GENERAL BYLAWS

OF THE

TOWN OF ACTON

TOWN OF ACTON, MASSACHUSETTS

BYLAWS

of the

TOWN of ACTON

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CHAPTER A

TOWN MEETING

A1. Date of Town Election

The Annual Town Meeting for the election of Town Officers shall be held on the Tuesday immediately preceding the first Monday of April in each year. The terms of elected Officers shall be as stated in the Town Charter. The term of each such Officer shall commence upon the final adjournment of the Annual Town Meeting at which he/she is elected and shall extend until the final adjournment of the Annual Town Meeting which his/her successor is elected.

A2. Date of Town Meeting

All business of the Annual Town Meeting, except the election of such Officers and the determination of such matters as by law are required to be determined at such meeting, shall be considered at an adjournment thereof, which adjournment shall be held on the first Monday in April, following the Town Election at such hours and at such place as decided by the Board of Selectmen.

A3. Distribution of Warrant

The Selectmen after drawing a warrant for a town meeting shall immediately transmit a copy of such warrant to each member of the Finance Committee.

A4. Posting of Warrant

At least fourteen days before the day appointed for a town meeting, the Board of Selectmen shall cause an attested copy of the warrant therefor to be posted by the Constable of the Town, in not less than six (6) public places in the Town designated by the Selectmen.

A5. Vote counts by Moderator

If a two-thirds, four-fifths or nine-tenths vote of a town meeting is required by statute, the count shall be taken, and the vote shall be recorded in the records by the clerk; provided, however, if a two-thirds vote of a town meeting is required by statute, the Town has authorized the Moderator not to require a count and the clerk shall record the vote as passed by a two thirds margin; and provided, further, that if the vote is unanimous, a count need not be taken, and the clerk shall record the vote as unanimous.

A6. Reconsideration of Vote

a. *Any voter shall be permitted to move reconsideration of a vote taken at town meeting, subject to the limitation or exceptions set forth in succeeding subsections of this bylaw.*

b. *A motion to reconsider any vote taken at the meeting shall require a 2/3 vote if made at the same session at which the vote to be reconsidered is taken. If made at any adjourned session of the meeting, a ¾ vote shall be required and notice of the intention to move such reconsideration shall be given in writing to the Town Clerk at least eight (8) hours before the opening of such adjourned session and formal notification bearing the seal of the Town shall be posted by a Constable at the locations designated by the Selectmen for posting the warrant at least six (6) hours before the opening of such adjourned session.*

c. *This bylaw does not limit the number of times that reconsideration of a vote may be moved except that at a single session such reconsideration may be moved only once.*

d. *A motion to reconsider a vote is debatable if a motion originating the vote was debatable.*

e. *The foregoing provisions shall not, however, prevent the Board of Selectmen from moving reconsideration at any time when in their unanimous judgment reconsideration is in the best interests of the Town.*

A7. Method of Voting; Determination by Moderator

a. *Unless otherwise required by law, bylaw, regional agreement, or similar binding obligation, the Moderator shall determine the method of voting on each article at town meeting, which method may vary from article to article, and which method may include a voice vote, a vote by show of hands or the equivalent, a standing vote, a ballot vote, a vote by electronic technology furnished by the Town for the use of Town Meeting Members (where available), or a vote by other means as authorized by the Moderator and approved by a two-thirds (2/3) vote of the town meeting members present and voting.*

b. *If the vote is unanimous, or if the quantum of the vote required by law is discernible by the Moderator based on the voting method utilized under Section A7(a), the Moderator shall declare the result of the vote and the clerk shall record the result of the vote in the records of the town meeting.*

A7. Method of Voting; Determination by Moderator - continued

c. *If the Moderator cannot discern the result of the vote based on the voting method utilized under Section A7(a), or if a count is required under Section A5 where a four-fifths or nine-tenths vote of a town meeting is required by statute, or if a vote declared under Section A7(b) of these bylaws is immediately questioned by seven or more voters, the Moderator shall cause the vote to be counted either by tellers or by such electronic technology, whereupon the Moderator shall declare the result of the vote and the clerk shall record the result of the vote in the records of the town meeting.*

d. *Pursuant to Article 114 of the Massachusetts Constitution and to the Massachusetts Equal Rights Law, G.L. c. 93, §103, reasonable accommodation shall be made to ensure that equal voting rights of otherwise qualified handicapped individuals present and voting at town meeting are ensured regardless of the method of voting used.*

A8. Temporary Moderator

Town meeting shall elect a temporary moderator to act in the absence of the town moderator elected as stated in Section 2-1 of the Town Charter. For purposes of Section 3-2 of the Town Charter and M.G.L. c. 39, § 14, absence shall mean that the town moderator is unable to attend the town meeting, recuses himself or herself from conducting the proceedings and vote on any article or articles at a town meeting, or is otherwise unable to perform the duties of town moderator for all or part of a town meeting.. The temporary moderator shall serve in such position only for those portions of any town meeting for which the town moderator is absent. The term of the temporary moderator shall be one year from election or until a different temporary moderator is elected by town meeting, whichever occurs sooner.

CHAPTER B

TOWN AGENCIES & OFFICERS

B1. Structure of the Finance Committee

There shall be a Finance Committee consisting of nine (9) voters of the Town. The committee shall be appointed by the Moderator in the following manner: three (3) members shall be appointed for a term of one (1) year; three (3) members shall be appointed for a term of two (2) years; and three (3) members shall be appointed for a term of three (3) years. Thereafter, each appointment shall be for a term of three (3) years.

B2. Restriction on Finance Committee Members

No member of the Finance Committee shall serve on any other standing committee having to do with the expenditure of town funds.

B3. Duties of the Finance Committee

The Finance Committee shall consider any and all municipal questions for the purpose of making reports and recommendations. Without restricting the general intent of the foregoing, the Finance Committee shall include in its duties the review of and recommendations concerning the budget for the annual meeting, the review of and recommendations concerning any other matter of a financial nature arising at the annual meeting or at any special meeting, and the preparation of long range fiscal plans for the Town.

B4. Procedure of the Finance Committee

Before making recommendations concerning the budget for the annual meeting, as prescribed in Section 3 of this Article, the Finance Committee shall hold one (1) or more hearings with the Board of Selectmen.

B5. Appointment of the Police Chief

The Town Manager shall appoint a Chief of Police and shall have the general supervision over the Police Department.

B6. Power of the Police Chief

The Chief of Police shall be head of the Police Department. Subject to the supervision and direction of the Town Manager, the Chief of Police shall have control of the department, its officers and members, and special police officers when in the service of the department.

B7. Duties of the Police Department

The Police Department shall be governed by the rules and regulations and perform such duties as are prescribed by the Town Manager or by the bylaws of the town.

B8. Authority of the Police Department

The Police Department shall be subject to all the rules and regulations and perform all duties which are now or hereafter prescribed by law, by the bylaws of the Town, by the Town Manager, or the rules and regulations of the Police Department. Any member of the department may be removed or suspended or otherwise disciplined by the Town Manager, as provided by law.

B9. Appointment of the Fire Chief

The Town Manager shall appoint a Chief of the Fire Department, who may be removed for cause. The Chief of the Fire Department shall be head of the fire department. Subject to the supervision and direction of the Town Manager, the Chief of the Fire Department shall have control of the department, its officers and members, and any other personnel when in the service of the department. (This is a standing appointment).

B10. Duties of the Fire Department

The Fire Department shall be governed by the rules and regulations of the Board of Selectmen and perform such duties as are prescribed by the Town Manager and by the bylaws of the Town. Any member of the department may be removed or suspended or otherwise disciplined by the Town Manager, as provided by law.

B11. Duties of the Board of Health

The Board of Health shall make and publish from time to time such regulations as it deems necessary for public health and safety, and shall cause them to be printed in form for public distribution.

B12. Reporting by the Board of Health

The Board of Health shall annually make a report to be printed in the annual town report, showing in detail statistics of the health and sanitary condition of the Town with recommendations for its improvement, together with a full and comprehensive statement of its work during the previous year. Such report shall also contain a detailed statement of the amount expended by the Board during the year.

B13. Dumping contrary to Board of Health Rules and Regulations

No person unless having the authority so to do shall dump or deposit any ashes, rubbish, refuse, offal, or decayed animal or vegetable matter on any public or private land, contrary to the rules and regulations of the Board of Health.

B14. Hogs under the jurisdiction of the Board of Health

All persons keeping hogs within the limits of the Town shall be subject to all rules and regulations of the Board of Health.

B15. Structure of the Public Ceremonies and Celebrations Committee

There shall be a Public Ceremonies and Celebrations Committee of nine (9) members to be appointed by the Board of Selectmen and whose powers, duties and responsibilities are as hereinafter provided.

B16. Terms of Public Ceremonies and Celebrations Committee members

The terms of the committee members shall be for three (3) years. The terms of three (3) members shall expire each year.

B17. Authority of the Public Ceremonies and Celebrations Committee

The committee shall have complete charge under the direction of the Town Manager of all Public Ceremonies and Celebrations held in the Town and in which the Town participates unless the Town shall by vote of any regular or special town meeting provide otherwise.

B18. Duties of the Public Ceremonies and Celebrations Committee

Immediately following the appointment of the members of this committee, they shall organize and elect a chairman and clerk. The clerk of said committee shall there upon notify the Town Manager of the aforesaid action. Said committee may reorganize its officers at any time and the clerk shall notify the Town Manager accordingly. The concurrence of a majority of the committee shall be necessary to make any act of the committee effective.

B19. Sub-committees of the Public Ceremonies and Celebrations Committee

The committee, with the approval of the Town Manager, shall have the authority to appoint sub-committees for special events.

B20. Members compensation of the Public Ceremonies and Celebrations Committee

The members of the committee shall serve without compensation.

B21. Council on Aging

There shall be a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in coordination with programs of the Department of Elder Affairs established under General Laws, Chapter 19A, Section 1, et seq., or any successor or related department or legislation affecting the affairs of the elderly. Without limitation, the mission of the Council on Aging is to help mobilize human, physical, and financial resources available to plan, develop, and implement innovative programs to insure the dignity and independence of elderly persons, including the planning, development, and implementation of home care programs for the elderly in the Town, and to advocate for elderly persons in an effort to maximize their independence and quality of life through the implementation of services to meet their health, economic, social, and cultural needs. Subject to the approval of the Board of Selectmen, the Council on Aging may promulgate administrative procedures governing its affairs.

B22. Tax Title Payment Plans

The Treasurer shall have the authority to enter into written installment payment agreements with persons entitled to redeem parcels in tax title on such terms and conditions as the Treasurer may determine in the Treasurer's reasonable discretion and in accordance with Massachusetts General Laws Chapter 60, Section 62A. This bylaw shall apply to all taxpayers with parcels in tax title in the Town of Acton. All installment payment agreements shall comply with the following minimum requirements:

1. *The installment payment agreement shall have a maximum term of five (5) years;*
2. *The installment payment agreement may include a waiver of up to 50% of the interest that has accrued in the tax title account, but only if the taxpayer complies with the terms of the agreement (no taxes or collection costs may be waived); and*
3. *The installment payment agreement must state the amount of the payment due from the taxpayer at the time of execution of the agreement, which must be at least 25% of the amount needed to redeem the parcel at the inception of the agreement.*

B23. *Commission on Disabilities*

23.1 *This Commission on Disabilities shall consist of five (5) members and two (2) associate members, appointed by the Board of Selectmen, each serving a three (3) year term, pursuant to Charter § 4-2.*

23.2 *A quorum of the Commission on Disabilities shall consist of three (3) members or associate members, if designated by the Chair in the case of absence, inability to act, or conflict of interest on the part of any regular member, or in the event of a vacancy on the Commission.*

23.3 *The Commission on Disabilities shall act by a majority vote of its members or associate members, designated as described herein, present or otherwise entitled to vote under the Open Meeting Law, provided however, that if only a quorum of three (3) members or associate members is present, the vote must be unanimous to carry.*

B24 Appointment of the Tree Warden

The Town Manager shall appoint a Tree Warden to carry out the duties as described in Massachusetts General Laws Chapter 87 and shall have general supervision over the Tree Warden.

CHAPTER C

BYLAWS: GENERAL PROVISIONS

C1. Repeal of Bylaws

These bylaws may be repealed or amended at any annual town meeting, or at any other town meeting specially called for the purpose, provided an article or articles for such purpose has been inserted in the warrant for such meeting.

C2. Date of Effectiveness

These Bylaws shall go into effect upon their acceptance by the Town and the fulfillment of all legal requirements for their effectiveness.

C3. Fine for Violation

Except as otherwise provided specifically in any article of these Bylaws, any person violating any of these Bylaws shall be punished by a fine not exceeding fifty dollars ($50.00) for each offense.

CHAPTER D

ADMINISTRATIVE PROVISIONS

D1. Safekeeping of Records

All bonds, contracts, and written agreements pertaining to the several departments shall be placed for safe keeping in the custody of the Town Clerk, except as otherwise provided by law.

D2. Inspector of Gas Piping and Gas Appliances

The Town Manager shall in each year appoint an inspector of gas piping and gas appliances in buildings, whose duty shall be the enforcement of the rules and regulations adopted by the Board established by General Laws, Chapter 25, Section 12H.

D3. Receipt of Fees

All fees received by any Town officer or employee in his official capacity shall be paid into the Town Treasury.

D4. through D8. Perpetual Care Bylaw

D4 *The Town will accept from any person a sum of money, not less than $100.00, the income therefrom to be used for the annual care and maintenance of such lot or lots in a public cemetery of the Town as the person shall designate, and for the care, maintenance and improvement of the cemetery in which such lot or lots are located. Such deposit shall be a perpetual fund and will be pooled with other deposits of a similar nature that are received to comprise the Acton Cemetery Perpetual Care Fund.*

D5 *The Town Treasurer shall receive all sums of money paid in accordance with the preceding section and shall give a proper receipt of the Town therefor. He shall keep the Cemetery Commissioners regularly informed as to the cemetery lots for which perpetual care funds have been established. He shall annually, at such time as the Cemetery Commissioners request, pay over to said Commissioners all income earned on such sums. Such income shall be judiciously and economically expended by the Cemetery Commissioners, first, for the care and maintenance of the lot or lots, including the monuments and markers thereon, designated by the donor and second, for the care, maintenance and improvement of the cemetery in which such lot or lots are located.*

D6 *Said Cemetery Commissioners shall faithfully apply all amounts received by them in accordance with the provisions of this bylaw.*

D4. through D8. Perpetual Care Bylaw - continued

D7 *The following form of receipt shall be given in behalf of the Town by its Treasurer to persons depositing money under the provisions of this bylaw.*

> *"The Town of Acton" acknowledges receipt of $_____ from (A.B.) as a perpetual fund, the income of which is to be used for the maintenance and repair of the following lots in the cemeteries and for the maintenance, care and improvement of the cemetery in which such lots are located. (Insert description of lots.) This money is received and shall be applied in accordance with a bylaw of the Town adopted November 28, 1977.*

D8 *This bylaw shall apply to all sums deposited with the Town for the perpetual care of new cemetery lots after its adoption. The provisions of the bylaw adopted March 25, 1901, as amended, shall continue to apply to all sums previously deposited with the Town under its provisions.*

D9. Fees of the Town Clerk (Rescinded 4/7/99 - Article 40)

D10. Sewer Assessment Bylaw

D10 Sewer System

1. ***Allocation of Cost of Sewer System****. The entire cost of laying out, constructing and operating a system for the collection, treatment and disposal of sewage for all or any part of the Town shall be borne by the land benefited by such system, in accordance with the following provisions , except that costs incurred in connection with the planning and construction of the sewer collection and treatment facility for Middle Fort Pond Brook Sewer District, for archeological studies, paving of roads, engineering peer reviews, police details, traffic studies, and land acquisition, amounting in total to $1,336,600, shall be allocated to taxpayers at large; and except for such costs as the Town Meeting, by a two-thirds vote, at a town meeting subsequent to this November 15, 1999 Special Town Meeting, shall allocate to taxpayers at large.*

2. ***Assessment by Uniform Unit Method.***

   a. *The Town, acting through its Sewer Commissioners, shall assess the owners of all land abutting any way in which there is a public sewer line constructed by the Town, by the uniform unit method, as authorized by G.L. c. 83 §15.*

D10. Sewer Assessment Bylaw

2. Assessment by Uniform Unit Method - continued

b. *The Sewer Commissioners shall establish sewer assessment units, as follows:*

(i) *The owner of land used for a single family residence shall be assessed on the basis of one sewer unit. The owner of undeveloped land zoned for single family residential use shall be assessed on the basis of the maximum number of single family residences which may be constructed on such land as of right under the zoning requirements then in effect, without approval of the further subdivision of such land under the Subdivision Control Law.*

(II) *The owner of land used for multi-family residential use, shall be assessed on the basis of .67 times the number of dwelling units presently existing on such land, provided each unit has fewer than three bedrooms as defined by Title V. Vacant land zoned for multi-family use shall be assessed on the basis of .67 times the maximum number of units which can be constructed as of right under the zoning then in effect, without approval of further subdivision of such land under the Subdivision Control Law. Multi-family units with three or more bedrooms shall be assessed on the basis of one sewer unit per dwelling unit. Each owner of a condominium or cooperative dwelling unit in a multi-family residential building shall be assessed only for his or her dwelling unit.*

(iii) *The owner of land used or zoned for business use, including land in the Village, Office, Business districts, except land in such districts actually used for residential or other purposes, shall be assessed on the basis of a number of sewer units calculated by multiplying the maximum floor area ratio (FAR) permitted as of right under the zoning requirements then in effect times the lot area and dividing the result by 4000, in accordance with the following formula.*

$$\text{Number of Sewer Units} = \frac{\text{Maximum FAR} \times \text{Lot Area}}{4000}$$

(iv) *The owner of land used or zoned for industrial use shall be assessed on the basis of a number of sewer units to be determined by the Sewer Commissioners, taking into account the expected daily sewage flow from such land based on Title V design flows.*

(v) *The owner of land used or zoned for other purposes not specified in the foregoing sections, including , but not limited to, institutional and non-profit uses, shall be assessed on the basis of a number of sewer units to be determined by the Sewer Commissioners, taking into account the expected daily sewage flow from such land based on Title V design flows.*

D10. Sewer Assessment Bylaw - continued

3. ***User Fees for Land Not Subject to Assessment.*** *The Sewer Commissioners shall establish just and reasonable fees for the use of the public sewer system by the owner of any land, including public land, not liable to assessment, which fee shall be based on the avoided cost of construction of sewage disposal facilities to serve such land.*

4. ***Assessment Rates.*** *The Sewer Commissioners shall establish the assessment rate for land within the Middle Fort Pond Brook sewer area, based on total construction costs for the sewerage system serving such area, including all costs of land acquisition, engineering and design, financing and construction, divided by the total number of existing and potential sewer units within such area. In establishing such rate, the Sewer Commissioners shall apportion the total construction costs between costs required to serve the Middle Fort Pond Brook area and costs required to serve future areas within the Town and shall assess owners within the Middle Fort Pond Brook area only such costs as are reasonably necessary to serve such area, after deducting any construction costs to be recovered pursuant to Section 3 from users of the system not subject to assessment.*

5 ***Sewer Privilege Fees.***

a. *The Sewer Commissioners may establish reasonable fees pursuant to G.L. c. 83, § 17 to cover costs of construction of common sewers and other facilities required to serve land not previously served by the sewer system and not previously assessed to the owner of such land. Any such fee shall be reduced to the extent the landowner pays such expenses, in accordance with G.L. c. 83, § 22.*

b. *The Sewer Commissioners may establish reasonable fees pursuant to G.L. c. 83, § 17, to cover costs of construction of common sewers and other facilities required to serve land previously assessed a sewer betterment based on its existing use and/or its existing zoning potential where such land is later developed and/or subdivided for more intensive use (such as through a comprehensive permit under G.L. c. 40B, a zoning change, a subdivision, an approval not required plan, or other means). This fee shall be calculated based on the number of Sewer Assessment Units attributable to the intensified use of the land minus the number of Sewer Assessment Units originally assessed to the land, and may be adjusted by such other factors as the Sewer Commissioners, by regulation promulgated pursuant to this bylaw, determine to be appropriate. This fee shall be paid before any sewer connection permit or building permit is issued for the intensified use or, if a sewer connection permit or building permit is not required for the intensified use, before that use is commenced. The Sewer Commissioners may, by regulation promulgated pursuant to this bylaw, divide this fee among the land involved.*

D10. Sewer Assessment Bylaw

5 Sewer Privilege Fees - continued

c. *The fees charged under this Section may be applied by the Sewer Commissioners in their discretion to the costs of construction of the common sewers and other facilities, the debt service with respect thereto, and other costs and expenses of the sewer system as appropriate.*

6. Annual User Fees. *The Sewer Commissioners may from time to time establish just and equitable annual user charges to cover the cost of maintenance, repairs and operation of the sewer system.*

7. Rules and Regulations Concerning Sewer Assessments. *The Sewer Commissioners may adopt such reasonable rules and regulations with respect to the calculation of sewer assessments or fees as may be necessary or appropriate to implement the provisions of this bylaw.*

8. Applicability of General Laws. *Except as provided herein or in any special legislation applicable to the Town, the provisions of the General Laws relative to the assessment, apportionment, division, re-assessment, abatement and collection of sewer assessments and to liens therefore and interest thereon shall apply to assessments made hereunder.*

9. Rules and Regulations Concerning Use of Sewer System. *The Sewer Commissioners may establish rules and regulations concerning the use of the public sewer system, including but not limited to, rules and regulations prohibiting the deposit of any harmful or deleterious substance into the system, for regulating connections to the system and establishing civil penalties for violation of such rules.*

D11. Automatic Amusement Devices ***(Rescinded 4/7/99-Article 40)***

D12. Sealing Fees ***(Rescinded 4/7/99-Article 40)***

D13. Public Bidding ***(Rescinded 4/2/01-Article 22)***

D14. Disposal of Personal Property

Any board or officer in charge of a department of the Town may, with the approval of the Board of Selectmen, transfer to another town department or transfer by sale, any personal property of the Town within the possession or control of the department which has become obsolete, or is not required for further use by the department; provided, however that any such property which is to be disposed of, the aggregate value of which, in the opinion of the Board of Selectmen, exceeds $1,000.00, shall only be sold following public bid in a manner prescribed by said Board of Selectmen.

D15. Fee for Permitting of Ice Cream Truck Vendors

Pursuant to M.G.L. c. 6, § 172B½ and 520 CMR 15.00, the application fee for the issuance or renewal of a permit to engage in Ice Cream Truck Vending as defined in 520 CMR 15.02 shall be $100, or such larger amount as from time-to-time the Permitting Authority may determine and the Board of Selectmen may approve, to cover the Permitting Authority's costs for conducting the requisite criminal background check pursuant to 520 CMR 15.05(1)(b) and (2)(b), conducting the investigation into the criminal history of the permit applicant to determine eligibility pursuant to M.G.L. c. 6, §172B½ and 520 CMR 15.05(3)(b), and otherwise administering the ice cream truck vendor permit application review.

CHAPTER E

GENERAL PUBLIC REGULATIONS

E1. Street Numbering

Street numbers shall be provided for each dwelling, each business building and each industrial building by the owner of such structure in accordance with the following:

- ***a.*** *The number shall be at least three (3) inches in height and shall be clearly visible from the street or roadway upon which the building faces. The numbers shall be placed on the structure itself or on a suitable support near the main entrance to the structure.*

- ***b.*** *The numbers shall be those which have been in current use, except as provided in clause (c) below. If the structure has not been previously assigned a street number, it shall be the owner's responsibility to obtain such a number from the engineering department of the Town during regular office hours.*

- ***c.*** *If a survey of street numbering is completed and if changes in street numbering are required in order to implement that survey, then the owner of the affected structure shall make the required changes within three (3) months of receiving proper notification. Numbers shall be installed as outlined in clause (a) above.*

- ***d.*** *The enforcement of this Bylaw shall be in the jurisdiction of the Chief and Deputy Chief, Fire Department. Failure to comply with this regulation shall subject the offending property owner to a fine not exceeding ten dollars ($10.00).*

E2. through E3. Discharge of Firearms

E2*. No person shall fire or discharge any firearm within the limits of any park, playground or other public property except with the consent of the Board of Selectmen, nor discharge any firearm on any private property except with the consent of the owner or legal occupant thereof.*

E3*. This Bylaw shall not apply to lawful defense of life or property, nor to any law enforcement officer acting in the discharge of his duties. Enforcing person - regular police officer - Fine $25.00.*

E4. Abandoned Wells

The owner or owners of land whereon is located an abandoned well or a well in use must either provide a covering for such well capable of sustaining a weight of three hundred pounds or fill the same to the level of the ground. The penalty for the violation of this Bylaw shall be a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00).

E5. Excavations

The owner or owners of any land which has been excavated in any way shall, within five (5) days following receipt of written notice from the Selectmen that the Selectmen have determined that said excavation constitutes a hazard to public safety, erect barriers or take other suitable measures to protect persons from harm therefrom. Failure to comply herewith shall be subject to prosecution under the provisions of Section 21 (19) of Chapter 40 of the General Laws and the penalty for violation hereof shall not be more than two hundred dollars ($200.00).

E6. through E9. Unregistered Motor Vehicles

E6*. Unregistered motor vehicles which are unfit for use, permanently disabled or otherwise inoperative due to dismantling or other causes shall not be stored, parked or placed upon land in the Town unless the same shall be within a building or in an area unexposed to the view of the public and abutting residents or shall be in an area properly approved for the keeping of same by licensed junk dealers or automobile dealer.*

E7*. Owners or persons having control of the land on which such storing, parking or placing of unregistered motor vehicles occurs shall, within five (5) days following receipt of a notice from the Selectmen, remove or enclose such vehicle.*

E8*. The penalty for violation of this Bylaw shall be not less than twenty-five dollars ($25.00) for each offense. Each day that such violation continues shall constitute a separate offense.*

E9*. No person shall operate a recreational motor vehicle within the limits of any park, playground or other public property except with the written consent of the Board of Selectmen, nor on any private property except with the written consent of the owner or legal occupant thereof. The penalty for violation of this Bylaw shall be a fine of not more than fifty dollars ($50.00).*

E10. Registration of Ownership of a Building used for Multi Family Occupancy

The owner of any house or building, or part thereof, which is rented, leased, let or hired out to be occupied or is occupied or is intended, arranged or designed to be occupied as the home or residence of more than two (2) families living independently of each other and having a common right in halls, stairways, yard, cellar, sinks, water closets or privies, or any of them, and every lessee of the whole or of two (2) or more tenements in any such house or building shall annually during the month of April file in the office of the Town Clerk a notice containing his name and address, and also a description of the property, by street number or otherwise, as the case may be, in such manner as will enable the Board of Health and building inspector easily to find the same; and also the number of apartments in each house, the number of rooms in each apartment, the number of families occupying the apartments. The notice shall contain the name and address of some agent for the house, for the purpose of receiving service of process, and notice to and service of process upon each agent shall bind the principal.

E11. Fire Lanes

a. *The Fire Chief may designate Fire lanes within the limits of any private way, parking area, or driveway for the access of fire apparatus to multiple family dwellings, stores, schools and places of public assembly. To the extent feasible fire lanes shall not be located in any area used for parking spaces before May 13, 1974. After May 13, 1974, no parking spaces required by the Zoning Bylaw shall be located in any area designated as a Fire Lane.*

b. *The owner of record of any area designated as a Fire Lane shall provide and install signs that shall read "FIRE LANES - NO PARKING - TOW ZONE". The size, materials and location of such signs shall be approved by the Fire Chief.*

c. *It shall be unlawful to obstruct or block any area designed as a Fire Lane with a vehicle or by any other means.*

d. *Any vehicle parked or left unattended within a designated Fire Lane may be removed or towed under the direction of a Police Officer at the owner's expense.*

e. *Any person violating section (b) shall, for each offense, be punished by a fine of fifty dollars ($50.00). Each day that such violation continues shall be a separate offense.*

f. *Any person violating section (c) or section (d) shall, for each offense, be punished by a fine of ten dollars ($10.00).*

E12. through E21. Regulations and Licensing Solicitors and Canvassers

E12. License Required

It shall be unlawful for any solicitor or canvasser as defined in this Bylaw to engage in such business within the Town of Acton without first obtaining a license therefore in compliance with the provisions of this Bylaw. The provisions of this Bylaw shall not apply to any person engaged in the soliciting for charitable, benevolent, fraternal, religious or political activities, nor to any person exempted under Chapter 101 of the General Laws, nor to any person duly licensed under Chapter 101 of the General Laws, nor to any person exempted by any other General Law, nor shall this Bylaw be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries.

E12. through E21. Regulations and Licensing Solicitors and Canvassers-cont

E13. Definition

A solicitor or canvasser is defined as any person who, for himself, or for another person, firm or corporation, travels by foot, automobile or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or to take orders for retail sale of goods, wares, merchandise, or services, including, without limitation, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment on such retail sales.

E14. Applications

Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under the penalties of perjury, containing the following information:

- ***a****. Name of applicant.*
- ***b****. Address of applicant (local and permanent address).*
- ***c****. Applicant's height, weight, eye and hair color.*
- ***d****. Applicant's Social Security Number.*
- ***e****. The length of time for which the right to do business is desired.*
- ***f****. A brief description of the nature of the business and the goods to be sold.*
- ***g****. The name and home office address of the applicant's employer, if self-employed, it shall so state.*
- ***h****. A photograph of the applicant which picture shall be submitted by the applicant and be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner.*
- ***i****. If operating a motor vehicle, the year, make, model, motor number, registration number, state of registration, vehicle's owner and address.*

At the time of filing the application, each applicant shall pay a fee of $10.00.

E12. through E21. Regulations and Licensing Solicitors and Canvassers - cont

E15. Investigation and Issuance

1. *Upon receipt of the application, the Chief of Police shall investigate the applicant's reputation to determine from prior business practices he/she is a suitable person to be licensed.*

2. *After such investigation the Chief of Police shall endorse on such application his approval or disapproval. If disapproved, the applicant shall have the right of appeal to the Board of Selectmen.*

3. *Such license when issued shall contain the signature of the Chief of Police or the Board of Selectmen and shall show the name, address, and photograph of said licensee, the date of issuance, and the length of time the same shall be operative, as well as the license number. The Police Department shall keep a record of all licenses issued for a period of six (6) years. Solicitors and canvassers when engaged in the business of soliciting or canvassing are required to display an identifying badge issued by the Police Department, by wearing said badge on an outer garment. Each licensee is required to possess an individual license.*

E16. Expiration of License

Each license issued under the provision of this Bylaw shall be enforced for a period not exceeding sixty (60) days, unless sooner revoked.

E17. Renewal of License

A license issued under the provisions of this Bylaw may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such material as required by the Chief of Police.

E18. Transfer or Revocation of License

No license shall be transferred. The Chief of Police may revoke a license for any violation of this Bylaw.

E19. Misrepresentation

1. *No solicitor or canvasser, licensed or exempted from license, may misrepresent, in any manner, the buyer's right to cancel as stipulated by Chapter 93, 93A and 255D of the General Laws.*

2. *No solicitor or canvasser, licensed or exempted for license, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office, or other establishment with the purpose of making sale of consumer goods or services.*

E12. through E21. Regulations and Licensing Solicitors and Canvassers - cont

E20. Duty of Police to Enforce

The Police Officers of the Town of Acton shall enforce this Bylaw.

E21. Penalty

Any person violating any provision of this Bylaw shall, upon conviction thereof, be punished by a fine not to exceed fifty dollars ($50.00) for each and every offense. Each day on which a person solicits without a license shall constitute a separate offense.

E22. through E25. Animal Control Bylaw

E22 *No person shall own or keep a dog, six months or older, within the Town unless a license for such dog is obtained from the Town Clerk. No person shall maintain a kennel within the Town unless a license for such kennel is obtained from the Town Clerk. No kennel may obtain a license from the Town Clerk until such kennel has passed an inspection by the Animal Control Officer. The license period is the time frame between January 1st and the following December 31st, inclusive. The fee for each such license will be determined by the Board of Selectmen in a public meeting.*

E23 *Any person who is the owner or keeper of a dog or a kennel in the Town of Acton and who fails to license said dog or kennel within the time required by Chapter 140, Sections 137 and 137A of the General Laws shall be subject to a penalty of fifty dollars ($50.00) to be collected as provided by law.*

E24 *No person owning or keeping any animal in the Town of Acton shall permit the animal to go at large to the injury or nuisance of others. In addition, a dog should not go outside the boundaries of the property of its owner or keeper unless under the complete and effective control of said owner or keeper by means of a leash or otherwise.*

E25 *Owners or keepers of animals in violation of the foregoing section shall, be subject to fines or other remedies permitted by Chapter 140 of the General Laws as determined by the Board of Selectmen.*

E26 *The Town of Acton Animal Control Officer, or any other Town official acting as his or her deputy or designee, is authorized to enforce this Bylaw and the Commonwealth's animal control laws found in Massachusetts General Laws Chapter 140, Sections 137A through 174F as may be amended or enlarged from time to time.*

E26. through E34. Use of Tobacco and Smoking Products - Deleted

Miscellaneous Prohibitions (HAS BEEN DELETED) ATM 4-3-06 Article 34

E35. Peeping or Spying

Unless authorized by the owner or tenant no person, except an officer of the law in the performance of his duties, shall enter upon the premises of another person or upon any public property with the intent of peeping in a window of any home or other building or by spying in any manner upon any person.

Any person violating the provisions of this section may, upon conviction of such violation, be fined not more than twenty-five dollars ($25.00) for each offense.

E36. Graffiti & Rubbish

No person shall make any indecent figure or write any indecent or obscene words upon any fence, building or structure in any public place, or upon any street, sidewalk or wall.

E37. Injurious Debris

No person shall throw in any manner in any public way in the Town, any article, substance, or material which may prove injurious in any respect to the hoofs of animals, or the rubber tires of automobiles for other vehicles.

E38. Street/Sidewalk Obstruction

No person shall place, or cause to be placed, in any of the public streets, or sidewalks in the Town, without the written license from the Selectmen, any material whatever, or any rubbish of any kind and suffer same to remain for twenty-four hours.

E39. Public Way Obstruction/Destruction

No person shall break or dig up the surface for any purpose whatever; set or place any fence, post, tree, or edgestone, or alter or change the position or direction of any fence, post, tree or edgestone; swing any door or gate; or change the grade or width in, upon, or over any public way without the written license of the Board of Selectmen, or its designee,which shall prescribe the limitations or restrictions of such activity.

E40. Discharge of Water on Town Ways

No person shall be allowed to discharge in any manner from pipes or hoses from sump pumps, or subdrains from private property onto the public way, or onto public drains, without the written permission of the Board of Selectmen and Engineering Department, not including a temporary discharge which does not exceed 24 hours during any six (6) month period.

E41. Alcoholic Beverage on Town Common

No person shall, at any time, consume any alcoholic beverage on the Town Common.

E42. Alcohol in Public

No person shall drink or possess an unsealed container of any alcoholic beverage as defined in Chapter 138, Section 1 of the Massachusetts General Laws while in or upon any public way or any way which the public has a right of access, whether in or upon a vehicle, or on foot, or while in or upon any public place or public building or playground (except that the Board of Selectmen may, if they deem it appropriate, issue a special one-day liquor license for events at the Senior Center and NARA Park), or while in or upon a private parking lot, or a private way to which the public has access as invitees or licensees, or in or upon any private land or place without the written consent of the owner or authorized person in control thereof. A police officer may arrest without a warrant any person who commits a violation of this Bylaw in his presence and may seize the alcoholic beverages, which shall be kept by him and destroyed upon adjudication or returned to the person entitled to lawful possession.

E43. Night Hour Bylaw

1. *No store or place of business engaged in the retail sale of food shall, except as hereinafter provided, be open for the transaction of business between the hours of 12:00 midnight and 6:00 A.M.*

2. *The term food used in this bylaw shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law or permit or license granted to the seller of such beverages shall otherwise provide)*

3. *This Bylaw shall not apply to the sale of food or alcoholic beverages when such sale is by a common victualler or innholder, licensed under Chapter 140 of the General Laws, primarily engaged in the sale of food to be consumed on the premises where sold.*

4. *In cases where, in their opinion, the public good requires it, the Board of Selectmen may issue a special permit allowing a store or place of business engaged in the retail sale of food to remain open for the transaction of such business to an hour, specified in the permit, later than 12:00 midnight or to remain open 24 hours a day. Such special permits shall remain in effect for a period of one (1) year.*

5. *Violators of this Bylaw shall be subject to a fine of $200.00 for each violation. In case of continuing violation, every calendar day upon which a store shall remain open in violation of this Bylaw shall be deemed a separate offense.*

6. *This bylaw shall not apply to any store or place of business engaged in the retail sale of food which was on March 17, 1988 regularly and customarily open for the transaction of business between the hours of 12:00 midnight and 6:00 A.M. Such exemption to existing business shall lapse and be of no further force and effect should any such businesses at any time fail to operate between the hours of 12:00 midnight and 6:00 A.M. for four (4) consecutive weeks.*

E44. Fire and Police Alarms

No person shall install, maintain or use any alarm system or other equipment designed to summon the Acton Police Department or the Acton Fire Department that is automatically keyed to or directly or indirectly activates the telephone numbers or lines controlled by or listed to the Police Department or Fire Department without a permit issued by the Acton Chief of Police or the Acton Fire Chief, respectively, or his designee, pursuant to rules and regulations adopted by the Board of Selectmen. Said rules and regulations may impose fines for their violation. The Police Chief or Fire Chief or his designee shall be empowered to enforce said rules and regulations and may use the alternative method pursuant to Section 21D of Chapter 40 of the Massachusetts General Laws. All such alarm systems or other equipment designed to summon the Acton Police Department or the Acton Fire Department shall be removed or an appropriate permit obtained within 60 days of the effective date of this bylaw.

E45. Non-Criminal Disposition

Any bylaw of the Town of Acton or regulation of any town officer, board or department, the violation of which is subject to a specific penalty, may, in the discretion of the town official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the General Laws. Enforcing person as used in this bylaw shall mean any regular police officer with respect to any offense; the Building Commissioner, Zoning Enforcement Officer, Health Director, Fire Chief, or Deputy Chief, Conservation Administrator, DPW Director, Highway Superintendent, Engineering Administrator, Animal Control Officer and any such other official as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one (1) official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

Without intending to limit the generality of the foregoing, it is the intention of this bylaw that the following bylaws, rules and regulations are to be included within the scope of this bylaw and that the specific penalties as listed here shall apply in such cases.

Rules and Regulations of the Acton Board of Health - enforcing person – Health Director - $10.00 per offense per day.

Chapter E - Sections E1- Street Numbering Bylaw; enforcing person - Chief and Deputy Chief, Fire Department - Fine $10.00.

Chapter E - Sections E2, 3 - Discharge of Firearms Bylaw - enforcing person - regular police officer - Fine $25.00.

Chapter E - Sections E6, 7, 8, 9 - Unregistered Motor Vehicles Bylaw - enforcing person - regular police officer - Fine $25.00.

Chapter E - Sections E11, - Fire Lanes Bylaw - enforcing person, Chief and Deputy Chief, Fire Department - Fine $50.00.

E45. Non-Criminal Disposition - continued

Chapter E - Sections E12, 13, 14, 15, 16, 17, 18, 19, 20, 21 - Regulations and Licensing Solicitors and Canvassers Bylaw; enforcing person - regular police officer - Fine $50.00.

Chapter E - Sections E22, 23, 24, 25 - Animal Control Bylaw; enforcing person – Animal Control Officer - Fine $25.00 – except $50.00 for violation of Section E23.

Chapter E - Section 34 - DELETED

Chapter E - Sections E35, 36, 37, 38, 39, 40, 41, 42 – Miscellaneous Prohibitions Bylaw; enforcing person - regular police officer - Fine $25.00.

Chapter E - Section E43 - Night Hour Bylaw - enforcing Person - Regular Police Officer - Fine $50.00, each offense.

Chapter E - Section E44 - Police and Fire Alarms - enforcing Persons - Chief of Police, Fire Chief or, Conservation Administrator - Fine $50.00, each offense.

Chapter E - Section E45 - Non-Criminal Disposition - Rules and Regulations of the Conservation Commission - Rules and Regulations of the Board of Selectmen relating to use of land under their jurisdiction - Rules and Regulations of the Tree Warden - enforcing Persons - Municipal Properties Director, Conservation Administrator - Fine $50.00, each offense.

Chapter E - Section E58 - Police Details - enforcing Persons – Regular Police Officer - Fine $300.00, each offense.

Chapter F - Sections F1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 – Wetland Protection Bylaw; enforcing persons - Conservation Administrator, Regular Police Officer - Fine $300.00 each offense.

Chapter G - Sections G1, 2, 3, 4, 5, 6 - Earth Removal Bylaw of the Town of Acton; enforcing person - Building Commissioner - Fine $50.00 first offense; $100.00 second offense; $200.00 each subsequent offense.

Chapter H - Disposal Bylaw; enforcing person - Highway Superintendent or Director of Public Works - Fine $200.00. (CHAPTER H RESCINDED 4/6/92 - ART.12)

Chapter I - Hazardous Materials Control Bylaw; - enforcing person - Fire Chief or Health Director - Fine $50.00 first offense; $100.00 second offense; $200.00 each subsequent offense.

E45. Non-Criminal Disposition - continued

Chapter L - Handicapped Parking Bylaw - enforcing person - Regular Police Officer - Penalty per violation as established from time-to-time by order or regulations of the Board of Selectmen adopted pursuant to Acton General Bylaw Chapter L, Section L2.

Chapter M - Zoning Bylaw; enforcing persons: Zoning Enforcement Officer. - Fine: Each day that a violation of the Zoning Bylaw continues shall constitute a separate offense. Violation of the Zoning Bylaw shall be subject to a penalty of $300.00 for each offense, except that violation of Section 7 of the Zoning Bylaw shall be subject to a penalty of $50.00 for each offense for the first 7 days, and $300.00 for each offense thereafter."

Chapter P - Local Historic District Bylaw; enforcing Person – Building Commissioner Fine $25.00, each offense.

Chapter U - Discharges to the Municipal Storm Drain System; Enforcing Person – Board of Health or its authorized agent or employee; Fine $100.00 per day for the first offense; $200.00 per day for the second offense; $300.00 per day for the third and each subsequent offense.

Chapter X - Stormwater Management and Erosion & Sediment Control; Enforcing Person – Conservation Administrator, DPW Director or Health Director, or their respective authorized agents or employees; Fine $100.00 per day for the first offense; $200.00 per day for the second offense; $300.00 per day for the third and each subsequent offense.

Specification for Regulating Construction within Public Ways; enforcing person - Director of Public Works, Engineering Administrator - Fine $50.00.

E46. through E56. Sale of Tobacco and Smoking Products - Deleted
ATM 4-3-06 Article 34

E57. Motorized Craft on Ice House Pond:

A. *Except for emergency rescue and law enforcement purposes, and for purposes of construction and maintenance by the Town of Acton or its designee, no person shall launch, place, float, use, or land a craft with an internal combustion engine in or on Ice House Pond, which pond is located off Concord Road in the East Acton area. The Police Officers of the Town of Acton shall enforce this bylaw. Violation of this bylaw shall be punishable by a fine of three hundred dollars ($300.00), whereby each incident of violating this bylaw and each day that such violation continues shall constitute a separate offense.*

E58. Police Details

1. *Requested Police Details. Any person or entity performing any construction, operation, excavation, maintenance, repair, installation, restoration, utility work or other work within, over, under or along any public way, street, sidewalk, road shoulder or other public place within the Town shall first notify the Acton Police Department. Any person may request that police details be furnished by the Acton Police Department as the Chief of Police (or his or her designee) may determine to protect public health, safety and welfare during the performance of such work or for any other activity or event for which a police detail is requested. The person or entity requesting such police details shall pay the Acton Police Department at the prevailing rate for all such police details as are provided by the Acton Police Department pursuant to such a request. The Chief of Police (or his or her designee) may in his or her discretion determine that such police details are not required in the event the person or entity complies throughout such work with applicable provisions of the General Laws permitting the use of flagmen as an alternative to such police details.*

2. *Required Police Details. Upon receipt of a notice pursuant to the prior section, or on his or her own initiative, the Chief of Police (or his or her designee) shall have the authority to require police details where he or she determines that the passage or flow of vehicular or pedestrian traffic may be disrupted, or where the public safety, health and welfare may be otherwise affected, on any public way, street, sidewalk, road shoulder or other public place within the Town as a result of any construction, operation, excavation, maintenance, repair, installation, restoration, utility work or other work within, over, under or along said public way, street, sidewalk, road shoulder or other public place, except where police details are provided by the Massachusetts State Police for that work. The person or entity performing such work shall pay the Acton Police Department at the prevailing rate for all such police details as are provided by the Acton Police Department.*

3. *Prohibited Work. No person or entity shall perform any construction, operation, excavation, maintenance, repair, installation, restoration, utility work or other work within, over, under or along said public way, street, sidewalk, road shoulder or other public place within the Town until the person or entity has complied with these bylaws.*

4. *Regulations. The Chief of Police shall adopt written criteria consistent with applicable law and with these bylaws concerning the process to be implemented, payments to be made for, and emergency exceptions (if any) to the procurement of such police details. The Chief of Police may require the posting of a bond or cash in advance of such work as reasonably necessary to secure payment for such police details.*

E58. Police Details (continued)

5. *Failure to Pay. Any such person or entity who fails to make payment for requested or required police details when due shall pay to the Town, in addition to the cost of the police details as set forth above, interest at the rate equivalent to that assessed for unpaid taxes pursuant to the provisions of Massachusetts General Laws Chapter 59, Section 57, as said provisions may from time to time be amended, calculated from the date the police details are provided to the date on which the person or entity makes full payment for such police details as required hereunder.*

6. *Violations. Any such person or entity that violates any provision of this Section E58 shall be subject to a penalty of three hundred dollars ($300.00) for each offense. Each day that such violation continues shall constitute a separate offense. The Chief of Police or his or her designee is hereby authorized to stop any work conducted in violation of any provision of Section E58.*

7. *Exemptions. The Town of Acton is exempt from the requirements of Section E58.*

CHAPTER F

ENVIRONMENTAL PROTECTION

WETLAND PROTECTION

F1. Purpose

The purpose of this Bylaw is to protect the wetlands, vernal pools, adjoining buffer zones, banks, lands subject to flooding and riverfront areas (collectively, "the resource areas") of the Town of Acton by controlling activities deemed to have a significant impact upon wetland interests. Said wetland interests include (but are not limited to) the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution prevention, fisheries, protection of endangered or threatened species, and wildlife habitat (collectively, the interests protected by this Bylaw.) The Town of Acton Wetlands Map shows the approximate location of most of the Town's wetlands and shall be used as a guide to wetland location.

F2. Provisions

No person shall remove, dredge, fill or alter any resource area except as provided in Section 4, without first filing a Determination of Applicability, or a written Notice of Intent under this Bylaw, and obtaining and complying with the terms of said Determination or with an Order of Conditions.

F3.1 Definitions

The term "person" as used in this Bylaw shall include any individual, group of individuals, association, partnership, corporation, or business organization, trust or estate, the Commonwealth, or any political subdivision thereof, administrative agency, public or quasipublic corporation or body, or any other legal entity or its legal representatives, agents or assigns.

F3.2

The term "abutter" as used in this Bylaw shall include all property owners, determined by the most recent maps in the Assessor's Office, that abut the land on which the proposed activity is to take place and such other persons as the Commission may determine.

F3.3

The term "activity" shall mean any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; any form of construction, reconstruction, or expansion of any building, structure, road or other way; or alteration or any changing of the physical, chemical, or biological characteristics of an area of land or water.

F3 Definitions - continued

F3.4

The term "alter" as used in this Bylaw shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:

- ***(a)*** *Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;*
- ***(b)*** *Changing of drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns and flood retention characteristics;*
- ***(c)*** *Drainage or other disturbance of water level or water table;*
- ***(d)*** *Dumping, discharging or filling with any material which may degrade water quality;*
- ***(e)*** *Driving of piles, erection of buildings or structures of any kind;*
- ***(f)*** *Placing of obstructions whether or not they interfere with the flow of water;*
- ***(g)*** *Destruction of plant life, including the cutting of trees, which may significantly impact the interests protected by this Bylaw;*
- ***(h)*** *Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water;*
- ***(i)*** *Application of pesticides, herbicides, or fertilizers.*

F3.5

"Buffer zone" shall mean that area of uplands within 100 feet horizontally outward from the boundary of a wetland, vernal pool (except as provided for in Section 3.14), bank, or land subject to flooding. (Note: there is no buffer zone associated with the riverfront area.)

F3.6

"Certificate of Compliance" shall mean a written determination by the Commission verifying that work has been completed in accordance with an Order of Conditions.

F3.7

"Commission" shall mean the Acton Conservation Commission, that body of members lawfully appointed pursuant to M.G.L. Chapter 40, Section 8c, for the purposes of administering and enforcing the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Town of Acton Wetland Protection Bylaw.

F3.8

"Determination Of Applicability" shall mean any review and written finding by the Conservation Commission as to whether a site or the work proposed thereon is subject to the jurisdiction of the Bylaw. See also Section F5 of the Bylaw.

F3 Definitions - continued

F3.9

"Dredge" shall mean to clean, deepen, widen or excavate, either temporarily or permanently.

F3.10

"Extension Permit" shall mean a written extension of time granted by the Conservation Commission once for a period of up to 3 (three) years, within which time authorized work shall be completed.

F3.11

"Fill" shall mean either of the following, whichever is applicable:

- ***(a)*** *to deposit or place any material so as to raise in elevation, either temporarily or permanently;*
- ***(b)*** *anything that fills or is used to fill - especially earth or gravel used for filling a hole,*

F3.12

"Notice of Intent" shall be a written notice filed by any person intending to alter, or in any way change, the physical or chemical properties of land subject to protection under the Bylaw.

F3.13

"Order of Conditions" shall mean the document issued by the Conservation Commission or the courts containing conditions which regulate or prohibit any activity subject to the Bylaw, which is to be recorded in the Registry of Deeds or Land Court.

F3.14

The term "vernal pool" as used in this Bylaw shall include, in addition to that already defined under the Massachusetts Wetlands Protection Act and regulations (310 CMR 10.00), any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways that meets the certification criteria established in the Guidelines for Certification of Vernal Pool Habitat published by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The buffer zone for vernal pools shall extend 100 horizontal feet from the mean annual high-water line defining the depression.

F3 Definitions - continued`

F3.15

The term "wetland" as used in this Bylaw includes Vegetated wetlands are wet meadows, marshes, swamps and bogs where 50% or more of the vegetative community consists of wetland indicator plants as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and regulations at 310 CMR 10.00. When vegetation is not sufficient to determine the boundary of a wetland, characteristics of hydric soils or observations of flowing water, standing water or saturated soils may be used.

Any non-vegetated area such as a creek, brook, stream, river, pond, lake, lands under said waters, and certified and uncertified vernal pools as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and regulations at 310 CMR 10.00 and Section F3.14 of this Bylaw.

F3.16

"Bank" is the portion of the land surface that normally abuts and confines a water body such as a creek, brook, stream, river, pond or lake as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and regulations at 310 CMR 10.00. A bank may be partially or totally vegetated, or comprised of exposed soil, gravel or stone.

F3.17

"Lands subject to flooding" are areas of temporary or occasional flooding as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and regulations at 310 CMR 10.00. Bordering land subject to flooding is the estimated maximum lateral extent of floodwater that will theoretically result from the statistical 100-year frequency storm. Isolated land subject to flooding is an isolated depression or closed basin without an inlet or an outlet. It is an area that at least once a year confines standing water to a volume of at least ¼ acre-feet and to an average depth of at least six inches. Some isolated lands subject to flooding may be vernal pools.

F3.18

The term "resource area" shall mean any area subject to protection under this bylaw and include any bank, wetland, vernal pool, buffer zone, lands subject to flooding or riverfront area.

F3 Definitions - continued

F3.19

The "Riverfront Area" is the area of land between a river's mean annual high water line and a parallel line measured horizontally 200 feet away. The riverfront area may include or overlap other resource areas or their buffer zones. A river is a flowing body of water that empties to any ocean, lake, pond or river and which flows throughout the year (except during drought conditions). Perennial streams are rivers; intermittent streams are not rivers. Determination of flow status shall be based on: field observations (witnessed by Conservation Commission or its authorized agent); USGS or other government maps; size of channel or bank; watershed size; stream order; streambed characteristics; local geology; biological community; and/or other appropriate evidence.

F4.1 Exemptions

No Notice of Intent hereunder need be filed in connection with an emergency project necessary for the protection of health or safety of the citizens of Acton to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town. An emergency project shall mean any project certified to be an emergency by the Town of Acton Conservation Commission or its agents within 24 hours. In no case shall any removal, dredging, filling or altering commence prior to such emergency certification nor extend beyond the time necessary to abate the emergency.

F4.2

No Notice of Intent hereunder need be filed in connection with maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, or telecommunication services.

F4.3

No Notice of Intent need be filed in connection with normally accepted maintenance procedures on land in agricultural use. The term "land in agricultural use" shall mean any qualifying wetland within a farm which is qualified or eligible to be qualified under the Farmland Assessment Act, Massachusetts General Laws, Ch. 61A ss. 1 & 2. Any proposed changes to land in agricultural use which may have a significant impact on any of the interests protected by this Bylaw must be submitted to the Conservation Commission for a Determination of Applicability.

F4.4 Septic Systems Meeting State Title V

No Notice of Intent need be filed for the replacement, repair, or installation of a residential septic system that meets the requirements of Title V of the State Environmental Code (310 CMR 15.00), that has received a permit from the Acton Board of Health, and that meets the setback requirements of this Bylaw. Any such septic system replacement, repair, or installation that may have a significant impact on any of the interests protected by this Bylaw must be submitted to the Conservation Commission for a Determination of Applicability.

F4.5 Limited Projects

Notwithstanding the other provisions of this Bylaw, the Commission may issue an Order of Conditions for limited projects listed under Section 10.53(3) of the Wetland Protection regulations promulgated under the Massachusetts Wetland Protection Act (310 CMR 10.53(3)).

F4.6 Waivers

Strict compliance with this Bylaw may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing. The waiver shall be presented at the time of filing along with a written justification stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Bylaw.

F5 Determination of Applicability

Any person may request the Conservation Commission to make a determination as to whether or not a proposed project in the wetland or "buffer zone" is significant to the interests protected by the Bylaw. This request for a Determination of Applicability shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative. A person delivering this request by hand shall be given a dated receipt. The Commission shall make such a determination within 21 days of the receipt of said request, and it shall notify the applicant by certified mail, of the results of the determination. If the Conservation Commission determines that the subject area is significant to the interests protected by this Bylaw, and said interests are not fully protected by the project as proposed, the Commission will require the applicant to file a Notice of Intent, or will attach such Orders of Conditions to ensure protection of the interests of this Bylaw. The Commission, or its agents, may, for the purpose of carrying out its duties under this Bylaw, request such plans or information as may be necessary for its evaluation, may enter upon the subject land, and may make or require to be made such examination or survey as it deems necessary.

F5.1 Abbreviated Notice of Resource Area Delineation

Any person may request the Conservation Commission to make a determination as to the precise boundaries of a resource area, including the buffer zone. This request for Resource Area Delineation shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative. A person delivering this request by hand shall be given a dated receipt. Prior to issuing a Resource Delineation, the Conservation Commission shall hold a public hearing within 21 days of the filing. Notice of the time and place of such hearing shall be given by the Conservation Commission not less than five days prior to the public hearing, by publication in a newspaper of general circulation in the Town and by mailing a notice to the applicant, the Board of Health and the Planning Board. Such hearing may be held at the same time and place as any public hearing required to be held under M.G.L. Ch. 131, s. 40. If the Commission determines that additional data or information is necessary, the hearing may be continued to a future date time certain, agreeable to both the Applicant and the Commission, and shall be posted not less than five (5) days prior to said continuation. The Resource Area Delineation shall be issued within 30 days after the public hearing and may be identical to any such delineation issued under the provisions of the Massachusetts Wetlands Protection Act (M.G. L. Ch. 131, s. 40).

F6.1 Filing Procedure for a Notice of Intent

The Notice of Intent shall be sent by certified mail, or hand delivered to the Acton Conservation Commission or its authorized representative, and shall include plans and specifications as required of an applicant by the Commission. A person delivering this Notice by hand shall be given a dated receipt. This Notice shall also include a filing fee to be designated in the rules and regulations of the Commission payable to the Town of Acton. No filing fee is required when the Town of Acton files an application. These plans shall also show the location of the wetland boundaries and shall be at a scale of 1" = 40' or any such scale that adequately depicts the area. The applicant shall also notify the clerk of the Town of Acton by hand delivery or certified mail, that such plans have been submitted to the Conservation Commission. Provided that the Notice of Intent fulfills the requirements of this Bylaw and M.G.L. Ch. 131, s. 40, only one Notice of Intent need be submitted.

F6.2 Notification of Filing

Any person filing a Notice of Intent under this Bylaw shall also notify by certified mail all abutters and the owner of the subject property, if different from the applicant, of the filing of such Notice of Intent. Such Notice shall clearly identify the land on which the work is to be done and describe the general nature of the work. Notice shall include the date, place, and time of said public hearing, and where plans may be reviewed. A list of persons so notified and proof of such notification shall be filed with the Conservation Commission prior to the Public Hearing.

F6.3 Extension Permits

The Commission may extend an Order of Conditions once for a period of up to three years. Written requests for an Extension Permit shall be made not less than thirty calendar days prior to the expiration of said Order of Conditions.

The Commission may deny an Extension Permit under any of the following circumstances:

(1) *Where no activity has begun on the project, except where such failure is due to unavoidable delay such as appeals in obtaining other necessary permits.*
(2) *Where new information not available at the time of the original permit filing has become available and indicates that the Order of Conditions is insufficient to protect the areas subject to protection.*
(3) *Where activity is causing damage to areas subject to protection.*
(4) *Where there has been activity in violation of the Order of Conditions.*
(5) *Where an Extension Permit has been previously granted for the Order of Conditions.*

F7.1 Public Hearing

Prior to issuing any Order of Conditions (Section 8.2) the Conservation Commission shall hold a public hearing within 21 days of the filing of said Notice of Intent. Notice of the time and place of such hearing shall be given by the Conservation Commission not less than five days prior to the public hearing, by publication in a newspaper of general circulation in the Town and by mailing a notice to the applicant, the Board of Health and the Planning Board. Such hearing may be held at the same time and place as any public hearing required to be held under M.G.L. Ch. 131, s. 40. If the Commission determines that additional data or information is necessary, the hearing may be continued to a future date time certain, agreeable to both the Applicant and the Commission, and shall be posted not less than five (5) days prior to said continuation.

F7.2 Failure to Act

If the Conservation Commission has failed to hold a public hearing within the 21 day period as required, or if after holding such a hearing, has failed within 21 days from the date of the close of the public hearing to issue an Order of Conditions, an appeal may be made to the Board of Selectmen, who within ten days, shall instruct the Commission to act within a period not to exceed ten days. If after this ten day period, no action has been taken by the Conservation Commission; the application shall be considered approved.

F8.1 Burden of Proof

The applicant shall bear the burden of proving that the work proposed in the application will not harm the interests protected by this Bylaw. Failure to provide adequate evidence to the Commission that the proposed work will not harm any of the interests protected by this Bylaw shall be sufficient cause for the Commission to deny the application or to grant a permit with an Order of Conditions, or, at the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

F8.2 Order of Conditions

The Conservation Commission may impose such conditions on any proposed removing, dredging, filling or altering as it deems necessary to protect and preserve the interests covered by this Bylaw. In preparing the Order of Conditions the Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of protected resource areas throughout the municipality, resulting from past activities, permitted and exempt, and foreseeable future activities. Such Order of Conditions shall be in writing and may be subject to the same constraints and be identical to any such order issued by the Acton Conservation Commission under the provisions of M.G.L. Ch. 131, s. 40, or successor statutes, and shall be issued within 30 days after the public hearing. Such Order of Conditions will expire three years from the date of issuance, unless renewed prior to expiration. No proposed work governed by an Order of Conditions shall be undertaken until all permits, approvals, and variances required by local Bylaws have been obtained and all applicable appeal periods have expired. The final Order of Conditions issued under this Bylaw shall be recorded with the Registry of Deeds for the district in which the land is located. However, if said Order is identical to the final Order of Conditions issued under the provisions of M.G.L. Ch. 131, s. 40, only one Order of Conditions need be recorded. The Conservation Commission shall have the right to file the Order of Conditions with the Registry of Deeds should the applicant fail to do so within 60 days. If a wetlands replication is required, the applicant will adhere to replication procedures established by the Commission or as set down in the Commission's Rules and Regulations.

F8.3 Setbacks for Activities

The following are the minimum distances (setbacks) of activity from the edge of wetlands or vernal pools. No activity shall be allowed within these setbacks except as provided below. These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission. The increased setbacks adopted by vote of the 2003 Annual Town Meeting shall become effective 90 days from date of this Town Meeting vote or on July 7, 2003, whichever is later, and that each of the Bylaw's existing setbacks shall remain in effect unless and until said setback is so increased.

F8.3 Setbacks for Activities - continued

The setbacks shall be as follows:

(1) *0-foot setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.*

(2) *50-foot buffer of undisturbed natural vegetation.*

(3) *75-foot setback to the edge of driveways, roadways, and structures.*

(4) *50-foot chemical-free area within which no pesticides, herbicides, or fertilizers shall be used.*

(5) *100-foot setback for underground storage of gasoline, oil, or other fuels and hazardous materials.*

(6) *100-foot setback from the mean high water line of vernal pools.*

When in the opinion of the Commission compliance with these setbacks will result in greater harm to the interests of this Bylaw than would waiver of the setbacks, the Commission is permitted to grant such waivers.

Pre-existing activities or structures not meeting the setbacks set forth above need not be discontinued or removed [but shall be deemed to be non-conforming]. No new activity shall be commenced and no new structure shall be located closer to the edge of wetlands or vernal pools than existing non-conforming like activities or structures, but the Commission may permit new activity or structures as close to the edge of wetlands or vernal pools if it finds that such activity or structure will not affect the interests protected by the Bylaw no more adversely than the existing activity or structure.

F8.4 Erosion and Sedimentation Control

Where activities are proposed within the buffer zone, erosion and sedimentation barriers and other erosion controls as necessary shall be installed between the area of activity and the wetlands or vernal pool to prevent the transport of sediment into wetlands or vernal pools. Similarly, erosion and sedimentation controls shall be installed when activities outside the buffer zone create a significant potential for transport of sediment into wetlands or vernal pools.

F8.5 Storage of Fill or Materials

If any fill is to be stored on site, it shall be stored outside of the buffer zone and/or it shall be surrounded by staked hay bales to prevent erosion and sedimentation.

There shall be no storage, disposal or burial of construction debris (for example, scrap lumber, metals, concrete, asphalt, piping, logs, stumps, etc.) within the buffer zone without the express permission of the Commission in an Order of Conditions.

F9.1 Wetlands Replacement

Wetlands or vernal pools that are altered shall in all instances be replaced by replacement wetlands of similar character. Replacement wetlands shall include, at minimum, equal area as the altered wetlands or vernal pool in a hydrologically connected location to the unaltered remainder of the wetlands or vernal pool.

F9.2 Requirements for Wetlands Replacement

Projects involving the filling and/or permanent alteration of wetlands or vernal pools shall meet the following requirements:

(1) *The proposed replacement area design must be submitted to the Commission for approval as part of the Notice of Intent.*

(2) *The replacement area must be shown to duplicate sufficiently the functions of the wetland proposed to be altered.*

(3) *The replacement area shall be constructed, to the extent possible, immediately after alteration of the existing wetland and during the same growing season.*

(4) *If after three growing seasons, the Commission determines that the replacement area has not satisfactorily developed into a wetland or vernal pool, the applicant or owner may be required to submit new plans to successfully replicate the original altered wetland. No Certificate of Compliance shall be issued until the Commission has determined that a satisfactory replacement area has been completed.*

F10. Denial

The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specification, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulatively adverse effects upon the wetland values protected by this bylaw; or where the Commission deems that no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

F11. Prior Violation

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of any order pursuant to this Bylaw, shall forthwith comply with any such order, or restore such real estate to its condition prior to any such violation; provided however that no such action, civil or criminal shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

F12. Bond

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

F13. Rules and Regulations

After due notice and public hearing, the Commission may promulgate procedural rules and regulations to effectuate the purposes of this bylaw. However, failure to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

F14. Enforcement

Any person who violates any provision of this bylaw or of any condition of a permit issued pursuant to it may be subject to a fine of not more than $300. Each day during which a violation continues may constitute a separate violation. This bylaw may be enforced pursuant to Mass. General Laws Chapter 40, Section 21D, by the Constable, Police Chief, Police Officer, Conservation Administrator, or other agent allowed by law. Upon request of the Commission, the Board of Selectmen or Town Counsel may take such other legal action as may be necessary to enforce this bylaw and permits pursuant to it. The following provides a schedule of fines for specific violations.

Alteration of a wetland or vernal pool without an Order of Conditions issued pursuant to this Bylaw - $300

Work within the buffer zone without prior submittal of Request for Determination or Notice of Intent - $200

Failure to provide sedimentation controls required by an Order of Conditions - $200

Disposal of construction debris within the buffer zone - $300

Failure to construct storm water or drainage structure according to plans - $300

Removal of trees designated for protection - $10 per inch of circumference

Storage of fill within the buffer zone - $150

F15. Appeals

A decision of the Commission may be reviewed by the Superior Court in an action filed within 60 days thereof, in accordance with Massachusetts General Law 249, Section 4.

F16. Severability

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

CHAPTER G

EARTH REMOVAL

G1

The removal of soil, loam, sand, or gravel from any land in the Town not in public use is prohibited unless authorized by permit from the Board of Appeals, organized under the Protective Zoning Bylaw, except under the following conditions:

a. *When such removal is at the site of, incidental to, and in connection with, the necessary excavation and grading of (1) a building and appurtenant driveways for which a permit has been granted by the Board of Selectmen or other licensing body, or (2) the construction of a street that has been approved by the Planning Board; the volume of loam so removed shall not exceed the volume of loam in that part of the site to be occupied by such buildings and appurtenant driveways or by the pavement of such street.*

b. *When such removal is in accordance with special permission from the Board of Appeals issued under the provisions of the Protective Zoning Bylaw as now in effect or as hereafter amended.*

G2

Application for a permit shall be filed with the Board of Appeals by the record owner of the land and shall be accompanied by a plan showing the location, boundaries, and area of the land involved and the portion thereof from which the applicant proposes to make such removal.

G3

The Board of Appeals shall fix a reasonable time for a public hearing on the application and shall give due notice thereof at the expense of the applicant, by publishing notice of the time, place and purpose of the hearing in a local newspaper, and by mailing a copy of said notice to the applicant and to the owners of all property deemed by said Board to be affected thereby, as they appear in the most recent local tax list.

G4

In granting a permit, the Board of Appeals shall impose limitations as to the time, and as to the extent of the permitted removal and such other appropriate conditions, limitations, and safeguards as the Board deems necessary for the protection of the neighborhood and of the public health, safety, convenience and welfare, and may condition the continuance of the permit upon compliance with the regulations of the Board of Appeals then in force or thereafter adopted. In its discretion the Board may require surety bond, cash, or other adequate security to insure compliance with the terms, conditions, and limitations of the permit. The concurring vote of all the members of the Board shall be necessary for the issuance of a permit.

G5. *This bylaw shall be enforced by the Board of Selectmen or other licensing body.*

G6. *The penalty for violation of this Bylaw shall be as follows.*

For the first offense.....$ 50.00
For the second offense.....$100.00
For each subsequent offense.....$200.00

CHAPTER H

DISPOSAL BYLAW

THIS SECTION WAS RESCINDED ON APRIL 6, 1992
ANNUAL TOWN MEETING - ARTICLE 12

H1. *No refuse originating from outside the corporate limits of the Town of Acton shall be disposed of in the Town's refuse disposal facility. Violators of this Bylaw shall be subject to a fine not to exceed $200.00. Each action of disposal of refuse shall constitute a separate violation under this Bylaw.*

CHAPTER I

HAZARDOUS MATERIALS CONTROL BYLAW

1. *Authority, Purpose and Definition*

1.1 Authority

This Bylaw is adopted by the Town under its Home Rule Authority, its Police Powers to protect the public health safety and welfare and its authorization under Massachusetts General Laws, (MGL) Chapter (c) 40, section 21, MGL CHAPTER 111, section 31, and MGL, Chapter 148, sections 9 and 13.

1.2 Purpose

The purpose of this Bylaw is to protect, preserve, and maintain the Town's existing and potential groundwater supply, groundwater recharge areas, surface waters, air quality and natural environment and to assure public health and safety through the proper management of hazardous materials and waste.

1.3 Definitions

The following terms shall be the following meanings in this Bylaw:

1.3.1 *"Abnormal Loss of Material or Waste" means a loss of greater than .05% of the material stored over a period of one calendar month, unless such limit is undetectable in which case the Board of Health shall set the limit.*

1.3.2 *"Biodegradable" means a product or material which decomposes at a significant rate into non-toxic materials by natural biological processes.*

1.3.3 *"CMR" means the Code of Massachusetts Regulations.*

1.3.4 *"Container" means any portable device in which hazardous materials or wastes or special wastes are stored, transported, treated, disposed of or otherwise handled.*

1.3.5 *"DEP" means the Department of Environmental Protection and/or its successors.*

1.3.6 *"Discharge" means the disposal, deposit, injection, dumping, spilling, leaking, escape, incineration or placing of any hazardous material or waste or special waste, into or on the land, water or air. Discharge includes, without limitation, leakage of such hazardous materials or wastes from containers, tanks or storage systems, or disposal of such materials or wastes into any sewage disposal systems, dry well, catch basin or landfill.*

1.3 Definitions Continued

1.3.7 *"Fire Chief" means the Fire Chief of the Town of Acton and shall include any designee of the Fire Chief.*

1.3.8 *"Hazardous Material or Waste" means any substance, including petroleum or derivatives thereof, or combination of substances which because of their quantity, concentration, physical, chemical, infectious, flammable, combustible, radioactive, genetic or toxic characteristics, may cause or significantly contribute to a present or potential risk to human health, safety, or welfare, to the groundwater resources air quality, or to the natural environment. Any substance regulated under applicable Acton Board of Health regulations and under any State or Federal laws and regulations regulating hazardous, chemical, biological or waste materials, or any amendments thereof, shall be considered hazardous material or waste.*

1.3.9 *"Owners or Operators" means each and every person who alone or severally with others has legal title to any property on which is located any hazardous material or waste or special waste subject to this bylaw; or a tenant, licensee or person in possession, who 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 a mortgagee in possession of such property. Each and every such person is bound to comply with the provisions of this bylaw as if he were an owner.*

1.3.10 *A "Hazardous Material Generator" means any commercial enterprise, government agency, owner or operator who produces, prepares, imports or compounds hazardous material or waste or special waste by combining previously non-hazardous materials to create hazardous materials.*

1.3.11 *A "Hazardous Material User" means any commercial enterprise, government agency, owner or operator who utilizes hazardous materials or waste or special waste, for any purposes other than those specifically exempt from the requirements of this bylaw under section 2.2.*

1.3 Definitions - Continued

1.3.12 *"Special Waste" means any solid waste that is determined not to be a hazardous waste pursuant to 310 CMR 30.000 and that exists in such quantity or in such chemical or physical state, or any combination thereof, so that particular management controls are required to prevent an adverse impact from the collection, transport, transfer, storage, processing, treatment or disposal of the solid waste. Without limitation, special waste includes waste that will require special management to ensure protection of public health, safety, or the environment based upon the physical, biological, or chemical properties of the waste. Special wastes include but are not limited to: asbestos waste, infectious wastes, except as specified in 310 CMR 19.061(6)(c)4, sludges including wastewater treatment sludges, and industrial process wastewater treatment sludges. For the purposes of this bylaw, special wastes do not include drinking water treatment sludges. (Ref: 310 CMR 19.006 and 19.061(2) and (3).).'*

1.3.13 *"Storage" means the holding of any hazardous materials or wastes for more than 24 hours.*

1.3.14 *"Storage System" means one or more tanks(s), and all connecting pipes, valves or other devices appurtenant thereto.*

1.3.15 *"Tanks" means any stationary device used to store or to contain an accumulation of hazardous materials or wastes.*

1.3.16 *"Underground Storage System" means a system in which any or part of any of the tanks, connecting pipes, valves or other devices are buried below the surface of the ground unless otherwise specified by the Board of Health.*

2. Prohibition, Discharge Reporting and Remedial Actions

2.1 Prohibitions

2.1.1 *There shall be no discharge of hazardous materials or wastes or special wastes within the Town of Acton through land, water, or air transmission without a permit for such action by an authorized agent of a federal or state agency or without a hearing from the Board of Health unless otherwise excepted or exempted under this bylaw.*

2.1.2 *There shall be no discharge of hazardous materials or wastes or special wastes within the aquifer protection Zones 1,2,3, as delineated in the Section 4.3of the Acton Zoning Bylaw, as printed on May 1, 1990 and subsequent amendments thereof, either through land, water or air transmission unless otherwise excepted or exempted under this bylaw.*

2.1 Prohibitions - continued

2.1.3 *There shall be no new installations of underground storage tanks for hazardous materials or waste or special waste within the aquifer protection Zones 1 & 2 as delineated in the Section 4.3 of the Acton Zoning Bylaw, as printed on May 1, 1990 and subsequent amendments thereof; or within the flood plain, defined by the Federal Emergency Management Agency "Flood Insurance Study, Town of Acton" January 6, 1988, as amended; or within 500 feet of a surface water body, wetland or private well. Replacement of underground storage tanks for flammable materials that pre-exist this bylaw shall be allowed only after the Fire Chief or his designee determines that aboveground storage of the flammable and/or combustible material would create a fire and/or explosion hazard.*

2.1.4 *No area within which hazardous materials or waste or special waste are used, stored or generated may contain a floor drain that leads to a storm drain or a septic system. Floor drains in such areas shall drain into containment vessels for removal by a DEP approved hazardous waste carrier. All other drains shall be permanently sealed off.*

2.1.5 *No residues or waste waters resulting from hazardous material or waste or special waste spill clean up procedures shall be disposed of into drains or other facilities leading to storm drains or septic systems or into the Acton Transfer Station. All such residues and waste waters shall be contained for removal by a DEP approved hauler.*

2.2 Exceptions

Applications of fertilizers, herbicides and pesticides used in accordance with applicable local, state and federal regulations shall be exempt from Section 2 of this bylaw, applications of deicing chemicals in conformance with the Massachusetts Snow and Ice Control Program, applications of swimming pool chemicals, and applications of water treatment chemicals by the Acton Water District. Storage of such chemicals, however, shall not be exempt from the appropriate storage requirements of Section 3 of this bylaw. This bylaw shall not apply to discharge of ordinary sanitary wastewater into a septic system installed in accordance with applicable State and local regulations or to ordinary uses of household or garden products used in accordance with applicable labeling instructions from state and federal law. Nothing in this bylaw prohibits the Board of Health from limiting or prohibiting the use of any such product by appropriate regulations.

2.3 Reporting of Discharges

Owners or operators shall immediately report any discharge or abnormal loss of hazardous materials or waste or special waste and shall provide a reasonable estimate of the nature and quantity of the discharged hazardous materials or wastes or special wastes and supply pertinent Material Safety Data Sheet's to the Fire Chief, the Health Director, Civil Defense and Local Emergency Planning Committee and the appropriate office in the D.E.P. These reporting requirements are in addition to all State and Federal reporting requirements.

2.4 Remedial Actions Following Discharges

2.4.1 *Any discharge of hazardous material or waste or special waste shall be immediately contained and reported. Clean up activities of significant discharges shall be taken under the direction of the Fire Chief, Health Director and/or other applicable agency. Clean-up and proper disposal of any discharged or abnormally lost hazardous material or waste or special waste shall be the responsibility of the owner or operator, hazardous material generator, or user including cost of the cleanup and disposal.*

2.4.2 *Following the immediate assessment according to section 2.3 and containment of any hazardous material or waste or special waste discharge a detailed report on the spill, remedial procedure plan and a schedule for all ongoing clean up actions to be undertaken shall promptly be submitted to the Fire Chief and the Board of Health. Action shall not be taken unless the Fire Chief and Board of Health deem that the remedial procedure will not contribute to a fire, explosion and/or environmental hazard. A detailed report on the spill and a remedial plan shall be submitted to the Fire Chief.*

2.4.3 *Collection and disposal of contaminated material shall be conducted by a handler that is licensed by the DEP.*

3. Permits and Accounting for Hazardous Materials and Waste

3.1 Permits For Hazardous Materials and Waste

Any hazardous materials or waste generator or user of hazardous materials or waste or special waste which exceeds the thresholds in s. 3.1.1., including residential tanks as specified in s. 5.3.4, must obtain a permit from the Board of Health to store, use or generate hazardous materials or wastes or special wastes. The permit shall be granted for one year, and may be renewed by the Health Director, unless there has been a substantial change in the quantity, type or method of storage, generation or use, or the Health Director concludes for any reason that reissuance of the permit should be reviewed by the Board. This permit shall be in addition to any license required in accordance with M.G.L. Ch. 148, s. 13 and/or any permit required in accordance with 527 CMR 14.00 or any other Fire Prevention Regulation.

3. Permits and Accounting for Hazardous Materials and Waste-cont

3.1.1 *A permit must be obtained for hazardous materials and wastes and special waste when use, generation or storage are above the following thresholds:*

1. *Small scale or large scale generator as defined in the Massachusetts Hazardous Waste Management Act, MGL Ch 21C, and the Federal Resource Conservation and Recovery Act 42 U.S.C., Section 6901 et seq or as defined in any subsequent amendments or new regulations; or generation in excess of 100 kg/mo of hazardous waste or materials or special waste, whichever is the smallest quantity.*
2. *Any storage or use within a twenty-four hour period exceeding 25 gallons liquid volume or 25 pounds dry weight of any hazardous material or waste or special waste except for retail sale.*
3. *Storage, use or generation of any quantity of any chemical on The List of Extremely Hazardous Materials, as published in the Federal Register Volume 52, Number 77, April 22, 1987, and any additional chemicals added subsequently.*
4. *Storage of any hazardous materials or waste overnight in delivery trucks or tank trailers.*
5. *Storage of more than 50 gallons or 50 pounds dry weight of any prepackaged hazardous materials for retail sale.*

3.2 Information Required For A Hazardous Materials and Waste and Special Waste Permit Application

The following information shall be supplied with the application for a permit:

3.2.1 *A list of the size, type, age and location of each container or tank. Evidence of the date of purchase and installation shall be included for existing storage systems, along with a plot plan showing the location of all containers, tanks, drains and piping on the property. In complex applications the Health Department and/or the Board of Health, may require a plot plan certified by a Professional Land Surveyor. Any changes in the information contained in the initial application, including any change in the use of the storage system, shall be reported immediately.*

3.2.2 *A list of daily amounts stored, used or generated and estimate of yearly throughput of all hazardous materials and waste and special waste to be used, stored or generated on the site, and copies of pertinent Material Safety Data Sheets.*

3.2 Information Required For A Hazardous Materials and Waste and Special Waste Permit Application-continued

3.2.3 *Documentation stating that all information previously filed with the Board of Health is correct, or indicating a change in the status of the existing permit shall be submitted annually. A new permit shall be obtained within thirty days from the Board of Health whenever:*

a. *there is any change in the type or method of generation, use or storage, or significant change in the quantity or composition of hazardous materials or wastes or special wastes previously permitted.*

b. *the method of storage, generation or use fails to comply with information previously submitted to the Board of Health.*

3.2.4 *The Board of Health may require additional information if it is necessary to adequately evaluate the application.*

3.3 Exceptions to Permit Requirement.

Permits shall not be required under this bylaw for the following:

a. *Septic Systems*
b. *Gasoline and diesel fuel stored in tanks mounted on a vehicle and used solely to fuel the same vehicle.*
c. *Hydraulic oil reservoir tanks on heavy vehicular equipment.*
d. *Use of domestic biodegradable cleaners for residential and business maintenance.*
e. *Residential oil tanks in place and in use prior to passage of this bylaw. New residential oil tanks require permits as noted in section 5.3.4 of this bylaw, provided that a permit has also been obtained from the Fire Chief.*

3.4 Hazardous Materials and Waste and Special Waste Permit Conditions

The Board of Health may impose conditions on any storage permit as necessary to serve the purposes of this bylaw or to protect the public health and environment.

3.5 Requirements for Approval of Hazardous Material and Waste and Special Waste Permits

3.5.1 *Hazardous materials and waste and special waste permits with the exception of residential home heating oil tanks, shall be granted by the Board of Health only if the following criteria are fulfilled:*

a. *The proposed storage, use or generation system shall provide adequate discharge prevention safeguards which are appropriate to the materials and wastes to be stored, used or generated and to the location of the storage, use or generation.*

3. Permits and Accounting for Hazardous Materials and Waste - continued

3.5 Requirements for Approval of Hazardous Material and Waste and Special Waste Permits continued

b. *The proposed storage, use or generation system shall comply with all local, state and federal regulations.*

c. *The proposed storage, use or generation system shall not cause a threat to the public health and safety or to the environment.*

d. *The applicant has established a satisfactory hazardous materials and waste and special waste discharge contingency plan.*

e. *All hazardous materials or wastes or special wastes to be stored above ground shall be stored in product tight containers on an impervious, chemical resistant surface, under cover and sheltered from the weather unless otherwise specified by the Board. The storage area shall be enclosed with a permanent dike of impervious construction providing a volume of at least 100% of the maximum volume of the largest single container or tank plus 10% of the total storage capacity. All outdoor storage areas shall be surrounded by a 5 foot fence, at a minimum, and shall be kept locked at all times when unattended.*

f. *Hazardous Waste shall be held on the premises for removal by a licensed carrier in accordance with the Massachusetts Hazardous Waste Management Act, MGL Chapter 21C.*

g. *Owners or Operators shall park delivery trucks or tank trailers only in designated overnight parking areas approved by the Board of Health and Fire Department. These parking areas must allow for detection and containment of discharge from the parked vehicles that are acceptable to the Board of Health and Fire Department.*

3.6 Inventory and Monitoring of Above Ground Storage Systems

All hazardous materials or special wastes stored above ground, with the exception of residential home heating oil tanks, shall be monitored weekly unless more frequent monitoring is specified in the permit. Monitoring shall consist of a thorough visual inspection of the container(s) and tank(s) and stock(s) of materials as well as the dike area for deterioration, leakage or unaccounted for loss of materials.

3.7 Record Retention

Throughout the permit period, owners, users, generators, or operators shall keep copies of all Hazardous Waste Transport Manifests on-site, as required under the Resource Conservation and Recovery Act 42 U.S.C., Section 6901 et seq. and the Massachusetts Hazardous Waste Management Act MGL Chapter 21C, 315 CMR, Section 2.04. If a hazardous waste generator is exempt from the manifest requirements sufficient proof of a proper disposal method shall be maintained.

4. Underground Storage of Flammable or Combustible Products and Hazardous Materials or Wastes or Special Wastes

4.1 Underground Storage Requirements

4.1.1 *Owners or operators storing flammable or combustible materials in underground storage systems shall obtain a permit from the Fire Chief in addition to the Hazardous Material Permit from the Board of Health required under Section 3. Owners and operators storing hazardous materials or wastes or special wastes underground which are not flammable or combustible need only obtain a permit from the Board of Health under section 3.*

4.1.2 *Any discharge or abnormal loss of material from underground storage systems shall be reported to the Fire Chief, the Health Director and the appropriate office in the D.E.P. immediately upon detection.*

4.1.3 *Response procedures to any discharge or abnormal loss of material from underground storage system shall follow the requirements of 527CMR Section 9.20 or 310 CMR s. 30.697, whichever is applicable. In the case of any hazardous material for which response procedures are not specified under state law, response procedures shall be those required for hazardous wastes under 310 CMR s. 30.697, unless otherwise specified by the Board of Health.*

4.1.4 *Prior to any change in the material stored in an underground tank, such change of material shall be approved by the Health Department and (in the case of flammable or combustible materials) by the Fire Chief. Confirmation by the tank manufacturer that such a change in material would be compatible with the tank type shall also be submitted, in writing, to the Board/Fire Chief.*

4.2 Underground Tank Construction

4.2.1 *All underground storage tanks shall be designed to minimize the risk of corrosion and leakage, and shall conform to all construction and installation requirements under applicable state and federal law. All new underground storage systems for hazardous materials or waste or special waste shall meet the standards for new underground hazardous waste tanks set forth in 310 CMR s. 30.693 and 30.694, unless otherwise specified by the Board of Health. Hazardous wastes or waste products that are flammable or combustible shall meet 527 CMR 9.*

4.2.2 *All non-conforming tanks (except as provided in 5.3.3) shall be brought into conformance by January 1, 1999, or a tank age of 20 years, whichever comes first.*

4.2 Underground Tank Construction continued

4.2.3 *Installation procedures for all underground storage tanks shall conform to all requirements under applicable state law. Installation procedures for any underground tanks for any hazardous materials not covered by state regulations shall comply with the requirements in 310 CMR s. 30,693 for installation of tanks for underground storage of hazardous wastes, unless otherwise specified by the Board of Health.*

4.2.4 *The Board of Health may require the placement of monitoring wells around any underground storage tank located within any aquifer zone as delineated in Section 4.3.2 of the Groundwater Protection District section of the Acton Zoning Bylaw as printed on May 1, 1990.*

5. Testing, Monitoring, and Removal Requirements for All Underground Storage Tanks

5.1 Underground Tank Testing

5.1.1 *All underground tanks which do not conform to the requirements for new tank installations in section 4.2.1 shall be tested for tightness at the expense of the owner. Testing schedules, except as provided in 5.3.3, shall follow the requirements of 527 CMR Section 9.13 in the case of flammable or combustible materials. Tanks for other hazardous materials or waste or special waste shall be tested annually or more frequently if required by the Board of Health.*

5.1.2 *Test results for tanks storing flammable or combustible materials shall be submitted to the Fire Chief and the Health Department. Test results for tanks storing hazardous materials or wastes or special wastes which are not flammable or combustible shall be submitted to the Health Department.*

5.1.3 *Prior to its transfer all underground storage tanks located on a property shall be tested for tightness at the expense of the owner. The results of such testing shall be submitted to the Fire Chief and to the Board of Health, and kept on file.*

5.1.4 *The Fire Chief or the Health Director may request to be present for any tank testing procedures.*

5.2 Inventory and Monitoring of Underground Storage Tanks

5.2.1 *Inventory and monitoring of underground tanks for storage of flammable and combustible materials shall conform to the requirements of 527 CMR s. 9.11 and 9.12. Inventory and monitoring of underground tanks for storage of other hazardous materials not covered by 527 CMR s. 9.11 and 9.12 shall conform to the requirements in 310 CMR s. 30.692, unless otherwise specified by the Board of Health.*

5.3 Underground Tank Removal

5.3.1 *Removal procedures for tanks for storage of flammable or combustible materials shall follow the requirements of 527 CMR 9.22 and 9.23 as well as 502 CMR 3.00.*

5.3.2 *Removal procedures for tanks for the storage of hazardous materials or waste or special waste which are not flammable or combustible shall conform to the procedure in 310 CMR s. 30.699 for removal of hazardous waste tanks unless otherwise specified by the Board of Health.*

5.3.3 *All residential underground storage tanks shall be removed at a tank age of 20 years, unless the structure of the tank is sound. Proof of soundness must consist of results of a tightness test which follows the requirements of 527 CMR Section 9.13 and must be provided annually to the Board and the Fire Chief beginning the twentieth (20th) year of the tank's life.*

5.3.4 *No underground residential home heating oil tanks shall be repaired and placed back in service. Any such tank which is in need of repair shall be removed and replaced by an above ground storage system. All replacements of residential home heating oil tanks shall require a permit under Section 3 of this bylaw, and are not excepted by paragraph 3.3 (e).*

5.3.5 *No underground storage system which has leaked shall be relined, repaired or continued in use. Tanks which have leaked or need repair shall be removed.*

5.4 Information required with Application for Underground Storage Permit

Applications for permits from either the Board of Health or the Fire Chief must include appropriate drawings showing the location of all tanks in relation to the aquifer protection zones delineated in section 4.3.2 of the Groundwater Protection District section of the Acton Zoning Bylaw as printed on May 1, 1990. The location of all tanks shall conform to all applicable legal requirements, including but not limited to the Groundwater Protection Bylaw and the Aquifer protection regulations and other regulations of the Board of Health.

6. Administration and Enforcement

6.1 Compliance with Hazardous Materials Permit Requirements

6.1.1 *Owners or occupants of new premises shall obtain a hazardous materials permit from the Board of Health, licenses from the local licensing authority and permits from the Fire Chief prior to occupying the premises.*

6.1.2 *Existing Premises - Owners or occupants of existing premises shall obtain a hazardous materials permit by January 1, 1992, or upon any change in use or occupancy of the site, whichever comes first.*

6.2 Cessation of A Permit

6.2.1 *The holder of a hazardous materials and waste and special waste permit shall notify the Board of Health immediately, in writing, whenever the activities authorized under the permit cease on a permanent basis.*

6.2.2 *When an underground storage tank for the storage of flammable or combustible materials is taken out of service for more than six months, the fire chief shall require that the tank be removed in accordance with 527 CMR, Section 9.22 and 9.23. Any underground storage tank for the storage of other hazardous materials or wastes or special wastes shall be removed in accordance with the procedures in 527 CMR s. 9.22 and 9.23 unless otherwise ordered by the Board of Health.*

6.3 Promulgation of Rules and Regulations

The Board of Health may from time to time pass regulations specifying categories of materials which are hazardous materials or wastes under the definition in s. 1.3.8 of this bylaw. The Board may adopt or amend rules and regulations consistent with the provisions of this bylaw. A copy of such rules shall be filed with the Town Clerk.

6.4 Fees

Fees necessary for the issuance and renewal of permits or licenses under this bylaw shall be set by the Board of Selectmen. Fees shall be due on the date of annual registration and collected by the permit or license granting authority. Failure to pay shall constitute a violation and shall subject the violator to the penalties of Section 6.7 of this bylaw.

6.5 Variance

A variance from time the terms of this bylaw may be granted by the permit granting authority after notice to abutters and a public hearing, if it is found that a variance would satisfy each of the following conditions:

1. *Consistency with the public health and environmental protection objectives of the Massachusetts General Laws and applicable federal, state and local regulations.*
2. *Consistency with the purpose and intent of this bylaw.*
3. *Prevention of an undue burden on the permit applicant, and*
4. *Equivalent protection as envisioned in section 1.2.*

6.6 Enforcement Access

The authority granting the permit of its designee may, upon reasonable notice to the occupant of the premises enter any premises for the purpose of investigating, sampling, or inspecting any record, condition, equipment, practice, or property relating to activities subject to this bylaw. The permit granting authority may enter any premises for the purpose of enforcing this bylaw.

6.7 Penalty

Any person who violates any provision of this bylaw shall be punishable by a fine of not more than $300.00, as allowed under MGL Chapter 40, Section 21. Each day during which a violation continues shall constitute a separate offense, and each condition of this bylaw violated shall constitute a separate offense. This penalty may be imposed by the Town of Acton Board of Selectman, or a designated officer having police powers pursuant to MGL. Chapter 40, Section 21D.

7.1 Severability

Each provision of this bylaw shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

CHAPTER J

SCENIC ROAD BYLAW

To designate the following roads as scenic roads in accordance with the recommendation of the Planning Board under section 15C, Chapter 40 of the General Laws as amended by Chapter 67 of the Acts of 1973, which provides in part that any repair, maintenance, reconstruction, or paving work done with respect to any road designated as a scenic road shall not involve or include the cutting or removal of trees, or tearing down, or destruction of stone walls, or portions thereof, except with prior written consent of the Planning Board after a public hearing:

*(* Indicates the entire road has been selected)*

***J-1** **Windsor Avenue** from the southerly sideline of Massachusetts Avenue running approximately 2610 feet in a southerly direction to the northeasterly sideline of Central Street, this being the entire road.*

***J-2** **Arlington Street** from the northwest end of Hayward Road running approximately 7000 feet in a northeasterly direction to the southwesterly sideline of Newtown Road.*

***J-3** **Bulette Road** from the southwesterly sideline of Newtown Road running approximately 1100 feet in a southwesterly direction to the end, this being the entire road.*

***J-4** **Robbins Street** from the northerly sideline of Stow Street running approximately 2000 feet in a northwesterly direction to the end.*

***J-5** **Stow Street** from the northwesterly sideline of Liberty Street running approximately 3200 feet to the Stow Town Line.*

***J-6** **Liberty Street** from the westerly sideline of Martin Street running approximately 2750 feet in a westerly direction to the Stow Town Line.*

***J-7** **Martin Street** from the southeasterly sideline of Liberty Street running approximately 1000 feet in a southeasterly direction to the end.*

***J-8** **High Street** from the easterly sideline of Main Street running approximately 8600 feet to the northerly sideline of Powder Mill Road, this being the entire road.*

***J-9** **School Street** from the northerly end of River Street running approximately 1650 feet in an easterly direction to the southerly end of Piper Road.*

***J-10** **Piper Road** from the northerly sideline of School Street running northerly approximately 2750 feet to the western end of Brucewood Road.*

***J-11** **Hayward Road** from the southeasterly sideline of Arlington Street approximately 6900 feet in a generally eastern direction to the western sideline of Main Street, this being the entire road.*

***J-12** **Coughlin Street** *from the southeasterly sideline of Main Street running approximately 1200 feet in a southeasterly direction to the westerly sideline of Taylor Road, this being the entire road.*

***J-13** **Taylor Road** *the entire road.*

***J-14** **Minot Avenue** *from the easterly sideline of Taylor Road running approximately 2000 feet in a southeasterly direction to the northwesterly end of Forest Road.*

***J-15** **Forest Road** *from the southeasterly sideline of Minot Avenue running approximately 2300 feet to the westerly sideline of Hosmer Street, this being the entire road.*

***J-16** **Newtown Road** *from the Littleton Town Line running approximately 11,300 feet in a generally southeasterly direction to the northwesterly sideline of Main Street, this being the entire road.*

***J-17** **Concord Road** *from the southeasterly sideline of Main Street running approximately 6400 feet in a generally southeasterly direction to the westerly sideline of Great Road, this being the entire road.*

***J-18** **Pope Road** *from the northeasterly sideline of Great Road running approximately 12,250 feet in a northwesterly direction to the Concord Town Line, this being the entire road.*

***J-19** **Proctor Street** *from the northwesterly sideline of Pope Road running approximately 850 feet in a northwesterly direction to the end, this being the entire road.*

***J-20** **Spring Hill Road** *from the northeasterly sideline of Pope Road running approximately 1900 feet in a northeasterly direction to the end, this being the entire road.*

***J-21** **Esterbrook Road** *from the easterly sideline of Great Road running approximately 3800 feet in a generally northeasterly direction to the southerly sideline of Strawberry Hill Road, this being the entire road.*

***J-22** **Strawberry Hill Road** *from the easterly sideline of Great Road running approximately 6200 feet in a generally easterly direction to the Concord Town Line, this being the entire road.*

***J-23** **Brook Street** *from the southeasterly sideline of Main Street running approximately 2200 feet in a generally easterly direction to the westerly sideline of Great Road, this being the entire road.*

***J-24** **Carlisle Road** *from the easterly sideline of Main Street running approximately 3300 feet in a generally northeasterly direction to the Carlisle Town Line, this being the entire road in Acton.*

***J-25** **Fort Pond Road** from the northeasterly side of Newtown Road running approximately 2000 feet in a northeasterly direction to the Littleton Town Line,]this being the entire road in Acton.*

***J-26** **Nagog Hill Road** from the northwesterly sideline of Main Street running approximately 9000 feet in a northwesterly direction to the Littleton Town Line.*

***J-27** **Simon Hapgood Lane** from the northeasterly sideline of Strawberry Hill Road running approximately 500 feet in a northerly direction to the end, this being the entire road.*

***J-28** **Hammond Street** from the northeast sideline of Newtown Road running approximately 3900 feet in an easterly direction to the westerly sideline of Nagog Hill Road, this being the entire road.*

***J-29** **Minuteman Road** from the southwesterly sideline of Newtown Road running approximately 1000 feet in a westerly direction to the end.*

***J-30** **Central Street** from the southeasterly sideline of Hapgood's Crossing 1500 feet in a southeasterly direction.*

***J-31** **Quarry Road** the extension into the Town Forest.*

***J-32** **Isaac Davis Trail** beginning at the most westerly end of Minuteman Road thence southwesterly over land of the Town of Acton and the existing easement on land of James Progin (#8 John Swift Road - Lot 43A) to John Swift Road.*

***J-33** **Isaac Davis Trail** from Musket Drive to Hayward Road over the existing easement on land of Barbara Keizer (#4 Musket Drive - Lot 147).*

***J-34** **Isaac Davis Trail** (formerly known as Revolutionary Road) through Conant's Land, beginning at Main Street at a point southwesterly about 1175 feet from the intersection of the southerly line of Main Street and the southerly line of Brook Street; thence easterly to Great Road and being intended to be all parts of the old road, and said point at Great Road, being about 350 feet from the southerly side of Brook Street; said measurement being more or less.*

***J-35** **Pope Road** the entire length of Pope Road as a scenic road under G.L.,c. 40 s. 15C, by amending the vote of the 1974 Annual Town Meeting.*

***J-36** **Wheeler Lane** in its entirety.*

CHAPTER K

PERSONNEL BYLAW

Effective July, 1985:

K1.1 Establishment and Duties of Personnel Board

A. Composition ***-*** *The Selectmen will appoint a Personnel Board to be comprised of five (5) members and not more than three (3) alternates. Preferably three (3) of the regular members should have substantial experience in professional personnel management and/or industrial relations. Service on the Personnel Board is voluntary and without monetary compensation.*

B. Terms ***-*** *Each regular member shall be appointed for three (3) year over-lapping terms, except that in the first year of appointment, the Selectmen shall appoint one member for a term of one (1) year; two members for terms of two (2) years; and two members for terms of three (3) years. Thereafter, each member will be appointed for a full three (3) year term. The alternate members will also be appointed for a three (3) year term. The Board shall organize each year after appointment or re-appointment of a regular member, and it shall elect a chairman, vice chairman and clerk for the ensuing year.*

C. Quorum ***-*** *At any regular or special meeting of the Personnel Board, it shall be necessary for three (3) members to be present and voting. Should a regular member not be available for any meeting, an alternate member will participate as a voting member in the proceedings as designated by the Chairman.*

D. Responsibility ***-*** *The Personnel Board shall be responsible to:*

1. *Provide advice and counsel to the Town Manager and the Board of Selectmen on personnel administration within the Town of Acton.*
2. *Assist the Town Manager and Board of Selectmen in the development and execution of Town personnel policies and procedures.*
3. *Serve as an advisory board to the Selectmen on any appeal from the decision of the Town Manager in personnel matters.*
4. *Review the Personnel Administration Plan and recommend revisions to the Town Manager.*
5. *Maintain liaison with School personnel official with the objective of establishing and maintaining compatibility of School and Town personnel policies and procedures.*
6. *Maintain liaison with the Trustees of the Acton Memorial Library to assure compatibility in personnel practices and consistency in salary administration between library employees and other Town of Acton employees.*

K1.2 Procedures

The Personnel Board will establish its internal organization and will establish the procedures which it will follow in carrying out its responsibilities.

1. *Minutes of all Personnel Board meetings will be kept and retained on file in the office of the Town Manager.*
2. *Notice of Personnel Board Meetings will be posted in the Town Hall in accordance with the provisions of the Open Town Meeting Law.*
3. *Logistical support for the Personnel Board will be the responsibility of the Town Manager.*

K2. Duties of the Board of Selectmen and Town Manager

K2.1 Statement of Responsibility and Accountability

The Board of Selectmen have the overriding responsibility for personnel administration in the Town and are accountable to the Town for their performance on that responsibility. Any changes to the Personnel Administration Plan that have a financial impact on the Town shall be subject to the approval of the Board of Selectmen. Day to day personnel management is the responsibility of the Town Manager who is accountable to the Board of Selectmen for his/her performance.

A. **Town Manager's Responsibility** - *The Town Manager shall be responsible for preparing and adopting a personnel administration plan. The Town Manager is responsible for the impartial and equitable administration of the Personnel Administration Plan. The actual operations involved in administering the plan may be delegated to such staff assistant or staff assistants within the office of the Town Manager as deemed practical, including the wage and salary, and classification schedules.*

B. **Appointing Authority -** *The appointing authority for employees in the Town of Acton rests with the Town Manager except as otherwise provided in the Charter of the Town of Acton.*

C **Personnel Administration Plan** - *The Town Manager, or designated representative shall review the Personnel Administration Plan at least once each calendar year and may promulgate and publish amendments to the Personnel Administration Plan.*

K2.2 A. Employees Responsibility - *It shall be part of the responsibility of each employee to be thoroughly acquainted with the material contained in the Town of Acton Personnel Administration Plan and any of its subsequent revisions.*

K3. Classification Schedule

K3.1 Preparation and Maintenance of the Classification Schedule

The Town Manager, as part of the Personnel Administration Plan, will prepare and maintain a position classification schedule based on the Factor Evaluation System (FES) developed by the Federal Office of Personnel Management. The plan will include a written definition for each position in the Town service which describes the duties, authority and responsibilities characteristic of positions properly included in the class. All positions judged to be essentially equal although not necessarily involving the same duties, but have the same level of difficulty, responsibilities and overall value, will be grouped together in a class, with a minimum rate of pay, a maximum rate of pay and three (3) intermediate steps in between, with the exception of the cemetery employees and except as otherwise grouped in separate schedules. No employee may be appointed to a position not included in the classification plan approved by the Town Manager.

K4. Wage and Salary Schedule

K4.1

The Town Manager as part of the Personnel Administration Plan will prepare and administer the wage and salary schedule for town employees, subject to the appropriation of necessary funds by the Town. The Town Manager shall review all factors relevant to the maintenance of a sound compensation practices of public and private employers, the cost of living, and the ability of the Town to recruit and retain qualified personnel. The Town Manager will make revisions of the plan which are appropriate not only to accommodate such considerations but which are necessary because of the abolishment, modification or establishment of grades.

K5. Other Personnel Rules and Policies

K5.1

The Town Manager shall adopt and administer rules and policies governing hours of work, holiday and sick leave policies, fringe benefits and other matters relating to conditions of employment, compensation and benefits, and evaluation and conduct of Town employees, not inconsistent with statutes or the provisions of collective bargaining contracts.

K6. Appointments

K6.1 Equal Employment Opportunities

The Town of Acton has and will provide equal employment opportunities for all applicants. Every individual, regardless of race, creed, color, nationality, age, religion or sex, applying for employment in the Town will receive equal treatment. The Town's policy with respect to Equal Employment Opportunity is set forth in the Town of Acton Equal Employment Opportunity Affirmative Action Plan.

K6. Appointments - continued

K6.2 Criteria for Selection

The recruitment, selection, and promotion of employees will be based solely on job-related skills, knowledge, experience, education, as well as prior demonstrated performance, attitude, and adaptability as they relevantly indicate probable success in the job being filled. Factors are weighted as determined by the Town Manager. Town Employees, when fully qualified for a position, will be given preference with respect to any vacancies.

K6.3 Appointment

A. **Method of Appointment** - *All vacancies shall be filled by permanent appointment, provisional appointment, emergency appointment, temporary appointment, promotion, transfer or demotion. Appointment to a vacancy in the classified service shall be recommended by the department head from the qualified candidates and submitted to the Town Manager or appropriate Library Board of Trustees for final appointment.*

B. **Final Approval** - *The Town Manager or appropriate Library Board of Trustees will have final approval regarding starting salary, employment, transfer or promotion of any individual taking into consideration the recommendations of the department head, policies of the Town of Acton and applicable state and federal laws. The Town Manager will notify the department head and the individual to be employed, promoted or transferred of the starting salary and starting date. In the case of transfer or promotion, the Town Manager will communicate with all affected departments in an attempt to determine a mutually compatible starting date and prepare the necessary forms.*

K7. Employee Evaluation and Training

K7.1 Need for Evaluation System

The Town of Acton recognized the need for an operating employee evaluation system in order to (1) assure the granting of step increases based on merit, (2) fairly and accurately evaluate an employee's strength, weaknesses, and potential for growth, (3) encourage and guide the employee's development of special skills and work interests, and (4) provide a method for improving operational programs through employee input.

K7.2 Maintenance of the System

The Town Manager is responsible for the establishment of the employee evaluation and development system and for overseeing the program. Employee evaluation is the continuing day-to-day responsibility of the supervisors, who will prepare evaluation forms for their subordinates as scheduled below. The Town Manager's office will provide guidance to supervisors and will make revisions to the system as necessary.

K7. Employee Evaluation and Training - continued

K7.3 Training

It shall be the responsibility of the Town Manager to foster and promote employee training programs for improving the quality of personal services rendered to citizens and aiding employees to equip themselves for advancement in the service.

K8. Disciplinary Action and Appeals

K8.1

The Town Manager shall adopt and administer rules and regulations governing remedial and disciplinary actions for any violation of the provisions of the personnel plan or inefficiency or incompetence in the performance of an employee's duties. Such rules and regulations shall provide for the opportunity to resolve any disputes by agreement or negotiation between the employee and his or her immediate supervisor and shall provide a procedure for orderly appeals of all disciplinary actions or other grievances.

K8.2

Decisions of the Town Manager in regards to major adverse personnel actions, (such as lay off, suspension without pay, failure of promotion, demotion, or dismissal) may be appealed in writing by an employee to the Board of Selectmen within 15 days of the Town Manager's action. Upon receipt of any such appeal of an action by the Town Manager, the Board of Selectmen will normally refer the appeal to the Personnel Board and may, at the Board of Selectmen's discretion, either empower the Personnel Board to hear and finally decide the appeal or direct the Personnel Board to hear and report the facts and make its recommendations to the Board of Selectmen for that Board's final decision. In either case the employee's appeal shall be heard within 45 days and a decision rendered within 30 days of the close of the hearing.

CHAPTER L

HANDICAPPED PARKING BYLAW

L1

No vehicle, except a vehicle bearing the license plates or Placards authorized by General Laws c. 90, s. 2, or other jurisdictions or bearing an Acton temporary handicapped permit, shall be parked, left standing, or left unattended within a parking space designated as reserved for vehicles owned and operated by disabled or handicapped persons; and no vehicle shall obstruct a curb ramp designated for use by disabled or handicapped persons.

L2

The penalty for violation of this bylaw shall be established by order or regulations of the Board of Selectmen acting pursuant to this Bylaw and shall, per violation, be not less than $100.00 and not more than the maximum penalty for such a violation as is authorized by State law as now in force or hereafter amended. In addition, any vehicle parked in violation of this bylaw shall be subject to removal in accordance with General Laws c. 40, s. 22D.

CHAPTER M

ZONING BYLAWS

** Under Separate Cover **

CHAPTER N

PROCEDURE FOR THE DEMOLITION OF HISTORICALLY OR ARCHITECTURALLY SIGNIFICANT BUILDINGS

N1. Intent and Purpose

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

N2. Definitions

2.1 "Building" *- any combination of materials forming a shelter for persons, animals, or property.*

2.2 "Demolition" *- any act of pulling down, destroying, removing, or razing a building or more than 25% of any single façade or any significant architectural or structural feature visible from the exterior of the building, or commencing the work of total or substantial destruction with the intent of completing the same; demolition does not include the mere replacement of roofing, siding, windows, or trim for maintenance or repair. For purposes hereof, "significant architectural or structural features" include but are not limited to porticos, bay windows, roof lines, dormers, or other unique features of a building.*

N2. Definitions - *continued*

2.3 "Significant Building" *- any building or portion thereof not within an Historic District but which:*

a. *is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or*

b. *is included in the Cultural Resources Inventory prepared by the Commission or on the MACRIS database maintained by the Massachusetts Historical Commission, including those buildings listed for which complete survey forms may be pending; or*

c. *has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect or builder, or an historically or culturally significant person, provided that the owner of such a building and the Building Commissioner have been notified, in hand or by certified mail, within ten (10) days of such vote.*

2.4 "Commission" *- the Acton Historical Commission.*

N3. Procedure

3.1 *Within seven (7) days of receipt of an application for a demolition permit for a significant building the Building Commissioner shall forward a copy thereof to the Commission. The Building Commissioner shall also notify the Commission (by e-mail or similarly expedient means) when such a permit has been sent to the Commission for consideration. No demolition permit shall be issued at that time.*

3.2 *Within sixty-five (65) days of the date that the Commission receives the application from the Building Commissioner, the Commission shall conduct a public hearing and shall give (at applicant's cost) public notice thereof by publishing notice of the time, place and purpose of the hearing in a local news publication at least fourteen (14) days before said hearing and also, within fourteen (14) days of said hearing, shall mail a copy of said notice to the applicant and to the abutters of the property.*

3.3 *If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Commissioner within ten (10) days of such determination. Upon receipt of such notification, or after the expiration of ten (10) days from the date that the hearing was closed if he has not received notification from the Commission, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.*

3.4 *If the Commission determines that the demolition of the significant building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a preferably-preserved significant building.*

3.5 *Upon determination by the Commission that the significant building which is the subject of the application for a demolition permit is a preferably-preserved significant building, the Commission shall so advise the applicant and the Building Commissioner, within ten (10) days of said hearing, and no demolition permit may be issued until at least twenty-four (24) months after the date of such determination by the Commission for any significant building that falls into one of the categories identified in Section 2.3.a. of this bylaw, or until eighteen (18) months after the date of such determination by the Commission for any significant building that falls into one of the categories identified in Sections 2.3.b. or 2.3.c. of this bylaw.*

Any determination on a demolition permit application that is made by the Commission is granted to the owner filing the application and may not be transferred to a successor owner unless approved in writing by the Commission. At a duly called meeting, the Commission may agree to a transfer of the determination if the transferee has proposed a preservation plan for the Building, or upon a showing of hardship by the applicant, or for other equitable reasons, if the Commission is satisfied with any such proposed justification(s).

Any determination under Section 3.3 herein expires two (2) years from the date of such determination. If demolition has not occurred prior to such date, a new application for a demolition permit must be filed and processed in accordance with this bylaw prior to any subsequent demolition. Any demolition permit issued after a delay imposed under Section 3.5, including as such delay may be modified by Section 3.6, shall expire two (2) years from the date of its issuance. A new demolition application shall be required thereafter and shall be processed in accordance with this bylaw.

3.6 *Notwithstanding the preceding section, the Building Commissioner may issue a demolition permit for a preferably-preserved significant building at any time after receipt of written advice from the Commission to the effect that either:*

a. *the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or*

b. *the Commission is satisfied that for at least six (6) months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject building, including listing on the Multiple Listing Service (MLS) or comparable residential property sales listing service, and that such efforts have been unsuccessful.*

N4. Enforcement and Remedies

4.1 *The Commission and the Building Commissioner are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.*

4.2 *No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of three (3) years after the date of the completion of such demolition unless authorized by the Commission pursuant to Section 4.4. As used herein "premises" includes the parcel of land upon which the demolished significant building was located.*

4.3 *Upon a determination by the Commission that a building is a preferably-preserved significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of Section 4.2.*

4.4 *At any time, the owner of property on which a significant building has been voluntarily demolished in violation of Sections 4.2 or 4.3 of this bylaw can apply in writing to the Commission for an exemption to the provisions of Sections 4.2 or 4.3, such application to state with particularity the facts and circumstances to prove to the Commission that an exemption is warranted due to (i) exigent circumstances or disasters beyond the owner's (and, if different than the owner, the permit applicant's) control, or (ii) documentation evidencing the owner's intent to complete a faithful restoration of the demolished building. The Commission may in its discretion determine that the written request states sufficient grounds for exemption from the provisions Sections 4.2 or 4.3 and authorize an exemption from this bylaw. Any exemption granted pursuant to this Section 4.4 shall apply only to the voluntary demolition for which the owner submitted a written exemption request, and not for any subsequent voluntary demolition to which this bylaw would otherwise apply.*

4.5 *No demolition permit for a preferably-preserved significant building shall be granted until all approvals and permits are granted for subsequent development. Necessary approvals may include but are not limited to building permits, zoning variances or special permits, licenses, easements and subdivisions of the premises. All appeals from the granting of such approvals must be concluded before the demolition permit may be issued. The Commission may, in its discretion, waive this provision upon a showing by an applicant that no development shall be undertaken for a minimum of five years. Upon the granting of such waiver, the applicant and the Commission shall enter into an agreement to memorialize the applicant's commitment and such agreement may be recorded in the Middlesex County registry of deeds.*

N5. Municipal Buildings

No provision of this bylaw shall apply to buildings owned or operated by the Town of Acton or the Acton Water District. (This section was inserted at the Special Town Meeting of 11/28/90) Notwithstanding the foregoing, the Town shall consult in good faith with the Commission prior to finalizing any plans for the Demolition of any Significant Building owned by the Town of Acton or the Acton Water District.

N6. Local Historic Districts

This Bylaw shall not apply to any proposed demolition of a building which is located within a Local Historic District established under the Local Historic District Bylaw, Chapter P of the Town of Acton Bylaws. The Historic District Commission established under the Local Historic District Bylaw shall have sole jurisdiction over any demolition proposals within a Local Historic District.

N7. Severability

The sections, paragraphs, sentences, clauses and phrases of this bylaw are severable, and if any phrase, clause, sentence, paragraph or section of this bylaw shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrase, clauses, sentences, paragraphs and sections of this bylaw.

N8. Demolition on Account of Threat to Public Safety

Notwithstanding any other provision of this bylaw, nothing herein shall be construed to prevent the demolition of any building, structure or portion thereof in accordance with Chapter 111, Section 127B (Dwelling Unfit for Human Habitation) or Chapter 143, Sections 6 through 12 (Inspection and Regulation of, and Licenses for, Buildings, Elevators and Cinematographs). Prior to initiating proceedings under such statutes, the Board of Health or its agent under Chapter 111, or the Building Commissioner under Chapter 143, as the case may be, shall notify the Commission and receive its advice. The Commission shall be invited to the inspection, as may be required pursuant to the aforesaid statutes, of such building or structure.

CHAPTER O

REVOCATION OR SUSPENSION OF LOCAL LICENSES

(a) *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 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 has a pending petition before the appellate tax board.*

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

(c) *Any Party shall be given an opportunity to enter into a payment agreement with the Tax Collector, 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.*

(d) *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 A in the business or activity conducted in or on said property.*

This section shall not apply to the following licenses and permits granted under the General Laws of the Commonwealth of Massachusetts: 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 licenses; 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.

CHAPTER P

LOCAL HISTORIC DISTRICT BYLAW

The Town of Acton hereby creates a Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws, Chapter 40C, as amended.

P1. Purpose

The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Acton, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the historically significant architecture existing in the Local Historic District(s) when this Bylaw was first adopted in 1990. This Bylaw does not seek to establish an architectural museum, but instead to inform concerning the historical process of architectural growth and adaptation to heighten a sense of educated pride in our heritage.

P2. Definitions

The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:

"Alteration" or "To Alter" *The act of the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.*

"Building" *A combination of materials forming a shelter for persons, animals or property.*

"Certificate" *A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Bylaw.*

"Commission" *The Historic District Commission as established in this Bylaw.*

"Construction" or "To Construct" *The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.*

"Display Area" *The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an individual letter SIGN or irregular shaped SIGN shall be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.*

P2. Definitions cont

"District" *The Local Historic District as established in this Bylaw consisting of one or more DISTRICT areas.*

"Exterior Architectural Feature" *Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.*

"Person Aggrieved" *The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; or an owner of property within 100 feet of said DISTRICT area and any charitable corporation in which one of its purposes is the preservation of historic structures or districts.*

"Signs" *Any symbol, design or device used to identify or advertise any place of business, product, activity or person.*

"Structure" *A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.*

"Substantially at Grade Level" *Located at the existing or altered surface of the earth or pavement which does not/will not exceed one foot in height above the surface of the earth or pavement.*

"Temporary Structure or Building" *A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year.*

P3. District

The DISTRICT shall consist of one or more DISTRICT areas as listed in Section 13 (Appendices) of this Bylaw.

P4. Commission

4.1.1 *The COMMISSION shall consist of seven (7) regular members appointed by the Board of Selectmen to staggered three (3) year terms, such that three members' terms will expire in one year and two members terms will expire in the second and third year, and so forth.*

P4. Commission - continued

4.2 *The COMMISSION shall include among its regular or alternate members, if practical, an Acton property owner who resides in each of the three DISTRICT areas, one Acton resident chosen from two nominees put forward by the Board of Realtors covering Acton, one Acton resident chosen from two nominees put forward by the chapter of the American Institute of Architects covering Acton, and one Acton resident chosen from two nominees put forward by the Acton Historical Society. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Board of Selectmen may proceed to make appointments as it desires.*

4.3 *The Board of Selectmen may at its sole discretion, appoint up to a maximum of four (4) alternate members to the COMMISSION for three (3) year terms. The available alternate member(s) with the longest continuous length of service as an alternate may be substituted and vote on a one for one basis, in place of any regular member(s) who may be absent or has/have an actual or apparent conflict of interest, or in the case of a vacancy in the regular memberships.*

4.4 *Each member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.*

4.5 *Meetings of the COMMISSION shall be held at the call of the Chairman, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.*

4.6 *A quorum is necessary for the COMMISSION to conduct a meeting. At least four (4) members of the COMMISSION (or Alternate Members with voting rights as to a matter(s) under consideration) must be present.*

P5. Commission Powers and Duties

5.1 *The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.*

5.2 *The COMMISSION, after public hearing, may by vote of two thirds (2/3rds) of its regular members (not to include alternate members) from time to time adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the Town Clerk.*

P5. Commission Powers and Duties - continued

5.3 *The COMMISSION, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Acton, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which will meet the requirements of the DISTRICT. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.*

5.4 *The COMMISSION shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the Town Clerk.*

5.5 *The COMMISSION shall keep a permanent public record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.*

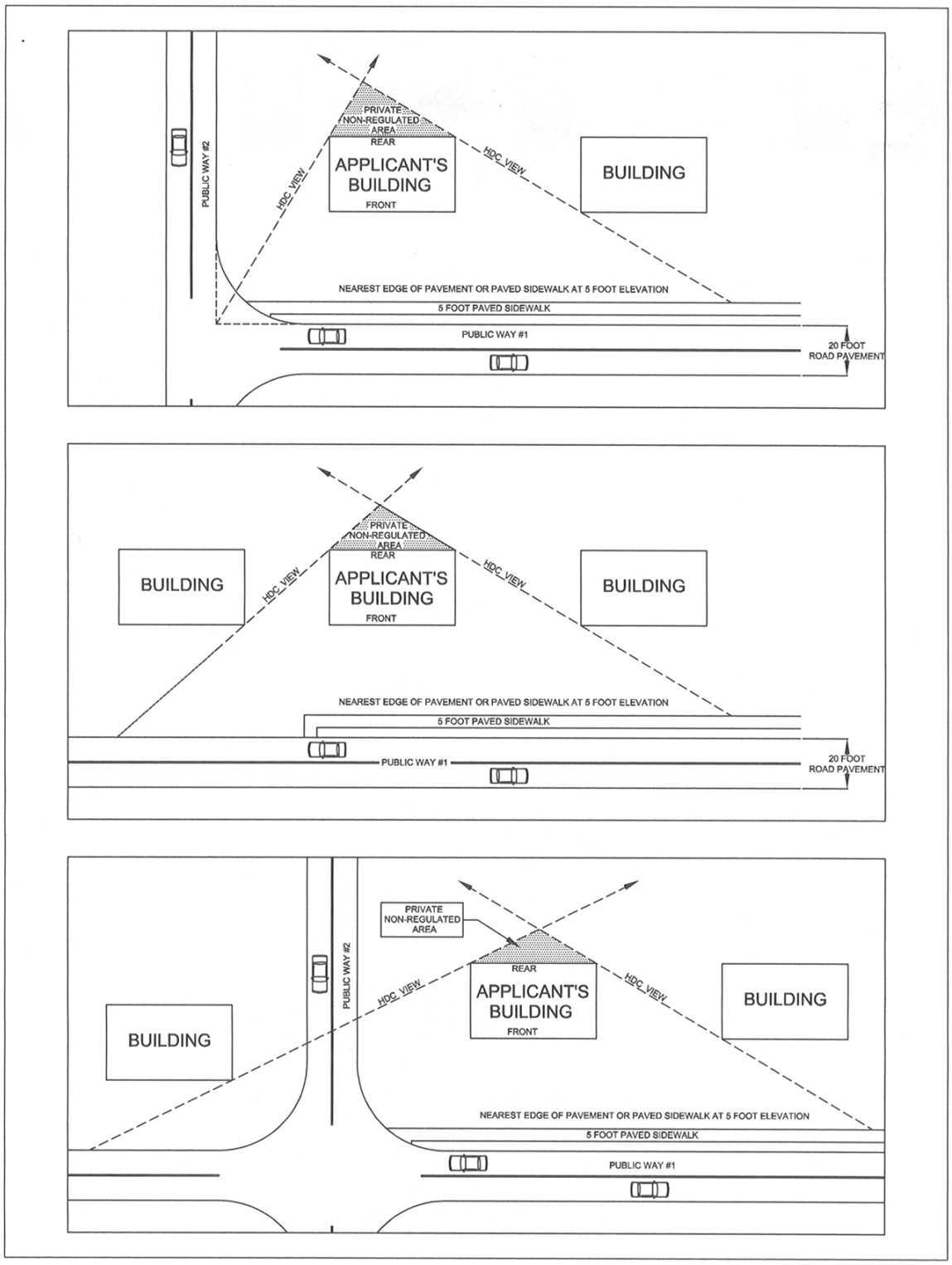
5.6 *The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.*

P6. Alterations and Construction Prohibited Without Certificate

6.1 *No BUILDING or STRUCTURE, or any part thereof, which is within a DISTRICT shall be CONSTRUCTED or ALTERED in any way which affects the EXTERIOR ARCHITECTURAL FEATURES visible to the unaided eye from any point at a five (5) foot elevation above the surface of the public way, on which the underlying lot or property has frontage, that is no closer to the BUILDING or STRUCTURE than the closest edge of pavement, or paved sidewalk if any unless the COMMISSION shall have first issued a CERTIFICATE with respect to such CONSTRUCTION or ALTERATION, except as this Bylaw otherwise provides*

6.1.1 *The following conceptual drawings are included to illustrate the review jurisdiction limitation set forth in paragraph 6.1 above: The viewing areas shown would be similarly applied to all buildings or structures on a property.*

P6. Alterations and Construction Prohibited Without Certificate continued



P6. Alterations and Construction Prohibited Without Certificate - continued

6.2 *Where a lot containing such BUILDING or STRUCTURE has frontage on more than one public way, the COMMISSION shall limit its review powers established under this BYLAW to the public way from which the view of the BUILDING or STRUCTURE is, in the opinion of the COMMISSION, most relevant to the integrity of the DISTRICT. The COMMISSION may, with due notice to the owners of those properties affected, make advance determinations of and provide the Town Clerk a list of its determinations as to which public way views are generally most relevant to the integrity of the various existing BUILDINGS in each DISTRICT. In the event it is proposed to rely upon a different view than the relevant and previously listed view when considering any particular application or complaint as to any BUILDING, the burden is upon the COMMISSION, as part of its decision, to adequately document in writing the reasons therefore.*

6.3 *No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of an EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a BUILDING or STRUCTURE within a DISTRICT shall be issued by the Town or any department thereof until a CERTIFICATE as required under this Bylaw has been issued by the COMMISSION.*

P7. Procedures for Review of Applications

7.1 *Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the Town Clerk and the COMMISSION an application for a CERTIFICATE of Appropriateness, or non-Applicability or of Hardship as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the COMMISSION to enable it to make a determination on the application. The date of the filing of an application shall be the date on which a copy of such application is received by the office of the Town Clerk.*

7.2 *The COMMISSION may appoint one or more of its members to initially and privately screen applications for CERTIFICATES to informally determine whether any application includes and/or is submitted with sufficient information upon which the COMMISSION may reasonably take its required actions. Within fourteen (14) days following the first filing of an application for a CERTIFICATE with the Town Clerk, the COMMISSION or its appointee/s may determine without need for a public hearing, that insufficient information has been provided, in which case the application may be once returned to the submitting party, with written advice as to what was considered to be lacking, and the applicant will then thereafter be required to re-file the application before any further COMMISSION action is required. Any second filing of essentially the same application must be formally acted upon by the COMMISSION as is otherwise provided in this Bylaw.*

P7. Procedures for Review of Applications - continued

7.3 *The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.*

7.4 *If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the COMMISSION under the provisions of this Bylaw, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.*

7.5 *If the COMMISSION determines that such an application involves any EXTERIOR ARCHITECTURAL FEATURE subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Acton. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the COMMISSION shall deem entitled to notice.*

7.5.1 *A public hearing on an application for a CERTIFICATE need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a CERTIFICATE may be waived by the COMMISSION if the COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE involved, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses with a public hearing on an application for a CERTIFICATE, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the COMMISSION to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the COMMISSION may act upon such application.*

P7. Procedures for Review of Applications - continued

7.6 *The COMMISSION shall grant a CERTIFICATE, or issue a written decision, within sixty (60) days from the date the pertinent application was filed (or re-filed in the event the application was once returned for lack of information), unless the applicant consents in writing to a specific enlargement of time by which such an issuance may occur. In the absence of any such enlargement of time, should an issuance not be forthcoming within the prescribed time, the applicant is entitled as of right to a CERTIFICATE of Hardship.*

7.6.1 *If the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owning to conditions especially affecting the BUILDING or STRUCTURE involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the COMMISSION shall issue a CERTIFICATE of Hardship.*

7.7 *By the concurring vote of at least four members who were present throughout any relevant public hearing and the COMMISSION'S discussion leading up to its finding, the COMMISSION must adopt a specific written findings setting forth the basis on which it was initially determined that the application in question involved an EXTERIOR ARCHITECTURAL FEATURE subject to approval by the COMMISSION and may then:*

A. *Grant an appropriate CERTIFICATE for the work to be performed, to remain effective regardless of any subsequent change in the ownership of the property; or*

B. *Grant an appropriate CERTIFICATE for the work to be performed, to remain effective regardless of any subsequent change in the ownership of the property, with conditions and limitations requiring architectural or plan modifications as to those matters not excluded under Section P9 of this Bylaw which are within the COMMISSION'S review jurisdiction; or*

C. *Deny the application with a written statement of the basis for the denial, at which time it may provide written recommendations for changes not excluded from the jurisdiction of the COMMISSION by Section P9 of this Bylaw which, in a subsequent application, might be acceptable to the COMMISSION; or*

P7.7 Procedures for Review of Applications - continued

D. *Deny the application with a fact specific written statement of the basis for the denial without further recommendations, if essentially the same application has previously been the subject of a prior denial accompanied by written recommendations pursuant to sub-paragraph 7.7C above.*

7.8 *Should the COMMISSION, during the course of reviewing an application, find that it does not have review jurisdiction under this Bylaw it shall make an appropriate finding of Non-Applicability.*

7.9 *Each CERTIFICATE or written decision upon an application by the COMMISSION shall be dated and signed by the Chairperson or such other person as the COMMISSION may designate and shall be deemed issued upon filing with the Town Clerk.*

7.10 *Each CERTIFICATE or written decision upon an application by the COMMISSION shall be promptly served on the applicant by the Town Clerk who shall promptly forward a copy thereof to the applicant at the address shown on the application, by first class mail, postage prepaid, and a copy shall be further provided to the Building Commissioner, Planning Board and Board of Selectmen.*

7.11 *Nothing contained in this bylaw shall be deemed to preclude any person contemplating construction or alteration of a BUILDING or STRUCTURE within a DISTRICT from consulting informally with the COMMISSION before submitting any application referred to in this bylaw on any matter which might possibly be within the scope of the Bylaw. Nothing contained in this bylaw shall be deemed to preclude the COMMISSION from offering informal advice to a potential applicant prior to receiving an application. However, any such preliminary advice offered by the COMMISSION shall not be deemed to set a precedent nor in any way limit the COMMISSION in the exercise of its functions under this bylaw.*

P8. Criteria for Determinations

8.1 *In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.*

P8. Criteria for Determinations - continued

8.2 *In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportion of the BUILDINGS or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw, however, such requirements shall not further limit the maximum floor area ratio and height of a BUILDING as defined and permitted in the Acton Zoning Bylaw.*

8.3 *When ruling on applications for CERTIFICATES on solar energy systems as defined in Section 1A of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.*

8.4 *The COMMISSION shall not consider interior arrangements or architectural features not subject to public view.*

8.5 *The COMMISSION shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the DISTRICT.*

8.6 *The COMMISSION may impose requirements on the screening and location of above ground features of septage systems. Such requirements shall not conflict with requirements of the Acton Board of Health.*

P9. Exclusions

9.1 *The COMMISSION'S review jurisdiction shall not include the following:*

9.1.1 *Temporary BUILDINGS, STRUCTURES, seasonal decorations or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify.*

9.1.2 *Terraces, walks, patios, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is SUBSTANTIALLY AT GRADE LEVEL.*

P9. Exclusions - continued

9.1.3 *The number of the residents' personally owned or leased and regularly used motor vehicles which may be routinely parked within the boundaries of a residential property. However, in those circumstances and not withstanding the provisions of Section 9.1.2, the COMMISSION shall retain limited review jurisdiction in regard to measures that would minimize the visual impact, as viewed from the public way, of any expansion of, or portions of, driveways or other STRUCTURES SUBSTANTIALLY AT GRADE LEVEL which are intended as parking spaces for more than four (4) motor vehicles.*

9.1.4 *Storm windows and doors, screen windows and doors, and window air conditioners.*

9.1.5 *The color of paint applied to the exterior surfaces of BUILDINGS or STRUCTURES.*

9.1.6 *The color of materials used on roofs.*

9.1.7 *Signs of not more than two (2) square feet in DISPLAY AREA in connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in DISPLAY AREA, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.*

9.1.8 *The reconstruction, substantially similar in exterior design, of a BUILDING, STRUCTURE or EXTERIOR ARCHITECTURAL FEATURE damaged or destroyed by fire, storm, or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.*

9.1.9 *The point of access served by handicapped access ramps designed solely for the purpose of facilitating ingress or egress of a physically handicapped person, as defined in M.G.L. c.22 s13A.*

9.1.10 *Non-traditional material(s), providing that the difference between such material(s) and traditional material(s) cannot, upon review by the COMMISSION, be reasonably discerned by the unaided eye from the viewpoint(s) upon which the COMMISSION's power of review is based.*

P9. Exclusions - continued

9.2 *Nothing in this Bylaw shall be construed to prevent the following;*

9.2.1 *Ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT which does not Involve a change in design, material or the outward appearance thereof.*

9.2.2 *Landscaping with plants, trees or shrubs.*

9.2.3 *The meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe, unhealthful or dangerous condition.*

9.2.4 *Any CONSTRUCTION or ALTERATION under a permit duly issued prior to the effective date of this Bylaw.*

9.3 *Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions.*

P10. Categorical Approval

10.1 *The COMMISSION may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Acton, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be CONSTRUCTED or ALTERED without review by the COMMISSION without causing substantial derogation from the intent and purpose of this Bylaw.*

P11. Enforcement and Penalties

11.1 *No Building Permit shall be issued for the CONSTRUCTION or ALTERATION of any BUILDING or STRUCTURE wholly or partially in a DISTRICT unless a CERTIFICATE has first been issued by the COMMISSION when such a CERTIFICATE is required by this Bylaw.*

11.2 *No ALTERATION or CONSTRUCTION of any BUILDING or STRUCTURE wholly or partially in a DISTRICT for which a CERTIFICATE is required by this Bylaw shall deviate from the terms and conditions of such a CERTIFICATE.*

11.3 *The Building Commissioner of the Town of Acton shall enforce this Bylaw upon a determination by the COMMISSION that a violation exists, and subject to the approval of the Board of Selectmen, may institute proceedings in Superior Court pursuant to M.G.L. c.40C § 13 for injunctive or other relief and/or imposition of fines.*

P11. Enforcement and Penalties - continued

11.4 *The COMMISSION, upon a written complaint challenging some enforcement action by the Building Commissioner, received by the Town Clerk within five (5) days following such decision, by a PERSON AGGRIEVED, or other citizen of or property owner in the Town of Acton, shall hold a timely public hearing to determine whether or not the Building Commissioner's action should be upheld, in whole or in part.*

11.5 *Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of not less than $10.00 nor more than $500.00 for each offense under the provisions of M.G.L. c.40C § 13, or alternatively under #E45 of the Town of Acton Bylaws. Each day during any portion of which such violation continues to exist shall constitute a separate offense.*

P12. Appeals

12.1 *An appeal of a determination of the COMMISSION, except as to the propriety of a decision to invoke the provisions of M.G.L. c. 40C § 13 (institution of an action in Superior Court) by the Building Commissioner, may be taken by a PERSON AGGRIEVED by filing a written request with the Town Clerk, acting as an agent of the COMMISSION, within twenty (20) days of the issuance of a CERTIFICATE or a disapproval. In the event of such an appeal, the Acton Town Manager, or his delegate, shall make a timely request to the Metropolitan Area Planning Council that it promptly designate an arbitrator(s) with competence and experience in such matters to hear such an appeal. If such a person(s) is/are so designated he/she/they must hear the appeal in a timely manner and issue a written decision within forty-five (45) days of the request as specified in M.G.L. c. 40C § 12. The arbitration decision shall be binding on the parties, unless a Complaint seeking a further appeal is filed in Superior Court within twenty (20) days from the filing of the arbitration decision with the Town Clerk, pursuant to M.G.L. c. 40C § 12A.*

P.13. Validity and Separability

13.1 *The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.*

P14. Appendices

Appendix 1: South Acton District

The South Acton District shall be a DISTRICT area under this Bylaw. The location and boundaries of the South Acton District are defined and shown on the Local Historic District Map of the Town of Acton, Sheet 1 - 1990 which is a part of this bylaw. Sheet 1 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Appendix 2: Acton Centre District

The Acton Centre District shall be a DISTRICT area under this Bylaw. The location and boundaries of the Acton Centre District are defined and shown on the Local Historic District Map of the Town of Acton, Sheet 2 - 1990 which is a part of this bylaw. Sheet 2 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 2.

Appendix 3: West Acton District

The West Acton District shall be a DISTRICT area under this Bylaw. The location and boundaries of the West Acton District are defined and shown on the Local Historic District Map of the Town of Acton, Sheet 3 - 1990 which is a part of this Bylaw. Sheet 3 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 3.

CHAPTER Q

FINANCIAL CONDITION REPORTS

Local School Committee Financial Condition Reports to the Finance Committee

1.1 *The Board of Selectmen shall direct the Local School Committee, or its designee, to submit to the Finance Committee a quarterly financial report, due no later than 45 days from the end of the quarter, making the Dec. 31 report due Feb. 15, the March 31 report due May 15, the June 30 report containing all fiscal year end results due August 15, and the Sept. 30 report due Nov 15, and the report shall give an accounting of:*

1.1A *all Local School Committee revenue of whatever type, including but limited to tax revenue, receipts, fees, fines, etc., receipts of all revolving funds, enterprise funds, gifts, grants, trust funds, and entrepreneurial activities, and giving a comparison with projected revenue for the current fiscal year;*

1.1B *all Local School Committee expenditures of whatever type, including but not limited to expenses charged to: all items listed in the revenue accounting; tax receipts; fees, fines, etc. Paid to the town; all revolving funds; all enterprise funds; gifts and grants to the Local School Committee; all entrepreneurial activities, and giving a comparison with projected expenditure for the current fiscal year;*

1.1C *the current balance of each fund maintained by the Local School Committee, including but not limited to all general funds, all revolving funds, all enterprise funds, all gift funds, all grant funds, all entrepreneurial balances, and all trust funds; the beginning balance of each fund; and, the sources and uses of each fund.*

1.2 *The format of the Local School Committee FINANCIAL REPORT TO THE FINCOM shall: include a presentation reflecting the Local School Committee Object Budget, that is present spending by cost code; include a presentation reflecting the Local School Committee Departmental budget with all Departmental line items; substantially reflect all revolving, enterprise, and trust funds; substantially reflect all spending authorized the Local School Committee Warrant Article; give the fiscal year beginning balance and the current balance of each fund reported; and, provide a means to compare trends in revenue and spending over a time period of at least five years.*

1.3 *The Finance Committee shall make all reports received under this article available to the public.*

Town Financial condition Reports to the Finance Committee

2.1 *The Board of Selectmen, or its designee, shall submit to the Finance Committee a quarterly financial report, due no later than 45 days from the end of the quarter, making the Dec. 31 report due Feb. 15, the March 31 report due May 15, the June 30 report containing all fiscal year end results due August 15, and the Sept. 30 report due Nov 15, and the report shall give an accounting of:*

2.1A *All Town revenue of whatever type, including but not limited to tax revenue receipts, fees, fines, etc., receipts of all revolving funds, enterprise funds, gifts, grants, trust funds, and entrepreneurial activities, and giving a comparison with projected revenue for the current fiscal year;*

2.1B *All Town expenditures of whatever type, including but not limited to expenses charged to: all items listed in the revenue accounting; tax receipts; fees, fines, etc. paid to the town; all revolving funds; all enterprise funds; gifts and grants to the Town; all entrepreneurial activities, and giving a comparison with projected expenditure for the current fiscal year;*

2.1C *the current balance of each fund maintained by the Town, including but not limited to all general funds, all revolving funds, all enterprise funds, all gift funds, all grant funds, all entrepreneurial balances, and all trust funds; the beginning balance of each fund; and, the sources and uses of each fund.*

2.2 *The format of the TOWN FINANCIAL REPORT TO THE FINCOM shall: include a presentation reflecting the Town Object Budget, that is present spending by cost code; include a presentation reflecting the Town Departmental Budget with all Departmental line items; substantially reflect all revolving, enterprise, and trust funds; shall substantially reflect all spending authorized by Town Warrant Article; shall give the fiscal year beginning balance and the current balance of each fund reported; and, shall provide a means to compare trends in revenue and spending over a time period of a least five years.*

2.3 *The Finance Committee shall make all reports received under this article available to the public.*

CHAPTER R

GROUND WATER CLEANUP STANDARDS

1. Authority

This Bylaw is adopted by the Town of Acton under its Home Rule Authority pursuant to Article 89, Section 6 of the Amendments to the Massachusetts Constitution (the Home Rule Amendment), its police powers to protect the public health, safety, welfare, and its authorization under Massachusetts General Laws Chapter 40, Section 21, and its authority to plan for the prevention, control and abatement of water pollution under M.G.L. c. 21, § 27 (1).

2. Purpose

The purpose of this Bylaw is to protect, preserve, improve and maintain the Town of Acton's existing and potential public drinking water sources and to assure public health and safety through the application of stringent environmental ground water quality clean up standards which assure restoration of any contaminated water resources area covered by this Bylaw to a fully useable condition.

3. Recitations

3.1 *The Town of Acton relies exclusively on groundwater sources within the Town as its sole source of public drinking water for residents, businesses and industries in the Town.*

3.2 *There have been a number of documented releases and threats of release within the Town of "oil" and "hazardous material" as those terms are defined under Massachusetts General Laws Chapter 21E and the Massachusetts Contingency Plan, 310 CMR 40.0000 et.seq. (the "MCP").*

3.3 *Groundwater that serves as Acton's public water supply has been contaminated or threatened by various releases and threats of release within the Town of "oil" and "hazardous material".*

3.4 *Multiple contaminants in groundwater and/or multiple pathways of exposure to such contaminants has presented and continues to present extraordinary risks to Acton's present and future public drinking water supply sources.*

4. Definitions

The following terms shall have the following meanings in this Bylaw:

4.1 *"Contaminant" means any physical, chemical, biological or radiological substance or matter in water. See 42 U.S.C. § 300f(6). The term "Contaminant" includes, without limitation, any material or substance defined as "oil" or "hazardous material" under Massachusetts General Laws Chapter 21E or the Massachusetts Contingency Plan, 310 CMR 40.0000 et seq. (the "MCP").*

4.2 *"DEP" means the Department of Environmental Protection, its predecessors and/or its successors.*

4.3 *"Zone 1" shall be that area defined as "Zone 1 - The Wellhead Protection Area" by Section 4.3.2.1 of the Acton Zoning Bylaw's Groundwater Protection District Regulations.*

4.4 *"DEP Approved Wellhead Protection Area" means the protective radius around a public water supply well or wellhead which has been approved by DEP as show on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 produced by Mass. GIS and on file with the Town Clerk of the Town of Acton. In the event of a conflict between Section 4.3 and Section 4.4 hereof, the broader shall control.*

4.5 *"Zone 2" means that area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). See 310 CMR 22.02. Zone 2 shall include (a) all areas in the Town of Acton defined as "Zone 2 - The Recharge Protection Area" by Section 4.3.2.2 of the Acton Zoning Bylaw's Groundwater Protection District regulations, and (b) all areas in the Town of Acton depicted as Zone 2 as shown on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 produced by Mass. GIS and on file with the Town Clerk of the Town of Acton. In the event of a conflict between Section 4.5(a), Section 4.5(b) and/or Section 4.6 hereof, the broader shall control.*

4.6 *"IWPA" means the Interim Wellhead Protection Area, an area extending to a one-half mile radius from a public water supply wellhead with an approved pumping rate of 100,000 gallons per day or greater, that is intended to protect the wellhead pending the delineation of its Zone 2, as shown on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 produced by Mass. GIS and on file with the Town Clerk of the Town of Acton. See 310 CMR 22.02.*

4. Definitions - continued

4.7 *"Fully useable condition" means that, with respect to any Resource Area covered by this Bylaw, Contaminant levels meet or surpass in cleanness on a permanent basis Groundwater Cleanup Standards established by this Bylaw throughout the Resource Area for each and every Contaminant.*

4.8 *"Potentially productive aquifer(s)" means all aquifers within Acton delineated by the U.S. Geological Survey as a high or medium yield aquifer, as shown on a DEP Bureau of Waste Site Cleanup Map of the Town of Acton dated October 25, 1996 produced by Mass. GIS and on file with the Town Clerk of the Town of Acton. See 310 CMR 40.0006.*

4.9 *"Cleanup" means any response action, removal action or remedial action undertaken pursuant to any federal or state environmental law, rule, regulation, order or decree involving the clean up or removal of any contaminant from the environment, including, without limitation, from land, waters and/or groundwaters.*

4.10 *"Ground Water Cleanup Standards" means the groundwater quality standards adopted by the Town of Acton pursuant to this Bylaw and are as follows: (1) Maximum Contaminant Level Goals ("MCLGs") established under the Safe Drinking Water Act for each Contaminant for which an MCLG has been established, see 40 CFR § § 141.50 - 141.52. and (2) where an MCLG for a specific Contaminant is zero, or where an MCLG for a specific Contaminant has not been promulgated, 1 part per billion ("ppb") for any such volatile organic compound ("VOC") and 5ppb total for all such VOC's.*

4.11 *"Resource Area" means and includes each and all of the following areas in the Town of Acton:*

a*. Zone 1 of all public water supply wells,*

b*. All DEP Approved Wellhead Protection Areas,*

c*. Zone 2 of all public water supply wells,*

d*. ALL IWPAs for a Public Water Supply, and*

e*. All Potentially Productive Aquifers.*

5. Scope

Any Cleanup performed in the Town of Acton by a person potentially liable under Section 5(a) of General Laws Chapter 21E on, in, at, of or affecting any Resource Area(s) shall on a permanent basis meet or surpass in cleanness the Ground Water Clean Up Standards established by this Bylaw throughout the Resource Area for each and every Contaminant for which the Cleanup is or has been undertaken.

6. Application of Ground Water Cleanup Standards

All sampled locations throughout the Resource Area shall meet the Ground Water Clean Up Standards established by this Bylaw. No averaging of samples may be used to determine compliance with the Ground Water Cleanup Standards for any particular sampling point, Resource Area or any combination of Resource Areas. All Resource Areas which undergo a Cleanup must be restored to a fully useable condition.

7. Enforcement

*The Board of Selectmen is authorized and empowered to enforce the provisions of this Bylaw. Pursuant to G.L. Chapter 40, Section 21, breach of this Bylaw shall be punishable by a penalty of three hundred dollars ($300.00) for each offense. Each day during which a breach of this Bylaw continues shall constitute a separate offense. Without limitation, it shall constitute a breach of this Bylaw to discontinue for more than thirty (30) days or to abandon a Cleanup of a Resource Area without meeting the Groundwater Cleanup Standards of this Bylaw. Any breach of this Bylaw shall be deemed to cause irreparable harm to the Town of Acton and its citizens, resident**s**, and persons employed in the Town, entitling the Town of Acton to all appropriate injunctive relief in addition to all other available remedies provided by law.*

8. Variance From Groundwater Cleanup Standards

The Board of Selectmen shall have the power, after public hearing for which notice has been given by publication and posting , by mailing to the applicant, all abutters, all abutters to abutters, and the Acton Water District Commissioners, to grant upon petition with respect to a particular Cleanup a variance from the Groundwater Cleanup Standards of this Bylaw where the Board of Selectmen specifically finds that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw. In determining whether to grant such a variance, the Board of Selectmen should consider the following:

(i) *the ability of the applicant to demonstrate that its contribution to a discharge, release, or disposal of the Contaminants at issue can be distinguished from the contribution of other parties;*

(ii) *the amount and concentration of the contaminants involved;*

8. Variance From Groundwater Cleanup Standards - continued

(iii) *the degree of toxicity and the fate and transport of the contaminants involved;*

(iv) *the degree of involvement by the applicant in the generation, transportation, treatment, storage, or disposal of the contaminants involved;*

(v) *the degree of care exercised by the applicant with respect to the contaminants concerned, taking into account the characteristics of such contaminants;*

(vi) *the degree of cooperation by the applicant with the Federal, State or local officials to prevent any harm to the public health, safety, welfare, or environment;*

(vii) *alternatives proposed by the applicant to protect the public health, safety, welfare and the environment including, without limitation, any prospective contribution by the applicant to costs of treatment of the affected groundwater before its distribution within Acton's public water supply; and*

(viii) *whether achievement of the Ground Water Cleanup Standards is technologically infeasible or not cost-effective based on the limits of best available technology, the marginal costs, the marginal benefits, and the risks to the public health, safety, welfare and the environment.*

The Board of Selectmen may impose conditions, safeguards and limitations in such a variance to protect the public health, safety, welfare and the environment and to effectuate the purposes of this Bylaw.

9. Applicability

This Bylaw shall apply to any existing, ongoing or proposed Cleanup to the maximum extent permitted by law.

10. Severability

If any part of this Bylaw is adjudicated invalid, the remaining parts shall remain in full force and effect. If this Bylaw is adjudicated invalid or inapplicable in any area or zone, it shall remain valid and applicable to the maximum geographical extent possible.

CHAPTER S

COMMUNITY PRESERVATION COMMITTEE

Section 1. Establishment; appointment of members; membership; terms of office

1.1 *There is hereby established, pursuant to the Community Preservation Act, a Community Preservation Committee ("Committee") consisting of nine (9) voting members. The composition of the Committee, the appointing authority and the terms of office for the Committee members shall be as follows:*

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

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

One member of the Planning Board as designated by the Planning Board for an initial term of two years and thereafter a term of three years;

One member of the Recreation Commission as designated by the Recreation Commission for an initial term of two years and thereafter a term of three years;

One member of the Housing Authority as designated by the Housing Authority for a term of three years;

One member of the Board of Selectmen as designated by the Board of Selectmen for an initial term of one year and thereafter for a term of three years;

Three members at-large to be appointed by the Board of Selectmen who are legal residents of the Town of Acton, two members at-large to be appointed for one year and thereafter for a term of three years, and one member at-large to be appointed for two years and thereafter for a term of three years.

1.2 *If a person designated by one of the boards, commissions, or authorities set forth above, no longer serves on the appointing authority, the appointing authority may appoint a new member to complete that term if the existing member no longer wishes to serve on the Committee. Otherwise, that member may complete his or her term on the Committee. If any of the commissions, boards or authorities listed in this section no longer be in existence for whatever reason, the Board of Selectmen shall appoint a person with similar experience and responsibilities to serve in his or her place.*

Section 1. Establishment; appointment of members; membership; terms of office- continued

1.3 *In addition to the members of the Committee set forth in Section 1.1, the Committee may include up to two associate members who are legal residents of the Town of Acton. Associate members shall be appointed by the Board of Selectmen for one-year terms. The chairperson of the Committee may designate any such associate member to sit on the Committee for any particular matter(s) in the case of an absence, inability to act, or conflict of interest on the part of any member at-large, or in the event of a vacancy in a member at-large position on the Committee, until said vacancy is filled.*

Section 2: Meetings; quorum; chairman

2.1 *The Committee shall comply with the provisions of the Open Meeting Law (MGL c. 39 §23B). The Committee shall not meet or conduct business without the presence of a quorum, which shall be a majority of members of the Committee. The Committee shall approve its actions by a majority vote of the members present, except as otherwise required by law.*

2.2 *At the first meeting of each fiscal year, the Committee shall elect a chairperson, a vice chairperson, and a clerk by majority vote. These officers shall not be associate members*

Section 3: Duties

3.1 *The Committee shall study the needs, possibilities, resources, and preferences of the town regarding community preservation. The Committee shall consult with existing municipal boards, including, but not limited to, the Conservation Commission, Historical Commission, Historic District Commission, Planning Board, Recreation Commission, Housing Authority, Acton Community Housing Corporation, Finance Committee and Board of Selectmen in conducting such study. The Committee may consult with other town boards, committees, and commissions as it sees fit. The Committee shall hold at least one (1) public informational hearing each year on the needs, possibilities and resources of the town regarding community preservation for which it shall publicly post notice by the Town Clerk and publish such notice in a newspaper of general circulation in town for each of the two weeks preceding the hearing.*

Section 3: Duties - continued

3.2 *The Committee shall make recommendations in proper form to Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, and community housing that is acquired or created with funds received in accordance with the Community Preservation Act, MGL Chapter 44B, Sections 1 to 17, as amended; provided, however, that funds expended pursuant to this chapter shall not be used for maintenance. With respect to community housing, the Committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.*

3.3 *The Committee shall engage in public discussion of all proposed acquisitions prior to the Town Meeting at which such acquisitions will be considered.*

3.4 *In each fiscal year, the Committee shall recommend spending, or setting aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of open space, historic resources, and community housing. The Committee may also recommend an appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee's administrative and operating expenses. The Committee shall report each year to the Town Meeting on its actual expenditures and anticipated expenditures for administration and operating costs.*

3.5 *The Committee may recommend to Town Meeting that funds be set aside for later spending for specific purposes consistent with the Community Preservation Act, when sufficient revenues are not then available in the Community Preservation Fund, or for general purposes that are consistent with Community Preservation.*

3.6 *Recommendations to Town Meeting shall include the anticipated costs of the proposed appropriation consistent with the Community Preservation Act and a description of the project. In addition to approving appropriations from the Community Preservation Fund as recommended by the Committee, Town Meeting may approve such additional appropriations to meet the objectives of the Community Preservation Act as it deems appropriate.*

3.7 *The Committee may recommend to Town Meeting that it authorize the taking of the fee or any other interest in real property, in accordance with Chapter 79 of the Massachusetts General laws for any of the purposes of the Community Preservation Act.*

3.8 *The Committee shall keep a full and accurate account of all of its actions including its recommendations and the action taken on them, and records of all appropriations or expenditures made from the Community Preservation Fund. The records of the Committee shall be public records, to the full extent provided by law.*

Section 4: Town Meeting, Legislative Body

4.1 *All duties and responsibilities of the legislative body as set forth in the Community Preservation Act shall be vested in the Town of Acton's legislative body, Town Meeting.*

4.2 *In performing the duties and responsibilities of the legislative body as set forth in the Community Preservation Act, Town Meeting shall act pursuant to and in accordance with the requirements of the Community Preservation Act, the Town of Acton Charter and any applicable Town of Acton Bylaws, as from time to time amended.*

4.3 *Subject to and without limitation of the foregoing, in performing the duties and responsibilities of the legislative body as set forth in the Community Preservation Act, Town Meeting shall, in its sole and absolute discretion, have the power and authority to accept, reject, or modify, in whole or part, any recommendation of the Community Preservation Committee.*

Section 5: Amendments

5.1 *This Chapter may be amended from time to time by a majority vote of the Town Meeting, provided that such amendments would not cause a conflict to occur with the Community Preservation Act.*

Section 6: Severability

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

Section 7: Effective Date

7.1 *This chapter shall take effect upon approval by the Attorney General of the Commonwealth and after all requirements of MGL Chapter 40, §32 and Chapter 44B Section 3-7 inclusive have been met. Each appointing authority shall have 30 days after approval by the Attorney General and the town election whichever come later to make its appointments.*

CHAPTER T

"CARRY-IN" ALCOHOLIC BEVERAGES BYLAW

1. Definitions

For purposes of this bylaw, the following terms shall have the following meanings:

"Board" shall mean the Board of Selectmen acting as the Town's local licensing authority for common victuallers under chapter 140 of the General Laws.

"Bylaw" shall mean this bylaw applicable to Carry-In Permission for alcoholic beverages to restaurants operated by common victuallers.

"Carry-In Permission" shall mean permission granted by the Board to a common victualler under this bylaw to allow alcoholic beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler.

"Common Victualler" shall mean a person duly licensed under the provisions of chapter 140 of the General Laws to conduct a restaurant.

"Alcoholic Beverages" shall mean alcoholic beverages as defined in chapter 138, section 1 of the General Laws.

"Restaurant" shall mean a restaurant as defined in chapter 138, section 1 of the General Laws.

2. General Rules

No common victualler shall permit alcoholic beverages to be consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler except pursuant to a valid license issued under the provisions of chapter 138 of the General Laws or pursuant to and in strict conformity with this bylaw and regulations adopted by the Board pursuant to this bylaw.

3. Carry-In Permission for Alcoholic Beverages

The Board may grant Carry-In Permission to a common victualler to allow alcoholic beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler provided that:

a. *Application for such Carry-In Permission shall be made to the Board at the time of the initial or renewal application for a common victualler's license or any time during a calendar year for the initial application for Carry-In Permission for an existing establishment having a common victualler's license.*

b. *The applicant for such Carry-In Permission shall not be less than twenty-one years of age and must be a person of good character in the Town.*

3. Carry-In Permission for Alcoholic Beverages - *continued*

c. *No Carry-In Permission shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.*

d. *No Carry-In Permission shall be issued to any fast food restaurant, defined as a restaurant with seating but no table service.*

e. *No Carry-In Permission shall be issued to any applicant who has a license for the restaurant issued under the provisions of chapter 138 of the General Laws.*

f. *No Carry-In Permission shall be issued to any applicant whose license for the restaurant issued under the provisions of chapter 138 of the General Laws has been suspended or revoked, or to any person, firm, corporation, association or other combination of persons affiliated, directly or indirectly, with such licensee through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever.*

g. *Before approving or renewing Carry-In Permission, the Board may cause an examination or examinations to be made of the premises of the applicant or may otherwise review such evidence as the Board deems credible to determine whether such premises comply in all respects with the appropriate definitions of section one and whether activities conducted on the premises comply in all respects with the provisions of this Bylaw. The Board may deny Carry-In Permission or renewal of Carry-In Permission to any applicant where the premises and/or the activities conducted on the premises do not in the Board's judgment so comply.*

h. *The Board may refuse to grant Carry-In Permission in certain geographical areas of the Town, where the character of the neighborhood may warrant such refusal.*

i. *The common victualler shall comply with any and all conditions imposed by the Board with respect to such Carry-In Permission, including without limitation conditions with respect to hours and days during which such alcoholic beverages may be consumed in the restaurant and the insurance which shall be carried with respect to operation of the restaurant having Carry-In Permission.*

j. *Carry-In Permission under this Bylaw shall be not be transferable between persons or locations except with the advance permission of the Board and then only if consistent with the public interest. Carry-In Permission shall be revocable as provided herein.*

k. *Approval of Carry-In Permission under this bylaw shall not create any property rights; rather such permission is authorized solely to serve the public need and in such a manner as to protect the common good.*

3. Carry-In Permission for Alcoholic Beverages - continued

l. *Every approval of Carry-In Permission under the provisions of this bylaw shall expire on December thirty-first of the year of issue, subject, however, to earlier revocation or cancellation within its term.*

4 Obligations of A Common Victualler Granted Carry-In Permission for Alcoholic Beverages

Any common victualler approved for Carry-In Permission shall at all times comply with the following requirements:

a. *The common victualler shall not permit any person under the age of twenty-one to consume alcoholic beverages in the restaurant. Any person bringing or accompanying any person bringing alcoholic beverages into a restaurant having Carry-In Permission shall, upon request of the common victualler, an Acton police officer, or an agent of the Board, state his name, age, and address, and produce a valid identification document. The common victualler shall verify by appropriate picture identification that any patrons and customers consuming such alcoholic beverages in the restaurant are twenty-one years of age or older. Any common victualler, or agent or employee thereof, under this bylaw who reasonably relies on a valid operator's license issued by the registry of motor vehicles pursuant to section eight of chapter ninety, a valid liquor purchase identification card issued pursuant to chapter 138, section 34B, a valid passport issued by the United States government or by the government of a foreign country recognized by the United States government, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any modification, suspension, revocation or cancellation of its Carry-In Permission or common victuallers license by virtue of that individual's under-age drinking in the restaurant.*

b. *The common victualler shall only allow alcoholic beverages to be consumed in the dining room or dining rooms of the restaurant.*

c. *The common victualler shall ensure that alcoholic beverages are not consumed in the restaurant by customers or patrons so as to cause or contribute to their becoming unruly and/or a danger to themselves or others either in the restaurant or on the public ways upon leaving the restaurant. The common victualler is hereby authorized to confiscate all remaining alcoholic beverages from any patrons or customers who appear to present a danger of becoming unruly and/or becoming a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of alcoholic beverages. Any customers or patrons of a restaurant with Carry-In Permission shall be deemed at all times to consent to such confiscation if deemed necessary by the common victualler.*

d. *The common victualler shall immediately report to the Acton Police Department any situation in which customers or patrons consuming alcohol in the restaurant appear to present a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of alcoholic beverages.*

5. Regulations

The board may promulgate rules and regulations not inconsistent with the provisions of this bylaw for clarifying, carrying out, enforcing, implementing and preventing violations of, all and any of its provisions. Without limitation, the Board may make regulations (a) limiting the number of approvals for Carry-In Permission to be issued under this Bylaw, (b) determining the fee to be charged for Carry-In Permission under this bylaw, which fee shall not be more than double the license fee for a common victualler's license, (c) determining the method and frequency of inspection of the premises and method of carrying on the business of any common victualler having Carry-In Permission hereunder, and (d) for the proper and orderly conduct of any business having Carry-In Permission hereunder.

6. Penalties for Violation

Violation by a common victualler of this Bylaw or any regulation promulgated by the Board pursuant to this Bylaw shall be punishable by a fine of three hundred dollars per offense. Each day a violation continues shall be considered a separate offense.

Any person bringing alcoholic beverages into or consuming alcoholic beverages in a restaurant having Carry-In Permission shall be punished by a fine of three hundred dollars per offense for any of the following violations of this bylaw: (a) refusing, upon request of the common victualler, an Acton police officer, or an agent of the Board, to state his name, age, and address, and produce a valid identification document, (b) stating in response to such request a false name, age, or address, including a name or address which is not his name or address in ordinary use, (c) producing or displaying in response to such request a false or fraudulent identification document, (d) refusing to allow the common victualler to confiscate remaining alcoholic beverages under Section 4(c), or (e) acting in a manner dangerous to himself or others in the restaurant.

Any sums of money collected as fines shall be paid forthwith into the general revenues of the Town.

7. Suspension, etc., of Carry-In Permission

The Board may suspend, modify, cancel, deny, refuse to renew, or revoke Carry-In Permission for any violation of this Bylaw or any regulation promulgated by the Board pursuant to this Bylaw

The Board may suspend, modify, cancel, deny, refuse to renew, or revoke a common victualler's license in the event a common victualler has committed multiple, willful, or repeated violations of this Bylaw or any regulation promulgated by the Board pursuant to this Bylaw.

In case of suspension, modification, cancellation, denial, refusal to renew, or revocation of any Carry-In Permission or any license as aforesaid, no abatement or refund of any part of the fee paid therefor shall be made.

8. Severability

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

9. Effective Date

This chapter shall take effect in accordance with M.G.L. c.40, § 32.

CHAPTER U

DISCHARGES TO THE MUNICIPAL STORM DRAIN SYSTEM

[Adopted 2010]

U1. Purpose

1.1 *Regulation of Illicit Connections, Illicit Discharges, Obstructions and Discharges of Pollutants to the Municipal Storm Drain System is necessary for the protection of the Town of Acton's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.*

1.2 *The objectives of this bylaw are:*

- ***1.2.1*** *To prevent pollutants from entering the Town of Acton's Municipal Separate Storm Sewer System (MS4);*
- ***1.2.2*** *To prevent unauthorized flows from entering the MS4 and adding to total storm water runoff flow volumes;*
- ***1.2.3*** *To prohibit Illicit Connections and Illicit Discharges to the MS4;*
- ***1.2.4*** *To require the removal of all such Illicit Connections and Illicit Discharges;*
- ***1.2.5*** *To comply with state and federal statutes and regulations relating to storm-water discharges; and*
- ***1.2.6*** *To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.*

U2. Definitions

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

Authorized Enforcement Agency *shall mean the Board or any agent or employee of the Town of Acton designated by the Board to enforce this bylaw.*

Board *shall mean the Acton Board of Health.*

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

Discharge of Pollutants *shall mean the addition from any source of any pollutant or combination of pollutants into the Municipal Storm Drain System or into the waters of the United States or Commonwealth from any source.*

Groundwater *shall mean water beneath the surface of the ground.*

Illicit Connection *shall mean a surface or subsurface drain or conveyance, which allows an Illicit Discharge into the Municipal Storm Drain System, including without limitation any discharge of sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.*

U2. Definitions - continued

Illicit Discharge *shall mean a direct or indirect discharge to the Municipal Storm Drain System that is not composed entirely of storm-water, except as exempted in Section U9.*

Impervious Surface *shall mean any natural or manmade 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 rooftops and mechanically compacted soil or ground.*

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

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

Non-Storm Water Discharge *shall mean a discharge to the MS4 not composed entirely of storm water.*

Obstruction *shall mean materials introduced to the MS4 that impede the design flow conditions of the MS4. Typical examples include lawn clippings, brush, gravel and other solid materials.*

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

Pollutant *shall mean any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into the MS4, groundwater or surface water of the Town of Acton.*

U2. Definitions - continued

Pollutants *shall include but not limited to:*

- ***a.*** *paints, varnishes, and solvents;*
- ***b.*** *oil and other automotive fluids;*
- ***c.*** *non-hazardous liquid and solid wastes and yard wastes;*
- ***d.*** *refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;*
- ***e.*** *pesticides, herbicides, and fertilizers;*
- ***f.*** *hazardous materials and wastes; sewage, fecal coliform and pathogens;*
- ***g.*** *dissolved and particulate metals which are not naturally occurring;*
- ***h.*** *animal wastes;*
- ***i.*** *rock, sand, salt, soils;*
- ***j.*** *construction wastes and residues; and*
- ***k.*** *noxious or offensive matter of any kind.*

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

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

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

Surface Water Discharge Permit *shall mean a permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the Discharge of Pollutants to Waters of the Commonwealth.*

Threat of Release *shall mean an observed indication of impending danger or discharge or an unconfirmed indication of loss of a non permitted material into the MS4*

Toxic or Hazardous Material or Waste *shall mean any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance as defined under any State or Federal laws and regulations regulating hazardous, chemical, biological or waste materials, or any amendments thereof, shall be considered toxic or hazardous material or waste.*

U2. Definitions - continued

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

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

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

U3. Applicability

3.1 *This bylaw shall apply to all Illicit Connections, Illicit Discharges, Obstructions and Discharges of Pollutants to the Municipal Separate Storm Sewer (MS4.)*

3.2 *This bylaw is not intended to interfere with, abrogate, or annul any other Bylaw, rule or regulation, statute, or other provision of law. The requirements of this Bylaw should be considered minimum requirements, and where any provision of this Bylaw imposes restrictions different from those imposed by any other bylaw, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.*

U4. Authority

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

U5. Responsibility for Administration

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

U6. Regulations

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

U7. Permits

7.1 *No Person shall discharge any storm water and/or groundwater from any single family residence by means of any conduit(s), pipe(s) or hose(s) from any sump pump, crawl space pump or sub-drain (collectively a "Sump Pump") directly or indirectly onto a public way or into the MS4 without first obtaining a permit from the Board and, in the case of a public way, written permission from the Town Engineer. The permit expires and requires re-issuance upon transfer of title of property or upon change or increase in flow of the discharge source. The permit shall become part of the public record for the property that will be maintained in the Department of Health files.*

7.2 *No Person shall discharge any storm water and/or groundwater from any multi family residence or commercial property by means of any conduit(s), pipe(s) or hose(s) from any Sump Pump as defined in § 7.1 directly or indirectly onto a public way or into the MS4 without first obtaining a permit from the Board and, in the case of a public way, written permission from the Town Engineer. Each such permit must be renewed annually. The permit shall become part of the public record for the property maintained in the Department of Health files.*

7.3 *Permit conditions shall take into account potential public health hazards from freezing on public ways.*

7.4 *The board may stipulate additional permit conditions as required in order to protect public and environmental health.*

7.5 *Fees necessary for issuance of permits or licenses under this bylaw shall be set by the Board of Selectmen at the recommendation of the Board. Fees shall be payable at the time of application.*

U8. Prohibited Activities

8.1 *Illicit Discharges. No Person shall dump, discharge, cause or allow to be discharged any Illicit Discharge, Discharge of Pollutants or Non-Storm Water Discharge into the Municipal Separate Storm Sewer System (MS4) or into a Watercourse, or into the Waters of the Commonwealth, except as exempted in Section U9.*

8.2 *Illicit Connections. No Person shall construct, use, allow, maintain or continue any Illicit Connection to the MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.*

8.3 *Obstruction of MS4. No Person shall cause an obstruction or otherwise interfere with the normal flow of storm water into or out of the MS4 without prior written approval from the Board.*

U9. Exemptions

9.1 *Discharge or flow resulting from fire fighting activities is exempt from this bylaw.*

9.2 *Discharges from the following activities will not be considered a source of pollutants to the MS4 and to Waters of the Commonwealth when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Clean Water Act or this bylaw:*

1. *Waterline flushing;*
2. *Flow from potable water sources;*
3. *Springs;*
4. *Natural flow from riparian habitats and wetlands;*
5. *Diverted stream flow;*
6. *Rising groundwater;*
7. *Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;*
8. *Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), French drain systems in place and connected to the MS4 at the time of passage of this by-law, or air conditioning condensation;*
9. *Discharge from landscape irrigation or lawn watering;*
10. *Indirect discharge of pesticides, herbicides and fertilizers to an MS4 from surface runoff as a result of lawn/crop application, under the condition, however that such applications are conducted pursuant to the intended use of the product and within the recommended application concentrations as indicated by the manufacturer and/or any Federal, State, and local guidelines for those products;*
11. *Water from individual residential car washing;*
12. *Water discharge from street sweeping that occurs during the active sweeping process;*
13. *Application of de-icing materials as required for public safety;*
14. *Dye testing, provided notification is given to the Board prior to the time of the test;*
15. *Non-Storm Water Discharge permitted under a NPDES permit, a Surface Water Discharge Permit or a waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and*
16. *Discharge for which advanced written approval is received from the Board as necessary to protect public health, safety, welfare or the environment.*

U10. Emergency Suspension of Storm Drainage System Access

10.1 *The Board may suspend MS4 access to any Person or property without prior written notice when such suspension is necessary to stop an actual or threatened Discharge of Pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Board may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.*

U11. Notification of Spills

11.1 *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 a Discharge of Pollutants to the MS4 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, or threat of release, of oil, petroleum products or Pollutants and Hazardous Materials or Waste, the person shall, notify the municipal fire and police departments and the Board, Water Supply District of Acton and the Acton Engineering Department within two hours. The reporting person shall provide to the Board written confirmation of all telephone, facsimile, electronic in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.*

11.2 *All notifications and records received by the Town shall become part of the public record for the property maintained in the Health Department files and available for public review.*

11.3 *An annual summary of reported releases into the MS4 providing summary of number and type of reported residential and commercial spills shall be reported in brief in the Annual Town report to the public in a form which conveys trends over a five year period.*

U12. Enforcement

12.1 *The Authorized Enforcement Agency shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.*

12.2 *Civil Relief. If a Person violates the provisions of this bylaw or any regulations, permits, notices, or orders issued thereunder, the Authorized Enforcement Agency 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.*

12.3 *Orders. Once a determination of violation has been made, the Authorized Enforcement Agency may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include but is not limited to the following requirements:*

1. *elimination of an Illicit Discharge, Illicit Connection, Obstruction or Discharge of Pollutants to the MS4;*
2. *performance of monitoring, analyses, and reporting;*
3. *that unlawful discharges, practices, or operations shall cease and desist; and/or*
4. *remediation of contamination in connection therewith.*

Failure by the Authorized Enforcement Agency to issue a written order shall not relieve the violator of the Person's responsibilities under this bylaw.

Copies of all orders shall be made available for public inspection at the Health Department during normal business hours, beginning the next business day after issuance. Inspection and copying shall be permitted according to the provisions of Massachusetts law. These records shall be retained to the extent required by Massachusetts law.

12.4 *If the Board or its designated agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Acton may, at its option, undertake such work, and expenses thereof shall be charged to the violator.*

U12. Enforcement - continued

12.5 *After completion of all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be invoiced for the costs incurred by the Town of Acton, including administrative costs. The violator or property owner may file a written protest objecting to the invoice amount or basis of costs with the Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board affirming or reducing the costs, or within thirty (30) days from a final decision of a court of competent jurisdiction, the invoice amounts 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 payment for the invoice first becomes due.*

12.6 *Criminal Penalty. Any Person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not more than $ 300.00 per day, excluding the cost of damages. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.*

12.7 *Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Acton may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and the Town of Acton General Bylaws Chapter E 45 in which case the Board or its authorized agent or employee shall be the enforcing person. The penalty for the first violation shall be $100.00 per day. The penalty for the second violation shall be $200.00 per day. The penalty for the 3rd and subsequent violations shall be $300.00 per day. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.*

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

12.9 *Appeals. Appeals of orders of an Agent of the Board may be made in writing to the Board within seven business days from receipt of order and reviewed at the next regularly scheduled meeting of the Board. The decisions or orders of the Board may be appealed in writing to the Board of Selectmen within seven business days of the decision and reviewed at the next regularly scheduled meeting of the Board of Selectmen. Further relief shall be to a court of competent jurisdiction.*

U12. Enforcement - continued

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

U13. Severability

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

U14. Transitional Provisions

14.1 *Persons and property owners shall have 90 days from the effective date of the bylaw to comply with its provisions unless good cause is shown for the failure to comply with the bylaw within that period.*

U15. Variances

15.1 *If and only if permissible under the NPDES Storm Water Discharge Permit for the Town of Acton's MS4, the Board may grant a variance from the terms of this bylaw after notice to abutters and a public hearing, if the Board finds that a variance would satisfy each of the following conditions:*

1. *The variance is consistent with the public health and environmental protection objectives of the Massachusetts General Laws and applicable federal, state and local regulations.*
2. *The variance is consistent with the purpose and intent of this bylaw.*
3. *The variance prevents an undue burden on the permit applicant, and*
4. *Equivalent protection as envisioned in Section U1 of this bylaw*

CHAPTER V

STRETCH ENERGY CODE

V-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 Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.*

V-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.

V-3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

V-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 this appendix.

780 CMR 120 AA may be adopted or rescinded by any municipality in the commonwealth in the manner prescribed by law.

V-5 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Acton General Bylaws, Chapter V.

The Stretch Code is enforceable by the building commissioner and by any inspector of the Town of Acton.

CHAPTER W

CIVIL FINGERPRINTING FOR MUNICIPAL LICENSING APPLICANTS

W-1 Definitions

"DCJIS" shall mean the Commonwealth's Department of Criminal Justice Information Services.

"FBI" shall mean the Federal Bureau of Investigation.

"Fitness Determination" shall mean the applicable determination made by the Police Department, following a background check in accordance with this Chapter, regarding the applicant's suitability for the applicable license.

"Licensing Authority" shall mean the Town department or agency responsible for issuing the applicable license listed in Section W-2.

"Police Department" shall mean the Acton Police Department.

"Policy" shall mean the Town of Acton Civil Fingerprinting Policy for Licensing Applicants established pursuant to Section W-3.6.

"State Police" shall mean the Massachusetts State Police.

W-2 Authority and Purpose

The Town adopts Chapter W of the General Bylaw pursuant to Chapter 256 of the Acts of 2010, incorporated as M.G.L. c.6, § 172B1/2, to authorize the Town and the Police Department to conduct State and Federal Fingerprint Based Criminal History checks in accordance with G.L. c. 6, §§ 168 and 172, 28 U.S.C. § 534, and 28 C.F.R. § 20.33 for individuals applying for or in possession of certain licenses including, but not limited to, those engaged in the businesses of:

- *Ice Cream Truck Vending pursuant to Bylaw D15; and*
- *Such other businesses for which the Town may hereafter require applicants to submit fingerprints in connection with a license application.*

W-3 Police Department Procedure for Fingerprinting Background Checks

The Police Department will comply with the following procedures to conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for or in possession of certain licenses including, but not limited to, those engaged in the businesses listed in Section W-2, in addition to those policies and procedures provided by the Policy.

W-3 Police Department Procedure for Fingerprinting Background Checks – con't

3.1 *An applicant, employee, or volunteer seeking to engage in employment listed in Section W-2 shall submit, if required by the licensing authority, fingerprints taken by the Police Department within the past six (6) months along with a fee of one hundred ($100.00) dollars.*

3.2 *A portion of the fee charged to the applicant by the Police Department for the purpose of enforcing this section, thirty ($30.00) dollars, as specified in M.G.L. c. 6, § 175B ½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of this Chapter.*

3.3 *Upon receipt of the fingerprints and the appropriate fee, the Police Department will transmit the fingerprints to the State Police Identification Unit through the DCJIS and then submit the fingerprints to the FBI for a comparison with national records. The results of the FBI check will be returned to the State Police, which will then disseminate the state and national results back to the Police Department.*

3.4 *The Police Department shall review the information received from the FBI and State Police in accordance with this Chapter and provide a Fitness Determination to the applicable Licensing Authority within the Town. In rendering a Fitness Determination, the Police Department will decide whether the record subject has been convicted of (or is pending indictment for) a crime, which bears upon his or her ability or fitness to serve in that capacity, any felony or a misdemeanor, which involved force or threat of force, controlled substances, or was a sex-related offense.*

3.5 *Prior to the issuance of a negative Fitness Determination pursuant to Section W-3.4, applicants must be afforded the opportunity to provide additional information to, or challenge the accuracy of, the information contained in the fingerprint-based criminal background check, including in the FBI identification record prior to a decision by the Licensing Authority to deny, revoke, or suspend any license or permit.*

3.6 *The Police Department shall establish, by rule or regulation, the Policy as a civilian fingerprinting policy for the purposes of conducting state and national criminal history records checks of persons applying for certain licenses within the Town.*

3.7 *A person applying for a license who is required to submit a full set of fingerprints to the licensing authority pursuant to this Chapter may request and receive a copy of his or her criminal history records from the Police Department. Should the license applicant seek to amend or correct his or her record, he or she must contact the DCJIS, the FBI, or their successors, for records from other jurisdictions maintained in their files.*

W-3 Police Department Procedure for Fingerprinting Background Checks – con't

3.8 *The Licensing Authority is authorized to deny any application for, or to revoke, or to suspend any license or permit, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the Licensing Authority in accordance with all applicable laws, rules, or regulations, due to the information obtained pursuant to this Chapter.*

3.9 *Nothing herein shall limit the Licensing Authority's powers to deny, revoke, suspend, or a condition a license on grounds other than those provided in this Chapter.*

W-4 Unauthorized Dissemination of FBI Criminal History Prohibited

4.1 *FBI or other criminal history obtained by the Police Department, the Town, or any person or department on behalf of the Town pursuant to this Chapter shall not be disseminated except as permitted by the General Bylaws, the Policy, the Town's Identity Theft Prevention & Detection Policy, and any other applicable law or regulation.*

4.2 *Agents or employees of the Town that fail to comply with this provision may be subject to sanctions as provided by law, including, where applicable, termination or suspension.*

W-5 Effective Date

This Chapter shall take effect upon its approval by the Attorney General pursuant to G.L. c. 40, § 32.

CHAPTER X

Stormwater Management and Erosion & Sediment Control

X1. Findings

1.1 The United States Environmental Protection Agency (U.S. EPA) through the National Pollutant Discharge Elimination System (NPDES) Permit for Small Municipal Separate Storm Sewer Systems (MS4s) requires that the Town of Acton must establish an appropriate regulatory framework for stormwater management.

1.2 Land disturbances and developments can alter the hydrology of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition.

1.3 Stormwater runoff can contain water-borne pollutants.

1.4 Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through appropriate stormwater management.

1.5 Regulation of land disturbances and developments that create stormwater runoff is necessary to protect water bodies and groundwater resources; to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff; to safeguard public health, safety, and welfare; and to protect natural resources.

1.6 This Bylaw is needed to manage stormwater runoff caused by land disturbances or developments, and to minimize its degrading effects on local water resources and the resulting threats to public health and safety.

X2. Purpose

2.1 The purpose of this Bylaw is to establish stormwater management requirements and controls that protect the public health, safety, and welfare through the following objectives:

2.1.1 require practices that eliminate soil erosion and sedimentation;
2.1.2 control the volume and rate of stormwater runoff resulting from land disturbances;
2.1.3 minimize flooding;
2.1.4 mimic pre-existing hydrologic conditions during and after land disturbances or development to the maximum extent practicable;
2.1.5 require the management and treatment of stormwater runoff from land disturbances and development;
2.1.6 protect groundwater and surface water from degradation or depletion;

X2. Purpose continued

2.1.7 maintain the natural infiltration of stormwater on sites and/or promote recharge to groundwater where appropriately sited and/or treated, with emphasis on the Zone 1, Zone 2 and Zone 3 recharge areas;
2.1.8 maintain the integrity of stream channels;
2.1.9 minimize stream bank erosion;
2.1.10 minimize impacts to stream temperature;
2.1.11 prevent pollutants from entering the municipal storm drainage system;
2.1.12 ensure that soil erosion and sedimentation control measures and stormwater runoff management practices, including efforts to minimize the area of land disturbance, are incorporated into the site planning and design process and are implemented and maintained during and after construction;
2.1.13 ensure adequate long-term operation and maintenance of stormwater best management practices;
2.1.14 require practices to control construction waste;
2.1.15 prevent or minimize adverse impacts to water quality;
2.1.16 comply with state and federal statutes and regulations relating to stormwater discharges; and
2.1.17 establish the Town of Acton's legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

2.2 This Bylaw is intended to provide design standards for erosion control and stormwater management and to address gaps in jurisdiction for stormwater management requirements in the Town of Acton Bylaws and the Massachusetts Wetlands Protection Act.

X3. Definitions

Abutter: Each property owner, determined by the most recent records in the Assessors Office, of real property that abuts the Site on which the proposed Land Disturbance activity is to take place.

Alteration of Runoff or Drainage Characteristics: Any activity on a Site that changes the Water Quality, or the force, quantity, direction, timing or location of Runoff or Drainage flowing from the Site. Such changes include: change from distributed Runoff to concentrated, confined or discrete Discharge; change in the volume of Runoff; change in the peak rate of Runoff; and change in the Recharge to groundwater on the area.

Applicant: Any Person or Persons requesting a Land Disturbance Permit.

X3. Definitions continued

Best Management Practice (BMP): An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.

Clearing: Any activity that removes vegetation. Clearing generally includes grubbing as defined below.

Construction Preparation: All activity in preparation for construction.

Construction Waste: Excess or discarded building or construction site materials that may adversely impact Water Quality, including but not limited to concrete truck washout, chemicals, litter and sanitary waste.

Development: The modification of land to accommodate a new use or expansion of use, usually involving construction; and redevelopment, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the Impervious Cover area on previously developed sites.

Drainage: Water, originating from precipitation, flowing over or through man-made conveyances.

Erosion: The wearing away of the land surface by natural or man-made 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 with narrative, drawings and details prepared by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes Best Management Practices, or equivalent measures designed to control surface Runoff, Erosion and Sedimentation during construction preparation and construction related Land Disturbance activities.

Grubbing: The act of clearing land surface by digging up roots and stumps.

Impervious Cover: Material covering the ground with a coefficient of runoff greater than 0.7 (as defined in Data Book for Civil Engineers by Seelye; C = runoff divided by rainfall) including, but not limited to, macadam, concrete, pavement and buildings.

Implementing Authority: The Board of Selectmen, or the Town Department designated by the Board of Selectmen to carry out the provisions of this Bylaw and the Regulations adopted by the Board of Selectmen.

Land Disturbance: Any activity, including Clearing and Grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

X3. Definitions continued

Massachusetts Stormwater Management Policy: The Policy issued by the Department of Environmental Protection, as amended, that coordinates 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 regulates stormwater impacts through performance standards aimed to reduce or prevent pollutants from reaching water bodies and to control the quantity of site runoff.

Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System or Municipal Storm Sewer System: A conveyance or system of conveyances designed or used for collecting or conveying stormwater, including but not limited to any road with a drainage system, municipal street, catch basins, manhole, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, ditch, swale, reservoir, and other drainage structure, that together comprise the storm drainage system owned or operated by the Town of Acton.

Operation and Maintenance Plan: A plan prepared by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC) 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.

Owner: A Person with a legal or equitable interest in property, including his/her authorized representative.

Permittee: The Person who holds a Land Disturbance Permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

Person or Persons: Any 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.

X3. Definitions continued

Pollutant: Any element or property of: sewage; agricultural, industrial, construction or commercial waste; runoff; leachate; heated effluent; or other matter whether originating at a point or non-point source, that is or may be introduced into the MS4, groundwater or surface water.

Pollutants shall include, but are not limited to:

- Paints, varnishes, and solvents;
- Oil , fuel, and other automotive fluids;
- Non-hazardous liquid and solid wastes and yard wastes;
- Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- Pesticides, herbicides and fertilizers;
- Hazardous materials and wastes;
- Sewage, fecal coliform, pathogens and animal wastes;
- Dissolved and particulate metals which are not naturally occurring;
- Rock, sand, salt, soils;
- Construction Waste and residues; and
- Noxious or offensive matter of any kind.

Recharge: process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

Runoff: Water flowing over the ground surface and originating from 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 Disturbance occurs, has occurred or will occur.

Slope: The incline of a ground surface expressed as a ratio of horizontal to vertical distance.

Soil: Earth materials including duff, humic materials, sand, rock and gravel.

Stormwater: Runoff and Drainage.

X3. Definitions continued

Stormwater Management Plan: A document containing narrative, drawings and details prepared by a qualified professional engineer (PE), which includes structural and non-structural Best Management Practices to manage and treat Stormwater 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.

Water Quality: The chemical, physical, and biological integrity of Water Resources.

Water Resources: Waters of the Commonwealth as defined by the Massachusetts Clean Waters Act, G.L. c. 21, § 26A.

Zone 1, Zone 2, Zone 3 and Zone 4: Groundwater Protection zones as defined by the Town of Acton.

X4. Authority

4.1 This Bylaw is adopted under authority granted by the Home Rule Amendment, Article LXXXIX (89) of the Constitution of the Commonwealth of Massachusetts, the Home Rule statutes, and in accordance with the regulations of the federal Clean Water Act found at 40 CFR 122.34, the Phase II rule from the Environmental Protection Agency found in the December 8, 1999 Federal Register, and the National Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems issued by EPA Region 1 on April 18, 2003.

X5. Applicability

5.1 This Bylaw shall apply to all Land Disturbances and Development within the jurisdiction of the Town of Acton. Except in accordance with a Land Disturbance Permit issued pursuant to this Bylaw, no Person shall perform any Land Disturbance that results in one or more of the Regulated Activities defined in Section 6.1 that is not an Exempt Activity listed in Section 7.1

X6. Regulated Activities

6.1 Regulated activities subject to a Land Disturbance Permit shall include:

6.1.1 Land Disturbance or Development of greater than or equal to one (1) acre, or which is part of a common plan for Development that will disturb one or more acres of land.

6.1.2 Land Disturbance or Development of an area greater than or equal to 5,000 square feet having a 10% or greater Slope, or which is part of a common plan for Development that will disturb an area greater than or equal to 5,000 square feet having a 10% or greater Slope.

6.1.3 Land Disturbance or Development involving the creation or disturbance of 5,000 square feet or more of Impervious Cover, or which is part of a common plan for Development that will create or disturb 5,000 square feet or more of Impervious Cover.

6.1.4 Construction of a new drainage system, or alteration of an existing drainage system or conveyance, serving a drainage area of (a) one acre or more, or (b) 5,000 square feet or more of Impervious Cover.

6.1.5 Land Disturbance or Development requiring another Town project approval process with requirements to meet the design standards of the Chapter X General Bylaw. These approval processes include but are not limited to: site plan special permits, comprehensive permits and subdivision approvals.

X7. Exempt Activities

7.1 The following activities are exempt from the requirements of this Bylaw:

7.1.1 Normal maintenance of, or emergency repairs to, Town owned public ways, drainage systems and appurtenances.

7.1.2 Normal maintenance and improvement of land in agricultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

7.1.3 Maintenance and repair of septic systems.

7.1.4 The construction of fencing that will not result in Alteration of Runoff or Drainage Characteristics.

7.1.5 Emergency repairs to existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.).

7.1.6 Normal maintenance of or emergency repairs to any Stormwater treatment facility deemed necessary by the Implementing Authority or its agents.

X7. Exempt Activities continued

7.2 The following activities are exempt from the requirements of this Bylaw UNLESS they exceed the threshold set forth in Section 6.1:

7.2.1 Activities for which all Stormwater management has been reviewed and approved as part of an order of conditions issued by the Acton Conservation Commission.

7.2.2 Improvement of Town-owned public ways and appurtenances that will not result in an expansion of impervious cover of more than 5,000 square feet and do not exceed thresholds regulated under the EPA MS4 Permit.

7.2.3 Activities on single-family residential lots that are not in Zone 1 or Zone 2, where the activities are not part of a larger common plan of Development (including but not limited to a subdivision plan, special permit plan, or plan showing multiple “ANR” lots).

7.2.4 Construction of utilities other than drainage (e.g., gas, water, sanitary sewer, electricity, telephone, cable television, etc.) that will not result in a permanent Alteration of Runoff or Drainage Characteristics and will comply with the Erosion Control standard in the Massachusetts Stormwater Standards.

X8. Administration

8.1 The Acton Board of Selectmen shall administer this Bylaw. It shall, with the approval of the Town Manager, designate a Town department or official to be the Implementing Authority.

8.2 The Board of Selectmen, after public notice and hearing, shall promulgate and may periodically amend Regulations to effectuate the objectives of this Bylaw. The date of such hearing shall be advertised in a newspaper of general circulation in the Town at least seven (7) days before the hearing date.

X8. Administration continued

8.3 The Regulations shall (without limitation):

8.3.1 Specify the information (including site plans) that must be submitted as part of a Land Disturbance Permit Application;

8.3.2 Specify the procedures for review of Land Disturbance Permit Applications, including consideration of potential Water Quality impacts; and

8.3.3 Specify the performance standards for construction and post-construction Stormwater management measures, and/or the Best Management Practices for control of Stormwater, that are reasonable and appropriate to achieve the objectives listed in Section 2.1 of this Bylaw.

8.4 If the Board of Selectmen determines that another Town project approval process adequately regulates construction and post-construction Stormwater management in a manner sufficient to achieve the objectives of this Bylaw, the Regulations may provide that the approval resulting from that process will serve as the Land Disturbance Permit for purposes of this Bylaw. The Regulations may also or in the alternative provide that the Implementing Authority may determine on a case-by-case basis that approval of the project by another Town entity will serve as the Land Disturbance Permit, provided that the Implementing Authority determines that the objectives of this Bylaw will be achieved by that approval. In any case where approval by another Town entity serves as the Land Disturbance Permit, the Implementing Authority is empowered to enforce all Stormwater-related conditions of that approval pursuant to the enforcement provisions of this Bylaw.

8.5 Failure by the Board of Selectmen to promulgate Regulations shall not have the effect of suspending or invalidating this Bylaw.

8.6 In the absence of Regulations promulgated pursuant to Section 8.2, the Implementing Authority shall use the Massachusetts Stormwater Standards, as elaborated in the latest edition of the Massachusetts Stormwater Management Handbook, as the performance standards for Land Disturbance Permits.

X8. Administration continued

8.7 The Implementing Authority and its agents shall review all Applications for a Land Disturbance Permit, conduct inspections as appropriate, issue or deny a Land Disturbance Permit, and conduct any necessary enforcement action. Following receipt of a completed Application, the Implementing Authority shall notify relevant Town departments, boards and committees (as designated in the Regulations or as determined by the Implementing Authority in the absence of Regulations) and the Water Supply District of Acton of receipt of the Application.

8.8 After submitting a Land Disturbance Permit Application to the Implementing Authority, the Applicant shall publish in the local newspaper and submit to the Town Clerk to be posted on the Town website a notice that the Implementing Authority is accepting comments on the Land Disturbance Permit Application. The Land Disturbance Permit Application shall be available for inspection and comment by the public during normal business hours at the Town Hall for 5 business days from the date of newspaper publication of the notice. A public hearing is not required. Members of the public shall submit their comments to the Implementing Authority during the above-described inspection period. The Implementing Authority reserves the right to require notification of Abutters should it be determined by the Implementing Authority to be appropriate.

8.9 Filing an Application for a Land Disturbance Permit grants the Implementing Authority, or its agent, permission to enter the Site to verify the information in the Application and to inspect for compliance with permit conditions.

8.10 The Implementing Authority shall:

8.10.1 Approve the Application and issue a Land Disturbance Permit if it finds that the proposed Stormwater controls will protect Water Resources, meet the objectives of the Bylaw, and meet the requirements of the Regulations;

8.10.2 Approve the Application and issue a Land Disturbance Permit with conditions that the Implementing Authority determines are required to ensure that the project's Stormwater controls will protect Water Resources, meet the objectives of the Bylaw, and meet the requirements of the Regulations; or

8.10.3 Disapprove the Application and deny a permit if it finds (a) that the proposed Stormwater controls are not protective of Water Resources or fail to meet the objectives of the Bylaw or the requirements of the Regulations, or (b) that the information submitted with the Application was insufficient to allow the Implementing Authority to make one of the determinations set forth in (i), (ii), or (iii)(a).

X8. Administration continued

8.11 The Implementing Authority shall take final action on an Application within 30 days of the close of the public comment period. A copy of the final action shall on the same business day be filed with the Town Clerk. Certification by the Town Clerk that the allowed time has passed without the action of the Implementing Authority shall be deemed a grant of the Land Disturbance Permit.

8.12 Appeal of Land Disturbance Permit Decision. A decision of the Implementing Authority regarding a Land Disturbance Permit Application shall be final. Such a decision shall be reviewable in the Superior Court in an action pursuant to G.L. c. 249, § 4. The remedies listed in this Bylaw are not exclusive of any other remedies (if any) available under any applicable federal, state or local law.

X9. Permit Procedures & Requirements

9.1 Permit procedures and permit filing requirements shall be defined in Regulations promulgated as provided in Section 8 of this Bylaw.

X10. Fees

10.1 The Board of Selectmen, based on recommendations of the Implementing Authority, may establish and from time to time adjust fees to cover expenses connected with application administration and review, inspections, monitoring permit compliance, and enforcement, including the cost of Town administrative and professional staff and outside consultant support as needed. Applicants must pay applicable review fees to the Implementing Authority before the review process may begin.

X11. Performance Guarantee

11.1 The Implementing Authority may require the Permittee to post, before the start of any Land Disturbance, a surety bond, irrevocable letter of credit, cash, or other acceptable performance guarantee. The form and substance of the guarantee must be sufficient to ensure that the work will be completed in accordance with the Land Disturbance Permit, as determined by the Implementing Authority. If the project is phased, the Implementing Authority may, in its discretion, release part of the guarantee as each phase is completed in compliance with the permit, but the guarantee may not be fully released until the Implementing Authority has made a determination that the project has been satisfactorily completed. The Implementing Authority may require a performance guarantee for ongoing operation and maintenance of a Stormwater management system.

X12. Waivers

12.1 The Implementing Authority may waive strict compliance with any requirement of this Bylaw or the Regulations promulgated hereunder, where such action:

12.1.1 is allowed or otherwise not prohibited by federal, state and local statutes and regulations and the Town's MS4 Permit,
12.1.2 is in the public interest, and
12.1.3 does not derogate from the purpose and intent of this Bylaw.

12.2 The Implementing Authority may waive compliance with any of the performance standards set forth in this Bylaw or in the Regulations promulgated hereunder, where the Applicant demonstrates that the proposed Stormwater controls comply with the performance standards to the maximum extent practicable given Site constraints (e.g., lot size).

12.3 Any Applicant may submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request. A waiver request may be submitted with a Land Disturbance Permit Application, but is not required to be. The notice requirements of Section 8.8 apply in either case.

12.4 If, in the opinion of the Implementing Authority, additional information is required for review of a waiver request, the Implementing Authority shall notify the Applicant.

12.5 A decision on a waiver request shall be made by the Implementing Authority within 30 days of receiving all requested information (or within 30 days of receiving the waiver request if no additional information is requested). A copy of the waiver decision shall on the same business day be filed with the Town Clerk. A waiver request shall be deemed denied if not acted upon within the aforementioned time period. Certification by the Town Clerk that the allowed time has passed without the action of the Implementing Authority shall be deemed a denial of the waiver for the purpose of review as set forth in Section 12.6.

12.6 A decision of the Implementing Authority regarding a waiver request, including a deemed denial, shall be final. Such a decision shall be reviewable in the Superior Court in an action pursuant to G.L. c. 249, § 4. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

X13. Enforcement

13.1 The Implementing Authority shall enforce this Bylaw, its Regulations, orders, violation notices, and enforcement orders, and may pursue all available civil and criminal remedies for such violations.

13.2 Enforcement Orders

13.2.1 The Implementing Authority may issue a written order to enforce the provisions of this Bylaw or the Regulations thereunder, which may include, without limitation:

13.2.1.a A requirement to cease and desist from the Land Disturbance until there is compliance with the Bylaw, the Regulations, and the Land Disturbance Permit;

13.2.1.b Maintenance, installation or performance of additional Erosion and Sediment control measures;

13.2.1.c Monitoring, analyses, and reporting;

13.2.1.d Remediation of Erosion and Sedimentation resulting directly or indirectly from the Land Disturbance; and/or

13.2.1.e Compliance with the approved Operation and Maintenance Plan.

13.2.2 If the Implementing Authority determines that corrective action is required, the order shall set forth a deadline by which such corrective action must be completed. Said order shall further advise that, should the violator or property Owner fail to complete the corrective action within the specified deadline, the Town of Acton may, at its option, undertake such work, and the property Owner shall reimburse the Town's expenses of doing so. A performance guarantee may be required as part of any consented-to enforcement order.

13.2.3 Failure by the Implementing Authority to issue a written order shall not relieve the Person responsible for the violation of the Person's responsibilities under this Bylaw.

13.3 Appeal of Enforcement Order. An appeal of an Enforcement Order of the Implementing Authority may be made in writing to the Board of Selectmen within seven (7) business days from receipt of the Order and reviewed at the next regularly scheduled meeting of the Board of Selectmen. Further relief shall be to a court of competent jurisdiction pursuant to G.L. c. 249, § 4.

X13. Enforcement continued

13.4 Penalty. Any Person who violates any provision of this Bylaw, or any regulation, order or permit issued thereunder, may be punished by a penalty of not more than $300.00 per offense which shall inure to the Town or to such uses as the Town may direct. Each day that such violation occurs or continues shall constitute a separate offense.

13.5 Non-Criminal Disposition. As an alternative to a penalty under Section 13.4 or a civil action to enforce the Bylaw, the Town of Acton may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and the Town of Acton General Bylaws Chapter E 45, in which case the Implementing Authority or authorized agent shall be the enforcing person. The penalty for the first violation shall be $100 per day. The penalty for the second violation shall be $200 per day. The penalty for the third and subsequent violations shall be $300 per day. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

13.6 Lien. If the Implementing Authority or its authorized agent undertakes work to correct or mitigate any violation of this Chapter, the Implementing Authority shall (within thirty (30) days after completing the work) notify the permit holder and the Owner(s) of the property (if different) in writing of the costs incurred by the Town of Acton, including administrative costs, associated with that work. The permit holder and the property Owner(s) (if different) shall be jointly and severally liable to pay the Town of Acton those costs within thirty (30) days of the receipt of that notice. The permit holder and the property Owner(s) (if different) may file a written protest objecting to the amount or basis of costs with the Implementing Authority within thirty (30) days of receipt of the notice. If the amount due is not received by the Town of Acton by the expiration of the time in which to file such a protest, or within sixty (60) after the final decision of the Implementing Authority or a court of competent jurisdiction resolving that protest, the amount of the Town's costs shall be a special assessment against the property and shall constitute a lien on the property pursuant to G.L. c. 40, § 58. Interest shall accrue on any unpaid costs at the statutory rate, as provided in G.L. c. 59, § 57.

X14. Severability

14.1 If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

X15. Effective Date

15.1 This Bylaw shall take effect six months after Town Meeting approval or upon completion of all relevant procedural requirements set forth in G.L. c. 40, § 32, whichever is later.

CHAPTER Y

DEPARTMENT REVOLVING FUNDS

1. ***Purpose.*** *This bylaw establishes and authorizes revolving funds for use by specified Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by Massachusetts General Laws Chapter 44, Section 53E½.*

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

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

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

4. ***Procedures and Reports.*** *Except as provided in Massachusetts General Laws Chapter 44, Section 53E½ and this bylaw, the laws, charter provisions, bylaws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this bylaw. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.*

5. <u>Authorized Revolving Funds</u>. *Each of the following individual revolving funds shall be authorized and list, where applicable:*

A. Each revolving fund authorized for use by a town department, board, committee, agency or officer;
B. The department or agency head, board, committee or officer authorized to spend from each fund;
C. The fees, charges and other monies charged and received by the department, board, committee; agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant;
D. The expenses of the program or activity for which each fund may be used; and
E. The fiscal years each fund shall operate under this bylaw.

A Revolving Fund	B Entity Authorized to Spend	C Receipts Credited to Fund	D Expenses Payable from Fund	E Fiscal Years
Historic District Commission	Historic District Commission	Receipts from application fees	Costs to prepare and distribute rulings and guidance on historical issues and incidental expenses	FY 2019, et seq.
Building Inspector	Building Department	Receipts from permit, administrative and archiving fees for gas, electrical and plumbing permits	Costs for contractual inspectors, archiving services and incidental expenses	FY 2019, et seq.
Sealer of Weights and Measures	Health Department	Receipts from inspection fees and fines for scales, weights and measuring devices	Costs for supplies, equipment, services and incidental expenses	FY 2019, et seq.
Hazardous Materials	Health Department	Receipts from permits and fines to store hazardous materials and underground storage tanks	Costs for supplies, equipment, inspectors and incidental expenses	FY 2019, et seq.
Food Service	Health Department	Receipts from inspection fees and fines related to food service	Costs for supplies, equipment, inspectors and incidental expenses	FY 2019, et seq.
Stormwater	Land Use Department	Receipts from permit and inspection fees and fines related to stormwater management	Costs for compliance, inspections, subcontractors and incidental expenses	FY 2019, et seq.
CrossTown Connect	Transportation Department	Receipts from public and private partners for transportation services	Costs for dispatching services and incidental expenses	FY 2019, et seq.
Fire Alarm Network	Fire Department	Receipts from fire alarm box fees	Costs for maintaining the fire alarm network and incidental expenses	FY 2019, et seq.

CHAPTER Z

MARIJUANA ESTABLISHMENTS

The operation within the Town of Acton of any marijuana establishment, as defined in Massachusetts General Laws c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business, is prohibited. This prohibition shall not apply to the sale, distribution, or cultivation of marijuana for medical purposes by a Registered Marijuana Dispensary as defined by and registered under Chapter 369 of the Acts of 2012.

CHAPTER AA

RIGHT TO FARM

Section 1: Legislative Purpose and Intent

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

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

Section 2: Definitions

A. "Farming" and "agriculture" shall have the same meaning as in General Laws Chapter 128, Section IA.

B. Notwithstanding the foregoing, for the purposes of this General Bylaw, "farming" and "agriculture" shall not include the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, or containing of marijuana, as defined in General Laws Chapter 94G, Section 1.

Section 3: Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Acton. Agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this bylaw are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

Section 4: Disclosure Notification

Within 30 days after this bylaw becomes effective, the Board of Selectmen shall prominently post in the Town Hall, Public Libraries, Town Notice Boards, the official Town website, and make available for distribution the following disclosure: "It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers and occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors.

In addition to the above, copies of this disclosure notification shall be available in a public area at the Town Hall.

Section 5: Resolution of Disputes

A. This section shall apply only if the Town of Acton has established an Agricultural Commission in accordance with M.G.L. c. 40, § 8L.

B. "Comments" shall mean either written comments on behalf of or an appearance by an agent of the Agricultural Commission at a public hearing.

C. When a dispute within the Zoning Enforcement Officer's or Zoning Board of Appeals' jurisdiction concerns agricultural activities, the Zoning Enforcement Officer or Zoning Board of Appeals shall obtain comments from the Agricultural Commission or its agent. The Zoning Enforcement Officer or Zoning Board of Appeals may require that those comments be given in writing.

D. When a dispute which does not present imminent danger or risk to public health within the Board of Health's jurisdiction concerns agricultural activities, the Board of Health shall obtain comments from the Agricultural Commission or its agent. The Board of Health may require that those comments be given in writing.

E. All other Town officers and employees may request comments from the Agricultural Commission in addressing concerns or resolving disputes relating to farming or agricultural activities. Any officer or employee requesting comments may require that those comments be given in writing.

Section 6: Severability Clause

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

CHAPTER AB

PLASTIC BAG REDUCTION

Section 1. Purpose and Intent

The purpose of this bylaw is to regulate the retail use of single-use plastic checkout bags and promote the use of reusable bags in the Town of Acton. The reduction in the use of thin-film, single-use plastic checkout bags by retail establishments in the Town of Acton is a public purpose that has positive impacts on the environment including, but not limited to reducing solid waste and unnecessary strains on recycling resources; minimizing litter; reducing the carbon footprint of the Town; protecting local waterways; avoiding the waste of finite natural resources; protecting the marine environment and preserving the unique natural beauty of the Town of Acton.

Section 2. Definitions

"Checkout bag" *- means a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.*

"Thin-film single-use plastic checkout bag" *– means those bags typically with handles, intended for single-use transport of purchases and made of film less than 4.0 mils (the thickness of four pieces of paper).*

"Reusable checkout bag" *- means a sewn bag with stitched handles (1) made of cloth or natural fibers that is machine-washable and designed for multiple use or (2) made of plastic other than polyethylene or polyvinyl chloride; (3) is durable, non-toxic and generally considered a food-grade material that is more than 4 mils thick.*

"Recyclable paper bag" *- means a paper bag that is (1) 100 percent recyclable including the handles; (2) contains at least 40% post-consumer recycled paper content; and (3) displays this information re recyclability and content on the bag surface.*

"Retail Establishment" *— means any business facility (whether for-profit or not-for-profit) that sells goods directly to the consumer, including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, and seasonal or temporary businesses.*

Section 3. Regulations

3.1 On or after January 1, 2020, no retail establishment in the Town of Acton shall provide thin-film single-use plastic checkout bags to customers; If a retail establishment provides or sells checkout bags to customers, the bags must be one of the following:(1) a recyclable paper bag, or (2) a reusable checkout bag.

3.2 The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw

Section 4. Exemptions

4.1 Thin-film plastic bags typically without handles which are used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items, and other similar merchandise are not prohibited under this bylaw.

Section 5. Enforcement

5.1 Enforcement of this bylaw shall be the responsibility of the Board of Health or his/her designee. The Board of Health shall determine the monitoring and enforcement processes to be followed incorporating those processes into other town duties as appropriate. This bylaw may be enforced by any lawful means in law or equity including, but not limited to, a non-criminal disposition as provided in the M.G.L. Ch. 40, §21D and appropriate chapter of the General Bylaws of the Town of Acton. If non-criminal disposition is elected, then any retail establishment that violates any provision of this bylaw may be subject to the following penalties:

First Offense: written warning;
Second Offense: $50 penalty;
Third and subsequent offenses: $200 penalty

Section 6. Severability

6.1 Each section of this bylaw shall be construed as separate to the end that if any section, sentence, clause or phrase thereof shall be invalid for any reason, the remainder of this bylaw shall continue in force.

Section 7. Effective Date

7.1 This bylaw shall take effect January 1, 2020.