision of this by-law may be penalized by a noncriminal disposition as provided in General Laws Chapter 40, Section 21D. If noncriminal disposition is elected, then any person who violates any provision of this by-law shall be subject to a penalty in the amount of a warning for the first offense, one hundred dollars (\$100) for the second offense, and two hundred dollars (\$200) for each subsequent offense. Each day or portion thereof shall constitute a separate offense. Each condition violated shall constitute a separate offense. This by-law may be enforced pursuant to General Laws Chapter 40, Section 21D, by any officer or board authorized pursuant to Section 4 of this Article; or take any action relative thereto.

*Amended May 9, 2017*

## **ARTICLE XXXVII COMMUNITY PRESERVATION COMMITTEE**

**Section 1. Establishment.** There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to Chapter 44B of the General Laws. The composition of the committee, the appointment authority and the term of office for committee members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of three years.

One member of the Historical Commission as designated by the Commission for a term of three years.

One member of the Planning Board as designated by the Board for a term of three years.

One member of the Park Commission as designated by the Commission for an initial term of one year and thereafter for a term of three years.

One member of the Housing Authority as designated by the Council for an initial term of two years and thereafter for a term of three years.

Four members to be appointed by the Select Board, two members to be appointed for a term of one year and thereafter for a term of three years and two members to be appointed for a term of two years and thereafter for a term of three years.

Should any of the Commissions, Boards, Councils or Committees who have appointment authority under this Chapter be no longer in existence for whatever reason, the appointment authority for that Commission, Board, Council, or Committee shall become the responsibility of the Select Board. Each member of the Community Preservation Committee appointed by an entity other than the Select Board shall serve for the term indicated above, until such member no longer serves on the commission, board, department or committee making the appointment.

## **Section 2. Duties.**

(1) The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Park Commission, the Housing Authority, the Water Department and the Open Space Committee, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

(2) The Community Preservation Committee shall make recommendations to the Town Meeting 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 community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(3) The Community Preservation 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 for general purposes that are consistent with community preservation.

(4) In every fiscal year, the Community Preservation Committee shall submit a recommendation to the Town Meeting to either spend, or set aside for later spending, not less than

10% of the annual revenues in the Community Preservation Fund, or such minimum amount specified by statute from time to time, for: (a) open space (not including land for recreational use); (b) historic resources; and (c) community housing. Such recommendation shall be submitted to the Select Board no later than sixty (60) days prior to the Annual Town Meeting for inclusion in the warrant for the Annual Town Meeting.

**Section 3. Requirement for a Quorum and Cost Estimates.** The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. The committee shall conduct its meetings in accordance with the Open Meeting Law. Recommendations to the Town Meeting shall include their anticipated costs.

**Section 4. Exemptions.** Applications for exemption from the Community Preservation Act surcharge must be filed with the Office of the Board of Assessors no later than thirty (30) days after the issuance of the actual real estate tax bill.

**Section 5. 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 Chapter 44B of the General Laws.

**Section 6. Severability.** In case any section, paragraph or part of this Article 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.

**Section 7. Effective Date.** Following Town Meeting approval, this Article shall take effect immediately upon approval by the Attorney General of the Commonwealth, and in compliance with all of the requirements of section 32 of Chapter 40 of the General Laws. Each appointing authority shall have thirty (30) days after the Town's receipt of notification of approval by the Attorney General to make their initial appointments. Should any appointing authority fail to make their appointment within that allotted time, the Town Moderator shall make the appointment.

*Amended ATM 10/29/2001*

## **ARTICLE XXXVIII BROWNFIELDS TAX ABATEMENTS**

**Section 1. Purpose.** Pursuant to the provisions of section 59A of Chapter 59 of the General Laws, it is the intent of the town to offer tax abatements to encourage the continued environmental cleanup and redevelopment of sites zoned for industrial and commercial use from or at which there has been a release of oil or hazardous material.

**Section 2. Subject Properties.** Property which may be the subject of tax abatement agreements pursuant to this By-law must:

1. Be a site or portion of a site from or at which there has been a release of oil or hazardous material;
2. Be owned by an eligible person, as that term is defined in section 2 of Chapter 21E of the General Laws; and
3. Be zoned for commercial or industrial use.

**Section 3. Abatement Agreements.** The Treasurer/Collector is hereby authorized to negotiate agreements from the abatement of real estate taxes (hereinafter "Abatement Agreements") with owners of eligible properties, the terms of which Abatement Agreements shall be subject to approval by the Select Board for abatements not exceeding \$50,000. Abatements above this amount shall also be subject to approval of Town Meeting. Abatement Agreements may allow for reductions in outstanding taxes, interest, and/or penalties. Abatement Agreements shall include, but not be limited to:

- a. The amount of outstanding real estate taxes;
- b. The percent of interest to accrue if determined applicable by the Treasurer/Collector and the property owner;
- c. The description of quantifiable monthly payments;
- d. The inception date of monthly payments;
- e. The date of the final payment;

- f. The late penalties to be imposed; and
- g. Any and all other contractual terms as arranged between the Treasurer/Collector and the property owner.

All Abatement Agreements shall be signed by the Chairman of the Select Board and the property owner, whose signatures shall be notarized, and attested to by the Town Clerk. Copies of all Abatement Agreements shall be provided to the Massachusetts Department of Environmental Protection, the United States Environmental Protection Agency, the Massachusetts Commissioner of Revenue, the Select Board and the property owner.

*Amended TM 10/29/01*

## **ARTICLE XXXIX AGRICULTURAL COMMISSION**

### **Section 1. Purpose and Intent**

The purpose and intent of this By-law 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 Holliston 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").

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

### **Section 2. Definitions**

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.

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; and
- (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.

"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; and
- (7) on-farm relocation of earth and the clearing of ground for farming operations.

### **Section 3. Right to Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Holliston. 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. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community and society in general. The benefits and protections of this By-law 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 By-law 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.

### **Section 4. Disclosure Notification**

The Town shall annually notify the community of this By-law.

### **Section 5. Resolution of Disputes**

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning 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. The Zoning Enforcement Officer or Select Board 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.

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.

### **Section 6. Severability Clause**

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Holliston hereby declares the provisions of this By-law to be severable; or take any action relative thereto.

*deleted previous XXXIX added new XXXIX 5/8/2006*

## **ARTICLE XL PENALTIES FOR IMPROPER USE OF BURGLAR ALARMS**

### **Section 1. Definitions**

(a) Burglar Alarm Systems - any assembly of equipment and devices or a single device such as a solid-state unit connecting directly to a 110 volt alternating current line arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. The provisions of penalties section shall apply to all users.

(b) False Alarm - (i) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence on the part of the user of an alarm system, or his employees or agents; (ii) any signal, live voice message or automatic dialing device transmitted to the Police Department requesting, requiring or resulting in a response on the part of the Police Department when there has been no unauthorized intrusion, robbery, burglary or attempted threat. For the purposes of this definition, activation of alarm systems for the purpose of testing with prior approval by the Police Department, or by act of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

(c) Automatic Dialing Device - an alarm system which automatically sends via regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of an emergency situation which the alarm system is designated to detect.

## **Section 2. Control and Curtailment of Signals Emitted by Alarm Systems**

(a) Every alarm user shall submit to the Police Chief his name, address and telephone number and the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Police Department, to an emergency signal transmitted by an alarm system and who can open the premises in which the alarm system is installed. The owner of said premises shall immediately notify the Holliston Police Department of any changes in the list of employees or other persons authorized to respond to alarms.

(b) All alarm systems, installed after the effective date of this By-law, which use an audible horn or bell, shall be equipped with a device that will shut off such bell or horn within (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Holliston must have such a shut-off device installed within six (6) months of passage of by-law.

(c) Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes, which cannot be shut off or otherwise curtailed due to the absences or unavailability of the alarm user, or those persons designated by him under paragraph (a) and which disturbs the peace, comfort or repose of the community, neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Department shall endeavor to contact the alarm user, or member of the alarm user's family, or those persons designated by the alarm user under paragraph (a), in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complaints and the time each complaint was made. If no such contact can be made the Police Department shall have authority to disable the alarm. The expenses incurred in disabling alarm shall be the responsibility of the property owner.

(d) No alarm system which is designated to transmit emergency messages or signals to the Police Department will be tested until the Police Dispatcher has been notified.

(e) The provision of this section shall not apply to alarm devices on premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

## **Section 3. Penalties**

(a) The user shall be assessed a false alarm service fine for each false alarm in excess of one (1) occurring within a calendar year according to the following schedule:

- 1) Second false alarm fifty dollars (\$50)
- 2) Third and subsequent false alarms one hundred dollars (\$100)

(b) The Police Chief shall notify the alarm user by mail or by service in hand by a police officer of such violation and said user shall submit payment to the Town Treasurer for deposit to the General Fund within fifteen (15) days of the notice.

(c) The owner of a system which causes six (6) or more false alarms within a calendar year, or who fails to pay the fee after said notice, may be ordered by the Select Board, after a public hearing, to disconnect and otherwise discontinue the use of such system.

(Approved 5/8/2008) (Adopted M.G.L. Ch. 40 Sec. 58 5/10/2011)

## **ARTICLE XLI**

### **STORMWATER MANAGEMENT AND LAND DISTURBANCE**

#### **Section 1. Purpose**

The purpose of this by-law is to control the adverse impacts of increased post-development stormwater runoff, nonpoint source pollution associated with development and redevelopment as well as erosion and sedimentation associated with land disturbance and construction. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of: impairment of water quality and flow, contamination of drinking water supplies, erosion of stream channels, alteration or destruction of habitat and flooding.

This bylaw seeks to meet the following objectives:

- Minimize damage to public and private property and infrastructure;
- Safeguard the public health, safety, environment and general welfare;
- Protect water resources and prevent contamination of drinking water supplies;
- Require practices that limit soil erosion and sedimentation on construction sites;
- Require practices that control volume and rate of stormwater runoff resulting from land disturbance activities;
- Establish the Town of Holliston's legal authority to ensure compliance with the provisions of this by-law through permitting, inspection, monitoring and enforcement.

#### **Section 2. Authority**

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, pursuant to the regulations of the federal Clean Water Act, found at 40 CFR 122.34. This bylaw is intended to meet certain provisions of the Town's requirement to comply with the National Pollutant discharge Elimination System (NPDES) Regulations (Phase I and II Rules).

#### **Section 3. Applicability**

No person shall undertake an activity which may include clearing, grubbing, grading, placement of fill, excavation of soil or other site work that will result in a land disturbance exceeding any of the following thresholds, without a Land Disturbance Permit from the Planning Board.

There are two levels of review based on the amount of proposed land to be disturbed as part of a single project as follows:

Minor Land Disturbance Permit (total project disturbance is less than 40,000 s.f.)

1. Any activity that will result in soil disturbance of 10,000 s.f. or more, or more than 25% of the parcel or lot, whichever is less;
2. Paving in excess of a total of 500 s.f. of commercial and industrial driveways, parking lots and other impervious non-roadway surfaces;
3. Any activity that will disturb over 250 s.f. of land with 10% or greater slope.

#### Major Land Disturbance Permit

1. Any activity that will result in disturbance of 40,000 s.f. or more of land;
2. Projects that disturb less than 40,000 s.f. if the project is part of a larger common plan of development or redevelopment which disturbs 40,000 s.f. or more;
3. An alteration, redevelopment or conversion of land use involving the following: auto fueling, service and sale facilities, fleet storage yards, commercial nurseries and landscaping facilities.

### Section 4. Exemptions

1. Normal maintenance and improvement of land in agricultural or logging use which is consistent with MGL, c. 40A, s. 3 and 310 CMR 10.04.
2. Construction of utilities other than drainage, which will not alter terrain or drainage patterns.
3. Maintenance of existing dwellings, including landscaping, utility connections and driveways, provided such maintenance does not alter drainage patterns.
4. Repairs to any stormwater treatment facility deemed necessary by the Planning Board and maintenance, reconstruction or resurfacing of any public way.

### Section 5. Administration

1. Authority. The primary authority for the administration, implementation, and enforcement of this bylaw lies with the Planning Board.
2. Land Disturbance Permits. The Planning Board shall have the authority to issue a permit for projects subject to this bylaw. Any such permit requirements may be defined and included as part of any Regulations promulgated as a result of this bylaw.
3. Regulations. The Planning Board shall adopt and periodically amend Regulations which establish and collect permit application fees, inspection fees, and in special cases, consultant fees for review of applications. Such regulations shall elaborate on the terms, conditions, definitions, enforcement, procedures and administration of this bylaw. For execution of the provisions of this bylaw, the Planning Board will utilize the policy, criteria and information, including specifications and standards of the latest editions of the Massachusetts Stormwater Management Policy and Technical Handbooks and Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas, or local equivalents based on improvements in engineering, monitoring and local maintenance experience. The regulations shall be adopted after a public hearing.
4. Waiver. The Board may waive strict compliance with any requirement of this by-law where such action is allowed by federal, state and local statutes and/or regulations, is in the public interest, and is not inconsistent with the purpose and intent of this by-law.
5. Delegation of Authority. The Planning Board may choose to delegate, in writing, its authority in whole or in part, to a qualified representative.

### Section 6. General Permit Procedures and Requirements

1. Entry. Filing an application for a permit grants the Planning Board and its agent's permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
2. Fee Structure. The Board shall obtain with each submission an Application Fee established by the Board to cover expenses connected with application review. The Board may, at the applicant's expense per the provisions of G.L. Chapter 44, Section 53G, retain a Registered

Professional Engineer or other professional consultant to advise the Board on any or all aspects of the application.

3. Permits. The Planning Board shall, within 30 days of the receipt of a completed application:
  - a. Approve the application upon finding that the proposed plan will protect water resources and meets the objectives and requirements of this bylaw;
  - b. Approve the permit with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and meets the objectives and requirements of this bylaw;
  - c. Disapprove the application if the proposed plan will not protect water resources or fails to meet the objectives or requirements of this bylaw.

After an application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of drives, no grading of lots or land, no excavation except for purposes of soil testing, no dredging or filling, and no construction of buildings or structures shall commence on any part of the development site until the application has been reviewed and approved in accordance with this by-law and its' implementing regulations.

4. Failure of the Planning Board to take final action upon an application within 30 calendar days of receipt of a complete application shall be deemed to be approval of such application. Upon certification by the Town Clerk that the allowed time has passed without action by the planning Board, the Permit shall be issued.
5. Project Completion. At completion of the project, the permittee shall submit as-built drawings of all structural stormwater controls and treatment best management practices required for the site. The as-built drawing shall document deviations from the approved plans, if any, and be certified by a Registered Professional Engineer. This requirement may be waived at the Planning Board's discretion. No occupancy permit shall be granted unless and until the construction of all site improvements are complete or the work remaining to be done is secured.

**Section 7. Appeals.** A decision of the Planning Board shall be final.

**Section 8. Enforcement.** The Planning Board or an authorized agent shall enforce this bylaw and its implementing regulations and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any regulations promulgated as permitted under this bylaw.

**Section 9. Severability.** If the provisions of any portion of this by-law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of the by-law.

*Accepted 5/5/2008, Amended 6/20/2020*

## **ARTICLE XLII STRETCH ENERGY CODE**

### **Section 1. Definitions**

**International Energy Conservation Code (IECC)** - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

**Stretch Energy Code** - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8th edition Massachusetts building code, the Stretch Energy Code is an

appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

### **Section 2. Purpose**

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for both new construction and existing buildings.

### **Section 3. Applicability**

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

### **Section 4. Stretch Code**

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Holliston General Bylaws, Article XLII.

The Stretch Code is enforceable by the inspector of buildings or building commissioner.

*Accepted 5/5/2014*

## **ARTICLE XLIII ECONOMIC DEVELOPMENT COMMITTEE**

**Section 1. Membership** The Town shall have an Economic Development Committee consisting of seven (7) members appointed in June by the Town Administrator, subject to the right of the Select Board to reject an appointment or appointments, by majority vote, within fifteen (15) days of notice of appointment from the Town Administrator, for a term of three years (3) each and so appointed that no more than three (3) nor less than two (2) shall expire in any one (1) year.

**Section 2. General Powers And Duties** The Committee shall have the power to proactively promote and encourage the development of Holliston's commercial, village commercial and industrial tax base.

The Committee shall explore ways to support existing businesses and encourage them to stay and expand in Holliston. It will maintain an ongoing dialogue with business owners and owners of commercial/industrial properties on a proactive basis to understand how the Town can work with them to achieve their plans.

The Committee shall pursue grants with other departments as appropriate.

The Committee shall strive to market the Town as a good place to do business by seeking ways to create a business-friendly environment, a streamlined permitting, licensing and approval process and a centralized informational source on business opportunities, on commercial and industrial real estate options, on public and private grants and tax incentives and support/encourage housing that is revenue positive to the Town.

The Committee shall file a written report of its work annually with the Town Administrator, the Select Board and the Planning Board. Said report shall be included in the Annual Report of the Town.

*Accepted 5/6/2015*

## ARTICLE XLIV REVOLVING ACCOUNTS

**Section 1. Purpose** This By-law establishes and authorizes revolving funds for use by departments, boards, committees, agents or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by the Massachusetts General Law Chapter 44, section 53E1/2.

**Section 2. Expenditure Limitations** A department head, board committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this By-law without appropriation subject to the following limitations:

- A. Fringe benefits of full time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- B. No liability shall be incurred in excess of the available balance of the fund.
- C. The total amount spent during a fiscal year shall not exceed the amount authorized by the Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is late approved during that fiscal year by the Select Board and Finance Committee.

**Section 3. Interest** Interest earned on monies credited to a revolving fund established by this By-law shall be credited to the General Fund.

**Section 4. Procedures And Reports** Except as provided in the Massachusetts General Law Chapter 44, section 53E1/2 and this By-law, the laws, charter provisions, By-law rules, regulations. Policies and procedures that govern the receipt and custody of Town funds shall apply to the use of a Revolving Fund established and authorized by this By-law. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

**Section 5. Authorized Revolving Funds** This Table establishes:

- A. Each Revolving Fund authorized for use by a Town Department, board or committee.
- B. The Department, Head, board or committee authorized to spend from each account.
- C. The fees, charges and other monies charged and received by the department, board, committee in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant.
- D. The expenses of the program or activity for which each fund may be used.
- E. Any restrictions or conditions on expenditures from each fund.
- F. Any reporting or other requirements that apply to each fund, and
- G. The fiscal years each fund shall operate under this By-law.

Revolving Fund	Authorized to Spend	Fees/Charges/Receipts	Expenses Payable	Restrictions	Other Requirements	Fiscal Years
Wetland Filing Fee	Conservation	Filing Fees	Wetland Determination	None	None	Beginning 7/1/2018
Council on Aging	Council on Aging	Building Rental	Senior Center Expenses	None	None	Beginning 7/1/2018
Composting	Select Board	Sale of Composting Kit	Purchase of	None	None	Beginning

Kit			Kits			7/1/2018
Response & Recovery	Fire Chief	Fees for Response	Planning & Response Expenses	None	None	Beginning 7/1/2018
Abutter's List	Board of Assessors	Fees for Lists	Preparing Lists	None	None	Beginning 7/1/2018
Building Inspection	Building Inspector	Inspection Fees	Inspectional Services	None	None	Beginning 7/1/2018
Town Hall Rental	Select Board	Building Rental	Town Hall Maintenance	None	None	Beginning 7/1/2018
Senior Center Van	Council on Aging	Fees for Use of Van	Van Maintenance	None	None	Beginning 7/1/2018
Agricultural Program	Agricultural Commission	Fees for Programs	Agricultural Programs	None	None	Beginning 7/1/2018
Sealer of Weights & Measures	Sealer of Weights & Measures	Inspection Fees	Inspectional Services	None	None	Beginning 7/1/2018
Fluorescent Bulb Recycling	Select Board	Recycling Fees	Recycling Costs	None	None	Beginning 7/1/2018
Banner Revolving	Highway Super	Fees for Banner Hanging	Banner Placement	None	None	Beginning 7/1/2018
Accident Fee	Police Chief	Fees for Invest.	Investigation Expenses	None	None	Beginning 7/1/2018
Inoculation Revolving	Board of Health	State Reimburs.	Inoculation Expenses	None	None	Beginning 7/1/2018
Cost of Prosecution	Police Chief	Court Fees	Prosecution Expenses	None	None	Beginning 7/1/2018
Nutrition Revolving	Council on Aging	Program Fees	Nutrition Programs	None	None	Beginning 7/1/2018
Pinecrest Golf Course	Golf Course Committee	Golf Course Receipts	Debt, Lease & Other Expenses	None	None	Beginning 7/1/2018
Technology Repair & Replenish	School Committee	Insurance Fee	Repair & Replacement Costs	None	None	Beginning 7/1/2018
Recycling Fund	Select Board & Town Administrator	Payment to Town under Solar Net Metering Agreements; Energy Aggregation; receipts from Recycling Center	Costs, wages & expenses relating to both operation of the recycling center & sustainability projects in the Town of Holliston	None	None	Beginning 7/1/2021 Initial pending limit of \$60,000
EV Charging Fund	Select Board & Town Administrator	Grant funding or donations for purchasing EV charging equipment, credit card	Costs & expenses relating to operation of	None	The Town will set a rate per kWh that meets or	Beginning 7/1/2021; initial spending

		revenue from users per kWh	the EV charging stations, including depreciation of the asset(s)		exceeds the cost of electricity	limit of \$100,000
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*Accepted May 7, 2018 Amended 5/10/2021*

## ARTICLE XLV MARIJUANA LICENSE

### **Section 1. Operation**

No person shall operate a Craft Marijuana Cultivator Cooperative, Marijuana Cultivator, Marijuana Carrier, Marijuana Delivery Operator, Marijuana Delivery Licensee, Marijuana Product Manufacturer, and Marijuana Testing Facility, as defined by Massachusetts General Laws Chapter 94G, or any other licensed marijuana operation, within the Town unless first duly licensed thereof by the Select Board, which license is renewable annually.

### **Section 2. Rules and Regulations**

The Board may adopt reasonable rules and regulations related to the issuance of such licenses, including the fees to be paid therefore and the conditions to be satisfied by any applicant for such a license.

### **Section 3. Application**

Applicants for a license annually shall file an application on a form by the Select Board, signed under the penalties of perjury by the applicant, containing such information as the Select Board may reasonably require from time to time. Each applicant annually shall pay an application fee as may be reasonably determined from time to time by the Select Board.

### **Section 4. Hearing**

The Select Board must act upon the application at one of their next two regularly scheduled meetings with due written notice provided to the applicant of the time, date and location where such appeal will be heard.

### **Section 5. Decision**

The Select Board may approve, deny or approve the application with conditions. Such decision shall be based on the evidence taken at the public hearing, consistent with the protection of the health, safety and welfare of the public, and consistent with the regulations promulgated by such board.

### **Section 6. Fines**

The Select Board may issue orders as appropriate to aid in the enforcement of this regulation and may enforce these provisions in equity, including the request for injunctive relief, in a court of competent jurisdiction. Any failure to comply with any Order issued hereunder shall result in the issuance of a formal warning. Any failure to comply with such a warning shall result in a fine of \$100.00. Any failure to comply after the issuance of said initial fine may be punishable by a subsequent fine of \$300.00. Each day of a continued non-compliance shall constitute a separate violation. Further, the Select Board may hold a hearing, with notice to the licensee, to determine if such license should be modified, suspended or revoked.

### **Section 7. Enforcement**

This By-law 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, as amended, or by noncriminal disposition pursuant to Massachusetts General

Laws Chapter 40, section 21D, as amended, by the Select Board, the Town Administrator, or their duly authorized agents, or any police officer.

### **Section 8. Home Rule Amendment**

A. Home Rule Amendment [art. 89 of the Amendments to the Massachusetts Constitution];  
Massachusetts General Laws, Chapter 94G, § 3, 935 CMR 500.000.

*Accepted STM 10/29/2018, Amended ATM 5/9/2022*

## **ARTICLE XLVI ILLICIT DISCHARGE**

### **Section 1. Purpose**

- A. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:
1. impairment of water quality and reduced flow in lakes, ponds, streams, rivers, wetlands and groundwater;
  2. contamination of drinking water supplies;
  3. alteration or destruction of aquatic and wildlife habitat; and
  4. flooding.

The United States Environmental Protection Agency has identified land disturbance and polluted stormwater runoff as major sources of water pollution. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Holliston's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town.

- B. The objectives of this By-Law are:

1. To prevent pollutants from entering the Town of Holliston's municipal storm drain system;
2. To prohibit illicit connections and unauthorized discharges to the municipal storm drain 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 By-law through inspection, monitoring, and enforcement.

### **Section 2. Definitions**

For the purposes of this By-law, the following shall mean:

**Clean Water Act:** The Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.) as hereafter amended.

**Discharge of Pollutants:** 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.

**Groundwater:** Water beneath the surface of the ground including confined or unconfined aquifers.

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

**Illicit Discharge:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a

discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 7, subsection B, of this By-law.

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

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

**Non-Stormwater Discharge:** Discharge to the municipal storm drain system not composed entirely of stormwater.

**Person:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**Pollutant:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source that is considered toxic to humans or the environment and may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include, but not be limited to:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens; (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock; sand; salt, soils;
- (10) construction wastes and residues;
- (11) and noxious or offensive matter of any kind.

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

**Stormwater:** Runoff from precipitation or snow melt.

**Surface Water Discharge Permit.** 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:** 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 G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

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

**Waters of the Commonwealth:** All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

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

### **Section 3. Applicability**

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

### **Section 4. Authority**

This By-law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and in accordance with the regulations of the federal Clean Water Act found at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

### **Section 5. Responsibility for Administration**

The Select Board (the “Board”) shall administer, implement and enforce this By-law. Any powers granted to or duties imposed upon the Select Board may be delegated in writing by the Director of Public Works, who may further delegate authority to employees or agents of the Department.

### **Section 6. Regulations**

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

### **Section 7. Prohibited and Exempt Activities**

#### **A. Prohibited Activities**

1. **Illicit Discharges.** No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth.
2. **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.
3. **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.

#### **B. Exemptions**

1. Discharge or flow resulting from fire-fighting activities;

2. The following non-stormwater discharges or flows are exempt from this By-law, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
  - a. Waterline flushing;
  - b. Flow from potable water sources;
  - c. Springs;
  - d. Natural flow from riparian habitats and wetlands;
  - e. Diverted stream flow;
  - f. Rising groundwater;
  - g. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
  - h. Discharge from landscape irrigation or lawn watering;
  - i. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
  - j. Water from individual residential car washing;
  - k. Discharge from dechlorinated swimming pool water (less than one ppm chlorine). provided test data is submitted to the Town substantiating that the water meets the one ppm standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all applicable Town By-laws;
  - l. Discharge from street sweeping;
  - m. Dye testing, provided verbal notification is given to the board prior to the time of the test;
  - n. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
  - o. Discharge for which advance written approval is received from the board as necessary to protect public health, safety, welfare or the environment.
3. Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Town Administrator, Board of Selectmen or Board of Health.

### **Section 8. Emergency Suspension of Storm Drainage System Access**

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

### **Section 9. 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. Procedures

and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 6 of this By-law. Section

## **10. Enforcement**

### **A. Authorized Agent**

The Director of Public Works or an authorized agent of the Director of Public Works shall enforce this By-law, as well as any regulations, orders, violation notices, and enforcement orders promulgated hereunder, and may pursue all civil and criminal remedies for such violations.

### **B. Civil Relief**

If a person violates the provisions of this By-law, regulations, permit, notice, or order issued thereunder, the Board and or the Director of Public Works 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 or an authorized agent of the Board or the Director of Public Works may issue a written order to enforce the provisions of this By-law or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the municipal storm drain system; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Holliston may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property. 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, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, §57 after the thirty-first day at which the costs first become due.

### **D. Criminal Penalty**

Any person who violates any provision of this By-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

### **E. Non-Criminal Disposition**

As an alternative to criminal prosecution or civil action, the Town, by and through its Director of Public Works or the designee thereof may elect to utilize the non-criminal disposition

procedure set forth in G.L. Ch. 40, §21D, in which case the board or an authorized agent of the board of the Town shall be the enforcing person. The penalty for each violation shall be \$ 300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

F. Entry to Perform Duties Under This By-Law

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

G. Appeals

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

H. Remedies Not Exclusive

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

**Section 11. Severability**

The provisions of this By-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this By-law 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 By-law.

**Section 12. Transitional Provisions**

Residential property owners shall have 180 days from the effective date of the By-law to comply with its provisions or petition the board for an extension; or take any action relative thereto.

*Accepted STM Oct. 28, 2019*

**\*APPENDIX I**

**CHAPTER 94 OF ACTS OF 1994 – AN ACT ESTABLISHING A SELECT BOARD-ADMINISTRATOR FORM OF GOVERNMENT IN THE TOWN OF HOLLISTON.**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

**SECTION 1.** To the extent that the provisions of this act modify or repeal existing General Laws and special acts or that body of law which constitutes the town charter under Section 9 or Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern. For the purposes of this act, all references to officers, employees or other personnel shall be read as applying equally to males and females regardless of the gender or pronoun used.

**SECTION 2.** The Select Board of the town of Holliston, by an affirmative vote of at least a majority of the full membership of the board shall appoint a Town Administrator for an indefinite term and shall fix the compensation for such person within the amount annually appropriated for

that purpose. The position of Town Administrator shall not be subject to the by-laws of the town relative to personnel, nor shall it be included in any certification of any collective bargaining unit.

**SECTION 3.** The Town Administrator shall be appointed solely on the basis of executive and administrative qualifications and shall be a person of proven professional ability especially fitted by education, training and previous full-time paid experience in business or public administration to perform the duties of the office. The person shall not have served in an elective office in or for the town of Holliston for at least thirty-six months prior to his appointment. The person shall devote full time to the office and shall not hold any other public office, elective or appointive, nor shall engage in any other business, occupation, or profession during the term of office, unless such action is approved in advance, in writing, by the Select Board. The town may, from time to time, by by-law, establish such additional qualifications it seems necessary and appropriate. The Select Board may enter into a formal contract with the Town Administrator consistent with the provisions of this act which shall take precedence over any personnel by-laws. The Town Administrator shall be a citizen of the United States of America and need not be a resident of the town of Holliston. The Select Board shall evaluate annually the performance of the town administrator, based on mutually established predetermined goals, standards or criteria for performance and the evaluation shall, at least in summary form, be a public record.

**SECTION 4.** Before entering upon the duties of his office, the Town Administrator shall be sworn in the presence of a majority of the Select Board, to the faithful and impartial performance thereof by the town clerk or a notary public. The Town Administrator shall execute a bond in favor of the town of Holliston for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed by the Select Board. The cost of said bond shall be paid by the town.

**SECTION 5.** The Town Administrator shall appoint, based upon merit and fitness alone and remove subject to the provisions of the General Laws and town by-laws where applicable, the Treasurer/Collector, Accountant, Building Inspector and Senior Center Director. The Town Administrator shall approve, upon the recommendation of department heads under the jurisdiction of the Select Board, the appointment and removal of all employees and subordinates, subject to the provisions of the General Laws and town by-laws where applicable. Department heads shall select, on merit and fitness alone, all department employees for such recommendation. Appointments to permanent positions made by the Town Administrator shall become effective on the fifteenth day following the day notice of the appointment is filed with the Select Board, unless the Select Board shall, within that period, by a majority of all members, vote to reject any such appointment. The Town Administrator shall consider the recommendations of committees and commissions when making any appointments within their respective areas. The Town Administrator shall be responsible for the initial screening of all applicants and recommend to the Select Board finalists for the positions of Fire Chief, Police Chief and Highway Superintendent. The Town Administrator shall supervise all department heads and employees under the jurisdiction of the Select Board.

**SECTION 6.** In addition to other powers and duties provided for in this act, the Town Administrator shall have the following powers and duties:

(a) The Town Administrator shall be the Chief Administrative Officer of the town and shall be responsible to the Select Board for the efficient administration, supervision and coordination of all departments, commissions, boards and offices that come under the jurisdiction of the Select Board. He shall not, however, exercise any control over the discretionary power vested by statute in any such department, commission, board or office. He also shall coordinate all activities of town departments under the jurisdiction of the Select Board with the activities of departments under the control of officers, boards or commissions elected directly by the voters of the town.

(b) The Town Administrator shall be responsible for the implementation of all policies, directives and votes of the Select Board.

(c) The Town Administrator shall administer the town personnel system, including but not limited to personnel policies, and practices, rules and regulations and standards, including provisions for an annual employee performance review, the consolidated personnel by-law and shall prepare the job compensation plan for consideration of town meeting if necessary. The personnel board shall act as a final board of appeal for personnel decisions rendered by the Town Administrator. The Town Administrator shall be the Select Board's agent for collective bargaining and may employ special counsel to assist him in the performance of those duties.

(d) The Town Administrator shall be responsible for the preparation of the annual operating budget for all town departments and agencies under the jurisdiction of the Select Board. He shall prepare a uniform budget document in a format which is acceptable to the Finance Committee. He shall compile, within a time fixed by agreement between the Select Board and the Finance Committee, the comprehensive annual operating budget and the annual capital improvements program for all town departments, agencies, boards and commissions and submit the same with his recommendations to the Finance Committee. For the purpose of compiling the comprehensive annual operating budget and the annual capital improvements program, all town departments, agencies, boards and commissions shall submit copies of their budgets and capital improvements requests to the Town Administrator within the time fixed by agreement between the Select Board and the Finance Committee.

(e) With the assistance of the Town Accountant, the Town Administrator shall keep the Select Board and Finance Committee informed as to the financial condition and needs of the town and shall make such recommendations to the Select Board and Finance Committee as he deems necessary or expedient.

(f) The Town Administrator shall be responsible for the review of all current by-laws, regulations and policies that affect the departments and agencies under the jurisdiction of the Select Board, and shall make such recommendations for changes as he deems necessary.

(g) The Town Administrator shall be responsible for the negotiation of all contracts and grants which the Select Board is authorized by law to enter into. Such proposed contracts and grants shall be subject to final approval and execution by the Select Board.

(h) The Town Administrator shall act as the liaison and represent the Select Board before state, federal and regional authorities.

(i) The Town Administrator shall act as the Chief Procurement Officer and be responsible for the approval of the purchase of all supplies, materials, equipment and other services for all departments or agencies under the Selectman's jurisdiction, pursuant to the Uniform Procurement Act. He may make purchases for departments and activities not under his supervision upon and in accordance with a requisition duly signed by the head of any such department.

(j) The Town Administrator shall be responsible for the use, maintenance, repair and rental of all town facilities and equipment and property under the jurisdiction of the Select Board. He shall be responsible for the preparation of plans and the supervision of work on all construction, reconstruction, alterations, improvements and other undertakings authorized by the Select Board.

(k) The Town Administrator may recommend to the Select Board, consistent with the provisions of this act and the General Laws, measures to reorganize, consolidate, create, divide or abolish boards, departments, agencies, committees, commissions or offices under the jurisdiction of the Select Board, in whole or in part; measures to establish such new boards, departments, agencies, committees, commissions or offices as he deems necessary; and for such purpose, measures to transfer the duties and powers of one board, department, agency, committee, commission or office to another.

(l) The Town Administrator shall develop and maintain a full and complete inventory of all town owned real and personal property.

(m) The Town Administrator shall see that all provisions of General Laws, by-laws, and other votes of the town meeting and votes of the Select Board which require enforcement, direction and supervision of the Town Administrator office are faithfully carried out and performed.

(n) The Town Administrator shall keep the Select Board fully advised as to the needs of the town and shall recommend to the Select Board for adoption such measures requiring action by them or by the town as he may deem necessary or expedient. In addition, the Town Administrator shall have access to all town books, papers and documents for information necessary for the proper performance of his duties.

(o) The Town Administrator shall keep full and complete records of his office and shall render as often as may be required by the Select Board a full report of all operations during the period reported on.

(p) The Town Administrator shall attend all regular and special meetings of the Select Board, unless requested and allowed to be excused, and shall have a voice but not vote in all its discussions. Said administrator shall be accessible and available for consultation to the Select Board and shall make accessible and available to them all such data and records of his office as may be requested in connection with their official duties.

(q) The Town Administrator shall attend all sessions of the town meeting and shall be available to answer all questions concerning warrant articles which are directed to the office and relate to matters under the person's general supervision.

(r) The Town Administrator shall perform such other duties, consistent with his office, as may be required of him by the by-laws of the town, a majority vote of the Select Board or a vote of town meeting.

**SECTION 7.** Any vacancy in the office of Town Administrator shall be filled as soon as possible by the Select Board. Pending the appointment of a Town Administrator or the filling of any vacancy, the Select Board shall, within seven days, appoint a suitable person to perform the duties of the office.

**SECTION 8.** The Town Administrator may designate, subject to the approval of the Select Board, by letter filed with the Town Clerk, a qualified officer of the town to perform his duties during his temporary absence or disability. In the event of failure of the administrator to make such designation, the Select Board may, by resolution, designate an officer of the town to perform the duties of the administrator until he shall return or his disability shall cease.

**SECTION 9.** The Select Board may remove the Town Administrator by the affirmative vote of at least a majority of the full membership of the board. At least thirty days before such proposed removal shall become effective, the Select Board shall file a preliminary written resolution of removal with the Town Clerk setting forth in detail the specific reasons for the proposed removal. The Town Clerk shall forthwith deliver a copy of such resolution to the Town Administrator or mail the same to him by registered mail at his last known address. The Town Administrator may, within ten days of service of such resolution, reply in writing to the resolution and may request a public hearing. If the administrator so requests, the Select Board shall hold a public hearing not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution, and after full consideration, the Select Board, by affirmative vote of a least a majority of the full membership of the board, may adopt a final resolution of removal. In the preliminary resolution, the Select Board may suspend the Town Administrator from duty, but in any case, his salary shall continue to be paid until the expiration of at least one month and not more than three months after the date of the final resolution of removal, as the Select Board shall deem proper.

**SECTION 10.** This act shall take effect upon its passage.

*(Approved August 16, 1994)*

A True Record

Attest:

Elizabeth T. Greendale

Town Clerk