

# GENERAL BYLAWS

## AND RELATED INFORMATION



## TOWN OF BURLINGTON MASSACHUSETTS

A COMPILATION OF THE BYLAWS ADOPTED BY THE TOWN THROUGH JANUARY/feBRUARY 2022

BYLAWS RESTRUCTURED BY A VOTE OF THE BYLAW REVIEW COMMITTEE ON OCTOBER 3, 1994. EFFECTIVE NOVEMBER 1, 1994

Attest: Amy E. Warfield  
Town Clerk

# TOWN OF BURLINGTON

## GENERAL BYLAWS

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## ARTICLE I

### GENERAL PROVISIONS

1.0 These General Bylaws are in addition to the Bylaws and votes of the Town heretofore in effect.

1.1 The General Bylaws, and all special Bylaws, shall be reviewed each year prior to the Annual Town Meeting by a General Bylaw Review Committee of seven (7) members to be appointed by the Moderator within thirty (30) days after each Annual Town Meeting. The General Bylaw Review Committee shall report to the next Annual Town Meeting their recommendations for the amendment, adoption or repeal of Bylaws.

Note: Amended Art.27 05/17/2021, App. A.G. 08/31/2021, Posted 09/01/2021.

2.0 These rules of construction shall be observed except when inconsistent with the context of the Bylaw:

2.1 The repeal of a Bylaw shall not affect any pending legal action or penalty incurred under such Bylaw prior to the effective date of such repeal.

2.2 The use of the title of any office shall be considered as a majority of the members of the Board or Committee unless otherwise stated.

3.0 In construing these Bylaws, the following definitions shall apply:

3.1 The word "street" shall include all public and private ways, roads, bridges, alleys, rights of way, squares, courts and sidewalks.

3.2 The words "public place" shall include all public lands belonging to or under the control of the Town or any Department thereof.

3.3 The words "public building" shall include all buildings belonging to or under the control of the Town or any Department thereof.

3.4 The word "person" shall include corporations, societies, associations and partnerships.

3.5 The word "horse" shall include any beast of burden.

3.6 The word "driver" shall mean the person having charge or control of a vehicle or horse upon a street.

3.7 The word "vehicle" shall include any device on wheels or runners for conveying persons or objects.

3.8 The word "officer" shall include all Town officers, agents and all members of boards, committees, commissions or other groups, either elected or appointed.

3.9 The word "voter" shall mean a duly registered voter of this Town.

3.10 The word "employee" shall mean a person hired by the Town to work for wages or salaries.

3.11 Waterways shall include all natural and man-made channels which contain or conduct water.

3.12 A building is a structure intended for housing, shelter, enclosure, or support of any persons, animals or property.

3.13 The term "Finance Committee" and the term "Ways and Means Committee" shall be synonymous.

Note: Amended Art.17 10/15/75, App. A.G. 1/26/76, Pub. BTU 1/29, 2/5, 2/12/76.

3.14 "Adult Bookstore"

An establishment having twenty-five (25) percent or more of its stock in trade and/or floor area, comprised of books, magazines, videos, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31

3.15 "Adult Club"

An establishment having twenty-five (25) percent or more of its entertainment and/or floor area comprised of a person or persons working or performing in a state of full or partial nudity, or distinguished or characterized by an emphasis on a matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31

3.16 "Adult Paraphernalia Store"

An establishment having twenty-five (25) percent or more of its stock in trade and/or floor area, comprised of devices, objects, tools, or toys, which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31

3.17 "Adult Theater"

Any building, structure, or premises used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31

3.18 "Adult Video Store"

An establishment having twenty-five (25) percent or more of its stock in trade and/or floor area, comprised of videos, books, magazines, and other matter which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31

Note: Adopted Art. 10 9/30/96, App. A.G. 11/18/96, Pub. Burl.Union 12/12/96 & 12/19/96.

4.0 Any Bylaw of the Town of Burlington, or rule or regulation of its boards and commissions, 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 by the method provided in Section 21D of Chapter 40 of the General Laws. "Enforcing Person" as used in this section shall mean the Animal Control Officer, Conservation Administrator, Health Agent, Environmental Engineer, Building Inspector, Planning Director, Town Engineer, Director of Public Health , Plumbing and Gas Inspector, Wiring Inspector, any police officer, Fire Chief and/or Fire Inspector, Superintendent of Public Works, and such other officials as the Select Board 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 official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto. A police officer may enforce any and all of these Bylaws and rules and regulations.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following Bylaws and sections of Bylaws or rules or regulations are to be included within the scope of this subsection and that the specific penalties as listed here shall apply in such cases. Each day on which any violation exists shall be deemed a separate offense:

Article XIII, Section 2.0; Control of Dogs:	
First offense, within preceding twelve-month period	\$ 50.00
Second or subsequent offense within the preceding twelve months	\$100.00
For any dog that is unlicensed for more than 60 days	\$ 50.00
Article XIV, Section 4.2.8 Earth Removal, Earth Moving, and Addition of Fill	
First Offense	\$ 50.00
Second Offense	\$100.00
Subsequent Offense	\$200.00
Article IX, Section 1.1 Retail Sales	\$ 50.00
Article XIII, Section 1.35 Alcoholic Beverages	\$ 50.00
Article XIII, Section 1.36 Nuisance to Health and Safety	\$ 50.00
Article XIII, Section 1.36.4 Trash	\$ 50.00
Article XIII, Section 1.36.6 Conservation Land	\$ 50.00
Article XIV, Section 2.14 Control of Toxic and Hazardous Materials	\$200.00
Article XIV, Section 7.12 Illicit Discharge and Detection	
First offense	\$100.00
Second offense	\$300.00
Article XIV, Section 3.2.3 Signs	\$100.00
Article XIV, Section 2.10 Litter Control –Enforcement Authorization and Fines	\$100
Article XIV, Section 2.11 Recycling	\$ 25.00
Article XIV, Section 1.11 Wetlands	\$300.00
Burlington Zoning Bylaws	\$ 50.00
Massachusetts State Building Codes	\$ 50.00
Board of Health Rules and Regulations	\$ 50.00
Conservation Commission Bylaws and Rules and Regulations	\$ 50.00
Article XIV, Section 6.14 Stormwater, Sedimentation and Erosion Control	
First offense	\$100.00
Second offense	\$300.00
Board of Fire Prevention Rules and Regulations, MGL c. 148 and CMR 527, State Fire Laws:	
First offense	\$ 25.00
Second offense	\$ 50.00
Subsequent offenses	\$100.00
Park and Recreation Rules and Regulations	\$ 50.00
Adult Entertainment	
First offense	\$100.00
Second offense	\$200.00
Subsequent offenses	\$300.00

This Bylaw is to be enforced as set forth in a detailed statement of said Bylaw on file at the office of the Select Board of the Town and said statement to be available for inspection there.

Amended Art. 67, TM 5/23/88. App. A.G. 7/28/88. Pub. Burl. News 8/4, 8/11/88. Amended Art. 16, TM 9/18/89. App. A.G. 12/21/89. Pub. Burl. News 1/4, 1/11/90. Amended Art. 9, TM 9/9/92. App. A.G. 11/24/92. Pub. BTU 12/10, 12/17/92. Amended Art. 20, TM 5/19/93. App. A.G. 6/1/93. Pub. Burl. News 6/9, 6/16/93. Amended Art. 10, TM 9/30/96. App. A.G. 11/18/96. Pub. Burl. Union 12/12, 12/19/96. Amended Art. 9, TM 9/25/06. App. A.G.10/31/06,Posted 11/20/06. Amended Art. 19 TM 1/25/2012, App. A.G. 8/25/12 Posted 8/29/12. Amended Art. 23 TM 5/20/13, App. AG July 29, 2013 Posted 8/1 – 11/1/13 Amended Art 8 TM 9/26/18, App AG Posted

- 5.0 No officer shall, on behalf of the Town, join in the making of any contract or agreement in which he has any direct or indirect pecuniary interest, except such interest common to all citizens of the Town.
- 6.0 No officer or employee of the Town shall sell materials or supplies to the Town, nor receive any compensation for services rendered within the scope of the normal duties for the Town, except his official salary, wages and fees allowed by law.
- 7.0 All officers of the Town shall cause records of their doings and accounts to be kept in suitable books which shall be kept permanently in their respective Town offices. The original or a copy of all such records shall be kept in a fire-resistant container carrying the Underwriters Laboratory Class "C" or "D" label. The said fire-resistant container may be kept in the respective office or in the custody of the Town Clerk.

#### 7.1 Records Management Program

In order to serve the public, to preserve and protect our history, and to perform our legal obligations, the Town hereby adopts a Records Management Program as part of its continuing administrative function. The goal of the program is to: Create accurate, complete, and necessary records; Effectively administer information resources; Organize, preserve and provide easy access to records in a variety of media; Transfer inactive/permanent records to the Archives; and to Legally dispose of obsolete records.

##### 7.1.1 Records Management Commission

There shall be a Records Management Commission in the Town of Burlington consisting of the Town Clerk who shall serve as its chair, Treasurer/Collector, Ways & Means Chair, Historical Commission Chair, Library Director, Select Board Chair or their respective designees.

The commission shall be responsible for establishing Rules and Regulations for the Town's Archives in accordance with M.G.L. Chapter 4, Section 7, Clause 26; Chapter 66, Section 10, and 950 CMR 32.00 governing public records. Town Counsel prior to adoption and/or amendment shall review such Rules and Regulations. The commission shall annually review the Rules and Regulations and make additions or revisions as necessary.

The commission shall distribute the Rules and Regulations to all Town Departments, Boards, Commissions, Committees, Agencies when adopted and/or revised and offer periodic training to employees whose responsibility it is to create and maintain their department's records.

The commission shall mandate departmental cooperation with municipal records Rules and Regulations as provided for in this bylaw and shall be the final arbiter regarding any matters that may arise regarding the Town's Records Management Program.

##### 7.1.2 Archivist/Records Manager

There shall be an Archivist/Records Manager, hereafter referred to as "Archivist", who shall report to the Town Clerk. The Archivist's duties shall be defined by the job description and may from time to time include additional tasks, as the Town Clerk shall determine. The Archivist shall also serve as the Town's Records Management Officer and be responsible for the operation and maintenance of the Archives in accordance with Rules and Regulations adopted by the Records Management Commission.

##### 7.1.3 Archives

The Archives shall consist of the newly constructed "vault" and the "inactive" storage area adjacent to the vault located in the main Town Hall basement. The Archives shall be used for the security, storage, processing, retrieval, research, and conservation of archival and inactive records that have an enduring historical, legal, or administrative value from departments, agencies, offices, commissions, boards, committees and public

corporations, whether existent or defunct, as well as the records of all officials and agents of the Town when those records are no longer necessary for conducting current business.

#### 7.1.4 Definitions

Archival Records - those records which are to be retained permanently under the provisions of state regulations or law or which have long-term historical or artifactual significance.

Inactive Records - generally, those records referred to less than one time per month which are to be retained temporarily (2-21 years) under the provisions of state regulations or law.

Records - All documents, books, papers, photographs, microfilm, recordings, and any other material, regardless of physical form or characteristics.

Note: Section 7.1 adopted Art. 4 5/10/99, App. A.G. 7/28/99, Pub. Daily Times 8/5/99 & 8/12/99. Sec. 7.1.1 Amended Art. 19 TM1/25/2012, App. A.G. 8/25/12 Approval delayed by AG Office Posted 8/29/12

8.0 All budgets and special articles dealing with any municipal expenses shall be submitted whenever possible to the Town Accountant, or other appropriate bodies as set forth in Chapter 41, Section 59, of the General Laws of the Commonwealth of Massachusetts, by December 15 of each year.

Note: Adopted Art. 37 Spec. TM 7/2/69. App. A.G. 1/21/70. Pub. BTU 2/12, 2/19, 2/26/70.

8.1 Each numbered line account of the Annual Budget shall be a separate appropriation. Any transfers between such numbered line accounts shall be made only by vote of the Town Meeting, except as otherwise provided by statute.

Note: Adopted Art. 16 TM 9/16/74. App. A.G. 10/23/74. Pub. Burl. News 11/7, 11/14, 11/21/74.

8.2 Expenditures from unnumbered sub-items listed under Annual Budget line account shall be limited to the use and amounts voted, except as specified in Section 8.3.

8.3 The Ways and Means Committee may authorize transfers between unnumbered sub-items of the same Annual Budget line account.

Note: Adopted Art. 17 TM 9/16/74. App. A.G. 10/23/74. Pub. Burl. News 11/7, 11/14, 11/21/74.

9.0 All appointed and elected officers of the Town shall be sworn to the faithful performance of their duties prior to assuming office. The oath shall be administered by the Town Clerk or the Moderator. The record of oath shall be maintained in the office of the Town Clerk.

10.0 All publication or reproduction of Town, Board, Committee or official reports, regulations, rules, Bylaws, charts or notices shall be on 8-1/2" x 11" paper, copy both sides. When appropriate, single sheets, three-hole punched, shall be used, with assembly by staples or fasteners and covers.

Note: Adopted Art. 11, Spec. TM 12/2/70; App. A.G. 1/14/71; Pub. Burl. News 1/21, 1/28 and 2/4/71.

11.0 The Town Clerk shall, within 30 days after the adjournment of any Town Meeting, forward to the Attorney General a certified copy of each Bylaw or Zoning Bylaw adopted at said meeting, together with the procedures of the Town in adopting said Bylaw, and with a request for approval by the Attorney General.

Note: Amended Art. 22, Spec. TM 1/8/66; App. A.G. 3/16/67; Pub. BTU 1/5, 1/12, 1/19/67.

#### 12.0 Meeting Minutes and Agenda

All Town boards and committees whether elected or appointed shall file an electronic copy of their meeting minutes and agendas with the Town Clerk. Minutes shall be filed within 30 days of the meeting and agendas shall be filed at least 24 business hours prior to the meeting. Executive Session minutes shall be filed with the Town

Clerk as soon as they have been reviewed and released for the public under the provisions of MGL Chapter 39, Section 23B and Chapter 66, Section 10 (a); or to act in any other manner in relation thereto.

Note: Adopted Art. 37, TM 5/18/09; App. A.G. 8/24/09. Posted 8/31/09-9/11/09.

## ARTICLE II

### REPRESENTATIVE TOWN MEETING

1.0 In accordance with a vote on March 6, 1971 and consistent with later votes of the Town Meeting, there is established in the Town of Burlington a Representative Town Meeting form of government, whereby 126 members shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the Town. All powers of the Town shall be vested in the Town Meeting except as provided otherwise by law. The Town Meeting shall provide for the exercise of all the powers of the Town and for the performance of all duties and obligations imposed upon the Town by law.

1.1 The Town Meeting shall be a continuous body, but it may adjourn for periods not exceeding 150 days; provided, however, that all petitions regarding proposed amendments to the Town's Zoning Bylaws shall be received by the Select Board and a copy of the petition sent to the Planning Board, no later than ninety days before the meeting for which the amendment is proposed. It shall meet at such times and places as the meeting may determine by rule Special meetings may be held on the call of the Select Board, moderator, or ten or more members. Notwithstanding any provision of section 10 of chapter 39 of the general laws to the contrary, the notice for the said special meetings shall be posted on the town bulletin board and delivered to the place of residence of each member and that of the moderator no less than seven days prior to the date of such special meeting.

Note: Amended Art. 18 TM 10/15/75; App. A.G. 2/10/76; Pub. BTU 2/19, 2/26, 3/4/76. Amended Art. 5 TM 5/10/99; App. A.G. 7/28/99; Pub. Daily Times 9/16, 9/23/99. Amended Art. 5 TM 9/30/09; App. A.G. 1/20/10; Posted 1/27-2/10/10. Amended Art 33 TM 5/16/11; App. Mass Leg 10/13/11; App A.G. 12/6/11; Posted 12/7/1-1/7/2012.

#### 1.2 Warrants

1.2.1 Warrants for Town Meeting sessions shall be issued by the Select Board to the Town Meeting Members, Moderator and Town Clerk, and a copy shall be posted on the Town Bulletin Board at least fourteen (14) days before the meeting is to convene. The Select Board shall include in the warrant all subjects which are requested of them in writing by any elected Town Meeting Member, the Moderator, the School Committee, or any other person authorized by State Statute or Town Bylaw.

1.2.2 The date by which the Select Board shall receive Zoning articles, by petition or otherwise, for inclusion in the warrant for Town Meeting shall be no later than ninety (90) days before the meeting notwithstanding the provisions of Chapter 686 of the Acts of 1970, Section 12(a) relating to Special Town Meetings. Pursuant to MGL Chapter 40A, Section 5, The Select Board shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the Planning Board for review. No zoning ordinance or by-law or amendment thereto shall be adopted until after the Planning Board has held a public hearing, at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the Planning Board. No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by the Planning Board. The Select Board is not prohibited from inserting in the warrant, after that date, articles which, in the Board's opinion, are of such importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable.

1.2.3 The date by which the Select Board shall receive General By-law articles, by petition or otherwise, for inclusion in the warrant for Town Meeting shall be no later than ninety (90) days before the meeting notwithstanding the provisions of Chapter 686 of the Acts of 1970, Section 12(a) relating to Special Town Meetings. The Select Board is not prohibited from inserting in the warrant, after that date, articles which, in the Board's opinion, are of such importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable.

1.2.4 The date by which the Select Board shall receive all other articles, by petition or otherwise, for inclusion in the warrant for Town Meeting shall be no later than forty-five days before the meeting notwithstanding the provisions of Chapter 686 of the Acts of 1970, Section 12(a) relating to Special Town Meetings. The Select Board are not prohibited from inserting in the warrant, after that date, articles which, in the Board's opinion, are of such

importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable.  
Note: Amended TM 9/25/00, Art. 8 & 9, Approved A.G. 1/9/01; Pub. Daily Times 1/19,1/26/01. Amended Art. 5  
TM 9/30/09; App. A.G. 1/20/10: Posted 1/27-2/10/10.  
Note: Amended Art. 16 TM 09/27/2021. App. AG.01/25/2022 Posted 01/25/2022 .

### 1.3 Precincts

The Select Board, pursuant to the provisions of Chapter 54 of the Massachusetts General Laws, shall divide the town into the minimum number of precincts.

Note: Amended T.M. 5/19/93, Art. 21; Approved A.G. 6/1/93; Pub. Burl. News 6/9, 6/16/93.

Note: Amended Art.26 TM 9/30/85; App. A.G. 11/19/85; Pub. Burl. News 11/18, 12/5/85. Amended T.M. 5/19/93, Art. 21; Approved A.G. 6/1/93; Pub. Burl. News 6/9, 6/16/93. Amended Art 2 TM 5/13/02; App. A.G. 626/02; Pub. Daily Times 7/3, 7/10/02.

### 2.0 Town Meeting Members

Any registered voter of the Town shall be eligible for election to the Town Meeting. Nomination of candidates for Town Meeting Members to be elected shall be made by nomination papers, which shall show clearly whether he has been a former Town Meeting Member, and, if an elected incumbent of such office, that he is a candidate for re-election and shall bear no other political designation. Such papers shall be signed by not less than ten voters of the precinct in which the candidate resides, shall be filed with the Town Clerk at least twenty-eight (28) days preceding the date of the election. Said nomination papers shall first have been submitted to the Registrars of Voters at least seven days prior to the date on which they are to be filed with the Town Clerk who shall check each name on the nomination papers and shall forthwith certify thereon the number of signatures so checked which are the names of registered voters in the Town and in the precinct for which the nomination is made. The placement of the names of all candidates for Town Meeting Members on the ballot for the initial election shall be established by a public drawing of lots by the Town Clerk.

Any incumbent Town Meeting Member may become a candidate for re-election by giving written notice thereof to the Town Clerk not later than twenty-one (21) days prior to the last day and hour for filing nomination papers.  
Any incumbent Town Meeting Member may become a candidate for re-election by giving written notice thereof to the Town Clerk not later than twenty-one (21) day prior to the last day and hour for filing nomination papers,  
provided the Town Meeting Member has been in attendance for fifty percent (50%) or more of the individual days of Town Meeting held during their term of office, whether or not a quorum is present or any business is conducted.  
Otherwise, the incumbent shall follow the same requirements as a non-incumbent candidate for Town Meeting.

Note: Amended T.M. 5/19/93, Art. 21; Approved A.G. 6/1/93; Pub. Burl. News 6/9, 6/16/93.

Note: Amendee T.M. 2/16/2022, Art 14: Arpproved A.G. Posted

If a Town Meeting Member is a candidate for re-election, the words "Candidate for Re-election" shall be printed against his name as it appears on the ballot for the election of Town officers; provided, however, that a Town Meeting Member elected by the remaining members of a precinct to fill a vacancy shall not be considered a candidate for re-election. No nomination paper shall be valid in respect to any candidate if it fails to have his written acceptance attached to or written thereon.

A Town Meeting Member who removes from the precinct from which he was elected to another precinct within the Town may continue to serve as a member of the Town Meeting from the precinct from which he was elected until the next regular election at which time the remainder of his term, if any, shall be terminated and a vacancy from that precinct shall exist. Such person may, however, be elected as a Town Meeting Member from the new precinct in which he then resides at the same election.

There shall be a total of eighteen (18) Town Meeting Members elected from **each precinct**. When a new precinct is added, the six (6) candidates who receive the highest number of votes shall be declared elected to a three-year term. The six (6) candidates in the precinct who receive the next highest number of votes shall be declared elected to a two-year term. The six (6) candidates who receive the next highest number of votes shall be declared elected to a one-year term. Thereafter, all such Town Meeting Members shall be elected to three (3) year terms.

In the event of a tie vote for the office of Town Meeting Member, the Town Clerk shall, within seven days of the election, call together at a convenient place, all the representative Town Meeting Members from the precinct in which the tie vote occurs and the candidates for that office who are affected by such tie. Under the supervision of the Town Clerk, any such ties shall be resolved by ballots cast by the elected precinct Town Meeting Members present.

Note: Amended T.M. 5/19/93, Art. 21; Approved A.G. 6/1/93; Pub. Burl. News 6/9, 6/16/93. Note: Amended Art 2 TM 5/13/02; App. A.G. 626/02; Pub. Daily Times 7/3, 7/10/02.

Note: Amended TM 09/27/2021, Art.14; Approved AG 01/25/2022 ; Posted 01/25/2022

A Town Meeting Member who is removed by a revision of precincts from the precinct from which the member was elected shall not retain membership after the next annual election as an elected member from the precinct from which the member has been removed. The term of a Town Meeting Member who is not removed by a revision of precincts from the precinct from which the member was elected shall not be affected by such revision.

Note: Adopted Art 2 TM 5/13/02; App. A.G. 626/02; Pub. Daily Times 7/3, 7/10/02.

A town meeting member shall not be eligible to hold any other elected position in town government as set forth in chapter 216 of the acts of 2007. A town meeting member may be employed by the town. A town meeting member may serve in any or all of the following positions: (i) member of any committee appointed by the moderator; (ii) member of any advisory committee appointed for a special temporary purpose by the Select Board, school committee or another town board; (iii) officer of elections; and (iv) member of a political party's town committee. A town meeting member shall not serve in more than 1 appointed position in addition to serving in positions listed in clauses (i) to (iv), inclusive.

Note: Amended TM 1/23/17, Art. 11, Approved by Special Act: State Legislature 2017 Chapter 106 - 10/31/17

The office of a Town Meeting Member shall become vacant upon his death, resignation, or removal from office in any manner authorized by law. A vacancy in the Town Meeting membership shall be filled for the remainder of the unexpired term, if any, at the next regular Town election if such occurs within sixty (60) days of the vacancy. If no such election is to be held within sixty (60) days, the Town Meeting shall, by a majority vote of the remaining members from the same precinct, appoint a qualified person to fill the vacancy, to serve until the next regular election at which time the remainder of the term shall be filled by official ballot.

The Representative Town Meeting Members shall serve without compensation of any kind.

2.1 When a vacancy in the Town Meeting membership shall occur and no Town election is to be held within sixty (60)days, the Moderator shall within twenty-one (21) days convene a meeting of the remaining members of the involved precinct for the purpose of filling the vacancy and notice of such meeting shall be published in a Town newspaper or papers by the Town Clerk not less than seven days prior to such meeting.

Note: Amended Art. 15 TM 2/20/74; App. A.G. 3/25/74; Pub. BTU 4/4, 4/11, 4/18/74.

### 3.0 Time and Schedule of Meetings

The first session of the Representative Town Meeting following the annual election of town officers shall begin on the second Monday in May. Adjourned sessions of the Town Meeting shall also be held the fourth Monday of January and the fourth Monday of September, provided, however, that when such day falls on a legal or religious holiday; Town Meeting shall begin the Wednesday following.

Note: Amended Art. 4 TM 10/1/01; App. A.G. 12/18/01; Pub. Daily Times 12/27/01 & 1/3/02. Amended Art. 4 TM 9/8/03; App. A.G. 9/30/03; Pub. Daily Times 10/8/03 & 10/15/03.

### **3.1 Duration of Voting**

The polls shall be open for such time and in such manner as is determined by the Town Meeting.

### **3.2 Adjourned Town Meeting See Section 1.1, Article II.**

### **3.3 Multiple Meeting Places**

The Town Meeting may be held in one or more places provided, that all meeting places are connected by a public address system so that all voters and taxpayers of the Town may be present and participate.

These changes are pending passage of the Special Act 686 by the State Legislature, June 2021

## **4.0 Moderator**

The Town Moderator shall preside at all sessions of Town Meeting and shall only vote in the case of a tie vote.

On matters requiring a two-thirds vote by statute, the Moderator, as authorized under Massachusetts General Law Chapter 39 Section 15, may declare the obvious result of a two-thirds vote without the need to take a count. However, a Town Meeting Member may challenge this result by raising an immediate objection and a standing vote shall be taken.

Subject to Town Meeting approval, the Town Moderator may appoint a Town Meeting Member as Deputy Moderator to serve as Moderator during the Town Moderator's absence or disability. If both the Moderator and the Deputy Moderator are absent or disabled, Town Meeting shall elect a Town Meeting Member to serve as Moderator during said absence or disability.

The Moderator shall appoint the members of a Committee on Ways and Means and such other committees, special or standing, as may from time to time be established. The Moderator shall perform such other duties as may from time to time be assigned to the office of the Town Moderator by Bylaw, rule or other vote of Town Meeting, or to act in any other manner in relation thereto.

Note: Amended Art 10 TM 09/28/18; AG 04/05/19 Posted 04/08/19

## **5.0 Clerk of the Town Meeting**

The Town Clerk or his designee shall serve as Clerk of the Representative Town Meeting. The Clerk shall give notice of all Town Meetings to its members and to the public, keep a journal of its proceedings, and perform such other duties as may be assigned to this office, by Bylaw or by vote of the meeting. The Clerk shall receive such additional compensation for performing these duties as the Meeting may authorize.

Note: Amended Art. 3 Spec. TM 10/27/71. This amendment shall take effect as of the call of the Annual TM in March, 1972. App. by reason of the failure of the A.G. to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/72.

## **6.0 Ethics**

A Town Meeting Member is required, prior to addressing Town Meeting, to disclose his or her financial interest or the financial interest of an immediate family member, in connection with any warrant article or budget item that is before Town Meeting for consideration. For the purposes of this section, an immediate family member shall include the Town Meeting Member and his or her spouse, and their parents, children, brothers and sisters. A

financial interest is defined as any money, thing of value, or economic benefit conferred on or received by the Town Meeting Member or their immediate family.

In addition, a Town Meeting Member is required, prior to addressing Town Meeting, to disclose whether the Town Meeting Member or members of his or her immediate family are employed by the Town in a position that may be affected by the motion before Town Meeting, or whether they serve on any board or committee of the Town, including ad hoc committees, that have duties or responsibilities over the subject matter before Town Meeting.

Provided, however, that any Town Meeting Member who has a financial interest as set forth in this section shall consider a voluntary abstention from voting on the warrant article or budget item in question. Notification of such abstention shall, if possible, be given to the Moderator in writing before the session in which the article is considered, but at least before debate on the article;

Note: Adopted Art. 12 TM 1/23/17; App. A.G. 4/14/2017 ; Posted 4/18/2017 thru 7/18/17 .

7.0 Bylaws

The Town Clerk shall make available to each Town Meeting Representative upon such member being sworn into office a complete set of Town Bylaws, including Zoning Bylaws and all related documents.

Note: Adopted Art. 4 TM 5/13/02; App. A.G. 6/26/02; Pub. Daily Times 7/3, 7/10/02.

## ARTICLE III

### **PROCEDURE OF TOWN MEETING**

#### 1.0 Annual Election

Election of officers and consideration of matters to be determined by ballot shall be at a meeting of the voters in the several Precincts at the time and location fixed in the warrant.

##### 1.1 Election Officer Qualifications See Article IV, Section 12.0

##### 1.2 Other Elected Officers

- \*\*\*\* (1) A Town Clerk for a five year term.
- (2) A Moderator for a one year term.
- (3) Five Select Board for three year terms.
- (4) Three Assessors for three year terms..
- (5) Five members of a School Committee for three year terms.
- (6) Six Library Trustees for three year terms.
- \* (7) Seven members of a Planning Board for five year terms.
- \*\*\* (8) Five members of the Board of Health for three year terms.
- \*\*\*\*\* (9) Two Constables for three year terms.
- (10) Four members of the Burlington Housing Authority for five year terms.
- (11) Three members of the Recreation Commission for three year terms.
- (12) Two members of the Shawsheen Valley Technical School District Committee for three year terms.

\* Amended Art. 20 TM 9/17/73. App. A.G. 11/1/73. Pub. BTU 11/15, 11/22, 11/29/73.

\*\* Amended Art 24A TM 1/26/77. App. A.G. 2/18/77. Pub. Burl. News 2/24, 3/3/77.

\*\*\* Amended Art. 14 TM 1/10/83. App. A.G. 2/17/83. Pub. Burl. News 2/24, 3/6/83.

\*\*\*\* Amended Art. 12 TM 12/2/70. App. A.G. 1/14/71. Pub. Burl. News 1/21, 1/28, & 2/4/71.

\*\*\*\*\* Amended Art. 27 TM 5/14/14. App. A.G. 7/7/14 Posted 7/10/14 -10/10/14

Note: Amended Art. 36 TM 5/13/19. App A.G. 9/13/19 Posted 9/16/19

#### 2.0 Moderator

See Article II, Sec. 4.0. If, as provided in Art. II, Sec. 3.3, a Town Meeting is held at two or more locations, the Moderator shall appoint a Deputy Moderator to preside at each additional meeting place. The Deputy Moderator shall have all the powers vested by law in the Moderator with regard to the conduct of the Town Meeting except that he shall not recognize any voter without first obtaining permission of the Moderator.

#### 3.0 Call to Order

See Article III, Sec. 6.0. In the absence of the Moderator, the Town Clerk shall call the meeting to order and preside during the election of a temporary Moderator. The temporary Moderator shall preside in the absence of the Moderator or until adjournment.

#### 4.0 Reading of the Warrant and Return of Service

See Article III, Sec. 6.0

5.0 Seating Areas and Attendance Lists

At all Town Meetings, seating areas for Town Meeting Members and nonmembers shall be designated by the Moderator. No person shall be admitted to the area for Town Meeting Members unless qualified or authorized by the Town. Attendance lists shall be maintained by appointees of the Moderator at the entrances for the duration of the meeting.

5.1 The town will provide in the hall of Town Meeting two tables, to be placed at the rear of the room for each Town Meeting. The first table will contain information pertinent to the warrant of the date, and the second table will contain information of interest to the town and for the betterment of the Town Meeting members.

Note: Adopted Art. 10 TM 01/26/2015; App. A.G. 3/13/15; Pub. Posted 3/13/15.

6.0 Order of Business

The Town Meeting shall determine its own rules and order of business unless otherwise provided by law and shall provide for keeping a journal of its proceedings. The journal shall be a public record kept available in a place readily accessible to the public, and a certified copy thereof shall be kept available in the Burlington Public Library.

7.0 Standing and Special Committees

The Town Meeting shall by Bylaw provide for the establishment of standing committees, a majority of the members of which shall be composed of persons elected to the Town Meeting. The Finance Committee in existence when this act takes effect shall continue as a standing committee on Ways & Means, and all articles which would require the expenditure of Town funds shall, before enactment, be referred to that committee for its recommendation. Such other committees as the Meeting deems expedient shall also be created, and said committees shall be assigned all articles, the subject matter of which comes under their jurisdiction before final action is taken, for a recommendation. All committees shall conduct open public hearings on matters assigned to them to provide the public with the opportunity to discuss their views concerning such matters. Committees established under these provisions shall consist of an odd number of persons appointed for fixed terms.

7.1 Board or Committee Reports

Recommendation of a board or committee shall not be considered unless an article on the subject of the recommendation appears on the Warrant. A special committee shall be discharged on the acceptance of a final report or by the failure to submit a report at the required time.

8.0 Committee Investigations

The Town Meeting may direct a duly organized committee to make investigations into the operations of the Town and into the conduct of any Town department, office or agency, and for this purpose such committees may subpoena witnesses, administer oaths, take testimony and require the production of books and papers. Any person who fails or refuses to appear and testify when legally ordered to do so shall be punished by a fine of not more than Five Hundred Dollars (\$500.00).

9.0 Required Attendance at Town Meeting

The Town Meeting or a duly authorized subcommittee of the Town Meeting by order or resolution may require the attendance at a Town Meeting of any elected or appointed officer, board, commission, committee, agency, or employee for the purpose of providing the Town Meeting with information and materials pertinent to matters appearing in the Warrant for that Town Meeting. The head of each department shall hold himself available for attendance at Town Meetings or shall designate a deputy to respond for him in the event that such department head is absent due to illness or other reasonable causes.

No less than seven days' notice to appear shall be given to any person under authority of this section.

10.0 Liaison with Town Officials and Employees

Neither the Town Meeting nor any of its members shall in any way dictate the appointment or the renewal of any Town administrative employee or officer whom any appointing authority is empowered to appoint. The Town Meeting may, however, by resolution or other vote, express its views pertaining to such matters.

Except for the purpose of inquiries and investigations as provided in Section 8.0, the members of the Town Meeting shall deal with Town officers and employees solely through the appointing authority, and neither the Town Meeting nor any of its members shall give orders to such employees or officers, either publicly or privately.

11.0 Rules of Debate

See Article III, Section 6.0

11.1 Any registered voter or taxpayer of the Town shall, subject to such rules as may from time to time be established, have a right to speak, but not to vote, at Town Meeting sessions.

11.2 Except on procedural matters, voting shall be by standing vote, but if seven or more members shall doubt the vote by raising their hands to so indicate after the vote is announced, then a call of the roll shall be taken and the votes recorded in the journal. The Moderator may, in his discretion, direct that any vote be taken by a call of the roll. A majority of all of the members shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Town Meeting. The Town Meeting shall not for any reason declare itself in executive session or attempt to prohibit the public from attendance at any of its proceedings.

11.3 Roberts Rules of Order, Revised, with the following exceptions, shall be the authority in all procedural matters not covered by law.

11.4 A motion to reconsider a vote on a warrant article may be made by any Town Meeting member, provided that written notice of intent to move such reconsideration is received by the Town Clerk within fourteen (14) days after that vote was recorded and before all other articles on that warrant have been acted upon.

11.4.1 Any vote which takes effect under Sec. 13.0 of this article, without a fourteen (14) day delay, shall not be reconsidered.

11.4.2 Motions to reconsider shall be in order only after all other business of the warrant has been completed and shall require a two-thirds majority of those members present and voting.

11.4.3 At each adjourned session the Moderator shall advise the Town Meeting of all articles for which notice of intent to reconsider has been filed.

11.4.4 No vote shall become effective while reconsideration is pending.

11.5 No person who has spoken on the question may move to terminate debate.

11.6 A session of The Town Meeting shall not be adjourned until all articles and motions to reconsider have been acted upon.

12.0 Acts Requiring a Bylaw

Subject to constitutional and statutory requirements, these acts of the Town Meeting shall be by Bylaw which:

(1) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

- (2) establish rules governing the granting, renewing, or extension of a franchise or license;
- (3) amend or repeal any Bylaw previously adopted;
- (4) establish standing committees of the Town Meeting, but not temporary or "ad hoc" committees; and
- (5) establish all rules, regulations, orders, and other votes of the Town Meeting which are intended to be permanent and which when adopted regard or affect the community as a whole.

The Moderator shall have the authority to direct that a proposed action to be taken shall be done in the nature of a Bylaw rather than in some other form when in his discretion it seems advisable to do so.

Every proposed Bylaw shall be introduced in writing and in the form required for final adoption. No proposed Bylaw shall contain more than one subject, which shall be clearly expressed in its title.

The Town Meeting may adopt any standard code of technical regulations, in whole or in part, by reference thereto in an adopting Bylaw, provided, however, that one or more copies of the proposed code shall be available in the office of the Town Clerk, and the adopting Bylaw shall not be construed as to include changes or revisions made by the drafters of said code subsequent to the Town Meeting vote to adopt the code.

#### 13.0 Referendum Petition

No final vote of any representative town meeting session passing or rejecting a measure under any article in the warrant, except a vote to adjourn, or an authorization to borrow money in anticipation of taxes, an authorization to pay debts and obligations of the town, an appropriation of funds necessary to implement a written agreement executed under section one hundred and seventy-eight I of chapter one hundred and forty-nine of the General Laws, or the budget of the Town as a whole, or a vote declared by preamble to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town, and which is passed by a two-thirds vote of the membership, shall be operative until fourteen days after the adoption of such vote.

If, within said fourteen days, a petition signed by not less than five per cent of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters at the most recent election, is filed in the office of the Select Board requesting that the question or questions involved in any such vote be submitted to the registered voters of the town at large, then the operation of such vote shall be further suspended pending its determination as hereinafter provided. The board of registrars shall certify the signatures within seven days of the filing date. The Select Board shall forthwith after the board of registrars certifies that the petition has the requisite number of signatures call a special election which shall be held within 100 days but no sooner than the earliest date on which the question may appear on the ballot pursuant to section 42C of Chapter 54 of the general laws, as it may be amended from time to time; provided, however, that if a regular or special town election is to be held within the 100 day period, they may provide that the question or questions involved be presented to the voters at the same election.

All votes shall be taken by official ballots, and the check list shall be used in the same manner as is in the election of Town Officers. The questions so submitted shall be determined by a majority vote of the registered voters of the Town voting thereon, but no action of the Representative Town Meeting shall be reversed unless at least twenty per cent of the total registered voters of the Town shall so vote to reverse the vote of the representative town meeting..

The question so submitted shall be stated on the ballot in substantially the same language and form in which they were stated when presented by the Moderator to the Representative Town Meeting as appears from the records of said meeting, provided, however, that if the question as stated by the moderator was lengthy as determined by the Select Board in its sole discretion the question may instead be stated in summary form by referring to the action taken by the representative town meeting.

This election shall be held on a Saturday, unless it is to be held in conjunction with another election and the polls shall open not later than two o'clock in the afternoon and shall be closed not earlier than eight o'clock in the evening.

If a petition is not filed within fourteen days of a final vote of the representative town meeting, it shall then become effective.

Note: Amended Art. 26 TM 1/13/86. App. A.G. 2/20/86. Pub. Burl. News 2/27, 3/6/86.

Note: Amended Art. 21 TM 5/8/06. App. A.G. 10/17/07. Posted 10/22/07-11/2/07.

14.0 Parliamentary Authority

See Article III, Section 6.0

Note: Amended Art. 3 Spec. TM. 10/27/71. This amendment shall take effect as of the call of the Annual Town Meeting in March, 1972. App. by reason of the failure of the A.G. to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/72.

15.0 Town Meeting Attendance

The Town Clerk, forthwith after the conclusion of each session of the Representative Town Meeting and any Special Town Meeting, shall publish once in the two local newspapers of general circulation within the Town complete Town Meeting Representative attendance records which indicate the presence or absence of each Town Meeting Representative for each night of Town Meeting.

Note: Adopted Art. 5 TM 5/13/02; App. A.G. 626/02; Pub. Daily Times 7/3, 7/10/02.

16.0 Report of Town Officials

Two weeks prior to the first and adjourned sessions of the Representative Town Meeting, and any Special Town Meeting, Town Meeting Representatives shall be provided with a written report prepared by the supervising authority stating the current status of all open warrant articles and projects arising from such warrant articles. The information contained in the report shall include, but not be limited to, actions taken, schedule, expenditures made, and any other information of substance, including legal issues.

Note: Adopted Art. 7 TM 5/13/02; App. A.G. 626/02; Pub. Daily Times 7/3, 7/10/02.

## ARTICLE IV

### **SELECT BOARD**

#### 1.0 **General Duties**

- 1.1 Select Board shall be the principal officers of the Town, exercising proper control over all matters including Town property which is not specifically delegated by Town Bylaws or specifically voted by the Town.
- 1.2 To approve all payments of monies by the Town Treasurer acting in behalf of or in the name of the Town.
- 1.3 To sign all bonds and notes for the borrowing of money by the Town.
- 1.4 To act as or appoint other Town officers when authorized by the Town. Authorization must either be by vote of a Town Meeting held at least sixty (60) days prior to an Annual Town Meeting or petition of ten percent (10%) of the voters of the Town, filed with the Select Board at least sixty (60) days before an Annual Town Meeting.
- 1.5 To establish the amounts of fidelity bonds for those Town officers whom the General Laws require to be bonded.
- 1.6 To act as a Licensing Board where authorized under the General Laws.
- 1.7 To report its major activities to the Town via an Annual Report to be filed with the Town Clerk not later than 60 days after the last day of the year being reported. The report of the Select Board should include as a minimum the following:
  - 1.7.1 Major financial transactions passed on by the Board sufficient to give the citizens a fair and full understanding of the objects and methods of such expenditures.
  - 1.7.2 Appointments and resignations during the year.
  - 1.7.3 Permits granted or refused during the year and the reasons and circumstances surrounding each.
  - 1.7.4 Select Board's recommendations for improving Town Management such as:
    - 1.7.4.1 Suggestion of committee to study present and future Town problem areas.
    - 1.7.4.2 Recommended actions to improve the effectiveness of any Town department pursuant to the authority contained in Sec.23B, Chap. 4, GL.
- 1.8 To exercise general control over the following Departments, Boards and Officers of the Town:
  - . Department of Public Works
  - . Engineering Department
  - . Police Department
  - . Fire Department
  - . Building Department
  - . Sealer of Weights and Measures
  - . Town Accountant
  - . Town Counsel
  - . Town Treasurer/Collector Department
  - . Dog Officer and Pound

1.9 Filling of Vacancies on the Select Board If there is a failure to elect or a vacancy occurs in the Office of Select Board, the remaining Select Board or Selectman may call a special election to fill the vacancy and shall call such election upon the request in writing of 200 registered voters of the Town or 20% of the total number of registered voters of the Town, whichever number is lesser; provided that such request is filed with them or him not less than 100 days prior to the date of the next annual election.

1.10 Filling of Vacancies, other than Select Board

If there is a failure to elect or if a vacancy occurs in any elected town office, other than offices of Select Board, Town Clerk, or Auditor, the Select Board shall fill the vacancy in accordance with Massachusetts General Law Chapter 41, Section 11. Vacancies for appointed positions shall be filled by the appointing authority for the office, board, commission or committee;

Note: Amended Art. 11 TM 1/25/2016; App A.G. 5/16/2016 Posted 5/17/2016;  
Sec. 1.8 Admended Art. 36 TM 5/13/19; App AG 9/13/19 Posted 9/16/19

1.11 Removal or Reappointment of Superintendent of Department of Public Works The Select Board may by majority vote adopt a resolution providing that the Superintendent of Public Works shall not be removed from office or fail of reappointment thereto except by at least a four-fifths vote of all Select Board or successor appointing authority, and such resolution, if adopted, shall have the force of law and shall not be repealed or superseded except by at least four-fifths vote of the Select Board, as long as this Bylaw remains in effect.

Note: Adopted Art. 14 TM 1/25/78; App. A.G. 4/13/78; Pub. Burl. News 4/20, 4/27/78.

1.12 To maintain public lands not under the jurisdiction of other Town officials or agencies and to dispose of any such lands, that are surplus to the needs of the Town, only in accordance with the following sections:

1.12.1 A current list of all Tax Possession Land shall be maintained and published annually by the Select Board.

1.12.2 No land shall be sold or disposed of by the Select Board except after a public hearing and a vote of the Select Board at a regular meeting.

1.12.2.1 Notice of the public hearing shall be advertised in a local newspaper not less than 30 days prior to the scheduled date of the hearing, and shall include the date, time, place and purpose of the hearing and a description of the land to be considered for sale or disposal.

1.12.2.2 A description of the land to be sold or disposed of shall be sent to the Town Clerk and to all Town officers, committees and agencies not less than 60 days prior to the scheduled date of the hearing.

1.12.2.3 A vote of the Select Board to sell or dispose of land shall be taken only at a regular meeting of the Select Board not less than 5 days subsequent to the public hearing, and sale or disposition, if voted, shall take effect 10 days after such vote is recorded and filed with the Town Clerk.

Note: Adopted Art 19 TM 2/20/74; App. A.G. 3/25/74; Pub. BTU 4/4, 4/11, 4/18/74.

1.13 On all collective bargaining negotiations between the Town and any authorized collective bargaining unit, the responsible authority shall invite in an advisory capacity to each negotiating session, representative of the Ways and Means Committee. Further, department heads responsible for the employees of the respective bargaining unit shall be apprised in writing of the results of each negotiating session;

Note: Adopted Art. 27 TM 10/15/75; App. A.G. 2/10/76; Pub. BTU 2/19, 2/26, 3/4/76.

Note: Amended Art 20, TM 1/25/2016; App. A.G. 5/16/2016 ;Posted 5/17/2016;

1.14 Residential Housing Process: Before the Select Board can approve, disapprove, send a letter of support, or commit any other action which involves the construction of four (4) or more residential units, pursuant to housing projects proposed under M.G.L. Section 40B, Sections 20-23 the Select Board shall hold a public hearing.

1.14.1 Public Hearing: Notice of the public hearing shall be published in a local newspaper and on the Town website not less than fourteen (14) days prior to the scheduled date of the hearing and shall include the date, time, place and purpose of the hearing and a brief description of the residential project(s) under consideration.

1.14.2 Notifications: At least seven (7) days prior to the Public Hearing, details of the housing project(s) provided to the Select Board shall be sent to the Town Clerk and to: the Building Commissioner, Planning Director, and Conservation Agent; the Chair of the Housing Partnership; the Chairs of the Town Meeting Land Use and Zoning Bylaws Review Committees; and the Fire Chief and Police Chief. Notification of the public hearing shall be sent not less than seven (7) days prior to the Public Hearing, by regular first-class mail to all abutters as defined in G.L.c.40A sec. 11.

1.14.3 Vote: A vote of the Select Board to provide a letter of support or not to provide a letter of support shall be taken at a meeting of the Select Board, which is not the same date as the Public Hearing, but which is not less than three (3) days subsequent to the public hearing. A letter of any determination of the Board shall be recorded and filed with the Town Clerk.

1.14.4 Comments: The Select Board may vote to issue comments with the letter of support or letter of no support at the same meeting.

Note: Amended Art 15, TM 2/16/2022; App. A.G. ;Posted:

## 2.0 Town Administrator

2.1 The Select Board of the Town of Burlington, by an affirmative vote of at least four (4) members, shall appoint a Town Administrator for an indefinite term and fix the compensation within the amount annually appropriated for that purpose. The position of Town Administrator shall not be subject to the Bylaws of the Town relative to personnel, nor shall it be included in any certification of any collective bargaining unit.

2.2 The Town Administrator shall be appointed solely on the basis of executive and administrative qualifications and shall be a person of proven professional ability, especially fitted by education, training, and previous experience in municipal administration helpful for the performance of the duties of the office. The person shall not have served in an elective office in or for the Town of Burlington for at least 24 months prior to his appointment. The person shall devote full time to the office and shall not hold any other public office, elective or appointive, nor shall engage in any other business, occupation or profession during the term of office, unless such action is approved in advance, in writing, by the Select Board. The Town may, from time to time, by Bylaw, establish such additional qualifications it deems necessary and appropriate.

2.3 The Town Administrator shall execute a bond in favor of the Town of Burlington for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed by the Select Board. The cost of said bond shall be paid by the Town.

2.4 The Town Administrator shall be the chief administration officer of the Town of Burlington with the powers and duties as follows:

2.4.1 Said administration shall be responsible to the Select Board for the efficient administration and coordination of all matters that come under the jurisdiction of the Select Board, except as they may affect the accounting and legal departments.

2.4.2 Said administration shall be responsible for the implementation of policies, directives and votes of the Select Board.

2.4.3 Said administration shall appoint and remove, subject to Chapter 31 of the General Laws, all department heads, all officers and employees who come under the jurisdiction of the Select Board, except the

Town Accountant, Treasurer/Collector and Town Counsel. Persons appointed by the administration to any statutory Board, Committee, or Commission must be a resident and a registered voter of the Town of Burlington.

Note: Second sentence adopted 1/14/91 TM. App. A.G. 3/22/91. Pub. Burl. News 4/11 & 4/18/91.  
Admended Art. 36 TM 05/13/19; App AG 0 9/13/19    Posted 09/16/19

Names of persons appointed by the Town Administrator shall be transmitted in writing to the Select Board at a meeting duly called and shall become effective on the fifteenth (15th) day following the day on which notice of the appointment is filed with said Select Board, unless said Board shall, within said period, by a majority, vote to reject any such appointment.

2.4.4 Said administrator shall administer the personnel system of said Town, including, but not limited to, personnel policies and practices; rules and regulations, the personnel Bylaws, negotiation of all collective bargaining agreements, and preparing the salary "Classification Plan" Bylaw amendments for consideration of Town Meeting, if necessary.

2.4.5 Said administrator shall be responsible for the preparation and format of a uniform budget document, which is acceptable to the Ways and Means Committee; for all departments or agencies under the Select Board's jurisdiction.

2.4.6 Said administrator shall be responsible for the preparation of the annual budget for all town agencies under the jurisdiction of the Select Board.

2.4.7 With the assistance of the Town Accountant, said administrator shall keep the Select Board informed as to the financial needs of the Town and shall make such recommendations to the Select Board as he deems necessary or expedient.

2.4.8 Said administrator shall be responsible for the review of all current Bylaws, regulations and policies that affect the departments and agencies under the jurisdiction of the Select Board, and shall make such recommendations for changes as he deems necessary.

2.4.9 Said administrator shall see that all provisions of General Laws, Bylaws, and other votes of Town Meeting and votes of the Select Board which require enforcement, direction and supervision, of the Town Administrator office are faithfully carried out and performed.

2.4.10 Said administrator shall be responsible for the approval of the purchase of all supplies, materials, equipment, central and other services, for all departments or agencies under the jurisdiction of the Select Board.

2.4.11 Said administrator shall be responsible for the negotiation of all contracts which the Select Board are authorized by law to enter into. Such proposed contracts shall be subject to final approval and execution by the Select Board.

2.4.12 Said administrator shall be responsible for the use and maintenance of all Town facilities and equipment under the jurisdiction of the Select Board and for rentals thereof, when authorized.

2.4.13 Said administrator may, without notice, cause the conduct, while in public office or employment, of any officer or employee, or department, board or commission under the control of said administrator to be examined for malfeasance, misfeasance, or nonfeasance.

2.4.14 Said administrator shall attend all regular and special meetings of the Select Board, unless requested and allowed to be excused, and shall have a voice, but not vote, in all its discussions.

2.4.15 Said administrator shall attend all sessions of the Town Meeting and shall be available to answer all questions concerning warrant articles which are directed to the office and relate to matters under the person's general supervision.

2.4.16 Said administrator shall perform any other duties required by Bylaw or by a majority vote of the Select Board.

2.5 The Select Board, by an affirmative vote of at least four (4) members, may remove the Town Administrator from office. If the Select Board affirmatively vote to remove the Town Administrator, said board shall give him at least ninety (90) days' notice as to the effective date of his termination, or provide him with ninety (90) days of severance pay, or a combination of both notice and severance pay equivalent to at least ninety (90) days.

2.6 If the office of Town Administrator is vacant, as a result of death, removal, resignation or otherwise, or the Town Administrator is on an extended leave of absence, exceeding two weeks, the Select Board by an affirmative vote of at least three (3) members, shall appoint a qualified Town Administrative officer or employee to serve as the acting Town Administrator. Said acting Town Administrator shall receive compensation as set by the affirmative vote of at least three (3) Select Board, but shall not exceed the rate of compensation approved for the administrator being replaced.

2.7 Upon the appointment of a Town Administrator, the office of Executive Secretary to the Select Board shall be abolished.

Amended under Art. 73, TM 6/16/80. App. A.G. 9/30/80, Pub. Burl News 10/9, 10/16/80.

3.0 Board of Public Works - The Select Board shall serve as the Board of Public Works.

3.1 The Board of Public Works shall have all the powers and duties now or from time to time vested by General Laws or Special Act in the following Boards, Departments and Offices, or in Boards, Departments and Offices having corresponding powers and duties, to wit: Road Commissioners; Surveyors of Highways, Superintendent of Streets, Water Commissioners, Sewer Commissioners, Municipal Light Board or Commissioners, Park Commissioners, Cemetery Commissioners, Tree Warden, Moth Superintendent and Forestry Department. (Sec. 69D CH. 41 GL)

3.1.1 The Board of Public Works shall have exclusive charge and control of the water and sewer system subject to the Bylaws, instructions and regulations the Town may impose by vote. They shall be responsible for the maintenance of such systems and may establish, relocate and discontinue these systems or any portions thereof. They may regulate the use of water and sewer systems and fix and collect, and prescribe the time and manner of payment of, prices and rates for the use of the systems.

The income of the Water Works shall be appropriated to defray all operating expenses, interest charges and payments on the principal as they accrue upon any bonds or notes issued for the purpose of a municipal water supply. If in any year there should be a net surplus remaining after providing for the aforesaid charges for that year, such surplus, or so much thereof as may be necessary to reimburse the Town for monies theretofore paid on account of its Water Department, shall be paid into the Town treasury. If in any year there should be a net surplus remaining after providing for the aforesaid charges and for the payment of any such reimbursement in full, such surplus may be appropriated for such new construction as the Board of Public Works, with the approval of the Town, may determine upon; and in case a net surplus should remain after payment for such new construction the water rates shall be reduced proportionately.

The Board of Public Works shall annually, and as often as the Town may require, render a report upon the condition of the works under their charge, and an account of their doings, including all receipts and expenditures. (Sec. 69B, Ch. 41 GL). The Board of Public Works shall carry out the duties and responsibilities specified in Sections 38 through 42, Chapter 41 of the General Laws, with regard to public water supply.

The Board of Public Works is hereby authorized to promulgate regulations relative to the use of water in the Town's water distribution system. Violation of any regulations promulgated under authority of this bylaw may

be enforced through any lawful means in law or in equity by the Board of Public Works or the Superintendent of Public Works, or their designees, including but not limited to enforcement by non-criminal disposition in accordance with Article I, Section 4.0 of the General Bylaws. Each day a violation exists shall constitute a separate violation. The regulations authorized by this section shall establish specific penalties for violation thereof in amounts not to exceed \$300 per violation.

Note: Amended under Art. 6, TM, 9/30/09. App'd. A.G. 1/20/10. Posted 1/27-2/10/10.

3.2 The Board of Public Works shall have such additional powers with respect to the collection and disposal of garbage and refuse, the maintenance and repair of Town buildings and property, and the performance of such duties of any other Boards, Departments and Offices of the Town as may be reasonable related to the duties and responsibilities of a Board of Public Works, as the Town may from time to time by Bylaw provide, and other provisions of law to the contrary notwithstanding. (Sec. 69D, Ch. 41 GL).

3.3 The Select Board shall appoint and fix the compensation of a Superintendent of Public Works, who shall exercise and perform, under the supervision and direction of the Board, such of the powers, rights and duties specified under Sections 3.1 and 3.2 above, as it may from time to time designate. He shall be responsible for the efficient exercise and performance of such powers, rights and duties and shall hold office subject to the will of the Board (Sec. 69E, Ch 41 GL).

3.3.1 He shall be specially fitted by education, training and experience to perform the duties of the office and may or may not be a resident of the Town. During his tenure, he shall hold no elective or other appointive office, nor shall engage in any other business or occupation (Sec. 69E, Ch. 41 GL).

3.3.2 He shall give to the Town a bond with a surety company authorized to transact business in the Commonwealth as surety, for the faithful performance of his duties, in such sum and upon such conditions as the Board may require (Sec. 69E, Ch. 41 GL).

3.3.3 He shall, subject to the approval of the Board, appoint such assistants, agents and employees as the exercise and performance of his powers, rights and duties may require (Sec. 69E, Ch 41 GL).

3.3.4 He shall keep full and complete records of the doings of his office and render to the Board as often as it may require a full report of all operations under his control during the period reported upon; and annually, and from time to time as required by the Board, he shall make a synopsis of such reports for publication. He shall keep the Board fully informed as to the needs of the Town within the scope of his duties, and shall furnish to the Board each year upon its request a carefully prepared and detailed estimate in writing of the appropriations required during the next succeeding fiscal year for the proper exercise and performance of all his powers, rights and duties (Sec. 69E, Ch. 41 GL).

3.4 Department of Public Works - The Superintendent of Public Works shall establish and staff with qualified personnel a Department of Public Works which shall implement the general and specific directions of the Board of Public Works.

3.4.1 The Department of Public Works shall include the following Divisions: Engineering, Highway, Cemetery, Water and Sewer, and Central Maintenance.

3.4.2 In addition to the above-listed Divisions, the Superintendent of Public Works shall directly supervise the operation and personnel of the Inspection, Moth, Tree, Building and Property Maintenance Departments.

3.4.3 Each Division of the Department of Public Works, with the exception of the Engineering Division, shall be supervised by an Asst. Superintendent who shall implement the general and specific directives of the Superintendent with regard to his specific Division.

3.4.4 The Engineering Department shall be supervised by the Town Engineer who shall provide engineering information studies and reports as required by the Superintendent of Public Works.

3.4.5 The Inspection Department shall include inspectors qualified to secure proper construction and installation of electric, gas, plumbing, heating, air conditioning, water supply, sewer, street construction and drainage works in compliance with accepted practice and applicable codes and regulations. An inspector may, if qualified, provide services in two or more of these categories.

Note: Section 3.4.1 adopted under Art. 51 TM 6/6/79. App. A.G. 10/9/79; Pub. Burl. News 10/18, 10/25/79. Amended Art. 25 TM 1/12/87; App. A.G. 4/8/87; Pub. Burl News 4/16, 4/23/87. Section 3.4.3 and 3.4.4 amended Art. 25 TM 1/12/87. App. A.G. 4/8/87, Pub. Burl. News 4/16, 4/23/87.

3.4.6 The Superintendent of Public Works shall act as and perform the duties of Moth Superintendent and Tree Warden and shall be responsible for the maintenance and repair of all Town buildings and property other than schools, libraries, housing projects and fire stations.

3.4.7 Highway Division

The Assistant Superintendent for Highways shall be specially fitted by education and experience to supervise the maintenance of Town streets and related structures and to coordinate construction projects by private contractors. He shall exercise direct control over the personnel, equipment and buildings of the Highway Division, and shall supervise rubbish and garbage collection, snow removal and other services being provided by private contractors on Town streets.

#### **3.4.8 Cemetery Division**

The Asst. Superintendent of Cemeteries shall be specially fitted by education and experience to supervise the maintenance and administration of Town Cemeteries.

#### **3.4.9 Water and Sewer Division**

The Asst. Superintendent shall be specially fitted by education and experience to supervise the maintenance of water and sewer structures and installations and to coordinate water and sewer construction projects by private contractors. He shall exercise direct control over the personnel equipment and buildings of the Water & Sewer Division.

#### **3.4.10 Central Maintenance Division**

The Asst. Superintendent shall be specially fitted by education and experience to supervise repair and maintenance of Town-owned equipment, both gasoline and diesel powered and maintain proper records of the repairs and maintenance performed on all equipment for which he is responsible.

Note: Adopted Art. 51, TM 6/6/79. App. A.G. 10/9/79, Pub. Burl News 10/18, 10/25/79.

### **4.0 Board of Registrars**

There shall be a Board of Registrars consisting of three members and the Town Clerk, ex-officio. One member shall be appointed by the Select Board annually for a three-year term. Members shall equally represent the two leading political parties. Vacancies due to death, resignation, change of party, retirement or absence shall be filled by the Select Board.

#### **4.1 Organization**

4.1.1 The Town Clerk shall be clerk to the Board, shall keep complete records of proceedings and shall publish all notices of the Registrars.

4.1.2 A person appointed assistant registrar must be a voter and cannot hold an elected or appointed office in the Town, the State or County except as a justice of the peace, notary public or officer of the state militia.

#### **4.2 Duties**

4.2.1 The Board may appoint assistant registrars to assist in the listing of persons seventeen (17) years old or older.

4.2.2 The Board shall register all persons eligible to vote in accordance with Ch. 51, Sections 26-54, 59, GL.

4.2.3 The Registrars shall publish voting lists by precincts no later than July 15th of State election years. Supplementary lists shall be published at least 30 days prior to any Town or State election. Copies shall be available at no charge and upon request to all candidates for public office and all duly organized political committees and for use at all Town Elections and Town Meetings.

4.2.4 The Registrars shall provide voting lists to the Select Board upon request for the purpose of dividing the Town into new precincts.

4.2.4.1 Precincts Division Voted that the Select Board be directed to prepare a division of the Town into convenient voting precincts, per provisions of GL (ter.ed) Ch. 54, Sec. 6.

Note: Adopted Art. 3 at Special TM 11/14/60.

4.2.5 At least twenty (20) days before the Annual Town Election and sixty (60) days before the State election, The Board shall post the voting lists in its principal office and at one or more public places in each precinct.

4.2.6 Within seven days after the close of registration, the Clerk shall notify the Secretary of this Commonwealth of the certified number of voters in each precinct and in the Town along with the offices to be filled at the election.

4.2.7 The Board shall certify each name on all nomination papers and petitions submitted to them.

4.2.8 The Board shall examine, upon request for a recount, all ballots as required by the General Laws.

4.2.9 The Board shall certify all ballots and perform other such duties required in the General Laws.

## 5.0 Legal Department

The Select Board shall annually appoint legal counsel for the Town. Such legal counsel may be an individual or a firm employing two or more attorneys and shall be hereinafter called Town Counsel.

5.1 Individual Town Counsel and each member of a firm who is delegated to represent or advise the Town or a Town Officer shall possess the following minimum qualifications:

5.1.1 A law degree from an accredited institution.

5.1.2 Five years' experience in the practice of law, but the Select Board may permit attorneys with less than five years' experience to represent or advise the Town if they are subject to the direct supervision of Town Counsel meeting all qualifications of this section.

Note: Adopted Art. 52 TM 6/6/79. App. A.G. 10/9/79, Pub. Burl News 10/18, 10/25/79.

5.1.3 Membership in the Massachusetts Bar.

5.1.4 Other qualifications that the Select Board may require.

5.2 Responsibilities of Town Counsel shall include but not be limited to the following:

5.2.1 Draft all legal instruments and do every professional act required of him by vote of the Town or any Board of the Town.

5.2.2 Furnish a written legal opinion on any question that may be submitted to him by vote of the Town or any Board of the Town, but no requests for any opinion from any Board of the Town shall be made except through the Select Board.

5.2.3 Assist any officer of the Town in the interpretation of his official duties and responsibilities, but no such officers shall request the opinion or advice of Town Counsel except through the Select Board.

Note: The above two sections amended under Art. 51 of Warrant for Annual Town Meeting 3/4/72. App. by A.G. 9/1/72. Pub. BTU 9/14, 9/21, 9/28/72.

5.2.4 Prosecute all suits ordered to be brought by the Town or the Select Board. Appear at any court in the Commonwealth in defense of all action or suits brought against the Town or its officers in their official capacity upon request by the Official, Board, or Committee, to whom the suit is directed. Any action brought against the Town in its corporate capacity shall for the purpose of this paragraph, be deemed to be directed to the Select Board.

Represent the Town before any tribunal, whether in law or in equity, in the Commonwealth, or before any Board of Referees or Commissions, and appear at any and all hearings in behalf of the Town.

Note: Amend. Art. 23, TM 1/26/77. App. A.G. 4/21/77. Pub. Burl. News 5/12, 5/19/77.

5.2.4.1 When the Town Moderator is authorized by any vote of the Town Meeting to direct and control the expenditure of funds appropriated for the prosecution or defense, by intervention if appropriate, of civil litigation in his own name or in the name of the Town or of the Town Meeting, he, the Town or the Town Meeting may retain counsel other than duly appointed Town Counsel for this purpose and make such fee arrangement with said counsel as the Moderator or the Town Meeting shall deem appropriate. But the vote of Town Meeting to retain counsel in such case shall preclude or supersede, as the case may be, the selection of counsel by the Moderator.

Note: Amend. Art. 13, TM 1/10/83. App. A.G. 3/22/83. Pub. Burl News 3/31 & 4/7/83.

5.2.5 Attend each session of all regular and special Town Meetings;

Note: Amended Art. 22 TM 10/15/75. App. A.G. 1/26/76. Pub. BTU 1/29, 2/5, 2/12/76.

Note: Amended Art. 22 TM 1/25/2016; App. A.G. 5/16/2016; Posted 5/17/2016:

5.2.6 Submit to the Select Board a written annual report which shall contain information relative to:

5.2.6.1 Legal transactions and litigation completed or in process, involving the Town.

5.2.6.2 Legal opinions given during the year.

5.2.6.3 Potential legal problems.

5.2.6.4 Any other legal matters of concern to the Town.

5.3 The Legal Department shall be subject to the constraints of General Laws, Chapter 44, Section 31.

Note: Adopted Art. 32 TM 10/15/75; App. A.G. 1/26/76, Pub. BTU 1/29, 2/5, 2/12/76.

## 6.0 Town Accountant

There shall be a Town Accountant appointed by the Select Board for a term of three years. He shall be sworn to the faithful performance of his duties and shall hold no other Town office involving the receipt or disbursement of money. The Town Accountant shall be a member ex-officio of any Board or Committee appointed to plan a project involving the borrowing of money.

6.1 The Town Accountant shall keep a record of each appropriation, each expenditure and each item of income.

6.2 The Town Accountant shall receive and examine all approved bills and payrolls of Town Officers authorized to expend money and, if in order, draw a warrant upon the Treasury, payment subject to the approval of the Select Board.

6.3 The Town Accountant shall have custody of all contracts of the Town, shall keep a register of the sureties on all bonds of indemnity given to the Town and shall keep a detailed record of Town debt, including purpose, when incurred, when due, rate of interest and provisions for payment.

6.4 The Town Accountant shall make an annual report to the Select Board stating receipts and expenditures of the Town for the past financial year and debt charged, incurred or unpaid at the end of the financial year.

6.5 The Town Accountant shall perform the duties and possess the powers of a Town Auditor.

6.5.1 He shall annually examine the books and accounts of all officers and trustees charged with the receipt and expenditures of money, all original bills and vouchers on which money has been or may be paid and shall certify in the Annual Town Report the verification of all accounts and cash balances.

6.5.2 He shall receive, from any officers of the Commonwealth or of a county, city, town or district, who makes payment of public money to the Town Treasurer, a written statement of the amount of the payment, the date and purpose.

6.5.3 He shall annually before February 1st, notify the Assessors of the total receipts of the preceding financial year, from all sources other than taxes, loans and trust funds.

Note: Adopted Art. 2 Spec. TM 6/25/69. App. A.G. 1/21/70. Pub. BTU 12/19, 12/26/70.

6.6 The Town Accountant shall be responsible for overseeing the Town's Departmental Revolving Accounts.

6.6.1 Purpose. This Bylaw establishes and authorizes revolving funds for use by 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 General Laws Chapter 44, § 53E½.

6.6.2 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:

6.6.2.1 Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.

6.6.2.2 No liability shall be incurred in excess of the available balance of the fund.

6.6.2.3 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 Select Board and Ways and Means Committee.

6.6.3 Interest: Interest earned on monies credited to a revolving fund established by this Bylaw shall be credited to the general fund.

6.6.4 Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E½ and this Bylaw, the 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.

6.6.5 Authorized Revolving Funds. The Table establishes:

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,
- E) Any restrictions or conditions on expenditures from each fund;
- F) Any reporting or other requirements that apply to each fund, and
- G) The fiscal years each fund shall operate under this Bylaw.

<b>A Revolving Fund</b>	<b>B Department, Board, Committee, Agency or Officer Authorized to Spend from Fund</b>	<b>C Fees, Charges or Other Receipts Credited to Fund</b>	<b>D Program or Activity Expenses Payable from Fund</b>	<b>E Restrictions or Conditions on Expenses Payable from Fund</b>	<b>F Other Requirements/ Reports</b>	<b>G Fiscal Years</b>
Cross Connection-Backflow prevention	Public Works	Fees charged for testing devices that prevent mixing of potable and non-potable water	Contract services to DEP authorized vendors who perform the testing, surveys, part-time salaries, purchase of testing equipment and any other expenses necessary for the administration of this program	No restrictions or conditions	Any balance in excess of \$100,000 will be transferred to the general fund at fiscal year-end; all balances up to \$100,000 will carry forward and be available for appropriation in subsequent fiscal years	Fiscal Year 2019 and subsequent years
B-line Local Mini Bus	Public Works	Bus user fees	Salaries, expenses, contractual services and any other expenses necessary to operate the in-town B-Line bus service	No restrictions or conditions	Fiscal year-end balance carries forward and is available for appropriation in subsequent years	Fiscal Year 2019 and subsequent years
Grand View Farm	Select Board	Rental fees received for use of Grandview Farm/ Marion Tavern Facility	Expenses related to the operations of the Grand View Farm/ Marion Tavern Facility and grounds including but not limited to maintenance and repairs, utilities, furniture & fixtures, custodial overtime, capital improvements, and any other expenses related thereto	No restrictions or conditions	Fiscal year-end balance carries forward and is available for appropriation in subsequent years	Fiscal Year 2019 and subsequent years
Nursing Programs & Services	Board of Health	Fees charged for screenings & Medicare / insurance reimbursements received	Expenses related to medical equipment and supplies, immunizations, health fairs, educational materials, emergency preparedness drills, and any other expenses related to the administration of public health nursing programs	No restrictions or conditions	Beginning on 6/30/18, any balance in excess of \$45,000 will be transferred to the general fund at fiscal year-end; all balances up to \$45,000 will carry forward and be available for appropriation in subsequent fiscal years	Fiscal Year 2019 and subsequent years

Plan Imaging & Property File Documents	Building Department	2% of Building Department Fees (Not to exceed \$20,000 annually)	Archival imaging of building permit drawings and specifications, and property file documents, and any other costs related to the administration of this program	No restrictions or conditions	Fiscal year-end balance carries forward and is available for appropriation in subsequent years	Fiscal Year 2019 and subsequent years
Sale of Recyclable Materials, Trash Bags and Toters	Select Board	Receipts from the sale of all recyclable material, trash bags and rental of second toters	Expenses to offset the cost of curbside trash & recycling collection, disposal of solid waste, replacement toters, and any other costs associated with the administration of the trash and recycling program	No restrictions or conditions	Fiscal year-end balance carries forward and is available for appropriation in subsequent years	Fiscal Year 2019 and subsequent years
Sealer of Weights & Measures	Select Board	Fees charged for testing of Weights & Measures devices	Part time salaries, contracted services, and any other costs associated with the administration of the Weights & Measures Testing Program	No restrictions or conditions	Any balance in excess of \$20,000 will be transferred to the general fund at fiscal year-end; all balances up to \$20,000 will carryforward and be available for appropriation in subsequent fiscal years	Fiscal Year 2019 and subsequent years
Ice Palace Improvement & Maintenance	Select Board	Any revenue received in conjunction with the lease of the Ice Palace facility	Any repairs, maintenance, capital improvements, or other expenses associated with the Ice Palace facility and grounds including debt service related thereto	No restrictions or conditions	Fiscal year-end balance carries forward and is available for appropriation in subsequent years	Fiscal Year 2019 and subsequent years
Meadowbrook School Maintenance & Improvements	Select Board	Any revenue received in conjunction with the lease of Meadowbrook School	Any repairs, maintenance, capital improvements, or other expenses associated with the Meadowbrook School facility and grounds including debt service related thereto	No restrictions or conditions	Fiscal year-end balance carries forward and is available for appropriation in subsequent years	Fiscal Year 2019 and subsequent years
Lease of Surplus School Building Space	School Committee	Any revenue received in conjunction with the Lease of surplus school space	Expenses incurred for the upkeep and maintenance of any facility under the control of the School Committee	No restrictions or conditions.	Fiscal year-end balance carries forward and is available without further appropriation in subsequent years; MGL Ch. 40, §3, local option adopted.	Fiscal Year 2019 and subsequent years.

Note: Adopted Art. 14 Spec. TM 9/25/2017. App. A.G. 1/16/2018 . Pub. 1/19/2018-4/19/2018 .

Admended Art. 37 TM 5/13/19; App AG 09/13/19 Posted 09/16/19

## 7.0 Fire and Police Departments

7.1 Fire Department In accordance with a vote of the Town on March 7, 1932, there shall be a Fire Department established and maintained as provided by Sections 42A, 43 and 44 of Chapter 48 of the General Laws. The Chief and regular or permanent members of the Fire Department were placed under Civil Service laws by vote of the Town on March 1, 1954.

### Chapter 48 - Sections 42A, 43, 44 - General Laws

#### Section 42A - Establishment of Certain Fire Departments in Towns

There shall be a fire department established under the direction of the Select Board, who shall appoint a chief of the fire department and such other officers and firemen as they deem necessary, and fix their compensation in an amount not in the aggregate exceeding the annual appropriation therefor. The Select Board may make suitable regulations governing the fire department and the officers and firemen thereof, and in towns which are

not subject to Chapter 31 may remove the chief and other officers and firemen at pleasure. The chief of the fire department shall be in immediate control of all town property used by the department, and of the officers and firemen, who shall obey his orders.

Note: Adopted under Article 45 - May 24, 1982.

Section 43 - Duties of fire chief; role of forest warden. The chief of the fire department shall act as forest warden in such towns and shall have authority to appoint deputy wardens and fix their compensation subject to the approval of the Select Board.

Section 44 - Application of sections establishing a fire department and appointing and defining duties of fire chief. The two preceding sections shall not affect the tenure of office nor apply to the removal of permanent and call members of the fire department in towns which have accepted Chapter 31 or corresponding provisions of earlier laws. Said section shall not apply to cities.

Section 100, Chapter 41, GL - Indemnification

Section IIIA, Chapter 41, GL - Vacations. Accepted Article 8 7/31/50.

Section 6B, Chapter 40, GL - Providing of Uniforms. Accepted Article 19 3/3/52.

Civil Service Status-Fire Department. Authorizing Act by General Court, 1953. Referendum Voted 3/1/54.

Section 89B, Chapter 32, GL - Payment of Death Benefits. Accepted Article 34 4/1/57.

Section 111D, Chapter 41, GL - Vacations. Referendum Voted 3/3/58.

Section 58C, Chapter 48, GL - Overtime Remuneration or Compensatory Time Off. Accepted Article 12 3/24/58.

Section 57E, Chapter 48, GL - Remuneration for Holidays, Chief. Accepted Article 38 4/6/66.

Section 57D, Chapter 48, GL - Time off or Remuneration. Accepted Article 39 4/6/66.

Section 58D, Chapter 48, GL - 42-Hour Week. Referendum Voted 3/1/69.

Section 42A, Chapter 48, GL - Weak Chief. Accepted Article 45 5/24/82.

**7.2 Police Department** In accordance with a vote of the Town on March 3, 1941, there shall be a Police Department established and maintained as provided in Section 97 of Chapter 41, GL, under the direction of a Police Chief appointed by the Select Board.

Chapter 41 - Sections 96A, 96B, 97, 98, 98A, 99, 99A, 100 GL Section 96A No person who has been convicted of any felony shall be appointed as a police officer of a city, town, or district.

Section 96B Every person who receives an appointment as a regular police officer on a permanent full-time basis in any city or in any town having more than five thousand inhabitants shall, within six months of the date of his appointment, be assigned to and shall attend a police training school approved by the municipal police training council for a course of study lasting at least six weeks and shall satisfactorily complete such course.

Any police officer attending such school shall be paid his wages as police officer. He shall also receive such reasonable expenses as may be determined by the appointing authority. Any police officer who through his own fault fails to complete his course of study satisfactorily shall be removed from the police force.

Section 97 In towns which accept this section or have accepted corresponding provisions of earlier laws there shall be a police department established under the direction of the Select Board, who shall appoint a chief

of police and such other police officers as they deem necessary, and fix their compensation in an amount not in the aggregate exceeding the annual appropriation therefor. The Select Board may make suitable regulations governing the police department and the officers thereof, and in towns which are not subject to provisions of Chapter 31 to the contrary may remove the chief and other officers at pleasure.

The chief of police shall be in immediate control of all town property used by the department, and of the police officers, who shall obey his orders.

Section 98 The chief and other police officers of all cities and towns shall have all the powers and duties of constables except serving and executing civil process. They shall suppress and prevent all disturbances and disorder. They may carry within the commonwealth such weapons as the chief of police or the board or officer having control of the police in a city or town shall determine; provided, that any law enforcement officer of another state or territory of the United States may, while on official business within the commonwealth, carry such weapons as are authorized by his appointing authority. They may examine all persons abroad whom they have reason to suspect of unlawful design, and may demand of them their business abroad and wither they are going; may disperse any assembly of three or more persons; and may enter any building to suppress a riot or breach of peace therein. Persons so suspected who do not give a satisfactory account of themselves, persons so assembled and who do not disperse when ordered, and persons making, aiding and abetting in a riot or disturbance may be arrested by the police, and may thereafter be safely kept by imprisonment or otherwise unless released in the manner provided by law, and taken before a district court to be examined and prosecuted.

If a police officer stops a person for questioning pursuant to this section and reasonably suspects that he is in danger of life or limb, he may search such person for a dangerous weapon. If he finds such weapon or any other thing the possession of which may constitute a crime, he may take and keep it until the completion of the questioning, at which time he shall return it, if lawfully possessed, or he shall arrest such person.

Section 98A A police officer of a city or town who is empowered to make arrests within a city or town may, on fresh and continued pursuit, exercise such authority in any other city or town for any offense committed in his presence within his jurisdiction for which he would have the right to arrest within his jurisdiction without a warrant. Said officer may return any person so arrested to the jurisdiction wherein said offense was committed.

Nothing contained in this section shall be construed as limiting the powers of a police officer to make arrests and insofar as possible, this section shall be deemed to be declaratory of the common law of the Commonwealth.

Section 99 The mayor, Select Board, chief of police, or person however designated having the duties of a chief of police, or, in the absence of the chief of police, or person however designated having the duties of a chief of police, the commanding officer, may upon the request of the mayor, Select Board, chief of police, or person however designated having the duties of a chief of police, or in the absence of the chief of police or person however designated having the duties of a chief of police, the commanding officer of any other city or town, provide police officers, who shall have the authority of constables and police officers within the limits of such city or town, except as to the service of civil process, and, while exercising such authority within such limits, shall have the same immunities and privileges as when acting within their respective cities and towns; and the city or town providing said officers shall be entitled to receive from such city or town the amount paid to them for their service, including their necessary traveling expenses.

Section 99A In any city or town which accepts this section, the members of the regular police department of said city or town who have been members of said department for at least five years may reside outside said city or town; provided, they reside within the commonwealth and within ten miles of the limits of said city or town.

Section 100 Upon application by a fire fighter or police officer of a city, town or water district, or in the event of the physical or mental incapacity or death of such fire fighter or police officer, by someone on his behalf, the board or officer of such city, town or district authorized to appoint fire fighters or police officers, as the case may be, shall determine whether it is appropriate under all the circumstances for such city, town or district to indemnify such fire fighter or police officer for his reasonable hospital, medical, surgical, nursing,

pharmaceutical, prosthetic and related expenses incurred as the natural and proximate result of an accident occurring, or of undergoing a hazard particular to his employment, while acting in the performance and within the scope of his duty without fault of his own. If such board or officer determines that indemnification is appropriate, such board or officer shall certify for payment, either directly or by way of reimbursement, by such city, town or district, in the same manner as a bill lawfully incurred by such board or officer but out of an appropriation for the purposes of clause (32) of Section 5 of Chapter 40, such of said expenses as may be specified in such certificate. Whenever such board or officer denies an application in whole or in part, such board or officer shall set forth in writing its or his reasons for such denial and cause a copy thereof to be delivered to the applicant. At any time within two years after the filing of an application as aforesaid, an applicant aggrieved by any denial of his application or by the failure of such board or officer to act thereon within six months from the filing thereof may petition the superior court in equity to determine whether such board or officer has without good cause failed to act on such an application or, in denying the application, in whole or in part, has committed error of law or has been arbitrary or capricious or has abused its or his discretion, or otherwise has acted not in accordance with law. After due notice and hearing, such court may order such board or officer to act on such application or to consider, or further consider, and determine the same in conformity with law.

A city, town or fire or water district shall further indemnify a fire fighter or police officer, or in the event of the death of such fire fighter or police officer, his estate, to an amount not more than the amount recommended by such board or officer, for expenses or damages incurred by such fire fighter or police officer in the defense of settlement of an action brought against him for acts done by him while acting as a fire fighter or police officer. No city or town or any fire or water district shall indemnify under this paragraph if insurance providing indemnity for, or protection to, such fire fighter or police officer was in effect under authority of clause (1) of Section 5 of Chapter 40 at the time when the expenses or damages for which indemnification is sought were sustained, unless and until all rights under such insurance in favor of such city, town or fire or water district shall have been exercised, determined and satisfied.

For the purposes of this section, call firemen and volunteer firemen shall be considered fire fighters. This section shall be construed to require a city, town or district to indemnify, in the manner and to the extent herein provided, any fire fighter or police officer who is assigned to special duty by a superior officer for expenses or damages sustained by such fire fighter or police officer in the performance of such duty, whether or not he is paid for such special duty by the city, town or district, or otherwise. This section shall also be construed to require a city, town or fire or water district to pay compensation, in the manner herein provided, for damages, including loss of pay, for personal injuries, whether or not death results, and for property damage sustained by a person while assisting a police officer thereof in the discharge of his duty upon his retirement, and to require a city, town or fire or water district to indemnify in the manner herein provided a person required to assist a police officer in the performance of his duty for expenses or damages incurred by such person in the defense or settlement of an action against him for acts done by him while so assisting such police officer.

In any town which by Bylaw shall so provide, the powers vested and duties imposed by this section upon the board or officer authorized to appoint fire fighters in such town shall be exercised and performed by a majority of the members of a panel consisting of (a) such officer or chairman of such board, (b) the town counsel or other officer having similar duties, or a person designated in writing by such counsel or officer to act for him, and (c) such physician as the Select Board shall in writing appoint.

Section 97, Chapter 41, GL - Establishment and Maintenance of Police Department. Accepted 3/3/41.

Civil Service Status for Chief and all regular or permanent members of Burlington Police Force Authorizing Act by General Court 1948. Referendum Voted 2/7/49.

Section 111A, Chapter 41, GL - Vacations. Accepted Art. 8 7/31/50.

Section 6B, Chapter 40, GL - Providing of Uniforms. Accepted Art. 19 3/3/52.

Section 16C, Chapter 147, GL - Five-day Week Referendum 3/1/54.

Section 89B, Chapter 32, GL - Payment of Death Benefits. Accepted Art. 34 4/1/57.

Section 111D, Chapter 41, GL - Vacations Referendum. Accepted 3/3/58.

Section 17C, Chapter 147, Compensatory Time Off or Remuneration. Accepted Art. 12 6/23/58.

Section 53C, Chapter 262, Compensatory Time Off or Remuneration. Accepted Art. 13 6/23/58.

Section 17A, Chapter 147, Compensatory Time Off or Remuneration. Accepted Art. 45 4/6/66.

Section 57F, Chapter 48, GL - Remuneration, Chief. Accepted Art. 46 4/6/66.

#### 8.0 Animal Control Officer and Pound

The Select Board shall annually appoint a Animal Control Officer, who shall be a resident of the Town. The Animal Control Officer shall be chief of the Canine Department, which is hereby declared to be a principal department of the Town.

Note: Amended Art. 2, TM 2/20/74. App. A.G. 3/25/74. Pub. BTU 4/4, 4/11, 4/18/74.

8.1 The Animal Control Officer shall ensure that all dogs are licensed and investigate all dog complaints by residents of the Town.

8.2 The owner of any dog caught or confined by the Animal Control Officer shall be charged a \$10 pickup fee and a boarding fee of \$20 per day for each day the dog remains confined.

Note: Adopted Art. 2 Spec. TM 6/26/69; App. A.G. 1/21/70; Pub. BTU 2/12, 2/19, 2/26/70. Amended Art. 20 TM 1/25/12; App. A.G. 8/25/2012 \* Approval delayed on request of AG Office      Posted      8/29/2012      .

8.3 The Select Board may from time to time adopt a general order to the Animal Control Officer, the Constables or the Chief of Police of the Town of Burlington to catch and confine dogs running at large in the Town or any part thereof, and such an order may make such provision for the keeping or disposing of such dogs as the Select Board shall deem appropriate in the circumstances.

Note: Adopted Art. 2 TM 6/19/72; App. A.G. 9/22/72; Pub. Burl. News 10/26, 11/2, 11/9/72.

#### 9.0 Fees - Building Department - Effective January 1, 1992

##### 9.1 Fees for Building Permits

The Select Board may from time to time adopt and amend a schedule of fees for building permits, inspections, plan reviews and services and activities required or regulated by the Massachusetts State Building Code or by the Bylaws of the Town of Burlington.

##### 9.2 Building Department Rules and Regulations in Relation to Permit Fees

The Select Board may from time to time adopt or amend rules and regulations governing the activities and policies of the Building Department.

Note: Amended Art. 9 TM 9/16/91; App. A.G. 11/26/91; Pub. Burl. News 12/5/91, 12/12/91.

#### 10.0 Fee Schedule - Weights and Measures

The schedule of fees to be charged by the Sealer of Weights and Measures under the provisions of Massachusetts Chapter 98 Section 56 may be revised by the Select Board in accordance with Massachusetts Chapter 40 Section 22F, accepted at the May 21, 1997 Town Meeting. A copy of the fees so adopted shall be posted and shall be available in the office of the Town Clerk and posted on the town website. The initial fees will be those in effect on the effective date of this Bylaw;

Note: Amended Art. 12, TM 1/25/2016; App. A.G. 5/16/2016 ;Posted 5/17/2016;

Note: Adopted Art. 7, TM 1/11/93; App. A.G. 3/22/93. Pub. Burl. News 3/17, 3/24/93. Amended Art. 6 TM 9/8/03; App. A.G. 9/30/03; Pub. Daily Times 10/8/03 & 10/15/03.

#### 11.0 Fees - Automatic Devices Licenses

The schedule of fees to be charged by the Select Board for Automatic Amusement Devices under the provisions of Massachusetts General Laws Chapter 140 Section 177A may be revised by the Select Board in accordance with Massachusetts General Laws Chapter 40 Section 22F, accepted at the May 21, 1997 Town Meeting. Such fee, however, shall not exceed the maximum amount set forth in Massachusetts General Laws Chapter 140 Section 177A. A copy of the fees so adopted shall be posted and shall be available in the office of the Town Clerk and posted on the town website. The initial fees will be those in effect on the effective date of this Bylaw.

Note: Amended Art. 13, TM 1/25/2016; App. A.G. 5/16/2016; Posted 5/17/2016;

Note: Adopted Art. 28, TM 5/18/94; App. A.G. 7/26/94; Published Burlington Union 8/4, 8/11/94.

#### 12.0 Pollworker Appointments

No person, except the Town Clerk and the Moderator, shall be appointed to work at the polls as a Teller, Warden, or in any official capacity, in any election in which a member of his or her immediate family is a candidate for office. Immediate family shall comprise a father, mother, brother, sister, husband, wife, son, daughter.

Note: Adopted Art. 5 Spec. TM 9/28/54. App. A.G. 11/19/54. Pub. 12/1 12/2, 12/3,54.

## ARTICLE V

### **AUTHORITIES, COMMISSIONS, AND COMMITTEES**

#### 1.0 Town Administrator Appointments

##### 1.1 Conservation Commission

Voted that the Town accept the provisions of General Laws, Chapter 40, Section 8C as amended, and establish a Conservation Commission of the Town of Burlington for the purposes and with the rights and duties provided by law, to be composed of seven residents of the Town appointed by the Select Board for the terms of three years except that the initial appointments shall be one for one year, two for two years, and two for three years, and there be established a Conservation Fund.

Note: Adopted Art. 19 Spec. TM 11/17/65. Amended Art. 49 TM 4/3/67.

##### 1.2 Historical Commission

Voted that the Town adopt the provisions of Section 8D of Chapter 40 of the General Laws relating to the establishment of an Historical Commission, said Commission to consist of seven members to be appointed by the Select Board, said Commission to be established for the preservation, promotion and development of the historical assets of the Town; said Commission to have and exercise the powers and duties contained in said Section 8D of Chapter 40 of the General Laws.

Note: Adopted Art. 20 Spec. TM 6/8/66. Amended Art. 14 TM 1/31/05.

Note: 1.3 Section Deleted - Art. 14, TM 1/25/2016; App. A.G. 5/16/206; Posted 5/17/2016:

##### 1.4 Town Beautification Committee

The Select Board shall appoint a committee of five members to be known as the Town Beautification Committee. Initially, one member shall be appointed for a one-year term, two members for a two-year term, and two members for a three-year term; thereafter each term shall be for three years. The responsibilities of the Committee shall be to study and prepare programs for the improvement and beautification of public lands; to recommend landscaping improvements; to provide recommendations to the Building Inspector regarding site plans proposed for initial construction of alterations; and to perform related projects requested by the Select Board.

Note: Adopted Art. 54, TM 3/28/73. App. A.G. 7/30/73. Pub. BTU 8/16, 8/23, 8/30/73.

Note: 1.5 Section Deleted - Art. 15, TM 1/25/2016; App. A.G. 5/16/2016; Posted 5/17/2016;

##### 1.5 Information Systems Security Advisory Committee

###### 1.5.1 Introduction

Burlington relies on information systems to conduct Town business. Threats to the Town's information systems could come from external and internal actors. A successful attack could result in loss of security, privacy, or integrity to the Town's information systems, its data, and operational processes. Such attacks could persist for an extended period and may materially disrupt or destroy critical infrastructure or services and have adverse financial and other impact to the Town and its citizens.

###### 1.5.2 Definition

The definition of an information system shall include, but is not limited to, computers, networks, phones, smart phones, video systems, cloud and software services, security systems, monitors, cameras, embedded control systems and other technologies.

###### 1.5.3 Committee Purpose

The Information Systems Security Advisory Committee (hereinafter referred to as the Committee) shall act in an oversight capacity reporting to the Select Board. The Committee must maintain cooperative working

relationships with all Town supervisory bodies including the Select Board, School Committee, Recreation Commission, Planning Board, Library Trustees and Town information technology employees. This Committee does not replace or modify the Town's operational information systems structure.

The Committee responsibilities shall include any oversight activity, under the supervision of the Select Board that impacts information system security and privacy. Such activities shall include, but are not limited to:

- Developing a mandatory information systems governance policy that applies to all information systems used by the Town to conduct Town business to be adopted, approved and enforced by the Select Board;
- Ensuring the creation and periodic updates of a security threat model to analyze potential issues affecting new and existing information systems;
- Providing recommendations to reduce likelihood or the impact of a successful attack;
- Overseeing the development and periodic testing of effective business continuity and disaster recovery measures;
- Assessing and recommending for approval a set of priorities on future security initiatives;
- Ensuring integration of relevant information from regulatory organizations and standards bodies such as National Institute of Standards and Technology, Homeland Security, Commonwealth of Massachusetts and others as appropriate; and
- Reporting annually on Committee activities and recommendations Town's supervisory bodies and department heads.

#### 1.5.4 Committee Composition

The Committee shall consist of nine (9) voting members' total, of which five (5) members are town residents to be appointed by the Select Board within thirty (30) days after the adjournment of the May Town Meeting. In the absence of an active committee, these five (5) members shall be appointed as follows: two (2) members will be appointed for three (3) years, two (2) members will be appointed for two (2) years and one (1) member will be appointed for one (1) year. Thereafter, all appointments shall be three (3) years. The Committee shall annually elect a chairperson, vice-chairperson and appoint a secretary. The secretary shall not be a member of the Committee. The committee shall define the duties of the secretary and fix the compensation of the secretary.

The remaining four (4) members shall be Town employees who are fully or partially responsible for information system security or can represent the position of their department to the Committee. Of these four (4), there shall be one employee from Town administration, public safety, school department and the library appointed by the department's respective supervisory board. These four (4) members shall serve a three (3) year term, at the discretion of their appointing authority.

All nine (9) members of the Committee shall be voting members. Committee members serve at the pleasure of their respective appointing body;

Note: 1.5 Added - Art. 32, TM 06/10/2020; App. A.G 7/30/2020 ; Posted 7/30/2020 ;

## 2.0 Moderator Appointments

### 2.1 Finance Committee (Ways & Means)

There shall be a Finance Committee consisting of fifteen (15) voters, the majority of whom should be town meeting members, none of whom shall be a Town Officer or employee. Expired terms shall be filled by the Moderator within thirty (30) days after the final adjournment of the Annual Town Meeting.

Note: Amended Art. 3, TM 9/27/04; App. A.G. 10/18/04; Pub. Daily Times 10/27 and 11/3/04.

Beginning with the calendar year 1970, five (5) members shall be appointed annually by the Moderator to serve for three (3) years each. The proposed addition of six (6) members to the now nine (9) member Committee shall be appointed as follows: two (2) members to be appointed by the Finance Committee for one (1) year terms; two (2) members to be appointed by the Select Board for two (2) year term; two (2) members to be appointed by the Moderator for three (3) year terms.

The Committee may annually appoint a secretary who shall not be a member of the Committee. The Committee shall define the duties and fix the compensation of the secretary.

The Committee shall meet at the call of the outgoing Chairman within fifteen (15) days after the appointment date of the new members. Those taking office shall be sworn to the faithful performance of their duties. At this meeting, the Committee shall choose its chairman and vice-chairman. A quorum shall consist of eight (8) members.

2.1.1 The Committee shall make written recommendations to the Town Meeting on all Articles contained in any warrant which involve the appropriation, transfer, expenditure, raising and borrowing of money and may make recommendations on any and all questions involving Town affairs. The recommendation for the Town Meeting shall be filed with the Town Clerk in time for distribution at the first session of Town Meeting, and if at all possible, filed with the Select Board to be distributed with the warrant.

Note: Amended Art. 11, TM 1/8/90; App. A.G. 3/26/90; Pub. Burl. News 4/5 and 4/12/90.

2.1.2 The Committee may, for just cause, investigate the books, accounts, records, and management pertaining to the finances of any office, department, committee or board of the Town. The Committee is obligated to conduct such investigation upon petition of 100 voters and subsequent to the approval of the Select Board. The Committee may employ such assistance as it may deem advisable for that purpose but shall not incur any expense payable by the Town without authority granted by the Select Board.

2.1.3 The Committee shall have the authority to transfer from the Reserve Fund as provided in Section 6 of Chapter 40 of the General Laws as amended.

2.1.4 The Committee may authorize transfers between unnumbered sub-items of the same Annual Budget line account.

Note: Adopted Art. 30 TM 12/16/74. App. A.G. 2/7/75. Pub. BTU 2/20, 2/27 3/6/75.

Note: Amended. Art. 19, TM 10/15/75; App. A.G. 2/10/76; Pub. BTU 2/19, 2/26, 3/4/76.

Note: 2.1.5 Section Deleted - Art. 21, TM 1/25/2016; App. A.G. 5/16/2016; Posted 5/16/2016;

2.1.6 The Moderator shall fill any unexpired terms on the Committee. An expired or unexpired term shall be filled by the Finance Committee when the vacancy has been in existence over 30 calendar days.

Note: Adopted Art. 18 Spec. TM 11/17/69; App. A.G. 2/9/70; Pub. 2/19, 2/26, 3/5/70.

## 2.2 Capital Budget Committee

There shall be a Capital Budget Committee of seven (7) voters appointed by the Moderator.

The terms of all members shall be for three years, except the first year, when three members shall be appointed for three years, two members for two years, and two members for one year. Appointments shall be made within 30 days after the final adjournment of the Town Meeting immediately subsequent to the annual Town election.

Note: Amended Art. 83 of TM 6/9/75. App. A.G. 9/30/75. Pub. BTU 10/9, 10/16, 10/23/75.

2.2.1 Any vacancy occurring before the expiration of a term shall be filled by the appointing authority.

2.2.2 The Capital Budget Committee shall consider all matters relating to proposed expenditures of money by the Town for capital terms and projects. A capital item or project shall be an expenditure, financed in whole or in part by Town funds, in excess of \$15,000 and may include (1) the construction, repair, extension, or other improvement of a public building, highway, sidewalk, storm drain, sewerage installation, bridge, playground, park or like public works, or for a facility, structure, or utility appurtenant to any of them, and (2) the purchase of land, equipment or buildings.

Note: Amended Art. 4 TM 9/8/03; App. A.G. 9/30/03; Pub. Daily Times 10/8/03 & 10/15/03.

2.2.3 The Capital Budget Committee shall receive by February 1 of each year, from each Board, Officer and Committee charged with the expenditure of Town funds, a detailed estimate of annual Capital expenditures for a period of five (5) years, an inventory listing of each Capital item, and such supplementary information as may be requested by the Committee.

Note: Amended Art. 32 TM 10/20/75. App. A.G. 1/26/76. Pub. BTU 1/29, 2/5, 2/12/76.

### 2.3 General Bylaw Review Committee

2.3.1 The General Bylaws, and all special Bylaws, shall be reviewed annually by the General Bylaw Review Committee consisting of seven members to be appointed annually, for a term of three (3) years, by the Moderator within thirty (30) days after the final adjournment of the May Town Meeting. In the absence of an active committee, three (3) members will be appointed for three (3) years, two (2) members will be appointed for two (2) years and two (2) members will be appointed for one (1) year. Thereafter, all appointments shall be three years;

2.3.2 The committee shall annually elect a chairperson and vice-chairperson and appoint a secretary. The secretary shall not be a member of the committee. The committee shall define the duties of the secretary and fix the compensation thereof.

2.3.3 All proposed bylaws appearing on the Warrant for any session of Town Meeting, and all articles on any Warrant for any session of Town Meeting proposing actions which must be taken by law, shall be referred by the Town Administrator as soon as the Warrant closes to the General Bylaw Review Committee. Said committee shall consider (a) where in said Bylaws the proposed Bylaw should be placed; (b) the form, clarity and conciseness of the proposed Bylaw; and (c) all arguments in favor of or in opposition to the proposed Bylaw, and shall make recommendations to Town Meeting based on these considerations.

2.3.4 Town Meeting may also refer to this committee, or to any ad hoc committee that Town Meeting may constitute for this purpose, any proposed articles for detailed study and research on specific issues, but the members of any such ad hoc committee shall be appointed by the Moderator.

2.3.5 This section shall not, except by specific vote of Town Meeting, apply to any warrant article required by law to be reviewed by the Land Use Committee, the Planning Board or the Town Administrator.

Note: Adopted Art. 16 TM 1/21/81.

Note: Paragraph 1 Amended Art. 16, TM 1/25/2016; App. A.G. 5/16/2016; Posted 5/16/2016;

Note: Paragraph 1 Amended & numbered Art. 33, TM 06/10/2020; A.G 7/30/2020 ; Posted 7/30/2020 ;

Note: Paragraph 1 Amended Art 27 & Art 28, TM 05/17/21. App. A.G. 08/31/2021 , Posted 09/01/2021

### 2.4 Town Facilities Committee

A Town Facilities Committee consisting of seven members, with no more than one member from any voting precinct shall be appointed annually, for the term of two years, by the Moderator within thirty (30) days after the final adjournment of the Town Meeting, immediately subsequent to the Annual Town Election. However, the first year of this Committee, four members shall be appointed for two years and three members for one year. The Committee shall choose a chair, vice-chair, and secretary.

The Committee shall (a) become familiar with the long-term issues of care and capacity of town facilities; (b) review and make recommendations to Town Meeting on the use, maintenance, construction, and disposition of town buildings, physical plant, and infrastructure; (c) provide input regarding long-term facilities issues and plans on behalf of Town Meeting to the Select Board, Recreation Commission, Planning Board, Ways and Means Committee, Capital Budget Committee, and other Town boards and committees; and, (d) review and make recommendations regarding other matters which may be referred to the Committee by Town Meeting.

Note: Adopted Art.7, TM 1/7/96. App. A.G. 1/30/96. Pub. Burlington Union 2/8, 2/15/96. Replacing School Space Committee Adopted Art. 18, Spec. TM 6/23/69 and repealed Art. 7, TM 1/17/96.

Amended Art. 10, TM 9/28/2015; App. A.G. 12/23/15 Posted 12/28/15

## 2.5 Rules Committee

A Rules Committee consisting of thirteen Town Meeting members with at least one member from each of the voting precincts, and not more than two from any one voting precinct, shall be appointed annually, for the term of one year, by the Moderator within thirty (30) days after the final adjournment of the Town Meeting, immediately subsequent to the Annual Town Election.

The Committee shall meet at the call of the Moderator within fifteen days after the appointment date of the new members. At this meeting the Committee shall choose a chairman, vice chairman and secretary.

The Committee shall:

- 2.5.1 Review matters and make recommendations relating to the conduct of the Town Meeting.
- 2.5.2 Serve as the steering authority for the review of warrant articles.
- 2.5.3 Assist the Moderator in the selection of appointees to committees of the Town Meeting.
- 2.5.4 Review and make recommendations regarding all matters referred to the Committee by the Town Meeting.

Note: Adopted Art. 54 TM 6/10/74. App. A.G. 7/17/74. Pub. BTU 8/1, 8/8, 8/15/74.

Amended Art. 10 TM 9/11/95. App. A.G. 10/17/95. Pub. Bur. Union 10/26, 11/2/95.

Amended Art. 11, TM 9/28/2015; App. A.G. 12/23/15 Posted 12/28/15

## 2.6 Land Use Committee

A Land Use Committee consisting of nine members, including at least one Town Meeting member from each of the voting precincts but not more than two from any one voting precinct shall be appointed by the Moderator. Appointments shall be made within thirty (30) days after the final adjournment of the Annual Town Meeting. Initially the Moderator shall appoint three members for three years, three members for two years, and three members for one year. Thereafter, all terms shall be three years.

~~The Committee shall meet at the call of the outgoing Chair within fifteen days after the appointment date of the new members. At this meeting, the Committee shall choose a Chair, Vice Chair and Secretary.~~

~~The committee shall annually elect a chairperson and vice-chairperson and appoint a secretary. The secretary shall not be a member of the committee. The committee shall define the duties of the secretary and fix the compensation thereof.~~

Note: Adopted Art. 16 TM 2/16/2022. App. A.G. Posted.

The Chair shall appoint members of the Land Use Committee as liaisons to meetings held by the Planning Board and the Board of Appeals and other ad hoc or advisory committees as they relate to Land Use issues and as needed.

The Committee shall:

- 2.6.1 Review and make recommendations regarding warrant articles dealing with land use.

2.6.1.1 Whenever practicable, a written report shall be submitted to Town Meeting prior to its consideration of the respective article.

2.6.1.2 The Committee shall review and discuss appropriate maps; surveys of residents and owners of property directly affected; reports of consulting experts; probable impacts on residents and owners of property in the near vicinity of the land in question, the economy of the community, traffic, safety and ecology; potential alternate uses of the land in question; and any other information the Committee considers relevant.

2.6.1.3 If the article requires a recommendation by the Planning Board, the Planning Board shall notify the Land Use Committee of the public hearing for the land use zoning issue and include the Land Use Committee in the distribution of the legal notices.

2.6.2 Review and make recommendations regarding all matters referred to the Committee by Town Meeting.

2.6.3 Maintain a cooperative working relationship with the Planning Board, the Board of Appeals, the Select Board's Office, the Conservation Commission, the Department of Public Works, the Town Engineer's Office and any other Town office, board or commission in regards to issues relevant to Land Use."

Note: Amended Art. 12, TM 1/17/96. App. A.G. 1/30/96. Pub. Burlington Union 2/88, 2/15/96.  
Amended Art. 12, TM 9/28/2015; App. A.G. 12/23/15 Posted 12/28/15

## 2.7 Human Services Advisory Committee

A Human Services Advisory Committee shall be established consisting of seven members, appointed by the Moderator. Initially the Moderator shall appoint two members for one-year terms, two members for two-year terms, and three members for three-year terms. Thereafter, all terms shall be for three years. Members shall serve until their successors are appointed and qualified.

The initial meeting of the Committee shall be convened by a member designated by the Moderator, and at that meeting the Committee shall choose a chairperson, vice-chairperson and secretary. Thereafter, the Committee shall meet at the call of the Chairperson and as otherwise voted.

The Committee shall:

2.7.1 Consider all proposed human service programs and make recommendations to the Town Meeting.

2.7.2 Gather information on existing human services.

2.7.3 Promote coordinated action and cooperation regarding human services among the various town officials and departments.

2.7.4 Maintain a current assessment of human service needs and expressed concerns of residents.

2.7.5 Gather information of federal and state funding.

2.7.6 Develop a list of priorities for expenditures.

2.7.7 Consider and report on all matters referred to the committee by the Town Meeting or any Town official or department head.

Note: Adopted Art. 17 TM 1/78. App. A.G. 4/13/78. Pub. Burl. News 4/20, 4/27/78.

## 2.8 Zoning Bylaw Review Committee

The Zoning Bylaw Review Committee (hereinafter referred to as "the committee") shall monitor, review, and make recommendations to Town Meeting regarding any changes to the Burlington Zoning Bylaws due to, but not limited to, changes to governing law or regulations; changes in building and planning regulations and best practices; or proposed changes submitted by the committee, developers or other proponents. All references to bylaws in this section shall mean the Zoning Bylaws unless otherwise specified. The committee shall also act as an advisory group to Town Meeting regarding all zoning related warrant articles.

### 2.8.1 Committee Responsibilities, Duties, and Authorities

2.8.1.1 In order to meet its responsibilities, the committee must maintain cooperative working relationships with all town boards, committees and commissions with respect to issues relevant to the Bylaws.

2.8.1.2 The committee may, with input from various town boards and departments, review and discuss maps, master plans, reports of experts, or other relevant information required to address any potential impacts to the

## Bylaws.

2.8.1.3 All changes to the Bylaws require a public hearing and recommendation by the Planning Board. The Planning Board shall notify the committee chair of all notices of public hearing and distribution of any relevant legal notices and supporting documentation. The chair shall be responsible for distributing such information to the committee. The committee shall report any comments and recommendations regarding the proposed change to the Planning Board prior to the closing of the public hearing.

2.8.1.4 For each proposed change to the Bylaws the committee shall: consider (a) the location within the Bylaws; (b) the form, clarity and conciseness; and (c) all arguments, in favor of or in opposition. The committee shall then make recommendations to Town Meeting based on these considerations.

2.8.1.5 The committee may review and make recommendations, as appropriate, on all matters referred to the committee by Town Meeting.

## 2.8.2 Committee Organization

2.8.2.1 The committee shall consist of a total of eleven (11) members: nine (9) voting members and two (2) non-voting members. All member appointments shall be for three (3) year terms. Unless otherwise stated, each member must be a resident of the town.

2.8.2.2 The voting members shall be comprised of: one (1) representative from the Board of Appeals; one (1) representative from the business community; and the balance as representatives of the precincts. A majority of the voting members shall be Town Meeting Members. The Board of Appeals shall appoint one (1) representative from its members. This member's term will be for the lesser of their remaining Board of Appeals appointment or three (3) years. The Select Board shall appoint one (1) representative from the Business Community. This member shall be a resident of the town and an owner, officer, or manager of a business currently operating within the town. The Moderator shall appoint one (1) representative from each voting precinct as available, but not more than two (2) from any one precinct.

2.8.2.3 The two (2) non-voting members shall include one (1) member of the Building Department (who does not need to be a resident of the town) appointed by the Board of Selectman and one (1) member of the Planning Board appointed by the Planning Board. These members shall serve in an advisory capacity and serve for a three (3) year term at the discretion of their appointing authority.

2.8.2.4 All Moderator appointments to the committee shall be made within thirty (30) days after the final adjournment of the May Town Meeting. In the absence of an active committee, the Moderator will appoint three (3) members for a term expiring at the next May Town Meeting, three (3) members expiring at the next subsequent May Town Meeting, and three (3) members expiring at the third subsequent May Town Meeting. Thereafter, all appointments shall be for three (3) year terms.

2.8.2.5 The committee shall annually elect a chairperson and vice-chairperson, and appoint a secretary. The secretary shall not be a member of the committee. The committee shall define the duties of the secretary and fix the compensation of the secretary.

2.8.2.6 A quorum shall consist of a majority of the total voting members.

Note: Adopted Art. 10 TM 1/22/2018. App. A.G. 4/23/2018 posted.

## 3.0 Joint Appointments

Note: 3.1 Section Deleted - Art. 17, TM 1/25/2016; App. A.G. 5/16/2016; Posted 5/16/2016:

## 4.0 Appointive Offices - Filling of Vacancies

If any authorized appointment to a Town Board, Commission, or Committee has not been made within forty-five (45) days after that appointment was authorized to have been made, the Board, Commission, or Committee thus lacking members may thereafter fill those vacancies by an affirmative vote of the majority of the total number of authorized members (including vacancies) of that body, provided that each member of the body has been given at least a five (5) day notification by mail of the meeting and the intention to vote upon filling those vacancies at that meeting.

Note: Adopted Art 22 Spec. TM 9/21/64. App. A.G. 3/16/67. Pub. BTU 10/5, 10/12, 10/19/67.

5.0 Meeting Called by Members

If the chair of any committee is vacant, unable, or unwilling to call a meeting of the committee, the Vice-chair or one-quarter of the current members of the committee, but not less than three (3) persons, may, with due notice, call a meeting at which the committee may legally take any action within its jurisdiction.

Note: Adopted Art. 9 TM 1/10/94; App. A.G. 2/25/94; Pub. Burlington Union 3/10,3/17/94.

## ARTICLE VI

### TOWN CLERK

#### 1.0 Raffle and Bazaar Permits

Raffle and Bazaar permits shall be issued to Burlington nonprofit organizations only.

Note: Adopted Art. 24 1/23/87 TM. App. A.G. 4/8/87. Pub. Burl. News 4/16, 23/87.

#### 2.0 All fees that the Town Clerk is lawfully authorized to collect by virtue of his office shall be collected and paid into the Town Treasury within 30 days of receipt.

Note: Adopted Art. 20, TM 9/16/74; App. A.G. 10/23/74; Pub. Burl. News 11/7, 11/14, 11/21/74.

#### 3.0 Schedule of Fees

The Town Clerk may from time to time, but not more than once per year, in accordance with MGL Chap. 40, Section 22F, accepted at the 5/21/99 Town Meeting, adopt and amend a schedule of fees for office transactions involving businesses, bylaws and maps, voter/resident databases and labels, dog and kennel licenses, poles and conduits, professional registration, vital records, miscellaneous matters, and other services and activities required or regulated by the Massachusetts General Laws, applicable regulations, or the Bylaws of the Town of Burlington.

In accordance with the provisions of MGL Chapter 40, Section 22F accepted by a vote of Town Meeting on 5/21/97 and as provided by Chapter 262, Section 34, Clauses 1-79 and Section 41; Chapter 166, Section 22; Chapter 182, Section 2.

Note: Amended Art.8 TM 9/8/03; App. A.G. 9/30/03; Pub. Daily Times 10/8/03 & 10/15/03. Amended Art. 21 TM 1/25/12; App. A.G. 8/25/2012 Approval delayed by AG Office      Posted      8/29/2012

## ARTICLE VII

### TOWN TREASURER/COLLECTOR

#### 1.0 Treasurer

The Town Treasurer shall

1.1 Be responsible for the investment of Town funds, and for the borrowing of funds required by the Town, in a manner most beneficial to the Town.

1.2 Advise Town Officers on fiscal matters delineated in Section 1.1 above.

1.3 Report to the Town annually on his activities of the preceding fiscal year in sufficient detail to permit proper evaluation of the Treasurer's performance. Sufficient detail includes as a minimum, a cash analysis sheet and a report of significant financial transactions made during the year.

1.4 Furnish bond as required under Chapter 41, Section 35, General Laws.

1.5 Prosecute actions on bonds, notes and other securities in accordance with Chapter 41, Section 36, General Laws; and

Note: Adopted Art. 3 Spec. TM 6/26/69. App. A.G. 1/21/70. Pub. BTU 2/12, 2/19, 2/26/70.

1.6 Be a member, ex-officio, of any board or committee appointed by or in behalf of the Town, for the purpose of planning a project involving the borrowing of money by the Town.

Note: App. Art. 11, Spec. TM 10/14/63. App. A.G. 4/12/65. Pub. BTU 12/3, 12/10, 12/17/70.

1.7 Anything in Article III of the General Bylaws of the Town of Burlington notwithstanding, the Treasurer shall act as Tax Collector, and perform all the duties of Tax Collector. No separate Tax Collector shall be elected or appointed.

Note: Adopted Art. 24A TM 1/26/77. App. A.G. 2/18/77. Pub. Burl. News 2/24, 3/3/77.

1.8 The Select Board shall exercise general control of the Town Treasurer.

Note: Adopted Art. 15 TM 1/27/20. App. A.G. 5/15/20. Posted 5/18/20.

#### 2.0 Tax Collector

2.1 The Tax Collector shall carry out the provisions of Chapter 60 of the General Laws, including as a minimum:

2.1.1 Collect all taxes and interest, account for such funds, and deposit same in any bank.

2.1.2 After receipt of a tax list and warrant, insure that each person is notified of the amount of tax due.

2.1.3 Maintain a cash book in accordance with Section 7 of Chapter 60.

2.1.4 Furnish bond as Collector of Taxes.

2.1.5 May appoint deputies in accordance with Section 92, General Laws.

2.1.6 Make proper disposition of the Tax Collector's records in accordance with Section 97, General Laws.

2.2 Perform all other duties required by Chapter 41, Sections 35 through 43 of the General Laws.

Note: Adopted under Art. 4 Spec. TM 6/25/69. App. A.G. 1/21/70. Pub. BTU 2/12, 2/19, 2/26/70.

3.0 Payment of Taxes or Assessments

3.1 The Tax Collector shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfer, 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, including where applicable, identification of the real estate which is the subject of such tax, fee, assessment, betterment, or other municipal charge and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

3.2 The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers held by any party whose name appears on said list furnished to the licensing authority by the Tax Collector, or any license or permit with respect to which the licensed or permitted activity, event or other matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list, 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 held by any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension.

Note: Sections 26.1 & 26.2 amended under Art. 7 Sept. 12, 1994 T.M. App. A.G. 9/19/94. Pub. Burl. Union 9/29 & 10/6/94.

Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority received 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.

3.3 Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon 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 shall be given notice and a hearing as required by applicable provisions of law.

3.4 The Licensing Authority 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 268 of the General Laws, in the business or activity conducted in or on said property.

This section shall not apply to the following licenses or permits: open burning, bicycle permits, sale of articles for charitable purposes, children work permits, clubs and associations dispensing food or beverage licenses, dog, fishing, hunting and trapping licenses, marriage licenses and theatrical event and public exhibition permits.

Note: Adopted Art. 23 TM 9/22/86. App. by A.G. 10/16/86. Pub. Burl. News 10/23, 30/86.

4.0 Disposition of Receipts

All revenue, moneys and fees, except as provided by law, received by any official by virtue of his office, shall belong to the Town and shall be paid into the Town Treasury within thirty (30) days of receipt.

5.0 Interest Charges - Past Due Bills

The due dates for the payment of all municipal charges and bills shall be 30 days after the charge or bill is issued by the Town, unless otherwise specified by a General Law or Special Act of the Commonwealth. There shall be added to any charge or bill in excess of \$50.00 not paid within 30 days after the due date, interest at the same rate as charged on tax bills under the provisions of MGL Chapter 59, Section 57. The Select Board shall have the authority to abate any such interest charges, in whole or in part.

Note: Adopted Art. 12, TM 1/8/90; App. A.G. 3/26/90; Pub. Burl. News 4/5 and 4/12/90.

## **ARTICLE VIII**

### **PLANNING BOARD**

There shall be a Planning Board comprised of seven (7) members established pursuant to Chapter 41, Section 81A of the General Laws. The Planning Board shall have the authority to and responsibility for performing all of the functions which are now, or may hereafter be, assigned to such boards under the General Laws. No member of such Board shall entertain, hear, vote upon or take any action upon any matter before the Board in which such member has an interest, direct or indirect, personal or professional. For the purpose of this Bylaw, interest shall include membership in a firm, partnership or corporation which has a direct or indirect financial interest.

Note: Amended Art. 19 TM 9/17/73. App. A.G. 11/1/73. Pub. BTU 11/15, 11/22, 11/29/73.

## ARTICLE IX

### **BOARD OF HEALTH**

In accordance with a vote of the Town under Article 14 of Warrant for Annual Town Meeting, January 10, 1983, there shall be a Board of Health consisting of five (5) members, two members elected in the 1983 Annual Town Election for 3 years and one member elected for 2 years. All subsequent terms to be for 3 years.

Note: App. A.G. 2/17/83. Pub. Burl. News 2/24, 3/6/83.

**Duties** To promote the health and well-being of the inhabitants of the Town, the Board shall assume all responsibilities, enforce all regulations and perform all duties stated in the Sanitary Code of the Massachusetts Department of Public Health and the applicable provisions of the General Laws, Chapter 41.

#### 1.0 **Control of Retail Sale of Food**

No person shall sell at retail between the hours of 10:00 p.m. and 8:00 a.m. any food unless such person is engaged in a convenience store operation which contains less than 1500 sq. ft. of floor space and who is specifically licensed by the Select Board to remain open in order to serve the public convenience.

Note: Amended Art. 16 TM 1/23/85. App. A.G. 4/12/85. Pub. Burl. News 4/25, 5/2/85.

The term food as 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.

This Bylaw shall not apply to the sale of food or alcoholic beverages to be consumed on the premises at which they are sold or to be consumed off the premises on which they are sold when such sale is by a licensed common victualler primarily engaged in the sale of food to be consumed on such premises.

Persons found guilty of violating this section shall pay a fine of \$50. For purposes of this Bylaw, each separate sale shall be deemed a separate offense. In the event of sale of several items or articles at one time to one customer, only one sale shall be deemed to have taken place.

1.1 No store or place of business engaged in the retail sale of food shall be open for the transactions of retail business between the hours of 10:00 p.m. and 8:00 a.m., unless such store or place of business is considered to be a convenience store which contains less than 1500 sq. ft. of floor space.

Note: Amended Art. 17 TM 1/23/85. App. A.G. 4/12/85. Pub. Burl. News 4/25, 5/2/85.

This Bylaw shall not apply to the sale of food or alcoholic beverages to be consumed on the premises at which they are sold or to be consumed off the premises on which they are sold when such sale is by a licensed common victualler primarily engaged in the sale of food to be consumed on such premises.

This Bylaw shall not be deemed to repeal or replace Section 1.0 of Art. IX of the General Bylaws, and each Bylaw shall be deemed separately enforceable. An adjudication that Section 1.0 or Section 1.1 of Art. IX of the General Bylaws, or any part of either such article, is unconstitutional or invalid shall not operate to affect the constitutionality or validity of the other Bylaw or any part thereof which can be given effect without the provision deemed unconstitutional or invalid.

Violators of this section shall be subject to a fine of \$50 for each violation. In case of continuing violation, every calendar day upon which a store shall remain open shall be deemed a separate offense.

Note: The preceding two sections adopted TM 1/3/73. App. A.G. 1/22/73. Pub. BTU 2/1, 2/8, 2/15/73.

## ARTICLE X

### **HOUSING AUTHORITY**

#### 1.0 **Housing Authority**

WHEREAS, there exists in the Town a shortage of safe, sanitary dwellings available for elderly persons of low income at rentals which they can afford; and that,

WHEREAS, it is hereby determined that a Housing Authority is needed for the provision of housing for elderly persons of low income;

NOW, THEREFORE, IT IS VOTED that the Town establish the Burlington Housing Authority under the provisions of General Laws, Chapter 121, Section 26K as amended, for the purpose of providing housing for elderly persons of low income.

Note: Adopted Art. 70 TM 4/11/66.

## ARTICLE XI

### RECREATION COMMISSION

#### 1.0 Recreation Commission

Voted that the Town establish a Recreation Commission to consist of one member of and designated by the Planning Board, one member of and designated by the School Committee and three members to be elected by the voters at the 1967 Annual Town Meeting - for three year terms. Said Recreation Commission to carry out the duties and functions described in Chapter 45 of the General Laws.

Note: Adopted Art. 33 Spec. TM 6/8/66.

**ARTICLE XII**

**REGIONAL SCHOOL COMMITTEE**

1.0      **Regional School Committee**

Moved and seconded by the Regional School Committee that the Town accept the provisions of Chapter 71, Sections 16 to 16I, for the establishment of a Regional School District, together with the Towns of Bedford, Billerica, Tewksbury, and Wilmington and the construction, maintenance and operation of a Regional School by the said District in accordance with the provisions of a proposed agreement filed with the Select Board.

Note: Accepted Art. 1 Spec. TM 11/10/65.

## ARTICLE XIII

### **PUBLIC SAFETY**

#### 1.0 **Use of Streets and Public Places**

1.1 No person or persons shall obstruct the free passage of vehicles or pedestrians on or in a street, public place, public building, or any place to which the public has a right of access as invitees or licensees.

Note: Amended Art. 39 Spec. TM 11/15/71. App. by reason of failure of A.G. to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/72.

1.2 No person shall break or dig up any part of a street or remove any earth or gravel therefrom, without first obtaining a permit from the Select Board for that purpose.

1.3 In order to control vehicular traffic on the public ways of the Town of Burlington, many of which are hereby found to be narrow, rural and residential roads, and to prevent congestion and accidents upon said public ways, and to promote safety thereon, and to protect Town property and scenery, no person shall construct any road, street, way, highway, or other paved or unpaved surfaces, to which the general public shall have a limited or unlimited right of access from or to a public way of the Town, unless a permit for such access is first obtained from the Select Board. For the convenience of residents in Burlington seeking access to parcels of land located entirely in Burlington, the Engineering Department, in consultation with the Police Department, will issue permits to residents for curb cuts in residential neighborhoods and non-heavily traveled roadways. For purposes of this bylaw, those roadways needing Select Board approval for curb cuts are identified as the following roadways: Winn Street, Bedford Street, Wilmington Road, Francis Wyman Road, Lexington Street, Middlesex Turnpike, Terrace Hall Avenue, Mill Street, Skilton Lane, Peach Orchard Road, Prouty Road and other roadways as determined by the Select Board. If a permit is denied for public safety reasons by the staff, the resident may petition the Select Board for a review of the decision rendered by staff. The decision of the Board in this matter shall be considered the final determination on the issuance of the permit.

Note: Amended Art. 34 TM, 1/26/76. App. A.G. 6/25/76. Pub. Burl. News 7/1, 7/8, 7/15/76. Amended Art. 6 TM 10/01/01. App. A.G. 12/18/01. Pub. Daily Times 12/27/01 & 1/3/02.

During construction or maintenance work on any street there shall be police officers to direct traffic as the Police Chief deems necessary. The compensation of the officers shall be the responsibility of the party doing the work.

1.4 No person shall obstruct a street by placing therein any object or structure without public liability insurance and permit from the Select Board.

1.5 No person shall erect or maintain a fence, portico, platform or doorstop extending into or on a street.

1.6 A person who owns or is in charge of a building near the line of a sidewalk or street shall provide a barrier or other suitable measure to prevent the fall of snow and ice upon persons and vehicles.

1.7 No person shall place, or cause to be placed, in a street or public place ashes, garbage, offal, gravel, stones and dirt, metal, the contents of a sink or septic system, or allow the same to remain thereon for more than one hour after being notified to remove the same by a police officer.

1.8 No person shall dispose of snow or ice onto a street.

1.9 No person shall permit a liquid to be discharged from a building, vehicle, or other private property, owned by him or under his control, onto a street or public place, except that a person may wash parts of a building or vehicles on private property without danger to the public.

1.10 No person shall throw or project stones, snowballs, sticks, arrows or other missiles, or play any game, or fly or hang objects in or across a street.

1.11 No person having charge of a vehicle in a street shall neglect or refuse to stop or to park the same, when directed by a police officer.

1.12 No person having a vehicle under his care or control shall leave the same parked or unattended upon a street between the hours of 2:00 AM and 8:00 AM from December 1 through April 1 in each year. Persons violating this regulation shall be fined twenty-five dollars (\$25.00) for the first offense and fifty dollars (\$50.00) for the second or subsequent offenses.

Note: Adopted Art. 36, 5/18/09 TM. App. By A.G. 8/24/09. Posted 8/31/09-9/11/09.

1.13 The Department of Public Works Superintendent or the Police Chief may remove or cause to be removed to some convenient place, including in such term a public garage, a vehicle interfering with the removal or plowing of ice and snow from a street. The cost of such removal and of any storage charges shall be paid by the owner of said vehicle. The cost of such removal of said vehicle shall be the prevailing rates as set forth by the Department of Public Utilities of the Commonwealth of Mass. at the time and date said vehicle is removed or caused to be removed.

Note: Adopted Art. 60 6/7/78 TM, App. by A.G. 9/25/78; Pub. Burl. News 10/12, 10/19/78.

1.14 No person shall coast on or across a street except as designated by the Select Board.

1.15 No person shall conduct or participate in a demonstration, meeting or parade in a street or public place, except a military parade or funeral procession, without first obtaining a permit from the Police Chief.

1.16 No person shall solicit, or display, sell, or distribute articles or merchandise upon a street or public place unless licensed by the Select Board.

1.17 No person shall maliciously or negligently damage or injure, or allow an animal or vehicle under his control to damage or injure trees, shrubs, grass, fixtures or ornament on a street or public building.

1.18 No unauthorized person shall make a mark of any kind, or place a sign, circular, paper or placard in or on a street or public place.

1.19 No person having the care of control of grazing animals shall permit them to be at large on a street or public place.

1.20 No person or organization shall conduct an outdoor carnival, side show or circus on a street or public place.

Note: Adopted Art. 6 Spec. TM 6/26/69. App. A.G. 1/21/70; Pub. BTU 2/12, 2/19, 2/26/70.

1.21 Jay Walking - Voted that the Town accept provisions of Section 18A, Chapter 90 of the General Laws relating to the use of Town Ways by pedestrians, authorizing the Select Board to adopt regulations, with the approval of the Mass. Department of Public Works, governing the use of ways by pedestrians; providing also for fines for violations of said regulations.

Note: Adopted Art. 25 TM 3/24/69.

1.22 No person having a vehicle under his care or control shall leave the same parked or unattended within the limits or private ways furnishing means of access for fire apparatus to any building.

Note: Adopted Art. 67, Adj. TM 6/17/74; App. A.G. 7/17/74; Pub. BTU 8/1,8,15/74.

1.23 Use of Parks, Playgrounds and School Grounds

1.23.1 The school committee with respect to land and buildings under its control, which for purposes of this Bylaw shall include all school land and buildings, and the recreation commission with respect to land and buildings under its control, may enact regulations setting speed limits for all kinds of vehicular traffic, further regulating such vehicle traffic in a manner consistent with public safety, determining where vehicles may be parked, and setting hours during which persons not having specific business within said lands and buildings may be escorted therefrom. The school committee may also enact regulations barring vehicles not used by persons attending to local business on such land and, if said regulations are enacted, shall cause notice thereof to be conspicuously posted on the school property to which they are applicable.

1.23.2 Such regulations shall take effect after being voted by the committee or the commission and after notice of the regulation has been conspicuously posted upon the premises subject thereto.

1.23.3 Vehicle Use

1.23.3.1 Except as otherwise provided in this Bylaw, persons violating any regulation enacted hereunder shall be fined Five Dollars (\$5.00) for the first offense and Ten Dollars (\$10.00) for second or subsequent offenses. No person shall park or operate a vehicle upon any land under the control of the school committee or any land under the control of the recreation commission not plainly intended for vehicular use except with the specific authorization of the committee or the commission as the case may be, or a police officer.

1.23.3.2 Vehicles parked in such a way as to block an entrance or exit to park, playground, or school shall be subject to a fine of Twenty Dollars (\$20.00) and the vehicle may be towed at the owner's expense.

1.23.3.3 Unattended vehicles left within the boundaries of parks, playgrounds, or school grounds for more than 24 hours will be towed at the owner's expense.

1.23.3.4 Penalty for violations of speed limits imposed by the school committee or the recreation commission pursuant to Section 1.23.3.1 of this Article shall be the maximum fine allowed by law for violation of a municipally adopted speed limit.

1.23.3.5 Motorized recreational vehicles or horses shall not be allowed within the boundaries of parks, playgrounds, or schools, unless specifically authorized by the recreation commission or school committee, as applicable. Violators shall be subject to a fine of Ten Dollars (\$10.00) for the first offense and Twenty Dollars (\$20.00) for the second offense.

1.23.4 Littering

1.23.4.1 Whoever places, throws, deposits, discharges or causes to be placed, thrown, deposited or discharged, any trash or refuse, rubbish, debris, or any other material of any kind except in a receptacle specifically therefor, upon land under the control of the school committee or the recreation commission shall pay a fine of not less than Twenty Dollars (\$20) nor more than Two Hundred Dollars (\$200.00).

Note: Adopted Art. 17, TM 9/28/77; App. A.G. 12/8/77 Pub. Burl. News 12/15, 12/22/77.

1.24 Handicapped Parking/Snow Removal

1.24.1 Except as provided in Section 1.24.2 below, no person shall leave or cause to be left any unattended vehicle within parking spaces designated as reserved for vehicles owned and operated by disabled veterans or handicapped veterans or handicapped persons.

1.24.2 No person or business or organization shall in the course of operation, activity or maintenance cause or allow obstruction of or prevent access to any handicapped parking space.

1.24.3 No person or business or organization shall in the course of operation, activity or maintenance remove or allow removal of a handicapped parking sign from any handicapped parking space during regular business hours. In the event that removal of a handicapped parking sign is necessary for repair or maintenance, the sign shall be replaced for regular business hours.

Note: Adopted Art. 26, TM 5/18/94; App. A.G. 7/26/94; Published Burlington Union 8/4, 8/11/94.

1.24.4 This Bylaw shall not apply to those vehicles owned and driven by a disabled veteran or by a handicapped person and bearing the distinctive number plates authorized by M.G.L. C.90, Section 2, or for any vehicle transporting a handicapped person and displaying the special parking identification plate authorized by M.G.L. C.90, Section 2, or for any vehicle bearing the official identification of a handicapped person by any other state or any Canadian Province.

1.24.5 No person shall leave or cause to be left any unattended vehicle in such a manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way.

1.24.6 Penalty for violation of this Bylaw shall be \$200.00. Each day shall constitute a separate violation. This Bylaw may be enforced by any Burlington Police Officer. This is in addition to any other penalty or cost allowed by law including, but not limited to, removal of the vehicle pursuant to M.G.L. C.40, Section 22D.

Note: Amended Art. 31, TM 5/20/92. App. A.G. 7/23/92. Pub. BTU 7/30, 8/6/92.

Note: Adopted Art. 17, TM 9/26/11; App. A.G. January 25, 2012 ; Posted 2/1-2/14/2012

1.25 No person shall discharge any firearm, air or gas-operated gun of any kind, with the exception of members of the Police Department in performance of their duties; a person protecting his life or property; a person at an authorized target range. The Police Chief may issue permits for target ranges and shall inspect such places and establish safety requirements for their use. Permits shall be valid for one year and may be revoked at any time by the Police Chief.

1.26 No person shall bathe in any of the waters of the Town in a state of nudity when such waters are exposed to public view or are in immediate sight of the occupants of any dwelling.

1.27 The Select Board may, upon petition, license such persons as they deem suitable to be dealers in junk, precious and/or old metals or secondhand articles and keepers of shops for the purchase, sale or barter of such articles, pursuant to law within the town. Such licenses shall not be valid to protect the holders thereof in a building or place other than that designated in the license, unless consent to removal is granted by the Select Board, nor shall any license authorize the licensee to bring or allow to remain upon the licensed premises any rags, old paper, or other refuse material gathered or recovered from any source. All licenses thus granted shall contain a clause that the person thus licensed agrees to abide by and be subject to all the provisions of any Bylaw which may be adopted by the Town of Burlington relating to dealers in or keepers of shops licensed for the above purposes. Such licenses shall be granted only upon payment of an annual fee, the amount of which shall be designated by vote of the Select Board.

No such shopkeeper shall have his shop open for the transaction of business, nor shall he purchase any junk, precious and/or old metals or secondhand articles, except during licensed business hours as determined by the Select Board.

The applicant will specify whether he is requesting to engage in a general junk, precious and/or old metals or secondhand business or a special stated line. Applications for such licenses shall be examined and reported upon to the Select Board by the Chief of Police or his designee(s). The Chief of Police shall report whether or not the applicant is of good reputation, can read and write the English language intelligibly, (but inability to do so shall not be grounds for denial of said license) has ever held a similar license and if such license was revoked, suspended or surrendered, the reason therefor.

Applications for new licenses under this rule may be filed at any time. Applications for the reissue of licenses already existing shall be filed at least thirty days before the expiration of such license. All licenses issued under this Section shall expire annually on the first day of May except that licenses may be issued in April to be valid for twelve months beginning the next succeeding first day of May.

When a licensee has failed to use his license for a period of thirty days in the business and at the place for which he was licensed, the Chief of Police through his designee will so report to the Select Board with such reasons for the failure as the licensee may give.

As used in Article XIII Sections 1.27 through 1.28.3, the following definitions apply: Precious metals shall mean any object constructed of or electroplated with Gold, Silver or Platinum, regardless of its form, weight or appearance. The word junk shall refer to "old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material" as defined by Chapter 140B, Section 1 of the Massachusetts General Laws, as amended.

1.28 Every such shopkeeper, licensed in accordance with Article XIII, Section 1.27, shall keep a book in which shall be written, at the time of every purchase of any such article, a particular description thereof and the name, date of birth, and residence of the person from whom such purchase was made and the day and hour of such purchase. Such book shall be of a size and style to be approved by the Burlington Chief of Police and shall be legibly written in the English language, and shall show the amount paid for each article and the number attached to each article in accordance with the above requirements. No entry in such book shall be erased, obliterated or defaced. The shop of such shopkeeper, and all articles of merchandise therein, and such book shall at all times during business hours be open to inspection of the Burlington Chief of Police, his designees or any persons authorized by the Select Board.

Every such shopkeeper shall require a person from whom he makes a purchase to provide positive identification (positive identification shall mean any picture identification card issued by a governmental agency) and to sign his name, date of birth and address on a card, the style and size of which shall be approved by the Burlington Chief of Police. In those transactions where precious metals and/or gems, regardless of form, weight or appearance, are purchased, said record of positive identification together with each transaction sheet shall be photocopied. In the event that such person is unable to write, the shopkeeper shall fill in the name, date of birth and address obtained from the positive identification required above on such card, together with a notation stating that such person was unable to do so.

Such card shall be retained permanently in an alphabetical index file by last name by the licensed dealer/shopkeeper. Every such shopkeeper shall, at the time of making any purchases, attach a number to each article bought, traded or bartered and shall make entry of such number in the book described above.

If the articles obtained by the licensee through purchase, trade or barter are of precious metals or gems, the shopkeeper shall also list in said book as described above and on said card as described above, the weight and current market value of each article obtained.

Any police officer of the Town of Burlington, as a designee of the Burlington Chief of Police Burlington, may, during business hours, enter upon any premises used by a licensed junk, precious and/or old metals or secondhand articles dealer/shopkeeper to ascertain how he conducts his business, and examine any and all articles taken in trade or kept or stored in or upon said premises and all books and inventories relating thereto, and all such articles, books and inventories shall be exhibited to any such officer whenever a demand shall be made for such exhibition. Refusal to permit said viewing shall constitute a violation of this Bylaw. The officers actions shall at all times conform to the established Policy and Procedures of the Burlington Police Department pertaining to inspection of licensed premises.

Every such shopkeeper (except those business enterprises which deal exclusively in junk as defined under Chapter 140B, Section 1 of the Massachusetts General Laws, as amended) shall make out and deliver to the commanding officer of the Bureau of Criminal Investigation, Burlington Police Department, every business day before the hour of 10 o'clock A.M. a legible and correct list containing an accurate and detailed description of all articles purchased during the preceding business day, the respective numbers of such articles as required above, the prices paid

therefor, and the time when such articles were purchased, and with regards to the purchase of items containing precious metal, and/or gems, either the original photocopy or a copy thereof which shows the positive identification legibly, the items purchased and the transaction sheet, as described above. The above exemption of junk dealers/shopkeepers shall not relieve the need for such dealers/shopkeepers to comply with the requirements of Chapter 140, Section 60 through 69, of the Massachusetts General Laws.

The Bureau of Criminal Investigation will review each police report received listing lost/stolen property and also ensure that a report is received from all junk, precious and/or old metals and secondhand articles shopkeepers/dealers for the purpose of identifying any article that is like or similar to one which has been reported lost or stolen. Should this situation occur, a "stop order" shall be issued by the Chief of Police or his designee, to the shopkeeper/dealer prohibiting the resale of the particular article(s) until it can be determined whether the particular piece(s) is in fact that which has been reported lost/stolen. If it is determined that the particular article is not reported lost/stolen, the "stop order" shall be lifted forthwith.

Every such shopkeeper shall post in a conspicuous place in his shop a copy, to be furnished by the Police Department, of the statutes, Bylaws and Town of Burlington regulations relating to dealers in junk, precious and/or old metals and secondhand articles, and shall put in some suitable and conspicuous place in his shop a sign having his name and occupation legibly inscribed thereon in large letters.

No such shopkeeper shall place or maintain any signs or devices upon or in connection with his licensed premises indicating or tending to indicate that any form of business is conducted therein which he is not legally authorized to pursue.

No such shopkeeper shall permit to be displayed any secondhand furniture or household effects in any open area surrounding or appurtenant to the premises occupied by said license.

1.28.1 No person licensed under this article shall, directly or indirectly, either purchase or receive by way of barter or exchange any junk, precious and/or old metals, gems or secondhand articles from a minor, knowing or having reasonable cause to believe him to be such.

No such shopkeeper holding a license as a dealer in precious and/or old metals, gems, and/or secondhand articles shall permit to be sold any article purchased or received by him until at least a period of thirty days from the date of its purchase or receipt has elapsed. Nor shall any dealer in, or keeper of a shop for the purchase, sale or barter of junk permit to be sold, any article purchased or received by him until at least one week from the date of its purchase or receipt has elapsed.

1.28.2 All persons who buy, sell or barter secondhand books, prints, coins or postage stamps shall be deemed exempt from the provisions of Section 1.27, 1.28, and 1.28.1 of this Bylaw, except the license and fee requirement, under Sections 1.27, relating to the licensing of dealers of secondhand articles.

1.28.3 All the provisions of this article shall be incorporated into each license which shall be granted under it, and the Burlington Select Board shall have the power at all times and at its pleasure, to revoke any license granted under this Bylaw. Any person who acts as a dealer in or keeper of a shop for the purchase, sale or barter of junk, precious and/or old metals or secondhand articles without a license, or in any other place or manner than that designated in his license or after notice to him that his license has been revoked, or violates any such rule, regulation or restriction of this Bylaw, shall forfeit two hundred dollars for each such violation and will be subject to prosecution.

All provisions of the Bylaws of the Town of Burlington, as amended, which are consistent with this Bylaw, shall continue in effect, but all provisions of said Bylaws inconsistent herewith, are repealed.

Note: Amended Art.10, TM 1/23/96. App. AG 2/19/96. Pub. BU 2/29, 3/7/96.

1.29 No person shall kindle or maintain a bonfire, rubbish fire or other outdoor fire, or authorize any such fire to be kindled or maintained on private land within 25 feet of a structure and shall make provision to prevent the spread of fire within 25 feet of a structure. If the fire is contained in a waste burner or other appliance approved by the Fire

Chief, it may be located not less than 15 feet from a structure or property line.

1.30 No person, except an officer of the law in the performance of his duties, shall enter upon the premises of another with the intention of peeping into the windows of a house or of spying upon in any manner any person or persons therein. Whoever violates this section may be arrested without a warrant by a police officer and detained in jail, or otherwise, until a complaint can be made against him for the offense.

Note: Adopted Art. 32 TM 3/2/53. App. A.G. 6/19/53.

1.31 The Town shall restrict the use of that part of the Park Department land known as the "Common", bounded by Bedford Street, Center and Cambridge Streets, and including the Veterans' Memorial as constructed for the purpose of beautification; no form of athletic facilities and/or athletic use shall be constructed thereon, in the final draft and implementation of said land.

Note: Adopted Art. 17 TM 11/17/65.

1.32 No person shall with offensive or disorderly act or language accost, abuse, harass, interfere with or attempt to intimidate another person on or in a street, public place, public building, or any place to which the public has right to access as invitees or licensees.

Note: Adopted Art. 40 Spec. TM 11/15/71. App. by reason of failure of the A.G. to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/72.

1.32.1 No person shall campaign or electioneer inside any poll or within 150 feet of any poll entrance during the polling hours or while any voter is in line waiting to check-in and cast their ballot. The penalty for violation of this bylaw is a fine of not more than five hundred dollars.

Note: Adopted Art. 13 TM 1/11/99. App. A.G. 2/24/99. Pub. Daily Times 3/4/99, 3/11/99.

### 1.33 Offensive Operation of Motor Vehicles

1.33.1 No person shall operate a motor vehicle, nor shall any owner of such vehicle permit it to be operated upon any street, public place, or any place to which the public has right of access as invitees or licensees, except fire department and fire patrol apparatus, unless such motor vehicle is equipped with a muffler to prevent excessive or unnecessary noise.

1.33.2 No person operating a motor vehicle upon any street, public place or any place to which the public has right of access as invitees or licensees, shall sound a bell, horn, or other device, nor in any manner operate such motor vehicle so as to make a harsh, objectionable or unreasonable noise, nor permit same. (Ref. Ch. 90, Section 16 G.L.)

Note: Adopted Art. 38 TM 11/15/71. App. by reason of failure of the A.G. to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/72.

1.33.2.1 No person shall operate a motor vehicle for purpose of emptying, moving, placing, replacing, or removing commercial solid waste containers between the hours of 9:00 PM (2100 hours) and 7:00 AM (0700 hours) except with the approval of the Select Board. Anyone who violates this bylaw shall be subject to a fine of \$300.00 for each solid waste container emptied, moved, placed, replaced, or removed during the restricted hours and each day to constitute a separate occurrence. This bylaw may be enforced through non-criminal disposition by any police officer or fire officer of the Town of Burlington. Failure of payment of fine by the owner or operator of the vehicle shall constitute a violation against the permittee of the commercial solid waste container issued by the Fire Department.

Note: Adopted Art. 5 TM 10/01/01. App. by A.G. 12/18/01 (portion not included was disapproved).  
Pub. Daily Times 12/27/01 & 1/3/02.

### 1.33.3 Off Road Vehicle Operation

1.33.3.1 The Town of Burlington (the "Town") declares that off-street use of motorcycles and recreational vehicles in the Town can have an adverse effect upon the safety and the peaceful enjoyment of property, and form an annoyance to various property owners within the Town such that such activities constitute an adverse effect upon the quality of life and general welfare of the community, and degradation and erosion of public land and a nuisance to the quiet enjoyment of public land.

1.33.3.2 Definitions: "Off-road vehicle" shall include within its meaning any motorbike, moped, motorcycle, dune buggy, snowmobile, or any three-wheel or four-wheel all-terrain vehicle, (ATC) or (ATV).

1.33.3.3 Prohibited Operations of Certain Types of Vehicles: It shall be unlawful to operate, or for the owner to permit the operating of, any off-road vehicle under the following circumstances:

(a) On private property of another person or entity without written permission of the owner of said property. Said written permission must be in the possession of the person operating the off-road vehicle and must be presented upon demand to any Burlington Police officer so demanding.

(b) Any property owned, leased or controlled by the Town of Burlington, except on streets or highways or any trails duly designated by the Town for the use of such vehicles at the times and in the manner designated.

(c) On property owned by the Town of Burlington and on privately-owned property as follows:

. In such manner as to create loud noises so as to disturb or interfere with the peace and quiet of other persons.

. In a careless, reckless or negligent manner so as to endanger or be likely to endanger the safety or property of any person, including the operator of said vehicle.

. At a rate of speed greater than reasonable or proper under the surrounding circumstances.

. While under the influence of intoxicating liquor, fermented malt beverages or controlled substances or drugs.

. Between sunset and sunrise or when lights are required for safety without displaying at least one (1) lighted headlight and taillight.

1.33.4 Operating on Streets No off-road vehicle shall be operated on the streets or highways unless said vehicle complies with all State and Town laws relating to motor vehicles to be operated on streets and highways.

1.33.5 Penalty

1.33.5.1 Any person violating any provision of this Bylaw shall be fined \$50 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

1.33.5.2 An off-road vehicle operated in violation of this section shall be declared a public nuisance. Such vehicle determined a public nuisance shall be impounded immediately by the Police Department. The Police Department shall release an impounded vehicle only upon:

- (a) Proof of ownership and payment in full of fine and reasonable charges for towing and storage, or;
- (b) Proof of ownership and final court judgment that no fine is due.

Note: Adopted Art. 15 TM 9/19/88; App. A.G. 10/20/88; Pub. Burl. News 10/27, 11/4/88.

1.34 No person shall maintain any private driveway providing entrance to or egress from any place of business or any parking lot or area accessory or adjacent to a place of business if said driveway intersects a public way or a private way used as a public way and said intersection is located in a resident district as shown on the official zoning map of the Town, as it has heretofore been or may hereafter be amended, unless there is erected on said driveway, a gate or other barrier, said gate or barrier shall close said driveway to all vehicular traffic between the hours of 10:00 p.m. and 8:00 a.m. and shall be of sufficient size and strength to accomplish this purpose.

Note: Adopted Art. 19 TM 12/3/73. App. A.G. 12/28/73. Pub. BTU 1/10, 1/17, 1/24/74.

### 1.35 Alcoholic Beverages

1.35.1 No person shall consume any alcoholic beverage while in or upon any street, public place, public building, or any place to which the public has right of access as invitees or licensees. Consumption of alcohol is allowed within the Grand View Farm facility and grounds where alcohol can be consumed only in compliance with rules and regulations established by the Select Board. No person shall possess or consume alcoholic beverages upon any land or within any building under the control of the School Committee or Recreation Commission;

Note: Amended Art. 17 TM 9/28/77. App. A.G. 12/8/77. Pub. Burl. News 12/15, 12/22/77.

Note: Amended Art. 23, TM 1/25/2016; App. A.G. 5/16/2016; Posted 5/17/2016 ;

1.35.2 No person shall consume any alcoholic beverage while in or upon any private land, building, or place without consent of the owner or person in control thereof.

1.35.3 For the purpose of this Bylaw, alcoholic beverages are as defined in Chapter 138, Section 1, of the General Laws.

1.35.4 Alcoholic beverages being (\*possessed or) consumed in violation of this Bylaw shall be seized and held by the Chief of Police until the case is disposed of by the courts, after which such beverages shall be returned to the person entitled to their lawful possession.

\*Note: Amended Art 17, TM 9/28/77. App. A.G. 12/8/77. Pub. Burl. News 12/15, 12/22/77.

1.35.5 Whoever violates this Bylaw shall pay a fine of \$50 for each offense.

Note: Adopted Art. 20, TM 6/11/73. App. A.G. 7/30/73. Pub. BTU 8/9, 8/16, 8/23/73.

### 1.35.6 Substance Consumption

No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, § 21, or by non-criminal disposition pursuant to G.L. c. 40, § 21D, by the Select Board, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

Note: Adopted Art. 39, 5/18/09 TM. App. By A.G. 8/24/09. Posted 8/31/09-9/11/09.

1.36 Nuisances to Health and Safety

1.36.1 No owner or lessee in possession of land located within the Town shall suffer or permit the accumulation or storage thereon of rubbish, debris, garbage, scrap or similar material.

1.36.1.1 Accumulations of waste paper, hay, grass, straw, weeds, litter or combustible waste, or rubbish of any kind, shall not be permitted to remain upon a roof or in a court, yard, vacant lot or open space within the Town. All weeds, grass, vines or other growth that, in the opinion of the Fire Chief endangers property due to the possibility of fire, shall be cut down and removed by the owner or occupant of the property within five (5) days of receipt of written notice to do so from the Fire Chief.

Note: Adopted Art. 7, Sp. TM 6/25/69; App. A.G. 1/21/70; Pub. BTU 2/12, 2/19, 2/26/70.

All business, industrial, and commercial establishments shall keep their parking, circulation, and service areas free of litter and trash; landscaped and natural state areas shall be kept free of litter and trash, and dead plants removed and replaced.

Note: Adopted Art. 53, TM 3/28/73; App. A.G. 7/30/73; Pub. BTU 8/16, 8/23, 8/30/73.

1.36.2 No owner or lessee in possession of land located within the Town shall suffer or permit the presence thereon of piles or mounds of earth, lime, chemicals, gravel, loam, ashes or similar materials.

1.36.3 Section 1.36.1 and 1.36.2 shall not apply to conditions or circumstances arising out of or because of construction undertaken in compliance with applicable laws or to landscaping diligently undertaken and pursued or to commercial enterprises operated in accordance with applicable laws where such conditions or circumstances are unavoidable in the customary operation of such enterprises.

1.36.4 Any person who violates Sections 1.36.1 and 1.36.2 shall pay a fine of Fifty Dollars (\$50) each calendar day on which said violation continues to be deemed a separate offense, but no person shall be convicted of violating said sections or either of them unless it appears that at least two days (exclusive of Sundays) prior to the date on which said violation is alleged to have existed or commenced, the Town Administrator or the Chief of Police or the Superintendent of the Department of Public Works gave written or oral notice of said violation to the owner or lessee in possession of his servant, agent or employee.

Note: Amended Art. 18, 1/25/2016; App. A.G. 5/16/2016; Posted 5/17/2016;

1.36.5 That land is leased to a lessee in possession shall not relieve the owner or owners thereof from compliance with the provisions of Sections 1.36.1 and 1.36.2.

Note: Adopted Art. 18 TM 9/16/74; App. A.G. 10/23/74, Pub. Burl. News 11/7, 11/14, 11/21/74.

1.36.6 No person shall cut wood, remove vegetation, deface standing trees, or erect structures of any kind in a conservation area without written approval of the Conservation Commission. Persons found guilty of violating this section shall pay a fine of not less than \$50.00 nor more than \$1,000.

Note: Adopted Art. 42 TM 5/24/82. App. A.G. 8/12/82 Pub. Burl. News 8/26, 9/2/82.

1.37 Adult Entertainment Uses

1.37.1 Any establishment conducting business or seeking to conduct business which constitutes Adult Entertainment, including, but not limited to, Adult Bookstores, Adult Clubs, Adult Paraphernalia Stores, Adult Theaters, Adult Video Stores, or any combination of adult entertainment uses, shall be subject to annual license from the Select Board.

1.37.2 Any application for a License under this General Bylaw must include the following information:

- (a) Name and address of the legal owner of the establishment.
- (b) Name and address of all persons having a lawful equity or security interest in the establishment.
- (c) A sworn statement must be provided stating that neither the applicant nor any persons having an equity or security interest in the establishment has been convicted of violating M.G.L. Chapter 119, Section 63, or Chapter 272, Section 28.
- (d) Proposed security precautions.
- (e) The number of employees.
- (f) Name and address of the manager
- (g) The physical layout of the premises.

1.37.3 In consideration of the granting of a license, the Select Board shall consider reports and recommendations from the Police Chief and other appropriate officials.

1.37.4 The fee for each annual license for an Adult Entertainment establishment shall be \$100.00

Note: Adopted Art. 10 9/30/96. App. A.G. 11/18/96, pub. Burl. Union 12/12, 12/19/96.

1.38 Automatic Amusement Devices

In accordance with Massachusetts General Laws, Chapter 140, Section 177A, as amended from time to time, any individual or business desiring to keep and operate an automatic amusement device for hire, gain or reward, shall secure an annual license from the Select Board. The Select Board shall not grant a license for any automatic amusement device which presents a risk of misuse as game devices. Automatic amusement devices which present a risk of misuse as gaming devices are those devices which have one or more of the following features: (1) the device involves matching random number, patterns or cards; (2) the device may not accumulate more than twenty-six (26) plays; (3) the device may not be equipped with a "knock off" switch, button or similar device; (4) the device shall have no mechanism for adjusting the odds; (5) the device shall not have a remote control feature that can reset the device from another location; (6) the device shall not be capable of returning money to the player, other than the change for the excess amount put in; (7) the device shall not permit a player to pay for more than one game at a time; (8) each game on the device shall cost exactly the same amount for each player and no player may change any aspect of the game by paying a different amount than any other player before or during the game; (9) there shall be no metering device that accounts for both money/points in and money/points out. The maximum number of automatic amusement devices allowed on any single business premises shall be four (4), except in the case of duly licensed arcades and amusement parks. Any individual or business desiring more than four (4) automatic amusement devices on a single business premises shall require a special permit from the Board of Appeals. All licenses for automatic amusement devices granted by the Select Board shall be subject to inspection by the Burlington Police Department to insure conformance with submitted application information and local ordinance requirements. Any unlicensed automatic amusement device shall be subject to immediate seizure by the Burlington Police Department.

Note: Adopted Art. 6 5/8/00, App. A.G. 7/27/00. Pub. Daily Times 8/10, 8/17/00.

**1.39 Soliciting Money or Selling Upon or Abutting Public Ways**

No person shall solicit money on or abutting any public way or other public place or sell any tag, badge, or other article of any intrinsic value for the purpose of obtaining money or sell any commodity whatsoever on or abutting any public way or other public place, except as authorized by law, without first having obtained permission so to do from the Chief of Police designating the appropriate time, place and manner therefore in order to assure the public safety and safe and convenient flow of foot and vehicular traffic.

**1.40 No person or persons shall congregate or stand on any public sidewalk or public way so as to obstruct the free passage thereof, after being directed by a police officer to move on.**

Note: Sections 1.39 and 1.40 adopted Art. 47 TM 5/17/10. App. A.G. 9/9/10. Posted 9/17/10 – 10/1/10.

**1.41 Retail Establishments – Temporary Twenty-four (24) Hour Operation or Temporary Operation at any time between the Hours of 12:00 AM and 7:00 AM with Special License**

**1.41.1 Definitions:** “Retail Establishment” shall mean stores where most of the floor area is devoted to the sale of non-food and non-alcohol products, including home goods, clothing and personal goods, and which are substantially larger and carry a broader range of merchandise than liquor stores, convenience stores, drugstores/pharmacies and supermarkets.

**1.41.2 General Provisions:**

**1.41.2.1** This Bylaw shall only apply to Retail Establishments as such term is defined herein. No other business entity or store, including, but not limited to, liquor stores and convenience stores, may operate for twenty-four (24) hours a day or at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m.

**1.41.2.2** No owner, lessee or business entity of a Retail Establishment in Town shall operate a retail business for twenty-four (24) hours a day or at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m. without the issuance of a special temporary license issued by the Select Board.

**1.41.2.3** An owner, lessee or business entity of a Retail Establishment seeking to remain open to transact business twenty-four (24) hours a day or at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m. on a limited and temporary basis shall apply to Select Board for a special license.

**1.41.3 Application Process**

**1.41.3.1** Applications for Retail Establishment special licenses to temporarily remain open for twenty-four (24) hours a day or at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m. shall be made on forms provided by the Select Board at least ninety (90) days in advance of the requested date(s) to remain open for twenty-four (24) hours or at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m. The application fee for this special temporary license shall be two-hundred and fifty dollars (\$250) per Retail Establishment.

**1.41.3.2** The Select Board is hereby authorized to promulgate rules and regulations appropriate for the implementation of this Bylaw, and, if necessary, work with other departments, boards, officials and employees of the Town to establish a streamlined process for the temporary twenty-four (24) hour licensing of Retail Establishments or for the licensing of Retail Establishments at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m.

**1.41.3.3** Upon receipt of a complete special license application to temporarily operate for twenty-four (24) hours a day or to temporarily operate at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m. and payment of the applicable fee, the Select Board shall, at a public hearing, consider the

special license application for compliance with the Town of Burlington Rules and Regulations for the Temporary Opening of Retail Establishments for Twenty-Four (24) Hours a Day or for the Temporary Opening of Retail Establishments at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m. At such hearing, the Select Board shall, at its discretion, consider public safety and health factors, and shall confer with the police chief and other town officials, employees and boards, if necessary, to assess potential nuisances, traffic, safety and health implications that may arise from the temporary operation of the Retail Establishment all day or from the operation of a Retail Establishment at any time between the hours of 12:00 a.m. and 7:00 a.m., and deny, grant or condition the special license, as necessary.

1.41.3.4 Special licenses shall remain in effect only for the specific date(s) granted by the Select Board. A Retail Establishment may not remain open for twenty-four (24) hours a day or at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m. with a special license for more than thirty (30) calendar days each year. An additional fee of two hundred and fifty (\$250) dollars shall be paid for any further requests for temporary special licenses.

1.41.4 Non-Transferable License: A holder of a twenty-four (24) hour special license or a special license to operate at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m. may not sell, lend, lease or in any manner transfer said license.

1.41.5 Enforcement and Penalty: The Select Board, the Police Chief or their designee(s) shall have the authority to enforce this Bylaw. Anyone in violation of the provisions of this Bylaw or the Select Board's rules and regulations shall be subject to a fine of \$200 for each violation and/or suspension, revocation or cancellation of the special license. The provisions of G.L. c. 40, §21D may be used to enforce this section. For purposes of this Bylaw, every calendar day on which a store remains open twenty-four hours (24) a day or at any time between the hours of 12:00 a.m. (midnight) and 7:00 a.m. without a special license to operate for such date(s) shall be deemed a separate offense.

1.41.6 Severability: If any provision of this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions which shall remain in full force and effect.

Note: Section 1.41 adopted Art. 28 TM 5/14/14. App. A.G. 7/3/14 Posted. 7/12/14-10/12/14

1.42 – Prohibition on Marijuana Establishments: In accordance with Massachusetts General Laws Chapter 94G, Section 3(a)(2), all types of marijuana establishments, as defined in Massachusetts General Laws Chapter 94G, Section 1 and as may otherwise be defined by Massachusetts law, to include, without limitation, all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, and any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Burlington. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time), nor shall it be construed to include registered marijuana dispensaries as defined by Article II, Section 2.18.2.1 of the Zoning Bylaw;

Note: Section 1.42 adopted Art. 16 TM 9/25/17. App. A.G. 1/16/2018 Posted. 1/19/2018-4/19/2018

#### 1.43 Small Wireless Facilities in Rights-of-Way

1.43.1 For the purposes of this bylaw, Small Wireless Facilities are facilities as defined in 47 C.F.R. § 1.1312(e)(2) and as such may be amended from time to time.

1.43.2 No person shall install or maintain a Small Wireless Facility in any public or private right-of-way unless first approved by the Select Board.

#### 1.43.3 Policies and Procedures

The Select Board shall adopt and from time to time amend policies, rules, and regulations relative to the issuance of approvals under this Article XIII Section 1.43. A copy of the policies, rules, and regulations shall be on file with the Town Clerk. Such rules shall include, but not be limited to, prescribing the form, content,

style, and number for application forms; the fees collectible with the applications, the process by which the application will be reviewed, the design and location criteria for approval, the time within which the Select Board will issue a decision, and requirements for recertification.

Note: Section 1.43 adopted Art. 3 STM 5/20/19. App. A G 09/05/19 Posted 09/09/19

2.0 Control of Dogs

2.1 No dog shall be permitted away from the premises of its owner or keeper except when in the charge of a competent person at least twelve (12) years old and controlled by a leash; or obedient to command; or confined within a vehicle; or confined to another premises.

Note: Amended Art. 27 Spec. TM 12/7/70. App. A.G. 2/16/71. Pub. BTU 4/8, 4/15, 4/22/71.

2.2 Penalties - An owner or keeper who violates Section 2.0 of this article shall be liable to a fine according to the following procedure and schedule:

2.2.1 Enforcement Procedure and Schedule of Fines

The Animal Control Officer of the Town shall give a written notice to the owner or keeper stating that such person is in violation of Section 2.0 of this article. If it is the first offense within the preceding twelve (12) month period, the fine shall be \$50; if it is the second or subsequent offense within the preceding twelve (12) month period, the fine shall be \$100.

Note: Amended Art. 63 TM 5/26/76. App. A.G. 9/14/76. Pub. Burl. News 9/23, 9/30, 10/7/76.

2.2.2 The fine for an unlicensed dog for a period of more than 60 days shall be subject to a fine of \$50.

Note: Adopted Art. 15, TM 9/18/89. App. A.G. 12/21/89. Pub. Burl. News 1/4. 1/11/90.

2.2.3 An owner or keeper of a dog kept in the Town of Burlington who has not licensed said dog within 60 days of becoming a resident or being notified by the Clerk's office shall be required to pay a fine of Ten Dollars (\$10.00), a dollar of which shall be paid to the Animal Control Officer, and the remainder to be paid to the Town Treasury.

2.2.4 A notice shall be sent by the Animal Control Officer to each owner/keeper of a dog in the Town of Burlington one month prior to the rabies expiration date for the dog informing said resident of the deadline for licensing dogs and of the \$10.00 fine for late licensing.

Note: Section 2.2.3 amended and 2.2.4 adopted Art. 24 TM 9/30/85. App. A.G. 10/19/85. Pub. Burl. News 11/28, 12/5/85. Section 2.2.1 – 2.2.4 amended Art. 20 TM 1/25/12; App. A.G. 8/25/2012 Approval delayed by AG Office Posted 8/29/12 .

2.3 Licensing Fees (superceded by the acceptance of MGL Chap. 40, Section 22F at the 5/21/97 Town Meeting)

Note: Repealed under Article 6, May 14, 2001 Town Meeting

2.4 Kennels

Any owner/keeper of four dogs or more, three months old or over, shall apply for a kennel license from the Town Clerk. Kennel licenses shall not be issued unless the Animal Control Officer and the Board of Health have made a favorable recommendation to the Town Clerk. The recommendation of the Animal Control Officer shall be based on the annual inspection of the premises as provided in Chapter 140 Section 137C of the Mass. General Laws in

addition to complaints registered and violations committed in the previous 12 month period against the owner/keeper.

A "kennel" constitutes one pack or collection of dogs on a single premise, whether maintained for breeding, sale, training, hunting, or other purposes, including a shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over owned or kept by a person on a single premise, irrespective of the purpose for which they are maintained.

The Clerk shall upon application issue without charge a kennel license to any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse and for the relief of suffering among animals.

Note: amended Adopted Art. 21 TM 5/20/13. App. A.G. July 29,2013 Posted 8/1 – 11/ 1/13

## 2.5 Property Damage

Owner/keeper of dogs, if known, are responsible for any damages caused to property, livestock or fowl belonging to any other resident. Whoever suffers loss by the worrying, maiming or killing of his livestock or fowls by dogs, whose owner/keeper is unknown, may inform the Animal Control Officer who shall proceed to the premises where the damage was done and determine whether the same was inflicted by dogs, and if so, appraise the amount thereof, not to exceed \$50. The Animal Control Officer shall submit a report of the damages found to the Select Board who shall examine all bills for damages and issue an order upon the Treasurer for such amounts as they decide to be just and shall notify all interested parties of their decision. The Treasurer shall pay all orders drawn upon him in full for the above purposes.

2.5.1 No reimbursement shall be made for damage by a dog to dogs, cats, and other pets.

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

Note: Adopted Art. 20 TM 9/22/86. App. A.G. 10/16/86. Pub. Burl News 10/23, 10/30/86.

## 2.6 Regulation and Licensing of Vicious Dogs

### 2.6.1 Declaration of Purpose

2.6.1.1 It is hereby declared that vicious dogs have become a serious and widespread threat to the safety and welfare of citizens of the Town of Burlington, in that vicious dogs have in recent years assaulted without provocation and seriously injured numerous individuals, particularly children, and have killed numerous dogs. Many of these attacks have occurred in public places.

2.6.1.2 The number and severity of these attacks is also attributable to the failure of owners to register, confine and properly control vicious dogs.

2.6.1.3 It is further declared that the owning, keeping or harboring of vicious dogs is a nuisance, and if such dog is not properly controlled its license should be revoked.

2.6.1.4 It is further declared that because of the danger posed to the public health, safety and welfare by vicious dogs, this Bylaw constitutes an emergency measure providing for the immediate preservation of the public health, safety and welfare of the citizens of the Town of Burlington.

## 2.6.2 Definitions

As used in the Bylaw, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

2.6.2.1 "Vicious Dog" means:

- (a) Any dog that has bitten or attacked a human being or animal;
- (b) Any dog owned or harbored, primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

2.6.2.2 "Enclosure" means a fence or structure of at least six (6) feet in height, suitable to prevent the entry of young children, and confine a vicious dog; but not to include a whole yard if the fence is greater than six (6) feet in height. Such enclosure shall have sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure.

2.6.2.3 "Animal Control Officer" means any person designated by the Town Select Board, and may be a Police Officer or Constable.

2.6.2.4 "Impounded" means taken into the custody of the Animal Control Officer or other designated agents of the Town.

2.6.2.5 "Person" means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.

2.6.2.6 "Muzzle" means a device constructed of strong, soft material or a metal muzzle. Such muzzle may not interfere with the vision or respiration of any dog nor shall it cause any injury to the dog. It must prevent the dog from biting any animal or person.

2.6.2.7 "Licensing Authority" means the Office of the Town Clerk or other duly authorized licensing authority.

## 2.6.3 Requirements for Licensing

2.6.3.1 Every dog kept in the Town of Burlington which is three months old or older shall be licensed. The Animal Inspector shall notify the Licensing Authority of all vicious dogs as defined in this Bylaw. Upon such notice, the Licensing Authority shall notify the dog owner/keeper that unless contested within 48 hours, the dog will be considered vicious and any previously issued license will be considered immediately revoked. Owners/keepers must relicense the dog as "vicious" or notify the Licensing Authority as to the disposition of the animal within 60 days of the notice. No vicious dog shall be licensed by the Town of Burlington for any licensing period commencing after January 1987 unless the owner or keeper of such vicious dog shall meet the following requirements:

Amended Art. 15, TM 9/18/89. App. A.G. 12/21/89. Pub. Burl. News 1/4, 1/11/90.

(a) The owner or keeper shall present to the Licensing Authority proof that the owner/keeper has procured liability insurance in the amount of at least One Hundred Thousand Dollars, (\$100,000.00) covering any damage or injury which may be caused by such vicious dog during the twelve (12) month period for which licensing is sought. The policy shall contain a provision requiring the Town to be named as additional insured for the sole purpose of the Licensing Authority to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

- (b) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve (12) month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to expiration of such license.
- (c) The owner or keeper shall have a licensing number assigned to any vicious dog, or such other identification number as the Licensing Authority shall determine. That number shall be noted on the city or town licensing files of such vicious dog.
- (d) The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public highway or roadway.
- (e) The owner or keeper shall, on or prior to the effective date of such license for which application is being made, have a fenced enclosure for the vicious dog on the property where the vicious dog will be kept or maintained.
- (f) The owner or keeper shall notify the Licensing Authority if said dog is unconfined, has attacked another animal or has attacked a human, or has died or has been sold or given away. If the vicious dog has been sold or given away, the owner or keeper shall also provide the Licensing Authority with the name, address and telephone number of the new owner of the vicious dog.
- (g) The Animal Control Officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this Bylaw, and such Animal Control Officer is empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof.

#### 2.6.4 Control of Vicious Dogs

2.6.4.1 All vicious dogs shall be confined in an enclosure. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have a locked enclosure.

2.6.4.2 It shall be unlawful for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or outside of the enclosure, unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog, or to sell or give away the vicious dog or to comply with the commands or directions of the Animal Control Officer with respect to the vicious dog, or to comply with the provisions of this Bylaw. In such event, the vicious dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog.

#### 2.6.5 Purpose or Intent - Harboring

2.6.5.1 No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to unprovoked attacks on human beings or domestic animals.

2.6.5.2 No person shall possess with intent to sell, or offer for sale, breed, or buy or attempt to buy within the Town any vicious dog.

#### 2.6.6 Vicious Dog - Seizure

2.6.6.1 In the event that a Animal Control Officer or law enforcement agent has cause to believe that a vicious dog is being harbored or cared for in violation of this Bylaw, the Animal Control Officer or law enforcement agent may order the seizure and impoundment of the vicious dog.

## 2.6.7 Revocation of Licenses and Review

2.6.7.1 The license of a vicious dog shall be liable to revocation if said dog is kept in violation of this Bylaw, or attacks a person or animal.

2.6.7.2 If the Animal Control Officer shall determine that any vicious dog is being kept in the Town in violation of this Bylaw, or any vicious dog has attacked a person or animal, the Animal Control Officer shall so notify the Select Board. After giving notice to the owner of the hearing, the Select Board shall hold a public hearing on whether to revoke the license of said dog. If the Select Board revoke the license of said dog, they shall notify the owner or keeper of the dog and the Licensing Authority that said dog will be impounded and destroyed if it is found within the Town.

2.6.7.3 If the Select Board revoke the license of a vicious dog, once a seven day notification period after the revocation has occurred, the Animal Control Officer or other authorized agent shall impound and destroy such dog as unlicensed if found within the Town, pursuant to this Bylaw and the practice of M.G.L. C.140, S.157 or the procedure therein.

## 2.6.8 Parallel Procedure

Nothing in this Bylaw shall be construed to affect or supersede the provision of G.L. C.140, S157 or the procedure therein.

## 2.6.9 Severability

If any provision of this Bylaw, or the application thereof to any person or circumstances, is held invalid, the validity of the remainder of the Bylaw and the application of such provisions to the other persons and circumstances shall not be affected thereby.

Note: Adopted under Art. 27 TM 1/12/87. App. A.G. 4/8/87. Pub. Burl. News 4/16, 4/23/87. Amended Art. 1 Spec. TM 5/20/87. App. A.G. 9/16/87. Pub. Burl. News 9/24, 10/1/87.

## 2.7 Pooper Scooper

### (a) Duty to Dispose

It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, street or other public area in the Town. It shall further be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any private property upon request by the owner or occupant of said private property and for which permission has been granted by a lawfully authorized person for the disposal of such feces on said private property.

### (b) Method of Disposal

Disposal shall be accomplished by transporting and disposing of such feces to and at a place suitable and lawful for the disposal of canine feces or as otherwise designated as appropriate by the Town.

### (c) Enforcement

Enforcement of this bylaw may be by Animal Control Officer, any Police Officer, and Board of Health Agent. Violation of this section shall be punishable as follows:

First offense and each subsequent occurrence	\$50.00
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Note: Adopted Art. 10 9/30/96, app. A.G. 11/18/96, pub. Burl. Union 12/12, 12/19/96.

3.0 Civil Defense

3.1 Department of Civil Defense

There is hereby established a department of Civil Defense, hereinafter called the "department." It shall be the function of the department to have charge of civil defense as defined in Section 1, Chapter 639, Acts of 1950 and to perform civil defense functions as authorized or directed by said chapter or by any and all executive orders or general regulations promulgated thereunder, and to exercise any authority delegated to it by the Governor under said Chapter 639.

3.2 Director of Civil Defense

The department shall be under the direction of a director of Civil Defense, hereinafter called the "director," who shall be appointed as prescribed by law. The director shall have direct responsibility for the organization, administration and operation of the department, subject to the direction and control of the appointing authority, and shall receive such salary as may be fixed from time to time by the appointing authority. The director may, within the limits of the amount appropriated therefor, appoint such experts, clerks and other assistants as the work of the department may require and may remove them, and may make such expenditures as may be necessary to execute effectively the purposes of Chapter 639, Acts of 1950.

The director shall also have authority to appoint district coordinators and may accept and may receive, on behalf of the Town, services, equipment, supplies, materials or funds by way of gift, grant or loan for purposes of civil defense, offered by the federal government or any agency or officer thereof or any person, firm or corporation subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The director shall cause appropriate records to be kept of all matters relating to such gifts, grants or loans.

3.3 Civil Defense Advisory Council

There is hereby established a civil defense advisory council, hereinafter called the "council." Said council shall serve without pay and shall consist of the director of civil defense, such other department heads and such other persons as the authority appointing said director may deem necessary. Such member of said council as said appointing authority shall designate shall serve as chairman of said council. Said council shall serve subject to the direction and control of the appointing authority and shall advise said appointing authority and the director on matters pertaining to civil defense.

3.4 Police Aid to Other Cities and Towns in Event of Riots or Other Violence Therein

The police department is hereby authorized to go to aid another city or town at the request of said city or town in the suppression of riots or other forms of violence therein.

3.5 Termination of Bylaw

This Bylaw shall remain in force during the effective period of Chapter 639 of the Acts of 1950 and any act in amendment of continuation thereof or substitution therefor.

3.6 Definition

All references to Chapter 639 of the Acts of 1950, as now in force, shall be applicable to any act or acts in amendment of continuation or of substitution for said Chapter 639.

Note: Adopted Art 9, Spec. TM 12/27/50. App. A.G. 6/13/51. Posted 4 places 6/17/51.

## 4.0 Fire Alarm Systems

### 4.1 Definitions

When used in this Bylaw, the following terms shall have the following meanings:

4.1.1 "Central station operating company" - A company equipped to receive a fire alarm signal from each of its customers and which then transmits to the Burlington Fire Department (BFD) the location of any such alarm the central operating company receives.

4.1.2 "Fire alarm system" - Any heat-activated, smoke-activated, flame-energy-activated or other such automatic device capable of transmitting a fire alarm signal to either a central station operating company or directly to the BFD by way of a master box.

4.1.3 "Fire alarm system malfunction" - The transmittal of a fire alarm to a central station operating company or directly to the BFD by way of a master box, which alarm is caused by improper installation of a fire alarm system, a mechanically-defective fire alarm system, lack of maintenance or some other reason that causes a fire alarm to sound, even though there is no actual fire or situation that could reasonably evolve into a fire.

4.1.4 "Direct dialer" - Shall constitute any automatic or programmed device used to report a fire to the Town of Burlington over telephone lines without the supervision of an individual or individuals.

4.1.5 "Fire alarm system owner" - Any individual or entity who owns the title to and/or has on his business or residential premises a fire alarm system equipped to send a fire alarm signal to a central station operating company or directly to the BFD by way of a master box.

4.1.6 "Fire Chief" - The Chief of the Burlington Fire Department.

4.1.7 "Master Box Owner" - Any individual or entity who has on his business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the BFD by way of a master box.

4.1.8 "Annual Fee" - Fee charged to maintain Burlington Fire Department Fire Alarm System, records and its operation. Such fees as initially established in Section 4.2.1 of this Bylaw may be amended and revised by the Select Board, as necessary, to defray the Town's cost of maintaining the fire alarm system.

### 4.2 Connection of Fire Alarm Systems to BFD Via a Master Box

4.2.1 Every master box owner whose fire alarm system on the effective date of this Bylaw is connected to the BFD by way of a master box shall pay the following fee:

Annual Fee	\$200.00
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4.2.2 Every master box owner whose fire alarm system is connected after the effective date of this Bylaw to the BFD by way of a master box shall pay the following fees:

Permit Fee	\$ 20.00
Connection Fee	100.00
Annual Fee	200.00

4.2.3 Before any fire alarm system is connected to the BFD, the master box owner shall provide the Fire Chief with the following information:

4.2.3.1 The name, address, and home and work telephone number of the master box owner.

4.2.3.2 The street address where the master box is located.

4.2.3.3 The names, addresses, and telephone numbers of the persons or businesses protected by the fire alarm system connected to the master box.

4.2.3.4 The names, addresses, and home and work telephone numbers of at least two persons other than the owner who can be contacted 24 hours a day, who are authorized by the master box owner to respond to an alarm signal, and who have access to the premises in which the master box is located.

4.2.3.5 The name or names, addresses and telephone numbers of insurance agents and insurance company.

4.2.3.6 The name or names of an approved fire alarm service company contracted by the individual or entity to service the fire alarm system connected to the master box.

4.2.3.7 Such other information as the Fire Chief may require.

4.2.4 If at the passage of this Bylaw, a fire alarm system has already been connected to the BFD by way of a master box, the master box owner shall comply with the requirements of this section within sixty (60) days after the BFD has notified him by first class mail of the requirements of this section.

4.2.5 If a master box owner fails to comply with this section, the Fire Chief may assess a fine of Fifty Dollars (\$50.00) for each day of noncompliance.

#### 4.3 Connection of Central Station Operating Companies to the BFD

4.3.1 Every central station operating company having a direct connection to the BFD on the effective date of this Bylaw shall pay the following fee:

Annual Fee	\$200.00
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4.3.2 Every central station operating company making a direct connection to the BFD after the effective date of this Bylaw shall pay the following fees:

Permit Fee	\$ 20.00
Connection Fee	100.00
Annual Fee	200.00

4.3.3 Before any central station operating company is connected with the BFD, it shall provide the Fire Chief with the following information:

4.3.3.1 The name, address and telephone numbers of the central station operating company (central stations should not be located more than 75 miles from the BFD and shall be UL listed).

4.3.3.2 The names, addresses, and home and work telephone numbers of at least two persons who can be contacted 24 hours a day, who are authorized by the central station operating company to respond to an alarm signal, and who have access to the premises from where the alarm signal is emitting to the central station operating company.

4.3.3.3. The name, address, home and work telephone numbers, and location of the premises of each customer of the central station operating company having a fire alarm system equipped to send a fire alarm signal to the central station operating company.

4.3.3.4 Such other information as the Fire Chief may require.

4.3.4 If, at the passage of this Bylaw, a central station operating company already has a direct connection to the BFD, the central station operating company shall comply with the requirements of this section within 60 days after the BFD has sent notice by first class mail of the requirements of this section.

4.3.5 If a central station operating company fails to comply with this section, the Fire Chief may assess a fine of One Hundred Dollars (\$100.00) for each day of noncompliance to the central station operating company for the occupant or tenant responsible for the alarm.

4.4 Central Station Operating Companies Not Tied to BFD

4.4.1 Every approved central station operating company which does business within the Town of Burlington and does not have a direct or dedicated connection to the Burlington Fire Department may be assessed a fine by the Fire Chief for the first malfunction of not less than \$100.00 nor more than \$250.00, and subject to fines of Sections 4.7.2.2 through 4.7.2.4 thereafter.

4.4.2 Before any central station operating company conducts business within the Town of Burlington, they shall seek the approval of and provide the Fire Chief with the information requested in Section 4.3.3, subsections 4.3.3.1 through 4.3.3.4.

4.4.3 Every non-approved central station operating company which does business within the Town of Burlington may be assessed a fine by the Fire Chief of not less than \$200.00 nor more than \$300 for each malfunction, as described in Sections 4.7.3 and 4.7.4.

Amended Art. 47 TM 5/30/90. App. A.G. 9/5/90. Pub. Burl. News 9/20, 9/27/90.

A copy of this Bylaw shall be provided to the central station operating company upon request.

4.5 Other Fire Alarm Systems

4.5.1 Any fire alarm system, excluding single-family residential, not covered in Section 4.2, Section 4.3 or Section 4.4 shall be subject to malfunction fines as described in Sections 4.7.2.1 through 4.7.2.4.

Adopted Art. 47 TM 5/30/90. App. A.G. 9/5/90. Pub. Burl. News 9/20, 9/27/90.

4.6 Updating Information

4.6.1 Every master box owner and every central station operating company shall be responsible for updating the information herein required. The master box owner and the central station operating company shall provide the Fire Chief with the updated information and shall pay the fee, if any, required by this Bylaw. If a master box owner of a central station operating company fails to comply with this section, the Fire Chief may assess a fine of Fifty Dollars (\$50.00) for each day of noncompliance.

4.6.2 Any company who wishes to do business in the Town of Burlington working on or supplying services for fire alarm systems to the general population must first register with the Burlington Fire Department and receive approval from the Burlington Fire Department before conducting business within the Town.

4.6.3 Any company who has not received approval from the Burlington Fire Department shall cease operations upon notification. Any company violating Section 4.6.2 shall be subject to a fine of not less than \$100.00 nor more than \$300.00 for each day of noncompliance.

Note: Sections 4.6.2 and 4.6.3 Adopted Art. 47 TM 5/30/90. App. A.G. 9/5/90. Pub. Burl. News 9/20, 9/27/90.

4.7 Fire Alarm System Malfunctions - Fines

4.7.1 For any fire alarm system malfunction, connected by master box to the BFD, and as defined herein, the Fire Chief may assess a fine against a fire alarm system owner for each malfunction per fiscal year according to the following schedule:

4.7.1.1 First through Third Malfunction No Charge

Upon the recording of the third malfunction by the Fire Department, the Fire Chief shall notify the owner/occupant of the building in writing and by certified mail of such fact, and at this time inform the owner of the Department's policy with reference to fines for false alarms. A copy of this policy shall be sent at this time.

4.7.1.2 Fourth through Sixth Malfunction \$100.00

4.7.1.3 Seventh through Eleventh Malfunction \$200.00

4.7.1.4 Each Malfunction after the Eleventh \$300.00

4.7.2 No direct dialers to Burlington Fire Department. Private fire alarm systems connected to the Burlington Fire Department by other automatic means, through a central station system, shall be subject to fines for malfunctions, as follows:

4.7.2.1 First Malfunction No Charge

Upon the recording of the first malfunction by the Fire Department, the Fire Chief shall notify the owner/occupant of the building in writing and by certified mail of such fact, and at this time inform the owner of the Department's policy with reference to fines for false alarms. A copy of this policy shall be sent at this time.

4.7.2.2 Second through Third each Malfunction \$100.00

4.7.2.3 Fourth through Sixth each Malfunction \$200.00

4.7.2.4 Each malfunction after the Sixth \$300.00

4.7.3 Any malfunction of the fire alarm which is the result of the failure of the property owner, occupant or their agents to notify the BFD of repair, maintenance or testing of the internal fire alarm system within the protected premises, shall cause a penalty to be assessed in accordance with Sections 4.7.2.1 through 4.7.2.4.

4.7.4 For purposes of this regulation, a malfunction of the fire alarm shall be defined as follows:

4.7.4.1 The operation of a faulty smoke or heat detection device.

4.7.4.2 Faulty control panel or associated equipment.

4.7.4.3 A water pressure surge in automatic sprinkler equipment.

4.7.4.4 Accidental operation of an automatic sprinkler system.

4.7.4.5 An action by an employee of the owner or occupant of the protected premises, or a contractor employed by the owner or the occupant, causing accidental activation of the internal fire alarm system.

4.7.5 Property owners will be billed once a month for the previous month's malfunction activity. All fines assessed shall be paid to the Town Treasurer for deposit in the General Fund.

4.7.6 If the bill is not paid within 30 days, a second notice will be sent. If the bill remains unpaid after another 30-day period, a final notice will be sent informing the owner and/or occupant that the master will be

#### 4.8 Direct Dialers

4.8.1 No fire alarm system shall be equipped with a tape dialer or similar automatic telephone device which will transmit an alarm message to any telephone lines of the Burlington Fire Department. If at the passage of this Bylaw, a fire alarm system is equipped with such a tape dialer or similar automatic telephone device, the fire alarm system owner shall have sixty (60) days from the passage of this Bylaw to disconnect such tape dialer or similar automatic telephone device. If a fire alarm system owner fails to comply with this section, the Fire Chief may assess a fine of Fifty Dollars (\$50.00).

4.8.2 Direct dialers connected to central station operating companies shall be subject to the same fine schedules as the central operating companies.

4.8.3 The owner of a direct dialer who is in noncompliance of Section 4.8.1 may also be subject to fines under Section 4.7.2.2 through 4.7.2.4 and be charged per false alarms as described in Section 4.12.

#### 4.9 Appeal Procedure

4.9.1 Any fire alarm system owner aggrieved by any action taken by the Fire Chief under this Bylaw may, within ten (10) days of such action, file an appeal, in writing, to the Fire Alarm Systems Appeal Board, a three (3) member panel appointed by the Town Administrator. After notice, the Board shall hold a meeting, after which it shall issue a decision affirming, annulling or modifying the action taken by the Fire Chief and giving its reasons therefor. The Board shall send its decision to the owner by first class mail within ten (10) days after the hearing. The decision of the Board shall be a final administrative decision.

#### 4.10 Regulations and Enforcement

The Fire Chief may promulgate such regulations as may be necessary to implement this Bylaw. The Fire Chief is authorized to pursue such legal action as may be necessary to enforce this Bylaw.

#### 4.11 Deposit in the General Fund

All fines assessed herein shall be payable to the Town of Burlington for deposit in the General Fund.

#### 4.12 False Alarms

4.12.1 The Fire Chief may charge a malfunction fine after the three false alarms, when in his determination there is no action being taken by the property owner, occupant or their agent to remedy the problem.

4.12.2 A false alarm for the purpose of this regulation is defined as: an action by an employee, occupant, tenant, patron, guest, or any other individual causing intentional activation of the internal fire alarm system in which there is no fire present, emergency, or any reason for activation of the system.

#### 4.13 Revisions to Fees and Fines

4.13.1 The Select Board may, from time to time, act to raise or amend any or all of the fees and fines authorized and established in the various sections of this Bylaw upon the recommendation of the Fire Chief.

#### 4.14 Severability

The provisions of the Bylaw shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Note: Adopted Art. 18 TM 9/18/89. App. A.G. 12/21/89. Pub. BTU 1/4, 1/11/90.

## 5.0 Private Hydrant Systems

### 5.1 Purpose

The purpose of the bylaw is to ensure the availability of water from privately owned fire hydrants for fire suppression or other emergency uses within private residential and commercial developments. The Town of Burlington Department of Public Works (“DPW”) Superintendent and the Fire Chief shall promulgate such regulations as may be necessary to implement this bylaw.

### 5.2 Definitions

**Private hydrant system:** A system of fire hydrants within a private residential or commercial development, whose water is provided by the Town, but the underground piping in which the water moves and the hydrants are maintained by the property owner.

**Hydrant:** The above ground appliance (as defined by the NFPA) used to provide a water supply to fire apparatus in the event of a fire or other emergency.

**Hydrant owner:** The person or entity (or their designee) according to Town records, that is responsible for tax payments (or other payments to the Town) for the property on which the hydrant is installed.

**Hydrant maintenance:** The process of regular maintenance of a fire hydrant to determine its capability to provide the desired water supply for which it was designed; and to exercise all valves, caps, etc.; and to lubricate and paint as needed.

### 5.3 Responsibilities of Private Hydrant Owners

5.3.1 The owner of a Private Hydrant System or Hydrant (collectively, “hydrant”) located on non-Town owned property shall maintain such hydrant by a qualified water supply contractor chosen from a list provided by the DPW or contract with the DPW upon such fees as the DPW may establish to conduct the maintenance annually between April 1 and June 30. The DPW shall, by regulation, issue a list of maintenance procedures for bylaw compliance. The results of such maintenance shall be forwarded to the Burlington Water and Sewer Division (“W&S”) of the DPW. W & S shall be notified, in writing, at least 24 hours prior to the conduct of such annual maintenance.

5.3.2 The purpose of maintenance is to determine the hydrant’s capability to furnish the volume of water available from the Town’s water supply to that hydrant to be used in the event of fire. Such maintenance may be in addition to any maintenance or tests, including water flow tests, that may be required by the owner’s insurer or other entities.

5.3.3 If any hydrant does not successfully pass the maintenance procedures required by this bylaw and any regulations promulgated hereunder, the hydrant owner must immediately in writing notify the Burlington Fire Department (“BFD”) and W&S of such failure. The BFD shall then immediately mark the hydrant as being “out of service” (“OOS”), using a system of marking the “Out of Service” hydrant in a way that is acceptable to W&S. The hydrant owner shall furnish W & S with a written plan for repair of any hydrant marked OOS; including the reason the hydrant is OOS and a timetable for needed repairs to be made. All repairs and/or replacements shall be made within a 30 day period of such notification unless W & S extends that period due to cold weather considerations or for other good cause. Upon completion of repairs, the hydrant owner shall notify the W&S and BFD in writing of such repair. The BFD shall then inspect the hydrant and if the repairs are completed, shall remove the OOS marking.

5.3.4 All hydrants shall have marking systems attached (flag-style similar to those used on Town maintained hydrants) in order to identify the hydrant at night and in the event of snow blowing or otherwise covering the hydrant. Such marking system shall not interfere with the expedient use of the hydrant during an emergency. In no case shall snow be piled against or otherwise be allowed to accumulate on any hydrant. After a snowstorm, all hydrants shall be cleared of snow within 12 hours of the end of the snowfall.

5.3.5 All hydrants shall be free from plantings and other landscape features in order to ensure full access and use of the hydrant. The BFD shall have final authority to determine if the hydrant owner has complied with this provision.

5.3.6 All hydrants shall be kept accessible for emergency use at all times. BFD and W & S shall immediately be notified of any hydrants that are un-accessible or unusable for any reason.

#### 5.4 Penalties and Fines

The penalty/fines for violation of this bylaw shall be as follows:

Failure to have hydrants maintained annually	\$300
Failure to notify W & S and BFD of failed hydrants and furnish repair plan	\$300
Failure to mark and/or clear snow from hydrants	\$100
Failure to remove landscape material from hydrant	\$300
Failure to notify W & S 24 hours prior to maintenance procedure	\$100

Prior to commencing enforcement action for a violation of this bylaw, the enforcing person shall give the property owner a 10 day written notice to comply with the bylaw. Each day and each hydrant found to be in violation of this bylaw shall be considered a separate offense. All penalties and fines shall be payable to the Town's General Fund. Enforcement of this bylaw may be made pursuant to the General Laws, c. 40, sec. 21D and the Town's General Bylaws, Article I, Section 4.0, and any other applicable enforcement authority. This bylaw shall be enforceable by the enforcing person, who shall be either the Superintendent of Public Works or the Fire Chief, or to act in any other manner in relation thereto.

Note: Adopted Art. 8 TM 9/24/07. App. A.G. 1/28/08    Posted 2/1/08-2/15/08

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### 6.0 Outdoor Lighting

#### 6.1 Purpose

It is the intention of this Bylaw to regulate the use of residential outdoor lighting so as to not unduly inconvenience abutters by having outdoor lighting shining directly into their windows or onto their properties.

#### 6.2 Regulation

In all residential neighborhoods, all outdoor lighting, including, but not limited to: security, floodlighting, decorative lighting, lighting primarily designed to illuminate walks and/or walkways, driveways, flagpoles, outdoor living areas and/or outdoor recreational facilities, except for temporary holiday lighting, shall be continuous (not flashing), indirect, and installed and/or shielded in a manner that shall prevent direct light from shining onto or upon any street and/or adjacent or abutting property.

#### 6.3 Enforcement

Enforcement of this Bylaw shall be under the authority of the Inspector of Buildings. Upon receiving a complaint in writing; from a resident or property owner in the Town, the Inspector of Buildings shall enforce this Bylaw.

#### 6.4 Fines for Violations

6.4.1 First offense: A written warning stating a property owner/resident is in violation:  
Ten (10) days to meet compliance.

6.4.2 Second offense: \$25.00 Fine. Five (5) days to meet compliance.

6.4.3 Third and subsequent offenses:\$50.00 Fine. Five (5) days to meet compliance before each subsequent offense and another \$50.00 fine issues.

## 7.0 Door-to-Door Solicitation and Canvassing

### 7.1 Purpose

This article, adopted pursuant to G.L. c. 43B, § 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for persons intending to engage in canvassing or solicitation door-to-door in the Town of Burlington in order to protect its citizens from disruption of the peaceful enjoyment of their residences, from the perpetration of fraud or other crimes; and to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

### 7.2 Definitions

For the purpose of this By-law, the following definitions shall apply:

7.2.1 “Soliciting” shall mean and include any one or more of the following activities conducted door-to-door:

- (a) selling, or seeking to obtain orders for the purchase of goods or services, including advertising in any type of publication, for any kind of consideration whatsoever;
- (b) selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind;
- (c) selling, or seeking to sell subscriptions to books, magazines, periodicals, newspapers or any other type of publication;
- (d) seeking to obtain gifts or contributions of money, or any valuable thing for the support or benefit of any association, organization, corporation or project wholly or in part for commercial purposes or by a professional solicitor or commercial co-venturer for a charitable or other non-commercial organization;
- (e) seeking to obtain information on the background, occupation, economic status, political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly, or in part, for commercial purposes.

7.2.2 “Canvassing” shall mean and include any one or more of the following activities door-to-door or on a public way:

- (a) person-to-person distribution of literature, periodicals, or other printed materials for commercial purposes, but shall not include placing or dropping off printed materials on the premises;
- (b) seeking to enlist membership in any organization for commercial purposes;
- (c) seeking to present, in person, organizational information for commercial purposes.

7.2.3 “Residence” shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

7.2.4 “Registered solicitor” shall mean any person who has obtained a valid certificate of registration from the Town as required by this By-law.

7.2.5 “Charitable organization,” “Professional solicitor” and “commercial co-venturer” shall be defined as set forth in G.L. c. 68, § 18.

### 7.3 Registration

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of Burlington must apply for a permit with the Chief of Police at least fourteen (14) business days in advance by filing a registration application form with the Chief of Police.

7.3.1 Organization application forms shall include the following information:

- (a) The name and address of the organization applying for registration, and the names and addresses of the organizations' principal officers. If the organization is a charitable organization, a copy of the Annual Registration Statement filed with the Attorney General's Division of Public Charities must be provided with this application. Failure to include a copy of the Annual Registration Statement under such circumstances will render the application incomplete and no action will be taken thereon.  
If the organization is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon.
- (b) The name, title and phone number, as well as a photo identification of the persons filing the application form.
- (c) The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Burlington.
- (d) A list of the names, addresses, dates of birth of all individuals who will be employed in solicitation or canvassing by the applicant.
- (e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 60 day period).
- (f) Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation, complete with the date issued and date expired.
- (g) Insurance information and license, if applicable.

7.3.2 Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under Section 6.3.1 hereof. Individual registration forms shall contain the following information:

- (a) Name and address of the present place of residence and length of residence at that address; if less than three years residence at present address, the address of residence(s) during the past three years.
- (b) Date of birth.
- (c) Name, address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization. If the individual is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract, if any, with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon.
- (d) Name and address of employer during the past three years if other than listed in Section 6.3.1 hereof.
- (e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 60 day period).
- (f) Name of the last three communities (if any) in which the applicant has solicited or canvassed door-to-door, complete with the date of issue and expiration date.
- (g) Photo identification and recent passport-sized photograph of the applicant to be affixed to registration card.
- (h) Make, model and registration number and owner of any vehicle to be used by the applicant while soliciting or canvassing.

7.4 Registration Fee

Each applicant for registration or re-registration shall pay to the Town an application fee of \$25.00 and a fee of \$5.00 for the cost of a registration card.

## 7.5 Registration Cards

7.5.1 The Police Chief, after a review, but in no event more than fourteen (14) business days after receipt of a fully-completed application, shall furnish each person with a registration card which shall contain the following information:

- (a) The name of the person.
- (b) A recent photograph of the person.
- (c) The name of the organization (if any) which the person represents.
- (d) A statement that the individual has been registered with the Town of Burlington Police Department but that registration is not an endorsement of any individual or organization.
- (e) Specific dates or period of time covered by the registration.

7.5.2 Persons engaged in solicitation or canvassing as defined in this Bylaw must display their Town issued registration card on the outermost portion of their clothing at all times while soliciting or canvassing and show such card to any person solicited or upon the request of any police officer.

7.5.3 Registration cards are non-transferable and valid only for the specific dates or time period specified thereon and in no case for longer than 60 days.

7.5.4 The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this by-law within the previous two year period, or who has been convicted of murder/manslaughter, rape, robbery, arson, burglary/breaking and entering, assault, larceny, as such persons pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief shall also refuse to register a person who is a sex offender required to register with the Sex Offenders Registry Board and who is finally classified as Level 2 or Level 3 Sex Offender, as such persons have been found to have a moderate to high risk of re-offense and pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of sex crimes.

## 7.6 Exceptions

7.6.1 Registration shall not be required for officers or employees of the Town, County, State or Federal governments when on official business.

7.6.2 Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.

## 7.7 Duties of Persons Going Door-to-Door

7.7.1 Upon going into any residential premises in the Town of Burlington, every solicitor, canvasser or other person must first examine any notice that may be posted prohibiting solicitation or other activities. If such a notice is posted, the solicitor, canvasser or other person shall immediately and peacefully depart from the premises.

7.7.2 Any solicitor, canvasser or other person who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

7.7.3 Immediately upon gaining entrance to any residence, each solicitor or canvasser as defined in this by-law must do the following:

- (a) Present his registration card for inspection by the occupant.
- (b) Request that the occupant read the registration card.
- (c) Inform the occupant in clear language of the nature and purpose of his or her business and, if he/she is representing an organization, the name and nature of that organization.
- (d) It shall be the duty of every organization employing solicitors or canvassers within the definition of this by-law to notify the Police Department daily as to what area(s) of the Town they will be operating in.

## 7.8 Restrictions on Methods of Solicitation or Canvassing Activities

It shall be unlawful for a solicitor, canvasser or other person to do any of the following:

- (a) Falsely represent, directly or by implication, that the solicitation, canvassing or other activity is being done on behalf of a governmental organization, or on behalf of any municipal employee or elected official.
- (b) Solicit, canvass or conduct any other activity at any residence where there is a posted sign prohibiting the same, without express prior permission of an occupant.
- (c) Solicit, canvass or conduct any other activity at any residence without express prior permission of an occupant, before 9:00 a.m. or after 7:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation or such other activities.
- (d) To utilize any form of endorsement from any department head currently employed or serving the Town of Burlington.
- (e) Solicit, canvass or conduct any other activity at any residence or on any public way in a threatening, abusive, or illegal fashion.

## 7.9 Penalty

7.9.1 Any person or organization who shall violate any of the provisions of this by-law or any applicable state or federal laws governing soliciting or canvassing, including, but not limited to, Mass. G.L. c. 68, shall be subject to a fine not to exceed \$300.00 for each offense. Each day that a person solicits or canvasses without a license shall constitute a separate offense.

7.9.2 Any person or organization who for himself, itself, or through its agents, servants or employees shall violate any provision of sections 6.7 or 6.8 of this by-law, or any applicable state or federal laws governing soliciting or canvassing, including but not limited to M.G.L. c. 68, or who knowingly provides false information on the registration application, or who is found, after investigation by a police officer, to have conducted himself or itself in a threatening, abusive or illegal fashion, shall have his, her, or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

7.9.3 Nothing in this bylaw shall preclude the Police Department from enforcing any applicable state or federal law, including, but not limited to, G.L. c. 101.

## 7.10 Appeals

Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Select Board. Such appeal must be filed within five (5) days after receipt of the notice of denial or revocation. The Select Board shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Select Board fails to make a determination within thirty (30) days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

## 7.11 Severability

Invalidity of any individual provision of this section shall not affect the validity of the by-law as a whole.

Note: Adopted Art. 13 TM 1/27/14. App. A.G. 4/7/2014 Posted 4/12/2014 thru 7/12/2014

## 8.0 Civil Fingerprinting Bylaw

### 8.1 Purpose and Scope

This By-law authorizes the Police Department to conduct state and national fingerprint based criminal history checks for individuals applying for specific licenses in Town to enhance public safety, as authorized by Massachusetts General Laws Chapter 6, Section 172B½. To carry out the criminal history checks authorized by this By-law, the Police Department shall be authorized to use state and Federal Bureau of Investigation ("FBI") records, provided,

however, that such records shall not be disseminated to unauthorized entities and shall be maintained and disclosed in accordance with all applicable law.

The By-law further authorizes the Select Board, in consultation with the Chief of Police, to promulgate regulations to implement this By-law, which may include, but shall not be limited to, establishment of submission deadlines, procedures for making recommendations to the licensing authority or making a licensing as a result of the criminal history check, procedures for assessing, correcting or amending any such record, criteria for fitness determinations, security of information obtained and penalties for failure to comply with this by-law.

#### 8.2 Criminal History Check Authorization

The Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172B½, conduct State and Federal Fingerprint Based Criminal History checks for individuals and entities for the following licenses:

- Hawking and Peddling or other Door-to-Door Salespeople
- Dealer of Second-hand Articles
- Pawn Dealers
- Hackney Drivers, and
- Ice Cream Truck Vendors
- Mobile Food Vendors

At the time of fingerprinting, the Police Department shall notify the individual being fingerprinted that the fingerprints will be used to check the individual's criminal history records and obtain the individual's consent. After the applicant completes a consent form, provides his/her fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this By-law to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services ("DCJIS"), and/or the FBI or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks for the license applicants specified in this by-law.

The Town authorizes the Massachusetts State Police, the DCIS and the FBI and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this By-law. The Town authorizes the Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this By-law and its implementing regulations. In accordance with its implementing regulations, the Police Department shall communicate the results of fingerprint-based criminal record background checks to the appropriate governmental licensing authority within the Town.

#### 8.3 Use of Criminal Record by Licensing Authorities

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this by-law. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed licensed activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.

Licensing authorities of the Town are hereby authorized to deny an application for any license specified herein and in the implementing regulations, including renewals and transfers of said licenses, from any person who is determined unfit for the license due to information obtained pursuant to this By-law. Factors that shall be considered in making a determination of fitness shall include, but not be limited to, whether the record subject has been convicted of, or is under pending indictment for a crime, that bears upon the subject's ability or fitness to serve in that capacity, including any felony or a misdemeanor that involved force or threat of force, possession of a controlled substance, or sex-related offense.

#### 8.4 Fees

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be one hundred dollars (\$100) for each fingerprinting and criminal history check. A portion of the fee, as specified in Massachusetts General Laws Chapter 6, Section 172B½, 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 the fingerprinting system.

#### 8.5 Effective Date

This by-law shall take effect after compliance with Massachusetts General Laws Chapter 40, Section 32 have been met.

Note: Adopted Art. 13 TM 1/27/14. App. A.G. 4/7/2014 Posted 4/12/2014 thru 7/12/2014

### 9.0 Buildings

#### 9.1 Stretch Energy Code

The Town of Burlington shall adopt the “Stretch Energy Code” so called, for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 115.AA of the Massachusetts Building Code, 780 CMR, the Stretch Energy Code, including future editions, amendments or modifications thereto, with an effective date of July 1<sup>st</sup>, 2019, a copy of which is on file with the Town Clerk, or take any other action relative thereto.

Note: Adopted Art. 35 TM 5/13/19. App. A G 9/13/2019      Posted 9/16/2019

## ARTICLE XIV

### ENVIRONMENT

#### 1.0 Wetlands Protection Bylaw

##### 1.1. Purpose

The purpose of this Bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Burlington by controlling activities deemed by the Conservation Commission likely to have a significant effect on resource area interests deemed important to the community (collectively, the “resource area interests protected by this Bylaw”). These include but are not limited to the following:

- public or private water supply
- groundwater supply
- flood control
- erosion and sedimentation control
- storm damage prevention including water quality
- prevention and control of pollution
- fisheries
- wildlife habitat
- rare species habitat including rare plant and animal species
- recreational and educational values

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

CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant Bylaws of the Town of Burlington. This Bylaw shall not be applicable to projects for which a Determination of Applicability, Order of Conditions, Order of Resource Area Delineation or other permit under the Massachusetts Wetlands Protection Act has been issued and is valid or if an application for one of the foregoing is pending at the effective date of this Bylaw. The Bylaw provisions in effect prior to the effective date of this Bylaw shall apply to a project for which such approval has been issued or for which such application is pending.

##### 1.2. Jurisdiction

Except as permitted by the Conservation Commission no person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas as defined in the Burlington Wetland Bylaw Regulations: any freshwater wetlands; marshes; wet meadows; bogs; swamps; vernal pools; springs; banks; reservoirs; lakes; ponds; beaches; lands under water bodies; lands subject to flooding by groundwater or surface water; or lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone. The Commission may establish performance standards for work within the buffer zone to protect the aforementioned resource areas, however, the buffer zone itself is not a resource area.

Except as permitted by the Conservation Commission, no person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: streams; brooks; creeks; rivers; lands adjoining these waterways out to a distance of 200 feet, known as the riverfront area. Said 200-foot riverfront resource area shall apply to all streams shown on the map “Regulatory Streams of Burlington” to be adopted and incorporated in regulations, whether the stream is perennial or intermittent.

All said resource areas (collectively the “resource areas protected by this Bylaw”) shall be protected whether or not they border surface waters.

### 1.3. Exemptions and Exceptions

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

The applications and permits required by this Bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this Bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this Bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this Bylaw or in regulations adopted by the Commission, subsequent exemptions created under the Wetlands Protection Act (M.G.L. Ch. 131 §40) and regulations (310 CMR 10.00) shall not apply under this Bylaw.

### 1.4. Applications and Fees

A written permit application shall be filed with the Conservation Commission to perform activities with the potential to affect resource areas protected by this Bylaw. The Commission may accept digital electronic copies in lieu of paper copies. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this Bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this Bylaw.

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

Any person desiring to know whether or not a proposed activity or an area is subject to this Bylaw may in writing request a determination from the Commission. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.

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

Additionally, pursuant to M.G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been

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

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

The applicant may appeal the selection of an outside consultant to the Select Board, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within fifteen (15) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

#### 1.5. Notice and Hearings

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

The Commission shall conduct a public hearing on any permit application (or public meeting for an RDA) with written notice given at least seven days prior to the hearing at the expense of the applicant, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing or public meeting within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing, with the applicant's consent, to a specific date announced at the hearing or meeting, for reasons stated at the hearing or meeting, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in §1.6.

The Commission shall issue its permit, in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this Bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and regulations (310 CMR 10.00).

#### 1.6. Coordination with Other Boards

Any person filing a permit application, other than an RDA, with the Conservation Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Select Board, Planning Board, Board of Health, and Engineering Department. Digital electronic copies may be submitted in lieu of paper copies. A copy shall be provided in the same manner to the Commission of the adjoining municipality, if the property for which the application has been filed is within 100 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The

Commission shall not take final action until the above boards and officials have had 10 calendar days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing or meeting of the Commission, prior to taking final action.

#### **1.7. Permits and Conditions**

If the Conservation Commission, after a public hearing or meeting, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant effect on the resource area values protected by this Bylaw, the Commission, within 21 days of the close of the hearing or meeting, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect.

If a permit is issued, the Commission shall impose conditions deemed necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw. The Commission may also deny a permit:

- for failure to submit necessary information and plans requested by the Commission;
- for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or
- for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this Bylaw.

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

In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the Bylaw.

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

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

Commission may establish, in its regulations, design specifications, performance standards, and/or other measures and safeguards, including the establishment of thresholds and limitations on amounts of permissible alteration of resource areas. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication. Because of the uncertainty of the long-term viability of created wetlands, the Commission may, in its regulations, establish replication to fill ratio requirements exceeding 1:1.

If wetland resource areas are to be altered, the Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever a resource area alteration is proposed that exceeds thresholds established in regulations. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

A permit shall expire three years from the date of issuance. At the discretion of the Commission, any permit may be renewed for additional three-year periods, provided that requests for renewals are received in writing by the Commission prior to each expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

For good cause the Commission may revoke any permit issued under this Bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §1.5 and §1.6, and after a public hearing.

Amendments to permits shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

The Commission in an appropriate case may combine the decision issued under this Bylaw with the permit issued under the Wetlands Protection Act and regulations.

No work proposed in any application shall be undertaken until the permit, issued by the Commission with respect to such work, has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded.

The resource area "vernal pools", as defined in the regulations, includes all vegetated habitats within one-hundred feet of the seasonal high water of said pools. The Commission shall presume that both the inundated and adjacent upland areas provide essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the pool or adjacent upland does not provide essential habitat functions. Any formal evaluation shall be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

#### **1.8. Regulations**

At a public meeting and in accordance with the Open Meeting Law, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw. At a minimum these regulations shall reiterate the terms defined in this Bylaw, define additional terms not inconsistent with the Bylaw, and establish filing and consultant fees.

#### **1.9. Definitions**

Except as otherwise provided in this by-law or in regulations of the Commission, the definitions of terms in this

Bylaw shall be as set forth in the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00, thereunder.

#### 1.10. Security

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

- (a) By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.
- (b) By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Burlington whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

#### 1.11. Enforcement

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

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

The Commission shall have authority to enforce this Bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under M.G.L. Ch. 40 §21D, the Town of Burlington Bylaws, Article 1, General Provisions, §4, and civil and criminal court actions. Any person who violates provisions of this Bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Select Board and Town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the chief of police may take legal action for enforcement under criminal law. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this Bylaw, regulations, permits, or administrative orders issued thereunder, may be punished by a fine of not more than Three Hundred Dollars (\$300.00) per day.

Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the Bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

Note: Amended Art. 19, TM 1/25/2016; App. A.G. 5/16/2016; Posted 5/17/2016;

As an alternative to criminal prosecution in a specific case, the Commission may issue citations with specific penalties pursuant to the non-criminal disposition procedure set forth in M.G.L. Ch. 40 §21D, which has been adopted by the Town in the General Bylaws, Article 1, §4.

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

The Select Board may, upon request of the Conservation Commission, instruct Town Counsel to take such legal action as may be necessary to restrain a violation of this Bylaw and enforce the orders of the Conservation Commission hereunder, and the Town Counsel shall forthwith comply with such instructions.

#### **1.12. Burden of Proof**

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this Bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

#### **1.13. Appeals**

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

#### **1.14. Relation to the Wetlands Protection Act**

This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) thereunder. In the event of an ambiguity or conflict as to the meaning of any “resource area” or other definitions, the definitions in this Bylaw or regulations promulgated under this Bylaw shall control. It is the intention of this Bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

#### **1.15. Severability**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

Note: Adopted Art. 23 TM 5/20/13. App. A.G. July 29, 2013 Posted: 8/1 – 11/1/13

## **2.0 Litter Control**

### **2.1 Definitions**

2.1.1 Litter is any quantity of uncontainerized paper, metal, plastic, glass or miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage or junk.

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

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

2.1.4 Containers are metal, heavy duty paper or plastic receptacles used for the disposal and storage of solid waste.

## 2.2 Pedestrians and Motorists

2.2.1 It shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount on any public or private property, except in containers lawfully provided therefor.

2.2.2 It shall be the duty of every person distributing commercial handbills, leaflets, flyers or any other advertising and information material to take whatever measures necessary to keep such materials from littering public or private property.

2.2.2.1 Yard sale signs, open house signs and any other signs or notices posted to advertise a specific event cannot be posted sooner than two (2) days prior to the event, and such signs and/or notices must be removed from all places of posting no later than 24 hours after the conclusion of the event. Failure to comply with these guidelines will make the person(s) or organization responsible for holding the event subject to fines as stated under Section 2.10, Enforcement Authorization and Fines.

Note: Adopted Art. 8 TM 9/13/93. App. A.G. 11/23/93. Pub. Burlington Union 12/9, 12/16/93.

2.2.3 Every person, including a corporation, operating a store or business wherein food or beverage in any form are sold at retail, shall maintain in good condition adequate containers for the disposal of litter. The Town Administrator shall prescribe by regulation the size and location of the containers to be maintained by each person to whom this section is applicable.

## 2.3 Vehicles Transporting Loose Materials

2.3.1 No person shall drive or move a vehicle on any land nor shall the owner or bailee of any vehicle require or permit the same to be driven or moved on any such land, unless such vehicle is constructed or loaded so as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, and if it is loaded with sand or gravel, unless it is fully and adequately covered.

This section shall not prohibit the dropping of sand for the purpose of securing traction or the sprinkling of water or other substance on such land in cleaning or maintaining the same. This section shall not be applicable to the operation of any vehicle in any area subject to the provisions of Section 36 of Chapter 85 of the General Laws or any successor statute.

## 2.4 Loading and Unloading Operations

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

## 2.5 Construction/Demolition Projects

2.5.1 It shall be the responsibility of the owner to have on the construction or demolition site adequate containers for the collection of waste material and for transport thereof by himself, his servant, agent or employee to an authorized facility for final disposition. For purposes of this section, owner shall include, but not be limited to, contractor or subcontractor.

2.5.2 No permit shall be issued by any officer, board or agency of the Town of Burlington permitting construction or demolition unless the person requesting the permit provides proof in writing that waste materials resulting from construction or demolition can be disposed of at a location where such disposal is permitted by law.

2.5.3 It shall be unlawful to dispose of such waste materials at any location except that proved to said officer, board or agency without the written consent thereof.

2.6 Household Solid Waste Containerization and Removal

2.6.1 All residences located in any area in which collection is by the Town or an approved contractor shall have sufficient container capacity to accommodate their normal volume of solid waste between collections.

2.6.2 All items too large to fit into containers such as, but not limited to, appliances, furniture and mattresses, shall be disposed of only in accordance with regulations to be promulgated by the Town Administrator.

2.6.3 All loose material which normally fits into containers but which are excess as a result of special circumstances such as holidays, shall be bundled and tied securely to prevent them from blowing or scattering and shall be placed by the containers.

2.6.4 Containers shall be kept closed at all times.

2.6.5 It shall be unlawful for any person to deposit household solid waste in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians or in any commercial solid waste receptacle.

2.6.6 The duties imposed by Sections 2.6.1 through 2.6.4 of this article shall be carried out by the occupant of any dwelling unit in the Town above the age of 17, and any such occupant shall be liable for any penalty that may be imposed for violation of such sections.

2.7 Commercial Solid Waste Containerization and Removal

2.7.1 Every person, including an artificial person such as a corporation, partnership, religious society, trust or similar entity, shall deposit solid waste in a suitable container, which container shall be maintained by such persons in good condition at such location and shall be of such size as the Town Administrator by regulation shall determine, and shall arrange for its collection or disposition at his own expense in a lawful manner.

2.7.2 Containers shall be kept closed at all times, and the area around the containers shall be kept free of litter at all times.

2.7.3 Sections 2.7.1 and 2.7.2 of this article shall not apply in situations or circumstances in which Section 2.6.0 through 2.6.6 apply nor shall it apply to pedestrians or other persons disposing of litter not in the course of business.

2.7.4 It shall be unlawful for any person to whom Sections 2.7.1 and 2.7.2 of this article apply to deposit solid waste required by Section 2.7.1 to be disposed of in accordance therewith in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians or in any other commercial solid waste receptacle.

2.8 Provision for Solid Waste Disposal at New Buildings

2.8.1 No permit shall be issued for the construction of any building, except a single-family dwelling, unless the plans for said building show storage facilities adequate in the opinion of the Building Inspector to contain solid waste after said building is in use.

2.8.2 No building shall be occupied unless constructed in accordance with plans approved by the Building Inspector pursuant to Section 2.8.1 of this article, but this section shall not apply to buildings constructed pursuant to permits issued prior to the effective date of this article.

2.8.3 Any person aggrieved by a decision of the Building Inspector under Section 2.8.1 may, within twenty (20) days of the date of that decision seek review by the Select Board, which shall after a hearing within thirty (30) days of the filing of said appeal, affirm or reverse the Building Inspector's decision.

2.9 Keeping Property Clean

2.9.1 All exterior property shall be kept free of litter. This requirement shall apply to the removal not only of loose litter but also of materials that become trapped at such locations as fences and wall bases, grassy and planted areas, borders, embankments and other places of accumulation.

2.9.2 It shall be unlawful to sweep or push litter from sidewalks and strips into streets. Sidewalk and strip sweepings must be picked up and put into household or commercial solid waste containers.

2.9.3 No owner or occupant of land above the age of 17 and no artificial occupant of land such as a corporation, partnership, religious society, trustee or similar entity owning or occupying land or officer, partner, director or trustee thereof or a person in charge of its business or employee customarily responsible for maintaining the cleanliness of its land shall permit land to be maintained in violation of Section 2.9.1 and 2.9.2 of this article. The duties imposed by said sections shall be borne by each and every person aforementioned, and it shall be no defense to a person charged violating these sections that any other person may also be charged with the same violation.

2.9.4 Land maintained in violation of Section 2.9.1 and 2.9.2 is hereby declared to be a nuisance and source of filth, for the removal of which the Board of Health may invoke all remedies provided by Massachusetts General Law Chapter 111 Section 122 and Chapter II of the State Sanitary Code 105 CMR 410.000. Such remedies shall be in addition to the penalties provided by Section 2.10 of this article.

Note: Sec. 2.9.4 Adopted Art. 11 TM 1/22/2018. App. A.G. 4/23/2108 posted

2.10 Enforcement Authorization and Fines

2.10.1 Any person found to have violated any provision of this article shall be fined One Hundred Dollars (\$100). In the case of a continuing violation, each day on which the violation continues shall be deemed a separate offense.

2.10.2 After approval by the Attorney General, a copy of this Bylaw shall be distributed by the Town Clerk to every employee of the Police Department, Recreation Department, School Department, Board of Health, and Department of Public Works of the Town and to the Building Inspector and Town Administrator. It shall be the duty of the Town administration to see that this article is enforced by reporting violations to the attention of the Police Department and by the prosecution of persons charged with such violations. On property under the jurisdiction of the School Committee, the Superintendent of Schools, or their designees shall be authorized "Enforcing Persons". On property under the jurisdiction of the Recreation Commission, the Recreation Director, or their designees shall be authorized "Enforcing Persons". Violations of this section shall be enforced according to Article I, section 4.

Note: Sec. 2.10.1 &2.10.2 Adopted Art. 8 9/26/18. App. A.G. 12/12/18 posted

2.10.3 If any provision of this Bylaw, or any section thereof, in any circumstances is held invalid, the validity of the remainder of this Bylaw and of the application of any of the other provisions or sections shall not be affected.

2.11 Recycling

2.11.1 Effective January 1, 1993, in order to implement a program of recycling in conjunction with regular waste collections, residents of every household serviced by the Town's solid waste collection program are required to separate the following waste materials from their household solid waste (trash) before depositing same for collection:

- . Glass and cans
- . Paper (includes newspaper, office paper, and corrugated cardboard)
- . White goods (refrigerators, stoves, washers, dryers, etc.)
- . Leaves
- . Other yard wastes (grass clippings)
- . Single polymer plastics (Nos. 1 and 2)

If no separation of materials takes place, the Town's Trash Collection Contractor will be instructed not to pick up the materials, and the household will be granted a 24-hour period to remove the material from the curb or suffer a fine of \$25.00

Note: Adopted Art. 32 TM 5/20/92. App. A.G. 7/23/92. Pub. BTU 7/30, 8/6/92.

2.12 No person shall store rubbish, junk or salvage materials except in a covered container or in a structure or in an enclosure enclosed by a wall or fence without apertures except a door, and not less than six (6) feet in height.

Note: Adopted Art. 23 TM 12/20/72. App. A.G. 1/22/73. Pub. BTU 2/1, 2/8, 2/15/73.

2.13 Open Storage Control

2.13.1 No person shall store materials, merchandise, equipment or vehicles outside of a building on a nonresidential premises, except in compliance with a permit issued by the Select Board.

2.13.2 After a public hearing the Select Board may deny such a permit or grant a permit subject to such limitations as they shall specify.

2.13.3 The public hearing shall be held within thirty (30) days of the receipt of an application for such permit and shall be advertised in a newspaper of local circulation not less than seven (7) days prior to the scheduled date of the hearing. Application shall be made in such form as the Select Board shall specify.

2.13.4 Notwithstanding the provisions of this section, no permit shall be issued when such storage would create a nuisance.

2.13.5 Any premises in use at the time of the adoption of this Bylaw that does not conform to the provisions of this Bylaw shall be made to so conform within two (2) years of the effective date of this Bylaw.

Note: Adopted Art. 60, TM 6/12/74; App. AG 7/17/74; Pub. BTU 8/1, 8/8, 8/15/74.

2.14 Control of Toxic and Hazardous Material

2.14.1 Authority

This Bylaw is adopted by the Town under its home rule powers, its police powers to protect the public health and welfare, and its authorization under Mass. General Laws Chapter 40, S 21.

## 2.14.2 Purpose

The purpose of this Bylaw is to protect, preserve and maintain the existing and potential groundwater recharge areas and surface water within the Town from contamination with toxic and hazardous materials. In addition, the intent of this Bylaw is to minimize community exposure to toxic and hazardous materials and provide easily accessible information to the public, emergency response personnel, fire department and Town officials concerning such materials which are being used, stored or managed by the local business community.

## 2.14.3 Definitions

"Abnormal gain of water" inside any underground storage tank shall be a gain in the water level of more than one inch in a 24 hour period.

"Abnormal loss of product or waste" from any underground storage tank or combination of tanks, not explainable by spillage, temperature variations or other causes, shall mean either:

- (a) A loss in excess of 0.5% of the volume of product dispensed over a period of a calendar month; or
- (b) A difference in the measured height of the stored liquid, product or waste of greater than one-half inch when using a dipstick and allowing a minimum time interval of 24 hours between measurements while the tank has been removed from service.

"Container" means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a toxic or hazardous material.

"CAS" shall mean the identification number assigned by the Chemical Abstract Service to chemical substances.

"Chemical" means any element, chemical compound or mixture of elements and/or compounds.

"Chemical name" means the scientific designation of a substance in accordance with the nomenclature system by the International Union of Pure and Applied Chemistry, or the system developed by the Chemical Abstract Service.

"Common name" means any designation or identification such as a code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

"Deminimus amount" shall mean a container size equal to or less than either one liter (33.8 fl. oz.) or one kilogram (2.20 lb.).

"Double-walled tank" means a container with two complete shells which provide both primary and secondary containment. The container shall have continuous 360 degrees interstitial space between the primary and secondary shells. The interstitial space shall be designed so that an approved interstitial space monitor is able to continuously monitor this space. All double-walled tanks shall be UL-listed.

"Fuel oil" means oil of grades 1, 2, 4, 5 and 6 in accordance with M.G.L. C.94, S.249H.

"Hazard warning" means any words, pictures, symbols or combination thereof appearing on a label or other appropriate form or warning which convey the hazard(s) of the chemical(s) or waste(s) in the container.

"Health hazard" means any chemical for which there is a statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur to exposed employees. The term "health hazard" includes chemicals which are carcinogens, mutagens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxicants, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the

lungs, skin, eyes, or mucous membranes.

"Identity" means any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical.

"Label" means any written, printed, or graphic material displayed or affixed to containers of toxic or hazardous material.

"MSDS" means written or printed material concerning a hazardous chemical which is prepared in accordance with 29 CFR 1910.1200(g).

"Maximum daily amount" shall mean the greatest amount of a toxic or hazardous material at a given commercial or industrial establishment on any single day during the reporting period.

"Owner" shall mean any person who has effective control or legal ownership of a site, facility, or activity; owner does not include persons who hold bare legal title for the purpose of providing security for a financing agreement.

"Operator" shall mean the lessee or person(s) in control of and having responsibility for the daily operation of a facility for the storage and dispensing of toxic and hazardous materials.

"Physical hazard" means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any toxic or hazardous material into the environment.

"Substance" means any element, chemical, compound, combination, or any mixture thereof, whether organic or inorganic.

"Toxic and hazardous material" means any substance, including but not limited to, any material, in whatever form, which because of its quantity, concentration, chemical, corrosive, fire, reactive, toxic, infectious, and radioactive characteristics either separately or in combination with any substance or substances, constitutes a potential threat to human health, safety, welfare or to the environment, when improperly stored, handled, treated, transported, disposed of, used or otherwise managed. This definition includes any substance which is designated by its manufacturer, distributor or importer as possessing any health or physical hazard(s) pursuant to 29 CFR 1910.1200 as well as any substance which is determined to be a hazardous waste according to 310 CMR 30.100.

"Underground storage tank" means a storage tank where 10% or more of the tank volume and piping is buried below the ground surface, but which shall not include storage in a free standing container within a building.

"Underground storage tank leakage or leak" means any uncontrolled movement, measurable by a precision test which can accurately detect a leak of 0.10 gallons per hour with a probability of detection of 0.99, and the probability of false alarm of 0.01.

"Work area" means any area within a workplace, whether outdoors or inside a structure, where substances are stored, used, or manufactured, (and includes, but is not limited to, areas where substances are handled, mixed, processed, packaged, or repackaged); and where employees, licensees, invitees, or other persons may be present.

"Workplace" means an establishment, job site, or project, at one geographical location containing one or more work areas.

"Service Company" - any individual, company, firm or other enterprises which supplies, delivers, services,

maintain or repairs any hazardous material or toxic waste containers of the substances stored therein.

#### **2.14.4 Report of Leaks or Spills**

2.14.4.1 Any person with knowledge of a release or abnormal loss or gain of a toxic or hazardous material shall forthwith report the spill, loss or gain, to the Chief of the Fire Department and the Board of Health. Notification is not required for any release which is legally permitted and does not exceed allowable or acceptable discharge limits.

2.14.4.2 The owner or operator of a leaking tank system shall immediately:

(a) Remove the system from service and, if testing has confirmed that the source of the leak is a tank(s), the owner or operator shall within 24 hours cause the tank(s) to be emptied of all product or waste;

(b) Notify the Chief of the Fire Department, the Office of Incident Response of the Department of Environmental Protection, and the Board of Health.

2.14.4.3 Service companies shall report to tank owners and the Board of Health any significant increase in heating fuel consumption which may indicate a leak.

2.14.4.4 All spills and releases which trigger the reporting requirements of the Commonwealth of Massachusetts as defined in the Massachusetts Contingency Plan 310 CMR 40.0000 must be reported to the Board of Health. In addition, a copy of all documentation including but not limited to environmental assessments including Phase I and Phase II assessments, tier classifications, remedial action plans including Immediate Response Action Plans and Release Abatement Plans, risk assessments, and closure documentation prepared in accordance to the Massachusetts Contingency Plan during the investigation of these releases must be submitted to the Board of Health concurrent with its submittal to the Massachusetts Department of Environmental Protection.

Note: Amended Art. 14 TM 1/11/99. App. A.G. 2/24/99. Pub. Daily Times 3/4/99, 3/11/99.

#### **2.14.5 Registration and Inventory Requirements**

2.14.5.1 Every owner or operator of a commercial or industrial establishment, (including home occupations and agricultural and horticultural operations) storing toxic or hazardous materials in quantities totaling 100 kilograms, or 220 pounds or more, shall register and submit toxic and hazardous material inventory information with the Board of Health. All products or wastes in container sizes greater than either one liter (33.8 fl. oz.) or one kilogram (2.20 lb.) should be added in combination to determine if the 100 kilogram threshold is met.

The inventory information requirements for toxic and hazardous materials shall include, but not be limited to, the material's common or product name, chemical name, C.A.S. (if applicable), storage location and maximum daily amount, for substances which are classified as hazardous wastes, the hazardous waste number and waste identification will substitute for the product and chemical names.

Those materials stored in containers not exceeding the deminimus amount need not be reported.

2.14.5.2 Retail commercial enterprises selling hazardous and toxic materials in containers of less than 30 gallons liquid weight and 25 pounds dry weight are exempt from the registration and inventory requirements of Section 2.14.5.1.

2.14.5.3 In addition to the registration requirements listed in Section 2.14.5.1, all underground storage systems and tanks maintained on commercial property which contain hazardous materials or wastes must be registered with the Board of Health and the Fire Department. The following information must be provided: the size, type, age and location of each tank, and the name of the material stored in

each tank.

Note: Amended Art. 14 TM 1/11/99. App. A.G. 2/24/99. Pub. Daily Times 3/4/99, 3/11/99.

Evidence of date of purchase and installation, including Fire Department permit, if any, shall be included along with a sketch map showing the location of such tanks on the property. Owners of tanks for which evidence of installation date is not available shall, at the order of the Board of Health, have such tanks system tested. If either the Board of Health or the Fire Chief determines that the tank is not product tight it shall be neutralized or disposed of under the direction of the Fire Chief and the Board of Health.

2.14.5.4 The Board of Health shall create a standard form which will be known as an "Hazardous Material Registration Form" (HMRF) to be used by local commercial and industrial establishments for the purpose of registering and reporting inventory information of toxic and hazardous materials.

The board shall maintain and update annually each HMRF which has been submitted and make this information readily available to the public, emergency response personnel, Fire Department and Town officials.

Every commercial and industrial establishment which submits an HMRF as required by section 2.14.5.1 will retain a copy which will be made readily available upon request, by the Board of Health or Fire Department. MSDSs for substances used in the workplace will be maintained and organized so that they are readily available upon request by the Board of Health and Fire Department.

#### **2.14.6 Spill Control and Countermeasure Plans**

Every owner or operator of a commercial or industrial establishment (including home occupations and agricultural and horticultural operations) using, manufacturing, storing, transporting, disposing or discharging toxic and hazardous materials must develop a spill control and countermeasure plan. Plans must be readily available for inspection by the Board of Health and Fire Department and accessible during an emergency incident. These plans shall be periodically reviewed and updated as needed.

The written plan shall include, but not be limited to, the following information:

- (a) The names and telephone number(s) of the emergency coordinator(s) and a waste disposal and cleanup contractor;
- (b) The telephone numbers of the following agencies; Fire Department, Office of Incident Response of DEP, CHEMTREC, National Response Centers, local hospitals, and Board of Health;
- (c) A floor plan indicating locations of the fire extinguishers and spill control materials, and if present, the fire alarms. Evacuation routes shall be clearly shown when applicable.
- (d) Description of potential spill pathways unique to the facility, spill control measures for preventing releases and cleanup procedures. Reportable quantities (RQs) should also be noted and the agencies to be notified should an RQ release occur and enter the environment.

#### **2.14.7 Above Ground Storage Requirements**

2.14.7.1 All toxic or hazardous materials shall be stored according to practices and procedures which prevent the contamination of air, groundwater and surface water and which will minimize the possibility of an accidental release.

These materials will be stored in product tight containers on an impervious, chemical resistant surface

compatible with the material being stored.

Outdoor storage areas shall be enclosed with a permanent dike of impermeable construction and roofed, or other equally secure secondary containment.

Any enclosed area containing free liquids shall have the capacity to contain either 10% of the total possible contained volume of the containers or 110% of the volume of the largest container of free liquid, whichever is greater. Drainage shall be separately collected for safe disposal.

Similar secondary containment for inside storage areas of free liquids shall be provided when a release could follow a potential pathway and enter the environment (i.e., floor drains and doorways).

Storage areas with containers of toxic or hazardous materials that are incompatible with other materials stored nearby in other containers shall be separated from these materials or wastes by means of a dike, berm, wall or other suitable containment method.

2.14.7.2 Wastes containing toxic or hazardous materials shall be held on the premises in product-tight containers for removal by a licensed carrier and for disposal in accordance with the Massachusetts Hazardous Waste Management Act, Chapter 21C, General Laws. Waste storage areas shall also meet the requirements of 2.14.7.1.

2.14.7.3 All existing gasoline, fuel and diesel oil above ground storage containers shall be upgraded to meet the requirements of Section 2.14.7.1 by January 1, 2000. All other existing toxic and hazardous materials above ground storage containers shall be upgraded to meet the requirements of Section 2.14.7.1 by January 1, 1985.

2.14.7.4 All containers holding toxic or hazardous materials must be labeled in a legible and prominent manner as follows:

(a) Containers holding materials which have been determined to possess health or physical hazard(s) according to 29CFR 1910.1200(d) shall be labeled, tagged, or marked to identify the material(s) contained therein and the appropriate hazard warning(s) or as allowed by 29CFR 1910.1200(f)(6) and (7).

(b) Containers holding hazardous wastes as identified by 310 CMR 30.100 shall be labeled and marked in a manner which identifies, in words, the hazardous waste(s) being stored in the container, the hazard(s) associated with the waste and the accumulation date, if applicable. Each container of hazardous waste shall also be marked with the words "HAZARDOUS WASTE."

#### 2.14.8 Transfer of Pumping Areas

2.14.8.1 All areas where hazardous and toxic materials are pumped or transferred must have provisions for spill containment.

2.14.8.2 Areas where hazardous and toxic materials are pumped or transferred must be constructed of a product tight impervious material. Closed drainage shall be provided from this area to a sump or trap. A roof should be constructed to prevent rainwater flow from entering the containment sump.

For petroleum products which are lighter than water and float on top of water, an appropriately sized separation trap, connected to the sanitary sewer may be employed. Spilled petroleum products must be removed from the top of the trap immediately after a spill occurs.

2.14.8.3 All underground piping from tanks to pumps must be placed in secondary containers constructed of product tight impervious materials with provisions for leak detection.

2.14.8.4 Domestic oil fills are exempt from this Bylaw. All existing gasoline fuel and diesel oil

transfer and pumping areas shall be upgraded to meet the requirements of Section 2.14.8.2 and 2.14.8.3 by January 1, 2000. All other existing toxic and hazardous materials transfer and pumping areas shall be upgraded to meet the requirements of Section 2.14.8.2 and 2.14.8.3 by January 1, 1985.

#### **2.14.9 Underground Storage Requirements**

2.14.9.1 New or replacement underground storage tanks shall be designed and constructed to minimize the risk of corrosion and leakage. The following construction shall be utilized for all tanks:

(a) UL-listed double walled steel tanks with cathodic protection, having electrical isolation, UL-listed double walled fiberglass tanks, or UL-listed double walled composite tanks having electrical isolation. These tanks should be equipped with an approved standpipe, vacuum, or electrical monitoring system or an approved equivalent for the purpose of continuously monitoring the interstitial space. The material used in the construction of the UST vessel and associated piping shall be compatible with the product being stored in the tank.

(b) Any other "state-of-the-art" type of tank construction with an approved continuous interstitial space monitor and providing equal or better protection against leakage than the above mentioned tanks and approved by the State Fire Marshall.

(c) In addition, tanks shall be equipped with a spill containment manhole with a minimum capacity of three gallons capable of returning product or waste to the tank. An overfill prevention device shall be installed and designed so as not to preclude the ability to perform any required tightness test on the tank and piping.

All existing underground storage systems shall be upgraded to meet the requirements of this section by December 22, 1998, or sooner where required by 527 CMR 9.00, except, for fuel oil tanks used exclusively for consumptive use and waste oil and used fuel oil tanks which shall be upgraded by January 1, 2000.

2.14.9.2 All underground storage systems containing fuel oil used exclusively for consumptive use and having a capacity greater than 1,000 gallons shall have the tank and its piping leak tested 20 years after installation, and annually thereafter, using a leak testing method approved by the State Fire Marshall.

#### **2.14.10 Air Emissions of Solvents**

Volatile chlorinated hydrocarbons emitted to the air from dry cleaner and degreaser systems must, by January 1, 1985, either install a totally enclosed degreaser or dry cleaning system with a condenser which will return the solvent to the solvent pump, replace volatile chlorinated solvents with non-volatile cleaning solvents or take action which provides equivalent protection, subject to the approval of the Board of Health.

#### **2.14.11 Proximity to Water Supplies**

2.14.11.1 The installation of underground toxic or hazardous materials storage systems within 2,000 feet of a public water supply well is prohibited.

2.14.11.2 The Board of health may require the collection of soil samples or the installation of one or more groundwater monitoring wells at any site where toxic and hazardous materials or waste have been or are stored and used, or at any property where environmental contamination may exist. The Board of Health by a majority vote may order the collection and analysis of soil and/or groundwater samples for the purpose of reviewing and investigating the condition of the local aquifer and environment. Soil and water samples may be required by the Board of Health at any reasonable time, and shall be collected and analyzed at the expense of the property owner, by the order of the Board of Health.

Note: Amended Art. 14 TM 1/11/99. App. A.G. 2/24/99. Pub. Daily Times 3/4/99, 3/11/99.

#### 2.14.12 Variance and Waiver

The Board of Health may vary the application of any provisions of this Bylaw or regulations adopted hereunder when in its opinion, the enforcement thereof would do manifest injustice and the applicant has demonstrated that the same degree of environmental protection required under this Bylaw will still be achieved. Requests for such variance shall be in writing. The applicant must notify all abutters by certified mail at his own expense at least 10 days before the Board of Health meeting at which the variance request will be considered. Notice of such variance granted shall be published in a local newspaper. All abutters and property owners within 300 feet shall be notified by registered mail at the expense of the applicant.

In granting a variance, the Board will consider the direction of groundwater flow, soil conditions, depth to groundwater, size, shape and slope of the lot, existing and known future water supplies. Said information to be supplied by the applicant in the form of a groundwater impact study.

A variance will require a 4/5 vote of a 5-member board.

#### 2.14.13 Enforcement

2.14.13.1 Certification of conformance with the requirements of this Bylaw by the Board of Health shall be required prior to issuance of construction and occupancy permits for all uses.

2.14.13.2 The provisions of this Bylaw shall be enforced by the Board of Health. Any agent of the Board of Health may, according to the law, enter upon any premises at any reasonable time to inspect for compliance.

2.14.13.3 Upon request of an agent of the Board of Health, owner or operator shall furnish all information required to enforce and monitor compliance with this Bylaw, including a complete inventory of all chemicals, pesticides, fuels and other toxic or hazardous materials used or stored on the premises, a description of measures taken to protect storage containers from vandalism, corrosion and spillage, the spill control and countermeasure plan, the means of disposal of all toxic or hazardous wastes produced on the site, a sample of waste water disposed to on-site septic systems, dry wells or sewage treatment systems.

2.14.13.4 All records pertaining to storage, removal and disposal of toxic or hazardous materials shall be retained by the owner or operator for no less than three years, and shall be made available for review upon the request of an agent of the Board of Health.

2.14.13.5 This Bylaw may also be enforced pursuant to MGL Chapter 40:S21D by a Town police officer or other officer having police powers. Upon request of the Board of Health, the Select Board and Town Counsel shall take such legal action as may be required to enforce this Bylaw.

#### 2.14.14 Violation

Written notice of any violation of this Bylaw shall be given to the Owner and Operator by an agent of the Board of Health, specifying the nature of the violation; any corrective measures that must be undertaken, including containment and cleanup of discharged materials; any preventive measure required to avoid future violations, and a schedule of compliance.

The cost of containment and cleanup shall be borne by the Owner and Operator of the involved premises.

The Board of Health may charge for expenses incurred in the enforcement or maintenance of this Bylaw.

#### 2.14.15 Penalty

Any person who violates any provision of this Bylaw shall be punished by a fine of not more than \$200. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This penalty is in addition to any costs or charges under Section 2.14.5 above and regulations adopted hereunder.

#### 2.14.16 Fees

Any person registering storage of hazardous and toxic materials pursuant to this Bylaw shall pay to the Board of Health an annual Registration Fee for every gallon or pound or fraction thereof of storage capacity. Such fee shall be due on the same date as the annual registration. Failure to pay shall constitute a violation and shall subject the violator to the penalties of Section 2.14.15 of the Bylaw. The Board of Health shall adopt and publish a schedule of fees to be charged.

#### 2.14.17 Exemptions

The provisions of this Bylaw shall not apply to tanks of 330-gallon capacity or less located on residential properties or to domestic fills or to other uses and activities exempted by Board of Health Regulations.

#### 2.14.18 Regulations

The Board of Health shall adopt and enforce, and may from time to time amend regulations consistent with the intent and general provisions of this bylaw, including a schedule of registration fees and expenses charges.

#### 2.14.19 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.

Note: Amended (in whole) Art. 17, Jan. 14, 1991 T.M. App. A.G. 3/22/91. Pub. Burl. News 4/11 & 4/18/91.

### 2.15. Regulation of Retail Checkout Bags

2.15.1. The purpose of this Bylaw is to reduce the number of single-use plastic bags that are being used, discarded, and/or littered, and to promote the use of reusable bags and recyclable paper bags by retail establishments in the Town of Burlington.

#### 2.15.2. Definitions

The following terms shall, for section 2.15 shall have the following meaning.

2.15.2.1. “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.

2.15.2.2. “recyclable paper bag” means a paper bag that is: (1) 100 percent recyclable; and (2) contains at least 40 percent post-consumer recycled paper content and is clearly labeled as such.

2.15.2.3. “reusable bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine washable fabric; or made of plastic other than polyethylene (HDPE, LDPE, PETE, etc.) or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 3 mils thick.

2.15.2.4. “single-use plastic bag” means a plastic checkout bag less than or equal to three (3) mils

thick.

2.15.2.5. “retail establishment” means any commercial enterprise including, but not limited to the following: restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, household goods stores or any other business that offers the sale of food or merchandise.

2.15.2.6. “non-profit organization” means a corporation or an association that conducts business for the benefit of the general public without shareholders and without a profit motive.

2.15.2.7. “small business” means a retail establishment that is under twenty five hundred (2,500) square feet in size, and is not publicly owned.

#### **2.15.3. Regulations**

2.15.3.1. If a retail establishment or non-profit organization provides checkout bags to customers, these bags must either be recyclable paper bags or reusable bags.

2.15.3.2. Information regarding the proper sanitization of reusable bags to prevent fungus and illness must also be displayed or communicated at the time of checkout.

2.15.3.3. Except as otherwise provided herein, single use plastic bags shall not be distributed, used or sold for checkout or other purposes by any retail establishment or non-profit organization within the Town of Burlington.

2.15.3.4. The following are exempt and not subject to Section 2.15.

Bags used by customers to:

package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items; contain or wrap frozen foods, meat, or fish; or

contain or wrap flowers, potted plants, or other items where dampness may be a problem.

Laundry or dry-cleaning bags or hanging bags meant for suits or dresses.

Bags sold in packages containing multiple bags intended to be used for home food storage, or garbage, waste, pet waste or yard waste disposal.

#### **2.15.4. Effective Date**

2.15.4.1. This Bylaw will go into effect one hundred and twenty (120) days after approval by the Attorney General.

2.15.4.2. Upon written request to the Town Administrator a small business may ask for an extension of up to ninety (90) days past the effective date. This exemption shall only apply to a small business facing an undue hardship. An “undue hardship” shall be found only in:

a. Circumstances or situations unique to the small business such that there are no alternatives to single use plastic bags present in their retail establishment by the effective date. There must be a plan as to obtain reusable bags or paper bags by the end of the extension filed to the Town Administrator’s office; or

b. Circumstances where a small business requires additional time in order to reduce an existing inventory of single use plastic bags. Any small business in receipt of an extension shall file inventory reduction plans to consume the remaining stock of single use plastic bags with the Town Administrator’s office.

No single use plastic bags shall be purchased by the small business requesting the extension during the time of this extension.

#### 2.15.5. Education

The Town Administrator shall send a written notice detailing the requirements imposed by this ordinance to all retail establishments and non-profit organizations operating within the Town at least ninety (90) days prior to the effective date of this ordinance.

#### 2.15.6. Enforcement

2.15.6.1. Enforcement of this ordinance shall be the responsibility of the Town Administrator or his/her appointed designee.

2.15.6.2. Any retail establishment or non-profit organization found to be in violation of this section may be subject to a non-criminal disposition fine pursuant to M.G.L. c. 40, section 21D,

2.15.6.3. Not more than one fine may be assessed within a fifteen (15) day period per retail establishment. In lieu of the non-criminal disposition process, all fines levied may be appealed to the Select Board in writing within fifteen (15) days of the fine being levied.

2.15.6.4. Unless otherwise appealed, all fines issued under this section shall be paid within fifteen (15) days, to the Town of Burlington.

To also amend the table of penalties according to non-criminal disposition of Article I, Section 4.0 to include the following

Article XIV, Section 2.15, Regulation of Retail Checkout Bags	
First Offense	Warning
Second Offense	\$25
Subsequent Offense	\$50

Note: Amended Art 9 TM 01/28/19; App. AG 5/10/19 Posted 5/13/19

### 3.0 Sign and Advertising Devices

#### 3.1 Definitions

3.1.1 For the purposes of this Section, "SIGN" shall include any letter, word, symbol, drawing, picture, design, device, article or object that advertises, calls attention to or indicates any premises, person or activity, whatever the nature of material and manner of composition or construction.

3.1.2 Display Surface is the area of the sign available for the advertising message.

3.1.3 Sign Structure means the support, uprights, braces and framework of the sign.

3.1.4 Erect shall include the words: attach, build, paint, construct, reconstruct, alter, enlarge, and move.

3.1.5 A Wall Sign means any sign erected against the wall of a building or structure, or a sign that is a part of the building or structure with the exposed face of the sign in a plane parallel to the plane of said wall, building or structure and shall not project more than one (1) foot from the side of the structure, or above the highest line of the roof or extend beyond a corner of the structure.

3.1.6 A Free Standing Sign means any sign that is supported independently from any building.

3.1.7 A Roof Sign means any sign attached to the roof surface of a building on which the display surface is above the roof level.

3.1.8 An Individual Letter Sign means a sign made of separate letters. The dimensions of such sign shall be the height of the tallest letter and the width of the combined letters as displayed.

3.1.9 A Projecting Sign means any sign other than a wall sign extending from and supported by a building and shall include signs painted or attached to wiring.

3.1.10 A Marquee Sign means any sign attached to a roof like structure or awning which projects over the entrance to a building.

3.1.11 A Temporary Sign means any sign erected for a limited period of time.

3.1.12 An Electric Sign means any sign containing electric wiring which is illuminated by incandescent or fluorescent lamps of luminous tubes or provides a beacon or searchlight.

3.1.13 A Moving Sign means any sign that is animated by mechanical or natural means.

3.1.14 Districts referred to in this article shall be as set forth in the Zoning Bylaws of the Town of Burlington.

Note: Adopted Art. 15 TM 12/3/73. App. A.G. 12/28/73. Pub. BTU 1/10, 1/17, 1/24/74.

### 3.2 Administration

#### 3.2.1 Permits Required:

3.2.1.1 A permit is required for the erection of all signs except those specifically exempt from this Bylaw.

3.2.1.2 Application for a sign permit shall be made in writing to the Building Inspector stating the proposed sign location by street and number, the names and addresses of the owner and the sign contractor or erector. The Building Inspector may require the submission of plans and other information pertinent to construction and installation.

3.2.1.3 A permit shall not be issued to any person until a proper certificate of public liability insurance satisfactory to the Building Inspector is in force.

3.2.1.4 A fee shall be paid to the Town for each sign permit and collected by the Building Inspector in accordance with a schedule established by the Select Board.

3.2.1.5 The permit number shall be clearly indicated on the sign.

3.2.1.6 No permit shall be required to refinish an existing sign or change the display on a changeable letter sign.

3.2.1.7 No permit is required for signs conforming to the Zoning laws in a residential zone.

#### 3.2.2 Appeal

3.2.2.1 A person aggrieved by any decision of the Building Inspector may appeal to the Board of Appeals.

### 3.2.3 Enforcement

3.2.3.1 The Building Inspector is charged with the enforcement of this Bylaw.

3.2.3.2 Whoever violates any provision of this Bylaw shall be punished by a fine not exceeding One Hundred Dollars (\$100.00) for each offense. (Ch. 93, Sec.33)

3.2.3.3 The Building Inspector shall require the proper erection and maintenance of all signs. The Building Inspector may order the removal of any sign that is not properly maintained.

3.2.3.4 Signs erected before the adoption of this Bylaw shall not be rebuilt or relocated except in conformance with this Bylaw.

3.2.3.5 Signs erected before the adoption of this Bylaw that do not conform to the provisions of this Bylaw shall be made to so conform within five (5) years of the effective date of this Bylaw, except that all signs must be made to conform with the provisions of Section 3.2.4.2, 3.2.4.3, 3.2.4.6, and 3.2.4.7 within 90 days of the effective date of this Bylaw.

### 3.2.4 Installation

3.2.4.1 No sign shall be erected which obstructs any fire escape, door, ventilator, or other opening, or prevents free access to all parts of a roof.

3.2.4.2 Electric Signs:

(a) Flashing and computerized electronic signs are prohibited.

(b) Red or green lights that would create a traffic hazard are prohibited.

(c) No sign may be illuminated between 12 midnight and 6:00 a.m.

(d) No exposed, uninsulated parts of an electrical sign shall be closer than nine (9) feet to the ground.

3.2.4.3 No sign is permitted that in any way creates a traffic hazard.

3.2.4.4 All parts of a sign shall be secured to the display surface or supporting structure.

3.2.4.5 No sign shall be painted on the exterior surface of any wall, window, door or roof.

3.2.4.6 No moving signs are permitted.

3.2.4.7 No sign shall be placed in or upon any street, public building or place without permission of the Select Board.

3.2.4.7 (a) Any and all signs must be removed by a tenant within 30 days of the tenant vacating said tenant space

3.2.4.8 On any side of a building, wall signage shall be permitted either at the first floor level or on upper floors, but not both;

Note: Amended Art 18 TM 1/26/11. App. AG 5/24/11. Posted 6/1/11

3.2.5 Signs erected in a duly adopted Planned Development District (“PDD”) shall be governed by the zoning provisions applicable to such district and if such provisions conflict with Article 3.0 Sign and Advertising Devices of the Town of Burlington General Bylaws then the zoning provisions of the

PDD relating to signage shall control.

Note: Adopted TM 1/22/07 Art. 22. App'd. A.G. 2/15/07. Posted 3/1/07 – 3/15/07.

### 3.3 Permitted Signs

#### 3.3.1 One Family Dwelling Districts (RO)

3.3.1.1 A temporary sign advertising rental, lease or sale of the premises which shall be 6 sq. ft. or less.

3.3.1.2 A sign stating the home occupation or profession of a resident which shall be one sq. ft. or less.

#### 3.3.2 General Business District (BG)

Neighborhood Business Districts (BN), Limited

Business Districts (BL), and Continuous Traffic

Business Districts (BT)

3.3.2.1 Same as 3.3.1.1 above.

##### 3.3.2.2 Wall Signs

(a) One wall sign shall be permitted for each business side of a building and direct entrance into a store.

(b) At gasoline stations and garages the front wall sign may be divided into separate signs indicating operations or departments, provided the total width of the separate signs does not exceed the maximum permitted for a wall sign.

(c) A wall sign shall be 4 ft. or less in height.

Note: Section titles adopted Art 47, TM 1/31/77.

(d) At the first floor level, a sign may extend across the full width of the wall. At other than the first floor level, a sign shall be 6 ft. or less in length.

(e) One building directory shall be permitted on the exterior wall of the building at each entrance. A building directory shall be one sq. ft. or less for each occupant or tenant of the building.

##### 3.3.2.3 Projecting Signs

(a) One sign shall be permitted for each business.

(b) The sign shall be 4 ft. or less in height and shall not project more than 6 ft. from the face of the building, nor closer than 15 ft. from the property line.

##### 3.3.2.4 Marquee Signs

(a) Signs shall only be attached to the sides or front of a marquee and shall be 7 ft. or more above the ground.

(b) The sign shall be 6 sq. ft. or less. An individual letter sign shall be 2 ft. or less in height.

### 3.3.2.5 Free Standing Signs

- (a) No free standing signs shall be permitted except temporary signs which shall be 10 ft. or more from any property line.
- (b) A temporary sign erected during construction of a building shall be 48 sq. ft. or less and 10 ft. or less in any dimension.

## 3.3.3 Retail Industrial (IR), General Industrial Districts (IG) and High-rise Industrial Districts (IH) \*

### 3.3.3.1 A temporary sign advertising rental, sale or lease of the premises not exceeding 24 sq. ft.

### 3.3.3.2 Wall Signs

- (a) Wall signs shall be the same as for business zones except that signs shall be 6 ft. or less in height.

### 3.3.3.3 Roof Signs

- (a) One roof sign shall be permitted for each building, but no roof sign shall be permitted for a building exceeding eighty (80) feet in height.

Note: Adopted Art. 15 TM 12/3/73. App. A.G. 12/28/73. Pub. BTU 1/10, 1/17, 1/24/74.

- (b) A roof sign shall be 10 ft. or less in height and shall not exceed 100 sq. ft. An individual letter roof sign shall be six (6) ft. or less in height.

### 3.3.3.4 Projecting Signs - Same as for Business Districts.

### 3.3.3.5 Marquee Signs - Same as for Business Districts.

### 3.3.3.6 Free Standing Signs

- (a) No free standing signs shall be permitted except temporary or directory signs which shall be 10 ft. or more from any property line.

- (b) A temporary sign erected during construction of a building shall be 48 sq. ft. or less and 10 ft. or less in any dimension.

- (c) A free standing sign may be permitted for purposes of a business directory provided that no more than 20 sq. ft. shall be permitted for each business.

Note: Section Titles Adopted Art. 47 TM 1/31/77.

## 3.3.4 Municipal Uses (Town of Burlington)

### 3.3.4.1 Wall Signs

3.3.4.1.1 Wall Signs shall be the same as Business Districts

3.3.4.1.2 One (1) Building Directory shall be permitted on the exterior wall of the building at each entrance. A building directory shall not exceed one (1) s.f. for each Town Department.

### 3.3.4.2 Marquee Signs

3.3.4.2.1 Marquee Signs shall be the same as Business Districts.

### 3.3.4.3 Freestanding Ground Signs

- 3.3.4.3.1 One (1) freestanding sign shall be permitted for each Town owned property.
- 3.3.4.3.2 The freestanding sign shall be at least ten (10) ft. or more from any property line.
- 3.3.4.3.3 The maximum size for any freestanding sign shall be six (6) ft. in height and ten (10) ft. in length. The height of the sign shall be measured from the average adjoining grade to the top of the sign. The free standing sign is permitted to be double sided.
- 3.3.4.3.4 The freestanding sign shall be landscaped around its base so as to help diminish the exposure above grade of the sign structure. The freestanding sign is permitted to have a base. The base shall be included in the height calculation.

#### **3.3.4.4 Freestanding Message Monument Sign**

- 3.3.4.4.1 The Town of Burlington shall be permitted to install **three (3)** manually changeable letter freestanding signs. The location of said signs shall be determined by the Select Board.
- 3.3.4.4.2 The freestanding sign(s) shall be subject to the provisions of sections 13.1.5.3.2 through 13.1.5.3.4 for size and landscaping requirements.

Note: Adopted Art. 46 TM 5/17/10. App. A.G. 9/9/10. Posted 9/17/10 – 10/1/10.

#### **3.4 Severability**

The invalidity of any part or provision of this Article shall not invalidate any other Section or provision therein.

Note: Adopted Art. 7 TM 4/11/66. App. A.G. 6/23/66. Pub. BTU 7/14, 7/21, 7/28/66.

### **4.0 General**

4.1 No person shall in any way injure, pollute or obstruct any drinking fountain, waterway or water supply of the Town.

4.1.1 No person shall dispose of used or unused waste oil, or any other toxic or hazardous material, by abandoning it on any public or private property or by discarding it for disposal on the ground, in a sewer or storm drain, or in any commercial or residential rubbish or garbage, provided, however, that nothing in this section shall prohibit the disposal of empty containers in commercial or residential rubbish or garbage.

Note: Adopted Art. 16 1/14/91 TM. App. A.G. 3/22/91. Pub. Burl. News 4/4, 4/11 & 4/18/91.

#### **4.2 Earth Removal, Earth Moving, and Addition of Fill.**

No person shall remove "earth" from or add "fill" to any land within the Town of Burlington, except in conformance with this section.

4.2.1 Definitions:

4.2.1.1 For the purpose of this Bylaw, "earth" shall include soil, loam, sand, gravel, clay, peat, rock or other earth product.

4.2.1.2 For the purpose of this Bylaw, "fill" shall include "earth" and all nonorganic solid materials.

4.2.1.3 For the purpose of this Bylaw, "Board" shall mean Select Board.

4.2.2 Administration Procedure

4.2.2.1 No earth shall be removed from nor fill added to land in the Town without a written permit from the Board. Notwithstanding this section, no permit is required for landscaping, gardening, and planting in the usual use of land.

4.2.2.2 Any person wishing to obtain or renew a permit shall file an application in such form as the Board may require, together with a topographical plan showing existing and finished grades. A filing fee of Two Hundred Dollars (\$200.00) shall accompany the application form when a hearing is required.

4.2.2.3 No permit shall be issued, except as provided in Section 4.2.6 below, until a public hearing has been held by the Board, notice of which shall be given at least fourteen (14) days in advance in a newspaper of local circulation and the posting of copies thereof on municipal bulletin boards. Abutters and other parties in interest as determined by the Board shall be notified by certified mail.

4.2.2.4 No permit is transferable.

4.2.2.5 Each permit shall automatically expire upon the completion of the project for which it was issued or at such other time as may be specified by the Board. In no case shall a permit be issued for a period longer than eighteen (18) months.

4.2.2.6 The Board may waive the issuance of a permit for the moving of earth entirely within an individual parcel if not in violation of any Bylaw of the Town, provided that all minimum standards and limitations of this section are complied with, under the following circumstances: in the construction of a building, of a road (public or private); as part of a farm, garden, nursery, or cemetery; and when incidental to landscaping, construction of a swimming pool, or similar activities in connection with an existing building.

4.2.2.7 The Board may waive the public hearing when application for permit is submitted for the following purposes:

- (a) In connection with those activities listed under 4.2.2.6 when an excess of earth has been created which is unnecessary and unusable at the site.
- (b) When such earth excess is created in connection with the construction of a building, the amount to be removed shall be limited to the volume of the foundation and basement excavation for the building.
- (c) When such earth excess is created in connection with the construction of a road, the amount to be removed shall be limited to the excess of cut and fill required to satisfy Planning Board standards with respect to construction of ways.

4.2.2.8 No permit or waiver of permit for earth moving, removal or fill shall be issued within the 100-Year Flood Plain District, as defined in the Zoning Bylaw, unless the Select Board determine that all requirements of the 100-Year Flood Plain District will be fulfilled for the proposed work.

Note: Adopted Art. 18 TM 1/23/85. App. A.G. 4/12/85. Pub. Burl. News 4/25, 5/2/85.

4.2.2.9 The Select Board may waive strict compliance with the standards in Section 4.2.4, 4.2.5 and 4.2.6 when the applicant demonstrates that doing so serves the public interest and will not compromise the goals and objectives of this bylaw.

Note: Adopted Art. 20 TM 5/20/13. App. A.G.. July 29, 2013 Posted: 8/1 – 11/1/13

#### 4.2.3 General Limitations

No permit shall be issued, remain in force or be renewed for a project that will endanger the public safety or

health, or constitute a nuisance.

#### 4.2.4 Standards

The following requirements shall be the minimum operating standards for all earth moving or addition of fill.

4.2.4.1 No excavation or filling shall take place within 200 feet of existing public ways unless specifically permitted by the Board; and no excavation or filling shall take place within 50 feet of any adjoining lot where excavation or filling is not permitted. Natural vegetation shall be left and maintained on the undisturbed land.

4.2.4.2 Operations shall take place only between 7:30 a.m. and 5:00 p.m. Monday thru Friday.

4.2.4.3 All loaded vehicles shall be covered to prevent dust and spilling of contents.

4.2.4.4 All trucking routes shall be subject to approval by the Chief of Police.

4.2.4.5 All unpaved access ways shall be treated with oil, stone, or other suitable material to reduce dust and mud.

4.2.4.6 During operations, when an excavation is located closer than 200 feet from a residential area or public way and where the excavation will have a depth of more than 15 feet with a slope in excess of 1:1, a nonclimbable fence at least 6 feet high shall be erected to limit access to this area.

4.2.4.7 No area shall be excavated or filled so as to cause or permit the accumulation of freestanding water. Permanent drainage shall be provided as required by the Board.

4.2.4.8 All topsoil and subsoil shall be stripped from the operation area and stockpiled for use in restoring the area. No loam shall be removed from the Town.

4.2.4.9 Any temporary shelters or buildings erected on the premises shall be removed within 30 days after the expiration of the permit.

4.2.4.10 No excavation or filling shall be allowed within 50 ft. of a waterway unless specifically permitted by the Board.

4.2.4.11 No material shall be used for filling except "fill" as defined in this section.

4.2.4.12 No excavation or filling shall be allowed within four (4) feet above the high water table.

4.2.4.13 Within the Aquifer and Water Resource Districts as defined by the Zoning Bylaw, only clean fill shall be allowed. Clean fill is of granular material, well graded from fine to coarse with a maximum size of 6 inches, obtained from natural deposits. It shall not contain vegetation, masses of roots, or individual roots more than 18 inches long or more than 1/2 inch in diameter. It shall be substantially free from loam and other organic matter and clay.

It shall be free from chemical contaminants and other fine or harmful substances.

Note: Amended Art. 15 TM 1/12/83. App. A.G.3/22/83. Pub. Burl. News 3/31, 4/7/83.

#### 4.2.5 Restoration Standards

4.2.5.1 No slope shall be left steeper than one (1) foot vertical to two (2) feet horizontal.

4.2.5.2 All debris, organic material, and boulders shall be removed from the site or disposed of as required by the Board.

4.2.5.3 Prior to the expiration date of the permit, ground levels and grades shall be established as shown on the completed topographical plan.

4.2.5.4 Topsoil shall be spread over the disturbed area to a minimum depth of four (4) inches. This soil shall be treated with fertilizer and seeded as required. Trees or shrubs shall be planted as required. The planted area shall be protected from erosion during the establishment period.

4.2.5.5 "As built" drawings shall be prepared by a Registered Engineer or Land Surveyor at a scale of 1" equals 40' or a scale acceptable to the Board showing final grades; location of monuments and their elevation; location and size of underground drainage and other utilities installed, the location boundaries, and depth of organic fill areas; the location of access roads; and similar permanent improvements when the site is completed. Such "as built" drawings shall be prepared and submitted to the Board before any release of performance guarantee.

#### **4.2.6 Performance Guarantee**

A cash deposit, a bank deposit, or certified check will be required in an amount sufficient to comply with the terms of the permit and this section. In the event that the permit holder does not complete all work covered by the terms of the permit, the Town may use all or part of the security deposit to complete such work. The security deposit or the balance thereof will be released only after the land has been restored as outlined above and sufficient time has elapsed to indicate that the seeding and planting are established and the drainage is satisfactory.

#### **4.2.7 General Administration**

4.2.7.1 The Board and its agents shall be permitted access to inspect the premises at all times.

4.2.7.2 Upon petition of the permit holder, the Board, after public hearing, may reissue and/or modify the permit.

4.2.7.3 The Board, after notice to permit holder and a hearing, if requested, may order the revocation or suspension of a permit if the conditions established thereunder are not complied with; but the permit holder in such situation shall not be relieved of his obligations thereunder.

4.2.7.4 Any earth moving, earth removal, or filling project in progress, or authorized by a permit under any other Bylaw at the time this section becomes effective, shall forthwith be subject to the provisions of this section, and the owner of the involved land shall, within 30 days after the effective date of this section, submit an application for a permit as prescribed. The effective date of such permit shall be the effective date of this section.

#### **4.2.8 Violations**

4.2.8.1 The Board, if it concludes that there has been a violation of this Bylaw, shall send to the offender by certified mail, a notice ordering immediate compliance with the terms of the permit and this section.

4.2.8.2 The penalty for violation of this Bylaw shall be a fine of not more than Fifty Dollars for the first offense, not more than One Hundred Dollars (\$100.00) for the second offense; and not more than Two Hundred Dollars (\$200.00) for any subsequent offense. Each day a violation continues, after notification, shall be a separate offense, except that each truckload of earth or portion thereof removed from the premises shall be considered a separate offense.

Note: Amended Art. 17 TM 2/24/75. App. A.G. 5/20/75. Pub. BTU 6/12, 6/19, 6/26/75.

#### 4.3 Storage of Chlorides by DPW Near Vine Brook

The storage of chlorides or chlorides mixed with sand, or the mixing of chlorides with sand, or placing of any chloride solution upon the ground surface on the property known as the Town Highway Barn, located on Great Meadow Road adjacent to the Vine Brook, or any other parcels adjacent to the Vine Brook, is prohibited.

Note: Adopted Art. 6 Spec. TM 6/24/68. App. A.G. 8/20/68. Pub. BTU 9/5, 9/12, 9/19/68.

#### 4.4 Use of Chlorides Within the Town

The use of sodium chloride is prohibited on private or public ways or parking lots in the Town of Burlington, with the exception of public ways outside of the Aquifer and Water Resource Districts, where a mixture of sodium chloride to sand not to exceed 1:4 may be used. The use of calcium chloride is allowed throughout the Town.

Note: Adopted Art. 35 TM 12/18/72. App. A.G. 1/29/73. Pub. BTU 2/8, 2/15, 2/22/73. Amended Art. 5 TM 1/13/93. App. A.G. 3/2/93. Pub. Burl. News 3/17, 3/24/93.

**4.5 Construction Hours** - The purpose of this bylaw is to set limits on the hours that construction activity can take place in order to minimize the impact to abutters and to the surrounding area, that would impair the normal use and peaceful enjoyment of any property, structure or dwelling therein.

**4.5.1 Definitions** - In this context, construction activity includes, but is not limited to: demolition, repair, paving, grading, excavation, and construction or alteration of buildings and streets. It also includes activities related to such construction, such as:

- a. The delivery, pickup, or movement of equipment or material
- b. Offensive noise or vibration

**4.5.2 Weekday Construction Hours** – Weekday construction activity shall be allowed only between the hours of 7:00 AM to 7:00 PM.

**4.5.3 Saturday Construction Hours** – Saturday construction activity shall be allowed only between the hours of 9:00 AM to 7:00 PM.

**4.5.4 Sunday and Holiday Construction Hours** – Sunday and legal (state and federal) holiday construction activity shall be allowed only for the maintenance, repair, or improvement of owner occupied residential property that does not involve the use of heavy construction equipment. Said activity must be performed by the owner or, under the supervision of the owner, the owner's family or friends. This activity shall be allowed only between the hours of 9:00 AM to 7:00 PM.

**4.5.5 Applicability** – This bylaw applies to all zoning districts. This bylaw shall not apply to emergency construction activities. Nothing in this bylaw shall limit the authority of the following town boards to set or limit construction hours:

- a. The Planning Board, as part of the issuance of a special permit or as part of the terms and conditions included in a "Decision" document.
- b. The Select Board.

**4.5.6 Enforcement** - This bylaw shall be enforced through non-criminal disposition by the Building Inspector, his or her designee, or any police officer of the Town of Burlington.

**4.5.7 Penalties for Violations** - Violators of this bylaw shall be issued a warning on the first violation. Each subsequent violation shall result in a fine of \$300, each day of violation to constitute a separate offense;

Note: Adopted Art. 7 TM 9/24/18. App. A.G. 12/12/18 Posted .

**4.6 Curbside Material Pickup Start Time** - The purpose of this bylaw is to set the start time curbside

pickup of materials can begin in order to minimize disturbances to residents.

4.6.1 Definitions – Curbside Materials shall include, but not be limited to, trash, refuse, garbage, recyclables, appliances, and yard waste.

4.6.2 Curbside Material Pickup Start Time – Curbside material pickup shall not be allowed before 7:00 AM.

4.6.3 Applicability – This bylaw applies to all zoning districts. Each of the following shall have the authority to suspend application of this bylaw during an emergency condition for a period not to exceed 30 days in any single instance: Select Board, Town Administrator, Director of Public Health, and Director of Public Works.

4.6.4 Enforcement – This bylaw shall be enforced through non-criminal disposition of the Superintendent of Public Works, his or her designee, or any police officer of the Town of Burlington.

4.6.5 Penalties of Violations – Violators of the bylaw shall be issued a warning on the first violation. Each subsequent violation shall result in a fine of \$300; each day of violation constitutes a separate offense.

Note: Adopted Art. 15 TM 01/25/2021. App. A.G 05/18/2021. Posted 05/24/2021

## 5.0 Water Supply Conservation

### 5.1 Authority

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

### 5.2 Purpose

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

### 5.3 Definitions

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

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c21G, §15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 5.4 of this bylaw.

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

### 5.4 Declaration of a State of Water Supply Conservation

The Town, through its Select Board, may declare a State of Water Supply Conservation, upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 5.6 of this bylaw before it may be enforced.

#### 5.5 Restricted Water Uses

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 5.6.

Odd/Even Day Outdoor Watering. Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.

Outdoor Watering Ban. Outdoor watering is prohibited.

Outdoor Watering Hours. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.

Filling Swimming Pools. Filling of swimming pools is prohibited.

Automatic Sprinkler Use. The use of automatic sprinkler systems is prohibited.

#### 5.6 Public Notification of a State of Water Supply Conservation: Notification of DEP

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section 5.5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

#### 5.7 Termination of a State of Water Supply Conservation: Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Select Board upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by section 5.6.

#### 5.8 State of Water Supply Emergency: Compliance with DEP Orders

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

#### 5.9 Penalties

Any person violating this bylaw shall be issued a warning for the first violation, and shall be liable to the Town in the amount of \$50.00 for the second violation, and \$100.00 for each subsequent violation which shall go to the General Fund. Fines shall be recovered by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

Note: Adopted Art. 7 TM 10/01/01. App. A.G. 12/18/01. Pub. Daily Times 12/27/01 & 1/3/02.

### **BURLINGTON STORM WATER MANAGEMENT BYLAW GOVERNING EROSION AND SEDIMENTATION CONTROL FOR NEW AND REDEVELOPMENT PROJECTS DURING CONSTRUCTION AND POST-CONSTRUCTION PERIODS.**

#### 6.0 Erosion and Sedimentation Control

Regulation of discharges is necessary for the protection of the Town of Burlington water bodies and groundwater, as well as for safe guarding the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with development and redevelopment projects and the accompanying increase in impervious surface are major causes of impairment, including:

- a. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- b. contamination of drinking water supplies;
- c. alteration or destruction of aquatic and wildlife habitat;
- d. flooding;
- e. erosion of stream channels; and
- f. overloading or clogging of municipal catch basins and storm drainage systems.

This Bylaw establishes stormwater management standards to minimize adverse impacts that would be borne by abutters, townspeople and the general public and complies with all the applicable state and Federal statutes and regulations detailed in subsequent sections of this Bylaw.

## 6.1 Definitions

**ABBREVIATED EROSION AND SEDIMENTATION CONTROL PERMIT:** A permit issued for a land-disturbing activity equal to or greater than 10,000 square feet, but less than 20,000 square feet.

**ABUTTER:** The owner(s) of land abutting or within three hundred feet of the activity.

**ALTERATION OF DRAINAGE CHARACTERISTICS:** Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff from a pre-activity condition. Such changes from a pre-activity condition may include: change from distributed runoff to confined discrete point discharges, change in the volume of runoff from the area, change in the peak rate of runoff from the area, and change in the recharge to groundwater on the area.

**APPLICANT:** Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a soil erosion and sedimentation control permit for proposed land-disturbance activity.

**AS-BUILT DRAWING:** Drawings that completely record and document applicable aspects and features of conditions of a project following construction using Stormwater Management Plans derived from an erosion and sedimentation control permit.

**AUTHORIZED ENFORCEMENT AGENCIES:** The Burlington Conservation Commission is the lead agency with authority given by this Bylaw to promulgate regulations and policies that support the goals and objectives of this Bylaw. The Burlington Conservation Commission, its employees or agents, and the Burlington Planning Board, its employees or agents will share the administration and enforcement of this Bylaw as detailed herein.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff. It shall also include schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems.

**COMMON PLAN OF DEVELOPMENT:** A contiguous area where multiple separate and distinct construction activities

may be taking place at different times on different schedules under one plan.

**CONSTRUCTION AND WASTE MATERIALS:** Excess or discarded building or site materials, including, but not limited to, concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

**CLEARING:** Any activity that removes the vegetative surface cover.

**DEVELOPMENT:** The modification of land to accommodate a new use, revised use, or expansion of use, usually involving construction.

**DISTURBANCE:** Action to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, cutting and filling), soil compaction and movement and stockpiling of topsoils.

**EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**EROSION AND SEDIMENTATION CONTROL PLAN:** A document containing narrative, drawings and details developed by a qualified professional engineer (PE), a Certified Professional in Erosion and Sedimentation Control (CPESC) or other qualified professional, which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land-disturbing activities.

**EROSION AND SEDIMENTATION CONTROL PERMIT:** A permit with conditions upon a proposed land-disturbing activity issued by either the Burlington Conservation Commission or Burlington Planning Board under this Bylaw.

**EROSION AND SEDIMENTATION CONTROL APPLICATION PACKAGE:** The application materials consisting of a Stormwater Management Plan, an Erosion and Sedimentation Control Plan, and an Operation and Maintenance Plan submitted to either the Burlington Conservation Commission or Burlington Planning Board (as stipulated within this Bylaw) requesting an Erosion and Sedimentation Control Permit.

**GRADING:** Changing the level or shape of the ground surface contour by means of excavation, fill, in-place ground modification, or any combination thereof, including the establishment of a grade following demolition of a structure.

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

**IMPERVIOUS SURFACE:** Any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include, but is not limited to: roads, driveways, parking areas and other areas created using non-porous material; buildings, rooftops, structures, artificial turf and compacted gravel or soil.

**LAND-DISTURBING ACTIVITY:** Any activity that causes a change in the existing soil cover which includes the position or location of soil, sand, rock, gravel, or similar earth material. Land-disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Landscaping activities which involve greater than or equal to 500 square feet are considered a land-disturbing activity and may be the subject of enforcement action under this Bylaw. Routine landscaping activities which involve less than 500 square feet are not considered a land-disturbing activity for the purposes of this Bylaw.

**LAND IN AGRICULTURAL USE:** Normal maintenance and improvement of land in agricultural or aquacultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.4.

**LOW IMPACT DEVELOPMENT (LID):** An ecosystem-based approach to land development and stormwater management that ensures each development site is designed to protect, or restore, the natural hydrology of the site. This can be achieved by the incorporation of non-structural and natural approaches to new and redevelopment projects to reduce adverse effects on water quality and the natural environment by conserving natural areas, reducing impervious cover and better integrating stormwater treatments.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Department of

Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 §. 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site.

**MILL AND OVERLAY:** A street maintenance technique that requires the removal of the top layer (two inches) of a street by the grinding action of a large milling machine. After the top layer is removed, a new layer of bituminous pavement is put in its place.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** The municipal storm drain system is the system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Burlington.

**NEW DEVELOPMENT:** any construction activities or land alteration on an area that has not previously been developed to include impervious cover.

**NONPOINT SOURCE POLLUTION:** Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and man-made pollutants, finally depositing them into a water resource area.

**OPERATION AND MAINTENANCE PLAN:** A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure it continues to function as designed.

**OWNER:** A person with a legal or equitable interest in the property.

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

**PLAN:** A technical drawing that shows details of how a building or site will be built or developed.

**PRE-CONSTRUCTION:** All activity in preparation for construction.

**REDEVELOPMENT:** Any construction, land alteration or improvement of impervious surfaces that does not meet the definition of new development.

**RESPONSIBLE PARTY:** Any entity holding the fee title to the property or other person contracted or obligated by other agreement to implement and maintain pre- and post-construction stormwater BMPs.

**RUNOFF:** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT:** Mineral or organic soil material that is the product of erosion processes and is transported by wind or water from its origin to another location.

**SEDIMENTATION:** The process or act of deposition of sediment.

**SITE:** Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

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

**SOIL:** Any earth, sand, rock, gravel, clay or similar material.

**STABILIZATION:** The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

**STANDARD EROSION AND SEDIMENTATION CONTROL PERMIT:** A permit issued under this Bylaw containing a standard set of conditions requiring best management practices be implemented to prevent erosion and sedimentation from the site. This permit applies to sites proposing a land-disturbing activity of greater than 20,000 square feet or greater than 500 cubic yards.

**STORMWATER:** Rainwater runoff, snow melt runoff, and surface water runoff and drainage.

**STORMWATER MANAGEMENT PLAN:** A plan showing existing and proposed features on a site. This is required as part of the application for an Erosion and Sedimentation Control Permit. See Section 6.6.2.

**STRIP:** Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

**TOTAL MAXIMM DAILY LOAD (TMDL):** Is a calculation of the maximum amount of a pollutant a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes load allocations for nonpoint sources and/or natural background and must include a margin of safety and account for seasonal variations.

**TOTAL SUSPENDED SOLIDS (TSS):** Total Suspended Solids is a water quality measurement that includes particles suspended in water that will not pass through a filter.

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

**WETLAND RESOURCE AREA:** Areas specified in either the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 or in Burlington's Wetland Bylaw (Article XIV).

**WETLANDS:** Areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments including freshwater marshes around ponds and channels (rivers and streams). Common names include marshes, swamps and bogs.

## **6.2 Detailed Objectives**

This Bylaw complies with Federal and state statutes and regulations relating to stormwater discharges including total maximum daily load requirements and with the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts, issued by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection ("MS4 Permit"). It is intended to:

- a. Protect ground water and surface water to prevent degradation of drinking water supply;
- b. Require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land-disturbing activities;
- c. Promote infiltration and the recharge of groundwater;
- d. Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
- e. Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at a construction site that may cause adverse impacts to water quality;
- f. Establish minimum construction and post-construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

- g. Prevent pollutants from entering the Burlington MS4 and to minimize discharge of pollutants from the MS4;
- h. Ensure adequate long-term operation and maintenance of structural stormwater best management practices so that stormwater structures work as designed;
- i. Comply with Federal and state statutes and regulations relating to stormwater discharges; and
- j. Establish the legal authority for the Town of Burlington to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.

#### **6.3 Authority**

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

#### **6.4 Applicability**

No person may undertake any construction activity that results in a land-disturbing activity that disturbs equal to or greater than 10,000 square feet of land that drains to

- the Burlington municipal separate storm sewer system, or
- onto an adjacent property, or
- into a municipal / private street, or
- into a wetland / stream

without an Erosion and Sedimentation Control Permit from either the Burlington Conservation Commission or the Burlington Planning Board. Segmenting projects part of a larger common plan of development or sale to avoid thresholds shall not be permitted.

Exemptions from the requirement to obtain a permit (under this Bylaw) are:

- a. Roadway projects that do not remove existing pavement down to underlying dirt/soil (i.e. mill and overlay) as they are not land-disturbing redevelopment activities;
- b. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
- c. Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling disturbing less than 10,000 square feet;
- d. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- e. Construction of utilities other than drainage (gas, water, electric, cable, telephone, etc.) which will not alter terrain or drainage patterns;
- f. As authorized in Burlington's Phase II Small MS4 General Permit, stormwater discharges resulting from the activities identified in Section 6.4 that are wholly subject to jurisdiction under either the Wetlands Protection Act or activities which are subject to Burlington's Bylaw Article XIV and demonstrate compliance with the Massachusetts Stormwater Management Regulations as reflected in an Order of Conditions issued by the Burlington Conservation Commission, are exempt from compliance with this Bylaw.

#### **6.5 Responsibility for Administration**

The Burlington Conservation Commission shall be the lead agency that may grant waivers and promulgate regulations to support this Bylaw as specified in Sections 6.5.1 and 6.5.2 below. The Burlington Conservation Commission and the Burlington Planning Board shall have shared responsibilities to administer and implement

this Bylaw. Any powers granted to, or duties imposed upon either the Burlington Conservation Commission or the Burlington Planning Board may be delegated to their respective employees and/or their agents, and with mutual concurrence these duties may be delegated to each other's respective employees and/or their agents.

#### 6.5.1 Waiver

The Burlington Conservation Commission shall be the lead agency to grant a waiver of compliance with this Bylaw. The Commission, with input from the Planning Board, may waive strict compliance with any requirement of this Bylaw or the rules and regulations promulgated hereunder, where:

1. Such action is allowed by Federal, state and local statutes and/or regulations; and
2. is in the public interest; and
3. is not inconsistent with the purpose and intent of this Bylaw.

#### 6.5.2 Rules and Regulations

6.5.2.1 The Burlington Conservation Commission shall be the lead agency to initiate a change to this Bylaw. The Burlington Conservation Commission working with input from the Burlington Planning Board may adopt, and periodically amend, rules and regulations to effectuate the purposes of this Bylaw by majority vote of the Burlington Conservation Commission, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date.

6.5.2.2 Failure by the Burlington Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

### 6.6 Standard Erosion and Sedimentation Control Permit

#### 6.6.1 Application for Standard Erosion and Sedimentation Control Permit

6.6.1.1 The site owner or his/her agent shall file with the Burlington Conservation Commission three (3) copies of a completed application package for a Standard Erosion and Sedimentation Control Permit. Permit issuance is required prior to any site-altering activity. While the Applicant can be a representative of the site owner, the permittee must be the owner of the site.

#### 6.6.1.2 Standard Erosion and Sedimentation Control Application Package

The Standard Erosion and Sedimentation Control Application package shall include:

- a completed Application Form with original signatures of all owners plus two (2) copies of the signed form;
- a list of abutters within three hundred feet of the proposed activity certified by the Assessor's Office;
- three (3) copies of the Stormwater Management Plan and project description referenced in Section 6.6.2 of this Bylaw;
- three (3) copies of the Erosion and Sediment Control Plan as referenced in Section 6.8 of this Bylaw;
- three (3) copies of the Operation and Maintenance Plan as referenced by Section 6.6.4 of this Bylaw;
- one (1) electronic copy of the complete package; and
- payment of the application fees.

#### 6.6.2 Stormwater Management Plan

The Stormwater Management Plan shall contain sufficient information for the issuing Commission/Board to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards (or as revised), the Massachusetts Stormwater Management Handbook Volumes I and II (or as revised), and any specific regulations promulgated under this Bylaw.

#### **6.6.2.1 Stormwater Management Plan Content**

The Stormwater Management Plan shall fully describe the project in drawings and narrative. The Stormwater Management Plan shall conform to any detail provided in either regulations or policies promulgated under this Bylaw. The Conservation Administrator may, at his/her discretion, waive some detail requirements described below as long as in his/her opinion, the goals and objectives of this Bylaw are not compromised.

#### **6.6.2.2 Standards**

The Stormwater Management Plan shall meet the current Standards of the Massachusetts Stormwater Management Policy and the MS4 permit requirements of the Town of Burlington. When one or more of the standards cannot be met, an Applicant may demonstrate an equivalent level of environmental protection will be provided. This determination shall be at the discretion of the Conservation Commission.

#### **6.6.3 Erosion and Sedimentation Control Plan**

The Erosion and Sedimentation Control Plan contained within the Stormwater Management Plan shall contain sufficient information to describe the proposed erosion and sedimentation controls. The Applicant shall submit such material as is necessary to show the proposed development will comply with the design requirements referenced in Section 6.6.3.2 below. The Conservation Administrator may, at his/her discretion, waive some detail requirements described below as long as, in his/her opinion, the goals and objectives of this Bylaw are not compromised.

##### **6.6.3.1 Erosion and Sedimentation Control Plan Content**

The Plan shall at a minimum contain the following information:

- a. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
- b. Title, date, north arrow, names of abutters, scale, legend, and locus map;
- c. Location and description of natural features.

##### **6.6.3.2 Standards**

The Erosion and Sedimentation Control Plan must conform to the details of any regulations and policies promulgated under this Bylaw.

#### **6.6.4 Operations and Maintenance Plan**

Operation and Maintenance plan (O&M Plan) is required as part of the Stormwater Management Plan at the time of application for all projects. Upon request by the Applicant, the issuing Commission/Board may delay the completion date of the O&M plan, but in all cases, the O&M Plan must be submitted and approved prior to the completion of the project and before any occupancy takes place.

##### **6.6.4.1 Content**

The O&M Plan shall remain on file with the issuing Commission/Board and shall be an ongoing requirement for the Responsible Parties in perpetuity. The details of the O&M Plan shall conform to the requirements of any regulations and policies promulgated under this Bylaw. The O&M Plan shall, at a minimum, include:

- A. The name(s) of the owner(s) for all components of the system;
- B. Detail of maintenance agreements;

C. Detail on stormwater management easement(s);

D. Changes to O&M Plans

1. The owner(s) of the stormwater management system must notify the issuing Commission/Board of changes in ownership or assignment of financial responsibility.
2. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this Bylaw by mutual agreement of the issuing Commission/Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

#### **6.6.4.2 Standards**

The O&M plan shall be designed to ensure compliance with the Permit and this Bylaw and that the Massachusetts Surface Water Quality Standards, 314, CMR 4.00 are met in all seasons and throughout the life of the system. The issuing Commission/Board shall make the final decision of what maintenance option is appropriate in a given situation. The issuing Commission/Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision.

#### **6.6.4.3 Recording**

The O&M Plan for a project with a Standard Erosion & Sedimentation Control Permit shall be recorded at the Southern Middlesex Registry of Deeds prior to occupancy. The Applicant shall provide proof to the issuing Commission/Board that the O&M Plan has been filed.

#### **6.6.5 Public Hearing**

6.6.5.1 Within seven (7) days of the filing date, the Burlington Conservation Commission (through its agent) shall make a determination on whether to schedule a formal hearing before the Commission, or shall delegate its authority under this Bylaw to the Burlington Planning Board. In either case, a formal public hearing is required. This determination shall be made based on an assessment of the potential for sedimentation and erosion from the proposed land-disturbing activity (including grubbing, clearing and/or grading). The Commission's agent shall give consideration to the original and proposed grading of the site, existing slopes, the presence of intermittent streams or channels, the size of the site, and/or other factors which may contribute to runoff and erosion potential. Proposed projects where routine erosion and sedimentation controls are needed, will be referred to the Burlington Planning Board for a simultaneous hearing for this permit with other matters in connection with this project. This action will expedite the permitting process for an Applicant who must appear before the Burlington Planning Board for other matters in connection with the proposed work.

6.6.5.2 If the Burlington Conservation Commission or its agent delegates its authority under this Bylaw to the Burlington Planning Board, the staff of the Burlington Conservation Commission shall transfer the original application package (and associated copies) to the Burlington Planning Board office. The Burlington Conservation Commission shall also notify the Applicant in writing of the Commission's decision to refer this application to the Burlington Planning Board. The Applicant shall also be notified the hearing will be scheduled before the Burlington Planning Board within twenty-one (21) days of the receipt of a complete application or at a time to coincide with other regulatory matters which are being heard by the Board on the same project.

6.6.5.3 The issuing Commission/Board shall hold a public hearing within twenty-one (21) days of the receipt of a complete application (or a greater timeframe as mutually agreed upon) and shall take final action within either twenty-one (21) days from the time of the close of the hearing or within such longer time period mutually agreed to by both the Commission/Board and the Applicant to coincide with other regulatory decisions on the same project. Notice of the public hearing shall be given by publication and posting, and by first-class mailings to abutters (owners of land within three hundred feet from the boundary of the site) at least seven (7) days prior to the hearing. The issuing Commission/Board shall make the application available for inspection by the public during business hours at the issuing Commission/Board office.

## **6.7 Abbreviated Erosion and Sedimentation Control Permit**

The site owner or his/her agent shall file with the Burlington Conservation Commission two (2) copies of a completed application package for an Abbreviated Erosion and Sedimentation Control Permit. Permit issuance is required prior to any site-altering activity. While the Applicant can be a representative of the site owner, the permittee must be the owner of the site.

### **6.7.1 Content**

The application package shall contain an Application Form and a Stormwater Management/Erosion and Sediment Control Plan. The Stormwater Management/Erosion Control Plan shall at a minimum contain sufficient information to describe the existing and proposed features of the land including structures, vegetation, and drainage and anticipated maintenance requirements of structures.

### **6.7.2 Standards**

The Stormwater Management/Erosion Control Plan shall conform to any detail provided in either regulations or policies promulgated under this Bylaw.

### **6.7.3 Abbreviated Erosion and Sedimentation Control Permit Issuance**

Within seven (7) days of the filing date, the agent of the Burlington Conservation Commission will issue an Abbreviated Erosion and Sedimentation Control Permit under this Bylaw. No public meeting or hearing shall be required for sites in this category. For sites in this size category not adequately covered by the Abbreviated Erosion and Sedimentation Control Permit, additional special conditions may be appended by the Commission. The Commission may extend the seven (7) day turnaround time for issuing the Abbreviated Erosion and Sedimentation Control Permit for reasons of insufficient information of which the Applicant has been notified in writing.

## **6.8 Performance Standards**

6.8.1 At a minimum all projects subject to a Standard Erosion and Sedimentation Control Permit shall comply with the performance standards of the most recent version of the Massachusetts stormwater management standards and The Massachusetts Stormwater Handbook, and this Bylaw.

6.8.2 All projects must consider and, unless infeasible, propose and implement Low Impact Development (LID) Best Management Practices listed in the Massachusetts Stormwater Handbook. Applicants shall demonstrate compliance with design standards for LID BMPs through generally accepted methods. LID BMPs should be considered for their improvements to water quality, and ability to handle water quantity.

6.8.3 Stormwater management systems on new development disturbing more than one acre shall be designed to meet an average annual pollutant removal equivalent to 90% of the average annual load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 60% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site.

6.8.4 Stormwater management systems on redevelopment sites disturbing more than one acre shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual post-construction load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 50% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site.

6.8.5 When determining whether the requirements have been met, the issuing commission/board shall consider all stormwater management practices available and capable of being implemented after taking into consideration costs, existing technology, proposed use, and logistics in light of overall project purposes. Project purposes shall be defined generally (e.g., single family home or expansion of a commercial development). Applicants shall detail how the project will:

- a. Comply with the Massachusetts Stormwater Management Standards as further defined in the Massachusetts Stormwater Handbook or its successor;
- b. Implement structural and non-structural stormwater best management practices (BMPs) for projects that discharge, directly or indirectly, to a water body subject to one or more pollutant-specific Total Maximum Daily Loads (TMDLs). These practices shall be consistent with each such TMDL;
- c. Implement structural and non-structural stormwater BMPs optimized to remove the pollutant(s) responsible for the impairment to the extent the project will discharge, directly or indirectly, to an impaired water body not subject to a TMDL;
- d. Avoid disturbance of areas susceptible to erosion and sediment loss;
- e. Use Low Impact Development (LID) techniques where adequate soil, groundwater and topographic conditions allow. These may include, but not limited to, reduction in impervious surfaces, disconnection of impervious surfaces, bioretention (rain gardens), and infiltration systems.

6.8.6 Redevelopment activities exclusively limited to maintenance and improvement of existing roadways (excavating down to dirt/soil), including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects shall only be required to improve existing drainage conditions where feasible.

6.8.7 Further criteria for Stormwater Management Standards shall be defined and included as part of any Rules and Regulations promulgated under Section 6.5.3 of this Bylaw.

#### 6.9 Entry

Filing an application for a permit grants the issuing Commission/Board and its agents permission to enter the site to verify the information in the application.

#### 6.10 Fee Structure

##### 6.10.1 Standard Erosion and Sedimentation Control Permit fee

The issuing Commission/Board shall obtain with each submission an Application Fee. The fee shall be established by the Burlington Conservation Commission with input from the Burlington Planning Board to cover expenses connected with the public hearing and application review for the Erosion and Sedimentation Control Permit and a technical Review Fee (if requested by the Commission/Board) sufficient to cover professional technical review, if needed. The Commission/Board is authorized to retain a Registered Professional Engineer or other professional consultant to advise the issuing Commission/Board on any or all aspects of these plans as provided by G.L.c. 44, Section 53G. Applicants must pay all review fees due before a permit will be issued. The Commission/Board will not be subject to final action deadlines if the appropriate fees have not been paid.

##### 6.10.2 Abbreviated Erosion and Sedimentation Control Permit fee

The Commission will establish a reduced fee schedule.

#### 6.11 Information requests

The Applicant shall submit all additional information requested by issuing Commission/Board to issue a decision on the application.

#### 6.12 Approval Process for a Standard Erosion Control Permit

The issuing Commission/Board may:

1. Issue an Erosion and Sedimentation Control Permit based upon a determination the proposed plan meets the Massachusetts Stormwater Management Standards referenced by Section 6.6.2.2, adequately protects the water resources of the community, and complies with the requirements set forth in this Bylaw;

1. Issue an Erosion and Sedimentation Control Permit based upon a determination the proposed plan meets the Massachusetts Stormwater Management Standards referenced by Section 6.6.2.2, adequately protects the water resources of the community, and complies with the requirements set forth in this Bylaw;

2. Issue an Erosion and Sedimentation Control Permit subject to any conditions, modifications or restrictions required by the issuing Commission/Board which will ensure the project meets the Massachusetts Stormwater Management Standards referenced by Section 6.6.2.2 and adequately protect water resources, set forth in this Bylaw;

Disapprove the issuance of an Erosion and Sedimentation Control Permit based upon a determination the proposed plan as submitted does not meet the Massachusetts Stormwater Management Standards referenced by Sections 6.6.2.2, 6.6.3.2, 6.6.4.2, 6.7.2 or 6.8 or adequately protect surface and/or groundwater resources as set forth in this Bylaw.

3. Failure of the Issuing Commission/ Board to take final action upon an application within either twenty-one (21) days from the time of the close of the hearing or within such longer time period mutually agreed to by both the Commission/Board and the Applicant to coincide with other regulatory decisions on the same project, shall be deemed to be approval of said Application.

#### **6.13 Project Changes**

The permittee must notify the issuing Commission/Board in writing of any drainage change or alteration in the system authorized in an Erosion and Sedimentation Control Permit before any change or alteration is made. If the issuing Commission/Board determines the change or alteration is significant based on the Stormwater Management Standards in Sections 6.6.2.2, 6.6.3.2, 6.6.4.2, 6.7.2 or 6.8 of this Bylaw and accepted construction practices, the issuing Commission/Board may require an amended application be filed and a public hearing held. The issuing Commission/Board may also require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

#### **6.14 Project Completion**

Upon completion of the project, the permittee shall submit as-built record drawings of all structural stormwater controls and best management practices implemented for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

#### **6.15 Inspection and Site Supervision**

##### **6.15.1 Pre-construction Meeting**

When requested, prior to the start of clearing, excavation, construction, or land-disturbing activity, the Applicant, the Applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with the issuing Commission/Board, to review the permitted plans and their implementation.

##### **6.15.2 Commission/Board Inspections**

6.15.2.1 The issuing Commission/Board or its designated agents shall make inspections as needed and shall either approve any portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sedimentation Control Permit as approved.

6.15.2.2 If inspections are required by the Commission/Board, the permittee shall notify the issuing Commission/Board at least two (2) working days before each of the following events:

- a. Erosion and sediment control measures are in place and stabilized;
- b. Site clearing has been substantially completed;
- c. Rough grading has been substantially completed;
- d. Final grading has been substantially completed;
- e. Close of the construction season; and
- f. Final landscaping (permanent stabilization) and project final completion.

### **6.15.3 Permittee Self-Inspections**

The permittee or his/her agent shall conduct and document inspections of all control measures) no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections shall be to determine the overall effectiveness of the control plan and the need for maintenance or additional control measures. The permittee or his/her agent shall submit weekly reports to the issuing Commission/Board or designated agent in a format approved by the issuing Commission/Board, which may include the signature of the Professional Engineer if required by the issuing Commission/Board.

### **6.15.4 Access Permission**

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the issuing Commission/Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Bylaw and may make, or cause to be made, such examinations, surveys or sampling as the issuing Commission/Board deems reasonably necessary to determine compliance with the permit.

## **6.16 Surety**

As part of any Erosion and Sedimentation Control Permit, the issuing Commission/Board may require the permittee to post before the start of land-disturbing activity a cash surety. The bond shall be in an amount deemed sufficient by the issuing Commission/Board to ensure that the work will be completed in accordance with the permit. For a phased project the issuing Commission/Board may release part of the bond upon completion of each phase in compliance with the permit. The amount released shall be at the discretion of the issuing Commission/Board. However, the bond may not be fully released until the issuing Commission/Board has received the final report as required by Section 6.16 and issued a certificate of completion.

## **6.17 Final Reports**

Upon completion of the work and if required by the issuing Commission/Board, the permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.), surveyor, certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

## **6.18 Enforcement**

The Burlington Planning Board and Burlington Conservation Commission and their employees and agents shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Persons subject to enforcement under this Bylaw include:

- a. All permittees who have been issued a Standard Erosion and Sedimentation Control Permit;
- b. All permittees who have been issued an Abbreviated Erosion and Sedimentation Control Permit; and
- c. All other persons who have engaged in a land-disturbing activity as defined in this Bylaw as greater than 500 square feet, who have caused substantial erosion and sedimentation due to alteration of drainage characteristics, grading, grubbing, clearing, and/or stripping of soil.

### **6.18.1 Orders**

6.18.1.1 The issuing Commission/Board or an authorized agent of the issuing Commission/Board may issue a written order to enforce the provisions of this Bylaw or the regulations thereunder which may include:

- a. A requirement to cease and desist from the land-disturbing activity until there is compliance with this Bylaw and its provisions of any permit issued;

- b. Maintenance, installation or performance of additional erosion and sediment control measures;
- c. Monitoring, analyses, and reporting;
- d. Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
- e. Elimination of illicit connections or discharges to the MS4; and
- f. Elimination of discharges to the MS4 or, directly or indirectly, into a watercourse or into the waters of the Commonwealth.

6.18.1.2 If the enforcing Commission/ Board or its agents determines abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Commission/Board may under this Bylaw and subsequent regulation promulgated hereunder impose a fine on a daily basis until such time as the abatement or remediation of erosion and sedimentation has been completed. The Town of Burlington, at its option, may seek a court order requiring the property owner to perform the work.

#### **6.18.2 Criminal Penalty**

Any person who violates any provision of this Bylaw, regulation, order or permit issued thereunder shall be punished by a fine. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

#### **6.18.3 Non-Criminal Disposition**

As an alternative to criminal prosecution or civil action, the Town of Burlington may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, in which case the Conservation Administrator of Burlington shall be the enforcing agent. The penalty for the first violation shall be \$100 each day or part thereof such violation occurs. The penalty for the second violation shall be \$300 each day or part thereof such violation occurs. The penalty for subsequent violations shall be \$300 each day or part thereof for every day such violation occurs. For the purposes of issuing a non-criminal disposition penalty, both the Burlington Planning Board Director and Burlington Conservation Commission Administrator are named as the specific enforcing agents.

#### **6.18.4 Appeals**

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

#### **6.18.5 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.

#### **6.19 Certificate of Completion**

Upon determining all work completed under a Standard permit has been satisfactorily completed in conformance with this Bylaw and the Permit, and all required documentation has been submitted per Section 6.14, the issuing authority shall issue a Certificate of Completion. This Certificate shall identify any continuing requirements. The Certificate of Completion shall stipulate the permit holder is to remove required erosion controls unless changed or waived by the Conservation Administrator within thirty (30) days of the date on the Certificate.

#### **6.20 Severability**

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.

Note: Amended Art. 29 TM 05/10/2021. App. AG. 08/31/2021 Posted. 09/01/2021

Note: Amended Art. 15 TM 09/27/2021. App. AG. 01/25/2022 Posted 01/25/2022.

## **7.0 Illicit Discharges and Detection**

### **7.1 Purpose/Intent**

The purpose of this bylaw is to protect Burlington's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. Increased and contaminated storm water runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

This bylaw establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) general permit. The objectives of this bylaw are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user;
2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system;
3. To require the removal of all such illicit connections;
4. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this bylaw; and
5. To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

### **7.2 Definitions**

For the purposes of this bylaw, the following shall mean:

**AUTHORIZED ENFORCEMENT AGENCY:** The Board of Health and its Agents are designated to enforce this bylaw.

Solely for the purposes of enforcing this bylaw, Agents of this Board includes the Director of Public Health, Health Agent, Environmental Engineer, Town Engineer, the Superintendent of Public Works, and the Inspector of Buildings.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of storm water runoff. It also includes schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems.

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

**DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

**GROUNDWATER:** Water beneath the surface of the ground.

**HAZARDOUS MATERIALS AND WASTES:** Any liquid, gaseous, solid or radioactive, material, including any substance, waste, or combination thereof, which because of its quantity and/or concentration of the material and/or of its constituents, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous materials and wastes shall include without limitation:

1. paints, varnishes, and solvents;
2. oil and other automotive fluids;
3. solid wastes and yard wastes;
4. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
5. pesticides, herbicides, and fertilizers;
6. hazardous materials and wastes;
7. dissolved and particulate metals;
8. animal wastes;
9. rock, sand, salt, soils;

10. construction wastes and residues;
11. industrial or commercial waste;
12. runoff, leachate, heated effluent; and
13. noxious or offensive matter of any kind.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw. An illicit connection is any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency.

**ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of storm water, except as exempted in Section 7.8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 7.8 of this bylaw.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

**INDUSTRIAL ACTIVITY:** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying storm water, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Burlington.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

**NON-STORM WATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of storm water.

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

**POLLUTANT:** Any element or property of hazardous materials, hazardous wastes or sewage from residential, agricultural, industrial or commercial sources whether originating at point or non-point sources, that is or may be introduced into the storm water system of the Town of Burlington. Pollutants, for the purposes of this bylaw, include (but not limited to) dredged soil, solid waste, incinerator residue, garbage, wastewater, wastewater sludge, chemical waste, biological materials, radioactive materials, rock, sand, dust, industrial waste, sediment, nutrients, toxic substance, pesticide, herbicide, trace metal, automotive fluid, petroleum-based substance, and oxygen-demanding material.

**PREMISES:** Any building, lot, parcel of land, or portion of land whether improved or unimproved.

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

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

**SEWAGE:** The waste and wastewater produced by residential and commercial sources and discharged into sewers. A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals. Sewage contains pathogens and fecal coliform that is harmful to the public health, to animal or aquatic life or to the use of water for domestic water supply or for recreation.

**STORM DRAINAGE SYSTEM:** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**STORM WATER:** Storm water runoff, snow melt runoff, and surface water runoff and drainage.

**SURFACE WATER DISCHARGE PERMIT.** A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

**STORM WATER POLLUTION PREVENTION PLAN:** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm water, Storm water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

**TOXIC OR HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

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

**WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

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

#### **7.3 Applicability**

This bylaw shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

#### **7.4 Authority**

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act and G.L. c. 83, Sect. 1 and Sect. 10, as amended by St. 2004, c. 149, sections 135 - 140, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

#### **7.5 Responsibility for Administration**

The Board of Health and its Agents shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon these Boards may be delegated in writing by these Boards to persons or entities acting in the beneficial interest of or in the employ of these agencies.

#### **7.6 Regulations**

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

#### **7.7 Prohibited Activities**

**A. Prohibition of Illegal Discharges.** No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants or non-storm water discharge that cause or contribute to a violation of applicable water quality standards, other than storm water into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

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

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

#### **7.8 Exemptions**

Discharges from fire-fighting activities are exempt from the provisions of this bylaw, except when fire water has accumulated and is contaminated with hazardous materials. If such determination has been made, then disposition of such water shall be made by the Board of Health or its Agents.

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

1. Waterline flushing;
2. Flow from potable water sources;
3. Springs;
4. Natural flow from riparian habitats and wetlands;
5. Diverted stream flow;
6. Rising groundwater;
7. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- 8.. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
9. Discharge from landscape irrigation or lawn watering;
10. Water from individual residential car washing;
11. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) and the pool is drained in such a way as not to cause a nuisance;
12. Dye testing, provided verbal notification is given to the Board of Health prior to the time of the test;
13. Non-storm water discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
14. Discharge for which advanced written approval is received from the Board of Health as necessary to protect public health, safety, welfare or the environment.

#### 7.9 EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

A. Suspension due to Illicit Discharges in Emergency Situations. The Board of Health and its Agents designated to enforce this bylaw may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

B. Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this bylaw may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the Board of Health for a reconsideration and hearing.

A person commits an offense of this bylaw if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

#### 7.10 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Board of Health and its Agents designated to enforce this bylaw prior to the allowing of discharges to the MS4.

#### 7.11 NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release (as defined in 310 CMR 40.0352 and 310 CMR 40.1600) of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release.

In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police

departments and Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Board of Health no later than the next business day. The reporting person shall provide to the Board of Health written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## 7.12 ENFORCEMENT

The Board of Health and its Agents shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations as noted below:

A. Civil Relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, this Board 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.

B. Orders. The Board of Health and its Agents designated to enforce this bylaw may issue a written order to enforce the provisions of this bylaw or the regulations thereunder.

Orders of this Board may include:

- (a) elimination of illicit connections or discharges to the MS4;
- (b) performance of monitoring, analyses, and reporting;
- (c) that unlawful discharges, practices, or operations shall cease and desist; and
- (d) remediation of contamination in connection therewith.

The issuance of an enforcement order by a Board of Health Agent without a prior vote of the Board of Health to address conditions that require immediate attention, is subject to ratification by the Board of Health at its next regularly scheduled meeting.

The party responsible for completing monitoring, abatement or remediation must contract a person licensed to conduct such work, as necessary. During and upon completion of the work, the professional opinion of this licensed person and a final report will be required to be submitted to the Board of Health in summary and certification of said work being accomplished.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Burlington may, at its option, seek a court order requiring the property owner to perform the work.

C. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be punished by a fine. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Burlington may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, S21D in which case the Environmental Engineer is authorized to be the enforcing person designated to issues non-criminal disposition penalties. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$300. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. Appeals. The enforcement decisions or orders of the Board of Health and its Agents shall be final unless modified or reversed in a public meeting of the Board of Health. Persons aggrieved by an enforcement action by the Board of Health and/or its Agents designated to enforce this bylaw may request a public meeting with the Board of Health within 7 days of written enforcement action to review the circumstances and decisions related to the enforcement action. At this hearing, any affected party has the right to appear, and have the right to inspect and obtain copies of all relevant inspection and investigation reports, orders, notices, and other documentary evidence. If further relief by aggrieved persons is desired, such relief shall be to a court of competent jurisdiction.

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

## 7.13 MONITORING OF DISCHARGES

A. Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

B. Access to Facilities. Access to facilities shall be governed by the following:

1. To the extent permitted by state law and if probable cause exists, or if authorized by the owner or other party in control of property which is not permitted with an NPDES Permit, the

Board of Health and its Agents may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board of Health deems reasonably necessary. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

2. Under the conditions for access stated in Part (a) above, facility operators shall allow the Board of Health and its Agents designated to enforce this bylaw, ready access to all parts of the premises for a facility not already regulated with a NPDES Permit for the purposes of inspection, sampling, examination and copying of records relating to the discharge of storm water that may contain sewage, hazardous materials or wastes, or other pollutants, and the performance of any additional duties as defined by state and federal law. For NPDES permit holders, the Town of Burlington will contact the appropriate U.S. Environmental Protection Agency enforcing agents to inform them of suspected violations of an NPDES permit for discharges from that facility.

3. The Board of Health and its Agents designated to enforce this bylaw shall have the right to set up on any non-NPDES facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

4. The Board of Health and its Agents designated to enforce this bylaw has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Board of Health and its Agents designated to enforce this bylaw and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. If the Board of Health and its Agents designated to enforce this bylaw has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this bylaw, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this bylaw or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

## 7.14 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The Board of Health designated to enforce this bylaw may adopt requirements identifying Best Management Practices for any activity, operation, or non-NPDES permitted facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S.

Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further

discharge of pollutants to the municipal separate storm sewer system.

For NPDES permitted facilities, compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. In the event that the Board of Health determines that additional BMPs may be required for NPDES permitted facilities, the Board of Health may at its option, ask for EPA to review the terms of the facility's NPDES permit to determine if additional best management practices may be required.

In the event that said person responsible for a non-NPDES property or premise, believes that said compliance with additional BMPs is not required, the Board of Health may issue an enforcement order requiring such compliance. If said person refuses to comply with such order for implementing additional BMPs, then the Town of Burlington may seek a court order requiring such implementation.

Compliance with this bylaw, its regulations or BMPs, or policies promulgated under this bylaw does not imply that there will be no contamination, pollution, nor unauthorized discharge of pollutants. Compliance with this bylaw, its regulations or BMPs, or policies promulgated under this bylaw also does not relieve a person from being subject to such enforcement actions as may be required to correct contamination, pollution, and/or unauthorized discharge of pollutants.

#### **7.15 COMPENSATORY ACTION**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Bylaw, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

#### **7.16 SEVERABILITY**

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

#### **7.17 TRANSITIONAL PROVISIONS**

Residential property owners shall have 60 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

#### **7.18 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 and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Note: Amended Art. 8 TM 9/25/06. App. AG 10/31/06. Posted 11/20/06.

### **8.0 DEMOLITION PERMIT DELAY**

#### **8.1 Intent and Purpose**

It is the intent and purpose of this bylaw to preserve and protect from demolition, whenever possible, historically significant buildings or structures which reflect distinctive features of the architectural, cultural, political, economic, and/or social history of the town; to encourage owners of such buildings or structures to explore and develop alternatives to such demolition; to seek out persons or entities who might be willing to purchase, preserve, rehabilitate or restore such buildings or structures rather than demolish them; and thereby to preserve the historic resources of the Town, and to make the Town a more attractive and desirable place in which to live, and so promote the general welfare.

#### **8.2 Procedure**

### 8.2.1 Notice of Intent to Demolish

No demolition permit shall be issued for any building or structure which was constructed one hundred (100) or more years prior to the year of application, other than in conformity with the provisions of this Bylaw. An application for a demolition permit shall first be filed by the applicant and/or property owner with the Inspector of Buildings, and a copy of such application shall be forwarded within one (1) week by the Inspector of Buildings to the Historical Commission, the Select Board, and the Planning Board. Such application shall be in the form provided and established by the Inspector of Buildings and shall include a copy of the demolition plan, a description of the building or structure to be demolished, the reasons for the demolition and the proposed reuse of the property. If the applicant and/or property owner is unable to specify the exact age of the building or structure, the application shall so state and shall set forth the most approximate age known and the basis for such approximation.

### 8.2.2 Determination

The Historical Commission shall, within fifteen (15) days after receipt of the application for a demolition permit, make a determination whether the building is historically significant.

#### Non-Applicability

Upon determination by the Historical Commission that the building is not historically significant, the Historical Commission shall submit a negative finding to the applicant and/or property owner, and a copy thereof shall be furnished to the Inspector of Buildings. Upon receipt of such notification, or after the expiration of fifteen (15) days from the date of submission of the demolition permit to the Historical Commission, the Inspector of Buildings may issue the demolition permit.

#### Determination of Significance

Upon determination by the Historical Commission that the building is historically significant, the Historical Commission shall submit a positive finding to the applicant and/or property owner, and a copy thereof shall be furnished to the Inspector of Buildings who shall not issue a demolition permit. The Historical Commission shall then hold a public hearing on the matter according to Section 8.2.3.

### 8.2.3 Public Hearing

The Historical Commission shall hold a public hearing within twenty (20) days after a positive Determination of Significance to determine whether the building should be preferably preserved. The Public Hearing shall be held pursuant to applicable statutory requirements. The newspaper publication and abutter notification shall be completed by the Historical Commission at the expense of the applicant. The Historical Commission shall complete the following:

a) Hold a public hearing to determine the following:

- (i) if the proposed demolition of the historically significant building or structure would be detrimental to the historical or architectural heritage or resources of the Town, and therefore, such building or structure shall be considered preferably preserved;
- (ii) if less than a complete demolition is proposed, whether the work to be done will materially diminish its historical significance, and
- (iii) to explore alternatives to demolition.

b) Submit such determination according to Section (a) in writing to the Inspector of Buildings and the applicant and/or property owner.

### 8.2.4 Determination of Non-Applicability

If after the Public Hearing the Historical Commission determines that the building or structure is not historically significant, or where less than a complete demolition is being proposed that the work to be done will not materially

diminish its historical significance, then the Historical Commission shall within seven (7) days after the Public Hearing notify the Inspector of Buildings of its determination. The Inspector of Buildings may thereafter proceed with the proposed demolition in accordance with applicable law. The failure of the Historical Commission to issue its written determination within seven (7) days after such hearing shall be deemed to constitute a determination that the building or structure is not considered preferably preserved.

#### 8.2.5 Determination of Applicability and Delay of Demolition

If after the Public Hearing the Historical Commission determines that the building or structure is preferably preserved and that the proposed work would materially diminish its historical significance, then the Historical Commission shall notify the Inspector of Buildings with seven (7) days after the Public Hearing of its determination. The Historical Commission is hereby empowered to impose a demolition delay of up to six (6) months from the date of such determination. Written notice of its determination and the period of delay imposed shall be mailed promptly to the applicant and/or property owner, and a copy thereof shall be furnished to the Inspector of Buildings who shall not issue a demolition permit during the period specified therein; provided, however, that such permit may be issued prior to the end of such period if the Historical Commission notifies the Inspector of Buildings that the applicant and/or owner (i) has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who has agreed to, preserve, rehabilitate, restore or relocate same, or (ii) has agreed to alternatives to demolition as set forth in Section 8.3.

### 8.3 Alternatives to Demolition

If the Historical Commission imposes a demolition delay as set forth in Section 8.2.5 and/or if alternatives to demolition are developed in the public hearing which are acceptable to the applicant and/or owner, then the Historical Commission is hereby empowered, in its discretion, to enter into an agreement with such applicant and/or property owner providing for such alternatives and a time period for implementation of same. A copy of said agreement shall be filed with the Inspector of Buildings and any other applicable Town agency, and thereafter no work shall be done on the building or structure except in accordance with the terms of said agreement unless and until a new application for a demolition permit is filed and processed hereunder.

### 8.4 Expiration of Demolition Delay

At the end of any period of demolition delay as set forth in this bylaw, including any alternatives agreed upon pursuant to Section 8.3, the Historical Commission shall notify the Inspector of Buildings that the period of delay has expired, and the applicant and/or property owner shall be entitled to apply for all necessary demolition permits to allow the work to go forward as set forth in the Demolition Permit, and pursuant to applicable law.

### 8.5 Emergency Demolition

Nothing in this bylaw shall restrict or prevent the Inspector of Buildings from ordering the immediate demolition of any building or structure which is determined to be imminently dangerous or unsafe to the public. The Inspector of Buildings shall file a copy of any such order of emergency demolition with the Historical Commission.

### 8.6 Enforcement and Remedies

#### 8.6.1 Enforcement

The Inspector of Buildings shall have the authority to enforce this Bylaw.

#### 8.6.2 Non-Compliance

Anyone who undertakes demolition of any building or structure without complying with the provisions of this bylaw shall be subject to a fine of three hundred dollars (\$300.00). Each day such violation continues following such demolition shall constitute a separate offense.

#### 8.6.3 Issuance of Building Permit

No building permit shall be issued or be valid for any parcel or premises upon which a historically significant building or structure, or property listed in the Cultural Resources Inventory, has been demolished by an intentional or grossly negligent violation of this bylaw for a period of up to two (2) years after completion of such demolition.

#### 8.6.4 Multiple Remedies

The remedies and enforcement procedures set forth in this Section may be applied separately or in conjunction with one another, or to act in any other manner in relation thereto.

Note: Amended Art. 20 TM 1/26/09. App. AG 4/16/09. Posted 4/22/09.

### 9.0 CONSERVATION OF NATURAL RESOURCES

- 9.1 To advocate that all future outdoor lighting be of energy efficient designs to reduce glare disability, waste of energy, and production of greenhouse gases that result from this wasted energy use;
- 9.2 To support light pollution reduction efforts and glare reduction methods at the local Town level; and
- 9.3 To support efforts to ensure all future outdoor lighting be of a fully shielded design or similar non-glare design to improve the safety of town roadways, sidewalks, and by-ways for all, and especially for vision-impaired drivers;

Note: Amended Art 19 TM 1/26/11. App. AG 5/24/11. Posted 6/1/11

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

TOWN OF BURLINGTON

M.G.L.	(Amended by) Chapter of the Acts	Date of Action	Result of Action Accept, Reject, etc.	Topic
	235	1901	4/2/1901	Not Required Railway to Serve as Common Carrier
	87	1902	2/18/02	Not Required Establish the Francis Wyman Association
Revised Law	11		3/20/05	Referendum Town Clerk Elected/Official Ballots
Revised Law	28 S1-14		3/12/06	Referendum Public Parks
	209	1908	3/1/09	Referendum Forest Land
	503	1912	11/5/12	Referendum Pensioning Laborers
	807	1913	11/4/13 3/2/14	Referendum Workmen's Compensation
	494	1911	3/2/14	Referendum Eight Hour Day
	153		4/12/17	Not Required Slaughter House Fees
	311	1919	11/4/19	Referendum Continuation School
C143 S3,13,14			3/27/22	Accepted TM Building Regulations
C41 S73			3/27/22	Accepted TM Board of Survey
	163 S.1	1931		Not Required Borrowing Money for Schools
	172	1931	2/15/32	Not Required Water Supply
C48 S42,43,44			3/7/32	Accepted TM Fire Department
	469	1935	8/6/35	Not Required Construction of State Hwy. Middlesex Tpk.
	137	1935	3/2/36	Accepted TM Authorizing Selectmen to sell Marshall Simonds Park Land

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

**TOWN OF BURLINGTON**

<u>M.G.L.</u>	<u>(Amended by) Chapter of the Acts</u>	<u>Date of Action</u>	<u>Result of Action Accept, Reject, etc.</u>	<u>Topic</u>
	216	1936	4/13/36	Not Required
C54				Ext. of Time for Borrowing \$ for Schools
103A	77	1937	2/21/38	Accepted TM
C41				Absentee Voting
S81 (A-J)		7/25/39	Accepted TM	Establish Planning Board (Planning Board 1st Elected 2/5/40)
C41				
S97		3/3/41	Accepted TM	Establish Police Department
		11/3/42 - 11/3/70	Referendum	Sale of Alcohol in Packages for Off Premise Consumption
C40				
S13A		2/18/46	Referendum	Workmen's Compensation
C32				
S1-28		11/5/46	Referendum	Establish Retirement System
46	1948	2/7/49	Referendum	Civil Service - Police Force
				Water District
635	1949	9/12/49	Accepted	Establish Water District
C41				
S111-A		7/31/50	Accepted TM	Vacations - Fire/Police Dept.
C40				
S6B		3/3/52	Accepted TM	Providing Uniforms - Fire & Police
165	1953	3/1/54	Referendum	Civil Service-Fire Dept.
C147				
S16C		3/1/54	Referendum	Five-day Week - Police
				Water District
485	1954	7/12/54	Accepted	Increase amount money Town may borrow for Water/Sewer District
				Authorizing Lexington to sell water to Burlington
511	1955	7/11/55	Not Required	
C31				Civil Service
S47		3/4/57	Referendum	Officials & Laborers (Note: s/b S48)
C32				
S89B		4/1/57	Accepted TM	Payment of Death Benefits

Validating March and April

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

**TOWN OF BURLINGTON**

<u>M.G.L.</u>	<u>(Amended by) Chapter of the Acts</u>	<u>Date of Action</u>	<u>Result of Action Accept, Reject, etc.</u>	<u>Topic</u>
	727	1957	9/18/57	Not Required
C41				1957 Town Meeting Action
S111D		3/3/58	Referendum	Vacations - Fire & Police
C48				Overtime remuneration or Compensatory
S58-C		3/24/58	Accepted TM	Time Off - Fire Dept.
C147				Compensatory Time Off or
S17C		6/23/58	Accepted TM	remuneration-Police
C262				Compensatory Time Off or
S53C		6/23/58	Accepted TM	remuneration-Police
	563	1958	8/29/58	Validate Action of Selectmen re:Public Ways 1/1/30-7/9/58
C40				
S6C		3/2/59	Referendum	Snow & Ice Removal
		3/2/59		
C32B		3/3/73	Referendum	Group Hospital & Life Insurance
	32	1961	3/1/61	Referendum Defeated
				Tenure - Highway Supt.
162	1961	3/27/61	Accepted	Civil Service - Water District
718	1962	3/26/63	Water District Accepted	Authorization to construct and operate reservoir
726	1962	3/26/63	Water District Accepted	Construction of sewers
243	1964	3/31/64	Water District Accepted	Amending C635, Acts of 1949 Water Dist. Boundaries
	565	1964	6/22/64	Not Required
				Validating action of Annual Town Meeting, 1964
C40A				
S8, S20		3/24/65	Accepted TM	Zoning Enabling Act - two year wait on unfavorable decisions
C71				
S16 - 161		11/10/65	Accepted TM	Regional School
C41				
S99A		11/17/65	Accepted TM	Police May Reside Out of Town

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

TOWN OF BURLINGTON

M.G.L.	(Amended by) Chapter of the Acts	Date of Action	Result of Action Accept, Reject, etc.	Topic
C40 S8C		11/17/65	Accepted TM	Establishing Conservation Commission
298	1965	3/28/66	Dismissed	Increase amount money Town
38	1966	7/7/66	Accepted TM	borrow Water/Sewer District
C41 S69C-69F		3/7/66	Referendum	Establish Board of Public Works
C41 (Repealed by General Court 1978)				
S100D		4/6/66	Accepted TM	Indemnification
C48 S57E		4/6/66	Accepted TM	Remuneration for Holidays - Fire Chief
C48 S57D		4/6/66	Accepted TM	Remuneration - Fire
C147 S17A		4/6/66	Accepted TM	Remuneration - Police
C48 S57F		4/6/66	Accepted TM	Remuneration - Police Chief
C121 S26K		4/11/66	Accepted TM	Establish Housing Authority
C40 S8D		6/8/66	Accepted TM	Establish Historical Commission
C40 S8-C		6/8/66	Accepted TM	Establish Conservation Commission
682	1966	7/7/66	Water District Accepted	Establish Ipswich River Watershed District
C32 S9A		3/4/67	Referendum	Insurance for Retired Employees
C40 S8B	495 376,66	1956 1959,1965	9/20/67	Accepted TM
237	1967	3/2/68	Referendum	Dissolving Burlington Water & Sewer District
310	1967	3/2/68 - 11/7/72	Referendum	Sale of Alcoholic Beverages - Clubs/Veteran Organizations
755	1968	7/25/68	Not Required	Authorizing Assessors to Establish Tax Rate for Water & Sewer Services
C48				

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

**TOWN OF BURLINGTON**

<u>M.G.L.</u>	<u>(Amended by) Chapter of the Acts</u>	<u>Date of Action</u>	<u>Result of Action Accept, Reject, etc.</u>	<u>Topic</u>
S58D		3/1/69	Referendum	42-Hr. Week - Fire Dept.
C90				
S18A		3/24/69	Accepted TM	Jay Walking
593	1969	7/31/69	Not Required	Abatement of Sewerage Betterment Charges
672	1970	8/14/70	Not Required	Boundary lines between Burlington/Wilmington
686	1970	3/6/71	Referendum	Establish Representative Town Meeting
552	1971	7/22/71	Not Required	Appoint Robert Richard Fire Department
486	1971 (3/1/75)	3/4/72	Referendum	Beano
291	1972	5/18/72	Not Required	Appoint of Harry Harris Police Dept.
733	1972	7/17/72	Not Required	Establishing the Aberjona River Commission
C53		11/7/72		
S9A		11/5/74	Referendum	Sale of Alcohol - Restaurants
C32B		12/16/74		Final Date for Obtaining Nomination Papers
7A,8A		(5/22/89)	Accepted TM	
231	1975	3/1/75	Referendum Defeated	Group Ins.- greater than 50% or proportional share
44	1975	5/19/75	Not Required	Amendment to Ch. 686 Acts of 1970 Town Meeting - (120 days)
808	1976	4/2/76	Not Required	Boundary line change
248	1977	6/1/77	Not Required	Burlington/Woburn
761	1977	11/22/77	Repealed C.248	Auth. Selectmen adopt bylaw Re: Removal of Appt.Officials
310	1977	6/16/77	Not Required	Civil Service - Police Dept. Appoint Robert Scelzo
712	1977	11/3/77	Not Required	Withdrawal from Ipswich Water Shed

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

TOWN OF BURLINGTON

M.G.L.	(Amended by) Chapter of the Acts	Date of Action	Result of Action Accept, Reject, etc.	Topic
C32B				
S9F		4/1/78	Referendum	Insurance for Retired Employees
C32B				
S11A		4/1/78	Accepted TM	Additional Insurance - Town Employees
	549	1978	Not Required	Town Administrator Act
C40				
S22D		6/7/78	Accepted TM	Towing of Cars
	186	1979	Not Required	Flood water diversion Shawsheen- C.635 of 1979
C32				
S99		5/29/79	Accepted TM	Retirement Allowance
C44				
S53D		6/11/79	Accepted TM	Recreation Revolving Fund
	606	1979	Not Required	Recreation Department Appoint William Boudreau
	416, S2	1980	Accepted (Selectmen)	Qualification of Certain Assessors
C90				
20C & 20D		10/6/80	Accepted TM	Parking Violations
C71				
S71E		5/13/81	Accepted TM	School Committee Expenditure
C148				
S26C,E,F		5/13/81	Accepted TM	Smoke Detectors
C90				
S20A 1/2		10/14/81	Accepted TM	Parking Regulations
C40				
S4G		5/24/82	Accepted TM	Bids from \$2,000 to \$4,000
	743	1981	Accepted TM	Real Estate Tax Exemption
C48				
S42A		5/24/82	Accepted TM	Weak Fire Chief
C59,S5	653 S.6,8	1982	Accepted TM	Real Estate Tax Exemption
(I7C,37A,41B)				
C148				

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

**TOWN OF BURLINGTON**

<u>M.G.L.</u>	<u>(Amended by) Chapter of the Acts</u>	<u>Date of Action</u>	<u>Result of Action Accept, Reject, etc.</u>	<u>Topic</u>
S26G		1982	5/25/83	Accepted TM Sprinkler System Regulations
	500	1983	11/17/83	Not Required Police Department-Appoint Steven Howard
C64G				
S3A	145	1985	9/30/85	Accepted TM Local Hotel Tax
C140				
S147A	308	1985	1/15/86	Accepted TM Withdraw County Dog System
C188				
13		1985	1/15/86	Accepted TM Professional Development Grant - Schools
C40				
S57	640	1985	5/28/86	Accepted TM Granting or Renewing Certain Licenses
C59				
S5(41C,17D)	73	1986	9/22/86	Accepted TM Real Estate Tax Exemptions
	405	1986	10/1/86	Accepted TM Payment by Tri-Town Consortium to North Suburban Chamber of Commerce
	469	1986	10/22/86	Not Required Amendment to Ch. 686 Acts of 1970 Town Meeting - Redistricting
C40				
S39K	306	1986	6/3/87	Accepted TM Water & Sewer Enterprise Fund
	194	1986	1/25/88	Accepted TM Tax Check-off Scholarship Foundation Trust
C41				
S100G1/4		5/23/88	Accepted TM	Burial Expenses Police/Fire
	236	1987	9/19/88	Accepted TM Subdivision Default Funds
	245	1988	1/9/89	Accepted TM Subdivision Default Funds
	360	1985	5/22/89	Accepted TM Allowing Protective Personnel Buy Back Retirement Credits
	288 S.6	1989	7/12/89	Not Required Tennessee Gas Pipeline Easement
C148				Installation of
S26I,S34		1/8/90	Accepted TM	Automatic Sprinkler Systems
C40				
S58		1/8/90	Rejected TM	Municipal Charge Liens

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

**TOWN OF BURLINGTON**

<u>M.G.L.</u>	<u>(Amended by) Chapter of the Acts</u>	<u>Date of Action</u>	<u>Result of Action Accept, Reject, etc.</u>	<u>Topic</u>
	653	1989	5/23/90	Accepted TM
C40 S39K			6/27/90 01/24/11	Accepted TM RESCINDED TM
	291	1990	5/22/91	Accepted TM
C40 S8J			9/16/91	Accepted TM
C71 S40	Budget	FY92	9/16/91	Accepted TM
	494	1991	4/13/92	Selectmen
C40 S39K	306	1986	5/18/92	Accepted TM
C133 S48		1992	9/9/92	Accepted TM
C148 S26H			9/9/92	Accepted TM
C148 S56			9/9/92	Rejected TM
C399 S48			2/8/93	Accepted TM
	160	1993	9/27/93	Not Required
C59 S5 (22E)	110,S110	1993	5/18/94	Accepted TM
C40 S57	408	1993	9/12/94	Accepted TM
C40 S8G			9/11/95	Accepted TM
C40 S22F			5/21/97	Accepted TM
	10	1998	1/12/98	Not Required
				Conservation Comm. - Imposition of Fees

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

TOWN OF BURLINGTON

<u>M.G.L.</u>	<u>(Amended by) Chapter of the Acts</u>	<u>Date of Action</u>	<u>Result of Action Accept, Reject, etc.</u>	<u>Topic</u>
	89	1998	4/23/98	Not Required
	70	1999	9/2/99	Not Required
	170	1999	5/8/00	Accepted TM
C41 S108L		5/23/01	Accepted TM*	Quinn Bill *(as part of Police Contracts FY00-02) Amendment to Ch. 686 Acts of 1970 Town Meeting - (150 days)
	92	2001	9/27/01	Not Required
	146	2001	11/25/01	Not Required
	8	2002	1/14/02	Not Required
	48	2002	3/6/02	Not Required
	116	2002	9/9/02	Accepted TM
	170	1999	1/13/03	Accepted TM
C59 S5K		5/12/03	Accepted TM	Lien for Delinquent Water Charges Sr. Tax Work-Off Abatement Program
	73	1986	9/26/05 9/25/06 9/24/07 9/22/08 9/27/10 9/26/11 9/24/12 9/23/13 9/22/14	Accepted TM (Annual Acceptance Req)
	62§14	2014	9/28/15	
C59 S5	184 S51	2002	9/26/05 9/24/07	Accepted TM (Annual Acceptance Req)
				Real Estate Exemption Factors

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

TOWN OF BURLINGTON

M.G.L.	(Amended by) Chapter of the Acts	Date of Action	Result of Action Accept, Reject, etc.	Topic
		9/22/08		
		9/27/10		
		9/26/11		
		9/24/12		
		9/23/13		
		9/22/14		
		9/28/15		
C59				
S5/Clause 5B		9/26/05	Accepted TM	Real Estate Exemption for Veteran's Organizations
118	2006	9/26/05	Petition by TM	Street Acceptances
C32B, S18		5/8/06	Accepted TM	Medicare Insurance
136	2005	9/25/06	Accepted TM	Reduction in Interest for Senior Property Taxes
C39				(Adjudicatory Hearings)
S23D	79	2006	Accepted TM	Regulating Meetings of Municipal Boards
C43D		1/24/07	Accepted TM	Expedited Permitting
103	2007	8/29/07	Petition by TM (May '06)	C686, Referendum Questions
			Petition by TM (5/13/02 & 5/8/06)	
216	2007	12/18/07	Accepted by Ballot (4/5/08)	Multiple Office Holding
10	2008	1/25/08		Validate September 24, 2007 TM
18	2008	1/31/08	Petition by TM (1/22/07)	Liquor Licenses for Northwest Park PDD
16	2008	1/31/08	Petition by TM (1/22/07)	Removal of Police/Fire Chiefs from Civil Service
61	2008	5/12/08	Accepted TM	Property Tax Relief Non-Profit Veterans Organizations
C31, S58A		5/12/08	Accepted TM	Civil Service Police/Fire – Max Age Requirements
490	2008	1/9/09	Petition by TM (9/22/08)	Hume Rule Petition – Police Officer (Magliozzi)

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

**TOWN OF BURLINGTON**

<u>M.G.L.</u>	<u>(Amended by) Chapter of the Acts</u>	<u>Date of Action</u>	<u>Result of Action Accept, Reject, etc.</u>	<u>Topic</u>
	137	2003	9/30/09	Accepted TM
C64G 3A			9/30/09	Accepted TM
	103	2009	10/2/09	Petition by TM (1/26/09)
C138 12			1/25/10	Accepted TM
	Chapter 73	1986 (as amended)	1/25/10 9/26/11	Accepted TM
C59 41C amended by	Chapter 184: 51	2002	1/25/10 9/26/11	Accepted TM
C64L 2(a)			1/25/10	Accepted TM
C32B 20			5/12/10	Accepted TM
C40 39K			1/24/11	RESCIND TM
C44 53E1/2			5/9/11 5/14/12 5/13/13	Accepted TM
				Fund Revolving Account
	133	2011	10/13/11	Not Required
	463	2012	1/10/13	Accepted TM
	59	2014	4/2/2014	Accepted TM
C 25		2015	05/08/15	Accepted TM
C41 S 110A			01/23/2017	Accepted TM
C 33	59		05/15/17	Accepted TM
				Amendment to Ch. 686 Acts of 1970 Relating to the change in number of TM Members
				Abatements to Certain Military Personnel
				Addition Liquor Licenses for the Town
				Exempting Police Department from Civil Service
				Office Hours for Saturday – can remain closed
				Effect of military service on salary, seniority and leave allowances of public employees

LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

TOWN OF BURLINGTON

<u>M.G.L.</u>	<u>(Amended by) Chapter of the Acts</u>	<u>Date of Action</u>	<u>Result of Action Accept, Reject, etc.</u>	<u>Topic</u>
106	2017	10/31/17	Petitioned by TM (01/23/17)	Town Meeting Member may hold other appointments
107	2017	10/31/17	Petitioned by TM (09/28/17)	Additional Liquor Licenses for Town Center Overlay
305	2018	11/13/2018	Not Required	Designation of Bridge for Lance corp. Gregory Macdonald
350	2018	01/01/2019	Petitioned by TM	Acceptance of MWRA water
MA Building Code	780 CMR	05/20/2019	Accepted TM	Stretch Code Building Acceptance
45	2020	3/23/2020	Not Required	Legislation regarding BOS actions due to COVID-19 in regard to moving Town elections
52	2020	04/03/2020	Not Required	Legislation regarding BOS actions due to COVID-19 in regard to finances, TM and FY actions