

## **ARTICLE 30**

### **CONSERVATION COMMISSION**

#### **Section 1            Composition, Term of Office**

There shall be a Conservation Commission appointed by the Board of Selectmen, consisting of seven members appointed for terms of three years each, so arranged that as nearly an equal number of such terms as is possible shall expire each year.

## **ARTICLE 29**

### **BOARD OF APPEALS**

#### **Section 1            Composition, Term of Office**

There shall be a Board of Appeals appointed by the Board of Selectmen, consisting of five members appointed for terms of three years each, so arranged that as nearly an equal number of such terms as is possible shall expire each year, and three associate members appointed for terms of three years each, so arranged that one such term shall expire each year.

## **ARTICLE 28**

### **REGISTRARS OF VOTERS**

#### **Section 1            Composition, Term of Office**

There shall be three members of the Registrars of Voters appointed by the Board of Selectmen to terms of three years each, so arranged that one such term of office shall expire each year. In addition, the Town Clerk shall be a member ex officio.

## **ARTICLE 27**

### **INFORMATION SYSTEMS ADVISORY BOARD**

#### **Section 1 Powers and Duties**

There shall be an Information Systems Advisory Board which shall advise the Town on policies, procedures, priorities, and planning of the information systems of the Town.

#### **Section 2 Composition, Term of Office**

Said Board shall be composed of seven (7) members who shall be appointed by the Board of Selectmen from within the Town and shall not be full-time employees of the Town. When available, a minimum of four (4) of said seven (7) members appointed by the Board of Selectmen shall possess knowledge and experience in the field of information systems and services. Appointees to the Information Systems Advisory Board shall serve for three (3) year terms commencing July first. In the event of a vacancy occurring in the membership other than by the expiration of the term of a member, the Board of Selectmen shall within sixty (60) days after a vacancy occurs appoint a successor to serve for the balance of the unexpired term.

#### **Section 3 Meetings**

Meetings of said Board are to be held at least four (4) times each calendar year.

## ARTICLE 26

### HISTORIC DISTRICT COMMISSION

#### Section 1           Composition, Term of Office

There is hereby established an Historic District Commission under the provisions of the "Historic Districts Act", General Laws, Chapter 40C, as amended, consisting of seven (7) members and three (3) alternate members, appointed by the Selectmen, including one (1) member, where possible, from two (2) nominees submitted by the Natick Historical Society, one (1) member, where possible, from two (2) nominees, one (1) of which shall be submitted by the Massachusetts State Chapter of the American Institute of Architects, and one (1) of whom shall be submitted by the Boston Society of Landscape Architects, and one (1) member, where possible, from two (2) nominees of the Board of Realtors covering Natick. One (1) or more of the foregoing shall, where possible, be a resident of an Historic District established in Natick pursuant to the Historic Districts Act. When the Commission is first established three (3) members shall be appointed for a term of one year, two (2) shall be appointed for a term of two (2) years, and two (2) shall be appointed in like manner for three (3) years, and their successors shall be appointed in like manner for terms of three (3) years.

When the Commission is first established, one (1) alternate member shall be appointed in like manner for a term of one (1) year, one (1) alternate member shall be appointed for a term of two (2) years, one (1) alternate member shall be appointed for a term of three (3) years, and their successors shall be appointed in like manner for terms of three years.

#### Section 2           Historic Districts

There is hereby established under the provisions of the Historic Districts Act, Chapter 40C of the General Laws, as amended, the historic districts described as follows:

- (1) **John Eliot Historic District**, as shown on a plan entitled "Proposed Enlargement of John Eliot Historic District", (scale 1" equals 100') dated August 28, 1975, and revised March 1, 1976, said plan being on record with the Natick Community Development Office.
- (2) **Henry Wilson Historic District**, as shown on "Plan of the Proposed Henry Wilson Historic District, Natick, Massachusetts", (scale 1" equals 100') dated August 10, 1977, and revised November 8, 1977, said plan being on record with the Natick Community Development Office.

#### Section 3           Powers and Duties

The Historic District Commission shall have all the powers and duties of historic district commissions as provided by the Historic Districts Act, Chapter 40C of the General Laws, and of subsequent amendments thereto except that the authority of the commission shall not extend to the review of the following categories:

- a. Temporary structures or signs, subject, however, to such conditions as to duration of use, location of lighting, removal and similar matters as the commission may reasonably specify.
- b. Storm doors, storm windows and screens.
- c. The color of paint.

#### **Section 4            Rules and Regulations**

The Historic District Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of the Historic Districts Act, General Laws, Chapter 40C, as amended, and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend same for such purpose.

#### **Section 5            Time Limits**

When taking action under the provisions of Section 7 of the Historic Districts Act, General Laws, Chapter 40C, as amended, the Historic District Commission shall make a determination within sixty (60) days after the filing of the application for a certificate of appropriateness, or such further time as the applicant may in writing allow.

#### **Section 6            Severability**

In case any section, paragraph or part of this By-Law 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.

## **ARTICLE 25**

### **COUNCIL ON AGING**

#### **Section 1            Composition, Term of Office, Membership**

There shall be a Council on Aging consisting of not less than three (3) nor more than eleven (11) members appointed for a term of three (3) years by the Board of Selectmen from the residents of the Town. The Chairperson of the Council shall be designated annually by the Council. It shall be the duty of the Council to carry out programs designed to meet problems of the aging in coordination with programs of the Executive Office of Elder Affairs established under Chapter 40, Section 8B of the General Laws of the Commonwealth of Massachusetts.

- a. Membership of the Council shall reflect the diversity of the population.
- b. All members shall be sworn in by the Town Clerk within seven days of their appointment and shall not serve until duly sworn in.
- c. Members shall serve not more than two three-year terms in succession.
- d. Each member shall have one vote on any question or matter before the Council. The Council on Aging may appoint associate members who may participate in deliberations and serve on subcommittees but have no vote on matters before the Council.

## **ARTICLE 24**

### **TOWN EMPLOYEES AND PERSONNEL BOARD**

#### **Section 1 Personnel Board**

- 1.1 In accordance with Section 4-2 (4) of the Charter, there shall be an unpaid Personnel Board appointed by the Town Administrator consisting of five (5) members who shall serve a term of three (3) years beginning June 1, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.
- 1.2 Any member on the Personnel Board shall not at the same time be a Town employee nor hold any other appointive or elective position except that of Town Meeting member. However, a member of the Personnel Board is allowed to serve on (1) any other Town committee for which the Personnel Board is designated as responsible for nominating or appointing one or more members or (2) any other Town committee established as an advisory committee dealing with personnel-related matters.
- 1.3 If any member shall resign or vacate his/her office, whether by ceasing to be a resident of the Town or other reason of qualification, his/her successor shall be appointed forthwith to fill the unexpired term.

#### **Section 2 Policy and Administration**

- 2.1 The Personnel Board shall serve as the policy making authority of the Town in personnel matters and shall perform the following functions:
  - a. Approve and recommend Classification and Pay Plan to Finance Committee and Town Meeting;
  - b. Review and recommend employee benefit programs and conditions of employment;
  - c. Advise and review personnel procedures and administrative practices as carried out under Article 4-2, Sections 4 and 14 of the Natick Town Charter.
- 2.2 The Town Administrator or his or her designee shall serve as Personnel Director of the Town, and in this role make recommendations to the Personnel Board on policy matters and administer the day to day personnel practices, procedures and systems of the Town, including, but not limited to:
  - a. Employee recruitment/testing/selection appraisal/evaluation;
  - b. Employee training and development;
  - c. Employee benefits and service programs;
  - d. Employee safety and health programs;
  - e. Employee discipline and grievance procedures.



### **Section 3 Classification**

- 3.1 The official classification for the positions covered by this By-law shall consist of those presented to the Town Meeting.
- 3.2 The Pay Plan shall fix the compensation for each employee covered under the Personnel By-law. Provided however that the Town Administrator, pursuant to the Employee Evaluation procedure described in Section 9 and subject to available funds, may award a single instance payment to those employees whose work exceeds expectations; said payments shall not be added to base pay. All such payments shall be reported publicly to the Personnel Board at their next regularly scheduled meeting. Any such payments for personnel appointed by the Board of Selectman shall be subject to their approval.
- 3.3 All employees entering the employ of the Town and subject to classification of the Pay Plan shall be compensated at the rate of pay recommended by the Personnel Director and approved by the Town Administrator. Notification to the Personnel Board on all such decisions shall be made in a timely fashion.
- 3.4 The Personnel Board may establish during the year the salary schedule which shall be paid in a new position title necessary to the conduct of the business of the Town.
- 3.5 The Personnel By-law shall govern Town Employees excepting those employees appointed by the School Committee and excepting elected officials and excepting those employees in recognized exclusive bargaining units. This By-law shall not abridge the powers of the Trustees of the Morse Institute Library conferred by the will of Mary Ann Morse.
- 3.6 The Personnel Director shall maintain current job descriptions for all positions in the Classification and Pay Plan which shall include statements describing the kind of work, the distinguishing features of the work and such illustrative examples of duties as may be deemed appropriate. Such documents shall be kept in the Office of the Town Administrator.
- 3.7 A continuing review of the work of all positions subject to the provisions of this By-law shall be made by the Personnel Director and recommendations forwarded to the Personnel Board for presentation to Town Meeting, including such amendments to the Classifications and Pay Plans and to the provisions for administering such plans as may be necessary from time to time.
- 3.8 All requisitions for persons to fill positions or perform duties subject to the Classification Plan shall be submitted to the Personnel Director, authorized by the Town Administrator, and notification sent to the Personnel Board.
- 3.9 All changes of classification, transfers, changes in salary or other changes in the status of employees subject to the Classification Plan shall be reported to the Personnel Director and

approved by the Town Administrator where required, prior to effective date of any such change.

- 3.10 The Classification and Pay Plan most recently adopted by the Natick Town Meeting is incorporated into this paragraph by reference.

#### **Section 4 Vacancies and Recruitment**

- 4.1 In recruitment of positions in the Classification Plan, the Personnel Director shall assist the Department Head in searching out and finding well-qualified candidates and will review the methods for recruitment and selection to be used. In any case, unless otherwise specified by law, the Town Administrator shall make the final appointment in accordance with the provisions of Section 4-2, Item 3 of the Natick Home Rule Charter.
- 4.2 Every newly-hired permanent employee of the Town (excepting elected officials) shall be certified by a practicing physician or nurse practitioner designated by the Town Administrator, as to his/her fitness to perform the duties of the position with or without reasonable accommodation(s) to be certified by a practicing physician or nurse practitioner designated by the Town Administrator to which such person is assigned, prior to commencing work.

If the Personnel Board or Town Administrator deems such action necessary to the protection of the town, it may require any temporary employee who is to be employed for thirty (30) days or more, or any temporary appointive employee who has been employed by the Town for thirty (30) days and has not been so certified by a physician or nurse practitioner, designated by the Town Administrator, as to his or her physical fitness to do the work required by the Town with or without reasonable accommodation(s) to be certified by a practicing physician or nurse practitioner designated by the Town Administrator. The certification required hereunder shall be in such form as the said Board shall determine. The cost of any physical examination required by this section shall be paid by the Town.

These employees are exempt from the provisions of the Fair Labor Standards Act.

- 4.3 Except where otherwise directed, all new employees (or employees transferring to new positions) shall be considered on probation for a period up to a year, the length of time to be determined by the Town Administrator after recommendation of the Department Head.
- 4.4 The date on which an employee is appointed (even through the probationary period) shall govern in determining vacation, sick leave and other such benefits unless otherwise expressly provided in the appointment.

#### **Section 5 Employee Status**

- 5.1 Employees in positions designated "Administrative/Supervisory/Technical" shall be required to work the normal work week and any other additional hours needed to fulfill the

responsibilities of the position. The annual salary established for such employees shall be their total compensation for hours worked.

- 5.2 All other full-time employees shall be paid time and one-half for hours worked in excess of forty hours in a work week.

The same full-time employees shall be compensated at a rate of two times their normal hourly rate for all work on holidays listed in Section 7.

- 5.3 A full-time employee is one who is scheduled to work not less than 37 1/2 hours per week for 52 weeks minus legal holidays and authorized leave.
- 5.4 A regular part-time employee is defined as one who is scheduled to work for a period of 1,040 hours in the aggregate during the 12 months preceding the first day of July each year.
- 5.5 A part-time employee is one who is employed less than full-time or regular part-time as described in 5.3 and 5.4.
- 5.6 For the purposes of determining benefits for employees, the following shall apply:

**5.6.1 Full Time**

All full-time employees shall be entitled to full-time benefits contained herein.

**5.6.2 Regular Part-Time**

All "Regular Part-Time" employees shall receive regular benefits on a pro-rated basis.

**5.6.3 Part Time**

All Part-Time employees, as described in 5.5 shall receive no employee benefits related to leaves, holidays, vacations, etc.

**Section 6 Grievance Procedures**

- 6.1 It is the intent of the Town to provide each employee with suitable working conditions, environments, practices and procedures so as to provide the maximum effectiveness, efficiency and motivation to perform the duties assigned. In the event there is a problem or grievance regarding interpretation or application of this By-law, the following remedies are provided:
- a. A review of the situation with the employee's immediate supervisor shall take place.
  - b. If results are unsatisfactory, a written statement shall be submitted within ten (10) days to the Department Head, who shall respond within fifteen (15) days as to what action is to be taken.

- c. If not settled by procedures set forth in Steps 1 or 2, it shall, within ten (10) days be submitted to the Town Administrator, who shall respond within fifteen (15) days. Before making a final determination, the Town Administrator shall receive a recommendation from the Personnel Director.

6.2 The Town of Natick retains all rights which it has or hereafter may acquire, including, but not limited to, the right to direct employees, to determine the method, means and personnel by which such operations are to be conducted, to promulgate rules and regulations, and to take whatever action necessary to carry out the mission in the applicable Department.

## **Section 7 Employee Benefits**

### **7.1 Holidays**

All "Full-Time" and "Regular Part-Time" employees shall be paid for the following holidays, if such employee has been in a regular pay status during the pay period preceding said holiday:

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

If the holiday falls on a Saturday, it will be observed on the preceding Friday, and if the holiday falls on a Sunday, it will be observed on the following Monday.

If a holiday listed above falls on a Full-Time or Regular Part-Time employee's approved vacation day, the employee shall receive holiday pay in lieu of being charged vacation time.

### **7.2 Vacations**

7.2.1 Vacations shall be calculated based upon the fiscal year of the Town. Vacations shall be based upon the length of service as of the anniversary date of employment of each employee.

7.2.2 Vacations shall be granted on an accrual basis, with the pro-rated vacation awarded on the first day of each month, based on the following schedule:

| <b>Length of Service</b> | <b>Vacation</b> |
|--------------------------|-----------------|
| 0-5 years                | 3 weeks         |
| 6-10 years               | 4 weeks         |
| 11+ years                | 5 weeks         |

Provided, however, that the Town Administrator shall have the discretion at the time of hire of new staff to grant vacation up to a maximum of five weeks (5), based on the new hire's vacation earnings at his/her most recent position and market conditions affecting the Town's ability to attract qualified personnel.

- 7.2.3 Vacation for a new employee shall be pro-rated based on the number of full months worked in his/her first fiscal year of employment, provided however that vacation shall not be taken until after the probation period.
- 7.2.4 Preference as to vacation dates is to be determined by seniority of service within Departments and in all cases must be approved by the Department Head (or Town Administrator in the case of Department Head's vacations) who shall authorize such vacations at such time in his/her opinion will cause the least interference with the performance of the regular work of the Town.
- 7.2.5 Unless otherwise authorized by the Town Administrator through the Personnel Director, vacation cannot be carried over from one fiscal year to the next.
- 7.2.6 Any full-time employee, not subject to the provisions of Section III and Section III E of Chapter 41 of the General Laws, whose employment is terminated during a year by dismissal through no fault or delinquency on his/her part or by resignation, retirement, or death, without having been granted the vacation to which he/she is entitled, or in the case of death, the estate, shall be paid at the regular rate of compensation payable to the employee at the termination of employment, an amount in lieu of such vacation; provided that no monetary or other allowance has already been made therefor. The Head of the Department in which the person was last employed shall enter on the departmental payroll all amounts due and payable under the above paragraph.

### **7.3 Leave of Absence**

#### **7.3.1 Work-Related Injury Leave**

An employee injured while performing his/her official duties in behalf of the Town shall file for occupational sick leave benefits under the provisions of Workmen's Compensation laws of the Commonwealth of Massachusetts. Benefit administration and requirements for the employee shall be available in the Office of the Town Administrator. Sick leave may be used, when available, during any periods of time a work-related injury claim may be pending, provided that the employee agrees in writing to reimburse the Town for the proportion of time used during this "pending period".

#### **7.3.2 Non-Work-Related Sick Leave**

Except as provided in Section 7.3.3B below, regular full-time employees will accrue sick leave at the rate of one (1) day per month of employment (not to exceed twelve (12) days in any year), and employees' maximum accumulated sick leave shall not exceed one hundred (100) days. Such sick

leave may not be used during the "Probationary Period" (up to one (1) year as established by the Town Administrator).

The granting of non-work -related sick leave and payment of compensation shall be subject to the following provisions:

- a. An employing Department Head, without prior approval, may grant sick leave with pay to any employee of his/her Department for a maximum of six (6) days in any one time.
- b. For any period in excess of three (3) consecutive days or in excess of six (6) days in any calendar year, the employing Department Head or designated representative, after investigation shall submit a report to the Personnel Director, which shall be considered along with written medical evidence submitted by the employee and a determination shall be made by the Personnel Director of the employees rights set forth in paragraph 7.3.2 of this section.
- c. No sick leave benefits shall be granted to seasonal part-time or temporary employees. Regular part-time employees shall be entitled to the amount of sick leave in the same ratio as their part-time employment bears to full-time employment.

### 7.3.3 Sick Leave Buy Back

7.3.3A Effective July 1, 2013, the previously existing Sick Leave Buy Back Program shall be eliminated. Instead, the Town shall fully fund a long-term disability program for benefit eligible employees.

7.3.3B For employees who, as of July 1, 2013 (1) have accumulated sufficient sick leave to qualify for sick leave buyback, as outlined below and (2) have submitted a statement of intent to retire from the Town of Natick prior to July 1, 2018, the following provisions shall apply:

- (a) Said employees hired prior to July 1, 1996 shall accrue sick leave at the rate of one and one quarter (1 1/4) days per month, not to exceed fifteen (15) days per year; the maximum accrual shall be 224 days. At the time of retirement, said employees shall be compensated one (1) day's pay for each three (3) days of accumulated sick leave in excess of one hundred (100) days.
- (b) Said employees hired July 1, 1996 or after shall accrue sick leave at the rate of one (1) day per month, not to exceed twelve (12) days per year; the maximum accrual shall be 120 days. At the time of retirement, said employees shall be compensated one (1) day's pay for each two (2) days of accumulated sick leave in excess of fifty (50) days.
- (c) Said employees shall not be eligible for the Town-funded long-term disability program but may participate in said program at his/her sole expense.

7.3.3C Employees who, as of July 1, 2013 have accumulated sufficient sick leave to qualify for sick leave buyback, as outlined below, but who have NOT submitted a statement of intent to retire from

the Town of Natick prior to July 1, 2018, shall be paid for their sick leave accumulated as of July 1, 2013 in accordance with the following paragraphs; said payment shall be made as soon as practicable after July 1, 2013.

- (a) Employees hired prior to July 1, 1996 shall be compensated in an amount equal to seventy-five (75) percent of one (1) day's pay for each three (3) days of accumulated sick leave in excess of one hundred (100) days. Said employee's sick leave balance shall reflect an accumulation of one hundred (100) days after this payment.
- (b) Employees hired July 1, 1996 or after shall be compensated in an amount equal to seventy-five (75) percent of one (1) day's pay for each two (2) days of accumulated sick leave in excess of fifty (50) days. Said employees' sick leave balance shall reflect an accumulation of fifty (50) days after this payment, however said employees may opt to be compensated for fewer days than eligible, thus leaving an accumulation greater than fifty (50) days, but not to exceed one hundred (100) days.
- (c) Sick leave accruals and accumulations for said employees shall be in accordance with Paragraph 7.3.2 above.
- (d) Said employees shall be eligible for the Town-funded long-term disability program.

#### **7.4 Military Leave**

A leave of absence for military service shall be granted to any full-time employee who is a member of reserved component of any of the Armed Forces of the United States and who is required to engage in field training. This leave of absence shall be in addition to his vacation.

- 7.4.1 If the amount of compensation the employee received from the Federal or State Government for temporary training duty (a period not to exceed fifteen (15) consecutive days) is less than the base compensation which he would have received for the same period, he shall be paid the difference by the Town upon proper evidence of military service and of compensation received.
- 7.4.2 When an employee, not on probation, enters military service of the United States, indefinite leave of absence without pay or benefits shall be granted for the duration of such military service. Each employee may be reinstated without loss of privileges or seniority accrued to the last day worked, provided he reports for duty with the Town within sixty (60) days following his honorable discharge for military service, and provided he has not voluntarily extended the length of his military service.

#### **7.5 Bereavement Leave**

In the event of death of a member of an employee's family (as defined below), the employee will be permitted to be absent without loss of pay based at the employee's straight time hourly rate of pay, as follows:

- a. For the employee's parents, siblings, children, spouse or co-habiting significant other – five (5) days.
- b. For the employee's grandparents, grandchildren, aunts, uncles, parents-in-law and siblings-in-laws three (3) days.

#### **7.6 Leave of Absence without Pay**

Leave of absence without pay may be granted by the Personnel Director with authorization from the Town Administrator upon the advice of a Department Head under the following conditions:

- a. Employee shall submit in writing reason(s) for request in advance;
- b. The Department Head shall submit to Personnel Director a report of the impact of such leave on the operation of the Department;
- c. Leave shall be initially granted for a period not to exceed thirty (30) calendar days;
- d. Extension of leave beyond thirty (30) days may be granted by the Town Administrator after submission of additional documentation by the employee and Department Head.

#### **7.7 Personal Days**

Full-time employees shall earn three (3) personal days effective July 1st of each year. Said days must be used by June 30th of each year.

#### **7.8 Maternity Leave**

Any regular full-time female employee who has not completed twelve consecutive months of service, but who has completed more than three (3) consecutive months of service, shall be given a leave without pay for the purpose of giving birth, pursuant to Chapter 149, Section 105D of the Massachusetts General Laws and other applicable State and Federal Laws, provided that she requests such leave from her Department Head, in writing, with sufficient advance notice to allow for proper planning.

#### **7.9 Jury Leave**

Employee called for jury duty shall be paid by the Town an amount equal to the difference between the compensation paid for a normal working period and the amount paid by the Court, excluding the allowance for travel.

### **Section 8 Administrative Leave**



Administrative leave may be granted by the Town Administrator without loss of pay for the following:

- a. Paternity Leave - up to two (2) days (to be deducted from Sick Leave earned under Section 7) and to be charged against the employee's entitlement to leave under the Family Medical Leave Act of 1993, if the employee is eligible for such FMLA leave;
- b. Critical illness of immediate family - up to five (5) days (to be deducted from Sick Leave earned under Section 7) and to be charged against the employee's entitlement to leave under the Family Medical Leave Act of 1993, if the employee is eligible for such FMLA leave;
- c. Religious Holidays - up to two (2) days (Rosh Hoshana, Yom Kippur, and Orthodox Holy Days).

## **Section 8A Family Medical Leave of Absence**

Employees who have been employed by the Town for at least twelve (12) consecutive months, and who have worked at least 1,250 hours during the previous twelve (12) consecutive months are eligible for Medical Leave or Family Leave pursuant to the Family Medical Leave Act of 1993 (FMLA), of up to twelve (12) weeks in a given year. Spouses who are both employed by the Town may not take more than twelve (12) aggregate workweeks of leave per twelve (12) month period unless the leave is due to the employee's own serious health condition or to care for a spouse's serious health condition.

### **a. Medical Leave**

Medical Leave is defined as leave required to care for a spouse, son or daughter, or parent due to a serious health condition of that family member, or as leave required due to an employee's own serious health condition that prevents him or her from performing the essential functions of his or her job.

An eligible employee may take up to twelve (12) workweeks of unpaid medical leave continuously, intermittently, or on a reduced leave schedule upon presentation of a certificate of a serious health condition by a health care provider and approval by the Town Administrator's Office. Where possible, the employee is requested to notify the Town Administrator's Office in writing at least thirty (30) days in advance of a request for a medical leave under FMLA. In all cases, employees must notify the Town Administrator's Office that they are requesting a leave under the FMLA.

### **b. Family Leave**

Family Leave is defined as leave required due to the birth or adoption of, and/or foster placement of, and in order to care for, a son or daughter if taken within twelve (12) months

of the birth of a child or foster placement with an employee. In the case of an adoption and/or foster placement, the child must be at the age where the parent/foster parent is still responsible for the care of the child.

An eligible employee may take up to twelve (12) workweeks of unpaid family leave upon approval by the Town Administrator's Office. Where possible, the employee is requested to notify the Town Administrator's Office in writing at least thirty (30) days in advance of the requested leave. In all cases, employees must notify the Town Administrator's Office that they are requesting a leave under the FMLA.

An employee who is requesting a leave under FMLA should reference the Town's FMLA policy which provides detail as to the rights and obligations of such an employee.

## **Section 9 Employee Evaluation**

- 9.1 An annual evaluation or appraisal will be made of every employee in the Classification and Pay Plan in order to measure progress and encourage self-improvement.
- 9.2 Each Department Head shall conduct such evaluation (and in the case of Department Heads, the Town Administrator) and it shall be signed by both the employee and the Department Head (Town Administrator where applicable) and submitted to the Personnel Director to be made a part of the Personnel File of the employee.

## **Section 10 Equal Opportunity and Affirmative Action**

- 10.1 The Town shall not discriminate against any applicant for a position under the jurisdiction of the Town because of sex, age, religion, handicap, race, color, national or ethnic origin.
- 10.2 It is the policy of the Town to encourage, promote and exercise affirmative action in a planned, aggressive, coherent management program to provide for equal opportunity in recruitment, selection, appointment, promotion, training and discipline; and to adopt an Affirmative Action Plan which is specifically tailored to the Town's work force, available skills, specific goals and actions, timetables, responsibilities and resources.

## **Section 11 Part-Time Employees**

- 11.1 Part-time employees shall be paid upon a wage schedule which applies to the position titles to which they are assigned in accordance with their total length of service in those position titles by reason of former employment by the Town.
- 11.2 The Personnel Board shall have the right to establish at any time and to withdraw at any time, temporary pay schedules in addition to rates as set forth in the Classification and Pay Plan.
- 11.3 **Special Sick Leave for School Traffic Supervisors**

School Traffic Supervisors shall accrue sick leave up to a total maximum of sixty (60) days at the rate of one day for each month actively engaged as a School Traffic Supervisor.

## **Section 12 Procedures**

The Town retains the exclusive right to determine what departments, division and job classifications are to exist, whether to lay off employees, to determine the existence or non-existence of a vacancy, and whether and by whom any vacancy will be filled. The Town shall have the exclusive discretion to determine whether there is to be and how to implement a reduction in force or elimination of any job classification.

If the Town decides to implement a reduction in force plan which involves elimination of any of the positions covered by this Classification and Pay Plan, the individual member of this unit so affected will be provided the opportunity to avail himself of the retirement procedures, if, according to the Retirement Board, he/she so qualifies.

## **Section 13 Special Provisions of the By-Laws**

### **13.1 Civil Service Law**

Nothing in this By-Law shall be construed to conflict with Chapter 31 of the General Laws.

### **13.2 Repeal and Validity**

All By-Laws or parts of By-Laws in conflict with this By-Law are hereby repealed.

If any section, sub-section, sentence, clause, phrase, or figure of this By-Law is for any reason held to be unconstitutional, or invalid, such decision and invalidity or voidance shall not affect the validity of the remaining portion of the By-Law. The Town Meeting hereby declares that it would have passed this By-Law and each section, sub-section, sentence, clause, phrase, or figure thereof even if it had known that any one or more sections, sub-sections, sentences, clauses, phrases, or figures, shall be declared unconstitutional or void.

This By-Law shall take effect and be in force from and after the earliest period allowed by law.

## **Section 14 Procedure for Appointment of Police Chief**

### **14.1 Applicability**

This by law shall apply to the selection of a candidate to fill the position of Police Chief when such position is not subject to the provisions of Chapter 31 of the Massachusetts General Laws. Pursuant to Article 24, Section 3.6 of the Town of Natick Bylaws, a current job description shall be maintained for this position. A Police Chief appointed by the Board of Selectmen pursuant to this Bylaw will meet the minimum entrance requirements set forth in said job description.

## 14.2 Procedure for Appointment of Police Chief

- a. Within one year of the time when it is known that the position of Police Chief shall become vacant, the Board of Selectmen, may initiate the selection process. Within six months of the time the position of Police Chief is to become vacated, the Board of Selectmen shall initiate the selection process if it has not already done so. In the event that less than six months notice is provided to the Selectmen that the position of Police Chief shall become vacant, the selection process shall begin forthwith after receipt by the Board of Selectmen of such notice.
- b. The Board of Selectmen shall initiate the selection process by giving notice of its intention to establish a screening committee to review applications for the position of Police Chief and shall send a copy of such notice to each town agency or officer responsible for designating persons to serve on the committee. The Board of Selectmen shall appoint to the screening committee all such persons designated pursuant to the provisions of section 14.2 c. and 14.2 d. herein, provided that their names have been received in writing the day before the screening committee is to be appointed. The Board of Selectmen shall appoint the screening committee not earlier than twenty-one days nor later than twenty-eight days after such notice is sent.
- c. For the position of Police Chief, a screening committee shall consist of nine voting members and one non-voting member. The School Committee, Finance Committee and Personnel Board shall each designate one person to serve on the screening committee. Persons chosen by said agencies may, but need not, be members of the agency by which they are chosen. The Town Administrator and Fire Chief shall serve as members of the screening committee. The Board of Selectmen shall designate one resident of Natick to the screening committee. This designee may not be a member of the Board of Selectmen, School Committee, Finance Committee or Personnel Board. The most senior member of the Police Department in the second-highest non-chief rank who is able to serve and is not a candidate for the position of Police Chief shall serve on the screening committee. In the event that no member of that rank is able to serve, the most senior member of the next lowest rank who is able to serve and is not a candidate for the position of Police Chief shall serve on the screening committee. This individual may not be a member of the Board of Selectmen, School Committee, Finance Committee or Personnel Board. The Town Moderator shall designate one member of Town Meeting. This designee may not be a member the Board of Selectmen, School Committee, Finance Committee or Personnel Board. The Town Administrator shall designate to the screening committee one police chief from another community. The Personnel Director shall serve as the non-voting member of the committee. Designees of the Board of Selectmen, School Committee, Finance Committee, Personnel Board and Town Moderator shall be residents of Natick. No member of the screening committee – other than the Town Administrator, Fire Chief, Personnel Director and the specified member of the Police Department – may be a paid employee of the Town.

- d. Not more than thirty days following the appointment of the screening committee by the Board of Selectmen, the persons chosen shall meet to organize and plan a process for solicitation by advertisement, including, without limitation, in appropriate professional journals, and by other means, to receive applications for the position of Police Chief. The screening committee shall conduct its work in an expeditious manner; employees of the Town shall provide all reasonable assistance to the committee in the conduct of its work.
- e. The screening committee shall review all applications received and shall provide for interviews to be conducted with such number of candidates for the position as it may decide. Such interview(s) may be conducted before and/or after the assessment center described in paragraph f. below, as the committee may determine best suits its needs.
- f. The screening committee shall also use as an evaluative tool an assessment center specifically designed to examine candidates' knowledge, skills and abilities, including without limitation, their technical, tactical, professional, managerial and strategic skills. The assessment center shall be designed and conducted by a consultant specifically hired for this purpose by the Town. Said consultant shall be selected by the Town through competitive procurement in accordance with applicable law and procedures and shall have significant experience conducting assessment centers in the relevant public safety department.
- g. The results of the assessment center conducted pursuant to paragraph (f) shall be made available to the screening committee.
- h. Not more than one hundred eighty days following the date the screening committee meets to organize, the screening committee shall submit to the Board of Selectmen the names of not less than three but not more than five candidates whom it believes to be best suited to perform the duties of Police Chief.
- i. If the screening committee determines that there are not at least three candidates qualified to perform the duties of the Police Chief, the screening committee shall report to the Board of Selectmen that it is unable to complete its assigned task. In that event, the Board of Selectmen shall direct the screening committee to reopen the search process and the foregoing procedure shall apply.
- j. Within sixty days following the date that a list of nominees is submitted to it, the Board of Selectmen shall:
  - 1. interview candidates referred to it by the screening committee, and
  - 2. determine if it will select one of the candidates to serve as Police Chief, and
  - 3. choose a nominee to be appointed as Police Chief; or
  - 4. if the Board of Selectmen decides not to appoint any of the nominees as Police Chief, it shall direct the screening committee to reopen the search process, and the foregoing procedure shall apply.

- k. Upon the appointment of the Police Chief, the screening committee established pursuant to this Article shall be considered discharged.

#### **14.3 Appointment, Review, Other Activities**

- a. **Appointment, Term** – The Board of Selectmen shall appoint the Police Chief to serve for a term of up to three years provided, however, that the first six months of any individual's first appointment to the office shall be considered a probationary period. The Police Chief shall be appointed solely on the basis of his or her technical, tactical, professional, managerial and executive qualifications and shall be especially fitted by previous experience, training and education to perform the duties of the position.
- b. **Review of Performance** – The Town Administrator shall annually provide to the Board of Selectmen a review of the job performance of the Police Chief which shall, at least in summary form, be a public record.
- c. **Restriction on Other Activities** – The Police Chief shall devote his or her full time to the duties of the position of Police Chief and shall not hold any other public office, elective or appointive, nor shall he or she engage in other business, occupation or profession during his or her term, unless such action or appointment is approved, in advance, in writing, by the Board of Selectmen.

### **Section 15 Procedure for Appointment of Fire Chief**

#### **15.1 Applicability**

This by law shall apply to the selection of a candidate to fill the position of Fire Chief when such position is not subject to the provisions of Chapter 31 of the Massachusetts General Laws. Pursuant to Article 24, Section 3.6 of the Town of Natick Bylaws, a current job description shall be maintained for this position. A Fire Chief appointed by the Board of Selectmen pursuant to this Bylaw will meet the minimum entrance requirements set forth in said job description.

#### **15.2 Procedure for Appointment of Fire Chief**

- a. Within one year of the time when it is known that the position of Fire Chief shall become vacant, the Board of Selectmen, may initiate the selection process. Within six months of the time the position of Fire Chief is to become vacated, the Board of Selectmen shall initiate the selection process if it has not already done so. In the event that less than six months notice is provided to the Selectmen that the position of Fire Chief shall become vacant, the selection process shall begin forthwith after receipt by the Board of Selectmen of such notice.

- b. The Board of Selectmen shall initiate the selection process by giving notice of its intention to establish a screening committee to review applications for the position of Fire Chief and shall send a copy of such notice to each town agency or officer responsible for designating persons to serve on the committee. The Board of Selectmen shall appoint to the screening committee all such persons designated pursuant to the provisions of section 15.2 c. herein, provided that their names have been received in writing the day before the screening committee is to be appointed. The Board of Selectmen shall appoint the screening committee not earlier than twenty-one days nor later than twenty-eight days after such notice is sent.
- c. For the position of Fire Chief, a screening committee shall consist of nine voting members and one non-voting member. The School Committee, Finance Committee and Personnel Board shall each designate one person to serve on the screening committee. Persons chosen by said agencies may, but need not, be members of the agency by which they are chosen. The Town Administrator and Police Chief shall serve as members of the screening committee. The Board of Selectmen shall designate one resident of Natick to the screening committee. This designee may not be a member of the Board of Selectmen, School Committee, Finance Committee or Personnel Board. The most senior member of the Fire Department in the second-highest non-chief rank who is able to serve and is not a candidate for the position of Fire Chief shall serve on the screening committee. In the event that no member of that rank is able to serve, the most senior member of the next lowest rank who is able to serve and is not a candidate for the position of Fire Chief shall serve on the screening committee. This individual may not be a member of the Board of Selectmen, School Committee, Finance Committee or Personnel Board. The Town Moderator shall designate one member of Town Meeting. This designee may not be a member the Board of Selectmen, School Committee, Finance Committee or Personnel Board. The Town Administrator shall designate to the screening committee one fire chief from another community. The Personnel Director shall serve as the non-voting member of the committee. Designees of the Board of Selectmen, School Committee, Finance Committee, Personnel Board and Town Moderator shall be residents of Natick. No member of the screening committee – other than the Town Administrator, Police Chief, Personnel Director and the specified member of the Fire Department – may be a paid employee of the Town.
- d. Not more than thirty days following the appointment of the screening committee by the Board of Selectmen, the persons chosen shall meet to organize and plan a process for solicitation by advertisement, including, without limitation, in appropriate professional journals, and by other means, to receive applications for the position of Fire Chief. The screening committee shall conduct its work in an expeditious manner; employees of the Town shall provide all reasonable assistance to the committee in the conduct of its work.
- e. The screening committee shall review all applications received and shall provide for interviews to be conducted with such number of candidates for the position as it may decide. Such interview(s) may be conducted before and/or after the assessment center described in paragraph f. below, as the committee may determine best suits its needs.

- f. The screening committee shall also use as an evaluative tool an assessment center specifically designed to examine candidates' knowledge, skills and abilities, including without limitation, their technical, tactical, professional, managerial and strategic skills. The assessment center shall be designed and conducted by a consultant specifically hired for this purpose by the Town. Said consultant shall be selected by the Town through competitive procurement in accordance with applicable law and procedures and shall have significant experience conducting assessment centers in the relevant public safety department.
- g. The results of the assessment center conducted pursuant to paragraph (f) shall be made available to the screening committee.
- h. Not more than one hundred eighty days following the date the screening committee meets to organize, the screening committee shall submit to the Board of Selectmen the names of not less than three but not more than five candidates whom it believes to be best suited to perform the duties of Fire Chief.
- i. If the screening committee determines that there are not at least three candidates qualified to perform the duties of the Fire Chief, the screening committee shall report to the Board of Selectmen that it is unable to complete its assigned task. In that event, the Board of Selectmen shall direct the screening committee to reopen the search process and the foregoing procedure shall apply.
- j. Within sixty days following the date that a list of nominees is submitted to it, the Board of Selectmen shall:
  - 1. interview candidates referred to it by the screening committee, and
  - 2. determine if it will select one of the candidates to serve as Fire Chief, and
  - 3. choose a nominee to be appointed as Fire Chief; or
  - 4. if the Board of Selectmen decides not to appoint any of the nominees as Fire Chief, it shall direct the screening committee to reopen the search process, and the foregoing procedure shall apply.
- k. Upon the appointment of the Fire Chief, the screening committee established pursuant to this Article shall be considered discharged.

### **15.3 Appointment, Review, Other Activities**

- a. Appointment, Term – The Board of Selectmen shall appoint the Fire Chief to serve for a term of up to three years provided, however, that the first six months of any individual's first appointment to the office shall be considered a probationary period. The Fire Chief shall be appointed solely on the basis of his or her technical, tactical, professional, managerial and executive qualifications and shall be especially fitted by previous experience, training and education to perform the duties of the position.



- b. Review of Performance – The Town Administrator shall annually provide to the Board of Selectmen a review of the job performance of the Fire Chief which shall, at least in summary form, be a public record.
- c. Restriction on Other Activities – The Fire Chief shall devote his or her full time to the duties of the position of Fire Chief and shall not hold any other public office, elective or appointive, nor shall he or she engage in other business, occupation or profession during his or her term, unless such action or appointment is approved, in advance, in writing, by the Board of Selectmen.

## **ARTICLE 23A**

### **AUDIT ADVISORY COMMITTEE**

#### **Section 1 Establishment of Audit Advisory Committee**

There is hereby established an Audit Advisory Committee consisting of five members. Such members shall include: one (1) current member from each of the Board of Selectmen, Finance Committee and School Committee, appointed as determined by the Chair of the respective board or committee, or a designated non-member representative nominated by the Chair and ratified by the represented board or committee; plus two (2) at-large members appointed by the Board of Selectmen. The at-large members shall not be a member of another board or committee, or an officer, official or paid employees of the Town. All members of the Audit Advisory Committee shall have, at a minimum, a working familiarity with basic finance and accounting practices; appointments should be made to provide at least two members of the Audit Advisory Committee be Certified Public accountants or otherwise have accounting or related financial management expertise; ideally that expertise shall be in municipal or not-for-profit finance.

Audit Advisory Committee members appointed by the Board of Selectmen shall serve for a term of two (2) years, except that one (1) of the initial appointees shall serve for a term of three (3) years, thereby providing that one such member's term will expire on an annual basis. All other members shall serve a term of one (1) year. Any vacancy occurring in the Audit Advisory Committee shall be filled by the appropriate appointing authority for the balance of the unexpired term. Terms shall coincide with the fiscal year, i.e. effective July 1 and expiring June 30, to correspond with the period of time for which the town's audits are conducted.

At the first meeting after the start of each new fiscal year, the Audit Advisory Committee shall conduct an organizational meeting to elect from its members a chair, a vice-chair and a secretary.

#### **Section 2 Role of Audit Advisory Committee**

The Audit Advisory Committee shall serve as advisor to the Board of Selectmen with respect to the town's internal auditing, financial systems and independent annual audit. Specific duties shall include, but are not limited to, the following:

- (1) Make recommendations to the Board of Selectmen on the selection of, and scope of services for, an independent auditor.
- (2) Review the annual financial statements and management reports and make recommendations with respect thereto
- (3) Make recommendations for areas of operations where expanded scope audits or review of the internal controls may be appropriate. This provision shall not conflict with or supersede similar authority of the Finance Committee under Article 23, Section 5 of the Town By-Laws.

- (4) Review and make recommendations with respect to the Town's internal auditing and financial controls; through the Town Administrator, review with appropriate boards and departments' opportunities to improve such controls.
- (5) Report to the Board of Selectmen on the status of recommendations the Committee, town financial staff and/or independent auditor has made during the preceding twelve months.
- (6) Submit a summary of their work for the preceding calendar year for inclusion in the Town's Annual Report.

## ARTICLE 23

### THE FINANCE COMMITTEE

#### **Section 1            Composition, Term of Office; Eligibility; Removal, Resignation**

1.1     **Composition, Term of Office** - There shall be a Finance Committee, consisting of fifteen (15) citizens of the Town appointed by the Town Moderator for terms of three (3) years beginning July 1, so arranged that five (5) members are appointed each year.

1.2     **Eligibility** - Persons holding an elective Town office, except Town Meeting member or constable, and those serving on appointed committees or boards that have responsibility for issuing permits, approving expenditure of funds, or exercising final authority over any matter are not eligible to be Finance Committee members. Finance Committee members may serve on committees that advise decision-making Town agencies or Town Meeting. No Finance Committee member shall serve for more than a total of twelve (12) years.

1.3     **Removal or Resignation from Office** - Any member of the Finance Committee who files for any Town elective office except that of Town Meeting member or constable shall cease to be a member of said Committee. Members may resign by sending a notice of resignation to the Finance Committee chairman, the Town Moderator, and the Town Clerk; and they shall resign when they are no longer eligible to be Finance Committee members.

#### **Section 2            Secretary**

The Finance Committee may employ, subject to an appropriation therefor, a Secretary.

*Section 3 reserved.*

#### **Section 4            Report, Recommendations**

The Finance Committee shall consider all matters of business included within the articles of any warrant for a Town Meeting, and shall, after due consideration, report thereon, in print, its recommendation as to each article. The Finance Committee shall distribute its said report to each of the Town Meeting Members at least seven (7) days in advance of a Town Meeting, except where compliance with this provision would defeat the purpose of a Special Town Meeting. The said recommendations shall be those of a majority of the appointed Committee at the time of the vote, but this shall not be construed to prevent recommendations by a minority as such. The Committee Report shall also state the total amount of the appropriations recommended by them on the entire Warrant. Said report for the Annual Town Meeting shall also contain a statement of the doings of the Committee during the year, with any such recommendations or suggestions as it may deem advisable on any matters pertaining to the welfare of the Town.

## **Section 5            Audits**

The Finance Committee shall have the authority at any time to investigate the books, accounts and management of any department of the Town, and to employ such expert and other assistance as it may deem advisable for that purpose, and the books and accounts of all departments and officers of the Town shall be open to the inspection of the Committee and any person employed by it for the purpose. The Committee may appoint subcommittees and delegate to them such of its power as it deems expedient.

*Sections 6, 7, 8 deleted by Article 38 ATM 10/3/91*

## **ARTICLE 22**

### **TOWN COUNSEL**

#### **Section 1 Office and Qualifications**

The Town shall have a Town Counsel who shall be an individual attorney or group, association, firm, partnership or professional corporation of attorneys admitted to practice in the Commonwealth. Town Counsel need not be a resident of the Town or maintain a law office in the Town.

#### **Section 2 Relationship**

Town Counsel shall be an independent contractor and shall not be an employee of the Town.

#### **Section 3 Appointment and Term**

Town Counsel shall be appointed by a majority of the Board of Selectmen for a term not to exceed one year expiring in each case, on June 30th. Town Counsel shall, in any case, serve at the pleasure of the Board of Selectmen and all contracts shall so state.

#### **Section 4 Screening Committee**

In the event of a vacancy in the Office of Town Counsel, the Selectmen shall, from time to time, establish a Town Counsel Screening Committee consisting of five members, who are residents of the Town, with at least three being members of the Massachusetts Bar and preferably senior attorneys who hire or supervise other attorneys' work. Said Committee will be responsible for nominating candidates who are members in good standing of the Massachusetts Bar for the position of Town Counsel. The Selectmen shall, on or before the first day of July, or whenever a vacancy shall exist, appoint a candidate from among those recommended as qualified by said Committee to serve as Town Counsel. The Selectmen shall have the right to request additional candidates from said Committee.

#### **Section 5 Duties and Request for Services**

- a. Town Counsel shall serve as the legal advisor to the Town. In addition to those duties and responsibilities as set forth in the General Laws of the Commonwealth and these By-Laws, all as may be amended from time to time, the Town Counsel shall render all legal services as may be reasonably required of him by the vote of the Town or majority of the Board of Selectmen or by the Town Administrator.
- b. All other requests for the services of Town Counsel shall, whenever time permits, be submitted to Town Counsel through the Office of the Town Administrator.
- c. The following shall have the right to request of Town Counsel advice concerning their duties: members of the Board of Selectmen, Town Clerk, Superintendent of Schools,

Building Commissioner, Director of Public Works, Director of Public Health, Town Moderator, Comptroller, Town Treasurer/Collector, Director of Recreation and Parks, Chief of Police, Fire Chief, Community Development Director, and Chairman of the following Boards or Committees acting with the authority of a majority of their members: Board of Assessors, Board of Appeals, Planning Board, School Committee, Finance Committee, Board of Health, Conservation Commission, Retirement Board, Personnel Board and Recreation and Parks Commission.

- d. That all other Boards or Committees and other Town Officials desiring to obtain legal advice must first obtain the prior consent of the Town Administrator or Board of Selectmen.

All requests for advice under Section b and c of this Article shall be made in good faith and be of sufficient legal implication to the Town.

#### **Section 6                    Authority to Settle**

The Town Counsel shall not make final settlement of any claim to which the Town or any Town Agency is a party unless he has been duly authorized by vote of the Town Meeting or by the majority vote of the Selectmen, unless otherwise provided by law.

#### **Section 7                    Authority to Prosecute**

The Town Counsel shall, if requested by the Selectmen, prosecute in the appropriate court, any cases of violation of the Statutes of the Commonwealth or the Charter or By-Laws of the Town.

#### **Section 8                    Special and Interim Counsel**

Unless expressly authorized by statute, a vote of Town Meeting, or vote of the Selectmen, no Board, Officer or Official of the Town shall engage, for remuneration to be paid by the Town, any attorney, other than Town Counsel, with regard to its or his official duties, or any Town business, or the business of any of the Departments thereof. The Selectmen may, whenever they deem necessary, employ special and/or interim counsel to assist or act in place of Town Counsel. Said special counsel need not be a resident of the Town.

## **ARTICLE 21B BUILDING COMMISSIONER**

### **Section 1 Applicability**

This bylaw shall apply to the position of Building Commissioner when such position is not subject to the provisions of Chapter 31 of the Massachusetts General laws.

### **Section 2 Responsibilities**

There shall be a Building Commissioner with responsibilities as required by law and/or regulation, who shall be competent by virtue of professional training, education and experience in building inspections, engineering, design and construction, and who shall serve as the chief Code Enforcement Officer for the Town. The responsibilities of the Building Commissioner shall include those specified in applicable sections of the Code of Massachusetts Regulations (CMR) and Massachusetts General Law (MGL).

### **Section 3 Duties**

The duties of the Building Commissioner shall include those specified in applicable sections of CMR and MGL, and other duties as may be specified in a job description to be maintained by the Personnel Director, provided that the duties of the position are consistent with the requirements of CMR and MGL.

### **Section 4 Appointment, Term of Office, Compensation**

In the event of a vacancy or anticipated vacancy in the position of Building Commissioner, the Town Administrator shall seek applicants who are qualified by experience and training. The Town Administrator shall appoint or re-appoint the Building Commissioner after hearing the recommendation of the majority of the members of the Planning Board. The term of office shall be at least one year but not more than three years, and the compensation for the position shall be established under Article 24 of the Town of Natick Bylaws.



**ARTICLE 21A**  
**COLLECTOR OF TAXES**

**Section 1**

The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town which are committed to him.

**Section 2**

The aggregate annual compensation of the Collector of Taxes shall be limited to the amount of the appropriation therefor.

**Section 3**

Every department of the Town shall deliver to the Town Comptroller and Town Collector at least once in every month a separate statement of each account due the Town arising through any transaction with such department. This section shall not apply to taxes and special assessments, licenses and permits issued or granted by the various departments of the Town, nor to costs and fees charged by said departments, nor to interest on investments of sinking or Trust funds. The Town Collector shall deliver to the Town Comptroller a statement of any accounts not otherwise covered by this section.

**Section 4**

Any account which the Town Collector is unable to collect by ordinary efforts shall be referred by the Town Collector to the Town Comptroller. So far as permitted by law, any account or portion thereof may be adjusted by the department in which such account originated. The Town Comptroller shall be notified in writing of the adjustment of any such committed account or portion thereof.

**Section 5**

The Town Collector shall, once in each week or more often, pay over to the Treasurer all money received by him during the preceding week or lesser period on every such account, including any sums received as interest on moneys received by him on such accounts and deposited in any bank. He shall give bond to the Town for the faithful performance of his duties in a form approved by the Commissioner of the Department of Revenue or successor position and in such sum, not less than the amount that may be established by said Commissioner, as shall be fixed by the Selectmen and that the effective date thereof, after approval by the Attorney General, be determined by the Board of Selectmen.

## **Section 6**

Except as otherwise provided by law or by by-law all charges and bills issued by the Town of Natick shall be due and payable within thirty (30) days from the date of issue. Interest on delinquent charges and bills shall accrue from the date of issue of such charge or bill at a rate of interest which equals the rate of interest set forth in Chapter 59, Section 57 of the Massachusetts General Laws, as amended.

## **Section 7**

Within 180 days of the end of the fiscal year, the Town Collector shall publish, in a newspaper of general circulation in the Town of Natick, the name of any entity (person, corporation, or business enterprise) that has not entered into a payment plan with the Tax Collector's office and that owes, from the previous fiscal year or before, an aggregate of \$1,000 or more in local property taxes, assessments, or betterments.

## **ARTICLE 21**

### **COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR**

#### **Section 1                      Responsibilities**

There shall be a Community and Economic Development Director, responsible to the Town Administrator, who shall be competent by virtue of applicable professional training in municipal planning, or equivalent experience or education.

#### **Section 2                      Duties**

The duties of the Community and Economic Development Director shall include, but not be limited to, those described in this section.

**2.1** Upon the request of the Planning Board, the Community and Economic Development Director shall be assigned professional, administrative and technical work relating to the application of the zoning by-law, subdivision control law, planning studies and design, review of proposals and like work of a professional nature.

**2.2** At the direction of the Town Administrator, the Community and Economic Development Director shall be the administrative supervisor for the Community Development Department, assist various Town Boards and Commissions, and undertake professional, administrative and technical work related to applicable town, state and federal laws to advance the interests of the Town.

#### **Section 3                      Appointment, Term of Office**

The Town Administrator shall appoint the Community and Economic Development Director after hearing the recommendation of the majority of the members of the Planning Board. The term of office shall be at least one year but not more than three years, as determined by the Town Administrator, and the compensation for the position shall be established under Article 24 of the By-Laws.

## **ARTICLE 20**

### **TOWN ADMINISTRATOR**

#### **Section 1           Appointments**

The Town Administrator shall appoint the multiple member bodies listed in the table entitled “Multiple Member Body Appointments Made by the Town Administrator,” which table is incorporated into this section by reference, as well as department heads, officers, subordinates and employees as provided in Article 4, Section 4-2 of the Charter.

#### **Section 2           Dates of Submission of Fiscal Documents**

As required by Section 5-3 of the Charter, the Town Administrator shall submit the preliminary budget for the next fiscal year on or before the first business day in January.

As required by Section 5-7 of the Charter, the Town Administrator shall submit updates of the capital plan on or before the first business day in March and September.

#### **Section 3           Qualifications for New Town Administrator**

A candidate for Town Administrator shall have a masters degree from an accredited college or university plus five years of experience or a bachelor’s degree plus ten years of experience. All relevant experience shall demonstrate the skills needed to perform the duties of Town Administrator, as those duties are described in Section 4-2 of the Charter. Preferably, a candidate shall have served as chief administrative officer of a city or town for five years.

#### **Section 4           Procedure for Appointment of Town Administrator**

Within one year of the time when it is known that the position of Town Administrator shall become vacant, the Board of Selectmen may initiate the selection process. Whenever the position of Town Administrator becomes vacant or within six months of the time when it is known that the position of Town Administrator shall become vacant, the Board of Selectmen shall initiate the selection process if the Board of Selectmen has not already done so. The Board of Selectmen shall initiate the selection process by giving notice of its intention to establish a screening committee to review applicants for the position of Town Administrator and shall send a copy of the notice to each town agency or officer responsible for designating persons to serve on the committee. The Board of Selectmen shall appoint the screening committee not earlier than twenty-one days nor later than twenty-eight days after such notice.

The screening committee shall consist of nine members. The Planning Board, the School Committee, the Finance Committee, the Personnel Board, and the Town Moderator may each designate one person to serve on the screening committee. Persons chosen by the said agencies may, but need not, be members of the agency by which they are chosen, and, in the case of the Town Moderator, the person may, but need not, be a member of Town Meeting. The Board of Selectmen shall appoint to the screening committee all such persons designated, provided that

their names have been received in writing by the day before the screening committee is to be appointed. The Board of Selectmen shall appoint any other members to the screening committee so that the total membership is nine.

Not more than thirty days following the appointment of the screening committee, the persons chosen shall meet to organize and to plan a process for the solicitation by advertisement and by other means to receive applications for the position of Town Administrator. The screening committee shall review all applications received and provide for interviews to be conducted with such number of candidates for the position as it may decide.

Not more than one hundred and eighty days following the date the screening committee meets to organize, the screening committee shall submit to the Board of Selectmen the names of not less than two nor more than five candidates whom it believes to be best suited to perform the duties of Town Administrator. If the screening committee determines that there are not at least two candidates qualified to perform the duties of Town Administrator, as those duties are described in Section 4-2 of the Charter, the screening committee shall report to the Board of Selectmen that it is unable to complete its assigned task. In that event, the Board of Selectmen shall direct the screening committee to reopen the search process and the foregoing procedure shall apply.

Within thirty days following the date the list of nominees is submitted to it, the Board of Selectmen shall choose one of the said nominees to be appointed to the office of Town Administrator. If the Board of Selectmen decides not to appoint one of the nominees, it shall direct the screening committee to reopen the search process, and the foregoing procedure shall apply.

Upon the appointment of the Town Administrator, the screening committee established hereunder shall be considered discharged.

## **Section 5            Town Administration Organization Chart**

The Town Administrator shall include a top-level organization chart in the Annual Town Report.

**MULTIPLE MEMBER BODY APPOINTMENTS  
MADE BY THE TOWN ADMINISTRATOR**

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| <b>Name</b>  | <b>Citation<sup>+</sup></b> | <b>Additional<br/>References<sup>++</sup></b> |
|--|-----------------------------|---|
| Commission on Disability<br>Golf Course Advisory Committee<br>Insurance Advisory Committee<br>Personnel Board<br>Safety Committee<br>Town Report Committee | (B) Art. 24, s. 1           |   |

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+ The citation indicates the section in the Charter or By-Laws where the Town Administrator is designated as the appointing authority. If no citation is given, this by-law should be cited.

++ Further provisions regarding terms of appointment or composition of multiple member bodies are provided as additional references.

Key: (B) - By-Laws; Art. - Article; s. - section.

## **ARTICLE 11**

### **TOWN CLERK**

#### **Section 1           Records of Deeds, Permits, Licenses, and Grants**

The Town Clerk shall keep a true copy, of all records, as required under Massachusetts General Laws, and in accordance with the provisions of these by-laws. He shall not allow original papers or documents of the Town to be taken from his office, except as they remain in his custody, or by authority of law.

#### **Section 2           Recording of Deeds**

The Town Clerk or his designee shall cause every conveyance to the Town of any interest in land to be properly recorded in the appropriate Registry of Deeds or Land Registration Office. After recording, the deeds shall be delivered to the Town Clerk in whose custody they shall remain.

#### **Section 3           Record of Town Meeting Proceedings**

The Town Clerk shall keep and cause to be permanently bound one or more files of the Town Reports. He shall publish in the annual printed report of the Town a copy of his record of all Town Meetings that have been held during the preceding year. The record of the Town Meeting proceedings and the Attorney General's approval, if any, for each Warrant Article shall be set forth immediately following the article itself.

#### **Section 4           Notification of Election or Appointment**

The Town Clerk shall notify, or cause to be notified, all persons chosen or elected by the Town or appointed on Committees, of their election, choice, or appointment. He shall furnish all boards and committees with a copy of all votes affecting them.

#### **Section 5           Forms for Petitions and Reports**

The Town Clerk shall furnish blanks, with appropriate headings, upon which petitions, reports, and other papers in the ordinary course of Town proceedings may be prepared.

#### **Section 6           Notification of Town Meeting Action**

The Town Clerk shall furnish the various Town officers and committees a copy of such action of the Town as affects them respectively immediately after the Town Meeting; and he shall forward to the Attorney General's office immediately after dissolution of the Town Meeting copies of new by-laws and zoning regulations.

## **Section 7      Record of Town Meeting Attendance**

A record available for public inspection shall be kept by the Town Clerk of the attendance of Town Meeting Members at each Town Meeting or adjourned Town Meeting thereafter. The Town Clerk shall compile a yearly attendance record of all Town Meeting Members for publication in the Annual Town Report and for distribution as a news release to the media.

## **Section 8      Notice of Removal of Residence of Elected Town Officer**

An elected Town officer who removes from the Town and no longer maintains a residence in the Town or who becomes a registered voter elsewhere shall resign in accordance with Section 109 of Chapter 41 of the General Laws. If the Town Clerk receives a notice in writing that an elected Town officer, but not including a Town Meeting Member, has removed from the Town or has registered elsewhere, the Town Clerk shall notify the elected Town officer in writing of the eligibility requirement for elective Town office as specified in Section 3-1 (b) of the Charter and of the resignation requirement and vacation of office provisions as specified in said Section 109.

## **Section 9      Verification of Removal of Residence of a Town Meeting Member**

Upon receipt of notice in writing from any voter of the Town to the effect that a Town Meeting Member has removed his residence from the Town, the Town Clerk shall immediately verify such information, and upon such verification, shall cause the vacancy to be filled in a manner provided for by law.

## **Section 10      Notice of Town Meeting Appointments**

The Town Clerk shall post a notice on the Town bulletin board to announce all new appointments to fill vacancies in the Town Meeting membership as they occur.

## **Section 11      Notification of Hearings Before Board of Appeals**

The Town Clerk shall provide, within three business days, to all Town Agencies or Officials who shall request or require same, a copy of any petition or application filed with the Town Clerk for hearing before the Board of Appeals.

## **Section 12      Political Calendar**

The Town Clerk shall prepare a political calendar for the year showing all elections and Town Meeting dates, including all associated filing dates. The Town Clerk shall make the calendar available by December 1 of the preceding year and shall prepare a revised version whenever new dates are established or any information changes. Copies of the calendar shall be available at the office of the Town Clerk upon request.



### **Section 13            Report to Voters of Town Meeting Seats to be Filled at Election**

Prior to every election of Town Meeting Members, the Town Clerk shall prepare reports listing, by precinct, the number of seats to be filled and the number of candidates to date. The first report and two subsequent updated reports shall be issued as of twenty-eight, fourteen and seven days, respectively, before the last date for submitting nomination papers to the Registrars of Voters. For these reports, a person nominated for the office or who has submitted nomination papers shall be counted as a candidate. A final report shall be issued as of seven days after the last date for filing with the Town Clerk nomination papers with certified signatures. For this report, a person whose name is going to be on the ballot shall be counted as a candidate.

The Town Clerk shall post the reports as a notice on the Town website and shall make copies available to the public upon request.

### **Section 14            Locations for Posting Notices of Town Meetings**

The Town Clerk shall determine suitable locations in the Town for posting notices of Town Meetings. These locations shall be readily accessible to the public. The Town Clerk shall submit a list of these locations, including any changes to the list, to the Board of Selectmen for approval.

## **ARTICLE 11**

### **TOWN CLERK**

#### **Section 1           Records of Deeds, Permits, Licenses, and Grants**

The Town Clerk shall keep a true copy, of all records, as required under Massachusetts General Laws, and in accordance with the provisions of these by-laws. He shall not allow original papers or documents of the Town to be taken from his office, except as they remain in his custody, or by authority of law.

#### **Section 2           Recording of Deeds**

The Town Clerk or his designee shall cause every conveyance to the Town of any interest in land to be properly recorded in the appropriate Registry of Deeds or Land Registration Office. After recording, the deeds shall be delivered to the Town Clerk in whose custody they shall remain.

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The Town Clerk shall determine suitable locations in the Town for posting notices of Town Meetings. These locations shall be readily accessible to the public. The Town Clerk shall submit a list of these locations, including any changes to the list, to the Board of Selectmen for approval.

## **ARTICLE 10**

### **BOARD OF SELECTMEN**

#### **Section 1            Scope of Powers and Duties**

In accordance with Section 3-2 of the Charter, the Board of Selectmen shall be responsible for the general direction and management of the property and affairs of the Town in all matters not otherwise provided for by law or by these by-laws.

#### **Section 2            Appointments**

The Board of Selectmen shall appoint the officials and multiple member bodies listed in the table entitled "Appointments Made by the Board of Selectmen," which is incorporated into this section by reference. The Board of Selectmen shall also make such other appointments as may be provided by Town Meeting vote or by their own vote.

#### **Section 3            Litigation Authority**

The Board of Selectmen shall have the authority to prosecute, defend and compromise, through the Town Counsel as provided under Sections 6 and 7 of Article 22 of the By-Laws, all litigations to which the Town is a party. The Board of Selectmen may compromise any claim against the Town whenever there are sufficient funds available in an account for that purpose or whenever they have so recommended in writing and the Finance Committee authorizes a transfer therefor from the General Fund Reserve Fund.

#### **Section 4            Parking Meters**

The Board of Selectmen is empowered to cause parking meters to be placed on any public way of the Town, at such places, other than residential districts, and in such manner and at such rates as it may determine.

The revenue collected from parking meters shall be turned over to the Town Treasurer. The Board of Selectmen is empowered to use said revenue for the installation, replacement, or maintenance of said parking meters when necessary or for the acquisition, maintenance and improvement of off-street parking areas and facilities.

## APPOINTMENTS MADE BY THE BOARD OF SELECTMEN

| Name  | Citation <sup>+</sup> | Additional<br>References <sup>++</sup> |
|---|-----------------------|--|
| <b>Town Officials / Committees</b>                          |                       |  |
| Affordable Housing Trust Fund                               |                       |  |
| Audit Advisory Committee                                    | (B) Art. 23A          |  |
| Bacon Free Library Maintenance Committee                    |                       |  |
| Bicycle & Pedestrian Advisory Committee                     |                       |  |
| Board of Appeals  | (C) s. 3-2(c)         | (B) Art. 29                            |
| Cable Advisory Board  |                       |  |
| Chief of Police   | (C) s. 3-2 (c)        | (B) Art. 24, s. 14                     |
| Cochituate Rail Trail Advisory Committee                    |                       |  |
| Community Development Advisory Committee                    |                       |  |
| Comptroller   | (C) s. 3-2(c)         | (C) s. 6-3(a)                          |
| Conservation Commission                                     | (C) s. 3-2(c)         | (B) Art. 30                            |
| Contributory Retirement Board (1 member)                    |                       |  |
| Council on Aging  | (B) Art. 25           |  |
| Director of Veterans Services                               | (C) s. 3-2(c)         |  |
| Economic Development Committee                              |                       |  |
| Elderly and Disabled Taxation Fund Committee                |                       |  |
| Emergency Management Director                               |                       |  |
| Asst. Emergency Management Director                         |                       |  |
| Fair Housing Officer  |                       |  |
| Fire Chief  | (C) s. 3-2 (c)        | (B) Art. 24, s. 15                     |
| Historic District Commission                                | (B) Art. 26           |  |
| Historical Commission                                       |                       |  |
| Information Systems Advisory Board                          | (B) Art. 27           |  |
| Katherine L. & Waldo Kennedy Trust Fund                     |                       |  |
| Labor Relations Consultant                                  |                       |  |
| Lock-Up Keeper  |                       |  |
| Lookout Farm Advisory Committee                             |                       |  |
| MathWorks Scholarship Committee                             |                       |  |
| Natick Cultural Council                                     |                       |  |
| Open Space Advisory Committee                               |                       |  |
| Parking Clerk   |                       |  |
| Recreation and Parks Commission<br>(four appointed members) | (C) s. 3-12(a)        |  |
| Recycling Study and Advisory Committee                      |                       |  |
| Registrars of Voters  | (C) s. 3-2(c)         | (B) Art. 28                            |
| Town Administrator  | (C) s. 3-2(c)         | (C) s. 4-1; (B) Art. 20                |
| Town Counsel  | (C) s. 3-2(c)         | (B) Art. 22, s. 3                      |

## APPOINTMENTS MADE BY THE BOARD OF SELECTMEN (cont.)

| Name  | Citation <sup>+</sup> | Additional References <sup>++</sup> |
|---|-----------------------|-------------------------------------|
| Veterans Burial Officer   |                       |                                     |
| Walcott Fund Board of Managers  |                       |                                     |
| Youth Advisory Board  |                       |                                     |
| <b>Representatives to Regional Boards</b>                                       |                       |                                     |
| MBTA Advisory Board   |                       |                                     |
| Metropolitan Area Planning Council  |                       |                                     |
| MetroWest Growth Management Committee<br>(one member of the Board of Selectmen) |                       |                                     |
| Middlesex County Advisory Board   |                       |                                     |
| MetroWest Regional Transportation Authority                                     |                       |                                     |
| MWRA Advisory Board   |                       |                                     |
| Regional Transportation Advisory Council  |                       |                                     |
| South Middlesex Opportunity Council   |                       |                                     |
| South Middlesex Regional Vocational School                                      |                       |                                     |
|   | (A) s.1               |                                     |

+ The citation indicates the section in the Charter or By-Laws or other document where the Board of Selectmen is designated as the appointing authority. If no citation is given, this by-law should be cited.

++ Further provisions regarding terms of appointment or composition of multiple member bodies are provided as additional references.

Key: (A) - Agreement Between the Towns of Ashland, Framingham, Holliston, Hopkinton, and Natick, Massachusetts, dated December 5, 1966, as amended; (B) - By-Laws; (C) - Charter; C.S. - Civil Service; Art. - Article; c. - chapter; s. - section.

## **ARTICLE 3**

### **PROCEDURE AT TOWN MEETINGS**

#### **Section 1 Rules of Procedure**

The proceedings of Town Meetings shall be governed by such rules of practice as are clearly set out in the most recent edition of "Town Meeting Time" by Johnson, Trustman, and Wadsworth, except as modified by law or by the following sections. In the event that "Town Meeting Time" does not clearly indicate a single course of action, the ruling of the Moderator shall prevail.

#### **Section 2 Motions in Writing**

All motions offered for the consideration of the Town Meeting shall be in writing if required by the Moderator; and all motions involving the expenditure of money shall be in writing when required by any Town Meeting Member.

#### **Section 3 Speaking**

No person shall speak upon a question more than once when any other person desires to be heard, nor more than twice on the same question without permission of the Town Meeting; and no person shall speak more than ten (10) minutes at one time without permission of the Town Meeting.

With reference to motions to lay on the table, take from the table, or postpone to a time certain, no person shall speak more than once or for more than two (2) minutes.

#### **Section 4 Voting**

Voting by Town Meeting Members shall:

- a. Utilize electronic voting technology, where available and deemed acceptable by the Moderator; or, if electronic voting technology is not available or deemed acceptable by the Moderator,
- b. Be by a show of hands;
- c. or other means as authorized by the Moderator and approved by vote of two-thirds (2/3) of the Town Meeting members present and voting, or
- d. as hereinafter provided.

On matters requiring a two-thirds vote by statute, as authorized under Section 15 of Chapter 39 of the General Laws, a count need not be taken. If the result of a vote by show of hands or any other means is in doubt, or if the result is questioned by seven (7) Town Meeting Members, the Moderator shall appoint tellers who shall count the vote by a show of hands. Upon motion affirmatively voted by two-thirds (2/3) of the Town Meeting Members present and voting, a vote shall be taken by secret ballot.



## **Section 5                    Reconsideration**

The subject matter of any article once voted upon in any manner may be reconsidered only once, but at any time during the same Town Meeting, provided compelling circumstances are stated which indicate that reconsideration is warranted.

## **Section 6                    Precedence of Motions**

When a question is before the Town Meeting, motions shall be received and have precedence as listed in the table entitled "Precedence of Motions," which is incorporated into this section by reference.

## **Section 7                    Quantum of Vote**

All votes shall be by a majority except where otherwise provided in these by-laws or where otherwise required by law; and all references to the size of the vote required shall mean of those present and voting.

## **Section 8                    Financial Interest**

Any person having a monetary or equitable interest in any matter under discussion at a Town Meeting, and any person employed by another having such an interest, shall disclose the fact of his interest or employment before speaking thereon.

## **Section 9                    Providing Specificity Regarding Public Works Projects**

Any vote of the Town Meeting appropriating money for the construction, reconstruction, installation or improvement of a public way, or a sewerage or water facility shall:

- be consistent with a multi-year plan, and/or
- specify the location of the work to the extent the location is known.

## **Section 10                  Appointing Committees**

All committees shall be appointed by the Moderator, unless otherwise ordered by a vote of two-thirds (2/3) of the Town Meeting Members present and voting.

All committees shall be appointed within thirty (30) days from the dissolution of a Town Meeting.

## **Section 11                  Motion for the Previous Question**

The motion for the previous question shall not be entertained by the Moderator if three or more persons are seeking recognition who have not previously spoken to the question.

## PRECEDENCE OF MOTIONS

| Motion  | Second<br>Required | Debate           | Amend | Vote<br>Required       |
|---|--------------------|------------------|-------|------------------------|
| Adjourn or dissolve                               | Yes                | No               | No    | Majority               |
| Adjourn to a fixed time or recess <sup>++++</sup> | Yes                | Yes              | Yes   | Majority               |
| Lay on the table                                  | Yes                | Yes <sup>+</sup> | No    | 2/3 Majority           |
| For the previous question <sup>+++</sup>          | Yes                | No               | No    | 2/3 Majority           |
| For secret ballot                                 | Yes                | No               | No    | 2/3 Majority           |
| Roll call vote                                    | Yes                | Yes              | No    | 1/3 Majority           |
| Postpone to a time certain                        | Yes                | Yes <sup>+</sup> | Yes   | Majority               |
| Commit, recommit, or refer                        | Yes                | Yes              | Yes   | Majority               |
| Amend   | Yes                | Yes              | Yes   | Majority               |
| Postpone indefinitely                             | Yes                | Yes              | No    | Majority               |
| Main Motion                                       | Yes                | Yes              | Yes   | Majority <sup>++</sup> |
| Take no action                                    | Yes                | Yes              | No    | Majority               |
| Reconsideration                                   | Yes                | Yes              | No    | 2/3 Majority           |
| Take from the table                               | Yes                | Yes <sup>+</sup> | No    | Majority               |
| Take up an article out of order                   | Yes                | Yes              | Yes   | 2/3 Majority           |

+ See Section 3.

++ Some main motions are required by the general laws to be passed by greater than a majority vote; for example, bond issues, zoning changes, the taking of land require a 2/3 vote. For other examples, refer to the appendix in *Town Meeting Time* entitled "Quantum of Vote."

+++ See Section 11

++++ See By-Law Article 1, Section 3.

## **ARTICLE 2**

### **NOMINATION AND ELECTION PROCEDURES FOR TOWN MEETING MEMBERS**

#### **Section 1            Nomination Procedure for Town Meeting Members**

In addition to the nomination procedure in Section 2-4 (b) of the Charter, this alternative nomination procedure, authorized by Section 10 of Chapter 53 of the General Laws, may be used in the case of an incumbent Town Meeting member seeking reelection.

Before the annual town election, the Town Clerk shall notify all Town Meeting members whose terms of office will expire and shall ask them to notify him if they desire to be candidates for reelection. If they do notify him in the manner directed, they shall be nominated for the office.

#### **Section 2            Election of Town Meeting Members**

All candidates for Town Meeting member shall be listed together on the ballot. In descending order of votes received, Town Meeting members shall be elected to the number of three-year terms to be filled, then to the number of two-year terms, and then to the number of one-year terms. Procedures in Section 2-5 of the Charter shall be used to resolve ties.

## **ARTICLE 1**

### **TOWN ELECTION AND TOWN MEETINGS**

#### **Section 1           Annual Town Election and Town Meetings**

In accordance with Section 3-1 (c) and Section 2-12 (a) of the Charter, the following dates are established.

- a. The town election, officially known as the Annual Town Meeting for the election of Town officers and for the determination of all questions as are by law to be decided by ballot of the voters, shall be held on the last Tuesday in March of each year. On or before November 15, the Board of Selectmen, by a two-thirds (2/3) vote, may change the date of the next town election to any Tuesday in March or April.
- b. The spring session of the representative town meeting, known as the Spring Annual Town Meeting, shall be called for 7:30 P.M. on the second Tuesday following the town election.
- c. The fall session of the representative town meeting, known as the Fall Annual Town Meeting, shall be called for 7:30 P.M. on the third Tuesday in October of each year. The Board of Selectmen may delay the start of the Fall Annual Town Meeting, provided that the delayed Fall Annual Town Meeting shall start in October or November.

#### **Section 2           Special Town Meetings**

The Board of Selectmen shall call a Special Town Meeting, in accordance with Section 2-11 (c) of the Charter, by giving public notice in a local newspaper at least twenty-eight (28) days prior to the date of such Special Town Meeting, except where compliance with this provision would defeat the purpose of said Special Town Meeting. Special Town Meetings shall be held on a Tuesday at 7:30 P.M.

#### **Section 3           Adjourned Town Meetings**

Adjourned sessions of every Town Meeting, when required, shall be held on the following Thursday at 7:30 P.M., and on consecutive Tuesdays and Thursdays thereafter at 7:30 P.M. Such sequence shall not include any Tuesday or Thursday that occurs on or during (a) a holiday for town employees designated by the Town of Natick or (b) a holiday or vacation for students (other than summer vacation) designated by the Natick Public Schools. Notwithstanding the previous provisions of this section, Town Meeting may, by a two-thirds (2/3) vote of the Town Meeting Members present and voting, adjourn to any date and time.

#### **Section 4           Publication of Warrant**

The warrant for the town election or preliminary election shall be posted at least fourteen

days before the date of the election. The warrant for any other Town Meeting shall be posted in accordance with Section 2-11(d) of the Charter. Service of the Warrant for every Town Meeting, unless a different time or method is prescribed by law, shall be made by posting an attested copy thereof in each of the Post Offices, on the Town Website, all public libraries and in not less than one public place in each precinct in said Town, and by publishing in a newspaper of general circulation in said Town a notice of availability of an attested copy of said warrant and the titles of the articles on the Warrant.

## **Section 5            Initiation of Articles**

In accordance with Article 2, Section 2-11 of the Charter the Board of Selectmen shall receive all petitions which are addressed to it and which request the submission of particular subject matter to the representative town meeting or which are filed by the Town Administrator or the Superintendent of Schools.

## **Article 72 C**

### **DIRECTIONAL AND INFORMATIONAL SIGNS ON OR WITHIN PUBLIC WAYS**

The effective date of this article is April 1, 2017, except for Section 6.3 for which the effective date is July 1, 2017

#### **Section 1 Purpose and criteria**

The purpose of this by-law is to promote the public health, safety and welfare of the inhabitants of the Town of Natick (the Town) through the regulation of placement, type, appearance and servicing of signs on or within public ways so as to:

1. Provide for vehicular and pedestrian safety and convenience;
2. Provide for the reasonable provision of information regarding town events, institutions, achievements, and organizations;
3. Encourage the visitation and patronage of, and safe and adequate access to, various public and private amenities and destinations located within the Town; and
4. Regulate in a fair and equitable manner all signs on public ways, such that signs are licensed and conform to standards and conditions established by the Town.

#### **Section 2 Definitions**

As used in this Article 72C, the following terms shall have the meanings indicated:

1. Directional Sign: Any Official Directional Sign, Private Directional Sign, or Public Safety Directional Sign that is located on a Public Way.
2. Informational Sign: A sign located on a Public Way providing information regarding Town events, institutions, achievements, sponsorships or organizations.
3. Official Directional Sign: A Directional Sign providing directions to a publicly-owned site in the Town, publicly-owned point of historical, scenic, or cultural interest, or district within the Town.
4. Private Directional Sign: A Directional Sign providing directions to a privately-owned or operated facility, point of interest, or attraction, including, but not limited to, those owned or operated by not-for-profit entities.
5. Public Safety Directional Sign: A Directional Sign providing directions to a public safety or health facility, such as, but not limited to, a police station, fire station, or hospital; or a Directional Sign requested by a Public Agency to be necessary for the public safety of the Town. This term excludes an Official Directional Sign.
6. Public Way: Any accepted public way, including, but not limited to, a street or other way, located in the Town.
7. Public Agency: Any Town of Natick board, committee, commission, agency or department; or any governmental unit whose jurisdiction includes the Town.

#### **Section 3 Regulated Signs**

The provisions of this by-law shall apply as follows:

1. The provisions of this by-law are intended to apply to all Informational and Directional Signs on or within Public Ways.

2. The provisions of this by-law shall not apply to traffic control signs placed on or within Public Ways.
3. The provisions of this by-law shall not apply to signs announcing or providing directions to an event lasting fewer than seven (7) days or to signs which are intended to remain, or so remain, on Public Ways for fewer than thirty (30) days.
4. The provisions of this by-law shall not apply to signs not located on or within Public Ways, nor shall it apply to signs otherwise regulated under the Zoning By-Laws of the Town of Natick.

#### Section 4 Directional Sign specifications

The design of Informational and Directional Signs shall conform to the relevant and applicable guidelines of the *Manual on Uniform Traffic Control Devices (MUTCD)* regarding Community Wayfinding Signs, as may be amended from time to time.

#### Section 5 General placement of Informational and Directional Signs

The placement of Informational and Directional Signs shall comply with the relevant provisions of the MUTCD regarding Community Wayfinding Signs. Informational and Directional Signs may be installed by the Town on or within Public Ways in locations approved by the Board of Selectmen, according to the following guidelines.

1. Every effort shall be made to minimize the number of Informational and Directional Signs needed to achieve the stated goals of this by-law.
2. Directional Signs shall be located at locations suitable for navigation and convenience.
3. To the extent possible, Informational and Directional Signs shall be mounted together on a single assembly.
4. The placement of Informational and Directional Signs shall not interfere with other traffic signs located on Public Ways.
5. The placement of Informational and Directional Signs shall not obscure the view or interfere with pedestrians or vehicles at intersections or crosswalks, or in any location where the clear space for passage of pedestrians would be reduced to less than five (5) feet in width.
6. Informational and Directional Signs shall not be affixed to buildings, trees, or utility poles.

#### Section 6 Procedures

The Board of Selectmen shall be responsible for the regulation of Informational and Directional Signs in the Town of Natick. The Board of Selectmen shall obtain a recommendation from the Safety Committee and any other Public Agencies with jurisdiction regarding the proposed Directional and Informational Signage. Copies of applications shall be sent to the Historic District Commission, the Design Review Board, and the Planning Board. For purposes of this by-law, the Board of Selectmen may delegate the administration of any or all of the activities regulated herein under its authority.

1. Informational Signs
  - a. The Board of Selectmen shall be responsible for identifying and approving Informational Signs that a Public Agency wishes to install on or within Public

Ways, and shall be responsible for the cost and effort of the design, production, installation, maintenance, and replacement of all Informational Signs identified and approved by the Board of Selectmen under this by-law.

- b. Private entities or parties desiring to locate Informational Signs on Public Ways shall submit an application to the Board of Selectmen. Such application shall be on the form prescribed by the Board of Selectmen and shall include the design, specifications, and proposed location of the Informational Sign. The Board of Selectmen shall issue a decision within ninety (90) days of receipt of the application. In the event that the Board of Selectmen has not issued a decision within such ninety (90) day period, unless the applicant has agreed to extend the deadline for issuing a decision, the application shall be deemed constructively denied. Approved Informational Signs proposed by a private entity shall be designed and produced at the cost and effort of the applicant.
  - c. The Town shall be responsible for the installation of Informational Signs requested by a private entity or private party, and may charge to the applicant an applicable fee for installation of such signs, which fee may be waived by the Board of Selectmen. Approval of the application to install an Informational or Directional Sign shall result in a license for such sign, subject to any conditions that the Board of Selectmen may place upon the license. Such license may be suspended or revoked by the Board of Selectmen based on noncompliance with this by-law and/or any condition for such license.
2. Official Directional Signs and Public Safety Signs
- a. The Board of Selectmen shall be responsible for identifying and determining the destinations that shall have Official Directional Signs and Public Safety Directional Signs, and shall consult with Town agencies with jurisdiction.
  - b. The Board of Selectmen shall be responsible for the cost and effort of the design, production, installation, maintenance, and replacement of all Official Directional Signs and Public Safety Directional Signs approved under this by-law.
3. Private Directional Signs
- a. Private entities or parties desiring to locate Private Directional Signs on or within Public Ways shall submit an application to the Board of Selectmen. Such application shall include the design, specifications, and proposed location of the Private Directional Sign.
  - b. In making its recommendation, the Safety Committee or other Public Agency may consider the following:
    - i. Comments from the public and Town officials.
    - ii. Number of visitors to the destination.
    - iii. Nature of visitors (i.e. frequent and repeat visitors or one-time visitors).
    - iv. Difficulty in locating the destination.
    - v. Importance of the destination to Natick's economy, culture, and/or recreation.
    - vi. Desire to have visitors utilize a particular route to the destination.



- c. Within ninety (90) days of receipt of the application, the Board of Selectmen shall, in its sole discretion, determine whether or not to approve the application, taking into account any recommendations received. The Board of Selectmen may deny approval consistent with the purposes and criteria of this by-law and/or if an application does not satisfy the applicable requirements of this by-law, taking in account any recommendations received. In the event that the Board of Selectmen has not issued a decision within such ninety (90) day period, unless the applicant has agreed to extend the deadline for issuing a decision, the application shall be deemed constructively denied.
- d. The Board of Selectmen may place conditions upon any approval granted to the applicant.
- e. Approval of the application shall result in a license to install a Private Directional Sign on or within the Public Way for a period not to exceed one (1) year. Unless revoked or suspended based on noncompliance with this by-law and/or any license condition, such license shall automatically renew at the end of each one (1) year term, subject to the following:
  - i. The Private Directional Sign shall remain legible, in good repair, and in compliance with this by-law.
  - ii. The applicant shall pay any applicable license fee. Such fee may be waived by the Board of Selectmen.
  - iii. The Board of Selectmen has not voted to terminate the license.
- 4. A Public Agency may request that the Board of Selectmen classify as a Public Safety Directional Sign a Directional Sign that would otherwise be classified as a Private Directional Sign.
  - a. In making such decision, the Board of Selectmen shall consider:
    - i. The volume of traffic to the destination.
    - ii. A demonstrated history of visitors having difficulty locating the destination.
    - iii. A demonstrated history of unsafe traffic conditions being caused by visitors' searching for the destination.
    - iv. A desire to have visitors utilize a particular route to the destination.
  - b. If the Board of Selectmen determines that a Directional Sign, which would otherwise be classified as a Private Directional Sign, is to be classified as a Public Safety Directional Sign, the Town shall be responsible for the cost and effort of the design, production, installation, maintenance, and replacement of such Directional Sign. The Board of Selectmen may place conditions upon any decision that such Directional Sign is to be classified as a Public Safety Directional Sign.

## Section 7 Enforcement

This by-law shall be enforced by the Board of Selectmen, acting through the Town Administrator or his or her designee, subject to the following:

1. Nonconforming and Noncompliant Informational and Directional Signs. Within one (1) year after the effective date of this by-law, and at any time thereafter, any Informational or Directional Sign in violation or nonconformance with any provision of this by-law may be subject to enforcement as provided by law and by this by-law, including but not limited to removal by the Town.
2. Abandonment. In the event that any Informational or Directional Sign installed pursuant to this by-law is not covered by a license, the Sign shall be considered abandoned and the Town shall thereafter remove such Sign. In the event that a licensee desires to voluntarily abandon or discontinue one (1) or more Informational or Directional Signs, said Signs shall be removed by the Town at the licensee's expense.
3. Fines imposed in the enforcement of this by-law shall be as provided for under the Town of Natick General By-laws and/or Massachusetts General Laws.

#### Section 8 Prohibition

No license for any Informational or Directional Sign regulated under this by-law shall be issued other than in conformity with the provisions of this by-law.

#### Section 9 Severability

If any subsection, paragraph, term or provision of this by-law is determined to be illegal, invalid or unconstitutional by final judgment or order of a court of competent jurisdiction, the remaining provisions of this by-law shall continue in full force and effect, to the extent permitted by law.

## **Article 72 B**

### **STRETCH ENERGY CODE**

#### **Section 1 Definitions**

#### **Section 2 Purpose**

#### **Section 3 Applicability**

#### **Section 4 Authority**

#### **Section 5 Stretch Code**

#### **Section 1 Definitions**

**International Energy Conservation Code (IECC) 2009** - The International Energy Conservation Code (IECC) is a building 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. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

**Stretch Energy Code** - Codified by the Board of Building Regulations and Standards as 780 CMR 120.AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.

#### **Section 2 Purpose**

The purpose of 780 CMR 120.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 13.00, 34.00, 61.00, or 93.00, as applicable.

#### **Section 4 Authority**

A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to 780 CMR 120.AA. 780 CMR 120.AA may be adopted or rescinded by the Town of Natick in the manner prescribed by law.

#### **Section 5 Stretch Code**

The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR 120.AA, including any amendments or modifications, is herein incorporated by reference into the Town of Natick General Bylaws, Article 72.B.

The Stretch Energy Code is enforceable by the Building Commissioner”

**ARTICLE 72 A**  
**NEWSRACKS ON PUBLIC PROPERTY AND PUBLIC WAYS**

**Section 1      Purpose and criteria**

The purpose of this by-law is to promote the public health, safety and welfare of the inhabitants of Natick through the regulation of placement, type, appearance and servicing of newsracks on public property and in public ways so as to:

- (1) Provide for pedestrian and vehicular safety and convenience;
- (2) Minimize to the greatest extent possible interference with the safe and efficient movement of pedestrians and vehicular traffic, including ingress into or egress from any building situated along a public way, or movement along any public sidewalk or between a public way and a public sidewalk;
- (3) Provide for safe and adequate access to poles, posts, traffic signs and signals, hydrants, mailboxes and areas used for public transportation services;
- (4) Relocate and/or replace newsracks which result in a visual blight and/or excessive space allocation on public property and public ways, or which unreasonably detract from surrounding aesthetics, including adjacent properties, landscaping and other improvements, as well as to have abandoned or unused newsracks removed;
- (5) To regulate in a fair and equal manner all newsracks and their contents.

**Section 2      Definitions**

As used in this by-law, the following terms shall have the meanings indicated:

- (1) Newsrack - Any type of unmanned device or enclosure intended for the vending or free distribution of newspapers, periodicals, magazines or other literature.
- (2) Public property - Any municipally owned land or building located in the Town of Natick.
- (3) Public way - Any public street, highway, sidewalk, parkway or alley located in the Town of Natick.

**Section 3      General placement of newsracks**

Subject to the specifications and prohibitions set forth in this by-law, newsracks may be installed on public property and in public ways, however, such newsracks shall be placed parallel to and no closer than eighteen (18) inches from the curb, or near the wall of a building parallel to and not more than six (6) inches from the wall.

#### **Section 4      Newsrack specifications**

- (1) Newsracks shall be maintained in good working order at all times, freshly painted and with unbroken handles. There shall be no sharp or jagged edges or protrusions on any newsrack which could cause injury or damage to persons or vehicles;
- (2) The name, address and telephone number of a responsible person who may be contacted at any time shall be displayed on the newsrack in such manner as to be readily visible and readable.
- (3) Newsracks shall be either freestanding or shall be bolted in place through four (4) standard holes in the newsrack base to pavement or a pad. No newsrack may be chained, wired, cabled, attached or fixed to any pole, post, tree, fence, bench, trash receptacle or any other structure on public property or in a public way unless such anchor has been provided specifically for such purpose. If a bolted newsrack is removed, the bolts shall be likewise removed entirely and the holes shall be filled with suitable material;
- (4) Newsracks shall carry no cardholders or advertising except the name of the newspaper or material being dispensed limited to two (2) square feet per side and six (6) square feet in total, and/or a copy of the latest edition of such material behind a clear panel in the door of the newsrack.
- (5) Except for the clear panel, all surfaces of a newsrack shall be either green, beige, brown, black, yellow, blue or gray in color with a flat finish. Brilliant or fluorescent-type finish is not permitted.

#### **Section 5      Newsrack prohibitions**

No newsrack shall be placed, installed, used or maintained:

- (1) Within ten (10) feet of any marked crosswalk;
- (2) Within ten (10) feet of any fire hydrant, fire or police call box, or other emergency facility or device;
- (3) Within ten (10) feet of any driveway;
- (4) Within ten (10) feet ahead of and ten (10) feet to the rear of any sign marking a designated bus stop, as measured along the edge of the pavement or curb line;
- (5) At any location where the clear space for passage of pedestrians would be reduced to less than six (6) feet;

- (6) Within five (5) feet of any display window of any building abutting any sidewalk or in such a manner as to impede or interfere with the use of such window display purpose, or within six (6) feet of any building entrance;
- (7) Facing another newsrack, separated only by the width of a sidewalk or pedestrian walkway;
- (8) Within five (5) feet of any sign, street light pole, traffic signal pole, utility poles or parking meters.
- (9) Within five (5) feet of any stairway, ramp or handicap access device.
- (10) Within twenty (20) feet of any fixed flagpole, commemorative monument, school or school ground, playground or athletic field, cemetery, funeral home or building or site of regular secular or religious ceremony and observance.

## **Section 6      Enforcement**

This by-law shall be enforced by the Building Commissioner, subject to the following:

- (1) Nonconforming newsracks. Within one hundred (100) days after the effective date of this by-law, and at any time thereafter, any newsrack in violation or nonconformance with any provision of this by-law shall be subject to remedy as provided by law, including but not limited to the imposition of fines, and removal by the Town;
- (2) Abandonment. In the event that any newsrack installed pursuant to this by-law does not contain the publication specified therefor within a period of forty-eight (48) hours after release of the current issue or when no publication is in the newsrack for a period of more than seven (7) consecutive days, the newsrack shall be considered abandoned and the Town shall thereafter remove such newsrack. In the event that a newspaper publishing company or its distributor desires to voluntarily abandon or discontinue a newsrack location, said newsrack shall be completely removed, and the public property or public way shall be promptly restored to a safe condition, leaving no holes or projections in any surface.

## **Section 7      Severability**

If any subsection, paragraph, term or provision of this article of this by-law is determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such determination shall have no effect on any other paragraph, term or provision hereof, all of which shall remain in full force and effect.

## **ARTICLE 72**

### **BUILDING REGULATIONS**

#### **Section 1 Building Permits, Orders, and Certificates**

Each permit, order and certificate issued by the Building Inspector shall bear a serial number and date, identical on all copies, and shall definitely locate the premises referred to by street and number or otherwise.

#### **Section 2 Identification of Structures by Street Number**

At the time of issuing a certificate of occupancy for a building or structure, whether same be new, added to or altered, or for a change of occupancy if no street number has been assigned thereto, the Building Inspector shall, wherever it is practicable, assign a number or numbers in accordance with the existing numbering system. The Building Inspector shall also assign and order street numbers in accordance with the said system to be affixed or displayed on any buildings not already so numbered on any street. Such numbers shall be affixed or displayed in such a manner as to be readily visible from the street. Owners shall be allowed ten (10) days after the giving of written notice by the Building Inspector to comply with such order.

The street number of an existing building or structure may be changed only by vote of the Board of Selectmen, after a Public Hearing by the Board of Selectmen for which fourteen (14) days written notice has been given to the owner of each building or structure for which the number is proposed to be changed and after receipt by the Board of Selectmen of a written recommendation from the Safety Committee of the Town.

#### **Section 3 Fees**

A fee schedule for permits and certificates may be established or amended by the Selectmen and the Building Inspector after due notice has been given by publication in a local newspaper at least fourteen (14) days prior to approval.

#### **Section 4 Fences**

All fences shall be erected with the finished side of the fence facing the property of the abutters and the frame side of the fence facing the property on which it is erected. The fence owner shall not use the land between the fence and the boundary line for the storage or disposal of any material. The fence owner shall have access to any abutter's side of the fence for maintenance and repairs.

Unless written permission is secured from the abutters to erect fence on property lines, fence must be erected at least one (1) foot in from boundary lines.

## **Section 5                    Height Requirements at Intersection**

In any lot which abuts an intersection of two or more streets, no fence, shrubbery or other object which is located within fifteen (15) feet of such an intersection, shall be maintained more than three (3) feet above the street grade measured at said intersection.

## **Section 6                    Signs in Public Ways or on Public Property**

No person shall place any unauthorized or non-conforming sign within the right-of-way of any street or on public property. The Building Commissioner is authorized to take down and remove such an unauthorized or non-conforming sign. Such sign shall be retained by the Building Commissioner for a period of thirty days after its removal. The owner of such sign may reclaim it within thirty days of its removal by submitting satisfactory proof of ownership to the Building Commissioner. If such sign is not claimed within such thirty day period, the Building Commissioner may cause such sign to be destroyed without incurring any liability to the Town or any of its Agents.



## ARTICLE 71

### SEWER ASSESSMENT

#### Section 1 Purpose and Authorization

To assess all properties receiving benefit or advantage from public sewerage construction within a limited and determinable area in accordance with the formal vote of the Board of Selectmen in accordance with Chapter 80, Section 1 of the General Laws and any other applicable statute, general or special.

#### Section 2 Basic Requirements

Other than in respect to the West Speen Street Pumping District, the Town Administrator shall assess sewerage construction costs to all properties receiving benefit of advantage on the basis of the unit method as hereinafter defined. He shall separate the costs of the general benefit facilities, such as pumping stations, trunk and force mains, lands, rights-of-way, and easements from those of the special benefit facilities, such as the sewer mains serving adjacent properties. The proportional cost of the special and general benefit facilities shall be assessed against all properties abutting a sewer street upon such sewer becoming operational. The cost of the general benefit facilities, attributable to lands not abutting a sewer street, shall not be assessed until the properties are serviced by public sewerage. The Town will temporarily pay this delayed cost of the general benefit facilities until such lands are serviced by public sewerage. In the West Speen Street Pumping District, the Town Administrator shall assess the West Speen Street Sewer Construction Costs based upon the unit method to the properties in the West Speen Street Pumping District; or in case of other sewerage construction costs, shall assess sewerage construction costs in accordance with this By-Law.

#### Section 3 Definitions

For the purpose of this By-Law, the following words shall be considered to have the following meanings:

- (1) **Unit Method:** a means by which sewerage construction costs shall be equally divided between the total number of existing and potential sewer units to be served after having proportioned the costs resulting from special and general benefit facilities.
- (2) **Sewer Unit:** assessment equivalent correspondent to a single family residential lot as permitted under the Zoning By-Laws of the Town of Natick.
- (3) **Dwelling Unit:** one or more rooms providing complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping, and eating.
- (4) **Multifamily Use:** occupancy of premises with two or more dwelling units.

- (5) **Commercial Use:** occupancy of premises for financial gain including profit such as business and industrial uses.
- (6) **Semi-public Use:** occupancy of premises by private non-profit organizations such as schools, hospitals, and religious institutions.
- (7) **Lateral Line:** sewer conduit from a house to a street.
- (8) **Sewer Main:** the line serving as a conduit for sanitary sewerage from the lateral lines from each individual property.
- (9) **Trunk Main:** the line serving as a conduit for sanitary sewerage from a number of sewer mains and lateral lines. Trunk mains shall be considered as those lines ten (10) inches and over in diameter.
- (10) **Force Main:** a line without access from individual properties providing access from pumping station to pumping station or to trunk and sewer main.
- (11) **Zoning By-Law:** the Zoning By-Law in effect in the Town of Natick at the time the sewerage betterment assessment is levied.
- (12) **Special Benefit Facilities:** the sewer main to which a lateral line from an individual abutting property can be connected.
- (13) **General Benefit Facilities:** improvements such as pumping stations, trunk and force mains, lands, rights-of-way, and easements which will provide benefit or advantage to an area exceeding that served by the special benefit facilities. Ordinarily general benefit facilities will serve a major part of a pumping district.
- (14) **West Speen Street Pumping District:** The land comprising Assessor's Map 16, Lot 2 and Map 24, Lot 101.
- (15) **West Speen Street Sewage Construction Cost:** all sewer improvements required to be constructed to accommodate sewage flow from the West Speen Street Pumping District as part of the redevelopment and expansion at the Natick Mall as approved by the Planning Board in Decision 16-04 dated July 19, 2004 as the same may be modified, or a approved by an Approved Use Development Plan adopted by Town Meeting.

#### **Section 4            Sewer Cost Apportionment**

Other than for West Speen Street Sewer Construction Costs, betterments shall be assessed for seventy-five per cent (75%) of the cost of special and general benefit facilities with twenty-five per cent (25%) of the cost to be paid by the Town. In the West Speen Street Pumping District, betterments shall be assessed for one hundred percent (100%) of the cost of special and general

benefit facilities for West Speen Street Sewer Construction Costs with no cost to be paid by the Town.

Each parcel of land in a pumping district shall be converted into permanent sewer units for the purpose of proportionally dividing the construction costs. For assessment purposes a sewer unit shall be equivalent to a single family residential lot of the minimum frontage and depth requirements specified in the Zoning By-Law for the district in which the property is located.

If a lot containing a dwelling unit or structure used for commercial or semi-public purposes is smaller than that required by the Zoning By-Law for residential purposes, it shall be assessed one unit. If a dwelling unit is so situated on two or more adjacent residential lots so that only one residence is allowable, or is an owner with two or more such adjacent lots is using one lot for his house and the remainder is vacant, he will be assessed one sewer unit until such land is further developed. At the time of development proportional assessment will be made based on previously established permanent sewer units. Multifamily residences shall be assessed one sewer unit for each dwelling unit.

Commercial and industrial and semi-public uses and all properties within the West Speen Street Pumping District shall be converted into sewer units on the basis of the minimum frontage and depth requirements of the nearest single family residential district with the largest common frontage.

If any parcels of land are ever converted to a more intensive use by new construction, zoning changes, or variance of the Zoning By-Laws, resulting in an increment in sewerage benefit for the parcel greater than that established at the time of the original assessment, the Town Administrator shall proportionally assess the more intensive use.

The following methodology is presented as a guide for apportioning the cost of sewerage construction using the unit method:

- (1) The cost of the general benefit facilities and the special benefit facilities shall be separated from each other. The cost of the general benefit facilities shall be divided into two parts:
  - (a) the cost apportioned to the lands abutting existing streets which will receive direct benefit and advantage upon connection to the sewerage system; and
  - (b) the cost apportioned to the lands not abutting the existing streets to be sewerred, which cost will accrue at a later date.
- (2) The proportion of a property abutting a street to be sewerred that will benefit from the improvement shall be converted into sewer units as follows:
  - (a) Existing residential uses, including multi-family uses, shall be converted into sewer units on the basis of the number of dwelling units in the structure.

- (b) Existing commercial and semi-public uses shall be converted into sewer units. The street frontage of the property including all which is actually developed for use at the present time shall be divided into sewer units on the basis of the frontage and depth requirements specified for the single family zoning district in closest proximity to it. These parcels shall be assessed for both special and general benefit costs. The remainder of the property shall be divided into residential units as above after having made allocation for potential roadways and lands not useable. These latter parcels shall be assessed only for the general benefit facilities.
  - (c) Potential residential lands shall be converted into sewer units on the basis of the frontage and depth requirements for a lot specified in the Zoning By-Law for the district in which such lands are located.
  - (d) Potential commercial lands shall be converted into sewer units on the basis of the frontage and depth requirements specified in the Zoning By-Laws for the single family district in closest proximity with the largest common frontage.
- (3) Properties not immediately benefiting from sewer improvements in the determinable area, but which will benefit at a later date, shall be converted into sewer units.
  - (a) Existing and potential residential lands shall be converted into sewer units on the basis of the frontage and depth requirements for a lot specified in the Zoning By-Law for the district in which such lands are located after having made allocation for potential roadways and lands not useable.
  - (b) Potential commercial lands shall be converted into sewer units on the basis of the frontage and depth requirements specified in the Zoning By-Law for the single family zoning district in closest proximity with the largest common frontage after having made allocation for potential roadways and lands not useable.
- (4) The unit cost for special benefit facilities shall be allocated to all properties abutting an existing street by dividing the cost of the special benefit facilities (Item 1) by the total number of sewer units calculated for such area (Item 2)
- (5) The unit cost for general benefit facilities shall be allocated to all properties within the limited and determining area by dividing the cost of the general benefit facilities (Item 1) by the total number of sewer units within such area (Item 2 plus 3).
- (6) The total unit cost for all properties abutting an existing street shall be calculated by adding the unit cost of the general and special benefit facilities together.
- (7) The proportional unit cost which will temporarily be payable by the Town, but

reimbursable when the properties directly benefit from the general benefit facilities shall be calculated by multiplying the number of sewer units attributable to the area not receiving immediate benefit (Item 3) by the unit cost for general benefit facilities (Item 5).

## **Section 5              Sewer Connection**

An abutter to a completed section of a sewer line may connect to the completed line before the entire sewer project is completed and assessed, provided that he makes a stipulated monetary deposit and signs an agreement with the Department of Public Works to the effect that he will pay the balance of the assessment when levied.

## **ARTICLE 70**

### **PUBLIC WORKS REGULATIONS**

#### **Section 1 Powers and Duties**

The Town Administrator shall have the general direction and management of the affairs of the Town concerning public water supply, public sewerage, highways, sidewalks, the removal of public shade trees, sign posts, garbage and refuse collections and Town Gravel Pit, and shall operate and administer the Town Recycling Center in accordance with rules and regulations established by the Board of Health.

#### **Section 2 Rental Charges**

The Town Administrator may make a charge for use or rental of road machinery used on construction work authorized by Town Meeting vote.

#### **Section 3 Receipts**

All receipts from charges for use or rental of road machinery shall be paid over to the Town Treasurer and credited to an account entitled Road Machinery Account, the proceeds to be thereafter appropriated as voted by the Town for road machinery purposes.

#### **Section 4 Restrictions on Use of Equipment**

Road machinery and equipment owned by the Town shall not be used for purposes other than Town or civic projects.

#### **Section 5 Removal of Vehicles Impeding Snow Removal**

The Director of Public Works or other officer having charge of ways, for the purpose of removing or ploughing snow, or removing ice from any way may remove or cause to be removed to some convenient place, including a public garage, any vehicle interfering with such work. He shall keep, or cause to be kept, records of the registration number of each vehicle so removed and the place to which it is removed and shall within twelve (12) hours report said information to the Police Department of Natick who shall notify the owner or his agent.

Before the owner or his agent shall be permitted to remove a vehicle which has been removed as aforesaid to a public garage or other convenient place, he shall:

- a. Furnish satisfactory evidence to the owner or person in charge of said public garage or to the Chief of Police of his identity and ownership or right to the possession of said vehicle.
- b. Pay the cost of removing and storing said vehicle, together with the cost of publishing or sending any notices as may be required.

## **Section 6                    Betterments**

Whenever betterments are assessed in connection with a public way, the entire cost of the construction of streets on said ways shall be assessed to the abutters and one-half (1/2) of the costs of construction of sidewalks shall be assessed to the abutters, provided, however, that this section shall not apply to a subdivision of land under Section 81 of Chapter 41 of the General Laws as amended.

The Director of Public Works may make repairs to private ways providing that an Annual or Special Town Meeting determines that the repairs are required by public necessity and convenience and a majority of the abutters petition for such repairs to be made and that the way has been open to public use for a period of six (6) years. Such repairs shall include the installation and construction of drainage if necessary, and the filling of holes in the sub-surface of such ways and repairs to the surface materials thereof. Materials for such repairs shall, where practical, be the same as or similar to those used for existing surfaces of such ways but may include surfacing the ways with bituminous materials including but not limited to bituminous concrete.

The Town Administrator shall assess betterments upon the owners of estates which derive particular advantage from the making of such repairs on any such private way. Such assessment shall be a sum equal, in the aggregate, to the total cost of such repairs and, in the case of each such estate, in proportion to the frontage thereof on such way. Except as otherwise provided, the provisions of Chapter Eighty relating to public improvements and assessments thereof shall apply to repairs to private ways ordered to be made under this section; provided that no assessment amounting to less than twenty-five dollars (\$25.00) shall be apportioned and no assessment may be apportioned into more than ten (10) portions.

The Town shall not be liable on account of any damage caused by such repairs.

## **Section 7                    Tank and/or Contaminated Soil Betterment**

### **a.            Basic Requirements**

The Board of Selectmen of the Town of Natick shall assess tank and/or soil contamination abatement net costs to all private properties whose tank and/or contaminated soil was removed and lawfully disposed of at Town expense.

### **b.            Method of Apportionment of Costs**

The owners of each dwelling unit shall be charged a betterment equal to the net cost of removing and disposing of such tank and/or soil from that owner's property.

The net cost of removing and disposing of such tank and/or soil from an owner's property is defined as the Town's cost to remove and lawfully dispose of such material, not to exceed five thousand dollars (\$5,000.00), on the condition that any cost over five thousand dollars (\$5,000.00) shall be paid from the Commonwealth of Massachusetts and/or the United States government. If no such grant is provided to the Town, this paragraph shall not take effect and further action of Town Meeting will be required to fund the project.

c. **Terms of the Betterment**

The owners who are assessed betterments for the above purposes will have the option of paying the betterment immediately or paying it over a number of years up to a maximum total of 20 years.

Such property owners shall have the right to pay off the remaining balance of a betterment at any time.

When a property with such a betterment is conveyed to another party, the remaining balance of the betterment may be paid or the obligation of the betterment may be transferred to the new property owner.

The interest paid by a property owner on the betterment will be equal to the rate of interest paid by the Town on any bond or note issued for this improvement.



## **ARTICLE 61**

### **SALE, EXCHANGE AND DISTRIBUTION OF CIGARETTE LIGHTERS AND MATCHES TO MINORS AND SELF-SERVICE DISPLAY OF CIGARETTE LIGHTERS AND MATCHES**

#### **SECTION 1**

No person shall sell, exchange or distribute a cigarette lighter or lighters and/or matches to a minor in the Town of Natick.

#### **SECTION 2**

Self-service display of a cigarette lighter or lighters and/or matches is hereby prohibited in the Town of Natick.

#### **SECTION 3:** Definitions

In this By-law, the following words shall have the following meanings:

- Minor: Any individual under the age of eighteen (18) years;  
Person: An owner, operator, manager, employee or representative of a store, business, entity or establishment
- Self-Service Display: A display from which any product may be selected by a customer without assistance from an owner, operator, manager, employee or representative of the store, business, entity or establishment which displays the product.

#### **SECTION 4:**

A person selling, exchanging or distributing cigarette lighters and/or matches shall request and examine identification from any purchaser suspected of being a minor, and shall positively establish the purchaser's age as eighteen (18) years or older before allowing the purchase and/or distribution of a cigarette lighter and/or matches by or to such a purchaser. The following shall constitute positive identification: a valid Massachusetts drivers' license; or a certified birth certificate along with a picture identification card, or two (2) other similar forms of identification, one (1) of which shall be a picture identification card.

#### **SECTION 5:**

The provisions of the By-law shall only apply to any store, business, entity or establishment engaged in the retail sale of tobacco products and accessories.

#### **SECTION 6:**

Any person violating any provision of the By-law shall be subject to a fine of not less than One Hundred Dollars (\$100.00) for the first offense; a fine of not less than Two Hundred Dollars (\$200) for the second offense; and a fine of not less than Three Hundred Dollars (\$300) for each subsequent offense. Each violation of a provision of this By-law shall constitute a separate offense.

**SECTION 7:**

The Natick Fire Department shall enforce the provisions of the By-law.

## ARTICLE 60

### FIRE AND LIFE SAFETY REGULATIONS

#### Section 1 Orders, Rules, Investigations, and Inspections

For the purpose of ensuring compliance and reasonable safety of the public and firefighters, as authorized by Massachusetts General Laws (MGL) Chapter 148 “Fire Prevention Laws,” 527CMR “Fire Protection Regulations,” and, where authorized, by 780CMR “State Building Code,” or this By-Law, the Chief of the Fire Department (the Chief) or his designee may:

1. Enter, at any reasonable hour, any building, structure, or premises to make investigation and inspection;
2. Make rules or orders consistent with laws and regulations cited in this By-Law.

#### Section 2 Definitions

*Fire Protection Systems* Systems, devices, and equipment used to detect a fire and its by-products, actuate an alarm, or suppress or control a fire and its by-products, or any combination thereof.

*Life Safety Systems* Systems that enhance or facilitate evacuation of smoke, or devices and alarms that detect and notify the presence of carbon monoxide.

*Auxiliary Fire Alarm Systems, (Municipal Master-Boxes), Central Station and Remote Stations* As defined by the latest edition of the National Fire Alarm Code, NFPA-72, as published by the National Fire Protection Association, Quincy, MA.

#### Section 3 Regulatory Policies

The Chief may promulgate regulatory policies for the purpose of clarifying the intent of any sections of the By-Laws, MGL, regulations, or codes stipulated in Section 1. Regulatory policies and promulgations under this section shall be approved by the Board of Selectmen (the Board).

Regulatory policies may include, but are not limited to:

- A. Obstruction or blockage of a public or private way to prevent access by fire apparatus or equipment to any building.
- B. Fire lanes, markings, postings, and maintenance.
- C. Fire Department vehicle access to private roadways.
- D. Method of supervision (Fire Department notification) of fire protection and life safety systems within all buildings by means of auxiliary fire alarm systems (municipal master-boxes), central station systems, remote station, or combination of both, including testing, maintenance and maintaining operational readiness.

- E. Fire protection and life safety systems, functions, equipment, and component locations.
- F. Fire hydrant location and placement, public and private.
- G. Inspection, testing, and maintenance of fire protection systems.
- H. Impairments affecting fire-protection-life-safety-systems' function and Fire Department notification.
- I. Issuance of permits for the use of open flames in or around buildings or structures.
- J. Conditions for the permitted use of open flames in or around buildings or structures.

#### **Section 4 Appeals**

Anyone aggrieved by the Chief's interpretation, order, requirement, direction, or failure to act under the provisions of this By-Law may, within ten (10) days of such action, file an appeal in writing with the Board. Once the appeal is filed with the Board, there is a stay of all proceedings until a decision is reached. The Board shall notify the appellant and the Chief in writing at least ten (10) days prior to the hearing date. The Board shall render a decision within thirty (30) days following the hearing. The appellant, if aggrieved by the decision of the Board, may seek further review by a court of appropriate jurisdiction.

#### **Section 5 Adoption of Local Option Law**

The Chief or his designee shall enforce the following local option MGLs adopted by the Town and any other MGLs subsequently adopted by the Town.

MGL 148, 26C "Certain Public Accommodations": automatic smoke or heat detectors.  
Date of adoption: ATM April 12, 1988, Art. 42.

MGL 148, 26G "Non-residential Buildings or Additions": automatic suppressant or sprinkler systems. Date of adoption: ATM April 12, 1988, Art. 43.

MGL 148, 26H "Lodging or Boarding Houses": Automatic sprinkler systems. Date of adoption: ATM April 12, 1988, Art. 44.

MGL 148, 26I "Multiple Dwelling Units": New construction: Automatic Sprinkler Systems. Date of adoption: ATM October 19, 2006, Art. 12.

#### **Section 6 Fire Department Radio Communication**

The Chief may require the installation of two-way in-building radio communication systems within any new or existing building to enhance communication among Fire Department personnel. Such two-way in-building radio communication systems shall comply with Fire Department specifications and installation requirements.

#### **Section 7 Fire Department Building Access**

The Chief may require the installation of specialized, secured lock-boxes on any building or structure to permit emergency access during non-occupied or normal business hours. Specialized, secured lock-boxes shall comply with Fire Department specifications and installation requirements.

## **Section 8 Fees**

The Chief may recommend to the Board reasonable fees for the issuance or renewal of licenses, permits, the supervision of auxiliary fire alarm systems (municipal master-box), and temporary impairments of auxiliary fire alarm systems (municipal master-box) affected by installation, testing, inspection, or maintenance of fire protection and life safety systems.

## **Section 9 Fire Alarm System Malfunctions (False Alarms) and Fines Structure**

9.1 In order to reduce the number of unnecessary responses by the Fire Department due to faulty fire alarm systems, the Chief may assess a fine against a fire alarm system owner for each fire alarm system malfunction per calendar year according to the following schedule:

- a. First through third malfunction. No Charge. Upon receipt of the third such false alarm by the Fire Department, the Chief shall notify the owner of the fire alarm system in writing, and by registered mail, return receipt requested, of such fact, and inform the owner of the Department's policy relative to charging for false fire alarms. A copy of the By-Law shall be enclosed with the formal notice.
- b. Fourth malfunction: \$100.00.
- c. Fifth malfunction: \$200.00.
- d. Each malfunction after the fifth: \$300.00 per call.

9.2 Private fire alarm systems connected to the Fire Department by other automatic means or through a central station system shall be subject to the aforementioned fee structure (subsection 9.1).

9.3 Any false fire alarm which is the result of the failure of the property owner, occupant, or their agent(s) to notify the Fire Department of repair, maintenance, or testing of the internal fire alarm system within the protected premises shall cause a penalty to be assessed in accordance with subsection 9.1.

9.4 For the purposes of this regulation, a false fire alarm shall be defined as any alarm caused by:

- a. The operation of a faulty smoke, heat, or water flow detection device.
- b. A faulty control panel or associated equipment.
- c. A water pressure surge in an automatic sprinkler system.

- d. Accidental operation of an automatic sprinkler system.
- e. Any action causing accidental activation of an internal fire alarm system by:
  - 1. An owner of the protected premises;
  - 2. An occupant of the protected premises;
  - 3. Any employee or contractor of an owner or occupant of the protected premises;
  - 4. Any agent of an owner or occupant of the protected premises;
  - 5. Any agent of an employee or contractor of the owner or occupant of the protected premises.

9.5 Property owners will be billed once a month for the previous month's malfunction activity. All fines assessed shall be paid to the Town Treasurer for deposit in the general fund. If the bill is not paid within thirty (30) days, a second notice will be sent; if the bill is not paid after another thirty (30-day) period, a final notice will be sent informing the owner and/or occupant that the master box will be disconnected and the insurance company notified after thirty (30) days of said final notice.”

## **ARTICLE 55**

### **CIVIL FINGERPRINTING**

#### **Section 1 Purpose and Authorization**

In order to protect the health, safety, and welfare of the inhabitants of the Town of Natick (the Town), and as authorized by Chapter 6, Section 172B½ of the Massachusetts General Laws, this Article 55 shall require (a) applicants for a license for an occupation listed in Section 2 below to submit to fingerprinting by the Natick Police Department (the Police Department), (b) the Police Department to arrange for the conduct of fingerprint-based criminal record background checks, and (c) the Town to consider the results of such background checks in determining whether or not to grant such a license.

The Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successor entities, as may be applicable, are hereby authorized to conduct on behalf of the Town and the Police Department fingerprint-based state and national criminal history records checks, including of FBI records, consistent with this Article 55. The Town authorizes its Police Department to receive and utilize records of the Massachusetts State Police, the DCJIS, and the FBI in connection with such criminal history records checks, consistent with this Article 55. The Town shall not disseminate criminal history record information received from the Massachusetts State Police, the DCJIS and the FBI to unauthorized persons or entities.

#### **Section 2 Licenses Subject to Fingerprinting**

Any applicant for a license to engage in any of the following occupational activities within the Town shall have a full set of fingerprints taken by the Police Department, within seven (7) days of the date of the application for such license, for the purpose of conducting a state and national fingerprint-based criminal history records check to determine the suitability of the applicant for the license:

- Manager of Alcoholic Beverage License Holder
- Hawkers, Peddlers, Solicitors and Canvassers
- Ice Cream Truck Vendor
- Junk Dealers
- Owner or Operator of a Public Conveyance
- Dealer of Second-Hand Articles
- Pawn dealers
- Hackney Drivers

At the time of fingerprinting, the Police Department shall notify each individual who is fingerprinted that his or her fingerprints will be used to check such individual's FBI and state criminal history records.

#### **Section 3 Police Department Procedure**

The Police Department will forward the full set of fingerprints obtained pursuant to Section 2 of this Article 55 either electronically or manually to the State Identification Section of the Massachusetts State Police, the DCJIS and/or the FBI (or their successors) as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in said Section 2.

The Police Department will provide the applicant with a copy of the results of his or her fingerprint-based state and national criminal history records check and supply the applicant with an opportunity to challenge the accuracy or completeness of the information contained in it, including the FBI Identification Record. Any applicant that wishes to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR 16.34 (as may be amended from time to time). In no event shall the Police Department render a suitability evaluation pursuant to the paragraph below until it has taken the steps detailed in this paragraph and otherwise complied with any other procedures required by any Town policy applicable to licensing-related criminal record background checks.

The Police Department will communicate the results of fingerprint-based criminal history records check to the Board of Selectmen. The Police Department will in addition render to the Board of Selectmen its evaluation of the applicant's suitability for the proposed occupational activity based on the results of the criminal records background check and any other relevant information known to it. In rendering its evaluation, the Police Department shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability and shall indicate whether the applicant has been convicted of, or is under pending indictment for, a crime that bears upon his or her suitability for the proposed occupational activity, or any felony or misdemeanor that involved force or threat of force, controlled substances, or a sex-related offense.

#### **Section 4      Reliance by Licensing Authority on Results of Fingerprint-Based Criminal Records Background Checks**

The Board of Selectmen may utilize the results of any fingerprint-based criminal records background check performed pursuant to Sections 2 and 3 of this Article 55 for the sole purpose of determining the applicant's suitability for the proposed occupational activity. The Board of Selectmen may deny an application for any license specified herein, including renewals and transfers thereof, if it determines that the results of the fingerprint-based criminal records background check render the applicant unsuitable for the proposed occupational activity. The Board of Selectmen shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.

No application shall be denied on the basis of information contained in a criminal record until the applicant has been afforded a reasonable time, as determined by the Board of Selectmen, to correct or complete the information, or, after being afforded the opportunity has declined to do so.

#### **Section 5      Town Policy**



The Police Department, subject to the approval of the Board of Selectmen, shall develop and maintain written policies and procedures for its licensing-related criminal record background check system.

#### **Section 6      Fees**

Each applicant for a license listed in Section 2 above shall pay a fee of \$50.00, of which \$30.00 shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, as specified by Chapter 6, Section 172B1/2 of the Massachusetts General Laws.”

## **ARTICLE 54**

### **Sex Offenders**

#### **Section 1 Definitions**

1. "Classified Level 2 or 3 Sex Offender" means a person who has been finally classified as a Level 2 or Level 3 Sex Offender by the Sex Offender Registry Board or its successor under M.G.L. c. 6 §§ 178C - 178 inclusive and under 803 C.M.R. §§ 1.13 or 1.22-1.23, or their successor provisions as the same may be amended from time to time.
2. "Organized" means any activity including but not limited to summer camp, library reading hour, educational program or sporting event which is developed, overseen and administered by the Town of Natick or a department or agency thereof, the Town of Natick School Department, or other legal entity under agreement with the Town of Natick.
3. "Organized Youth Activity" means any Organized activity involving one or more children under seventeen (17) years of age and which activity is taking place on Property owned by the Town of Natick.
4. "Property" means any building or real property in the Town of Natick which is owned by the Town of Natick and under the control of the Board of Selectmen or a department or agency of the Town of Natick or the Town of Natick School Department.
5. Unless otherwise provided herein and as applicable, terms used in this by-law have the same meaning as provided in M.G.L. c. 6 § 178C and 803 C.M.R. 1.03 or their successor provisions as the same may be amended from time to time.

#### **Section 2 Prohibitions**

1. It shall be unlawful for a Classified Level 2 or Level 3 Sex Offender to knowingly be within three hundred (300) feet of an Organized Youth Activity.

#### **Section 3 Enforcement**

1. The Town of Natick Police Chief and duly sworn Police Officers shall be responsible for the enforcement of this by-law.
2. If a police officer has reasonable suspicion to believe that a Classified Level 2 or Level 3 Sex Offender is within three hundred (300) feet of an Organized Youth Activity as defined in Section 1, in violation of this by-law, the officer shall require said individual to provide his/her name, address, and telephone number. If it is established that the individual is a Classified Level 2 or Level 3 Sex Offender, then the officer shall notify

said Sex Offender that he/she is in violation of this by-law and a fine shall be issued pursuant to this by-law.

3. Non-Criminal Fine. A violation of this by-law may be enforced by a police officer by non-criminal complaint pursuant to the provisions of M.G.L. c. 40, § 21D. Each appearance at an Organized Youth Activity shall be deemed to be a separate offense, even if multiple appearances occur on the same day.

The penalty for violation of this by-law shall be three hundred dollars (\$300.00).

#### **Section 4      Exceptions**

A Classified Level 2 or Level 3 Sex Offender will not be in violation of this by-law in the following situations:

- a. The individual is a minor involved in the Organized Youth Activity;
- b. The individual is at his or her place of residence or secondary address that is within three hundred (300) feet of an Organized Youth Activity;
- c. The individual is at his or her place of employment that is located within three hundred (300) feet of an Organized Youth Activity;
- d. The individual is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility that is located within three hundred (300) feet of an Organized Youth Activity;
- e. The individual is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to M.G.L. c. 123 and the facility is located within three hundred (300) feet of an Organized Youth Activity;
- f. The individual is a mentally ill person subject to guardianship pursuant to M.G.L. c. 201 § 6 or a mentally retarded person subject to guardianship pursuant to M.G.L. c. 201 § 6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised twenty-four (24) hours a day and is located within three hundred (300) feet of an Organized Youth Activity;
- g. The individual is the parent of a natural or adopted child which child's participation in the Organized Youth Activity reasonably requires the attendance of the Sex Offender as the child's parent at the Organized Youth Activity but only if the Sex Offender's presence at the Organized Youth Activity occurs only during the hours of activity related to the participation by the child;
- h. The individual is walking, driving or traveling through a three hundred (300) foot zone of an Organized Youth Activity on his/her way from one location to another destination and does not stop or stand within three hundred (300) feet of the Organized Youth Activity.

## **ARTICLE 53**

### **USE OF RECREATIONAL CONVEYANCES**

#### **Section 1 Prohibited Areas of Use**

Recreational conveyances, both motorized and non-motorized, including, but not limited to, scooters, skateboards, roller skates, and roller blades may not be used or operated in, on or upon any building owned by the Town of Natick or the stairs and grounds of a building owned by the Town of Natick, except grounds specifically designated for recreational use or operation. Such recreational conveyances may not be used or operated upon any private building or land where the owner or other person in control of the property has posted a notice prohibiting such use or operation.

#### **Section 2 Hazardous Use Or Operations Prohibited**

No person shall use or operate any such recreational conveyance in, on or upon any public way, sidewalk, parking area, or private property where such use or operation is permitted, in such a way that a hazard is created for pedestrians or vehicles. For purposes of this by-law, a hazard exists when a reasonable person could conclude that an injury to a person or damage to property would result from the use or operation of these conveyances in the manner observed.

#### **Section 3 Penalty**

Any person using or operating a recreational conveyance in a prohibited area or in a hazardous manner shall be assessed a fine of twenty-five dollars (\$25.00) for a first offense, and fifty dollars (\$50.00) for second and subsequent offenses. As an alternative to the monetary penalty, violators may, upon mutual agreement with the police department, elect to perform, for a first offense, eight hours community service, and sixteen hours community service for second and subsequent offenses. Such community service shall be at the direction of the Natick Police Department.

#### **Section 4 Severability**

In the event that any provision of this by-law is determined to be illegal or invalid by final judgment of a court of competent jurisdiction, the remaining provisions shall continue in effect to the extent permitted by law.

## **ARTICLE 52**

### **SOLICITORS AND CANVASSERS**

This Article is for the purposes of protecting the privacy of the residents of the Town of Natick, to prevent fraud, to deter and protect the residents against crime, and to protect residents against annoyance. The provisions of this Article have neither the purpose nor intent of infringing upon or denying rights protected by the Constitutions of the United States and the Commonwealth of Massachusetts, and instead constitute reasonable time, place and manner restrictions on door-to-door soliciting and canvassing in the Town of Natick.

#### **SECTION 52.1 DEFINITIONS**

##### **BONA FIDE RELIGIOUS, CHARITABLE, EDUCATIONAL OR POLITICAL ORGANIZATION**

Any organization that is qualified under state or federal law as a tax-exempt, nonprofit organization, any religious, charitable, educational or political organization or group, or any organization or group that espouses or advocates a position or belief on any subject of public interest or on behalf of any candidate for public office.

##### **CANVASS OR CANVASSING**

Includes any one (1) or more of the following door-to-door activities:

1. Person-to-person distribution of literature, periodicals, or other printed materials, but shall not include placing or dropping off printed materials on the premises except as otherwise exempted by this Article.
2. Seeking to enlist membership in any organization except as otherwise exempted by this Article.
3. Seeking to present, in person, organizational information except as otherwise exempted by this Article.

##### **LICENSE**

The photo identification card issued to a licensee under this Article.

##### **PERSON**

Any individual, business entity, firm, partnership, corporation, company, association or joint-stock association, society, organization or league and includes any trustee, receiver, assignee, agent or other similar representative thereof, except as otherwise exempted by this Article.

##### **SOLICIT or SOLICITATION**

Includes any one (1) or more of the following activities:

1. Seeking to sell or obtain orders for the purchase of goods wares, merchandise, foodstuffs, and services of any kind, character or description whatever.
2. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.
3. Seeking to obtain gifts or contributions of money, clothing or any other

valuable item for the support or benefit of any charitable or nonprofit association, business entity, organization, corporation, group or project except as otherwise exempted by this Article.

## **SECTION 52.2 LICENSE REQUIRED**

No person, firm or corporation shall canvass, solicit, distribute circulars or other matters, or call from house to house in the Town of Natick to sell, promote the sale of or attempt to sell goods by sample, or to take or attempt to take orders for, the future delivery of goods, merchandise, wares or any other property, personal or real, of any nature whatsoever, or take or attempt to take orders for services to be furnished or performed presently or in the future, or collect or attempt to collect contributions for any purpose, without first having obtained a written license from the Natick Chief of Police (“Chief of Police”) or his designee under the provisions of this Article (except as otherwise provided in Section 52.3 below).

## **SECTION 52.3 EXEMPTIONS**

- A. Any person, firm or corporation soliciting or canvassing on behalf of a bona fide religious, charitable, educational or political organization shall be exempt from the requirements of this Article, except for the Prohibited Activities set forth in Section 52.8.
- B. Any person, firm or corporation delivering goods or performing services which have been previously ordered by the person owning, leasing or occupying the property where such delivery is made or service performed shall be exempt from the requirements of this Article.
- C. Any minor employed by a newspaper as a carrier, or who has been previously registered with the Chief of Police by an employing newspaper, shall be exempt from the requirements of this Article.
- D. The provisions of this Article shall not apply to any of the following groups:
  - 1. Girl Scouts of America, Natick affiliates
  - 2. Boy Scouts of America, Natick affiliates
  - 3. Any youth activity/sports association affiliated with the Town of Natick or School Department of the Town of Natick
  - 4. Any other organization designated for exemption by the Board of Selectmen.
- E. Any candidate for public office or person campaigning on behalf of such candidate, where such candidate is seeking election to an office to be voted upon by the registered voters, or any person campaigning on behalf of or in opposition to any federal, state or local ballot question, petition, referendum, or home rule charter or by-law amendment to be voted upon by the registered voters, shall be exempt from the requirements of the this article.

## **SECTION 52.4 NON-EXEMPT LICENSE APPLICATIONS**

- A. Any person seeking a license to engage in any activity set forth in Article 52.2, except those persons and activities exempt under Article 52.3, shall file an application with the Chief of Police or his designee on a form used by him no less than thirty (30) days prior to the requested start date for such canvassing or soliciting
- B. The application form shall require, at a minimum, the following information:
  - 1. Name of applicant.
  - 2. Address of applicant (local and permanent home address).

3. Applicant's date of birth.
  4. Applicant's height, weight, eye and hair color.
  5. Applicant's social security number.
  6. The length of time for which the right to do business is desired.
  7. A brief description of the nature of the business and the goods to be sold.
  8. The name and home office address of the applicant's employer or the person or entity on whose behalf the applicant is soliciting or canvassing. If self-employed, it shall so state.
  9. If the applicant is operating a motor vehicle in connection with the soliciting or canvassing, the year, make, color, model, registration number, registered state, vehicle owner, and address.
  10. Whether the applicant has been convicted of a crime or offense or violation of any municipal bylaw, ordinance or regulation relating to canvassing or soliciting and, if so when, where and the nature of the offense.
  11. The names of other municipalities in the Commonwealth of Massachusetts where the applicant has been issued or granted a permit, license or similar authorization to solicit or canvass in the past two years.
- C. All applicants under this section shall be fingerprinted as set forth in Article 55, and photographed by the Chief of Police or his designee, and shall pay the application fee required under Article 55, in addition to the license application fee required under this Article 52.
  - D. The applicant shall permit the Natick Police Department to photograph said applicant for identification purposes. A copy of said photograph shall be kept on file in the Natick Police Department.
  - E. Within five (5) days of receiving applicants completed application under this Section 52.4, the Chief of Police shall submit an applicant's fingerprints for a fingerprint-based criminal record background check in accordance with Article 55. Within seven (7) days of receiving the results of such fingerprint-based criminal record background check, the Chief of Police or his designee shall issue or deny a license. In computing the time periods under this Section 52.4, Saturdays, Sundays and holidays shall be excluded. If the Chief of Police does not submit an applicant's fingerprints or render a decision within the applicable time periods under this Section 52.4, the license shall be deemed constructively granted.
  - F. Subject to the time requirements set forth in Section 52.4E above, the Chief of Police or his designee shall grant a license, except in the following circumstances:
    1. An applicant fails to fully comply with the requisites established for issuance of a license, including submission of a completed application form and payment of the applicable filing fees.
    2. Falsification of information required to be provided in the application process.
    3. A conviction in any state or federal court of the United States or any court of a territory of the United States for any of the following crimes or offenses, by whatever named called, within seven years prior to the date of license application: burglary (armed or unarmed); stalking; breaking and entering; larceny; kidnapping;

armed robbery (armed or unarmed); home invasion; buying, receiving or concealing stolen property; assault; fraud; conduct as specified in Massachusetts General Laws Chapter 265, Sections 13B and 22 through 24; and sexual assault, rape or other sex related offenses; unlawfully carrying weapons; or the attempt of any such crime or offense.

4. Violations of the provisions of this Article or any state law or regulation or municipal bylaw, ordinance or regulation regulating canvassing or soliciting, by whatever name called.

G. The Chief of Police or his designee may suspend or immediately revoke a license in the following circumstances:

1. The occurrence of any ground for denial as set forth in Section 52.4 F
2. Failure to comply with the other provisions of this Article
3. Any failure of a licensee to prominently display his license upon his person when soliciting or canvassing.

The Chief of Police or his designee shall notify the licensee and shall provide the licensee an opportunity to be heard prior to suspending or revoking the license. Pending any such revocation hearing the Chief of Police or his or her designee may suspend the license.

- H. Each applicant for a license shall pay a nonrefundable fee of ten dollars (\$10.00), in addition to any fees set forth in Article 55. The license shall expire as set forth on each license but in no case shall the term of the license exceed one (1) year from the date of its issue. A licensee requesting renewal of a license must provide such information and pay the same nonrefundable fee as is required to obtain an initial license, prior to the expiration of the current license.

#### **SECTION 52.5 SEPARATE LICENSE**

In the case of a firm or corporation, each person representing or soliciting or canvassing on behalf of such firm or corporation shall be required to apply for and maintain a separate license.

#### **SECTION 52.6 LICENSE TO BE NONTRANSFERABLE; DISPLAY**

The license shall be nontransferable and shall entitle the licensee for the period indicated therein and for the purposes specified therein to solicit or canvass in the Town of Natick, unless otherwise exempted under this Article, provided that the licensee shall have the license in his/her possession at all times while soliciting or canvassing and shall further conspicuously display the license.

#### **SECTION 52.7 POSTED PREMISES.**

No person shall engage in soliciting or canvassing upon any premises without a prior invitation from the occupant thereof if there is posted or displayed on such premises by means of a notice prominently displayed upon which is printed the words "No Solicitors" or "No Canvassers" or words of similar import. For the purposes of this section, the premises shall be deemed posted or displayed against soliciting or canvassing if there is exhibited, on or near the main entrance to the



premises or on or near the main door to any residence located thereon, a sign at least three (3") inches by four (4") inches in size which bears the above or similar words in letters at least one-third (1/3) inch in length.

#### **SECTION 52.8 PROHIBITED ACTIVITIES.**

- A. There shall be no soliciting or canvassing upon the premises, other than upon prior invitation of the occupant of any such premises, prior to 8:30 a.m. or after 8:30 p.m. local time of any day, and it is hereby declared unlawful and shall constitute a nuisance for any person, whether licensed under this Article or not, to go upon any premises and ring the doorbell upon or near any door or create any sound in any other manner calculated to attract attention of the occupant of such residence, for the soliciting or canvassing as herein defined prior to 8:30 a.m. or after 8:30 p.m. of any day or at any time on a national holiday.
- B. No person engaged in soliciting or canvassing shall, at the time of initial contact with a prospective customer or donor, fail to identify himself or herself and the purpose of the soliciting or canvassing.
- C. No person engaged in soliciting or canvassing shall misrepresent the purpose of his or her soliciting or canvassing or use any false, deceptive or misleading representation to induce a sale or contribution, or use any plan, scheme or ruse which misrepresents the true status or mission of the person making the soliciting or canvassing.
- D. No person engaged in making a soliciting or canvassing as defined in Article 52.1 shall violate any of the provisions of Chapter 93A of the Massachusetts General Laws, said chapter being entitled "Regulation of Business Practices for Consumers' Protection," the current provisions of which are hereby adopted and by reference made a part hereof.

#### **SECTION 52.9 CERTAIN REPRESENTATIONS ARE PROHIBITED**

No person, firm or organization having received a license to canvass or solicit within the Town of Natick shall use or exploit the fact of the license so as to lead the public to believe that such license in any manner constitutes an endorsement or approval by the Town of Natick or any of its officials.

#### **SECTION 52.10 AUTHORITY OF CHIEF OF POLICE**

The Chief of Police or his designee shall have the power and authority to grant, deny, suspend or revoke licenses as provided for and in accordance with the terms of this Article.

#### **SECTION 52.11 APPEAL FOLLOWING ACTION BY CHIEF OF POLICE REGARDING REVOCATION OR DENIAL OF LICENSE**

Any person whose license application has been denied or whose license has been revoked shall have the right of appeal to the Natick Board of Selectmen, subject to the same standards for denial or revocation set forth in this Article. Any such appeal must be commenced within fourteen (14) days of the date of the decision by the Chief of Police or his designee.

#### **SECTION 52.12 VIOLATIONS AND PENALTIES**

Any person, firm or corporation charged with violating any of the provisions of this Article shall, upon conviction thereof, be liable for a fine not exceeding three hundred dollars (\$300.00) for each violation. Each day on which a violation exists shall constitute a separate violation.

## **ARTICLE 51**

### **ALARM SYSTEMS**

#### **Section 1            Definitions**

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

- a. The term "Alarm System" means an assembly of equipment and devices or a single device such as a solid state unit which connects directly into a power source, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems, which monitor temperature, smoke, humidity, or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this by-law.
- b. The term "Alarm User" or "User" means any person on whose premises an alarm system is maintained within the town except for alarm systems on motor vehicles. Excluded from this definition and from the coverage of this by-law are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of "alarm system," as that term is used by this by-law, and shall be subject to this by-law.
- c. The term "Automatic Dialing Device" refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.
- d. The term "Central Station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.
- e. The word "Town" means Town of Natick.
- f. The term "Communications Console" means the instrumentation on alarms console at the receiving terminal of a signal line which, through both visual and audible signals, indicates an activation of an alarm system at a particular location, or which

indicates signal line trouble.

- g. The term "Direct Connect" means an alarm system which has the capability of transmitting system signals to and receiving them at the Natick Police Department Communications Center.
- h. The term "False Alarm" means (1) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of alarm system or of his employees or agents; (2) any signal or oral communication transmitted to the police department requesting, or requiring, or resulting in a response on the part of the police department, when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises. Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes, malfunction of telephone transmission lines and similar conditions.
- i. The term "Interconnect" means to connect an alarm system to a communication cable, either directly or through a mechanical device that utilizes a standard telephone for the purpose of using the communication cable to transmit an emergency message upon the activation of the alarm system.
- j. The term "Police Chief" means the Chief of Police of the Town of Natick Police Department, or any authorized agent thereof.
- k. The term "Police" or "Police Department" means the Town of Natick Police Department, or any authorized agent thereof.
- l. The term "Public Nuisance" means anything which annoys, injures or endangers the comfort, repose, health or safety of any person(s) or of any community or neighborhood.
- m. The term "Selectmen" means the Natick Board of Selectmen.

## **Section 2                    Administrative Rules**

The Police Chief may promulgate such rules as may be necessary for implementation of this by-law.

## **Section 3                    Automatic Dialing Devices - Interconnection to Natick Police Department**

- a. *Deleted.*
- b. No automatic dialing devices shall be interconnected to any telephone numbers at the police department.

#### **Section 4                    Automatic Dialing Devices - Intermediary Services**

Any person using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:

- a. a central station;
- b. an answering service; or
- c. any privately-owned or privately operated facility or terminal.

#### **Section 5                    Direct Connection to Police Department**

- a. All alarms must be authorized by the Police Chief prior to being connected to the police department.
- b. In accordance with the normal practices in effect in the town, the Police Chief shall have the authority to request bids or proposals from companies in order to furnish, at no cost to the town, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to the police department. Each of the said bids shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communications console, except that no fee shall be assessed to the municipality for any alarms or connections to the console from properties owned by the municipality.

Such services shall be set forth in the form of a written contract between the alarm company and each alarm user. The provisions of this paragraph (b) relate solely to the aforementioned communications console, connections to the said console by alarm users, and fees and charges related to the installation and maintenance of the console. Any alarm user may contract with any alarm company of his choice for the sale, installation, maintenance, and/or servicing of the alarm system to be installed on his premises.

- c. The alarm user, or the alarm business contracting for servicing the alarm user's alarm system, shall be responsible for obtaining the leased telephone line between the alarm user's premises and the alarm receiving equipment at the police department and for furnishing the appropriate interface equipment, if required, in order to provide an input signal which is compatible with the receiving equipment used to operate the communications console.
- d. The provisions of this article concerning false alarms shall apply to all alarm users or persons having direct connect systems, except municipal, county and state agencies and religious organizations.

#### **Section 6                    Control and Curtailment of Signals Emitted by Alarm Systems**

- a. Every alarm user shall submit to the Police Chief and the alarm company who maintains the system at the police communications console the names and telephone numbers of at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the

premises wherein the alarm system is installed. The names, addresses and telephone numbers of the responders must be kept current at all times by the alarm user and the alarm company.

- b. All alarm systems directly connected to the Police Station shall be equipped with a test device which will give a ten-second delay or longer prior to the alarm system activation in order to warn the alarm user of an open alarm circuit.
- c. Any alarm system that is heard audibly in a residential neighborhood in excess of five (5) times in any seven (7) day period, and any alarm system emitting a continuous and uninterrupted signal for more than thirty (30) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (a) of this section, and which disturbs the peace, comfort, or repose of a community, or a neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such an alarm system, the Police Chief shall endeavor to contact the alarm user under paragraph (a) of this section in an effort to abate the nuisance. The Police Chief shall cause to record the names and addresses of all complaints and the time each complaint was received.

In the event that the Police Chief is unable to contact the alarm user, or member of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the Police Chief is otherwise unable to abate the nuisance, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

If entry upon the property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property (1) shall not conduct, engage in, or undertake any search, seizure, inspection or investigation while he is upon the property; (2) shall not cause any unnecessary damage to the alarm system or to any part of the home or building; and (3) shall leave the property immediately after the audible system has ceased. After an entry upon property has been made in accordance with this section, the Police Chief shall have the property secured, if necessary. The reasonable costs and expenses of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed \$50.00.

Within ten (10) days after abatement of a nuisance in accordance with this section, the alarm user may request a hearing before the Selectmen and may present evidence showing that the signal emitted by this alarm system was not a public nuisance at the time of the abatement; that unnecessary damage was caused to his property in the course of the abatement; that the costs of the abatement should not be assessed to him; or the requirements of this section were not fulfilled. The Selectmen shall hear all interested parties and may, in its discretion, reimburse the alarm user for the repairs to his property necessitated by the abatement, or excuse the alarm user from paying the costs of abatement.

## **Section 7                    Testing of Equipment**

No alarm system designed to transmit emergency messages directly to the police department shall be worked on, tested or demonstrated without obtaining permission from the Police Chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the police department. An unauthorized test constitutes a false alarm.

## **Section 8                    Emergency Notification List**

Every business establishment within the Town whether alarmed or not shall provide written notice to the Police Chief listing the names, addresses, and telephone numbers of at least two persons who may be reached at any time, day or night and the two are authorized to respond to any emergency which has caused the police to be dispatched to said premises. Such notice shall be submitted during the first month of each year and shall be kept current at all times reflecting any changes in authorized personnel. Owner-residents shall be excluded from this paragraph.

## **Section 9                    False Alarms**

- a.        When emergency messages are received by the police department that evidence false alarms, the Police Chief shall take action as may be appropriate under paragraphs (b), (c), (d) and (e) of this section and, when required by the terms of the aforementioned paragraphs, order that use of an alarm system be discontinued.
- b.        After the police department has recorded three (3) separate false alarms within the calendar year from an alarm system, the Police Chief shall notify the alarm user, in person, by telephone, or by mail of such fact and require the said user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user, on the basis of absence from the town, or on any other reasonable basis requests an extension of time for filing the report, the Police Chief may extend the fifteen (15) day period for a reasonable period. If the said user fails to submit such a report within fifteen (15) days or within any such extended period, the Police Chief may order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of the receipt of the Police Chief's order.
- c.        In the event that the Police Chief determines that a report submitted in accordance with paragraph (b) of this section is unsatisfactory, or that the alarm user has failed to show by the report that he has taken or will take reasonable steps to eliminate or reduce false alarms, then the Police Chief may order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.
- d.        In the event that the police department records five (5) false alarms within the calendar year from an alarm system, the Police Chief may order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected.

e. Any user of an alarm system which transmits false alarms shall be assessed a penalty of one hundred (\$100.00) dollars for each false alarm in excess of three (3) occurring within the calendar year. All fines assessed hereunder shall be paid to the town Treasurer for deposit in the general fund. Upon failure of the user of an alarm system to pay two (2) consecutive fines assessed hereunder within sixty (60) days of assessment the Police Chief may order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.

f. Any user of an alarm system who has, in accordance with this section, been ordered by the Police Chief to discontinue use of an alarm system may appeal the order of discontinuance to the Selectmen. Notice of an appeal shall be filed with the Town Clerk within ten (10) days of the date of the order of discontinuance. Thereafter the Selectmen shall consider the merits of the appeal, and in connection therewith shall hear evidence presented by all interested persons. After hearing such evidence, the Selectmen may affirm, vacate or modify the order of discontinuance.

## **Section 10            Penalties**

The following acts and omissions shall constitute violations of this by-law punishable by fines of up to \$100.00:

- a. failure to obey an order of the Police Chief to discontinue use of an alarm system, after exhaustion of the right of appeal;
- b. failure to disconnect an automatic dialing device from any telephone numbers at the police department within six (6) months after effective date of this by-law;
- c. interconnection of an automatic dialing device to any telephone numbers at the police department after the effective date of this by-law;
- d. failure to pay two (2) or more consecutive fines assessed under this by-law within sixty (60) days from the date of assessment;
- e. failure to comply with the requirements of Section 6;
- f. failure to comply with the requirements of Section 8.

Each day during which the aforesaid violations continue shall constitute a separate offense.

## **ARTICLE 50**

### **POLICE REGULATIONS**

#### **Section 1           Obstruction of Public Ways; License Required**

No persons except officers of the Town in the lawful performance of their duties and those acting under their orders, shall obstruct any sidewalk or street or any part thereof, or break or dig the ground of the same, without first obtaining a written license from the Selectmen therefor.

#### **Section 2           Deposit of Rubbish; Defacement of Public Ways**

No person shall place or cause to be placed upon any public sidewalk or street any rubbish, debris, or broken glass, or paint, print, word, figure, or picture, except when authorized by the Director of Public Works and except as provided in Section 3 hereunder.

#### **Section 3           Obstruction Due to Construction; Safety Requirements**

Every person intending to erect, repair or take down any building on land abutting on any street or way which the Town is required to keep in repair, and who desires to make use of any portion of said street or way for the purpose of placing therein building materials or rubbish, shall give notice thereof to the Selectmen. The Selectmen may grant a permit to occupy a portion of said street or way, and such permit shall be upon the condition that the licensee shall provide sufficient illumination at or near the parts of the street or way obstructed or unsafe, and shall keep a railing or guard around the same, while such obstruction shall continue. If such obstruction is more than a temporary condition, the licensee shall place a good temporary walk around said obstruction, and at the completion of the work shall restore the street or way to its former condition.

#### **Section 4           Indemnification of Town**

Before obtaining a license as specified in the preceding section the person applying for the same shall execute a written agreement to indemnify and save harmless the Town against and from all damages, by reason of cost or expense it may suffer or be put to by reason of any claim for damages or by reason of any proceeding, criminal or civil, on account of the existence of such obstruction or excavation.

#### **Section 5           Obstruction of Sidewalks**

No person shall, without written permit from the Selectmen, place or cause to be placed upon any sidewalk any object so as to obstruct the sidewalk for more than one hour, or for more than ten (10) minutes after being notified by a police officer to remove the obstruction.



## **Section 6                    Crossing of Sidewalks by Vehicles**

No person shall operate or place a motor vehicle, or trailer which is drawn by or used in combination with a motor vehicle, or any object having an over-all weight in excess of one-half (1/2) ton, upon a public sidewalk, except in using an established driveway, without a permit from the Director of Public Works which may, before issuing a permit, require the applicant to execute a written agreement to indemnify and save the Town harmless against and from all cost for the repair of damage to the sidewalk caused by such use, or by reason of any cost or expense it may suffer or be put to by reason of any claims for damages against the Town resulting from such use.

*Section 7 deleted.*

## **Section 8                    Obstruction of Pedestrians**

Three (3) or more persons shall not stand together or near each other in any street, or on any footwalk or sidewalk, or upon any land left open between the curbing and building facing thereon and left open and used as a sidewalk in the Town, so as to obstruct the free passage of foot passengers; and any person or persons so standing shall move on immediately after a request to do so made by any police officer of the Town.

No person shall loaf or loiter upon any public way after having been requested by a police officer to move.

## **Section 9                    Tampering with Lighting on Public Ways**

No person shall extinguish any street light, or extinguish or remove any light placed to warn the public against an obstruction or a defect in any street or way, unless such person is authorized by those having charge of such lights, or of the street or way, so to do.

## **Section 10                  Playing on Public Ways**

No person shall throw stones, snowballs, or other dangerous articles within any public way, nor play at baseball or football within any public streets of this Town.

## **Section 11                  Transporting Garbage or Rubbish; License Required**

No person shall carry or transport for hire any garbage or refuse in or through any public way or square in the Town of Natick, unless duly licensed by the Board of Selectmen upon such terms and conditions as said Board deems necessary for the health, comfort, and convenience of the Town. The Board of Health shall submit recommendations thereunder when requested by the Board of Selectmen.

## **Section 12            Damaging Public Shade Trees**

No person shall unlawfully remove, mar, deface, or damage any public tree, shrub, flower bed, grassy border, structure, or device and no person shall attach any sign or structure to any public shade tree.

## **Section 13            Indecent or Profane Language**

No person shall use any indecent or profane language in any public place in the Town or near any dwelling house or other building thereon.

## **Section 14            Trespassing; Invasion of Privacy**

No person shall enter upon the premises of another for the purpose of committing any wanton or malicious act, nor for the purpose or with the intention of invading the privacy of another by peeping into the windows or spying upon any person or persons resident therein.

## **Section 14 a        Consumption of Alcoholic Beverages**

No person shall drink any alcoholic beverages as defined in Chapter 138, Section 1 of the Massachusetts General Laws while on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground, or private land or place without consent of the owner or person of control thereof. All alcoholic beverages being used in violation of this By-Law shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.

## **Section 14 b        Public Consumption or Use of Marihuana or Tetrahydrocannabinol**

1        No person shall display, smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, § 1, as amended) while in or upon any public place, including but not limited to, any public street, public sidewalk, public way, public footway, public passageway, public stairs, public bridge, public park, public playground, public beach, public recreation area, public boat landing, public building, public school building, public school grounds, public cemetery, public parking lot; or in or upon any area owned by or under the control of the Town of Natick, or any place to which the public has a right of access as invitees or licensees.

2        Any marihuana or tetrahydrocannabinol displayed, smoked, ingested, or otherwise used or consumed in violation of this By-Law shall be seized, held, and disposed of in accordance with M.G.L. c. 94C, § 47A.

3        Whoever is found in violation of this By-Law shall, when requested by an official authorized to enforce this By-Law, state his true name and address to said official.

4 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 M.G.L. c. 40, § 21, or by non-criminal disposition pursuant to M.G.L. c. 40, § 21D, by the Board of Selectmen or the Town Administrator, or any duly authorized agent of the Board of Selectmen or the Town Administrator, or any police officer.

5 The fine for a violation of this By-Law shall be one hundred fifty dollars (\$150.00) for each offense. A penalty imposed under this By-Law shall be in addition to any civil penalty imposed under M.G.L. c. 94C, § 32L.

6 If any provision of this By-Law is determined to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction, the remaining provisions shall continue in effect to the extent permitted by law.

## **Section 15 Use of Firearms or Other Hunting Equipment**

No person shall fire or discharge any firearms of any kind nor shall use bow and arrow where the arrow is equipped with a metal or other dangerous tip within the limits of any highway, park, or other public property or on any private property, except with the written consent of the owner or legal occupant or person having the right of control thereof, provided, however, that this By-Law shall not apply to the lawful defense of life or property or to any military exercises or funeral.

## **Section 16 Animal Control**

**16.1 Disturbing the Peace** - No person shall own or keep in the Town any pet which, by barking, howling or in any other manner, disturbs the peace of another by reason of excessive noise for a prolonged period.

**16.2 Threat to Health and Safety** - No person shall own or keep in the Town any pet which, by biting, maiming, killing, chasing, or vicious disposition, threatens the health or safety of persons or property.

**16.3 Removal of Feces** - The person owning a pet shall be responsible for the prompt removal of any feces deposited on public or private property, except on the property of the owner of the pet or with the permission of the owner or occupant of the property.

**16.4 Restraint of Pets** - No person shall allow a pet, other than a cat, to run at large anywhere in the Town, except on the property of the owner of the pet or with the permission of the owner or occupant of the property.

**16.5 Leashing of Dogs** - No dog shall be permitted in any street or public way in the Town unless effectively restrained by a leash or chain not exceeding seven (7) feet in length.

**16.6 Complaint of Nuisance** - If any person shall make a complaint to the animal control officer or, in the case of after-hours complaints, to the police, concerning a violation of this Section 16, the investigating officer shall investigate such complaint and may prescribe fines,

confinement, muzzlement, or removal or recommend disposal in accordance with this section. The process for regulating dangerous or nuisance dogs shall comply with the Massachusetts General Laws Chapter 140, Section 157.

**16.7 Fines** - If the investigating officer determines that a violation of this section has occurred, fines may be levied according to the following schedule:

|   |          |
|---|----------|
| First offense                                     | \$50.00  |
| Second offense                                    | \$75.00  |
| Third and subsequent offenses                     | \$100.00 |
| Unrestrained dog found on school or park property | \$100.00 |
| Dog unlicensed                                    | \$100.00 |
| Kennel unlicensed                                 | \$300.00 |
| Dog unvaccinated for rabies                       | \$300.00 |

In addition to the foregoing fines, pursuant to Chapter 140, Sections 137 and 138 of the Massachusetts General Laws, a dog owner shall license his or her dogs in the Town of Natick annually by March 1, and shall pay the required license fee. Any dog owner who fails to do so shall pay to the Town of Natick a fine in the amount of \$50.00 per dog in addition to the annual license fee as pursuant to Chapter 140, Section 141 of the Massachusetts General Laws.

In addition to the foregoing fines, pursuant to Chapter 140, Sections 137A of the Massachusetts General Laws, a person maintaining a kennel shall license his or her kennel annually by March 1<sup>st</sup>, and shall pay the required license fee. Any kennel owner who fails to do so shall pay to the Town of Natick a fine in the amount of \$50.00 in addition to the annual license fee as pursuant to Chapter 140, Section 141 of the Massachusetts General Laws.

**16.8 Confinement** - The investigating officer may order an animal to be muzzled or confined to the owner's premises when, in the investigating officer's judgment, it is required for any of the following reasons:

- (1) If found at large or unmuzzled, as the case may be, while an order of the Board of Selectmen for the muzzling or confinement is in effect.
- (2) If found in a school, school yard or public recreational area.
- (3) For having bitten any person.
- (4) For having killed, maimed or damaged any other domesticated animal or livestock.
- (5) For chasing any vehicle upon any public way or way open to public travel in the Town.
- (6) For any violation of Sections 16.1 through 16.5.

**16.9 Recommendation for Disposal** - The investigating officer may recommend disposal of an animal to the Board of Selectmen when in the investigating officer's judgment it is required for any violation of Section 16.

**16.10 Other Fees and Charges** - The owner shall be responsible for any fines, kennel fees, court and legal costs, as well as the cost of publishing and sending notices. These fees must be paid before any pet is released from confinement.

**16.11 Definition** - For the purpose of this section, pet shall be defined as follows:

**Pet:** any domesticated animal, not including livestock or fowl, which is commonly housed within or upon the owner's or keeper's premises.

**16.12 Board of Selectmen Review** - If any person shall make a complaint of the Board of Selectmen, in writing, that a person is aggrieved by the ruling of an investigating officer, the Board of Selectmen shall investigate said complaint. The Selectmen may examine the complainant under oath. The Selectmen may make an order concerning the restraint or disposal of said animal as may be deemed necessary.

**16.13 Judicial Review** - Any person aggrieved by any order of the Board of Selectmen may seek judicial review in the manner provided in MGL, Chapter 140, Section 157.

**16.14 Applicability of General Laws** - This by-law is not intended to derogate or limit any powers, rights, or obligations set forth in MGL, Chapter 140, but is in addition thereto.

**16.15 Dog License and Kennel License Fees**

|                                       |                 |
|---------------------------------------|-----------------|
| Un-Neutered Male and Un-Spayed Female | \$15.00 per dog |
| Neutered Male and Spayed Female       | \$10.00 per dog |
| Kennels                               |                 |
| 4-9 Dogs                              | \$50.00         |
| 10-24 Dogs                            | \$75.00         |
| 25 or more Dogs                       | \$100.00        |

**Section 17 Storage of Unregistered Motor Vehicles and Trailers**

**17.1 Unregistered Motor Vehicles** - Unless authorized by the Board of Selectmen, no person shall in a residential district store any unregistered motor vehicle or component part or parts thereof in a front yard, front driveway, or on a vacant lot; nor shall any person, without such authorization keep ungaraged on any lot in such a district more than one such unregistered motor vehicle or component parts thereof.

**17.2 Unregistered Trailers** - No person shall in a residential district store any unregistered trailer, or component part or parts thereof, in a front yard, front driveway, or on a vacant lot.

## **Section 18            Snow Removal**

- a.        Any person leaving a vehicle so as to obstruct snow removal operations shall be subject to a fine of \$50.00.
- b.        No person shall plow snow into any public way after it has been plowed.

## **Section 19            Prohibitions on Ponds**

The use and operation of any internal combustion engine in or upon that portion of any pond located in the Town of Natick is prohibited. The provision of this section shall not apply to the Commonwealth of Massachusetts or any political subdivision thereof.

## **Section 20            Disposal of Rubbish**

Disposal of refuse, bottles, cans, or rubbish on private land or public property is prohibited.

## **Section 21            Use of Off-Road Vehicles**

Motorized recreational vehicles, including without limitation, trail bikes, snowmobiles, all-terrain vehicles and other off-road vehicles, may not be used on public property unless the agency in charge thereof shall have opened the land for the use of such vehicles and shall have erected signs stating that such uses are permitted. Said vehicles may not be used on private property without the permission of the owner or tenant; permission may be given in advance and may be given to an individual or club, or by the posting of appropriate permission signs by the owner or a person authorized by him.

Operations of motorized recreational vehicles must conform with other prevailing laws and regulations.

With respect to public property owned by the Town of Natick, the provisions of this Section 21 may be enforced by the officer, department, board or commission which has care, custody and control of the subject public property.

Whoever violates any provision of the By-Law shall be subject to a fine of fifty dollars (\$50.00) for the first violation and one hundred fifty (\$150.00) for each subsequent violation. Each day that a violation continues shall constitute a separate offense. Whoever violates any provision of this By-Law shall be liable for payment to the Town of Natick of restitution in the full amount of damage to Town of Natick property which results from such violation.

## **Section 22            Designated Parking Spaces for the Handicapped**

22.1    **Authority** - Designated parking spaces for vehicles owned and operated by disabled veterans or by handicapped persons and bearing the distinctive number plates or placard

authorized by section two of Chapter 90 of the General Laws shall be provided in public and private off-street parking areas.

**22.2 Provision for** - Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for business, shopping, malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, shall be required to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate or placard authorized by section two of Chapter 90 of the Massachusetts General Laws, according to the following formula:

| Total Parking Spaces                                      | Handicapped Spaces |                |
|---|--------------------|----------------|
|   | Minimum %          | Minimum Number |
| 15-25   | --                 | 1              |
| 26-40   | 5.0%               | 2              |
| 41-100  | 4.0%               | 3              |
| 101-200   | 3.0%               | 4              |
| 201-500   | 2.0%               | 6              |
| 501-1000  | 1.5%               | 10             |
| 1001-2000   | 1.0%               | 15             |
| 2001-5000   | .75%               | 20             |
| 5001-   | .5%                | 30             |
| All percentages to be rounded up to nearest whole number. |                    |                |

**22.3 Identification of** - Parking spaces designated as reserve under the provisions of Paragraph 22.2 shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking; Special Plates Required. Unauthorized Vehicles May Be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be thirteen feet wide or two eight-foot wide areas with five feet of cross hatch between them. Such spaces shall be identified by a sign at each space. This sign shall be located no more than ten (10) feet away, and shall be located at a height of not less than five (5) feet, nor more than eight (8) feet to the top of the sign.

**22.4 Prohibited Parking** - The leaving of unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons as authorized by Paragraphs 22.2 and 22.3, or within a cross hatch area which is adjacent to a parking space designated for use by disabled veterans or handicapped persons as authorized by Paragraphs 22.2 and 22.3, or in such manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way shall be prohibited.

**22.5 Penalty for Violation** - The penalty for violation of Paragraph 22.4 of this by-law shall be one hundred dollars (\$100.00). The vehicle may be removed according to the provisions of Section 120D of Chapter 266 of the General Laws.

## **Section 23            Identification of Dwellings**

Every building containing dwellings shall be identified by a street number, to be affixed to and displayed on such building, or elsewhere on the property containing such building, in such manner as to be readily visible from the street.

## **Section 24            Construction Hours**

No construction activity shall be conducted in the Town of Natick on Monday through Friday other than between the hours of 7:00 A.M. through 7:30 P.M. No construction activity shall be conducted in the Town of Natick on a Saturday or Sunday other than between the hours of 8:00 A.M. through 6:00 P.M.

Construction activity may be conducted outside of the foregoing times only if the Planning Board, after consideration of a request therefor at a public meeting, makes a determination that compelling circumstances exist to justify such a request.

In this context ‘construction activity’ means any activity for which a building permit is required. The restrictions set forth in this bylaw shall not apply to construction activity where there is no evidence of such activity audible at the property line of the property where construction is taking place.

Notwithstanding any other provision of this section, construction activity may be permitted outside of the foregoing times where required by emergency conditions as determined by the Building Commissioner or, in the Building Commissioner’s absence, by the Chief of Police or the designee of the Chief of Police.

Notwithstanding the foregoing, nothing in this section shall limit the authority of a Special Permit Granting Authority to set or limit construction hours as part of the issuance of a special permit.



## **ARTICLE 44**

### **CONFLICT BETWEEN TOWN AGENCIES, ASSIGNMENT OF COUNSEL**

#### **Section 1           Applicability**

Whenever one Town agency shall determine it to be in the Town's interest for such agency to be a party to any legal proceeding involving another Town agency, it shall, before making any such decision final, notify the Town Administrator of its intention to do so, provided, however, that this by-law shall not apply with respect to the institution of any legal proceeding by one Town agency involving another Town agency if such agency is authorized to bring such proceeding in carrying out its rights, duties, and responsibilities under the General Laws of the Commonwealth of Massachusetts.

#### **Section 2           Procedure**

Whenever the Town Administrator shall be notified by one Town agency of its intention to be a party to any legal proceeding involving another Town agency, said Town Administrator shall forthwith call a special meeting of the Town agencies involved and the Board of Selectmen. Unless a shorter time is made necessary because of time requirements imposed by the nature of the legal proceeding under consideration, such conference shall be held within ten days following the date of receipt of such notification by the Town Administrator.

#### **Section 3           Mediation**

It shall be the duty of the Board of Selectmen at any such joint meeting to act as mediators and as conciliators in an effort to resolve the differences between the parties involved, or if a resolution of the differences is not possible, to reduce the areas of difference to the smallest possible number in order to facilitate the disposition of the legal issues involved.

#### **Section 4           Expenditure of Funds**

No authorization for the expenditure of Town funds for legal counsel shall be valid unless a conference between the parties involved and the Board of Selectmen as provided in this by-law has been held.

## **ARTICLE 43**

### **LICENSES AND PERMITS OF DELINQUENT TAXPAYERS**

#### **Section 1            Report of Delinquent Taxpayers and Subject Property**

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

#### **Section 2            Denial, Revocation, or Suspension of Licenses and Permits**

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension.

The Building Commissioner or Community Development Department may deny an application for a permit regarding property which appears on said list of properties for which a tax, fee, assessment or other municipal charge has not been paid. Said list shall be prima facie evidence for denial of said license or permit application of any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license or permit.

Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate, or that all local taxes, fees, assessments, betterments or other municipal charges have been paid to the municipality as of the date of issuance of said certificate, as applicable.

### **Section 3                      Payment Agreements**

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

### **Section 4                      Waiving of Penalty by Board of Selectmen**

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

### **Section 5                      Exclusions**

This by-law shall not apply to the following licenses and permits: open burning, section thirteen of chapter forty-eight; bicycle permits, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage license, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven; and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

## **ARTICLE 42**

### **LICENSES**

#### **Section 1 – Fuel Oils**

Subject to the provisions of Chapter 148 of the Massachusetts General laws and 527 CMR, an initial one-time license and, thereafter, annual registration with the Board of Selectmen for the storage of fuel oils, petroleum products, or inflammable fluids, for other than the applicant's own use or the use of the applicant's household, are required as follows:

- a. The storage of fuel oil over 10,000 gallons; and/or
- b. The storage of gasoline, petroleum products or inflammable fluids.

Storage of such items for sale shall be subject to the following fee schedule:

#### **Initial (one-time) License Fees**

|   |          |
|---|----------|
| (1) Not over 2,000 gallons                        | \$ 35.00 |
| (2) Each additional 1,000 gallons or part thereof | \$ 5.00  |
| (3) Maximum license fees                          | \$150.00 |

#### **Annual Registration Fees**

One-half (1/2) of the Initial License Fees

#### **Section 2 – Transient Vendors**

Every person before commencing business in the Town as a transient vendor, whether as principal or agent, shall make written application under oath, for a Town license to the Board of Selectmen and upon payment of a license fee fixed by it in compliance with Chapter 101 of the Massachusetts General Laws, shall be issued a license, provided, however, that said transient vendor comply with the regulations of the Board of Selectmen.

## **ARTICLE 41**

### **CONTRACTS, TOWN PROPERTY, AND REGULATIONS OF TOWN BOARDS AND OFFICIALS**

#### **Section 1            Procedures for Award of Contracts**

The award of all contracts for the purchase of services, equipment, supplies or materials for all departments of the Town of Natick shall be made in accordance with Mass. Gen. Laws Chapter 30B; Chapter 30 Section 39M; Chapter 7C; Chapter 149; or other applicable law, as may be amended. Administrative policies and/or procedures shall be established by the Town Administrator and the Superintendent of Schools as appropriate. Such policies and/or procedures shall, at a minimum, identify the municipal officials having the authority to legally bind the Town in a contract. Such policies shall prescribe procurement procedures for architectural and engineering services for which no procurement process is required by applicable Massachusetts law.

No contract, and no purchase, service or work for which a contract is proposed, shall be split or divided for the purpose of evading any provision of this section.

All contracts of the Town of Natick shall bear the signature of the Comptroller verifying the availability of funds in the full amount of the contract.

#### **Section 2            Emergencies**

To the extent permitted by applicable state procurement law, the Selectmen or the School Committee, as applicable, may exempt a purchase or contract from any or all of the provisions of the preceding section when, in their opinion, an emergency exists requiring immediate action on such purchase or contract to protect the health and safety of persons or property. Evidence indicating that such an emergency exists, or that no reasonable substitute for a purchase or service can be obtained shall be furnished to the Selectmen or School Committee, as applicable, in writing by the officer, board, or committee making such purchase or contract as soon as practical, and shall be kept on file with other procurement records of such transactions.

#### **Section 3            Contract Files**

The designated procurement officer shall retain complete files for every procurement of the Town of Natick, including solicitation(s), responses, contracts, and amendments thereto, if applicable. Every Town board, official, employee or committee making or executing a contract on behalf of the Town shall furnish a copy of said documents to the procurement officer. The original contract, and original amendments thereto, if applicable, shall be submitted to the Town Comptroller within ten (10) days after the execution of all such documents. The procurement officer and the Town Comptroller shall keep such documents on file consistent with applicable public records laws.

#### **Section 4                    Compensation of Town Officers and Employees**

No Town officer and no salaried employee of the Town shall receive any compensation or commission for work done by him for the Town, except his official salary and fees allowed by law, without permission of the Selectmen expressed in a vote which shall appear on their records with the reasons therefor. Employees whose additional compensation is through the Veterans' or Senior Property Tax Work Program shall be exempt from this requirement.

#### **Section 5                    Disposal of Property**

Whenever any property of the Town, other than real estate, the replacement value of which exceeds five hundred dollars (\$500.00), shall have become obsolete, disused, worn out or necessary to replace, the Town official or officials having jurisdiction thereof shall so certify in writing to the Board of Selectmen or School Committee, as applicable, who may reserve action relative to its disposal for consideration of a Town Meeting or may by vote authorize the official or officials to abandon, to trade, or to sell such property at a private or public sale.

#### **Section 6                    Sale of Tax Title Land**

The Selectmen and Town Treasurer may sell at public auction and in such manner, upon such terms and for such consideration as in their judgment is for the best interest of the Town, lands held from time to time by the Town under tax titles the right of redemption from which has been foreclosed. Notice of such sales shall be advertised at least once in a newspaper published in the Town no less than fourteen (14) days prior to the date of the sale, and such notice shall include the location of such lands by street address or comparable description. The Conservation Commission and the Historical Commission of the Town shall be notified of such sale at the time that the advertisement is prepared.

(For more precise requirements on such sales, see Mass. Gen. Laws, Chapter 60, Sections 37-84A or successor legislation, or as said laws may hereinafter be amended).

#### **Section 7                    Designation of Town Vehicles**

All automobiles and other vehicles owned by the Town shall be so designated by a circular label not less than six (6) inches in diameter bearing the words "Town of Natick" and the name of the Department, with the exception of those vehicles exempted from this by-law by the Board of Selectmen.

#### **Section 8                    Annual Audit**

There shall be an annual audit of the accounts of the Town under the direction of the Director of the Bureau of Accounts of the Commonwealth of Massachusetts.

## **Section 9                    Authorization for Expenditure of Funds**

The Town Comptroller shall not approve for payment any warrant for the expenditure of public funds unless there shall appear thereon the signatures of at least a majority of the Town board, commission, or committee authorized to make expenditures.

## **Section 10                  Fees Paid to the Town**

All Town officers except constables shall pay into the Town Treasury all fees received by them by virtue of their office.

## **Section 11                  Compliance with Open Meeting Law**

All meetings of Town boards, commissions, committees, and subcommittees, elected, appointed or otherwise constituted, shall be in accordance with the provisions of Section 7-9 of the Charter and Sections 23A through 23C of Chapter 39 of the General Laws or successor legislation, or as said laws may hereinafter be amended. In addition, in any matter requiring a vote of the Board, the vote shall be by voice or roll call and no secret or written ballots shall be used, except as may otherwise be required or allowed by these By-Laws or the Charter of the Town.

All elected boards and committees shall notify the Town Clerk of their organization, rules and regulations and shall file with him a schedule of regular meetings as well in advance as practicable. The Town Clerk shall be notified of changes in or additions to the meeting schedule not less than forty-eight (48) hours before the meeting concerned.

Appointed standing committees shall meet as required by their duties and shall notify the Town Clerk not less than forty-eight (48) hours before any meeting.

No portion of this section shall apply to any Committee or individual designated or appointed for purposes of collective bargaining pursuant to the General Laws 149, Section 1781.

## **Section 12                  Availability of Regulations**

Up-to-date copies of all regulations adopted by the Town, as listed in the table entitled "Town Regulations," which appears at the end of this article and is incorporated into this section by reference, shall be available for review by the public in the office of the official responsible for publication, in the office of the Town Clerk, and in the Morse Institute library.

Whenever changes to regulations are adopted, the responsible official shall either publish a complete new edition or provide a package of change pages. If packages of change pages are provided, the pages shall be marked with a distinguishing date or a change number, and a list of current pages shall be included so that other persons can accurately update copies in their possession.

## TOWN REGULATIONS

| <b>Title</b>                                  | <b>Approving Authorities</b>                 | <b>Official Responsible for Publication</b>    |
|---|--|--|
| Natick Home Rule Charter                      | Town Meeting,<br>Attorney General,<br>Voters | Town Clerk                                     |
| Town of Natick By-Laws                        | Town Meeting,<br>Attorney General            | Town Clerk                                     |
| Zoning By-Laws                                | Town Meeting,<br>Attorney General            | Community Development<br>and Economic Director |
| Subdivision Rules and Regulations             | Planning Board                               | Community Development<br>and Economic Director |
| Rules and Regulations for Special Permits     | Planning Board                               | Community Development<br>and Economic Director |
| Administrative Code (Plan of Organization)    | Town Meeting                                 | Town Administrator                             |
| Traffic Rules and Orders                      | Board of Selectmen                           | Police Chief                                   |
| Board of Health Regulations                   | Board of Health                              | Director of Public Health                      |
| Department of Public Works Regulations        | Board of Selectmen                           | Director of Public Works                       |
| Zoning Board of Appeals Rules and Regulations | Zoning Board of Appeals                      | Secretary, Zoning Board<br>of Appeals          |



## **ARTICLE 40**

### **TOWN REPORTS AND RECORDS**

#### **Section 1           Annual Reports**

All Town Officers, Boards, and Committees shall file an annual report of their doings with the Board of Selectmen on or before January 15 of each year, and the Board of Selectmen shall cause such reports to be included in the Annual Town Report.

Any Committee failing to report as required to the Town Meeting shall be discharged unless the Town Meeting shall vote to continue the Committee notwithstanding.

#### **Section 2           Distribution of Annual Town Report**

The Selectmen shall have the printed Annual Town Report ready for distribution not later than March 25 of each year.

#### **Section 3           Minutes of Proceedings**

In carrying out the provisions of Section 7-9 (b) of the Charter, each Town Board, Commission, Committee and Sub-Committee shall record the minutes of its proceedings within a reasonable time. The minutes shall contain therein the body's official name, date, time of opening and adjournment, members present, minutes of previous meeting corrected or approved, motions voted thereon as approved or denied, and that the meeting was duly posted by the Clerk or Secretary or, in the absence of the Clerk or Secretary, by the Chair or the Chair's designee. The minutes shall be attested by the Clerk or Secretary or, in the absence of the Clerk or Secretary, by the Chair or the Chair's designee.

Henceforth, each Town Board, Commission, Committee and Sub-Committee shall file its minutes with the Town Clerk, who will make the minutes available as public records.

In the event that any of these bodies are dissolved, these records shall be placed in the Town Clerk's Office for seven years.

#### **Section 4           Real Estate Valuation Lists**

In carrying out the provisions of Section 3-4 (b) of the Charter, the Assessors shall make available for public inspection their valuation lists for real estate for each year. The valuation lists shall be accessible in their office via computer; they shall be available online via the Town web site; and they shall be printed as documents for reference at the Morse Institute Library.

#### **Section 5           Records of Tax Abatements**

In carrying out the provisions of Section 3-4 (b) of the Charter, the Assessors shall make available for public inspection their lists of approved tax abatements as defined in Section 60 of

Chapter 59 of the General Laws, including abatements for statutory exemptions as defined in Section 5 of said Chapter 59. The Assessors shall publish in the Annual Town Report for the just completed fiscal year the total amount of tax abatements, with subtotals by type, and the total amount of possible tax abatements for cases pending before the appellate tax board.

#### **Section 6                    Planning Board Report to Town Meeting**

The Planning Board shall distribute its report on warrant article recommendations, as specified in Section 3-11 (b) of the Charter, to each Town Meeting Member at least seven (7) days in advance of a Town Meeting except where compliance with this provision would defeat the purpose of a Special Town Meeting. The said recommendations shall be those of a majority of the Board, but this shall not be construed to prevent recommendations by a minority as such.

#### **Section 7                    Copies of Reports in Library**

Two copies of all studies and reports prepared for the Town of Natick which have been authorized by a vote of Town Meeting shall be placed in the Town Library (the Morse Institute) within seven (7) days of the receipt of the completed document by any Town Department or office and retained for public examination.

## **ARTICLE 32**

### **OPEN SPACE ADVISORY COMMITTEE**

#### **Section 1           Composition, Term of Office**

There shall be an Open Space Advisory Committee consisting of seven members appointed by the Board of Selectmen. The Open Space Advisory Committee shall include one member of the Conservation Commission, one member of the Planning Board, one member of the Recreation and Parks Commission, and four at large members. Each person appointed to the Open Space Advisory Committee shall be a resident of the Town of Natick.

At the initial formation of the Open Space Advisory Committee the Board of Selectmen shall appoint three members to a three year term each, beginning July 1, 2003, two members to a two year term each, beginning July 1, 2003, and two members to a one year term each, beginning July 1, 2003. Thereafter each successor shall be appointed for a three year term.

#### **Section 2           Powers and Duties**

The Open Space Advisory Committee shall be an advisory body and a resource to the Board of Selectmen in carrying out the major goals outlined in the Natick Open Space and Recreation Plan and in revising the Natick Open Space and Recreation Plan as needed to comply with federal and Commonwealth of Massachusetts requirements and guidelines.

At least once during each calendar year the Open Space Advisory Committee shall report to the Board of Selectmen regarding its activities.

## **ARTICLE 92**

### **ENFORCEMENT OF BY-LAWS**

#### **Section 1           Fines**

The fine for violating any provisions of the By-Laws shall be fifty dollars (\$50.00), except where other penalties are specifically authorized by general laws, by charter, or by by-law.

#### **Section 2           Enforcement**

##### **2.1     Criminal Complaint**

Whoever violates any provision of these By-Laws 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 (\$300.00).

##### **2.2     Noncriminal Disposition**

Whoever violates any provision of these By-Laws, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in the Massachusetts General Laws, Chapter 40, Section 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board, commission, or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is intended that the sections of those laws or by-laws listed in the table entitled "Schedule of Fines," which is incorporated into this subsection by reference, are to be included within the scope of this subsection; that the specific penalties as listed there shall apply to such cases; 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, if any, shall also be enforcing persons; and that each day on which any violation exists shall be deemed to be a separate offense.

#### **Section 3           Complaints by the Public; Procedures**

Any person witnessing the violation of any provision of the Town By-Laws may report such incidents to the appropriate enforcing person. Enforcing persons are hereby designated as (1) police officers, in all cases; (2) those municipal personnel designated in specific by-laws or by Massachusetts law as being responsible for enforcement; or (3) the Town Administrator, who shall refer the complaint to the appropriate municipal personnel for action. The enforcing person shall determine what action to take concerning the complaint, if any.

Whenever a complaint is received in writing from a known person, the official responsible for enforcement shall make a reply to that person within sixty days of receipt. The reply shall note what action, if any, was or will be taken on the complaint. If final action has not been completed by the time the reply is prepared, a follow-up reply shall also be issued after final action is completed.

#### **SCHEDULE OF FINES**

| <b>Subject</b>                                       | <b>Reference</b>          | <b>Other<br/>Enforcing<br/>Authority</b> | <b>Fine</b> |
|--|---------------------------|--|-------------|
| Underground storage tank registration                | (B) Art.81, s.5           | Health Officer,<br>Sanitarian            | \$50.00     |
| Underground storage tank inventory control           | (B) Art.81, s.6           | Health Officer,<br>Sanitarian            | \$50.00     |
| Underground storage tank testing and removal         | (B) Art.81, s.9           | Health Officer,<br>Sanitarian            | \$100.00    |
| Littering, illegal dumping                           | (G) c.270, s.16,<br>s.16A | Health Officer,<br>Sanitarian            |             |
| First, second, third offenses in a calendar<br>year  |                           |  | \$20.00     |
| Fourth and subsequent offenses in a<br>calendar year |                           |  | \$100.00    |

Key: (B) - By-Laws; (G) - General Laws; Art. - Article; c. - chapter; s. - section.

## **ARTICLE 91**

### **COLLECTIVE BARGAINING**

Whenever the Natick Town Meeting duly votes to accept, approve and adopt any terms or provisions of a collective bargaining agreement duly negotiated between authorized representatives of the Town and the duly recognized or designated employee representative of any employee group, and when any provision of such collective bargaining agreement is in conflict with any provision of these By-Laws, then the provisions of the collective bargaining agreement shall prevail and shall supersede the conflicting provisions of these By-Laws.

## **ARTICLE 90**

### **REPEAL AND EFFECT OF BY-LAWS**

#### **Section 1**

These By-Laws and the repeal of all By-Laws heretofore in force shall not affect any act done, any right accrued, any penalty or liability incurred, or any suit, prosecution, or proceeding pending at the time they take effect.

#### **Section 2**

All By-Laws heretofore in force shall be repealed and these By-Laws shall become effective when the latter are approved and published as required by statute.

#### **Section 3**

If any provision of these By-Laws is determined to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction, the remaining provisions shall continue in effect to the extent permitted by law.

## ARTICLE 84

### ILLICIT DISCHARGE BY-LAW

#### Section 1 Purpose

- A. Increased volumes of stormwater and contaminated stormwater runoff are major causes of:
1. impairment of water quality and 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.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of water bodies and groundwater resources within the Town of Natick 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 Natick'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 means of 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.1, 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 Natick.

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

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

**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 or detrimental to humans or the environment and may be introduced into the municipal storm drain system on into any water watercourse or waters of the Commonwealth.

**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:** Stormwater runoff, snow melt runoff, and surface water runoff and drainage

**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, stream, underground stream, pond or lake.

Waters Of The Commonwealth: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal 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, as amended.

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

The Natick Board of Health shall administer, implement and enforce this By-Law. The Board of Health and its agents may consult with and request assistance from the Department of Public Works, and/or other Town departments for the purpose of administration, implementation, and enforcement of this By-law.

### **Section 6            Regulations**

The Natick Board of Health may promulgate rules and regulations to effectuate the purposes of this By-law. Failure by the Natick Board of Health 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 Natick Board of Health.

**B. Exemptions**

1. Discharge or flow resulting from fire fighting activities;
2. Discharges from Town of Natick snow and ice removal and control operations.
3. 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. Municipal 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 and temporary fund-raising car wash events;
  - 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 sweepers of minor amounts water during operations;
  - m. Winter roadway and parking lot sanding and salting operations associated with maintaining public safety;
  - n. Dye testing, provided verbal notification is given to the Natick Board of Health prior to the time of the test;
  - o. 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 Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
  - p. Discharge for which advance written approval is received from the Natick Board of Health as necessary to protect the public health, safety, welfare or environment.
4. 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 Natick Town Administrator, Board of Selectmen or Board of Health.

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

The Natick Board of Health may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment.

In the event any person fails to comply with an emergency suspension order, the Natick Board of Health 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. In the event of a release of oil or hazardous materials, the person shall immediately notify Natick's Fire and Police Departments and Natick Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Natick Board of Health no later than the next business day. The reporting person shall provide to the Natick Board of Health written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or facility operator shall also retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## **Section 10                    Enforcement**

A.        **Authorized Agent** - The Director of Public Health or an authorized agent of the Director of Public Health shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

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

C.        **Orders** - The Natick Board of Health or an authorized agent of the Natick Board of Health 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) a requirement 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 shall 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 Natick 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 Natick Board of Health within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Natick Board of Health affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57 after the thirty-first day at which the costs first become due.

D. **Criminal Penalty** - Any person who violates any provision of this By-Law or any regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00 for each offense. 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 of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, in which case the Natick Board of Health or an authorized agent of the Natick Board of Health 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 Natick Board of Health, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and regulations and may make or cause to be made such examinations, surveys or sampling as the Natick Board of Health deems reasonably necessary

G. **Appeals** - All decisions or orders of the Natick Board of Health 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 for any reason, the remaining provision shall continue in effect to the extent permitted by law.

## **Section 12            Transitional Provisions**

Residential property owners shall have one hundred eighty (180) days from the effective date of the By-Law to comply with its provisions or petition the Natick Board of Health for an extension.

## **ARTICLE 83**

### **NO SMOKING IN PUBLIC PLACES**

- a. It is hereby declared that smoking in public places is a public nuisance, dangerous and hazardous to the public health, and violates the rights of non-smokers to breathe air which is free of smoke contamination.
- b. As used herein, "Smoking" shall include carrying a lighted cigarette, cigar, pipe or other tobacco product.
- c. No person shall smoke in any elevator accessible to the public.
- d. No person shall smoke nor shall any person, employee, or other person having control of the premises upon which smoking is prohibited by this regulation, or the agent or designee of such person, permit a person to smoke in any room to which the public is invited or in which the public is permitted, including, but not limited to, any restaurant, health care facility, classroom, lecture hall, theater, motion picture theater, opera house, concert hall, library, auditorium, school, retail store, reception area, restroom or lavatory, waiting room, or public area of a bank, but not including any private residence or other place mentioned in subsection (e) nor any party, beano game, social reception, or fraternal or veteran's organization.
- e. Smoking is permitted in the bar area of a restaurant, provided that 1) the bar area shall not include any common area of the premises to which any patron seated in the non-smoking area may need access, including but not limited to waiting areas, restrooms, and access routes thereto; 2) the perimeter of a bar area of a restaurant in which smoking is permitted shall be separated by a floor -to-ceiling physical barrier; 3) the bar area of the restaurant shall be marked with signs that warn patrons of the dangers of exposure to secondhand smoke; and 4) no person under the age of eighteen (18) years old is permitted to enter the bar area of the restaurant.

This prohibition does not apply in cases in which an entire room or hall is used for a private social function and not by the proprietor or person in charge of the restaurant.

In addition to the remedies provided by subsections (h) and (i), the Director of Public Health or any person aggrieved by the willful failure of the proprietor or other person in charge of a restaurant to comply with any provision of this subsection may apply for injunctive relief to enforce the provisions of this subsection in any court of competent jurisdiction.

Nothing in this subsection shall make lawful smoking in any area in which smoking is or may hereafter be prohibited by law.

f.

- (1) Except as provided in paragraph (2) no person shall smoke in any room under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms, and hallways, but not including any private residence unless it is used as a child care or health care facility, or any other place mentioned in subsection (e).
- (2) At the written request of one or more employees, an employer may (but is not required to) make other reasonable accommodations to smoking employees, including provision of a separate employee lounge for smoking, no larger in floor area or seating capacity than the employee lounge for non-smokers. Upon request in writing, an employer shall provide a copy in writing of its smoking policy under this paragraph, including any designated smoking areas or other accommodation for smoking employees, to any employee, prospective employee, and the Director of Public Health. Any employee aggrieved by an employer's smoking policy or any portion thereof may appeal in writing to the Director who may modify it in any manner to carry out the purpose of this section. In any dispute arising from such a smoking policy, the health concerns of non-smokers shall be given precedence.
- (3) The Director of Public Health shall enforce this subsection and subsection (d), and for this purpose shall have the assistance of the Town Administrator, Town Counsel and the Police and Building Department. In addition to the remedies provided by subsections (h) and (i), the Director or any person aggrieved by any violation of this subsection or subsection (d) may apply for injunctive relief to enforce said provision in any court with jurisdiction. This does not apply to small businesses which occupy only fifteen hundred (1,500) square feet of office space and where one hundred (100 )percent of the employees have no objection.

g. Every person having control of premises upon which smoking is prohibited by this article or his or her agent or designee, shall conspicuously display upon the premises a sign reading "Smoking Prohibited by Law".

h. It shall be unlawful for any person having control of any premises or place in which smoking is prohibited by this ordinance to knowingly permit a violation of this article. A person shall be held to have knowingly permitted a violation of this article if a visitor to his or her premises observes one or more people smoking (other than in properly designated smoking areas) on three successive visits. Any licenses issued by the Town to such person shall be subject to suspension for up to fifteen (15) days for a single violation of this subsection, and shall be subject to suspension for up to one year, or to revocation, for any successive violation.

i. Any person who knowingly violates any provision of the Article, or who smokes in an area in which a "Smoking Prohibited by Law" notice is conspicuously posted as required by subsection (h) of this article shall be subject to a fine in an amount of one hundred

dollars \$100) for the first offense, two hundred (\$200) for a second offense and three hundred dollars (\$300) for a third or subsequent offense. All violations will be written against the establishment.

- j. If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.



## **ARTICLE 82**

### **WATER CONSERVATION**

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

It is the intent of this By-Law to conserve the water supply of the Town, to minimize wastewater disposal, to protect and extend the water supply, to prevent sewage overflow and to protect the health and safety of the public

#### **Section 2 Definition**

For the purposes of this By-Law, the term "water savings cost estimate" shall mean the estimated cost of installing, financing, maintaining and replacing a water use system including the cost savings in consumption of water by use of mitigating measures and alternative solutions including but not limited to ultra low flow devices, composting toilets, recycling and reuse systems, and use of non potable water.

#### **Section 3 Procedures**

- a. A water savings cost estimate shall be required to conserve water supply and minimize wastewater disposal.
- b. Evidence shall be required to show that the applicant intends to utilize such devices, techniques or equipment that are consistent with Sections 1 & 2 of this By-Law.

#### **Section 4 Applicability**

- a. This By-Law shall become effective upon the approval of this by-law by the Attorney General.
- b. This By-Law shall apply in all Use Districts for any new water-using development, including all commercial and industrial developments and residential development in excess of three (3) units or for the modification or replacement of a water-using system in an existing structure or building or residential development in excess of three (3) units.

#### **Section 5 Rules and Regulations**

The Conservation Commission shall promulgate rules and regulations upon consultation with the Board of Health, the Building Commissioner and the Director of Public Works for the implementation of this By-Law.

#### **Section 6 Administration and Enforcement Agents**

- a. The Building Commissioner shall not issue a building or occupancy permit unless the following are submitted with such application:
  - (1) A water savings cost estimate
  - (2) Construction methods to be implemented that are consistent with Sections 1 and 2 of this By-Law

- (3) A certificate from the Director of Public Works certifying that an adequate supply of potable water can be supplied to such building or structure.
- b. The Building Commissioner and the Director of Public Works shall condition new water connections upon the conformity of this By-Law respecting the implementation of measures to effectively conserve, recycle and reuse water.

## **Section 7            Application**

- a. All practical measures to conserve, recycle and reuse water as developed in said water savings cost estimates and compatible with State codes and federal, state and local laws shall be implemented.

## **Section 8            Approval & Disapproval; Notice & Hearing; Certificate of Adequacy**

- a. The Conservation Commission shall determine conformity with the By-Law. A public hearing shall be held by the Conservation Commission before approval, approval subject to conditions, or disapproval of the requirements of this By-law is given.
- b. The Director of Public Works shall issue no certificate of adequacy to supply water unless the existing potable water supply requirements of the inhabitants of the Town fall within safe yield of the watershed systems pursuant to any such determination made by the Department.

## **Section 9            Costs**

The applicant shall assume all costs that may be incurred to comply with this By-Law.

## **Section 10          General Requirements**

Failure to provide permits, certificates, and approvals as required by this By-Law shall not be due to failure by the applicant to apply to the appropriate agency for their grant.

## **Section 11          Appeals**

Person aggrieved by a decision of the Board of Health, the Conservation Commission, the Building Commissioner or the Director of Public Works as to the denial of building, occupancy permits or water connections in this By-Law may appeal said decision under any applicable law.

## **Section 12          Severability**

A conflict of one part or provision of this By-Law with any law shall not affect the validity or applicability of any other part or provision of this By-Law.

## **ARTICLE 81**

### **CHEMICAL STORAGE TANKS AND SYSTEMS**

#### **Section 1 Purpose**

- a. The purpose of this By-Law is to protect the public health, groundwater and surface water of the Town from contamination with liquid fuels, chemicals or hazardous materials from leaking underground fuel or chemical storage tanks and systems.

#### **Section 2 Applicability**

- a. This By-Law shall apply to all underground fuel or chemical storage tanks and systems.
- b. Storage systems in service at the time of the approval of this By-Law shall be brought into compliance with the terms of this By-Law within ninety days of its approval.

#### **Section 3 Administrative and Enforcement Agent**

- a. The administrative and enforcement agent of the provisions of this By-Law shall be the Board of Health. Approval of this By-Law shall not be deemed a waiver of the rights of any other Town entity, including, but not limited to: Public Works Department, Fire Department, Building Department, Conservation Commission or other Town entities having concurrent jurisdiction or licensing authority.
- b. The provisions of this By-Law are not intended to relieve compliance with any applicable state or federal law or regulation.

#### **Section 4 Definitions**

For the purpose of this By-Law, the following terms shall have the following meanings:

**C.M.R.** shall mean the Code of Massachusetts Regulations.

**Hazardous material** shall mean material, including but limited to, any material, in whatever form, 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, when improperly stored, treated, transported, disposed of, used, or otherwise managed

**Owner** shall mean every person who alone or severally with others

- (1) has legal title to any property on which is located an underground fuel or chemical storage tank and system subject to this By-Law; or
- (2) has care, charge or control of any such property, in any capacity including without limitation agent executor, administrator, trustee or guardian of the estate of the

holder of legal title, or agent, trustee or a person appointed by a court of competent jurisdiction; or

- (3) is a mortgagee in possession of such property. Each such person is bound to comply with the provisions of this By-Law as if he were an owner.

**Person** shall mean every individual, partnership, corporation, firm, association, group or entity owning property or carrying on an activity regulated by this By-Law.

**Underground tank** shall mean any fuel storage or chemical storage containment system, the top of which is located below the ground.

Where applicable, other terms used in this By-Law are as defined in 527 C.M.R., Sections 5 and 9 of the Massachusetts Board of Fire Prevention Regulations.

## **Section 5            Tank Regulations**

- a. Every owner of an underground fuel or chemical storage tank and system shall file with the Board of Health, the size, type, age and location of each tank and/or system and the type of material stored, on or before ninety days after the approval of this By-Law.

- (1) Thereafter, every owner of a tank and system installation shall comply with the provisions of Section 5A, hereof on or before January 1st of each succeeding year.

- b. Owners of tanks for which evidence of installation date is not available shall at the order of the Board of Health have such tanks or systems tested or uncovered for inspection.

- (1) Tanks or systems which fail to meet the test standards set forth in Section 9 below or are not air tight shall be removed.

## **Section 6            Inventory Control**

- a. Every underground storage tank and system shall have a method of accurately gauging the volume contained in the tank and a method of accurately metering the quantity of product removed during service. The metering device shall at all times be properly maintained in accurate calibration.

- b. For tanks containing fuel, chemical or hazardous material for resale accurate daily inventories and records thereof shall be based on actual daily measurement and recording of actual sales, use and receipts of tank products and water levels as required by Massachusetts Fire Prevention Regulations 527 C.M.R. 5.05 (3).

- (1) Inventory records shall include a daily computation of gain or loss.

- (2) Recording of pump meter readings and product delivery shall not constitute adequate inventory records for the purposes of this By-Law.

- c. For all tanks containing fuel, chemical or hazardous material not for re-sale a quarterly inventory and reconciliation is required. Such reconciliation shall include records of delivery, volume contained in the tank and flow through the metering device.
- d. The owner and operator shall participate in a program of regularly scheduled inventory verification, said method to be determined by the Board of Health as follows:
  - (1) For systems for which less than 25,000 gallons per month of product is used or sold, annually.
  - (2) For systems from which 25,000-100,000 gallons per month of product is used or sold, semi-annually.
  - (3) For systems from which more than 100,000 gallons per month is used or sold, quarterly.
- e. Owners shall submit annually to the Board of Health a certified statement that inventory records have been maintained and reconciled as required in subsection b, c and d of Section 6 and such records shall be made available to the Board of Health upon its request. Inventory verification of tanks shall be performed annually by a certified auditor or other independent qualified person approved by the Board of Health.

## **Section 7                    Report of Leaks and Spills**

- a. Any owner or operator or his agent who is aware of a spill or abnormal loss of product stored shall report such spill or loss immediately to the head of the Fire Department and within two hours of leak detection to the Board of Health.
- b. All leaking tanks must be emptied within twenty-four hours of leak detection and either repaired or removed within a time specified by the Board of Health and under the direction of the Fire Department.
- c. Service companies shall report to tank owners and the Board of Health any unexplained increase in consumption of heating fuel, other fuel, chemicals or hazardous materials.

## **Section 8                    New or Replacement Tank Selection and Installation**

- a. All tanks installed after the effective date of the By-Law shall be approved design and protected from internal and external corrosion.

All tanks shall be made of the following materials:

- (1) All fiberglass construction shall be double-walled (equipped with a striker plate); steel with bonded fiberglass or enamel coating and noncorrosive lining; the Steel Tank Institute 3-Way Protective System; any other system which can be shown to provide equivalent protection at the discretion of the Board of Health.

- (2) All other underground storage of chemicals, or hazardous materials other than gasoline and fuels, shall be contained in tanks approved by the Board of Health as "best available technology".
- b. All tanks shall be properly installed as per Massachusetts Fire Prevention Regulations in force at the time of installation and according to manufacturers' specifications.
  - (1) Installation shall be under the direction of the head of the Fire Department or his duly-appointed designee within said Department.
- c. All tank installation within four (4) feet of high water table or within one hundred feet of a surface-water body shall be of double-walled fiberglass construction and located in a water-tight vault, impervious membrane liner or the best available technology as approved by the Board of Health. Tanks so located shall be monitored by an approved leak detection system within the interstitial of the tank. Additional devices may be required. The design and number of said devices shall be subject to Board of Health approval.
- d.
  - (1) The owner or operator shall notify the Fire Department to the commencement of any tank installation
  - (2) Upon the receipt of said notice of installation, the head of the Fire Department or the Board of Health may require repair of protective coatings prior to installation or final cover, and additional requirements may be required to satisfy terms of "best available technology".
- e. When it is necessary to replace or interior coat an underground steel tank which has developed a corrosion-induced leak, all other steel tanks at the facility of the same age or older shall be interior coated or replaced with tanks that meet the requirements of Section 8b.1.
- f. Where a cathodic protection system is installed, an ongoing monitory and maintenance program shall be conducted.
  - (1) Where sacrificial anodes have been installed, their proper operation shall be confirmed by a qualified person at least once a year.
- g. If a tank is taken out of service temporarily or permanently, the Board of Health shall be notified. The final disposition of the tank and produce shall be in accordance with Massachusetts Board of Fire Prevention Regulations, 525 C.M.R., and as approved by the Board of Health.
- h. Any existing tank may be replaced subject to the provisions of Section 8.

## **Section 9            Tank Testing and Removal**

- a. All steel fuel or chemical storage tanks and systems shall be subject to a Petro-Tite (Kent-Moore) Pressure Test or any other acceptable pressure test providing equivalent safety and effectiveness fifteen years after installation and annually thereafter.

- (1) No test shall be conducted by the PSI air pressure test for leak detection. This By-Law recognizes that this test is a method of leak detection but specifically excludes it as a method because of a probability that such test can cause an explosion.
- b. All tanks not in conformance with Section 8 supra and 527 C.M.R. 9.04, installed prior to the effective date of this By-Law shall be removed when twenty years old or shall be tested by a method to be determined by the Board of Health and shall be removed upon failure to meet such testing standards.
  - (1) At such time that a tank is exhumed for removal, it shall be examined for leaks by the Board of Health. If a leak exists, the Board of Health shall immediately cause an investigation to be made of the amount and the location of spilled substance, the same to be undertaken at the expense of the owner. The spilled substance shall be removed immediately by the owner.

## **Section 10            Proximity to Water Supplies and Other Sensitive Areas**

- a. No new installation of underground fuel or chemical storage tanks and systems shall be allowed within the Aquifer Protection District as described in Section III-A.5 of the Zoning By-Laws except as provided in Section 13 below and with the issuance of a Special Permit in accordance with the requirements found in Section III-A.5 of the Zoning By-Laws.
- b. Where fuel, gasoline or other chemicals stored underground are located within the Aquifer Protection District or other sensitive areas, the Board of Health may require the installation of an approved leak detection system, the design and number of devices to be subject to the Board of Health approval.

## **Section 11            Costs**

- a. The owner shall assume all costs incurred to comply with this By-Law.

## **Section 12            Penalties**

- a. Whoever violates any provision of this By-Law shall be subject to a fine of two hundred dollars (\$200.00) for each violation. Each day that such violation continues shall constitute a separate offense.

## **Section 13            Variances**

- a. The Board of Health may grant a variance from the provisions of Section 10a herein upon the following conditions and in accordance with requirements of the Massachusetts Board of Fire Prevention Regulations, 527 C.M.R.

- (1) At a public hearing the applicant shall establish that the proposed location of an underground storage tank will not threaten or adversely affect public or private water sources.
- (2) In granting said variance the Board of Health shall take into consideration the direction of the groundwater flow, soil conditions, depth to groundwater, size, shape and slope of the lot and existing and known future water supplies.
- (3) Notice of any public hearing shall be given by placing notification in a local newspaper regularly circulated within said Town of Natick, and at least fourteen (14) days before said hearing.
- (4) The Board of Health shall refer the application for a variance to the Conservation Commission, Planning Board, Department of Public Works and Zoning Board of Appeals for their review and comments. No final decision of the Board of Health relative to such application shall be issued less than twenty-one (21) days following the receipt of such application by the aforementioned agencies.
- (5) Persons aggrieved by a decision of the Board of Health as to the denial of a variance may appeal said decision under any applicable law.

#### **Section 14            Severability**

A conflict of one part or provision of this By-Law with any law shall not affect the validity or applicability of any other part or provision of this By-Law.



## **ARTICLE 80**

### **WATER SUPPLY PROTECTION**

#### **Section 1            Authority**

This by-law is adopted by the Town of Natick under its home rule powers, its police powers to protect public health and welfare and its specific authorization under Sections 21 and 21D of Chapter 40 of the General Laws.

#### **Section 2            Purpose**

The purpose of this by-law 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 any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection and included in the Town's plan approved by the Department of Environmental Protection to abate the emergency.

#### **Section 3            Definitions**

For the purpose of this by-law:

**Enforcement authority** shall mean the Town's Board of Selectmen or its designee, or other Department or Board having 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.

**State of water supply emergency** shall mean a state of water supply emergency declared by the Department of Environmental Protection pursuant to Chapter 21G and Section 160 of Chapter 111 of the General Laws.

#### **Section 4**

The following shall apply to all users of water supplies supplied by the Town:

Following notification by the Town of the existence of a state of water supply emergency, no person shall violate any provision, condition, requirement or restriction included in a plan approved by the Department of Environmental Protection which has as its purpose the abatement of a water supply emergency.

Notification of any provision, restriction, requirement, or condition with which users of water supplied by the Town are required to comply to abate a situation of water supply emergency shall be sufficient for purposes of this by-law if it is published in a newspaper of general circulation within the Town or by such other notice as is reasonably calculated to reach and inform all users of the Town supply.

The Board of Selectmen is hereby authorized to promulgate rules and regulations, and amendments thereto, regarding protection of the Town of Natick's public water supply system, including without limitation preventing of cross connections, unauthorized use of fire hydrants, and tampering of water meters or any other part of the Town of Natick public water supply system.

#### **Section 5            Penalty**

Any person or entity who violates this by-law shall be liable to the Town in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation which shall inure to the Town for such uses as the Board of Selectmen may direct. Fines shall be recovered by complaint before the District Court or by noncriminal disposition in accordance with Section 21D of Chapter 40 of the General Laws. Each separate instance of noncompliance following issuance of any warning or citation pursuant to this section shall constitute a separate violation.

#### **Section 6            Severability**

The invalidity of any portion or provisions of this by-law shall not invalidate any other portion, provision or section hereof.

## **ARTICLE 79A**

### **STORMWATER MANAGEMENT AND EROSION CONTROL BY-LAW**

#### **Section 1 Purpose**

A. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. contamination of drinking water supplies;
3. erosion of stream channels;
4. alteration or destruction of aquatic and wildlife habitat;
5. flooding; and,
6. overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources.

Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the water bodies and groundwater resources within the Town of Natick, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

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

1. protect water resources;
2. require practices that eliminate soil erosion and sedimentation;
3. control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
4. require practices to manage and treat stormwater runoff generated from new development and redevelopment;
5. protect groundwater and surface water from degradation;
6. promote infiltration and the recharge of groundwater;

7. maximize recharge of groundwater in the Natick Aquifer Protection District as defined by Section III-A.5 of the Natick Zoning By-Law;
8. prevent pollutants from entering the municipal storm drain system;
9. ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
10. ensure adequate long-term operation and maintenance of structural stormwater best management practices;
11. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
12. comply with state and federal statutes and regulations relating to stormwater discharges; and
13. establish the Town of Natick's 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:

**ABUTTER:** The owner(s) of land abutting the activity.

**AGRICULTURE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

**ALTERATION OF DRAINAGE CHARACTERISTICS:** Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

**APPLICANT:** Any "person" as defined below requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

**AUTHORIZED ENFORCEMENT AGENCY:** Conservation Commission and its employees or agents designated to enforce this By-Law.

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

**CONSTRUCTION AND WASTE MATERIALS:** Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

**CLEARING:** Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

**DEVELOPMENT:** The modification of land to accommodate a new use or expansion of use, usually involving construction.

**DISTURBANCE OF LAND:** Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

**ENVIRONMENTAL SITE MONITOR:** A Registered Professional Engineer or other trained professional selected by the Conservation Commission and retained by the holder of a Minor Land Disturbance Permit or a Full Land Disturbance Permit to periodically inspect the work and report to the Conservation Commission.

**EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**EROSION AND SEDIMENTATION CONTROL PLAN:** A document containing narrative, drawings and details developed by a registered professional engineer (PE) or a registered professional land surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

**ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS:** Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

**GRADING:** Changing the level or shape of the ground surface.

**GRUBBING:** The act of clearing land surface by digging or grinding up roots and stumps.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

**LAND-DISTURBING ACTIVITY or LAND DISTURBANCE:** Any activity, including without limitation: clearing, grubbing, grading, digging, cutting, excavation of soil, placement of fill, and construction that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

**LOT:** A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

**MASSACHUSETTS ENDANGERED SPECIES ACT:** (M.G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131 s. 40 and the Massachusetts Clean Waters Act MGL c. 21, ss. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**MUNICIPAL 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 Natick.

**OPERATION AND MAINTENANCE PLAN:** A plan describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

**OUTFALL:** The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the Commonwealth.

**OUTSTANDING RESOURCE WATERS (ORWs):** Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

**OWNER:** A person with a legal or equitable interest in property.

**PERMITTEE:** The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

**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.

**POINT SOURCE:** Any discernible, confined, and discrete means of conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**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 or detrimental to humans or the environment and may be introduced into the municipal storm drain system or into any water, watercourse or waters of the Commonwealth.

**PRE-CONSTRUCTION:** All activity in preparation for construction.

**PRIORITY HABITAT OF RARE SPECIES:** Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

**REDEVELOPMENT:** Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

**RESPONSIBLE PARTIES:** owner(s), persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility.

**RUNOFF:** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT:** Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION:** The process or act of deposition of sediment.

**SITE:** Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

**SLOPE:** The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

**SOIL:** Any earth, sand, rock, gravel, or similar material.

**STABILIZATION:** The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

**STORMWATER:** Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

**STORMWATER MANAGEMENT PLAN:** A document containing narrative, drawings and details prepared by a registered professional engineer (PE) or a registered professional land surveyor (PLS), which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

**STRIP:** Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

**TSS:** Total Suspended Solids. Material, including but not limited to trash, debris, and sand suspended in stormwater runoff.

**VERNAL POOLS:** Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

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

**WETLAND RESOURCE AREA:** Area specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and in the Town of Natick Wetland Protection By-law.

**WETLANDS:** Freshwater wetland, marsh, bog, wet meadow and swamp are defined in M.G.L. Chapter 131, Section 40, and are collectively known as vegetated wetlands. Credible evidence as to wetland affinities of other vegetation in an area shall be considered in making wetland determinations.

### **Section 3            Authority**

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended.

### **Section 4            Applicability**

This By-Law shall apply to all land-disturbing activities within the jurisdiction of the Town of Natick. Except as permitted by the Conservation Commission, or as otherwise provided in this By-Law, no person shall perform any activity that results in land disturbance of 40,000 square feet or more.

#### **A.        Regulated Activities** - Regulated activities shall include, but not be limited to:

1. Land disturbance of greater than 40,000 square feet, associated with construction or reconstruction of structures.



2. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 40,000 square feet or more of land,
3. Paving or other change in surface material over an area of 40,000 square feet or more causing a significant reduction of permeability or increase in runoff,
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 40,000 square feet,
5. Any other activity altering the surface of an area exceeding 40,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system, OR
6. Construction or reconstruction of structures where more than 40,000 square feet of roof drainage is altered.

**B. Erosion and Sedimentation Control Requirement** - A project which includes land disturbance of less than 40,000 s.f. shall be considered to be in conformance with this By-Law if soils or other eroded matter have been or will be prevented from being deposited onto adjacent properties, rights-of-ways, public storm drainage system, or wetland or watercourse. The design, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in the Regulation to the By-Law.

**C. Exempt Activities** - The following activities are exempt from the requirements of this By-Law:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act.
2. Repair of septic systems when required by the Board of Health for the protection of public health and compliance with Section 4, Paragraph B.
3. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 50 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage patterns.
4. The construction of fencing that will not alter existing terrain or drainage patterns.
5. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.
6. Projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions.

## **Section 5 Administration**

The Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Conservation Commission through this By-Law may be delegated in writing by the Conservation Commission to its employees or agents.

## **Section 6                    Regulations**

The Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

## **Section 7                    Permits**

Permit issuance is required prior to any activity disturbing 40,000 or more square feet of land. The site owner or his agent shall apply for the permit with the Conservation Commission. While application may be made by a representative, the permittee must be the owner of the site.

A.        **Applications** - An application shall be made to the Conservation Commission in a form and containing information as specified in this By-Law and in the Regulations adopted by the Conservation Commission and shall be accompanied by payment of the appropriate application and review fees.

B.        **Fees** - Fees shall be established by Conservation Commission to cover expenses connected with public notice, application review, and monitoring permit compliance. The fee shall be sufficient to also cover professional review. The Conservation Commission is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The applicant for a Land Disturbance Permit may be required to cover the costs of said consultant through an account established pursuant to GL. c. 44§53G.

C.        **Information Requests** - The Conservation Commission may request such additional information as is necessary to enable the Conservation Commission to determine whether the proposed land disturbance activity will protect water resources and comply with the requirements of this By-Law.

D.        **Determination of Completeness** - The Conservation Commission shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application has been found to be complete.

E.        **Coordination with Other Boards** - On receipt of a complete application for a Land Disturbance Permit the Conservation Commission shall distribute one copy each to the Planning Board, Department of Public Works, Board of Health, and the Building Inspector for review and comment. Said agencies shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission. The Conservation Commission shall not hold a hearing on the Land Disturbance Permit until it has received reports from said agencies or until said agencies have allowed twenty (20) days to elapse after receipt of the application materials without submission of a report thereon.

F. **Entry** - Filing an application for a land disturbance permit grants the Conservation Commission or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. **Hearing** - Within thirty (30) days of receipt of a complete application for a Land Disturbance Permit, the Conservation Commission shall hold a public hearing and shall take final action within thirty (30) days from the close of the hearing unless such time is extended by agreement between the applicant and the Conservation Commission. Notice of the public hearing shall, at least seven (7) days prior to said hearing, be given by publication in a local paper of general circulation, and by posting. The Conservation Commission shall be responsible for publishing the notice in the local newspaper and posting the notice at the Town Hall. The Conservation Commission shall make the application available for inspection by the public during business hours at the Town of Natick Conservation Office.

H. **Action** - The Conservation Commission may:

1. **Approve** the Application and issue a permit if it finds that the proposed plan will protect water resources and complies with the requirements of this By-Law;
2. **Approve the Application and issue a permit with conditions**, modifications or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and complies with the requirements of this By-Law; or
3. **Disapprove** the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives of and to comply with the requirements of this By-Law. If the Conservation Commission finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Conservation Commission may disapprove the application, denying a permit.

I. **Project Changes** - The permittee, or his or her agent, must notify the agent of the Conservation Commission in writing of any change or alteration of a land-disturbing activity before the change or alteration occurs. If the agent of the Conservation Commission determines that the change or alteration is significant, based on the design requirements listed in Part II or Part III of the Regulations adopted by the Conservation Commission under this by-law, the agent of the Conservation Commission may require that an amended application or a full application be filed in accordance with this Section. If any change or alteration from the Land Disturbance Permit occurs during land disturbing activities, the agent of the Conservation Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

## **Section 8            Erosion and Sedimentation Control Plan**

**The Erosion and Sedimentation Control Plan** shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design standards and contain the

information listed in the Regulations adopted by the Conservation Commission for administration of this By-Law.

## **Section 9                      Stormwater Management Plan**

The **Stormwater Management Plan** shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. The applicant shall submit such material as is required by the Regulations adopted by the Conservation Commission for the administration of this By-Law.

## **Section 10                    Operation and Maintenance Plans**

A.     **An Operation and Maintenance Plan** - (O&M Plan) for the permanent storm water management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with this By-Law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Operation and Maintenance plan shall include any requirements deemed necessary by the Conservation Commission to insure compliance with said plan, including without limitation a covenant. The Conservation Commission shall make the final decision of what maintenance option is appropriate in a given situation. The Conservation Commission will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. Once approved by the Conservation Commission the Operation and Maintenance Plan shall be recorded at the South Middlesex Registry of Deeds by the permittee, shall run with the land, shall remain on file with the Conservation Commission and shall be an ongoing requirement. The Operation and Maintenance Plan shall conform to the requirements listed in the Regulations adopted by the Conservation Commission for the administration of this By-Law. Stormwater management easements shall be provided by the property owner(s) in areas and as necessary to carry out the required maintenance.

### **B.            Changes to Operation and Maintenance Plans**

1.    The owner(s) of the stormwater management system must notify the Conservation Commission or its agent of changes in ownership or assignment of financial responsibility.
2.    The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this By-Law by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s),

persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility. Once the amended Plan is signed the Conservation Commission shall file it at the Registry of Deeds at the expense of the current owner(s).

## **Section 11            Inspection and Site Supervision**

A.     **Preconstruction Meeting** - Prior to clearing, excavation, construction, or any land disturbing activity requiring a permit, the applicant, the applicant's technical representative, the general contractor, pertinent subcontractors, and any person with authority to make changes to the project, shall meet with the Conservation Commission or its designated agent to review the permitted plans and proposed implementation.

B.     **Commission Inspection** - The Conservation Commission or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions of approval, signed by the Conservation Commission shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Agent of the Conservation Commission at least three (3) working days before each of the following events:

1.    Erosion and sediment control measures are in place and stabilized;
2.    Rough Grading has been substantially completed;
3.    Final Grading has been substantially completed;
4.    Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures.
5.    Close of the Construction Season; and
6.    Final landscaping (permanent stabilization) and project final completion.

C.     **Permittee Inspections** - The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Conservation Commission or designated agent in a format approved by the Conservation Commission. The Conservation Commission may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission, be retained by the applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or its designated agent.

D.     **Access Permission** - To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter

upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary to determine compliance with the permit.

## **Section 12            Surety**

The Conservation Commission may require the permittee to post before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the Conservation Commission to insure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 13 and issued a certificate of completion.

## **Section 13            Final Reports**

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Registered Professional Engineer (P.E.) or Registered Professional Land Surveyor certifying that all erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

## **Section 14            Enforcement**

A.     The Conservation Commission or an authorized agent of the Conservation Commission shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

### **B.       Orders**

1.     The Conservation Commission or an authorized agent of the Conservation Commission may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include:
  - a.    a requirement to cease and desist from the land-disturbing activity until there is compliance with the By-Law and provisions of the land-disturbance permit;
  - b.    maintenance, installation or performance of additional erosion and sedimentation control measures;
  - c.    monitoring, analyses, and reporting;
  - d.    remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity

2. If the enforcing person determines that abatement or remediation of erosion and sedimentation 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 Natick may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.

3. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Natick, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission 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 Conservation Commission 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, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

C. **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 for each offense. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. **Non-Criminal Disposition** - As an alternative to criminal prosecution or civil action, the Town of Natick may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch.. 40, §21D in which case the Conservation Commission or authorized agent 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.

E. **Appeals** - All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

F. **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 15            Certificate of Completion**

The Conservation Commission will issue a Certificate of Completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law. The Certificate of Completion shall be recorded at the Registry of Deeds by the Owner(s).

## **Section 16            Severability**

If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any person, establishment or circumstance shall be held invalid for any reason, all other provisions shall continue in full force and effect to the extent permitted by law.



## ARTICLE 79

### WETLANDS PROTECTION

#### Section 1 Purpose and Intent

The Purpose of this by-law is to preserve and exercise jurisdiction over the Protected Resource Areas, as defined below, and adjoining land areas in the Town by means of the regulation and control of activities deemed by the Conservation Commission (the “Commission”) as likely to have significant or cumulative adverse effect on any or all Resource Area Values, which include, without limitation: the protection of public and private water supply; the protection of groundwater supply; the prevention and control of flooding, erosion and sedimentation; the prevention of storm damage; the prevention and control of pollution; the protection of fisheries; the protection of water quality, agriculture and aquaculture; the protection of wildlife, wildlife habitat and Rare Species habitat including rare plant species; and the protection and promotion of aesthetic values, recreation values, education values, and similar concerns. This by-law is intended to use the authority of the Town, under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, to protect additional resource areas, independent of, and to provide more stringent protection by the Commission than that provided by Section 40 of Chapter 131 of the General Laws, (the “Wetlands Protection Act”) and the regulations issued thereunder, 310 CMR 10.00 (the “Wetlands Protection Regulations”).

#### Section 2 Definitions

The definition of certain words used in the interpretation and implementation of this by-law follow. Terms used herein and not defined below, or elsewhere in this by-law, or in the Rules and Regulations adopted by the Commission, shall be defined as provided in Section 200 of the Natick Zoning Bylaws, and if not defined in said Section 200, shall be defined as provided in the Wetlands Protection Act and the Wetlands Protection Regulations.

**Alter/Alteration.** This term includes, without limitation, the following activities when undertaken to, upon, within or affecting Protected Resource Areas and associated Buffer Zones:

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

Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, pollution distribution, sedimentation patterns, flow patterns, or flood retention characteristics.

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

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

Placing of fill, or removal of material, that would change elevation.

Driving of piles, or placement, erection, or exterior repair of Structures.

Placing of obstructions or objects in water

Destruction of plant life including cutting of trees

Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters.

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

**Bank.** 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.

**Buffer Zone.** Lands within 100 feet of any Protected Resource Area except floodplain land and Riverfront Area.

**No Build Zone.** Lands within 15 feet of any No Disturbance Zone.

**No Disturbance Zone.** Lands within 25 feet of any Protected Resource Area except floodplain and Riverfront Area.

**Protected Resource Area.** (1) any bank, beach, dune, flat, marsh, swamp, wet meadow: bog, or other freshwater wetland (as defined in the Wetlands Protection Act and as determined by vegetational community, soil composition or hydrologic regime) that borders a water body, to include a creek, river, perennial stream, intermittent stream, pond, lake, or reservoir; (2) land under any of the water bodies listed above; (3) vernal pool; (4) Riverfront Area; (5) floodplain; or (6) land subject to flooding or inundation by groundwater, surface water, or storm flow, including isolated vegetated wetlands.

**Rare Species.** All vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, or any successor organization, regardless of whether the site in which they occur has been previously identified by the Massachusetts Division of Fisheries and Wildlife.

**Riverfront Area.** As defined in the Wetlands Protection Regulations, as amended.

**Structure.** A combination of materials assembled at a fixed location to give support or shelter such as a building, house, barn, garage, or shed. The word “Structure” shall be construed, where the context requires, as though followed by the words “or part or parts thereof”. However, in reference to the No Build Zone, “Structure” shall not include fences, retaining walls, decks, patios, gazebos, lawn furniture, children’s toys such as sandboxes and swing-sets, rip-rapped areas, driveways, parking areas, or the like.

**Vernal Pool.** This term includes all areas defined as vernal pool habitat under the Wetlands Protection Act and Wetlands Protection Regulations and all areas within the mean annual high water level of any confined basin or depression 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 fish populations and provides breeding, rearing or other habitat functions for amphibians, reptiles or other vernal pool community species and the site has been certified or is certifiable by the Massachusetts Division of Fisheries and Wildlife, or any successor organization.

### **Section 3                   Activities Requiring Approval**

Except as otherwise provided hereunder, no person shall Alter any Protected Resource Area or the Buffer Zone thereof (hereafter, “Regulated Activity”), without first having received and complied with a permit issued pursuant to this by-law. Such permit shall be in the form of an Order of Conditions issued by the Commission in accordance with its Rules and Regulations.

### **Section 4                   Exceptions**

The application and permit required by this by-law shall not be required for the following activities, subject to the conditions provided below.

#### **4.1       Emergency Projects** - Projects necessary for the protection of the health and safety of the public, provided that:

the work that is to be performed has been ordered to be so performed by an agency of the Commonwealth or a political subdivision thereof;

advanced written notice has been given to the Commission prior to the commencement of the work. Notwithstanding the above exception, within 21 days of commencement of any emergency project a permit application shall be filed with the Commission for review as provided in this by-law; and

the Commission or its agent certifies the work as an emergency project, or fails to act within 10 business days after receiving written notice thereof.

The work to be performed shall be limited as to the time and place certified by the Commission and for the limited purposes necessary to abate the emergency. Notwithstanding the above exception, within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this by-law. If any of the conditions specified above are not met, or if any of the conditions contained in any determination of the Commission regarding such project are not fulfilled, the Commission may, after notice and a public hearing, revoke or modify any determination or order it has issued regarding an emergency project, and/or may order restoration and mitigation measures to be performed.

**4.2       Public Service Structures and Facilities** - Maintenance, repair or replacement, without substantial change or enlargement, of existing and lawfully located structures or facilities used in the service of the public and used to provide electric, gas, water, storm drainage, sewer, telephone or other telecommunication services to the public, provided that written notice has been given to the Commission prior to commencement of work and provided that the work conforms to the Rules and Regulations of the Commission, including any performance standards and design specifications.

**4.3       Public Ways** - Maintenance and repair of existing public ways, provided that written notice has been given to the Commission prior to commencement of work, and provided that the

work conforms to the Rules and Regulations of the Commission, including any applicable performance standards and design specifications.

## **Section 5                    Procedure and Fees**

**5.1      Applications** - All applications to perform Regulated Activities shall be in the form of a written Request for Determination of Applicability (“RDA”), a Notice of Intent (“NOI”), or both, as applicable, and shall be filed with the Commission pursuant to its Rules and Regulations. Any person desiring to know whether or not a proposed activity or an area is subject to this by-law may file a RDA with the Commission, including information and plans as are deemed necessary by the Commission. All permit applications (i.e., “Notices of Intent”) shall include such information and plans as are deemed necessary by the Commission to describe the proposed Regulated Activities and their effects on Resource Area Values.

**5.2      Filing Fees** - The Rules and Regulations of the Commission adopted hereunder shall require the payment of a fee at the time of filing a RDA, NOI, permit application and Certificate of Compliance. Such fee shall be in addition to that required by the Wetlands Protection Act. The filing fees collected hereunder shall be deposited in a dedicated account, for use only for wetland protection activities, from which the Commission may withdraw funds without further appropriation.

**5.3      Consultant Fees** - The Commission, at the commencement of its process hereunder, or at any time during a hearing may require an applicant to pay a fee for the reasonable costs and expenses incurred or to be incurred by the Commission for specific expert engineering and other consultant services that the Commission deems are necessary to enable it to reach a final decision on the application. The exercise of discretion by the Commission in determining whether to require the payment of fees shall be based on a reasonable finding that additional information acquirable only through outside consultants is necessary for the making of an informed, objective decision. The specific consultant services may include, but are not limited to, performing or verifying the accuracy of Protected Resource Area survey and delineation; analyzing Protected Resource Area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental, land use or other law. Any applicant aggrieved by the imposition of, or the size of, the consultant fees, or any act related thereto, may appeal according to the provisions of the Mass. Gen. Laws.

**5.4      Waiver of Fees** - The Commission may waive the filing fees, and costs and expenses for a RDA, NOI, or permit application filed by a government agency.

**5.5      Notice** - The Rules and Regulations of the Commission adopted hereunder shall provide notice requirements for public hearings of the Commission and for applications to perform Regulated Activities, including the timing and contents of such notices.

**5.6      Hearing and Burden of Proof** - The Commission shall commence the public hearing within 21 days from receipt of a completed RDA or NOI unless the applicant authorizes an extension in writing. In an appropriate case, the Commission may combine its hearing under this by-law with the hearing conducted under the Wetlands Protection Act and Wetlands Protection

Regulations. The public hearing may be continued upon the request of the Applicant, or upon vote of the Commission, until such time that the Commission is satisfied that it has received sufficient evidence concerning all issues raised during the hearing to enable it to render a decision upon the application. To receive the approval of the Commission to conduct a Regulated Activity the applicant must establish by a preponderance of the evidence submitted during the hearing that the proposed Regulated Activity and any proposed mitigation will not have a significant or cumulative adverse effect on Resource Area Values.

**5.7 Decisions** - The Commission shall issue a written decision within 21 days of the close of the public hearing, unless an extension is authorized in writing by the applicant. In rendering its decision the Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of Protected Resource Areas throughout the Town and the watershed, resulting from past activities, permitted and exempt activities, and foreseeable future activities. The Commission may issue a permit to conduct the Regulated Activity with such conditions as it deems are necessary or desirable to insure that the proposed Regulated Activity will not have a significant or cumulative adverse effect on Resource Area Values. Alternatively, the Commission may deny a permit for the proposed Regulated Activity, stating in reasonable detail the reasons for its denial.

**5.8 Permits** - No work proposed in any Notice of Intent shall be undertaken until the Order of Conditions issued by the Commission with respect to such work has been recorded in the registry of deeds or land court, and until the permit holder submits evidence of such recording to the Commission. A permit shall expire three years from the date of issuance, however, where recurring or continuous maintenance work is required, the Commission may issue a permit expiring five years from the date of issuance. Any permit may be renewed for periods of up to three years, provided that a request for renewal of the permit is received in writing by the Commission at least thirty (30) days prior to its expiration, and further provided that all requirements provided in the Rules and Regulations of the Commission are met. Notwithstanding the foregoing, the permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land including successors. For good cause, the Commission may revoke or modify a permit by following the procedure set forth above in connection of the initial issuance of such permit.

## **Section 6 Policies and Conditions**

**6.1 Wetlands Replication** - To prevent wetlands loss, the Commission shall require applicants to avoid wetlands Alteration wherever feasible, to minimize wetlands Alteration where the Commission determines that Alteration is necessary; and, where Alteration is unavoidable, the Commission shall require mitigation in the form of replication of not less than the amount of wetlands permitted to be Altered and not more than twice such amount; said amount of replication to be determined by the Commission in accordance with its Rules and Regulations. The construction of replication shall be designed and monitored by a registered engineer or a professional wetlands scientist, and adequate security shall be provided, in accordance with the provisions of Section 8, to insure the proper construction of replication.

**6.2 No Disturbance and No Build Zones** - No Alteration shall occur within a No Disturbance Zone, unless otherwise provided in a permit issued under this by-law. Lands within a No Build Zone may be cleared of vegetation to the extent necessary to construct a permitted Structure located outside of such No Build Zone and the adjacent No Disturbance Zone; provided however that once such Structure is completed, no further Alteration, other than the growing of vegetation, shall occur in the No Build Zone. The Commission may require, as a condition of a permit issued hereunder, that deeds conveying any portion of the previously cleared No Build Zone contain a restriction running in perpetuity preventing any further Alteration in such No Build Zone upon completion of such nearby construction.

**6.3 Vernal pools** - No Alteration shall occur within the 100-foot Buffer Zone of a Vernal Pool unless otherwise provided in a permit issued under this by-law, and except as provided in Section 13.6.

## **Section 7 Rules and Regulations**

After public notice and public hearing, the Commission shall adopt rules and regulations to carry out the purpose and intent of this by-law (the “Rules and Regulations”). The Rules and Regulations shall include procedures to conduct hearings, issue, deny, revoke and/or modify permits and to appeal, and shall also provide guidance generally to persons seeking to conduct a Regulated Activity. Such Rules and Regulations may also provide, as the Commission deems necessary, additional definitions and procedures not inconsistent with this by-law and a schedule of fees to be charged, which may be based on estimated project cost including, but not limited to, building construction, site preparation, landscaping, and all site improvements. Such Rules and Regulations shall become effective when voted by the Commission and filed with the Town Clerk. Failure by the Commission to promulgate such Rules and Regulations, or a final unappealable decision by a court of the invalidity of any part of such Rules and Regulations, shall not act to suspend or invalidate the effect of this by-law other than in accordance with such decision.

## **Section 8 Security**

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

**8.1 Surety** - By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.

**8.2 Restrictions** - By a conservation restriction, easement, or other covenant executed and duly recorded by the owner of record, running with the land to the benefit of the Town whereby the permit conditions shall be performed and observed by all owners, including successors.

## **Section 9            Enforcement**

Upon receipt of a RDA or NOI, the Commission or its agents shall have authority to enter upon privately owned land for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary. The Commission shall have the authority to enforce this by-law and its Rules and Regulations, and the Commission, any member thereof, or its agent, may issue citations under the non-criminal disposition procedure set forth in Section 21D of Chapter 40 of the General Laws, which has been adopted by the Town in Article 92 of the Natick By-Laws, and by civil and criminal court actions. Any person who violates provisions of this by-law 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.

## **Section 10          Appeals**

Any decision of the Commission shall be reviewable in the Superior Court in accordance with Section 4 of Chapter 249 of the General Laws.

## **Section 11          Severability**

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof, nor shall it invalidate a permit or determination, which previously has been issued. In the event any section or provision of this by-law is declared invalid by a court of law, such section or provision shall nevertheless remain valid and in effect to the fullest possible extent under the law.

## **Section 12          Transition**

The provisions of this this by-law shall not apply to:

That work for which a Notice of Intent has been filed with, or an Order of Conditions has been obtained from, the Commission at the time of the effective date of this by-law, but such work has not yet been commenced or completed, so long as such Order of Conditions issued for such work remains valid, unexpired and unmodified; and

The initial Notice of Intent filing for construction on an individual lot that is part of the development for which an Order of Conditions has been obtained from the Commission at the time of the effective date of this by-law but has not yet been commenced or completed, so long as the Order of Conditions remains valid, unexpired and unmodified, and provided further that the proposed work is, in the determination of the Commission, consistent with and not an expansion of the previously approved development.

## **Section 13          Nonconforming Uses**

13.1 **Continuation** - The lawful use of any Structure or land in the areas which may be regulated by the Commission under this by-law existing at the time of the enactment or subsequent amendment of this by-law may be continued, although such Structure or use did not conform with the provisions of this by-law as adopted or amended.

13.2 **Extension** - No increase in the extent of the nonconforming use of a Structure or land in areas which may be regulated by the Commission under this by-law may be made beyond the limits of the property owned at the time of enactment or subsequent amendment of this by-law, without applying for and receiving an Order of Conditions to permit such increase. Pre-existing, nonconforming Structures or uses in the areas which may be regulated by the Commission under this by-law, may be extended or altered, provided, that no such extension or Alteration shall be permitted unless there is a finding by the Commission that such extension or Alteration is not substantially more detrimental than the existing nonconforming use to Protected Resource Areas.

13.3 **Abandonment** - A nonconforming use in the areas which may be regulated by the Commission under this by-law that has been abandoned or not used for a period of two years shall not be re-established and any future use shall conform with this by-law.

13.4 **Changes** - Once changed to a conforming use in the areas which may be regulated by the Commission under this bylaw, no Structure or land shall be permitted to revert to a nonconforming use.

13.5 **No Disturbance and No Build Zones** - Where a prior existing Structure protrudes into, or a prior existing Alteration exists in, a No Disturbance Zone or No Build Zone, the Commission may permit the extension of such non-conforming Structure into, or further Alteration in, such zones, in accordance with its Rules and Regulations.

13.6 **Vernal Pools** - Where a prior existing Structure protrudes into, or a prior existing Alteration exists within the 100-foot Buffer Zone of a Vernal Pool, the Commission may permit the extension of such non-conforming Structure into, or further Alteration within the 100-foot Buffer Zone of a Vernal Pool, in accordance with its Rules and Regulations.



## **ARTICLE 78A**

### **PROMPT REMOVAL OF UTILITY POLES**

Consistent with the provisions of Section 34B of Chapter 164 of the Massachusetts General Laws, an electric distribution company or telephone company engaging in the removal of an existing pole and the installation of a new pole in place thereof shall complete the transfer of wires, all repairs and the removal of the existing pole from the site within ninety days from the date of installation of the new pole or within ninety days from the effective date of this by-law, whichever is later; provided, however, that for any approved commercial or industrial construction project, the completion of which is expected to take longer than one year, said company shall be required to remove such pole within six months from the date of installation of the new pole. The owner of such pole shall notify all other users of the starting date of such removal and installation work at least forty-eight hours prior to the commencement of such work, and said owner shall require all other users to remove their wiring and other attachments from the poles in a timely manner.

For purposes of this provision the term “owner” shall mean the entity which holds legal title to the pole or which holds a majority interest in legal title to the pole.

Violations of the terms of this by-law shall be punishable by a penalty of one hundred dollars (\$100.00) for each pole for each day of violation. This by-law may be enforced by a non-criminal disposition pursuant to Chapter 40, Section 21D of the Massachusetts General Laws by any police officer, the Inspector of Buildings or the Director of Public Works of the Town.

## **ARTICLE 78**

### **REMOVAL OF OVERHEAD WIRES**

#### **Section 1            Authority**

This by-law is adopted to implement a program proposed by the Planning Board to advance the public safety, health, convenience and welfare, pursuant to G.L. Chapter 166, Sections 22A through 22N, by prohibiting new installation or construction or upgrading or replacement of poles, overhead wires and associated overhead structures upon, along or across any public way or ways within the area of Natick designated in Section 7.1 and 7.2 of this by-law, and by requiring the removal of utility poles, overhead wires and associated overhead structures which are located upon, along or across any public way or ways within the area of Natick designated in Section 7 below.

#### **Section 2            Definitions**

The following terms shall have the meaning set forth in Chapter 166, Section 22A of the Massachusetts General Laws.

- a. Person
- b. Poles and overhead wires and associated overhead structures.
- c. Utility

#### **Section 3            Program Requirements**

- a. No utility shall be permitted to install, construct, upgrade or replace any poles and overhead wires and associated overhead structures upon, along or across any public way or ways located within the area of Natick designated in Section 7.1 and 7.2 of this by-law.
- b. Each utility shall remove its poles and overhead wires and associated overhead structures which are located upon, along or across any public way or ways located within the area of Natick designated in Section 7.1 and 7.2 of this by-law.
- c. Subject to Section 6 of this by-law, each utility with poles or overhead wires or associated overhead structures subject to the removal requirements of this by-law as originally approved shall comply with the removal provisions of this by-law within 180 days of the effective date of this by-law. Each utility with poles or overhead wires or associated overhead structures which become subject to the removal requirements of this by-law by virtue of an amendment to this by-law, shall comply with said removal requirements within 180 days of the effective date of said amendment to this by-law.
- d. The Planning Board may from time to time establish design standards and criteria for implementation of the program for removal of overhead wires.

#### **Section 4                    Underground Construction; Customer Service Facilities**

All underground construction and conduits, conductors and associated equipment necessary to receive utility service between the utility's service facilities referred to in G. L. Chapter 166, Section 22H and the service facilities in the building or structure being serviced, shall be deemed to be "customer's service facilities". Any utility in providing underground replacement facilities for any poles and overhead wires and associated overhead structures located upon, along, or across any public ways in accordance with this Article 78, within those parts of Town specified in Section 7 hereof, shall install customer's service facilities as defined in this Section 4.

#### **Section 5                    Emergency Erection of Overhead Poles, Overhead Wires and Associated Overhead Structures**

Notwithstanding the provisions of this by-law the Board of Selectmen may grant special permission, for such period and on such terms as it may deem appropriate, in case of emergency or unusual circumstances, without discrimination as to any person or utility to erect, construct, install, maintain, use or operate poles and overhead wires and associated overhead structures. No person shall be deemed to have violated this by-law for doing any act authorized by any such special permission.

#### **Section 6                    Cooperation Agreements**

Pursuant to G.L. Chapter 166, Section 22E the Town of Natick may enter into, amend and perform cooperation agreements with a utility by which the utility shall pay money to the Town of Natick and the Town of Natick may expend some or all of such money to remove or cause to be removed any poles and overhead wires and associated overhead structures of such utility's service, to replace the same (or cause them to be replaced) with underground facilities.

##### **7.1            Prohibition of New Installation or Construction of Overhead Poles and Overhead Wires and Associated Overhead Structures**

The new installation or construction of overhead poles and overhead wires and associated structures located within the town of Natick is prohibited

##### **7.2            Designated Parts of Town for Removal of Overhead Poles and Overhead Wires and Associated Overhead Structures**

Subject to Section 6 of this by-law, all overhead poles and overhead wires and associated overhead structures in place on or before January 1, 2008 located within the Town of Natick shall be included in the program for removal of overhead wires.

## **Section 8                      Cost of Compliance**

The increased cost to a utility of providing service due to adoption of this by-law shall be charged to ratepayers as permitted by the Massachusetts Department of Public Utilities.

## **Section 9                      Penalties**

- a. Any person who violates Section 3a of this by-law shall be punished by a fine of not less than one thousand dollars and no more than five thousand dollars.
- b. Any person who violates Sections 3b, 3c or 3d of this by-law shall be punished by a fine of not less than one thousand dollars and not more than five thousand dollars for each consecutive fifteen day period during which said violation continues.

## **ARTICLE 77**

### **WATER AND SEWER RATE DISCOUNT PROGRAM**

#### **Section 1 Purpose, Applicability**

The Selectmen shall determine the percentage of discount to be applied to the Water and Sewer Rate charges of certain persons age sixty-five or over who own and occupy the dwelling receiving water and sewer services.

#### **Section 2 Qualifications, Basic Requirements**

The Board of Assessors shall annually certify a list of qualified persons who meet the criteria for assets and income established for real estate tax exemptions under Clauses 17D and 41C of Section 5 of Chapter 59 of the Massachusetts General Laws. The discount shall apply to those bills issued in the name of such person during the term of such certification. In the event that a person certified hereunder sells the dwelling such certification shall terminate as of the date of the sale.

#### **Section 3 Determination of Eligibility, Certification**

Water and sewer users who own and inhabit dwellings and choose to apply for such tax exemption and are approved by the Board of Assessors shall be certified as eligible for this discount program. The certification by the Board of Assessors shall continue until the date which is the statutory deadline for application for such tax exemption for the next successive tax year.

#### **Section 4 Alternate Application Procedure, Duration**

Water and sewer users who own and inhabit dwellings who qualify for either such tax exemption referred to in Section 2 above and who meet the asset test under Clause 41C of Section 5 of Chapter 59 of the Massachusetts General Laws, but for whatever reason, choose not to apply for either such tax exemption may apply to the Board of Assessors for eligibility certification. The Board of Assessors shall provide forms for application and shall within thirty (30) days determine whether such applicant is eligible. The effective date of certification shall be the approval date by the Board of Assessors and shall continue for a period of up to one year; provided however, that all such certifications shall terminate on June 30 of each year.

#### **Section 5 Issuance of Discount**

Whenever the Board of Assessors certify that a water and sewer user is eligible for this discount program, the Board shall forthwith so notify the Water and Sewer Division. Upon receipt of the notice the Water and Sewer Division shall take the necessary steps to reduce the bills issued to such water and sewer user.

## **ARTICLE 76**

### **REGULATIONS FOR THE DEMOLITION, ALTERATION OR RELOCATION OF HISTORICALLY SIGNIFICANT BUILDINGS OR STRUCTURES**

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

Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution and the specific powers granted by the Massachusetts General Laws, this bylaw is adopted for the purpose of protecting and preserving significant buildings and structures which constitute or reflect distinctive features pertaining to the history of the Town of Natick and for the purpose of promoting the public welfare through the retention of the architectural, historical, cultural and aesthetic heritage of the Town. The intent of this bylaw is to encourage owners, and others, to preserve, rehabilitate and restore significant buildings or structures rather than demolishing them.

#### **Section 2            Definitions**

For the purpose of this bylaw, the following words and phrases shall have the following meanings:

- A. Applicant: The party that seeks permission to alter a regulated structure.
- B. Building: A structure designed for the shelter or housing of persons, animals, chattels, business uses or property of any kind.
- C. Commission: The Natick Historical Commission.
- D. Demolition: Any act of pulling down, destroying, or razing a structure, or any part or attached portion thereof.
- E. Permit: The document issued by the Building Commissioner as required by the State Building Code for the demolition, alteration or relocation of a regulated building or structure.
- F. Historically Significant Building or Structure: Any regulated building or structure which is (1) associated with one or more historic persons or events or with the architectural, cultural, economic, political or social history of the Town of Natick, the Commonwealth of Massachusetts, and/or the United States of America; or (2) is historically or architecturally important by reason of type, period, style and method of building construction, or represents the work of a particular architect or builder, either by itself or in the context of a group of buildings or structures.
- G. Inspector: The Natick Building Commissioner.

### **Section 3                    Regulated Buildings and Structures**

The provisions of this bylaw shall apply only to the following buildings and structures:

- A. Any building or structure listed on, or which is subject of a pending application for inclusion on, the National Register of Historic Places or the Massachusetts State Register of Historic Places; or
- B. Any building or structure included in the Inventory of Historic and Archaeological Assets of the Commonwealth. Further nominations to said inventory shall occur only after notice to the assessed owner of the building or structure and a public hearing on said proposed nomination.
- C. The Commission shall, after the adoption of this bylaw, prepare and file with the Inspector and the Town Clerk of Natick a list of regulated buildings and structures which list as amended, from time to time, may be relied upon by the Inspector in determining which structures are regulated.
- D. The provisions of this bylaw shall not apply to any building or structure located in a local historical district subject to regulation under the provisions of General Laws Chapter 40C.

### **Section 4                    Prohibition**

No permit for the demolition, alteration or relocation of any building or structure regulated under this section shall be issued other than in conformity with the provisions of this bylaw.

### **Section 5                    Procedures**

- A. Upon receipt of an application for a permit to demolish, alter or relocate a building or structure that is regulated by this bylaw the Inspector shall forward a copy of said application to the Commission and the Community Development Director of the Town. The Inspector is encouraged to submit said copy as quickly as possible by hand delivery or electronic transmission to the chairperson or contact person established by the Commission.
- B. Within ten (10) business days from receipt by the Commission of a copy of such application the Commission shall make a preliminary determination of whether or not the building or structure is a regulated building or structure and if the Commission determines that the building or structure is regulated by this by-law, the Commission shall also preliminarily determine within the same ten (10) business days whether or not the building or structure may be a Historically Significant Building or Structure.
- C. If the Commission determines that the building or structure is not regulated by this by-law, or is not Historically Significant, the permit application shall be signed as approved by the Commission and returned to the Inspector. Upon receipt of same, the Inspector

may, subject to the requirements of the building code and other applicable laws, issue such permit.

- D. If the Inspector does not receive the opinion of the Commission in regard to these preliminary determinations within ten (10) business days of the date of the receipt of the application by the Commission, then, the Inspector may grant the permit applied for.
- E. If the Commission preliminarily determines that the building or structure may be a Historically Significant Building or Structure as defined in Section II F hereof, the Commission shall review the application for such permit at a public hearing to be held within twenty (20) business days of determination that the subject building or structure may be a Historically Significant Building or structure. The Commission shall cause to be published in a newspaper of local circulation notice of the date and place of such public hearing. Such notice shall specify the address of the subject building or structure, and shall be published in said newspaper once during the two weeks preceding the date of such public hearing. All estimated expenses of publication, posting and mailing shall be reimbursed to the Commission by the applicant at the time of the hearing.
- E. No less than five (5) business days before the public hearing the applicant for such permit shall submit to the Commission the following in triplicate:
  - 1. A plan showing the location of the building or structure;
  - 2. Photographs of all street facade elevations;
  - 3. A thorough and detailed description of any intended construction with copies of site plans, building plans and elevation drawings;
  - 4. The reasons for the proposed demolition, alteration or relocation and data supporting said reason;
  - 5. A brief description of the proposed reuse of the premises.
- G. Notice of a hearing or determination provided for in this bylaw shall be sent by the Commission to the assessed owner of record, the applicant for the demolition permit (if different from owner of record), the Inspector and to such other persons and organizations in such manner as the Commission may determine appropriate. The Commission may require that the applicant post and maintain on the building which is the subject of an application governed by this bylaw a notice, in a form designated by the Commission, visible from the nearest public way, of any public hearing on the subject matter or such application; and applicant shall comply with such requirement.
- H. After said public hearing the Commission shall, within ten (10) business days, determine whether or not the subject building or structure is a Preferably Preserved Building or Structure and notify in writing, the applicant and the Inspector of its determination stating the reasons for such decision.



H. If the determination is that the subject building or structure is Preferably Preserved, the Inspector shall not issue a permit for a period of six (6) months from the date of such determination, unless the Commission informs the Inspector in writing prior to the expiration of the six (6) month period that:

1. The Commission is satisfied that the applicant has made a bonafide, reasonable, and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, move, rehabilitate or restore the building or structure; or
2. The applicant has agreed to accept such permit subject to conditions approved by the commission.

## **Section 6                    Emergency Demolition**

Nothing in this bylaw shall be deemed inconsistent with the procedures for the demolition and/or securing of buildings and structures established by General Laws Chapter 143, Sections 6-10.

## **Section 7                    Non-compliance with Bylaw**

- A. The Inspector is authorized to institute any actions, in law or in equity, as he deems necessary to obtain compliance with the requirement of this bylaw in order to prevent a threatened or continuing violation thereof.
- B. The Inspector shall not issue any permits pertaining to any lot or parcel upon which such non-compliances occurred for a period of two (2) years from the date of such violation and notice of such moratorium shall be recorded by the Inspector at the Registry of Deeds on a form to be supplied by the Commission.

## **Section 8                    Right of Appeal**

Any person aggrieved by a determination of the Commission may, within twenty (20) days after filing of the notice of such determination with the Inspector, appeal to the Superior Court for Middlesex County. The Court shall hear all pertinent evidence and may annul the determination of the Commission or may remand the case for further action by the Commission or make such other decree as justice and equity shall require.

## **Section 9                    Severability**

In case any section, paragraph or part of this bylaw is declared invalid or unconstitutional by a court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.

## ARTICLE 75

### REMEDY OF PUBLIC NUISANCE

#### Section 1 Authority and Purpose

Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution and the specific powers granted by the Massachusetts General Laws, this by-law is adopted to remedy nuisances within the Town.

#### Section 2 Definitions

In this by-law, the following words shall have the following meanings:

- (1) **Building:** A combination of any materials, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, to form a structure for the shelter of persons, animals, or property. The word "building" shall be construed where the context requires as though followed by the words "or part or parts thereof".
- (2) **Interested Parties:** In connection with the notification requirements of this by-law, interested parties are the owner(s) of the property which is the subject of the hearing; the Town Administrator or his designee; owners of property directly opposite the subject property on any public or private street or way; abutters of the subject property; and abutters of abutters within three hundred feet of the property line of the subject property. Ownership of land shall be determined by the most recent tax list.
- (3) **Nuisance:** All public nuisances as known at common law or in equity jurisprudence; and furthermore whatever is dangerous to human life or detrimental to health. Specific conditions which may be characterized as nuisances include, without limitation:
  - (a) Burned structures not otherwise lawfully habitable or usable
  - (b) Dilapidated structures
  - (c) Dangerous or unsafe structures
  - (d) Dead, decayed, diseased or hazardous trees, debris or trash
  - (e) Unregistered or abandoned vehicles or discarded vehicle parts which are not reasonably related to a use of the property permitted under current zoning
  - (f) Commercial vehicles in excess of that permitted under current zoning by-laws
  - (g) Construction equipment not being diligently employed in construction activity on-site in a single family (RS) zoning district.
- (4) **Owner:** The recorded title holder to the property, or the authorized agent, assignee or representative of said title holder.

- (5) **Occupant:** The person occupying or in control of such property.
- (6) **Structure:** A combination of materials assembled at a fixed location to give support or shelter such as a building, framework, retaining wall, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, or mast for an antenna or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part or parts thereof".

### **Section 3                      Investigation**

The Town Administrator shall, upon written complaint, have any condition inspected which may constitute a nuisance. The Town Administrator shall assign the investigation to the town official who, in the Town Administrator's judgment, is the most appropriate investigating authority.

### **Section 4                      Report**

If, in the opinion of the Town Administrator or his designee, the reported condition does constitute a nuisance, he or his designee shall make a written report to the Selectmen of such condition, together with a petition for remedial action, and shall file a copy of the petition with the Town Clerk.

### **Section 5                      Hearing**

Upon receipt of such petition and report, the Board of Selectmen shall set a date for a hearing before said Board, not more than thirty (30) days after the date of filing of the petition with the Town Clerk.

### **Section 6                      Notification**

Notice of said hearing shall be posted, published and sent to all interested parties not less than fourteen (14) days before the date of said hearing. Notice of the hearing shall state the subject matter sufficient for proper identification, and the date, time and place of the hearing and shall be made in the following manner:

- (1) Publication of the notice in a newspaper of general circulation in the Town
- (2) Mailings by first class mail to the addresses of interested parties.

### **Section 7                      Order**

Within seven (7) days of the hearing, the Selectmen shall determine whether or not the condition constitutes a nuisance, and shall determine what action shall be taken by the owner to remove the nuisance. Such actions may include, but shall not be limited to abatement or removal of the nuisance at the owner's expense within twenty-four hours after service of the order, or such other time as may be determined by the Selectmen.

## **Section 8            Service of Order**

The Town Clerk shall deliver a copy of the order to an officer qualified to serve civil process, who shall forthwith serve an attested copy thereof. Such order shall be in writing and shall be served on the owner in the manner specified by MGL, Ch. 111, s. 124, as amended.

## **Section 9            Penalty**

An owner or occupant shall forfeit twenty dollars (\$20.00) for every day during which he willfully violates such order.

## **Section 10          Appeal to Superior Court**

In accordance with MGL, Ch. 139, s. 2, a person aggrieved by such order may appeal to the Middlesex Superior Court. This civil action must be commenced within three (3) days after the service of the attested copy of the order upon said aggrieved person.

## **Section 11          Removal of Nuisance by Selectmen**

If the owner fails to comply with the order within the time limit given in the order, the Selectmen may cause the nuisance to be removed and all expenses incurred thereby shall constitute a debt due the Town upon completion of the removal and the rendering of an account therefor to the owner, and shall be recoverable from such owner in an action of contract. Any such debt shall constitute a lien on the land upon which the nuisance was located. The Selectmen shall follow the procedures relative to liens provided in MGL, Ch. 139, s. 3A, as amended.

## **ARTICLE 74**

### **JUNK DEALERS**

#### **Section 1    Licensing**

The Selectmen shall license suitable persons to be dealers in and keepers of shops for the purchase, sale, and barter of junk, old metal and second-hand articles. No person shall be a dealer in or keeper of such a shop without a license.

A copy of this by-law will be provided to each licensee at the time of licensing or renewal.

After completion of the licensing/renewal process the Board of Selectman shall forward a list to the police of department of all licenses in good standing.

#### **Section 2    Inflammable Materials**

No person shall use any building, enclosure or other structure for the storage, sale or keeping of rags, waste paper, stock or other inflammable material without a written license therefor from the Selectmen.

#### **Section 3    Requirements of Licensees**

Every keeper of a shop for the purchase, sale or barter of junk, old metals, or second-hand articles, within the limits of the Town, shall keep a record in the form prescribed by the police department, on which shall be written, at the time of every purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when, such purchase was made. No article shall be accepted without a showing of positive photo identification by the person offering the article for sale to the shop keeper. The shop keeper's record shall at all times be open to the inspection of the Selectmen, members of the police department and any other person authorized by the Board of Selectmen to make such inspection.

A copy of the weekly record shall be forwarded to the police department operations division at the end of each week, and any article taken into possession by the shop keeper shall be held on premises for thirty (30) days before resale.

#### **Section 4    Fines**

Operating as a dealer in or keeper of a shop for the purchase, sale, and/or barter of junk, old metal and second-hand articles without this license shall be punishable by a fine as established by Massachusetts General Law Chapter 140, Section 55.

Violations of the provisions of Section 2 or Section 3 of this by-law shall be punishable by a fine of one hundred dollars (\$100.00), and each transaction in violation shall constitute a separate offense.

## **ARTICLE 73**

### **JUNK COLLECTORS**

#### **Section 1**

The Selectmen may license suitable persons as junk collectors to collect, by purchase or otherwise, junk, old metals and secondhand articles from place to place in the Town and no person shall engage in the business without such license.

#### **Section 2**

The Selectmen may require all such collectors and their employees or agents to display badges upon their persons or vehicles, or both, when engaged in said business and may prescribe the design thereof.

#### **Section 3**

The Selectmen may require that any place, vehicle or receptacle used for the collecting or keeping of said articles be examined at any time by said Selectmen or their agent.

#### **Section 4**

No person licensed under this Article shall directly or indirectly purchase or receive any of said articles of a minor or apprentice, knowing or having reason to believe him to be such.