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# **Town of Stow Stow, Massachusetts**



## **General Bylaws**

**Including Amendments through July 11, 2020**

# GENERAL BYLAWS

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**TOWN OF STOW  
STOW, MASSACHUSETTS 01775**

**GENERAL BYLAWS OF THE TOWN**

Including Amendments through ~~May 7, 2018~~ July 11, 2020

*NOTE: In addition to these General Bylaws, attention is directed to the Charter of the Town of Stow which was adopted by the Town on May 13, 1991, in particular Article I, Section 1-7 thereof.*

**ARTICLE 1. TOWN MEETINGS**

**SECTION 1.** The annual town meeting primarily for appropriations raised by taxation shall be held the first Monday in May of each year. The Selectmen may call more than one special town meeting each year for the primary purpose of zoning and other bylaw changes, land use regulations, environmental problems and appropriations covered by transfer or borrowing. *(amended 7/8/63, 10/26/64, 10/15/73, 5/8/75, 6/12/96, 2/12/2001)*

Nothing in this section shall prevent insertion in any warrant of any article on any subject for town meeting consideration, the foregoing primary purposes being set forth as a guide for the orderly conduct of town business. *(amended 5/8/75)*

The warrant for an annual or special town meeting may specify that the meeting is to be held in a suitable auditorium or other facility in any of the contiguous towns. Town meeting may also vote to adjourn to such a facility if it deems appropriate. *(added 5/21/97)*

**SECTION 2.** The annual town meeting for the election of officers and such other matters as may be voted on the official ballot shall be held on the Saturday of May of each year, immediately following the start of the annual meeting, provided that in no event shall such election be held later than the third Saturday in May. *(amended 10/26/64, 10/15/73, 10/8/96, 2/12/01, 7/11/20)*

**SECTION 3.** All annual town meetings shall be notified and warned by posting attested copies of the warrant calling same at the Town Building and at each of at least seven (7) other public places at least seven (7) days before the time of holding the meeting. All special town meetings shall be notified and warned at least fourteen (14) days before the time of holding the meeting by posting in the same manner as provided for annual town meetings. *(amended 10/26/64, 5/9/79, 6/12/96)*

## **ARTICLE 2. GOVERNMENT OF TOWN MEETINGS**

**SECTION 1.** The moderator, while occupying the chair, shall not second any motion nor participate in any discussion before the meeting.

**SECTION 2.** No vote on a main motion made under any article in the warrant shall be again taken into consideration after having been disposed of unless ordered by a vote of two-thirds of the voters present and voting, and no vote on such action shall be taken into reconsideration in any event after the lapse of two hours from the time of the disposition of the vote, time to be measured only while the town meeting is in session, unless announcement of intent to reconsider at a fixed place within the warrant, or at a fixed time, is made within the same two-hour period. Once reconsideration of a vote on a main motion under an article has been moved and voted upon, the vote may not again be reconsidered within the same meeting. (*amended 5/20/74, 10/5/81, 6/12/96*)

**SECTION 3.** All motions shall be reduced to writing before being submitted to the meeting, if required by the moderator.

**SECTION 4.** No vote fixing the time of closing a ballot shall be reconsidered after such ballot shall have commenced; but the time for closing such ballot may be extended without reconsideration.

**SECTION 5.** When a question is under debate, motions may be received in accordance with the procedures and provisions set forth in *Town Meeting Time* and in Section 7 of these bylaws. (*amended 6/12/96, 5/21/97*)

**SECTION 6.** Articles in the warrant shall be acted upon in their order, unless otherwise directed by a majority of the voters present.

**SECTION 7.** The duties of the moderator and the conduct of the meeting, not specially provided for by law nor by the foregoing rules, shall be determined by the rules of parliamentary law contained in *Town Meeting Time* by Johnson, Trustman & Wadsworth. (*amended 2/24/58, 3/8/72*)

**SECTION 8.** A vote to receive the report of a committee shall place the report before the meeting, but shall not discharge the committee. A vote to accept or to adopt a report of a committee with or without amendment shall discharge the committee.

**SECTION 9.** There shall be no quorum required at any town meeting, including that portion devoted exclusively to the election of Town Officers. (*amended 2/24/59, 10/15/73, 5/7/91*)

**SECTION 10.** On matters requiring a two-thirds vote by statute, an actual count need not be taken unless the vote so declared is immediately questioned by the Moderator or seven (7) or more voters as provided in Mass. General Laws Chapter 39, Section 15. (*added 5/21/97*)

**ARTICLE 3. TOWN AFFAIRS**

**SECTION 1.** The financial year shall begin with the first day of July in each year and end with the thirtieth day of June following. *(amended 5/20/74)*

**SECTION 2.** *(deleted 5/20/74)*

**SECTION 3.** All town officers, except the Town Accountant, shall deliver to the Selectmen their annual report prior to the fifteenth day of February in each year. The Town Accountant shall deliver to the Selectmen his/her annual report on or before the fifteenth day of August in each year. *(amended 5/20/74, 11/17/98)*

The Selectmen shall cause these reports, together with a list of town officers and other matter usually published, to be printed and placed in the hands of the Town Clerk, ready for distribution ten days, at least, before the annual meeting. *(amended 11/17/98)*

**SECTION 4.** The reports of the several boards of town officers shall contain a schedule of all property in their charge at the end of the year, with the valuation thereof, and an estimate of the amount required for the ensuing year.

**SECTION 5.** No town officer and no salaried employee of the Town, nor any agent of any such officer or salaried employee, shall sell materials or supplies to the Town without the permission of the Board of Selectmen expressed in a vote which shall appear on their records with the reasons therefor.

**SECTION 6.** No town officer and no salaried employee of the Town, nor any agent of such an officer or employee, shall receive any compensation or commission for work done by him for the Town except his official salary and fees allowed by law without the permission of the Selectmen expressed in a vote which shall appear on their records with the reasons therefor.

**SECTION 7.** An Inspector of Gas Fitting shall be appointed by the Board of Selectmen to serve for a term of one year from June first, or until his successor is appointed and qualified. He shall be a licensed and qualified Master or Journeyman gas fitter or plumber. The Board of Selectmen shall have authority to establish and change fees to be charged for inspections to be made by the Inspector of Gas Fitting. *(adopted 2/26/62; amended 5/20/74, 5/5/92)*

**SECTION 8.** A Wire Inspector shall be appointed by the Board of Selectmen for the term of one year from June first, or until his successor is appointed and qualified. He shall be a licensed and qualified Master or Journeyman Electrician. The Board of Selectmen shall have authority to establish and change fees to be charged for inspections to be made by the Wire Inspector. *(adopted 2/26/62; amended 3/3/65, 5/20/74)*

### **ARTICLE 3. TOWN AFFAIRS**

**SECTION 9.** A Plumbing Inspector shall be appointed by the Board of Selectmen for a term of one year from June first, or until his successor is appointed and qualified. He shall be a licensed and qualified Master or Journeyman Plumber. The Board of Selectmen shall have authority to establish and change fees to be charged for inspections to be made by the Plumbing Inspector. *(adopted 3/9/66; amended 5/20/74, 5/5/92)*

**SECTION 10.** All owners or keepers of dogs kept in the Town of Stow during the preceding six (6) months and who on the fifteenth day of April of each year have not licensed said dog or dogs as prescribed by Chapter 140 of the Massachusetts General Laws, shall be required to pay a fine of Twenty-Five Dollars (\$25.00) in addition to the licensing fee. *(amended 5/6/81, 12/9/85, 5/8/90)*

**SECTION 11.** The Council on Aging shall consist of seven (7) members appointed by the Board of Selectmen. The Council shall, at its convenience, appoint by majority vote one of its members to serve as chair. Appointees shall hold office until successors are designated and qualified. The council may appoint associate members as it may require. *(amended 5/20/74, 11/17/76, 11/17/98)*

It shall be the duty of the Council on Aging to coordinate or carry out programs designed to meet the problems of the aging in coordination with programs of the Massachusetts Department of Elder Affairs as established under Chapter 19A of the Massachusetts General Laws and in accordance with the provisions of Section 8B of Chapter 40 of said laws. *(adopted 3/8/67; amended 11/17/76)*

**SECTION 12.** There shall be a Board of Appeals of five (5) members appointed by the Selectmen which shall act under the zoning bylaw, the subdivision control law, and for such other purposes authorized and permitted by the General Laws. The members shall be appointed by the Board of Selectmen for terms of five years each, so arranged that the terms of one or two members shall expire each year. The Selectmen shall also appoint six (6) associate members for terms of five years each, and any of these associates may be appointed to serve on the Board of Appeals in case of the resignation, death or disability of any regular member before his term shall have expired. The Board of Appeals shall act upon all matters within its jurisdiction under this Bylaw in the manner prescribed by Chapter 40A of the General Laws of Massachusetts. This Board of Appeals shall, at all times, give consideration to the promotion of the public health, safety, convenience and welfare, and this Board shall permit no building or structure or use of any premises which causes injury to any neighborhood or which is detrimental to any neighborhood, and the Board shall prescribe appropriate conditions and safeguards in each case. *(amended 5/4/77, 1/28/87, 5/5/92, 6/12/96)*

**SECTION 13.** The Town Clerk shall be required to deliver and pay over to the Treasurer-Collector at the end of each month all fees and charges collected during the month, except any salary paid him/her by virtue of his/her office as Clerk of the Board of Registrars of Voters. *(added 3/3/70; amended 5/2/78, 1/28/87, 5/20/98)*

### **ARTICLE 3. TOWN AFFAIRS**

#### **SECTION 14. Street Numbering**

- (a) Street numbers shall be provided for each dwelling, each business building and each industrial building by the owners of such structures within three (3) months after notification of their number by the Selectmen.
- (b) When the street numbers have been assigned by the survey of street numbering, owners shall be notified in writing.
- (c) The numbers shall be at least three (3) inches in height and shall be clearly visible from the street or roadway upon which the building faces. The numbers may be placed upon the structure itself or on a suitable support near the entrance to the structure.

*(adopted 3/8/72)*

**SECTION 15.** A Treasurer-Collector shall be appointed by the Board of Selectmen for a term not to exceed three (3) years. Unless otherwise established by law or the bylaws of the Town, the Board of Selectmen shall establish the qualifications for this position. The person appointed shall take office upon the expiration of the term of the Treasurer and Tax Collector then holding office. *(added 1/28/87)*

**SECTION 16.** The Registrars of Voters shall annually in January visit or communicate with the residents of every building in Stow and, after diligent inquiry, make true lists containing, as nearly as can be ascertained, the name, date of birth, occupation, nationality if not a citizen of the United States, and residence on January first in the preceding year and in the current year, of every person three years of age or older residing in the town. The Police Department shall, upon request, have access to said lists.

A list of all persons three through twenty-one years of age may be transmitted by the Registrars to the school committee not later than April first in each year. Said list shall contain the name, residence and age or date of birth of each such person; provided, however, that the names of persons three to sixteen, inclusive, shall not be disclosed to any person other than the respective school committee or boards of trustees of county agricultural schools or police department; and provided further that the name and address of any person who provides the Registrars with a copy of a court order granting protection, or evidence of residence in a protective shelter, shall not appear on the street list, and such names shall not be disclosed to any person.

The Registrars shall on or before April fifteenth in each year prepare lists containing the names and addresses of all persons seventeen years of age or older listed by them as above for the current year. On or before June fifteenth in each year, the Registrars shall cause a sufficient number of such lists to

be printed so as to furnish, free of charge, such lists, upon request, to all duly organized political committees and to all political candidates of the various districts in which the town is located. Such lists shall be made available by the Registrars to business organizations and other nonpolitical committees and organizations at a fee to be determined by the Registrars. *(adopted 5/20/98)*

## **ARTICLE 3. TOWN AFFAIRS**

### **SECTION 17. Community Preservation Committee**

- (a) Authority  
In accordance with Mass. General Laws Chapter 44B, Section 5(a) through Section 5(e) inclusive, a Community Preservation Committee shall be created upon acceptance of the Community Preservation Act, Mass. General Laws Chapter 44B, Sections 3 through 7 inclusive.
  
- (b) Purpose  
The purpose of the Committee is to administer the Community Preservation Fund in accordance with the provisions and requirements set forth in MGL Chapter 44B. This shall include making recommendations to Town Meeting for the appropriation of funds to be collected through the Community Preservation surcharge and matched by the Commonwealth. Funds raised or received by the Town as a match from the Commonwealth may only be used for the purpose of acquiring and preserving open space, historical preservation, affordable housing, and related expenses.
  
- (c) Membership  
Said committee shall consist of nine (9) members. Each of the following shall appoint one of its members or associate members to serve on the Community Preservation Committee: Conservation Commission, Historical Commission, Planning Board, Housing Authority, Recreation Commission (performing like duties of a Board of Park Commissioners), Finance Committee, Council on Aging, Open Space Committee and Board of Assessors. Each member's term shall be from the first day of July until the last day of the following June, however, each term shall not extend beyond that member's term of service on his/her appointing agency. Committee members shall hold office until successors are designated. The Committee shall elect a chairman annually from among its membership. The Committee may appoint clerks and other employees as it may require.  
*(amended 5/9/2007)*

*(adopted 5/8/2001)*



## **ARTICLE 3. TOWN AFFAIRS**

### **SECTION 18. Municipal Affordable Housing Trust**

There shall be a Municipal Affordable Housing Trust, the purpose of which shall be to provide for the preservation and creation of affordable housing in the Town of Stow for the benefit of low and moderate income households. The Trust shall be governed by Trustees in accordance with Mass. General Laws Chapter 44, Section 55C and the authority granted by Town Meeting, as revised from time to time.

Pursuant to a vote at the Stow 2005 Annual Town Meeting and pursuant to the provisions of Mass. General Laws Chapter 44, Section 55C adopted at the Stow 2005 Annual Town Meeting, the Town of Stow hereby establishes the specific powers of the Municipal Affordable Housing Trust for the benefit of all of the inhabitants of the Town of Stow in the manner and under the terms and conditions set forth herein. To the extent that this Article is in conflict with Article 38 of the 2005 Annual Town Meeting, the terms, conditions and enabling authority of this Article shall control.

A. Name of the Trust

The Trust shall be called the "Stow Municipal Affordable Housing Trust", herein referred to as the Trust.

B. Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Stow for the benefit of low and moderate income households.

C. Tenure of Trustees

There shall be a Board of Trustees consisting of five Trustees who shall be appointed by the Board of Selectmen. One of the Trustees shall be a member of the Board of Selectmen. Only persons who are residents of the Town of Stow shall be eligible to hold the office of Trustee. Trustees shall serve for a term of two years, except that three of the initial trustee appointments shall be for a term of one year. The Board of Selectmen may reappoint trustees for succeeding terms, and there is no limit on the number of terms that a Trustee can serve. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to fulfill the duties of a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill the remainder of the term of such vacancy provided that said appointment and acceptance in writing by the newly appointed Trustee are filed with the Town Clerk. Upon the appointment of any Trustee and the filing of such appointment with the Town Clerk, the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder. Trustees may be removed at any time for cause by a majority vote of the Board of Selectmen following a properly noticed public hearing. Cause shall include, but not be limited to, violation of any local, state or federal law; non-participation in

### **ARTICLE 3. TOWN AFFAIRS**

business of the Trust; incapacity to perform the duties of a Trustee; acts of the Trustee, that in the opinion of the Board of Selectmen, are negligent or detrimental to the Town of Stow or the Trust. *(Amended 5/7/2018)*

#### **D. Meetings of the Trust**

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, Mass. General Laws Chapter 39, Sections 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person. Minutes of all meetings shall be kept with the Town Clerk in accordance with the provisions of the Open Meeting Law, Mass. General Laws Chapter 39, Sections 23A, 23B and 23C.

#### **E. Powers of Trustees**

The Powers of the Trust shall be the following, except that any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property is subject to a two-thirds (2/3rds) vote of the Trustees:

- (1) to accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the Trust in connection with provisions of any zoning bylaw or any other bylaw;
- (2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (3) to sell, lease, exchange, transfer or convey any personal, mixed or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise and to make such contracts and enter into such undertakings relative to trust property as the Trust deems advisable notwithstanding the length of any such lease or contract;
- (4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
- (5) to employ advisors and agents, such as accountants, appraisers and lawyers as the Trust deems necessary;
- (6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trust deems advisable;

### **ARTICLE 3. TOWN AFFAIRS**

- (7) to apportion receipts and charges between incomes and principal as the Trust deems advisable, to amortize premiums and establish sinking funds for such purpose and to create reserves for depreciation, depletion or otherwise;
- (8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- (9) to deposit any security with any protective reorganization committee and to delegate to such committee such powers and authority with relation thereto as the Trust may deem proper and to pay out of Trust property, such portion of expenses and compensation of such committee as the Trust may deem necessary and appropriate;
- (10) to borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral;
- (11) to carry property for accounting purposes other than acquisition date values;
- (12) to make distributions or divisions of principal in kind, as well as to make loans and grants of money for the purpose of constructing or rehabilitating dwelling units for low or moderate income individuals or families subject to the terms and conditions imposed by the Trustees of the Trust; (*amended 5/3/2010*)
- (13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation and subject to the provisions of state statutes, to continue to hold the same for such period of time as the Trust may deem appropriate;
- (14) to manage or improve real property and to abandon any property which the Trust determines not to be worth retaining;
- (15) to hold all or part of the Trust property un-invested for such purposes and for such time as the Trust may deem appropriate;
- (16) to extend the time for payment of any obligation to the Trust; and
- (17) to adopt rules and regulations governing the conduct of the Trust and the Trustees, consistent with the General Laws.

### **ARTICLE 3. TOWN AFFAIRS**

#### **F Funds Paid to the Trust**

Notwithstanding any general or special law to the contrary, all monies paid to the Trust in accordance with any Town of Stow zoning bylaw, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust.

Funds appropriated by the Town of Stow Town Meeting for payment into the Trust become Trust property and these funds need not be further appropriated to be expended except as set forth in paragraph E herein. All monies remaining in the Trust at the end of any fiscal year, whether or not expended by the Trust, remain Trust property. The Trust shall comply with any conditions stipulated in the article's motion for monies appropriated by the Stow Town Meeting.

#### **G. Acts of Trustees**

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder, unless otherwise provided, and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate. Any expenditure by the Trust to any one party in a cumulative amount exceeding \$400,000.00 or any borrowing or donations to any charitable organization by the Trust shall also be approved by a majority vote of the Board of Selectmen prior to finalizing the transaction. Any single borrowing shall be capped at \$400,000.00. *(Amended 5/7/2018)*

#### **H. Liability**

Neither the Trustees nor any agent or office of the Trust shall have the authority to bind the Town of Stow, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purposes of General Laws Chapter 268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of General Laws Chapter 268A. The Trustees shall be provided the same scope and degree of municipal insurance coverage as is provided to other appointed board and commission members within the Town of Stow.

#### **I. Taxes**

The Trust is exempt from General Laws Chapter 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

#### **J. Custodian of Funds**

The Town of Stow Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities. Cost associated with the independent audit shall be born by the Trust.

### **ARTICLE 3. TOWN AFFAIRS**

- K. Governmental Body  
The Trust is a governmental body for purposes of Section 23A, 23B and 23C of General Laws Chapter 39.
- L. Board of the Town  
The Trust is a board of the Town for purposes of General Laws Chapter 30B and Section 15A of General Laws Chapter 40; but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from said Chapter 30B.
- M. Duration of the Trust  
This Trust shall be of indefinite duration until terminated by a vote of the Stow Town Meeting. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town of Stow and held by the Board of Selectmen for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof to the Town of Stow. The powers of the Trustees shall continue until the affairs of the Trust are concluded. Once the Stow Town Meeting has voted to terminate the Trust, the Board of Selectmen shall approve all financial transactions made on behalf of the Trust.
- N. Registry of Deeds  
The Board of Selectmen may authorize the Trustees to execute, deliver and record with the Registry of Deeds any documents required for any conveyance authorized hereunder.
- O. Titles  
The titles to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such Article.
- P. Compensation of Trustees  
Trustees shall not receive a salary, stipend, bonus or other means of compensation for their service as a Trustee, nor shall they be eligible for any benefits from the Town of Stow. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other Trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust.
- Q. Amendments  
The provisions of this Trust can only be amended by a vote of the Stow Town Meeting.
- R. Conflicts of Interest  
The Trust shall be considered a public employer and the Trustees shall be subject to the conflict of interest provisions of General Laws Chapter 268A.

### **ARTICLE 3. TOWN AFFAIRS**

#### **S. Annual Report**

The Trustees shall prepare an annual report describing the activities of the Trust on a calendar year basis. The annual report shall be submitted to the Stow Board of Selectmen by February 12th of each year. The annual report shall list all financial transactions conducted by the Trust including all revenues and costs, provide a balance sheet of liabilities and assets of the Trust, list an inventory of all affordable housing units created, sold, and/or managed by the Trust, and any other pertinent information related to the business of the Trust. Ten paper copies and an electronic copy of the annual report shall be submitted to the Board of Selectmen.

*(adopted 5/6/2008; amended 5/3/2010, amended 5/7/2018)*

## **ARTICLE 4. TOWN FINANCE AND ADMINISTRATION**

**SECTION 1.** There shall be a Finance Committee consisting of five registered voters, none of whom shall be Town officers, agents or employees, who will serve through the annual town meeting of the year in which their term of office expires. Initially the moderator shall appoint two members for a one-year term, two members for a two-year term and one member for a three-year term; and each year thereafter the moderator shall appoint a member or two members, as the case may be, for a three-year term. Said committee shall choose its own chairman and secretary. The moderator shall also appoint not more than five (5) Associate Members with the same qualifications as regular members, each for a term of one year, to serve through the annual town meeting of the year in which their term of office expires, who shall be non-voting members whose duties, rights and obligations shall be determined by the regular members thereof. Vacancies on said committee may be filled at any time by the moderator. (*amended 2/24/59, 12/17/62, 12/7/70, 11/10/75*)

To this committee shall be referred all articles and warrants. No action shall be taken on any town meeting article until the proposition has been referred to the Finance Committee and a report made thereon. The Town Administrator and officers of the Town shall, upon request, furnish the Committee with facts, figures and any other information. The Committee shall report its recommendations in print to all town meetings. (*amended 5/5/92*)

**SECTION 2.** The Selectmen shall have authority in their discretion to institute and prosecute proceedings under the provision of Chapter 60 of the General Laws for the foreclosure of the right to redeem lands purchased, taken or held by the Town for the nonpayment of taxes.

**SECTION 3.** The Treasurer-Collector shall have the custody, management and sale of all lands held by the Town under a tax collector's deed or a taking of lands for taxes after the title of the Town has become absolute by the fore-closure of the right of redemption according to law. And he is authorized and empowered with the approval of the Selectmen, in the name and on behalf of the Town to sell and convey such lands after publicly advertising such sale and to execute, acknowledge and deliver proper deeds for that purpose.  
(*amended 1/28/87*)

**SECTION 4.** The Selectmen shall act as town agents, and have authority as agents and officers of the Town to appoint and employ a town counsel, who shall act as attorney and counsel for the Town and the various officers and boards thereof, and to fix his compensation, to institute and prosecute suits in the name of the Town, to defend suits brought against the Town, and to compromise and settle suits and claims, unless otherwise ordered by special vote of the Town.

**SECTION 5.** No elected town officer shall hold a salaried position under the board of which he is a member. Nor shall any contract for materials or property of any kind to an amount exceeding one hundred dollars in any one year, be made in behalf of the Town by any such board with any of its members. Provided, however, that such contract may be made with any person who is the lowest bidder in an open competition wherein written bids are called for.

## **ARTICLE 4. TOWN FINANCE AND ADMINISTRATION**

**SECTION 6.** The registrars of voters shall hold a session from three o'clock until five o'clock in the afternoon of the last day fixed by law for filing nomination papers.

**SECTION 7.** The Treasurer-Collector shall have all of the duties and all of the same powers as the separate offices of Town Treasurer or Collector of Taxes.

### **SECTION 8. Capital Planning Committee**

- a. A committee to be known as the Capital Planning Committee shall be established, composed of one member appointed by the Finance Committee, one member appointed by the Board of Selectmen and three additional members appointed by the Moderator. The members appointed by the Finance Committee and the Board of Selectmen shall be appointed for two-year terms, with the initial member appointed by the Finance Committee to have an initial term of one year. The other members shall be appointed for three-year terms such that one term will expire each year. The Moderator shall also appoint not more than three (3) associate members with the same qualifications as regular members, each for a term of one year, who shall be non-voting members whose duties, rights and obligations shall be determined by the regular members thereof. All members and associate members shall serve through the annual town meeting of the year in which their terms expire. Only registered voters of the Town of Stow who are not employed by or serve as officers for the Town shall be eligible for appointment by the Moderator. A vacancy shall be filled for the expired term in the manner of the original appointment. The committee shall choose its own chairman and secretary. *(amended 12/12/88, 6/12/96)*
- b. The Committee and the Town Administrator shall study proposed capital outlays involving the acquisition of land and any expenditure of \$10,000 or more having a useful life of at least three years. All officers, boards and committees of the Town, including the Selectmen and the School Committee, shall by December 1st of each year submit to the Capital Planning Committee and the Town Administrator, on forms prepared by them, information concerning all projects anticipated by them as requiring town meeting attention during the ensuing five fiscal years. The Committee and Town Administrator shall consider the relative need, timing and cost of these expenditures and the effect each will have on the financial position of the Town. *(amended 5/5/92, 6/12/96)*
- c. The Committee and the Town Administrator shall prepare an annual report containing a capital budget of such outlays for the first year for presentation to the Board of Selectmen and the Finance Committee for inclusion in the Finance Committee's report and also a capital program for the following four (4) years for adoption by the town at the annual meeting, with explanations thereof. Investigations may be made and hearings held as may be deemed necessary. *(amended 5/5/92)*



#### **ARTICLE 4. TOWN FINANCE AND ADMINISTRATION**

- d. After its adoption by town meeting, the capital program shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, engineering advice, options or appraisals. No such expenditures shall be incurred on projects which have not been so approved by town meeting action. Such expenditures may also be made on projects approved by the Town through the appropriation of funds in the current or prior years and also for preliminary planning for projects to be undertaken more than five years hence.
- e. The report shall be published and distributed along with the Finance Committee's report. The Committee shall deposit the original with the Town Clerk.  
*(adopted 5/3/83)*

#### **SECTION 9. Granting or Renewing Certain Licenses and Permits**

- a. The Treasurer-Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Treasurer-Collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the Licensing Authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation or business enterprises, hereinafter referred to as the Party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and that such Party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.
- b. The Licensing Authority may deny, revoke or suspend any license or permit, including renewals and transfers of any Party whose name appears on said list furnished to the licensing authority from the Treasurer-Collector; provided, however, that written notice is given to the Party and the Treasurer-Collector, as required by applicable provisions of law, and the Party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any Party. The Treasurer-Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the Licensing Authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the Licensing Authority receives a certificate issued by the Treasurer-Collector that the party is in good standing with respect to any and all local taxes, fees assessments, betterments or other municipal charges payable to the municipality as of the date of issuance of said certificate.

## **ARTICLE 4. TOWN FINANCE AND ADMINISTRATION**

- c. Any Party shall be given an opportunity to enter into a payment agreement, thereby allowing the Licensing Authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- d. The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A, in the business or activity conducted in or on said property.
- e. This section shall not apply to the following licenses and permits granted under the General Laws of the Commonwealth of Massachusetts: Open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes; section thirty-three of chapter one hundred and one; children work permits; section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage license; section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license; section twelve of chapter one hundred and thirty-one; marriage licenses; section twenty-eight of chapter two hundred and seven; and theatrical events, public exhibition permits; section one hundred and eighty-one of chapter one hundred and forty. *(adopted 1/28/87; amended 10/15/91)*

**SECTION 10.** No later than one hundred days prior to the date scheduled for the town meeting in accordance with the bylaws herein, the town administrator shall call a public meeting of the finance committee, the school committee(s), representatives of any regional school committees, the assessors, the capital planning committee and the board of selectmen to review the financial condition of the town, revenue and expenditure forecasts and other information relevant to the budget in preparation for the annual town meeting. *(adopted 10/24/05)*

### **SECTION 11. Revolving Funds**

A. Pursuant to G.L. c. §44, 53E ½, as amended, there are hereby established the following Revolving Funds for the departments listed below which shall be credited with the receipts collected in connection with the state programs and activities and which shall be expended by the authorized Town board, department or officer for the purpose of such programs and activities as follows:

1. Revolving funds for Inspection Fees shall be authorized for expenditure by the Building Department for reimbursement of expenses by Building Department inspectors while engaging in administration of the Building Code and related activities, the source of which being 90% of permitting fees received for wire, gas and plumbing permits and
2. Revolving funds for Advanced Life Support Services shall be authorized for expenditure by the Fire Department for reimbursement of expenses by the Fire

**ARTICLE 4. TOWN FINANCE AND ADMINISTRATION**

Department personnel while engaging in the provision of life support ambulance services, the source of which being fees received for advanced life support services.

- B. Expenditures from each revolving fund set forth herein shall be subject to the limitation established annually by Town Meeting or any increase therein as may be authorized in accordance with G.L. c. §44, 53E ½.

*(Section 11 adopted 10/1/2018)*

## **ARTICLE 5. ACCEPTANCE AND REPAIRS OF PRIVATE ROADS**

### **SECTION 1.** Specifications for new roads and ways through private property.

- (a) A plan and profile of every such street or way shall be filed in the office of the Selectmen.
- (b) All streets shall be designed so that they will provide safe vehicular travel, and shall conform to any Master or Study Plan as shall be adopted in whole or in part by the Planning Board.
- (c) The minimum centerline radii of curved streets shall be one hundred (100) feet. Greater radii may be required for principal streets.
- (d) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.
- (e) Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than twenty-five (25) feet.
- (f) The minimum width of a street right-of-way shall be fifty (50) feet, except that lesser widths not less than forty (40) feet may be accepted upon recommendation of the Planning Board. (This section shall not apply to streets constructed prior to the adoption of this amendment.) (3/8/72)
- (g) Grades of streets shall not be less than 0.5%. Grades shall not be more than 6.0% for principal streets nor more than 10.0% for secondary streets.
- (h) Dead end streets shall not be longer than five hundred (500) feet. Any combination of roads or ways which have but one common entrance and exit to any other existing way shall be defined as a dead end street. (*amended 5/20/74*)
- (i) Dead end streets shall be provided at the closed end with a turn-around having an outside roadway diameter of at least one hundred (100) feet, and a property line diameter of at least one hundred and twenty (120) feet.
- (j) Trees, stumps and brush, including roots, shall be completely removed from all areas where the finished grade of the street, shoulders or any embankment slope is to be within 3-1/2 feet of the original ground level. Trees outside of graded areas shall be removed only where necessary.
- (k) Unsuitable material shall be removed to a depth of at least 12 inches wherever the grade of the new surface is less than 3 feet above the existing ground. Peat, loam or other unsatisfactory bearing material shall be removed from under roadway or embankment areas to a satisfactory depth, as determined by the Selectmen, and the space filled with clean gravel.

## **ARTICLE 5. ACCEPTANCE AND REPAIRS OF PRIVATE ROADS**

- (l) Embankments shall be made of Ordinary Borrow which may be taken from cuts elsewhere on the project where the material is approved. They shall be built in layers not in excess of 12 inches and compacted satisfactorily by tractor or 12-ton roller. The tops of embankments shall be at least 32 feet wide and the slopes shall be no steeper than two horizontal to one vertical.
- (m) Shoulders 12 inches thick and 4 feet wide shall be constructed of Gravel Borrow and compacted as above.
- (n) Pavement Foundation shall be placed 10 inches thick in two layers separately and satisfactorily compacted over a 24-foot width using Gravel Borrow. Said borrow shall contain no stone having any dimension greater than 2-1/2 inches; and three inches, when compacted, of black base Class I Type I-1 bituminous concrete, compacted and rolled in place, shall be laid over the borrow in accord with the specifications of the Massachusetts Department of Public Works, provided that this amendment shall not apply to roads already constructed or presently under construction if such roads comply with the subdivision regulations adopted September 2, 1971. The Town may accept roads with less than a 24-foot foundation width, but not less than twenty (20) feet, upon recommendation of the Planning Board. Where soil conditions permit, a lesser thickness of black base may be used if recommended by the Planning Board and Town Engineer. *(amended 11/1/71, 5/20/74, 11/10/75)*
- (o) Bituminous Concrete Pavement Type I-1 shall be laid in accordance with the specifications of the Massachusetts Department of Public Works 2-1/2 inches thick in two courses to consist of 1-1/4 inches binder material and 1-1/4 inches of top material compacted and rolled in place over a full 24-foot width or a lesser width, but not less than twenty (20) feet, upon recommendation of the Planning Board. The paved surface on dead end turn-arounds shall have an outside roadway diameter of at least 100 feet and a property line diameter of at least 120 feet. *(amended 11/1/71, 5/20/74)*
- (p) Curbing of bituminous concrete, made 4 inches high with a 45-degree slope on the face and a 4-inch width on the top, shall be placed along the outside of the paved surface where grades are in excess of 2% or in other locations where such protection is deemed necessary. The berm mixture shall be placed and compacted with a machine acceptable and designed for the type of berm required, provided that this amendment shall not apply to roads already constructed or presently under construction if such roads comply with the subdivision regulations adopted September 2, 1971.
- (q) Guard rails or posts and street lights and street signs shall be installed where necessary. Sidewalks shall have a width for pedestrian traffic of no less than four feet. If the sidewalk is constructed of bituminous concrete, it shall have one inch of binder rolled and compacted in place and one inch of bituminous sidewalk mix rolled and compacted in place in accordance with specifications of the Massachusetts Department of Public Works. *(amended 5/20/74)*
- (r) Catch basins, manholes, culverts, paved waterways, drainage fields, and drainage pipes, both in street areas and drainage easements, shall be installed to an adequate design capacity. *(Section 1 amended 2/24/59)*

## **ARTICLE 5. ACCEPTANCE AND REPAIRS OF PRIVATE ROADS**

**SECTION 2.** All streets to be accepted by the Town must be petitioned for not later than January 15 previous to the annual town meeting in May. No streets shall be accepted by the Town unless constructed in compliance with the foregoing specifications. No streets built or hereinafter to be built shall be accepted by the Town unless constructed in compliance with the following:

Any petition or proposal for an article of acceptance of any street or way to be voted on at any town meeting shall be accompanied by complete roadway plans and layouts drawn to the scale of one inch to forty feet by a registered civil engineer which shall show the dimensions of the roadway, including the traveled way, the location of all utilities and all easements and the boundaries and dimensions of any properties to be taken by said acceptance, the ownership of abutting properties according to the latest assessors list of January 1 of the instant year, and the plans shall be suitable for recording in Middlesex South District Registry of Deeds. The same engineer shall also, by a separate certificate to the Board of Selectmen, certify that roadway proposed for acceptance meets all the construction requirements and complies with the Bylaws of the Town of Stow, Article 5, Sections 1 and 2. *(amended 5/20/74)*

The Selectmen may waive the requirements of the engineer's certificate, and compliance with any of the specifications set forth in Section 1, upon the recommendation of the Planning Board and the Superintendent of Streets. *(this paragraph added 5/4/83)*

### **SECTION 3. Private Ways**

- (a) The Town may, in addition to whatever other powers it shall have over the control and repairs of private ways, appropriate money at the annual town meeting for the purpose of making repairs to private ways, to be used in the discretion of the Selectmen upon recommendation by the Superintendent of Streets, when such repairs are required by public use, and the Selectmen specifically vote that such repairs are required by public necessity and convenience, upon the following conditions:
- (1) That such repairs shall include only the filling of holes in the subsurface of ways and repairs to the surface materials thereof with such materials as are similar to or the same as existing materials whenever practical, and the repair, installation, construction or reconstruction of drainage;
  - (2) That such repairs shall only be made on private ways open to public use for at least ten (10) years;
  - (3) That such repairs shall not include the construction, reconstruction or resurfacing of such ways;
  - (4) That the Selectmen may require that all abutters on such ways shall, prior to the commencement of repairs, furnish appropriate releases and agreements to indemnify the Town in the event of any damages resulting from or caused by said repairs, in recordable form, which shall run with the land.

**ARTICLE 5. ACCEPTANCE AND REPAIRS OF PRIVATE ROADS**

- (b) In addition to such repairs made at the discretion of the Selectmen, a petition may be signed by at least seventy-five percent (75%) of all the abutters on a private way and presented to the Selectmen proposing a special article for the annual town meeting warrant, and containing the text for such an article which shall set forth the extent of repairs requested, upon the following conditions:
- (1) That any proposed special article for this purpose shall be presented to the Selectmen on or before January 1 for the May annual town meeting, and shall be accompanied by appropriate releases and agreements to hold the Town harmless from any liability whatsoever on account of damages resulting from or caused by said repairs signed by all the abutters on said way in recordable form which shall run with the land;
  - (2) That the cost of such repairs shall be paid by the abutters and a cash deposit of an amount equal to the cost of repairs, estimated and appropriated at the annual town meeting, shall be paid to the Town before any such repair work shall commence, unless waived by town meeting;
  - (3) In the event the annual town meeting expressly votes to waive the conditions set forth in 3(b)(2), the Selectmen may, in their discretion, assess betterments upon the abutters deriving benefit or advantage from the making of the repairs, in an amount equal to the total cost of the repairs, and assess to each abutter the aggregate amount of such total cost in proportion to the linear frontage of each such abutter to the way, in accordance with the provisions of General Laws Chapter 80.
- (c) In no event shall the Town be liable for damages caused by making repairs under this section to any greater extent than if such repairs were done on a public way, nor subject itself to Section 25 of Chapter 84 of the General Laws.
- (Section 3 adopted 5/1/78)*

## **ARTICLE 6. POLICE REGULATIONS**

**SECTION 1.** No owner or person having the care of any sheep, swine, horses, oxen, cows or other grazing animal shall permit or suffer them to go at large or to graze on any street, lane, common, square or other public place within this town, nor permit any such animal to go or stand upon any sidewalk therein.

**SECTION 2.** No person shall coast in any street or public way except such as are publicly designated for that purpose by the Selectmen.

**SECTION 3.** No person or persons shall play or perform on a musical instrument, sing, parade, hold a public meeting, make a public address, march or congregate in any public way or public place, except in connection with a funeral, without a written permit from the Board of Selectmen.

**SECTION 4.** No person shall at any time swim or bathe in any pond, stream, or waters in the Town of Stow unless properly clothed. No person shall appear in any way, street, or public place in the Town of Stow in a bathing suit unless properly covered. (*amended 2/24/59*)

**SECTION 5.** No person shall collect, deal in, or keep a shop for the purchase, sale, or barter of junk, old metals or second hand articles within the limits of the Town, unless licensed by the Board of Selectmen.

### **SECTION 6. Public Ways**

- (a) No person shall surface, resurface, break or dig up the ground in any street for any purpose whatever or set or place any fence, post, tree or edgestone, or alter or change the position or direction of any fence, post or edgestone, or swing any door or gate in, upon or over, or change the grade or width of any public way without a written permit of the Board of Selectmen, which shall prescribe the limitations or restrictions of such permit. Such permit may be obtained on payment of a fee as determined from a schedule established by the Board of Selectmen. It shall be required of the person obtaining the permit as part of the permit that the Superintendent of Streets be notified in writing at least forty-eight (48) hours before the work is to be commenced. No permits shall be issued for projects which will not be completed by November 15, except in an emergency situation. (*amended 3/4/69, 5/20/74, 5/6/81*)

When any stone walls or other markers or monuments, which are highway boundaries, are removed in a manner which destroys the boundary of the highway, they shall be replaced with bounds and to the specifications contained in the manual of the Commonwealth of Massachusetts Department of Public Works Standards for Highways and Bridges, Section 710. (*added 3/3/70; amended 3/7/73*)

- (b) When meeting the edge of the present traveled way of a street with driveways, walks, etc., the construction of the same shall be as prescribed by the Superintendent of Streets.



## **ARTICLE 6. POLICE REGULATIONS**

- (c) No person shall push snow or other material onto any public way without a permit from the Board of Selectmen.
- (d) No person shall push snow into snowbankings along the streets of the Town of Stow and cause these snowbankings to protrude into the traveled way which has already been cleared by Town plows.
- (e) No person, except agents of the Board of Selectmen, shall fill or alter any drainage pipe or drainage structure within any highway easement or drainage easement in the Town of Stow.
- (f) No person shall discharge or cause to be discharged water or materials onto any traveled way in the Town of Stow so as to cause hazard to the public using that way.
- (g) The Board of Selectmen, upon written report of the Highway Superintendent, may, in the interests of public safety and without further authority, establish a speed limit of 25 miles per hour on any roadway inside a thickly settled or business district, as defined in MGL c.90 § 1, in the city or town on any way that is not a state highway. *(added 7/10/2017)*
- (h) The Board of Selectmen, upon written report of the Highway Superintendent, and after a duly noticed Public Hearing, may, in the interests of public safety and without further authority, establish 20 mph Safety Zones in areas where vulnerable road users are likely to be present, including but not limited to ways in the vicinity of the following land uses:
  - Parks and playgrounds
  - Senior housing developments and assisted living/nursing care centers
  - Hospitals or other medical facilities
  - Schools and higher education centers
  - Daycare facilities
  - Other areas where pedestrian activity in and around the Public Way is common and focused, beyond typical residential patterns of use.

The establishment of a Safety Zone that includes the installation of regulatory speed limit signs shall conform to the Manual on Uniform Traffic Control Design in accordance with M.G.L c.85 §2, including an engineering study and analysis of current vehicular speed distribution. Proposed Safety Zones shall be developed in accordance with the following minimum criteria.

- The Safety Zone shall contain one or more areas that have potential conflicts between motor vehicles and vulnerable road users that warrant a reduction in speeds, including but not limited to crosswalks, bike paths, trail heads, curb-cuts, driveways and/or side streets.
- The minimum length of the Safety Zone shall be at least .25 miles and shall not extend more than 500 feet beyond a side street unless an applicable land use continues along the adjacent block.

## **ARTICLE 6. POLICE REGULATIONS**

In an area where a legal Special Speed Regulation has been enacted, the Safety Zone shall be terminated with a Speed Limit sign that corresponds to the regulatory limit shown in the regulation. If the Safety Zone is in an area that has no Special Speed Regulation, it should be terminated with an End Speed Zone sign in accordance with the Manual on Uniform Traffic Control Devices. *(added 7/10/2017)*

### **SECTION 7. Animal Control**

#### **a. Definitions**

**Adoption:** The delivery of a cat, dog, or other animal to any person eighteen (18) years of age or older for the purpose of harboring the animal as a pet.

**Animal Control Officer:** Any officer appointed by the Board of Health to enforce this bylaw and sections 136A to 174E, inclusive.

**Animal Shelter:** Any facility or kennel operated by a humane society, the town, or its authorized agents for the purpose of impounding animals under the authority of this bylaw or state law for care, confinement, return to owner, adoption, or euthanasia.

**At Large:** Any dog shall be deemed to be at large when it is off the premises of its owner or keeper, and not under the direct control of a person demonstrating the ability to properly control the dog.

**Attack:** Aggressive physical contact initiated by an animal.

**Commercial Boarding or Training Kennel:** An establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that “commercial boarding or training kennel” shall not include an animal shelter or animal control facility, a pet shop licensed under section 39A of chapter 129, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others. G.L. c.140 ss136A

**Commercial Breeder Kennel:** An establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

## **ARTICLE 6. POLICE REGULATIONS**

**Dangerous Dog:** A dog that either;

without justification, attacks a person or domestic animal causing physical injury or death

**OR**

behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

**Hearing Authority:** The person(s) charged with the responsibility of handling dog complaints in a town or city.

**Keeper:** Any person, corporation or society, other than the owner, harboring or having in his possession any dog.

**Kennel:** One pack or collection of dogs on a single premises, whether maintained overnight for breeding, boarding, sale, training, hunting or other purposes and including any 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 premises irrespective of the purpose for which they are maintained overnight, but excluding daytime only services such as dog grooming, dog training, supervised playtime and dog walking with no more than twelve dogs on a single premises.

**License Period:** January first (1<sup>st</sup>) to December thirty-first (31<sup>st</sup>) of the same year.

**Livestock or Fowl:** Animals or fowl kept or propagated by the owner for food or as means of livelihood; also deer, elk, cottontail rabbits, northern hares, pheasants, quail, partridge and other birds, and quadrupeds determined by the Department of Fisheries and Wildlife and Environmental Law Enforcement to be wild, and kept by or under a permit from said department(s) in proper housing and/or suitably enclosed yards. Such definition shall not include dogs, cats or other pets.

**Nuisance Dog:** A dog that:

by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity;

**OR**

by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment;

**OR**

has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

## **ARTICLE 6. POLICE REGULATIONS**

**Owner:** Any person, partnership or corporation having dominion or title of one or more animals.

**Personal Kennel:** a pack or collection of more than 4 dogs, 3 months or older, owned or kept under single ownership, for private personal use; provided however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not for profit.

**Shelter:** a public animal control facility operated by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

**Veterinary Kennel:** a veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that “veterinary kennel” shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

### **b. 1. Individual Licenses and Tags**

#### **A. License for dog over 6 months**

The owner or keeper of a dog over the age of 6 months shall obtain a license for the dog.

The Stow Town Clerk shall register, number, describe and license the dog.

Penalty: A violation of G.L.sections 137, 137A, 137B or 138 shall be assessed a penalty of not less than \$50.00 which shall be paid to the town wherein the violation occurs. G.L.c. 140 & 137

The licensing authority, Stow Town Clerk, shall not grant a license for a dog unless the owner of the dog provides a veterinarian’s certificate proving the dog has been vaccinated according to section 145B.

Penalty: A violation of G.L. sections 137, 137A, 137B or 138 shall be assessed a penalty of not less than \$50.00. A violation of sections 137, 137A, 137B, or 138 shall be assessed a penalty of not less than \$50.00 which shall be paid to the town wherein the violation occurs.

## **ARTICLE 6. POLICE REGULATIONS**

The owner or keeper of a licensed dog shall keep affixed around the dog's neck or body, a collar or harness of leather or other suitable material to which a tag shall be securely attached. The tag shall have inscribed upon it the dog's license number, the name of the city or town issuing the license and the year of issue. If said tag becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority at a cost to be determined by the city or town and the fee shall be retained by the clerk unless otherwise provided by law. **This section shall not apply to a person to whom a valid kennel license has been issued.**

### **B. G.L.c.140, s. & 139 License Fees**

The license fee for a spayed or neutered dog shall be LESS than the license fee for an intact dog. The fee shall be determined by a city or town; provided however, that no fee shall be increased without a majority vote of the voters present at a Town Meeting.

The Town Clerk shall require a certificate from the veterinarian who spayed or neutered the dog as proof that the dog is spayed or neutered.

No fee shall be charged for a license issued under this section for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

### **b. 2. Commercial Kennel License**

A kennel maintained as a business for the boarding, grooming, breeding or sale of dogs shall be subject to the provisions of the Zoning Bylaw, Section 3.2.2.5. Upon approval of the Zoning Board of Appeals, a commercial kennel license may then be obtained upon written application to the Town Clerk. The fee for such kennel license shall be thirty-five dollars (\$35.00) for no more than four (4) dogs, sixty dollars (\$60.00) for five (5) to ten (10) dogs, and one hundred dollars (\$100.00) for more than ten (10) dogs. Each kennel shall be available for inspection by the Animal Control Officer, a police officer or the Stow Board of Health at any time to ascertain compliance with all state, county and local laws and bylaws. The late fee for a kennel license is 2.5 times the license fee.

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

A veterinary clinic within the Town of Stow shall not be considered a commercial kennel unless it contains an area for grooming or selling of dogs or for boarding of dogs for other than medical purpose.

Any person or corporation maintaining a kennel for thirty (30) days without a proper license shall be in violation of this provision.

## **ARTICLE 6. POLICE REGULATIONS**

### **b. 3. Kennel License**

Every person maintaining a kennel shall have a kennel license. (Chapter 140, Section 137A Kennel Licenses, Mass. General Laws) The late fee for a kennel license is 2.5 times the license fee. The fee for such kennel license shall be thirty-five dollars (\$35.00) for no more than four (4) dogs, sixty dollars (\$60.00) for five (5) to ten (10) dogs, and one hundred dollars (\$100.00) for more than ten (10) dogs.

### **c. Vaccination of Dogs, Cats, and Ferrets Against Rabies**

Pursuant to Section 145B of Chapter 140 of the Massachusetts General Laws, the owner or keeper of a dog, cat, or ferret six (6) months of age or older shall cause the dog, cat, or ferret to be properly vaccinated against rabies by a licensed veterinarian. Upon vaccination, the veterinarian shall issue a vaccination certificate, which shall show the name of the owner, the animal that received the vaccination, the date the vaccination was given, when the next vaccination is due, a rabies tag number, and the name of the veterinary clinic or hospital. The owner/keeper of unvaccinated dogs, cats, or ferrets living in or brought into the Town of Stow shall be punished by a fine to be determined by the Animal Control Officer of not more than one-hundred dollars (\$100.00), which shall be paid to the Town of Stow.

### **d. Enforcement/Impoundment**

It shall be the duty of the Animal Control Officer, or any other person appointed by the Board of Health, to cite and/or impound any dog found running at large. Such animal shall be held at an authorized animal shelter and returned to owner, adopted, or euthanized as described in Chapter 140, Section 151A of the Massachusetts General Laws. The Officer that so impounds any animal shall keep a record of each animal so impounded which shall contain the following information: breed, color and sex of the animal, distinctive markings or characteristics of the animal; name and address of the owner (if known) along with the license number; the final disposition of the animal, the name, address, phone number of any person adopting such dog; and if destroyed, method and name of technician who administered euthanasia. Such records shall be kept by the Animal Control Officer for a period of twelve (12) months from date of impoundment. A copy shall be forwarded to the Board of Health upon disposition of the animal, and the Board of Health shall retain copies as provided by law.

### **e. Violations/Penalties**

The Animal Control Officer, any police officer of the Town of Stow, or any other person so appointed by the Board of Health, may impose a fine upon the owner or keeper of a dog so found to be at large, unlicensed, or unvaccinated against rabies.

## **ARTICLE 6. POLICE REGULATIONS**

### **f. Boarding Fees**

An owner or keeper of any dog so impounded for violation of this bylaw shall pay to the Town of Stow a pick up fee and boarding fees while such dog is impounded.

### **g. Redemption of Dogs**

The owner or keeper of a dog so impounded may claim the dog as provided by law upon the occurrence of the following:

1. The owner or keeper presents a valid dog license and certificate of rabies vaccination;
2. The owner or keeper pays all boarding and other fees;
3. The owner or keeper gives his/her name and address;
4. If the dog does not have a current rabies vaccination, the owner or keeper must present a receipt from a licensed veterinarian showing prepayment of a rabies vaccination;
5. If the dog is unlicensed, the owner must secure or pay for a license before redemption.

### **h. Nuisance or Dangerous; Other Applicable Sections of General Laws**

The provisions of Massachusetts General Laws Chapter 140, Sections 157 and 158 shall be applicable to nuisance or dangerous dogs and all other applicable sections of Chapter 140 or other sections of the General Laws or rules and regulations adopted thereunder pertaining to dogs, or to any animals as may be regulated by law, shall apply and be enforceable by the Town, as if said sections were fully set forth herein.

### **i. Emergency Fees for Dogs and Cats Injured on Public Ways**

Any veterinarian who renders emergency care or treatment to, or disposes of any dog or cat injured on any public way in the Town of Stow shall receive payment of costs from the owner of such dog or cat, if known or, if not known, shall receive the sum of two-hundred and fifty dollars (\$250.00) from the Town of Stow for such care, treatment and/or disposal.

Care, treatment and/or disposal shall be for the purpose of maintaining life, stabilizing the animal or alleviating pain or suffering until the owner of such dog or cat is identified, or for a period of twenty-four (24) hours. Any veterinarian who renders such emergency care or treatment to, or euthanizes or disposes of such dog or cat shall notify the Animal Control Officer of Stow and, upon notification, the Animal Control Officer shall assume control of such dog or cat.

*(Section 7 adopted 6/12/96; amended 5/6/2008; amended 10/28/2013)*

## **ARTICLE 6. POLICE REGULATIONS**

**SECTION 8.** No person shall make any indecent figure or write any indecent or obscene words upon any fence, building, or structure in any public place, or upon any sidewalk or wall.

**SECTION 9.** No person, unless required by law so to do, shall make any marks, letters, or figures of any kind, or place any sign, advertisement, or placard upon or against any wall, fence, post, ledge, stone, tree, building or structure in or upon any street in this Town without the permission of the owner thereof.

**SECTION 10.** No person shall distribute papers, circulars or advertisements throughout the Town in such a manner as to create a litter. (*amended 5/20/74*)

### **SECTION 11.**

(a) No person shall throw stones, snowballs, sticks or other missiles; nor kick at football, nor play at any game in which a ball is used; nor fly any kite or balloon; nor shoot with or use a bow and arrow, gun, air-gun or sling in or across any public way, street, lane, sidewalk, common, square or other public place in the Town, except that the playing of games, sport and recreational activities shall be allowed on school grounds in accordance with the rules and regulations of the Nashoba Regional School District Committee and on other grounds of the Town as permitted by the Board of Selectmen or other committees having charge of said areas. (*amended 5/20/74, 11/17/98*)

**SECTION 12.** No person shall resort to or frequent any school-house grounds or enclosure in the Town to interfere with or annoy any person lawfully using or enjoying the same; nor shall any person resort to or frequent any cemetery or graveyard in the Town and there engage in or be present at any game of cards or other game of sport, or lounge or loiter therein to the annoyance or interference of persons properly visiting or resorting to said places.

### **SECTION 13.**

a. No vehicle shall be parked on the left side of any street, road, square or way within the Town of Stow, nor shall any vehicle be parked so as to interfere with the normal flow of traffic, nor shall any vehicle be parked anywhere within the Town of Stow in such a manner as to hinder in the plowing or removal of snow from any street, road, square, or way. (*amended 2/24/59*)

b. No person, which term shall include any company, corporation or other entity and its agents and employees, shall block or obstruct the normal flow of vehicular traffic on any public way, or private way open to the public, for any reason, including repairs by any public utility, without first obtaining a permit from the Chief of Police, acting for or on behalf of the Selectmen. Such permits may be granted by the Chief of Police on such terms and conditions as he in his sole judgment and discretion shall determine to be in the interests of public safety. Any public utility or other person frequently engaged in activities in or near such a way may be granted a general permit for all such work; provided, however, that the Police Department shall be notified by the holder of such permit prior to the undertaking of any work thereunder. The



## **ARTICLE 6. POLICE REGULATIONS**

denial of a permit, or any terms and conditions imposed, may be appealed by the applicant to the Board of Selectmen. Any person, prior to the issuance of such permit, shall agree in writing to indemnify and hold the Town and its officials harmless from any damages as may be awarded or legal fees incurred in any action for personal injury or property damage suffered as a result of the issuance of any permit. *(added 5/8/84)*

**SECTION 14.** The Board of Selectmen, or any person authorized by them, may, when necessity or convenience requires, by the placing of suitable signs, restrict the parking of vehicles upon any public way within the limits marked by such signs. *(amended 2/24/59)*

**SECTION 15.** The Town may erect any and all signs to protect the safety of the public. *(adopted 6/21/54)*

**SECTION 16.** No person shall dispose of garbage, refuse, any bottle, can or any form of rubbish on any public way or on private property, or in any catch basin, waterway, river, brook or pond in the Town of Stow. Any violator of this section to be punished by a fine not to exceed one hundred dollars (\$100.00). *(added 2/24/59; amended 5/20/74; amended 5/9/2007)*

**SECTION 17.** 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 spying upon in any manner, any person or persons therein. Anyone found violating this law may be arrested without a warrant. *(added 2/24/59)*

**SECTION 18.** Owners of land on which there is located an abandoned well, or a well in use, shall be required to either provide a covering for such well capable of sustaining a weight of three hundred (300) pounds or to fill said well to the level of the ground. Any violator of this section is to be punished by a fine of not less than \$100.00 nor more than \$500.00. *(added 5/20/74)*

### **SECTION 19.**

- (a) No person shall fire or discharge any firearms on any private property except with the written consent of the owner or legal occupant thereof.
- (b) This bylaw shall not apply to lawful defense of life or property nor any law enforcement officer acting in the discharge of his duties.
- (c) The penalty for violation of this Section 19 shall be a fine of two hundred dollars (\$200.00).

*(adopted 3/4/71; amended 5/9/2007)*

**SECTION 20.** Any person who shall violate any provision of these bylaws shall, in cases not otherwise provided for, forfeit and pay for each offense a fine not exceeding one hundred dollars (\$100.00). *(amended 5/20/74; amended 5/9/2007)*

## **ARTICLE 6. POLICE REGULATIONS**

### **SECTION 21. Boating Regulations at Lake Boon**

Lake Boon is a Great Pond in the state of Massachusetts. That means that it is governed by the boating regulations established by the state, and it is the boater's responsibility to know and follow those laws and regulations. In addition, there are specific rules on Lake Boon, violation of which could result in a fine.

#### **RULE 1. SPEED**

(A) No person shall operate any motor boat on Lake Boon at a speed that is greater than is reasonable and proper under the circumstances and conditions then existing, or operate same or manipulate any water skis, wake board, tube or similar device in a negligent manner so that the lives or safety of the public might be endangered or property damaged.

(B) Speed in any of the narrows shall be such that no appreciable wake is produced, but in no case to exceed the minimum necessary to maintain steerage way. The Narrows are defined as the areas between the first and second, and second and third, and third and fourth basins.

(C) Speed during the period from one-half hour after sunset until one-half hour before sunrise shall be such that no appreciable wake is produced, but in no case to exceed the minimum necessary to maintain steerage way.

(D) The hours of 2-6 PM on Sundays and on the Massachusetts State holidays of Memorial Day, Independence Day, Labor Day and Columbus Day are designated for canoeing, sailing, swimming and other non-motorized uses of the Lake, and the maximum speed of any motorboat shall be the minimum necessary to maintain steerage way.

#### **RULE 2. WATER SKIING & TOWING**

(A) Water skiing, tubing and wake board riding is prohibited in any of the narrows, and in the third and fourth basins.

(B) Only one tow line is permitted from a boat, and the towing of more than two (2) persons on any towed device is hereby prohibited.

(C) No tow line shall exceed seventy-five (75) feet from the point of contact on the tow boat to the object being towed.

#### **RULE 3. BOATS**

(A) No vessel may be used as a residence, either permanently or temporarily, on the waters of Lake Boon.

(B) No air boat, so-called, which requires a propeller or propellers which are located above the surface of the water for the propulsion of a boat shall be used or allowed on the waters of Lake Boon except vessels as described above which are operated by any governmental subdivision or department.

*(Section 21 adopted 2/26/63, amended 7/11/2020)*

## **ARTICLE 6. POLICE REGULATIONS**

### **SECTION 22. The Removal of Earth Material** *(Deleted November 16, 2015)*

### **SECTION 23. Unregistered Motor Vehicles**

- a. No person shall leave any partially dismantled, non-operating, wrecked, junked or unregistered motor vehicle, or any vehicle without a current inspection sticker from the Commonwealth (hereinafter all called "unregistered motor vehicles" for the purpose of this bylaw), on any town, private or publicly maintained way within the town.
- b. No person in charge or control of any property within the town, whether as owner, tenant, occupant, lessee or otherwise shall allow more than one unregistered motor vehicle to remain on such property except as provided in paragraphs c. and e. of this bylaw.
- c. The Board of Selectmen may issue a permit to keep, store or allow more than one such motor vehicle to remain on such property after said board has held a public hearing thereon and, subject to such conditions as may be set forth in such permit, the Board finds that the presence of one or more such motor vehicles on such property (1) will not nullify or substantially derogate from the intent or purpose of the bylaw; (2) will not constitute a hazard to the safety and welfare of the inhabitants of the town; and (3) will not adversely affect the neighborhood in which such property is situated.
- d. Each permit shall (1) specify the maximum number of such motor vehicles that may be kept, stored or allowed to remain on such property; (2) be limited to a reasonable period of time not exceeding two years; and (3) be a personal privilege of the applicant and not a grant attached to and running with the land.
- e. This bylaw shall not apply with regard to a motor vehicle in an enclosed building, a motor vehicle on the property of a holder of a class license under Section 58 of Chapter 140 of the Massachusetts General Laws, a motor vehicle on the property of a farming or business enterprise operated in a lawful manner when necessary to the operation of such enterprises, any motor vehicle with intrinsic value as an "antique motor car", as defined in Massachusetts General Laws Chapter 90, Section 1, or a motor vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town.
- f. Any person who continues to violate the provisions of this bylaw after thirty (30) days following receipt by him of written notice of such violation from the Selectmen shall be liable for a penalty not exceeding fifty dollars (\$50.00) for each offense. Each day that any violation is allowed to continue after said thirty-day period shall constitute a separate offense for each unregistered motor vehicle thereon.

*(adopted 11/20/95)*

## **ARTICLE 6. POLICE REGULATIONS**

### **SECTION 24. Non-criminal Disposition of Certain Violations**

- (a) Any person, whether a municipal officer or a member or employee of a board or department of the Town, taking cognizance of a violation of a specific bylaw, rule or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings may give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one (21) days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged and the time and place for his required appearance. Such notice shall be signed by the enforcing person and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received.
- (b) The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his commanding officer or the head of his department or by any person authorized by such commanding officer, department or head to the offender's last known address, within fifteen (15) days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.
- (c) At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the clerk of the court before which the offender has been notified to appear.
- (d) Any person notified to appear before the clerk of the district court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to such clerk with the notice such specific sum of money not exceeding two hundred dollars (\$200.00) as the Town shall fix as penalty for violation of the bylaw, rule or regulation. Such payment shall if mailed be made only by postal note, money order or check. The payment to the clerk of such sum shall operate as a final disposition of the case. An appearance under this paragraph shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk of the district court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.
- (e) If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to this section, he may, within twenty-one (21) days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk or assistant clerk, as the court shall direct, and if the judge, clerk or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified

## **ARTICLE 6. POLICE REGULATIONS**

shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the judge, clerk or assistant clerk shall order, which payment shall operate as a final disposition of the case. If the judge, clerk or assistant clerk shall, after hearing, find that violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this paragraph shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation officer as result of such violation, nor shall any record of the case be entered in the probation records.

- (f) If any person so notified to appear before the clerk of the district court fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding paragraph, the clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a criminal complaint for the violation of the appropriate bylaw, rule or regulation.
- (g) Such notice shall be given on a form, if any, and printed for such purpose by the district court, and may be used and given by the enforcing person for the above violation and for violations of such other offenses as are set forth in Chapter 40, Section 21D of the General Laws, as it may from time to time be amended.

*(Section 24 adopted 5/9/79)*

**SECTION 25.** No person shall keep, use, consume or have in his or her possession any alcoholic beverages as defined in Chapter 138, Section 1 of the General Laws, in any building, or part thereof, owned or occupied by the Town of Stow, except the Police Department for evidentiary purposes, without the permission of the person or board in control of such premises, and being duly licensed by the licensing authority when required by law; nor shall any person consume any alcoholic beverages while on, in or upon any public way or upon any way to which the public has right of access, or any town common, public park or playground, or any land or place to which members of the public have access as invitees or licensees, or any private land or place, without the consent of the owner or person in control of such public or private land or place, and being duly licensed by the licensing authority when required by law. The penalty for any violation of this bylaw shall be a fine not exceeding fifty dollars (\$50.00) for each offense.  
*(adopted 5/9/79)*

## **ARTICLE 6. POLICE REGULATIONS**

### **SECTION 26. Regulation and Licensing of Solicitors and Canvassers**

a. It shall be unlawful for any solicitor or canvasser as defined in this bylaw to engage in such business within the town of Stow without first obtaining a license therefor in compliance with the provisions of this bylaw. A reasonable fee shall be charged for the issuance of such license. The provisions of this bylaw shall not apply to any person engaged in the soliciting for charitable, benevolent, fraternal, religious or political activities, nor any person exempt under Chapter 101 of the Mass. General Laws, nor to any person duly licensed under Chapter 101 of the Mass. General Laws, nor to any person exempt by any other General Law, nor shall this bylaw be construed to prevent route salesmen or other persons having established customers, to whom they make periodic deliveries, from calling upon such customers or from making calls upon prospective customers to solicit an order for future deliveries. Persons engaged in unlawful solicitation and canvassing may be subject to arrest without a warrant. A fine not to exceed two hundred dollars (\$200.00) may be assessed for violations. *(amended 5/9/2007)*

b. Definition

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

c. Application

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

- (1) Name of applicant.
- (2) Address of applicant (local and permanent address).
- (3) Applicant's height, weight, eye and hair color.
- (4) Applicant's Social Security number.
- (5) Length of time for which the right to do business is desired.
- (6) A brief description of the nature of the business and the goods to be sold.
- (7) The name and home office address of the applicant's employer. If self-employed, it shall be so stated.

## **ARTICLE 6. POLICE REGULATIONS**

- (8) A photograph of the applicant which shall be submitted by the applicant and be 2" by 2", showing the head and shoulders of the applicant in a clear and distinguishing manner.
  - (9) If operating a motor vehicle, the year, make, model, motor number, registration number, state of registration, vehicle's owner name and address.
- d. Investigation and Issuance
- (1) Upon receipt of the application, the Chief of Police shall investigate the applicant's
  - (2) After such investigation, the Chief of Police shall endorse the application with his
  - (3) Said license when issued shall contain the signature of the Chief of Police or the Department shall maintain a record of all licenses issued for a period of five (5) years. Solicitors and canvassers are required to display the identifying badge issued by the Police Department on an outer garment whenever soliciting. Each licensee is required to possess an individual license.
- e. Expiration of License
- Each license issued under the provisions of this bylaw shall be valid for a period not to exceed sixty (60) days unless sooner revoked.
- f. Renewal of License
- A license issued under the provisions of this bylaw may be renewed by the Chief of Police. The licensee requesting such a renewal shall apply in person to the Chief of Police.
- g. Transfer or Revocation of License
- No license shall be transferred. The Chief of Police may revoke a license for any violation of this bylaw.

## **ARTICLE 6. POLICE REGULATIONS**

### h. Hours of Solicitation

The hours for solicitation or canvassing shall be as follows:

Monday through Friday:	9:00 a.m. to 7:00 p.m.
Saturday and Sunday:	10:00 a.m. to 5:00 p.m.

Violation of this section shall constitute sufficient reason for revocation of license to solicit.

### i. Misrepresentation

(1) No solicitor or canvasser, licensed or exempt from license, shall misrepresent in any

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

### j. Duty of Police to Enforce.

The police officers of the Town of Stow shall enforce this bylaw.

### k. Penalty

Any person violating any provision of this bylaw shall, upon conviction thereof, be punished by a fine not to exceed Fifty Dollars (\$50.00) for each and every offense. Each day that a person solicits without a license provided herein shall constitute a separate offense.

*(Section 26 adopted 5/8/84)*

## **SECTION 27. Alarm Systems Regulation Bylaw**

a. No alarm user shall install or maintain a burglar alarm or similar system arranged to signal the presence of a hazard involving an unauthorized intrusion or attempted robbery of a premises, and to which the Stow Police Department is expected to respond, without first complying with and there- after continuing to comply with this bylaw and the Rules and Regulations to be enacted by the Selectmen for the purposes of implementing, enforcing and administering this bylaw.

b. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of a burglary, unauthorized intrusion or attempted robbery are specifically excluded from this bylaw and the Rules and Regulations to be enacted hereunder.



**ARTICLE 6. POLICE REGULATIONS**

- c. The Board of Selectmen, with the assistance of the Police Chief, shall promulgate and enact Rules and Regulations for the implementation, enforcement and administration of this bylaw, including permit fees, user fees and fines or other penalties for any violations.
- d. The maximum fine for any violation shall be \$50.00. Each day during which a violation exists and continues shall constitute a separate offense.

*(Section 27 adopted 5/8/84)*

**SECTION 28. Schedule of Fees for Weights and Measures** *(Deleted 5/9/2007)*

**ARTICLE 7. CEMETERIES**

**SECTION 1.** The Town of Stow will receive of any person any sum of money, the interest whereof shall be applied to the annual care of such lot in the public or private burial grounds of the Town of Stow as the person paying the money shall designate. Such deposit may be made perpetual, if so desired by the depositor.

**SECTION 2.** All sums of money now or hereafter deposited with the Treasurer-Collector in accordance with the provisions of Section 19, Chapter 114, of the General Laws, shall be credited to the account of the cemetery perpetual care fund, and the Treasurer-Collector shall keep a book which shall contain a record of all moneys deposited, the date of each deposit, the name of the depositor, the name of the cemetery containing the lot for care of which the deposit is made, and the number of said lot. *(amended 1/28/87)*

**SECTION 3.** There shall be a board of cemetery trustees consisting of three members appointed by the Board of Selectmen for terms of three years each, so arranged that the term of one member shall expire each year. Said board, with the Treasurer-Collector, shall have the management of the cemetery perpetual-care fund. *(amended 1/28/87, 5/5/92)*

**SECTION 4.** Every person who may hereafter deposit any money under the provision of Section 19, Chapter 114, of the General Laws shall receive a certificate therefor from the Treasurer-Collector in the following form:

Town of Stow

Treasurer-Collector's office \_\_\_\_\_ 20\_\_\_\_

This is to certify that \_\_\_\_\_ has deposited with me the sum of \_\_\_\_\_ dollars, the interest of which is to be forever applied in accordance with the provisions of Section 19, Chapter 114, of the General Laws, and the bylaws of the town in respect thereto for the lot numbered \_\_\_\_\_ on the plan of \_\_\_\_\_.

\_\_\_\_\_  
Treasurer-Collector

*(amended 1/28/87)*

**SECTION 5.** The income on all deposits made under the provision of Section 1 shall be computed annually on the thirtieth day of June and the amount due thereon shall be entered to its credit in the book provided for in Section 2 of this article, and annually on the first day of April the treasurer shall return to the secretary of the cemetery trustees a statement of the amount of income to the credit of each deposit, with the name of the depositor, the name of the cemetery, and the number of the lot therein. The provisions of this section shall not apply to deposits made prior to the adoption of this bylaw. *(amended 5/20/74)*

## **ARTICLE 7. CEMETERIES**

**SECTION 6.** The Treasurer-Collector shall be the custodian of said funds, and shall deposit and invest the same as directed by the board of trustees. He shall make all transfers of securities, execute all papers necessary therefor when duly authorized by vote of the trustees, and collect, receive and enforce the payment of all debts and obligations due to it and upon payment therefor shall acquit and discharge the same, and surrender, discharge, or assign all security held therefor. *(amended 1/28/87)*

**SECTION 7.** The cemetery trustees shall attend to the care and preservation of the lots for which deposits have thus been made and said trustees shall include in their annual report to the Town a statement of the amount expended on each of said lots. The Treasurer-Collector shall pay such bills as may be thus incurred and approved by the cemetery trustees to an amount not exceeding the interest to the credit of said deposits, and charge to the same. *(amended 1/28/87)*

**SECTION 8.** The Treasurer-Collector shall also pay to the authorities having control of private cemeteries, for the care of which moneys have been received by the Town of Stow, the income on all sums so deposited for the care of the lots for which deposit was made, and the cemetery trustees shall include in their annual report to the Town a statement of such payments. *(amended 1/28/87)*

**ARTICLE 8. REPEAL**

**SECTION 1.** All bylaws or part of bylaws heretofore adopted which are inconsistent with the provisions of the foregoing bylaws are hereby repealed and annulled; but the provisions of the foregoing bylaws so far as they are the same as the provisions of bylaws heretofore adopted shall be construed as a continuation thereof, and not as new enactments.

**SECTION 2.** The repeal of a bylaw heretofore adopted shall not affect any act done, ratified, or confirmed, or any right accrued or established, or any action, suit or proceeding commenced or had in a civil case, nor effect any punishment, penalty, or forfeiture incurred under such bylaw.

**SECTION 3.** These bylaws may be repealed or amended at any annual town meeting or at any other town meeting specially called for the purpose, an article or articles for such purpose having been inserted in the warrant for such meeting.

## **ARTICLE 9. WETLANDS PROTECTION**

### **SECTION 1. PURPOSE**

The purpose of this Bylaw is to protect the wetlands, flood plains, water resources, and adjoining land areas of the Town of Stow by controlling activities deemed to have a significant effect upon the values of these resources, including but not limited to the following: public and private water supply, ground water, flood control, erosion and sedimentation control, storm damage prevention, water quality, soil and water pollution control, fisheries, shellfish, wildlife and wildlife habitat (wild plants and wild animals), rare species habitat including rare plant species, agriculture, aquaculture, and recreation (collectively, the “interests of this Bylaw”). This Bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures to augment those of the Wetlands Protection Act, G.L. Ch. 131, §40 and Regulations thereunder, 310 CMR 10.00.  
*(amended 5/21/2003)*

### **SECTION 2. APPLICATION**

No person shall remove, fill, dredge, alter, degrade, pollute, discharge into, or build upon or within one hundred feet of any bank, fresh water wetland, beach, dune, flat, marsh, meadow, bog or swamp; or lands bordering on or within one hundred feet of any Great Pond, estuary, creek, intermittent stream, or any land under said waters; or lands bordering on or within two hundred feet of any perennial stream, river, pond (with the exception of Great Ponds as defined at 310 CMR 10.58 and historic mill complexes as defined at 310 CMR 10.04), lake, reservoir, vernal pool, or any land under said waters; or lands bordering on or within one hundred feet of any land subject to flooding or inundation by ground water or surface water; or lands bordering on or within one hundred feet of the one-hundred year flood elevation, without filing written application for a permit so to remove, fill, dredge, build upon, degrade, pollute, discharge into, or alter, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a permit issued pursuant to this Bylaw.

The written application, accompanied by a filing fee as described by regulation, payable to the Town of Stow, shall be sent in a manner that provides proof of delivery to the Stow Conservation Commission. This same application shall fulfill the requirements of the Massachusetts General Laws, Chapter 131, §40. Copies of this application shall be sent at the same time, in a manner that provides proof of delivery, to the Board of Selectmen, Planning Board and Board of Health. Such application shall be filed concurrently with applications for all other variances and approvals required by the Zoning Bylaw, the Subdivision Control Law or any other Bylaw or regulation, or after such variances and approvals have been obtained.

Upon written request of any person to the Commission, the Commission shall within twenty-one (21) days make a written determination as to whether this Bylaw is applicable to any land or work thereon. When the person requesting a determination is other than the owner, notice of the determination shall be sent to the owner as well as to the requesting person. Where appropriate, the

## **ARTICLE 9. WETLANDS PROTECTION**

Conservation Commission may conduct a public hearing on such a determination but is not required to do so. Notice of such a request for determination shall be sent to the abutters of record (as shown by the Assessors) where deemed necessary by the Commission.

*(Section amended 5/21/2003)*

### **SECTION 3. HEARING**

The Commission shall hold a public hearing on the application within twenty-one (21) days of its receipt. Notice of the time and place of the hearing shall be given by the Commission, at the expense of the applicant, not less than five (5) days prior to the hearing, by publication in a newspaper of general circulation in Stow and by mailing copies of the notice to the applicant, Board of Health, Board of Selectmen, Planning Board, abutters as shown by the Assessors and to such other persons as the Commission may determine. *(amended 5/21/2003)*

#### **SECTION 3.1 PERMIT AND CONDITIONS**

If after the public hearing the Commission determines that the area, which is the subject of the application, is significant to the interests protected by this Bylaw, the Commission shall within twenty-one (21) days of such hearing issue or deny a permit for the work requested. If it issues a permit after making such determination, the Commission shall impose such conditions as it determines are necessary or desirable for protection of those interests, and all work shall be done in accordance with those conditions. The conditions may include a condition that certain land or portions thereof not be built upon or altered, filled or dredged, that streams may not be diverted, dammed or otherwise disturbed. If the Commission determines that the area which is the subject of the application is not significant to the interests protected by this Bylaw, or that the proposed activity does not require the imposition of conditions, within twenty-one (21) days of the public hearing it shall issue a permit without conditions. Permits shall expire three (3) years from the date of issuance, unless renewal is sought by written application prior to the date of expiration. *(amended 5/21/2003)*

#### **SECTION 3.2 RELATIONSHIP TO MASS. GENERAL LAWS CH. 131, S. 40**

The Conservation Commission may authorize a Notice of Intent under this bylaw to suffice for an application under Mass. General Laws, Chapter 131, Section 40, and where appropriate may conduct a single public hearing under this bylaw and that act, and may issue one Order of Conditions thereunder.

### **SECTION 4. PRE-ACQUISITION VIOLATION**

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 permit issued pursuant to this bylaw

## **ARTICLE 9. WETLANDS PROTECTION**

shall forthwith comply with any such order or restore such land to its condition prior to any such violation.

### **SECTION 5. REGULATIONS**

The Conservation Commission may promulgate, after due notice and public hearing, rules and regulations to effectuate the purpose of this bylaw. However, 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.

The Commission may in its rules and regulations provide such definitions of terms used in this bylaw as it deems useful in order to carry out its obligations under this bylaw.

### **SECTION 6. BURDEN OF PROOF**

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will contribute to the interests protected by this Bylaw. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will contribute to the interests protected by this Bylaw shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions, or, in the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence. Due consideration shall be given to any demonstrated hardship of the petitioner by reason of a denial, as brought forth at the public hearing. *(amended 5/21/2003)*

### **SECTION 7. DEFINITIONS**

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

#### **SECTION 7.1. PERSON**

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth of political subdivision thereof to the extent subject to town bylaws, administrative agencies, public or quasi-public corporations or bodies, the Town of Stow, and any other legal entity, its legal representatives, agents or assigns.

#### **SECTION 7.2. ALTER**

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

## **ARTICLE 9. WETLANDS PROTECTION**

- a. Removal, excavation or dredging of soil, sand, gravel, peat or aggregate materials of any kind;
- b. Changing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, and flood retention characteristics;
- c. Drainage or other disturbance of water level or water table;
- d. Dumping, discharging or filling with any material that may degrade water quality;
- e. Placement or removal of material, which would alter elevation;
- f. Driving of piles, erection of buildings or structures of any kind;
- g. Placing of obstructions whether or not they interfere with the flow of water;
- h. Destruction of plant life, including cutting of trees;
- i. Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water;
- j. Any activities, changes or work that pollutes a stream or body of water.
- k. Incremental activities, which have, or may have, a cumulative adverse impact on the resource areas protected by this Bylaw.

*(Section 7.2 amended 5/21/2003; j. amended 10/24/2005)*

### **SECTION 7.3. BANKS**

The term "bank" shall include the land area which normally abuts and confines a water boundary; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.  
*(amended 5/21/2003)*

### **SECTION 7.4. AGRICULTURAL PRACTICES**

- a. The term "land in agricultural use" shall mean any qualifying wetland within a farm which is qualified or eligible to be qualified under the Farmland Assessment Act, Mass. General Laws,



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Chapter 61A, Sections 1 through 5, including but not limited to land primarily used in the raising of animals, the raising of plants for human or animal feed, the production of flowers, trees, nursery and greenhouse products, or ornamental plants and shrubs, or any combination thereof.

- b. The term "qualifying wetland" shall mean only inland fresh water wetland areas which are seasonally flooded or basins or flats or inland fresh water meadows.

*(Subsections c., c.(1), c.(2) and c.(3) deleted 10/24/2005)*

## **SECTION 8. SECURITY**

The Conservation Commission may, as part of its conditions, require in addition to any security required by any other town or state board, commission, agency or officer that the performance and observance of the conditions imposed hereunder be secured by one, or in part by one and in part by the other, of the methods described in the following:

- a. By a bond or deposit of money or negotiable securities in an amount determined by the Commission to be sufficient and payable to the Town of Stow.
- b. By a conservation restriction, easement or other covenant, executed and duly recorded by the owner of record, running with the land (or registered, in the case of registered land).

The amount of security required by this Commission shall not, however, exceed either the estimated cost of the work required to secure the faithful and satisfactory compliance with the final Order of Conditions or the estimated cost of the work required to restore the resources and other properties that may be affected if the work is not performed as required, whichever is greater.

## **SECTION 9. ENFORCEMENT**

The Conservation Commission shall have authority to issue administrative orders for the purpose of enforcing this bylaw and regulations and permits thereunder.

Whoever violates any provision of this Bylaw shall be punished by a fine of not more than \$300.00 or such other amount as may be provided by State statute. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each permit condition violated shall constitute a separate offense. *(fine amount added 5/19/2004)*

This bylaw shall be enforced pursuant to Mass. General Laws Chapter 40, Section 21D by a town police officer or other officer having police powers. Upon request of the Commission, the Board of Selectmen and Town Counsel shall initiate appropriate legal action or injunctive relief in Superior Court as may be necessary to enforce this bylaw and permits issued pursuant to it.

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The Commission, its agents, officers and employees may enter upon publicly or privately owned land for the purpose of performing their duties under this bylaw.

## **SECTION 10. EMERGENCY PROJECTS**

The Conservation Commission may exempt emergency projects as described by rules and regulations.

## **SECTION 11. 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 Order of Conditions which has previously become final.

*(Article 9 adopted 5/3/83, amended 5/21/2003, 10/24/2005)*

**ARTICLE 10. FIRE PREVENTION AND PROTECTION CODE**

**SECTION 1.** This bylaw shall constitute and shall be known as the "FIRE PREVENTION AND PROTECTION CODE OF THE TOWN OF STOW, COUNTY OF MIDDLESEX, COMMONWEALTH OF MASSACHUSETTS" and shall be construed to insure public safety, health and fire prevention for all buildings, structures or other premises.

This code shall not be construed to authorize any action in violation of any bylaw, regulation, ruling or statute. This code shall become effective upon its acceptance by vote of the Town Meeting of the Town of Stow. Invalidity of any section or provision of this code shall not affect the validity of any other section or provision thereof.

**SECTION 2.** The Board of Selectmen shall have the authority to establish and change inspection fees as required under this code.

**SECTION 3.** The Stow Fire Department shall have the authority to establish rules and orders from time to time pertaining to fire prevention and protection. *(amended 5/9/2007)*

**SECTION 4.** New buildings, except residential dwelling buildings of three dwelling units or less, shall have an automatic fire and/or smoke detection and alarm system. Such system shall alert all persons within the building and shall automatically alert the Stow Fire Department by transmittal of a signal to the fire station alarm system. All such detection and alarm systems must be approved by the Board of Fire Engineers.

All municipal buildings not in compliance with this section at the time of adoption of this code shall comply with said requirements by July 1, 1976.

**SECTION 5.** Standpipes, sprinkler systems, internal or external fire hydrant systems which shall include the water supply mains and pumps for said systems to be installed, altered or changed within the Town of Stow must be approved by the Stow Fire Department. A permit must be obtained for the installation, alteration or change of these systems from the Stow Fire Department, and the application for the permit must be accompanied by the specifications of the building in which it is to be installed, altered or changed, and specifications of the system itself, whether an internal or external system, according to the rules, orders and regulations of the Stow Fire Department.  
*(amended 5/9/2007)*

**SECTION 6.** No person or persons shall block, obstruct or otherwise make unusable any access to a natural water supply that may be used for fire fighting without approval of the Stow Fire Department. *(amended 5/9/2007)*

**ARTICLE 10. FIRE PREVENTION AND PROTECTION CODE**

**SECTION 7.** All public buildings and others herein described, which shall include schools, churches, municipal buildings, commercial and industrial buildings, shall maintain a fire access lane of fifteen (15) feet minimum width, where designated by the Board of Fire Engineers, which shall not be obstructed for an unreasonable length of time by commercial vehicles which have need of access to said buildings and provided that the operators of other vehicles, or those responsible for any other obstruction, are immediately available to remove said vehicle or obstruction upon orders of the Fire Department of the Town of Stow.

**SECTION 8.** The head of the Fire Department of the Town of Stow shall have the authority to inspect, at a reasonable hour, all buildings, including residential buildings of four or more dwelling units per building, for the purpose of fire prevention and safety.

**SECTION 9.** The owner or tenant of any building or dwelling may request an inspection of the property or building owned or occupied by him by the Stow Fire Department for the purpose of fire prevention and safety.

*(Article 10 adopted 5/20/74, amended 5/9/2007)*

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

### **SECTION 1. TITLE**

These bylaws may be referred to as the Personnel Administration Bylaws.

### **SECTION 2. APPLICABILITY**

All town departments and positions in the town service for which compensation is paid, including full time, part time, seasonal or intermittent, shall be considered as being within the scope of coverage of the Personnel Administration Bylaws, except that in conformance with Chapter 41, Section 108 of the Mass. General Laws, as amended, salaries paid to elected town officials shall be established annually by a vote of the Town.

### **SECTION 3. COLLECTIVE BARGAINING**

The Personnel Administration Bylaws shall not apply to any employees covered by collective bargaining agreements entered into pursuant to Chapter 150E of the Mass. General Laws, except to the extent that such agreements specifically incorporate the provisions of the Personnel Administration Bylaws.

### **SECTION 4. DEFINITIONS**

Employee: An employee of the Town occupying a position in the classification plan.

Continuous Employment: Employment (either full or part time) requiring a predetermined minimum work week and uninterrupted except for required military service and for authorized vacation or leave of absence.

Full Time Employment: Employment for not less than thirty-five (35) hours per week. *(amended 5/1/95)*

Part Time Employment: Regularly scheduled employment for less than full time weekly employment.

Permanent Position: A full or part time position in the town service which has required or which is likely to require the service of an incumbent in continuous employment for a period of fifty-two (52) calendar weeks or more.

Intermittent Employment: Employment on an "as needed" basis.

Temporary Position: A position in the town service which requires or is likely to require the services of one incumbent for a period less than fifty-two (52) calendar weeks in continuous employment.

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

Seasonal Employment: Full time or part time employment for less than fifty-two (52) weeks a year.

Probationary Employee: An employee during the first ninety (90) days of employment.

Increment: Dollar difference between step rates.

Min Rate: Lowest rate applicable for a given classification.

Max Rate: Highest rate which employee usually is entitled to attain within classification.

Range: Dollar difference between min and max rates.

Department: Any department, board, committee, commission or other agency of the Town subject to this bylaw.

Town: The Town of Stow.

### **SECTION 5. CIVIL SERVICE LAW**

Nothing contained in this bylaw or any section thereof shall be construed as being in conflict with Chapter 31 of the Mass. General Laws.

### **SECTION 6. PHYSICAL EXAMINATION**

Every full-time person employed by the Town in the following designated departments shall successfully complete a physical examination: Police Department, Fire Department, Highway Department, Tree Department and others as required by department heads. The examination shall be paid for by the Town. The examining physician shall advise the Board of Selectmen as to whether, in his or her opinion, the applicant is physically qualified to perform the duties of the position for which application has been made.

### **SECTION 7. WORKMEN'S COMPENSATION**

Each employee covered under the Workmen's Compensation Law shall be entitled to the benefits and be subject to the provisions of Mass. General Laws Chapter 152, as amended.

- a. Any sickness or injury arising out of and in connection with the service to the Town and for which Workmen's Compensation is payable. The employee shall be granted the difference between Workmen's Compensation payments and the regular straight time rate of pay. Difference in pay is charged to accrued sick leave benefits to bring total compensation to the full rate of pay provided by the position.

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- b. To insure the employee that he/she will receive his/her regular rate of pay, the Town will continue to pay the employee until the Workmen's Compensation insurance has started to pay the employee. In order to do this, the employee will be required to sign a written waiver provided by the department head (drawn up by Town Counsel) stating that he/she will turn over to the Town Workmen's Compensation checks as soon as they are received. (Note: The employee must turn back checks retroactive to the first day of injury.)
- c. If the employee does not sign the waiver, he/she will have to wait for Workmen's Compensation to process his/her claim.
- d. The provisions of this Section 7 shall not apply to police officers or firefighters who are excluded from the Workmen's Compensation Law.

**SECTION 8. OVERTIME**

- a. Eligibility: All hourly rate employees subject to this bylaw are eligible for overtime as stated below. Salaried employees are ineligible to receive overtime pay.
- b. Any time worked in excess of forty (40) hours a week or eight (8) hours a day is considered overtime.
- c. Hourly employees shall be paid for overtime at a rate of 1.5 times the regular hourly rate.
- d. Permanent hourly employees are guaranteed a minimum of four (4) hours overtime for any call back unless said call back is within two (2) hours prior to or within two (2) hours subsequent to regular scheduled hours.  
*(amended 5/1/95)*

**SECTION 9. HOLIDAYS**

- a. The following days shall be recognized as legal holidays, within the meaning of this bylaw, on which employees shall be excused from all duty not required to maintain essential town services:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Washington's Birthday	Veterans' Day
Patriots' Day	Thanksgiving
Memorial Day	Christmas
Independence Day	
- b. Every permanent employee shall be entitled to these holidays as follows:

**ARTICLE 11. PERSONNEL ADMINISTRATION**

- (1) Without loss of pay for employees paid on a weekly or annual basis.
- (2) With pay at the regular hourly rate for the number of hours normally scheduled on the designated day for employees paid on an hourly basis.
- c. Holiday benefits are effective immediately upon employment for new permanent employees.
- e. Whenever one of the recognized holidays falls on a Sunday, the following day shall be observed; and whenever one of the recognized holidays falls on a Saturday, the previous day shall be observed.
- e. Any eligible employee who performs work on one of the holidays shall be paid in addition to the holiday pay, at his/her regular rate for such day or fraction thereof; or for salaried employees, be granted compensatory time off at the convenience of the department in lieu of payment. For Christmas Day only, each hour worked shall be compensated at the overtime rate or counted as one and one-half hours for compensatory time calculation.

**SECTION 10. VACATION LEAVE**

- a. All full-time permanent employees shall be entitled to vacation leave based on the length of continuous town service as follows:

<u>Duration of Continuous Service</u>	<u>Accrual Rate</u>
One month through five years	1 day per month
After five years	1-1/2 days per month
After twelve years	2 days per month

*(amended 5/1/95)*

Accrual at these rates will allow employees to take two, three or four weeks of vacation per year, depending on seniority, and allow for two, three or four days of personal time off per year, depending on seniority. No other personal time off with pay will be granted.

- b. Eligibility is determined by anniversary date of employment.
- c. The maximum number of days carried as accrued vacation leave into a new fiscal year is limited to the number of days accrued during the prior fiscal year. *(amended 10/5/81)*
- d. If a holiday occurs while an employee is on vacation, that day will not be deducted from vacation leave.
- e. If an employee becomes ill while on vacation, vacation leave continues to apply.
- f. Vacation leave must be taken in increments of at least one-quarter day. *(amended 5/1/95)*



## **ARTICLE 11. PERSONNEL ADMINISTRATION**

- g. Each department head shall schedule the vacations of employees within the department so as to cause the least interference with the work, while giving preference to those employees with maximum seniority.
- h. A terminated employee shall be paid for all vacation leave accrued but not taken as of the date of his/her termination.
- i. The vacation leave applies to all permanent part-time employees subject to the following:
  - (1) Average hours worked per week in the prior year must be twenty (20) or more.
  - (2) Leave accrual, carry-over and minimum time increment is reduced by the average hours worked per week divided by 35, 37.5 or 40, as the case may be for such employee.  
*(amended 5/1/95)*

### **SECTION 11. SICK LEAVE**

- a. All full-time permanent employees shall be credited with fifteen (15) days of sick leave at the beginning of each fiscal year. Each employee shall be granted sick leaves aggregating not more than their accrued leave without loss of pay.
- b. Sick leave not used in any fiscal year may be accumulated to a total of 120 days entering each new fiscal year. *(amended 5/1/95)*
- c. Rate of accrual is one (1) day per month for the following purposes:
  - (1) New employees, after one month of employment, shall be credited with one (1) day of sick leave for each full month remaining in the current fiscal year following the date of employment. Fractional days shall be raised to the next whole number.
  - (2) For repayment of advanced sick leave liability, a terminated employee shall have sick leave credit reduced by one (1) day for each full month remaining in the current fiscal year following termination date. Fractional days of reduction shall be dropped.
- d. Proof of illness which results in sick leave in excess of three (3) days shall be established by either a doctor's certificate, a town nurse verification or other such means suitable to the department head.
- e. In the event that an employee is entitled to disability compensation, pursuant to the provisions of the Workmen's Compensation Act, he/she may take accrued sick leave benefits to bring total compensation to the full rate of pay provided by the position.

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

- f. Upon request of the department head, the Board of Selectmen may advance sick leave to an employee by an amount not to exceed thirty (30) days. Advanced sick leave shall be repaid to the Town out of leave not used during the following years.
- g. Any employee who is on sick leave will not be allowed to return to duty until he/she is capable of performing the full duties of employment, except to perform specific assignments mutually agreed upon by the department head and employee.
- h. Sick leave will not apply on either a holiday or vacation day where compensation is already being paid.
- i. If an employee leaves Town employment with a sick leave advance liability against his/her record, such liability shall be deducted from accrued earnings.
- j. No credit shall be made for unused sick leave balance upon termination of employment.
- k. Accrued sick leave may be used for maternity purposes.
- l. Sick leave applies to all permanent part-time employees, subject to the following:
  - (1) Average hours worked per week in the prior year must be twenty (20) or more, based on a fifty-two (52) week year. (*amended 10/5/81*)
  - (2) Leave accrual, carry-over and minimum time increment otherwise provided in these bylaws shall be reduced for part-time employees by multiplying said benefits by a fraction, the numerator of which shall be the average number of hours worked per week by such employee, Based on a fifty-two (52) week year, and the denominator of which shall be 35, 37.5 or 40 hours, as the case may be for such employee. (*amended 10/5/81, 5/1/95*)

## **SECTION 12. BEREAVEMENT LEAVE**

- a. A permanent employee is eligible for up to three (3) days of bereavement leave to handle personal matters related to the death of a close member of the employee's family including his or her spouse, child or parent, brother or sister, or grandparent of either spouse.
- b. An employee on bereavement leave shall not suffer loss in pay. Specifically, employees shall be paid at their regular rate for the hours normally scheduled on those days.
- c. Bereavement leave benefits are effective immediately upon employment for new permanent employees.

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

### **SECTION 13. JURY LEAVE**

- a. A permanent employee called for jury duty on days falling within his or her regular work period is eligible for jury leave.
- b. An employee on jury leave shall be paid the difference (if any) between the compensation he/she would have received from the Town and his/her fees, exclusive of travel allowance, for such jury duty.
- c. For employees paid on an hourly rate, pay is based on the number of hours normally scheduled on those days.
- d. Jury leave benefits are effective immediately upon employment for new permanent employees.

### **SECTION 14. MILITARY LEAVE**

- a. A permanent employee who is in the military reserve is eligible for military leave.
- b. An employee on military leave shall be paid the difference (if any) between the compensation he or she would have received and his or her military pay.
- c. For employees paid on an hourly rate, pay is based on the number of hours normally scheduled on those days.
- d. Paid military leave is limited to a period not to exceed two weeks in any twelve-month period.
- e. Paid military leave does not apply to an employee who may be mobilized during an emergency.
- f. Military leave benefits are effective immediately upon employment for new permanent employees.

### **SECTION 15. PERFORMANCE APPRAISAL**

- a. Definition: Performance appraisal is the continuous process by which an employee of the Town is informed of the supervisor's performance requirements and of how the employee performance is viewed by the supervisor in relation to those requirements.
- b. Performance Requirements: The level of performance required of an employee by the supervisor expressed in terms of quantity and quality of finished work, the cooperativeness and dependability which is required for a satisfactory rating in the position to which the employee is officially assigned. For supervisors the performance requirements also include the level of effectiveness in developing subordinate employees.

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- c. Performance Rating: Each town employee covered by this bylaw shall receive annually a written evaluation of his/her performance for the preceding calendar year. All employees will be rated on four factors: quantity, quality, cooperativeness and dependability. In addition, supervisors, other than boards or elected officials, will be rated on their ability to develop subordinate employees. Department heads may add other appropriate evaluation factors.
- d. Performance Rating Process: Using the evaluation forms provided, each supervisor of town employees will annually complete three (3) copies of the evaluation form by January 30. The supervisors must then sit down with the employee, give him/her a personal copy of the evaluation form and discuss the reasons for the ratings. Ratings may be changed during this discussion if the employee relates information about his/her performance that was not considered by the supervisor. At the conclusion of this discussion, the supervisor will give the employee an opportunity to comment orally and/or in writing and have the employee sign the bottom of the form to acknowledge participation in the review and receipt of the rating. The supervisor will forward a copy of the rating form to the Board of Selectmen for its review and for filing in the employee's official personnel folder. A copy of the rating form will be kept in the personnel folder for a period of one (1) year or until a new performance rating is completed for the employee. Employee performance ratings are to be kept confidential and are to be used only by officials authorized by the Board of Selectmen.
- e. Purpose and Uses of the Evaluation: The performance evaluation process is a valuable tool for improving employee productivity by informing employees of noted strengths and weaknesses and for giving clues on how to improve future performance. The employee performance rating may be used when promotions are being considered and for consideration for step increases.
- f. Unsatisfactory Performance: If an employee is given an unsatisfactory evaluation at any time following prior warning of deficiency, then consideration should be given toward removal, reassignment or demotion of the employee.
- g. Outstanding Performance: To receive an outstanding performance evaluation an employee must be rated exceptional in each of the rating elements. An outstanding rating should be considered unusual and is reserved for those employees who perform above and beyond normal expectations of performance. An outstanding rating gives eligibility for a quality step increase in pay not limited by time in grade and for official recognition of the employee by the Board of Selectmen.

## **SECTION 16. MAINTAINING DISCIPLINE**

- a. It is expected that town employees will obey the town bylaws and the lawful orders of their supervisors, give a full day's work for a full day's pay and that they adhere to high standards of conduct. Disciplinary action may be taken against town employees for violations as set forth below.

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

- b. Principles: The maintenance of good discipline among town employees and the handling of disciplinary actions, when required, are to be carried on in accordance with the following principles:
- (1) Primary emphasis is to be placed on positive action by supervisors to prevent situations requiring disciplinary actions.
  - (2) Employees are expected to adhere to high standards of conduct. When they violate rules, regulations or standards of conduct, they will be dealt with promptly and on a fair and equitable basis.
  - (3) Disciplinary actions should be consistent with the principle of like penalty for like offense with due consideration for the employee's past record and any other circumstances that, in the exercise of reasonable judgment, detract from or add to the seriousness of the offense.
- c. Disciplinary Actions (from least severe to most severe)
- (1) Oral reprimand, or telling an employee specifically of undesirable behavior, and suggesting how it may be corrected. Many of the more severe actions could be prevented when the verbal reprimand is used in a positive manner. By avoiding a situation and saying nothing, a supervisor may be supporting behavior which results in a more serious and unpleasant problem later.
  - (2) Letter of admonishment, or notifying the employee that behavior must improve. This letter does not go into the employee's personnel file and is signed by the supervisor or other official in the unit.
  - (3) Letter of reprimand, in writing to the employee through official channels. The letter of reprimand is kept in the employee's personnel file for a period of three years and is signed by the supervisor.
  - (4) Suspension, or removing the employee from pay status for a designated period of time. One day is usually the minimum period of suspension, and for repeated offenses the period is increased to a maximum of thirty (30) days.
  - (5) A.W.O.L. (Absence Without Official Leave). A supervisor may take action to place an employee in a non-pay status for unauthorized absence.
  - (6) Reduction in rank or compensation, or demoting an employee to a lower paying job for the good of the Town.
  - (7) Discharge, or firing an employee from employment for the good of the Town. In a few cases it may be the first action taken because the offense may be of such seriousness that no other action is feasible. Where it is taken as a result of behavior that the employee has

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

not corrected over a period of time, it should be the last measure after one or more penalties have not produced the corrective results. Discharge or firing of an employee must be approved by the Board of Selectmen. Such action may be taken only after the employee is given a statement of the reasons for the discharge or firing and only after the employee is afforded a hearing before the Board of Selectmen with respect to such statement of reasons, at which hearing the employee may have counsel or a representative of his own choosing present for the purpose of advising him but not for the purpose of active participation.

### **SECTION 17. GRIEVANCE PROCEDURE**

- a. Any dispute arising in connection with wages, hours of work and other conditions of employment, or out of the interpretation of application of the provisions set forth in the town Personnel Administration Bylaws is grievable.
- b. Any grievance that may arise will be discussed promptly and the parties will diligently cooperate in an effort to adjust said grievance at the earliest possible time.
- c. Any grievance must be filed within fourteen (14) calendar days of the event upon which the grievance is based or from the date when the employee should have had knowledge of the event or shall be deemed null and void.
- d. General Process

An employee grievance shall be filed in writing with the department head or the appropriate grievance hearing officer.

A hearing will take place within ten (10) working days from the hearing officer's receipt of the grievance, unless circumstances or conditions reasonably warrant an extension of the grievance hearing date, as determined by the hearing officer. This hearing process encourages the department head to conduct an informal review and investigation of a grievance when appropriate and practicable.

The hearing officer will issue a written decision to the grievance within ten (10) working days from the date that the grievance hearing has been completed.

- e. Hearing Officers
  1. General Case: The head of the employee's department shall be the hearing officer.
  2. Department Head: A grievance claim against a department head reporting to another board or commission shall be filed with the board or commission. The chairperson of that board or commission will adjudicate the grievance as the hearing officer. A grievance against a department head appointed by the Board of Selectmen, not reporting to another board or commission, shall be filed with and heard by the Town Administrator.

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

3. Board of Commission Members: A grievance claim filed against a member of a board or commission member shall be filed with that board or commission. The chairperson of the board or commission shall be the hearing officer. If circumstances reasonably warrant, the board or commission chairperson may request that the Town Administrator adjudicate the grievance. A grievance filed against the chairperson of a board or commission shall be adjudicated by the Town Administrator.
  4. Board of Selectmen: A grievance claim filed against a member of the Board of Selectmen shall be adjudicated by the Chairperson of the Selectmen. A grievance filed against the Chairperson of the Selectmen will be adjudicated by another Selectman voted by the Board of Selectmen. If circumstances reasonably warrant, the Board of Selectmen may appoint an outside independent third party to adjudicate a grievance against a member of the Board of Selectmen. No paid employee of the Town, or any person appointed by the Selectmen, shall be appointed to adjudicate a grievance filed against an individual Selectman.
- f. Appeals: An employee may appeal a grievance decision. The appeal must be made in writing within ten (10) working days of receipt of the written grievance decision and filed with the appeal hearing officer. The appeal shall be heard within ten (10) working days of receipt and a written decision of the appeal shall be issued within ten (10) working days from the date that the appeal has been completed. A grievance shall be deemed waived and settled unless such grievance decision is appealed within the time limits prescribed.
1. A grievance hearing decision issued by a department head or by a board or commission chairman, excluding the Board of Selectmen, may be appealed to the Town Administrator.
  2. A grievance hearing decision issued by the Town Administrator may be appealed to the chairperson of the Board of Selectmen.
  3. Employee grievance hearing decisions issued by the Selectmen are final.

*(Section 17, paragraph d amended, paragraphs e and f added 5/9/2007)*

## **SECTION 18. PERSONNEL RECORDS**

Personnel records shall be maintained in a secure place for each employee of the Town. These records shall be considered confidential. The following information shall be contained within them:

- a. A copy of the letter offering employment and which contains
  - (1) Starting date
  - (2) Starting rate of pay
  - (3) Job title and job description
  - (4) Employee category

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

- (5) Scheduled work hours
- (6) Benefits
- b. Application form
- c. References
- d. Date of birth
- e. Social Security number
- f. Changes in pay
- g. Vacation time (accumulated and used)
- h. Sick time (accumulated and used)
- i. Performance appraisal (one at least every twelve months). Only the latest performance appraisal shall be kept in the record.
- j. Other information that may deem proper and necessary to the effective administration of the personnel plan.
- k. Written records of grievance and disciplinary action and medical information shall be kept in a secure place separate from the affected employee's personnel folder. Access to grievance and disciplinary action files shall be limited to parties with an official need to know the contents of those files. Access to medical records shall be in accordance with state and federal law.

Access to personnel files shall be limited to the department head, Board of Selectmen, Town Accountant, Town Treasurer and the employee.

## **SECTION 19. MISCELLANEOUS**

- a. All powers and duties given the Board of Selectmen pursuant to the Personnel Administration Bylaws shall, with respect to employees of the library, be exercised and performed to the extent permitted by law, by the Library Trustees.
- b. These Personnel Administration Bylaws shall become effective July 1, 1981 except that all vacation, holiday, bereavement leave, jury leave, military leave, and sick leave benefits for permanent part-time employees provided for in the Personnel Administration Bylaws shall not be available until the 1983 fiscal year, except to the extent any particular such employee has been receiving such benefits in years prior to the 1982 fiscal year.
- c. The members of what was employee Clerical Union Local 1156, having now been decertified by the State Department of Labor Relations, shall retain all of the individual wage and other compensatory benefits that the Town had provided to them by and through expressed provisions of the labor contract in force and effect at the time of decertification effective February 2013.

*(Amended 5/7/2013, paragraph c. added)*

*(Sections 1 thru 19 adopted 5/6/198, )*



**ARTICLE 11. PERSONNEL ADMINISTRATION**

**SECTION 20. CLASSIFICATION AND SALARY PLAN**

- a. The positions of all employees of the Town, except those filled by popular election, those under the control of the School Committee and those covered by collective bargaining agreements, shall be classified by titles. Those employees who hold Hourly Rate Positions shall also be classified by groups. Each group shall include those positions which involve substantially similar work or which have substantially equal responsibilities. These titles and groups are set forth in the schedules referred to in clause h. of this section. The title of any position shall be

used to designate that position in all payrolls, budget estimates, official reports, records or other matters involving the personnel or fiscal processes of the Town.

- b. The minimum, maximum and range of salaries, or the single rate salaries, for the groups and positions in this plan are to be established by the vote of the Town in town meeting and are set forth in the schedules referred to in clause h. of this section. The minimum salary set for a position shall be the starting salary for that position, unless the Board of Selectmen authorizes a higher starting salary within the applicable range. To authorize a higher starting salary, the Board of Selectmen shall consider the recommendations of the department head or other administrative authority, supported by evidence of exceptional circumstances satisfactory to the Board. Except as provided below, in order to advance to the next step in a salary range, an employee will have to have been continuously employed in the position as described below for the following periods of time:

Minimum to Step 1	One Year at Minimum
Step 1 to Step 2	Two Years at Step 1
Step 2 to Step 3	Two Years at Step 2
Step 3 to Maximum	Three Years at Step 3

*(amended 5/1/95)*

An employee may be advanced to the next step in a range without regard to the time provisions upon receipt of an outstanding performance appraisal, with the written approval of the Board of Selectmen. Temporary employees shall be paid the minimum salary set for the position, regardless of amount of time in the position, unless the Board of Selectmen authorize a higher step based on the experience and qualifications of the employee.

- c. No person may be appointed, employed or paid as an employee of the Town in any position subject to the Classification and Salary Plan
  - (1) under any position title, or titles, other than those in the Classification and Salary Plan;
  - (2) under a position title other than that of the position, or positions, the duties of which the person actually performs;
  - (3) at a salary, or rate, other than that set in the salary schedule for the position, or positions, the duties of which the person actually performs; nor

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

- (4) unless the Board of Selectmen has determined that the employment of such person is consistent with all provisions of this bylaw.
- d. Every three years, or more often if it appears advisable, the Board of Selectmen shall appoint a Personnel Advisory Committee to review
- (1) all positions subject to the Classification and Salary Plan to determine whether each group continues to include those positions which involve substantially similar work or which have substantially equal responsibilities, and
  - (2) the Classification and Salary Plan to determine whether it sets forth fair and equitable pay levels.

After each review, the committee shall report to the Board of Selectmen, and the Selectmen shall report to the Town the actions considered advisable. The Board of Selectmen may temporarily add a new position to the Classification Plan or reclassify an existing position to a different group. Any such action shall cease to be effective after the close of the next following town meeting, unless adopted by an amendment to the Classification and Salary Plan at that meeting. Nothing herein shall be interpreted as limiting the authority of the Board of Selectmen to recommend to the town meeting changes in the Classification and Salary Plan whether or not a Personnel Advisory Committee is appointed pursuant to this section.

- e. This Classification and Salary Plan may be amended by majority vote at a town meeting. Amendments to the Classification and Salary Plan voted at a town meeting shall be effective on the next succeeding July first unless the vote of the town provides otherwise, provided, however, that those amendments which confirm a temporary classification change as ordered by the Board of Selectmen shall be effective immediately.
- f. It shall be the responsibility of each department head, or other appropriate supervisory authority, to write a position description for each of his/her subordinates and to keep it current. As a minimum, each position description shall contain the following:
- (1) Title of the position.
  - (2) Knowledge required by the position.
  - (3) Supervisory controls.
  - (4) Complexity of the work.
  - (5) Physical demands of the work.
  - (6) Description of the work environment.

Copies of a pamphlet on how to write position descriptions shall be kept by the administrative assistant to the Board of Selectmen. A copy of the position description shall

## **ARTICLE 11. PERSONNEL ADMINISTRATION**

be given to each employee and the administrative assistant to the Selectmen. The supervisor shall retain a copy, and a copy shall be included in each employee's personnel folder.

- g. When an employee is promoted into a new position, his/her new pay rate will be determined as follows:
- (1) Identify the person's present pay rate.
  - (2) Increase that rate by one step. If the person is at his/her top step in his/her former position, then add the step increment value (the step increment value is the amount of the difference between each step in the former position).
  - (3) By definition, a promotion must increase a person's pay to at least the figure identified in (2) above.
  - (4) To find the proper pay rate in the new position, select the lowest rate in the new pay scale that is not less than the figure derived in step 2.
- h. The salaries of town employees covered by this bylaw shall be listed on the seven (7) schedules described below. Each schedule shall list the classification title of each position (and the classification group as to Hourly Rate Positions) and the salary or salary range of each position.

### Schedule A - Annual Rate Positions

This schedule shall list all positions that are paid at an annual rate and for which a salary range from minimum to maximum is listed.

### Schedule B - Hourly Rate Positions

This schedule shall list all positions paid at an hourly rate and for which a salary range from minimum to maximum is listed.

### Schedule C - Single Rate Positions Paid Annually

This schedule shall consist of all positions paid on an annual basis and does not contain a range of pay for each position.

### Schedule D - Single Rate Positions Paid Hourly

This schedule shall consist of all positions that are paid at an hourly rate and does not contain a range of pay for each position.

### Schedule E - Annual Rate Plus Hourly Single Rate Positions

This schedule shall consist of all positions paid a single annual rate plus an hourly rate for hours actually worked.

### Schedule F - Fee Rate Positions

This schedule shall contain all positions paid on a fee basis.

**ARTICLE 11. PERSONNEL ADMINISTRATION**

Schedule G - Shift Incentive Premium for Emergency Medical Technicians

*(Section 20 adopted 5/4/82)*

**SECTION 21. LONGEVITY**

An employee of the Town in a permanent position occupying a position as defined in and covered by the Personnel Administration Bylaw shall be paid, in addition to compensation received under the wage and salary schedules, annual increments for each year of permanent service determined as follows:

<u>Years of Service</u>	
9 years...\$200.00	13 years.....\$400.00
10 years..... 250.00	14 years..... 450.00
11 years..... 300.00	15 years..... 500.00
12 years..... 350.00	

Permanent service may consist of continuous service or total service. If service is interrupted by layoff or other reasons not resulting from the employee's own action, total service will be considered as continuous service.

The annual longevity increment shall be paid from one payroll in the month of December, before Christmas, and will be based upon the years of service completed by the end of the calendar year.

*(Section 21 adopted 5/1/95)*

## **ARTICLE 12. REGULATIONS FOR UNDERGROUND STORAGE FACILITIES**

### **SECTION 1. AUTHORITY**

This bylaw is adopted by the Town of Stow under its home rule powers, its police powers to protect the public health, safety and welfare and under powers authorized by Massachusetts General Laws Chapter 40, Section 21.

### **SECTION 2. FINDINGS**

The Town of Stow finds that:

- a. The ground water underlying this town is a major source of its existing and future water supply, including drinking water. The ground water is integrally connected with, and flow into, the surface water systems which constitute recreational and economic resources of the Town. The foregoing conclusions are supported by findings set forth in the Interdisciplinary Environmental Planning, Inc. (IEP) Water Resources Study for the Town of Stow, October 28, 1977 and the maps provided therewith.
- b. Accidental spills and discharges of liquid products, materials or substances could threaten the quality of such ground water supplies and related water resources in Stow and in other Massachusetts towns, posing potential public health and safety hazards and threatening economic losses to the affected communities.
- c. Unless preventive measures are adopted to prohibit discharge of such liquids and to control their storage within the town, further spills and discharges of such materials will predictably occur, and with greater frequency and degree of hazard by reason of increasing construction, commercial and industrial development, population and vehicular traffic in the town of Stow.

### **SECTION 3. PURPOSES**

The purposes of this bylaw are, through regulation of the design, construction, installation, testing and maintenance of underground storage facilities, to protect public health from the contamination of public and private water supplies due to leakage from such facilities, to protect the public safety from the dangers of fire and explosion associated with such leakage, and to protect the general welfare by preserving limited water supplies for present and future use in coordination with other regulatory provisions.

### **SECTION 4. DEFINITIONS**

- 4.1 "Components" means piping, pumps and other related storage, conveyancing and dispensing elements that, together with one or more tanks and any cathodic protection or monitoring system, constitute a storage facility.

## **ARTICLE 12. REGULATIONS FOR UNDERGROUND STORAGE FACILITIES**

- 4.2 "Effective date" means the date on which the bylaw becomes effective pursuant to the provisions of Massachusetts General Laws Chapter 40, Section 32, as amended.
- 4.3 "Hazardous material" means a substance which because of quantity, concentration or physical or chemical characteristics, poses a hazard to human health, safety, welfare or the environment, when improperly treated, stored, transported, used or disposed, or otherwise managed; this includes but is not limited to any substance set forth or deemed a hazardous material in Massachusetts General Laws Chapter 21C and 21E or 310 CMR 30.00 of the Code of Massachusetts Regulations or pursuant to any bylaws or regulations of the Town of Stow. *(amended 1/19/88)*
- 4.4 "Storage facility" means one or more tanks, at a particular site, together with its or their components, used, or designed to be used, for the underground storage of any liquid product, material or substance, except water, and shall include any cathodic protection or monitoring system used, or designed to be used, for inhibiting or detecting leaks from any element of the facility.
- 4.5 "Tank" means a structure, any part of which is used, or designed to be used, for the underground storage of any liquid product except water.
- 4.6 "Underground storage" means storage within a tank or components any part of which are below the surrounding ground level, but shall not include storage in a free-standing container within a building.
- 4.7 "Board" means Board of Health.
- 4.8 "Owner" means the person or persons or government entity having legal ownership of a storage facility.
- 4.9 "Operator" means the lessee, tenant or licensee of a storage facility or any other person or persons responsible for the daily operation of a storage facility.

### **SECTION 5. PERMITS**

#### **New Storage Facilities**

- 5.1 Subsequent to the effective date of this bylaw, no storage facility shall be installed unless the owner shall have first obtained a permit from the Board of Health. This permit shall be in addition to any license or permit required by Massachusetts General Laws Chapter 148, as amended, or by any regulations issued thereunder. The fee for this permit shall be established by the Board of Health. The fee shall be filed with the application and made payable to the Town of Stow.

## **ARTICLE 12. REGULATIONS FOR UNDERGROUND STORAGE FACILITIES**

- 5.2 The application for a permit shall be on a form obtained from the Board of Health and shall include the following information and any other information that the Board may require:
- a. Name, address and telephone numbers (day and night) of the owner.
  - b. Name, address and telephone numbers (day and night) of the operator.
  - c. The number of tanks in the proposed storage facility and the capacity of and the specific liquid product, material or substance to be stored in each proposed tank.
  - d. The proposed type of construction and material for each tank and its components, together with the tank's UL serial number, if any, and a description of any provisions made for cathodic protection, electrical isolation and early detection of leaks through a monitoring system.
  - e. The depth below ground level of the lowest and highest points of each proposed tank.
  - f. A statement supported by the manufacturer's documentation that the materials of each tank and its components are guaranteed by their manufacturers to be compatible with the specific liquid product, material or substance that the applicant proposes to store in such tank.
- 5.3 In a proposed storage facility, the applicant shall furnish a certificate, signed by a registered professional engineer, that the proposed facility meets all the design and construction requirements of this bylaw.
- 5.4 The applicant shall also furnish a plot plan of the site and the area surrounding it, prepared by a registered land surveyor or professional engineer, showing the location of each proposed tank and its components and any existing storage facilities and of any building on the site, and showing the approximate location of any public or private well and of any body of surface water and the aquifer and recharge areas as reflected on the Water Resource Protection District map, Town of Stow, Massachusetts, dated May 1, 1987 at a scale of 1 inch = 800 feet, on file in the office of the Town Clerk, within 1,000 feet of the proposed storage facility.  
*(amended 1/19/88)*
- 5.5 If the Board of Health determines that the proposed storage facility constitutes a danger to a public or private water supply, whether by reason of its proximity to a public or private well, aquifer, recharge area or body of surface water, or for any other reason, the Board may deny the permit or may grant it subject to conditions which the Board determines are necessary to protect such water supply. The conditions may include, but are not limited to, such requirements as, for example, a double-walled tank or other secondary containment system, a monitoring system, testing at more frequent intervals than would otherwise be required under the testing for tightness of underground tanks section of 527 CMR 9.00, or continuing statistical analysis of daily inventory records. The Board of Health shall set forth the reasons for its decision in writing.

## **ARTICLE 12. REGULATIONS FOR UNDERGROUND STORAGE FACILITIES**

### Existing Storage Facilities

- 5.6 The owner of every storage facility that has been installed prior to the effective date of this bylaw shall apply to the Board of Health, within six (6) months of the effective date of this bylaw, for a permit to maintain the storage facility. Application shall be made on a form obtained from the Board of Health and shall include, to the extent available to the owner, the following information:
- a. Name, address and telephone numbers (day and night) of the owner.
  - b. Name, address and telephone numbers (day and night) of the operator.
  - c. The number of tanks in the facility and the capacity of and the specific liquid product, material or substance stored in each tank.
  - d. The type of construction and material for each tank and its components, together with a description of any provisions made for cathodic protection, electrical isolation and early detection of leaks through a monitoring system.
  - e. The depth below ground level of the lowest and highest points of the tank.
  - f. The date of installation of the tank(s).
  - g. A description of any previous leaks, including approximate dates, causes, estimated amounts, any cleanup measures taken and any measures taken to prevent future leaks.
- 5.7 The owner shall also furnish evidence of the date of installation. Such evidence may include, but is not limited to, a copy of any license issued by the local licensing authority or of any permit issued by the Chief Fire Engineer or his designee. If no substantial evidence of date of installation is supplied, the tank shall be presumed to have been installed twenty years prior to the effective date of this bylaw.
- 5.8 The applicant shall also furnish a plot plan of the site and of the area surrounding it, showing the approximate location of each tank and its components and of any building on the site, and showing the location of any public or private well and of any body of surface water and the aquifer and recharge areas as reflected on the Water Resource Protection District map, Town of Stow, Massachusetts, dated May 1, 1987 at a scale of 1 inch = 800 feet, in file in the office of the Town Clerk, within 1,000 feet of the storage facility. *(amended 1/19/88)*
- 5.9 If the Board of Health determines that the existing storage facility constitutes a danger to a public or private water supply, whether by reason of its proximity to a public or private well, aquifer, recharge area or body of surface water, or for any other reason, the Board may deny the permit or may grant it subject to the provisions of 527 CMR 9.00 et seq or conditions which the Board determines are necessary to protect such water supply. The conditions may



## **ARTICLE 12. REGULATIONS FOR UNDERGROUND STORAGE FACILITIES**

include, but are not limited to, such requirements as, for example, a double-walled tank or other secondary containment system, a monitoring system, testing at more frequent intervals than would otherwise be required under the testing for tightness of underground tanks section of 527 CMR 9.00, or continuing statistical analysis of daily inventory records. The Board of Health shall set forth the reasons for its decision in writing.

### **Monitoring, Replacement and Subsequent Modification**

- 5.10 Except as otherwise provided in 527 CMR 9.00, each storage facility shall be inspected twenty (20) years following the installation at a frequency established by the Board of Health. No storage facility shall be excluded.
- 5.11 The term "substantial modification" shall mean any change in the specific liquid product, material or substance, except water, to be stored in any tank at a storage facility or the installation of any addition to, or change in, a storage facility that alters its on-site storage capacity, significantly alters its physical configuration or alters its capacity to inhibit or detect leaks through the use of cathodic protection or a monitoring system or any similar device.
- 5.12 There shall be no replacement of a tank or of its components or substantial modification of any storage facility unless the owner has first applied for and obtained approval in writing from the Board of Health. The Board shall keep a copy of its approval with the records for that storage facility.
- 5.13 Any application for approval under subsection 5.12 shall be in writing on an application provided by the Board of Health and shall clearly describe the type of construction and material of any replacement tank or component or the modification that is proposed.
- 5.14 Any application to add cathodic protection to an existing storage facility using one or more steel tanks shall be accompanied by a design plan prepared by an engineer licensed by the National Association of Corrosion Engineers, the plan to include provisions for a test box to allow measurement of electrical potential and current flow.
- 5.15 If the Board of Health determines that the proposed replacement or modification constitutes a danger to a public or private water supply, whether by reason of its proximity to any public or private well, aquifer, recharge area or body of surface water, or for any other reason, the Board of Health may deny the application or approve it subject to conditions that the Board determines are necessary to protect such public or private water supply. The Board of Health shall set forth the reasons for its decision in writing.
- 5.16 No replacement or substantial modification shall be made except by a contractor who has either been licensed by state authorities for work on underground storage facilities or has been certified by the manufacturer or a storage equipment association as qualified for that purpose.

## **ARTICLE 12. REGULATIONS FOR UNDERGROUND STORAGE FACILITIES**

### **Renewal of Permits and Changes of Ownership**

- 5.17 The owner of any new or existing storage facility for which a permit has been issued must apply to the Board of Health for a renewal of the permit at five (5) year intervals from the date on which the original permit was granted. The fee for renewal of such permit shall be established by the Board of Health. The fee shall be filed with the application and made payable to the Town of Stow. The applicant must also furnish evidence of the most recent testing as specified within this bylaw. The application for renewal must include any changes in the information required under subsections 5.2, 5.4 or 5.6. No application for renewal shall be denied, provided that the storage facility is in accordance with the provisions of this bylaw.
- 5.18 The owner of any storage facility shall within twenty-one (21) working days notify the Board of Health of any change in the name, address or telephone numbers of the owner or of the operator. In the case of any transfer of ownership, the new owner shall be responsible for notification.

### **SECTION 6. GENERAL PROVISIONS**

- 6.1 The provisions of the Board of Fire Prevention Regulations, as set forth in 527 CMR 9.00 of the Code of Massachusetts Regulations, shall apply to all storage facilities in connection with compliance and enforcement of this bylaw.
- 6.2 The Chief Fire Engineer shall notify the Board of Health of any installation, modification or testing of storage facilities requiring his approval. The Board of Health shall notify the Chief Fire Engineer of any installation, modification or testing of storage facilities requiring the Board's approval.
- 6.3 Notification of installation, modification or testing for tightness shall be given to the Chief Fire Engineer and Board of Health at least forty-eight (48) hours prior to the intended action.
- 6.4 Septage treatment systems are exempt from this bylaw.

### **SECTION 7. FEES**

The Board of Health shall establish reasonable fees and publish a fee schedule for the purposes of administering and enforcing this bylaw.

## **ARTICLE 12. REGULATIONS FOR UNDERGROUND STORAGE FACILITIES**

### **SECTION 8. ENFORCEMENT**

- 8.1 Any owner or operator who violates any provision of this bylaw shall be subject to a fine of three hundred dollars (\$300.00) for each offense. Each day during which such violation continues shall constitute a separate offense. This bylaw may be enforced pursuant to Massachusetts General Laws Chapter 40, Section 21D, as amended, by a local police officer or any other officer having police powers. Upon request of the Board of Health, the Chief Fire Engineer or the Board of Selectmen, the Town Counsel shall take such legal action as may be necessary to enforce this bylaw.
- 8.2 In the event of any violation of this bylaw by the owner or operator of a storage facility, the Board of Health, instead of or in addition to requesting enforcement under subsection 8.1, may revoke or suspend the owner's permit or may require more frequent testing than would otherwise be required.
- 8.3 If a permit is denied, granted with conditions, suspended or revoked, then the applicant or holder of the permit may appeal this decision to the Board of Selectmen within ten (10) days from the date of the decision or order from which the appeal is taken. The Board of Selectmen shall hold a public hearing on the appeal within thirty (30) days from the date of filing of the appeal and render its decision in writing within thirty (30) days of the hearing.

### **SECTION 9. SEVERABILITY**

- 9.1 The invalidity of any provision of this bylaw shall not affect the validity of the remainder.

### **SECTION 10. COMPLIANCE**

- 10.1 Compliance with this regulation does not relieve the owner and/or operator from the liability of an underground storage facility or from complying with all other applicable federal, state or local statutes, bylaws or regulations.

*(Article 12 adopted 5/7/86)*

## **ARTICLE 13. REGULATION OF HAZARDOUS MATERIAL**

### **SECTION 1. AUTHORITY**

This bylaw is adopted by the Town of Stow under its home rule powers, its police powers to protect the public health, safety and welfare, and under powers authorized by Massachusetts General Laws Chapter 40, Section 21.

### **SECTION 2. PURPOSE**

The purpose of this bylaw is to protect, preserve and maintain the existing and potential ground water supply and ground water recharge areas within the town.

### **SECTION 3. DEFINITIONS**

The following terms shall have the following meaning in the bylaw:

- 3.1 "Discharge" means the accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration or placing of any hazardous material, regardless of volume, into or on any land or water within the Town of Stow.
- 3.2 "Hazardous material" means a substance which because of quantity, concentration or physical or chemical characteristics, poses a hazard to human health, safety, welfare or the environment when improperly treated, stored, transported, used or disposed or otherwise managed. This includes but is not limited to any substance set forth or deemed a hazardous material in Massachusetts General Laws Chapter 21C and 21E or 310 CMR 30.00 of the Code of Massachusetts Regulations or pursuant to any bylaws or regulations of the Town of Stow. (*amended 1/19/88*)
- 3.3 "Owner" means the person or persons or entity having legal ownership of a container.
- 3.4 "Operator" means the lessee, tenant or licensee of a container or any other person or persons responsible for the oversight of a container.
- 3.5 "Container" means a facility at a particular site, together with its or their components, used or designed to be used for the storage of hazardous materials.

### **SECTION 4. PROHIBITIONS**

- 4.1 a. All discharges of hazardous material within the town are prohibited, except as provided in Section 4.2 hereof.

## **ARTICLE 13. REGULATION OF HAZARDOUS MATERIAL**

- b. All handling and storage of hazardous material is prohibited except in accordance with the provisions of this bylaw, the Massachusetts Hazardous Waste Management Act, Mass. General Laws Chapter 21C, as amended, and the Resource Conservation and Recovery Act, P.L. 94-580, as amended, and regulations issued incident thereto.

### 4.2 Section 4.1 shall not apply to the following:

- a. Proper disposal of any hazardous material in an approved hazardous material disposal facility that has received and maintains all necessary federal, state and town permits for such purpose; provided that all current permits have been filed with the Stow Board of Health.
- b. Application of fertilizer and pesticides in accordance with label recommendations and with applicable regulations of the Massachusetts Pesticide Board and the U.S. Environmental Protection Agency.
- c. Application of road salts or other deicing chemicals in conformance with the snow and ice control program of the Massachusetts Department of Public Works and the Stow Highway Department.
- d. Disposal of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by Title 5 of the Massachusetts Environmental Code and the supplemental rules and regulations issued by the Stow Board of Health; provided, however, that the use of septic system cleaners containing hazardous material is prohibited hereunder.
- e. Industrial discharges which are point source discharges subject to existing valid permits under S401 of the Federal Water Pollution Control Act of 1967 as amended.
- f. Discharges pursuant to permits issued by the Stow Board of Health pursuant to Section 6 hereof.
- g. Underground storage facilities in compliance with Article 12 of the Town of Stow general bylaws.
- h. Heating oil stored for use on the premises.
- i. The storage of hazardous materials for normal household use in a single-family or multi-family dwelling.

## **SECTION 5. REGISTRATION, INVENTORY AND STORAGE CONTROLS**

- 5.1 Every owner or operator of a container storing hazardous materials in quantities totaling more than 50 gallons liquid volume or 25 pounds dry weight, or in a lesser quantity or weight if so

## **ARTICLE 13. REGULATION OF HAZARDOUS MATERIAL**

determined by Board of Health regulation, shall register with the Board of Health the types of materials stored, quantities, location and method storage. Registration required by this subsection shall be submitted within 60 days of the effective date of this bylaw, and annually thereafter, on such form or forms as the Board of Health may from time to time prescribe. If an owner or operator fails to register within the time specified by this section, the Board of Health may, in addition to imposing a penalty under Section 11, require that the storage container or containers be inspected immediately at the owner's expense.

- 5.2 Hazardous materials shall be held on the premises in product-tight containers, and the Board of Health may require by the enactment of an appropriate regulation that containers of hazardous materials be stored on an impervious, chemical resistant surface compatible with the material being stored, and that the storage area be enclosed with a permanent dike of impermeable construction. The volume of the area enclosed by the dike shall be equal to a minimum of 1.2 times greater than capacity of the containers within the dike so as to be capable of holding the enclosed material at all times.
- 5.3 The registration provision shall not apply to those exclusions listed in Section 4.2.

### **SECTION 6. DISCHARGE PERMITS**

- 6.1 Any owner or operator of a container or any person who desires to discharge hazardous materials within the town, other than those discharges permitted pursuant to Section 4.2.a. through 4.2.i. hereof, may petition the Board of Health in writing for permission to do so. The Board of Health may adopt regulations to administer this bylaw, but nothing in this bylaw shall be construed by implication or otherwise to impose upon the Board of Health any obligation to permit any discharges other than those specifically permitted by Sections 4.2.a. through 4.2.i. hereof.

### **SECTION 7. FEES**

The Board of Health shall establish reasonable fees and publish a fee schedule for the purposes of administering and enforcing this bylaw.

### **SECTION 8. REPORT OF SPILLS AND LEAKS**

Every owner or operator having knowledge of a spill, leak or other loss of hazardous materials shall immediately report the spill or loss of same to the Board of Health and Fire Department.

## **ARTICLE 13. REGULATION OF HAZARDOUS MATERIAL**

### **SECTION 9. COSTS**

- 9.1 In every case the owner shall assume responsibility for costs incurred necessary to comply with this bylaw. The Board of Health may charge the owner for expenses incurred in the enforcement of this bylaw.
- 9.2 Failure to pay costs incurred or fees shall constitute a violation and shall subject the violator to the penalties outlined in Section 11 of this bylaw.

### **SECTION 10. ENFORCEMENT**

- 10.1 The provisions of this bylaw and regulations adopted hereunder shall be enforced by the Board of Health. The agent or designated representative of the Board of Health may, according to law, enter upon any premises at any reasonable time to inspect for compliance.
- 10.2 In accordance with the rules and regulations adopted hereunder, or upon request of the agent or designated representative of the Board of Health, the owner or operator of any premises at which hazardous materials are used or stored shall furnish all information required to monitor compliance with this bylaw and regulations adopted hereunder.
- 10.3 All records pertaining to storage, removal and disposal of hazardous material shall be retained for no less than five years by the owner or operator and shall be made available for review by the agent or designated representative of the Board of Health upon request.
- 10.4 In the event of any violation of this bylaw, the Board of Health instead of, or in addition to, requesting enforcement under Section 11 may revoke or suspend the owner's or operator's permit issued by this bylaw, if any.

### **SECTION 11. VIOLATION**

- 11.1 Written notice of any violation of this bylaw and regulations adopted hereunder shall be given by the agent or designated representative 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 measures required for avoiding future violations; and a time for compliance. Requirements specified in such notice shall be reasonable in relation to the public health hazard involved and the difficulty of compliance.
- 11.2 Any violation of this bylaw shall be punishable by a fine of up to \$300.00 for each day of violation, and the Town of Stow may enforce this bylaw by any criminal or civil remedies as are available, including equitable remedies or prohibit violations hereunder.

**ARTICLE 13. REGULATION OF HAZARDOUS MATERIAL**

**SECTION 12. SEVERABILITY**

The invalidity of any provision of this bylaw shall not affect the validity of the remainder.

*(Article 13 adopted 1/28/87)*

**ARTICLE 14. REGULATION FOR RECYCLING MATERIALS**

**THIS ARTICLE WAS DELETED BY TOWN MEETING VOTE ON MAY 19, 1999.**



## **ARTICLE 15. RIGHT TO FARM**

### **SECTION 1. Legislative Purpose and Intent**

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

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

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

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

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock, including horses;
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, livestock and other domesticated animals for food and other agricultural purposes, including bees.

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

- operation and transportation of slow-moving farm equipment over roads within the town;
- control of pests including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- maintenance, repair or storage of seasonal equipment or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management or sale of the agricultural products; and

## **ARTICLE 15. RIGHT TO FARM**

- on-farm relocation of earth and the clearing of ground for farming operations.

### **SECTION 2. Right to Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Stow. The above-described agricultural activities may occur on holidays, weekdays and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community and society in general. The benefits and protections of this Bylaw are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation or local zoning law.

### **SECTION 3. Disclosure Notification**

Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property if no purchase and sale agreement exists, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property located in the Town of Stow, the landowner shall present the buyer or occupant with a disclosure notification which states the following:

"It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances."

A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the prospective landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Board of Selectmen or its designee prior to the sale, purchase, exchange or occupancy of such real property. In addition to the above, a copy of this disclosure notification shall be provided by the Town to landowners each fiscal year by mail.

### **SECTION 4. Resolution of Disputes**

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer or the Board of Health in accordance with statute and appropriate bylaws and regulations of

## **ARTICLE 15. RIGHT TO FARM**

the Town. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Board of Selectmen shall forward a copy of the grievance to the Agricultural Commission or its agent which shall review and facilitate the resolution of the grievance and report its recommendations to the referring town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, shall forward a copy of the grievance to the Agricultural Commission or its agent which shall review and facilitate the resolution of the grievance and report its recommendations to the Board of Health within an agreed upon time frame.

### **SECTION 5. Severability Clause**

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

This Bylaw restates the various protections afforded to commercial farms throughout Massachusetts state law and is intended to educate citizens that farming activities are valued in Stow. Our few remaining commercial farms provide essential components to maintain the character of the Town. The notification provisions of the Bylaw will enhance awareness relative to the value of agriculture in Stow. There are no new benefits or protections provided in this Bylaw beyond those contained in state laws.

*(adopted 12/13/2005)*

## **ARTICLE 16. STRETCH ENERGY CODE**

Enacted May 4, 2015 for the purpose of regulating the design and construction of buildings for 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.

*(adopted 5/4/2015)*

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

### **SECTION 1. PURPOSE**

The provisions of this Bylaw are intended:

- to regulate the extraction and transportation of earth from a SITE in order to manage soil EROSION, SEDIMENTATION, drainage runoff, dust control and encroachment onto abutting properties;
- to maintain traffic safety and circulation;

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

- to protect human health, public safety, welfare and the Town's natural resources that could be adversely affected by such activities; and
- to prohibit the extraction, stripping or removal of EARTH for reasons that are not consistent with this Bylaw.

### **SECTION 2. DEFINITIONS**

**ABUTTER** - The owner of a property within 300 feet of the perimeter of the PARCEL(s) identified in the application.

**APPLICANT** - The individual, corporation or other legal entity who makes the application for an Earth Removal Permit. Such individual, corporation, or other legal entity may be the OWNER of the SITE, or, with the written approval of the OWNER, the operator of the EARTH REMOVAL OPERATION.

**EARTH** - All forms of natural earthen material, including but not limited to, decomposed organic matter, LOAM, sand, gravel, clay, silt, peat, hard-pan, ledge, or rock or other geologic deposit whether surficial or found in the subsurface.

**EARTH REMOVAL OPERATION** – The removal of EARTH from a SITE, by hand or machinery. An EARTH REMOVAL OPERATION includes all activities associated with the removal, including, but not limited to, the stripping of LOAM, topsoil, sod, and the digging, stockpiling, PROCESSING, moving, depositing, or transportation of EARTH products in any form; and all aspects of the operation inclusive of the moving of equipment required for the operation to, from, or within the SITE, and all land affected by the operation (e.g. fill, or storage piles, access ways, or structures), grading of slopes, removal of trees and vegetation anticipatory to the removal of EARTH, replanting and all other activities required to mitigate the impacts of the EARTH REMOVAL OPERATION.

#### **ENVIRONMENTALLY SENSITIVE AREAS**

- Areas subject to the jurisdiction of either the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131 §40), the Town of Stow Wetlands Protection Bylaw, or both;
- Floodplain as defined in Section 5.1 (Floodplain Overlay District) of the Town of Stow Zoning Bylaw;
- Areas of Zone I or Zone II Public Water Supplies and Interim Wellhead Protection Areas as designated by the Department of Environmental Protection;
- Areas located in the Town of Stow Water Resource Protection District; and
- Areas delineated as Priority or Estimated Habitats for Rare Species as defined by the Massachusetts Natural Heritage and Endangered Species Program (NHESP).

**EROSION** – The process by which the ground surface is worn by forces such as wind, running water, ice, abrasion, gravity, transportation or by artificial means.

**LOAM** - A soil consisting of a friable mixture of varying proportions of clay, sand, silt, and organic matter.

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

**PARCEL** – A plot of land under single, joint, or several ownership defined by metes and bounds, or boundary lines, and shown on a deed and/or plan recorded in the Middlesex District Registry of Deeds or registered in the Land Court.

**PERMIT GRANTING AUTHORITY** - The Board of Selectmen is herein designated as the Permit Granting Authority. In the event an **EARTH REMOVAL OPERATION** is also subject to an application for a subdivision, special permit or site plan approval and is necessary and incidental for the construction of ways and/or associated infrastructure, the **PERMIT GRANTING AUTHORITY** shall be the Planning Board.

**PRINCIPAL USE** - The predominant and permitted use of a **PARCEL**.

**PROCESSING** - The sorting or separating of **EARTH** materials into distinct categories based on particle size or type usually through the use of a screening process but not exclusively so. **PROCESSING** includes mechanical stone crushing operations which create smaller sized stones or stone products from larger sized stones, boulders, or particles typically using a rock crusher, or similar machinery.

**QUARRYING** – The process of removing or extracting **EARTH**, by digging, cutting, blasting, ripping or hammering, except for the collection of distinct particles (e.g. glacial erratics, boulders and other discrete stone objects).

**SEDIMENTATION** - **EARTH** materials transported or deposited into any body of water, creek, ravine, or other **ENVIRONMENTALLY SENSITIVE AREA**, or onto the property of an adjacent landowner or way, by the movement of wind, water, ice, gravity, or by artificial means.

**SITE** - A distinct portion of one **PARCEL** or contiguous **PARCELS** under the same ownership on which an **EARTH REMOVAL OPERATION** is conducted, or is proposed to be conducted, under an Earth Removal Permit. A **SITE** may not encompass land in another town or a street or way in which the public has access.

### **SECTION 3. APPLICABILITY**

**3.1** Unless specifically exempted, a Permit is required for the removal of **EARTH** in conjunction with a lawfully allowable use, provided that the **PERMIT GRANTING AUTHORITY** determines that such earth removal is necessitated by the use and consistent with the provisions of federal and state law, the Zoning Bylaw and this Bylaw.

#### **3.2 Existing Operations**

- Existing operations pursuant to a valid **EARTH** removal permit as of the adoption of this Bylaw shall have the right to continue under the terms of that permit until its expiration or request for modification. Permit renewal of existing permits and modification of permits lawfully in existence as of November 16, 2015, shall comply with the procedures and substantive requirements of this Bylaw and be subject to all terms and conditions contained herein.

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

- The owner of an operation in existence at the time of the adoption of this Bylaw without a permit shall, within ninety (90) days of adoption of this Bylaw, meet with the PERMIT GRANTING AUTHORITY to discuss a process for development of a transition plan to bring the SITE into compliance. The APPLICANT shall, in consultation with the PERMIT GRANTING AUTHORITY, and the Town's Consultant (if the PERMIT GRANTING AUTHORITY deems necessary), property OWNER (if not the APPLICANT) and operator, develop such transition plan to bring the operation into compliance with the Bylaw to the greatest extent possible. The EARTH REMOVAL OPERATION shall have the right to continue if a transition plan shall be developed and approved within twelve (12) months of the effective date of this Bylaw.

The APPLICANT shall be responsible for any fee deposit for consultant review of a transition plan pursuant to M.G.L. Ch. 44 S. 53G.

### **3.3 Prohibited Operations**

The following activities are prohibited:

- QUARRYING as a PRINCIPAL use;
- Removal of EARTH as a PRINCIPAL use; and
- Removal of earth for purposes unrelated to an allowed use as defined in the Stow Zoning Bylaw.

### **3.4 Exemptions**

The following EARTH REMOVAL OPERATIONS do not require an Earth Removal Permit, provided that the EARTH REMOVAL OPERATION is not conducted, maintained and/or left in a condition so as to alter the natural drainage flow beyond the property; or to cause dust, silt soil or other materials to be deposited on adjacent properties; or to otherwise cause nuisances, hazards, or other objectionable conditions detrimental to health, safety, or property values in adjacent areas.

- Removal of EARTH from a PARCEL that involves fewer than 100 cubic yards in any 12 month period.
- Emergency projects, provided that the relevant local public safety department or Building Commissioner provides written notice that such project is necessary for the protection of the health or safety of the citizens of the Commonwealth and there is no time to get a permit. In general the time limitation for performance of emergency work shall not exceed 30 days. An Earth Removal Permit is required for any work performed beyond 30 days.
- Removal of EARTH associated with the installation or repair of septic systems, which shall be governed by the Commonwealth of Massachusetts Environmental Code (Title 5, 310 CMR 15.00) and Stow Board of Health Regulations, provided the quantity of the materials removed shall not exceed that displaced by installation of the septic system;

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

- Removal of EARTH associated with the installation of foundations for approved structures and/or building additions, or swimming pools, which shall be governed by Massachusetts General Law, Chapter 143 and the Commonwealth of Massachusetts Building Code (780 CMR) and for which a building permit has been issued, provided the quantity of materials removed shall not exceed that displaced by the portion of the building or structure below grade;
- Removal of EARTH in the course of customary operations on existing agricultural land, provided that written notification of the operation is provided to the PERMIT GRANTING AUTHORITY or its designee prior to commencement of work and it can be demonstrated that the agricultural establishment currently operates a farm business and that the earth removal is necessary and incidental to the agricultural use of the property, as defined M.G.L C. 128 et seq.
- Removal of EARTH brought onto a PARCEL from another location solely for PROCESSING, as may be permitted under the Zoning Bylaw.

### **SECTION 4. RULES AND REGULATIONS**

The PERMIT GRANTING AUTHORITY shall promulgate, adopt, and from time to time, amend rules and regulations, not inconsistent with the provisions of this Bylaw or other applicable provisions of the General Laws or local laws and regulations. Prior to any changes in the Rules and Regulations, the PERMIT GRANTING AUTHORITY shall hold a public hearing thereon, advertised in a public newspaper of general circulation in the Town no less than 7 days prior to the day of the Public Hearing.

Such rules and regulations shall include as a minimum:

- the size, form, contents, style and number of copies of plans and specifications, which shall be stamped by a registered engineer;
- performance standards for proposed EARTH REMOVAL OPERATIONS;
- requirements for the restoration of the SITE once excavation and EARTH removal activities have ceased;
- the town boards or agencies from which the PERMIT GRANTING AUTHORITY may require reports;
- application forms and fees;
- fee deposit for reviews by consultants pursuant to M.G.L. Ch. 44 S. 53G;
- provision for performance guarantee in order to secure performance of the APPLICANT'S obligations pursuant to the EARTH Removal Permit and this Bylaw; and
- transition plan for existing operations as described in Section 3.2 of this Bylaw.

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

### **SECTION 5. APPLICATION AND PUBLIC HEARING PROCESS**

**5.1 Pre-Submission Review** - It is recommended that the APPLICANT contact the office of the PERMIT GRANTING AUTHORITY to establish a time for pre-submission review with staff of Town departments, committees and agencies to discuss submission requirements, applicability and review processes, including but not limited to:

- Sequencing of other applicable permits, including Abbreviated Notice of Resource Area Delineation and/or a Notice of Intent from the Conservation Commission; Special Permit and/or Site Plan Approval from the Planning Board or Zoning Board of Appeals; or other permits as may be required by federal, state, or local agencies.
- Changes to the proposed SITE work that may avoid the need for the filing of an application for EARTH REMOVAL OPERATION, or whether changes or alterations to the proposed plans may minimize or mitigate the community and environmental impact of the proposed work.

**5.2 Application Filing** - Any person seeking to obtain an Earth Removal Permit (hereinafter referred to as the APPLICANT) shall file a petition with the PERMIT GRANTING AUTHORITY. Each petition shall be completed on the proper forms and accompanied by the information required by the PERMIT GRANTING AUTHORITY as set forth in its rules and regulations.

No application for an EARTH Removal Permit shall be considered complete and shall not be acted upon unless the Tax Collector of the Town of Stow has certified, pursuant to MGL Ch. 40 Section 57, that no debt is owed to the Town by the APPLICANT or owner.

In addition to the application fee, the APPLICANT shall be responsible for any fee deposit for consultant reviews pursuant to M.G.L. Ch. 44 S. 53G.

All costs relating to legal notice publication and mailings shall be borne by the APPLICANT.

**5.3 Reports from Town Boards or Agencies** - The PERMIT GRANTING AUTHORITY shall transmit one copy each to the Planning Board, Zoning Board of Appeals, Building Inspector, Board of Health, Conservation Commission, Board of Selectmen, Highway Department, Fire Department, Police Department, Historical Commission and other such board or agency deemed necessary by the PERMIT GRANTING AUTHORITY for their written reports. Comments from any such board or agency may be received up to the close of the public hearing.

**5.4 Applications for Related Permits and Joint Meetings** - If the proposed EARTH Removal Permit requires any other permit from the Town of Stow, the PERMIT GRANTING AUTHORITY and other permit granting authority shall conduct reviews simultaneously, to the extent feasible. Nothing in this section obviates the application process or public hearing requirements as described in this Bylaw. The PERMIT GRANTING AUTHORITY may reduce the application fee in the instance of simultaneous filings.



## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

**5.5 Restoration** - All EARTH removal applications shall include a plan, including a financial plan, for the restoration of the SITE once excavation and EARTH removal activities have ceased. Depending on the scale of the operation, the PERMIT GRANTING AUTHORITY shall require that restoration be implemented in its entirety at the termination of the removal operation or in phases as operations cease on portions of a SITE. The PERMIT GRANTING AUTHORITY shall review the restoration plan in consultation with its Consulting Engineer and with the Conservation Commission. APPLICANTS are also encouraged to consult with the Middlesex Conservation District and/or Natural Resources Conservation Service as they develop proposed restoration plans. Restoration shall include the following:

- All surfaces shall be graded and/or stabilized by planting or other means to prevent short and long term EROSION, control runoff, and reduce hazards at the SITE.
- Measures shall be taken to ensure that there is no standing water on the SITE and that there is no off-SITE EROSION or SEDIMENTATION. The volume and rate of runoff shall not increase from the pre-removal SITE conditions. An exception may be made where a water feature is part of an approved restoration plan.
- All debris, stumps, slash, boulders and similar material shall be removed from the SITE or disposed of in an approved location on SITE. Any on-SITE disposal areas shall be covered with no less than two feet of soil (unless otherwise specified by the PERMIT GRANTING AUTHORITY) prior to restoration and the locations of these areas shall be shown on the as-built plan.
- Plantings shall be selected from native grassland, shrubland and tree species as needed to both stabilize the SITE and screen it from view from public ways and waterways and by abutting properties. The use of wildlife-friendly species is encouraged.
- The PERMIT GRANTING AUTHORITY may require the submittal of an as-built plan, prepared by a registered engineer or land surveyor and demonstrating compliance with the permit conditions and restoration plan.

**5.6 Public Hearing** - The PERMIT GRANTING AUTHORITY shall hold a public hearing, after proper notification in accordance with the provisions of this Section, no later than sixty-five (65) days after the filing of an application. The Public Hearing shall be advertised by the PERMIT GRANTING AUTHORITY in a public newspaper of general circulation in the Town, no less than 14 days prior to the day of the Public Hearing. In addition, copies of the notice shall be sent by certified mail by the APPLICANT to all Parties in Interest at least fourteen (14) days prior to the date of the public hearing. Proof of notification to parties in interest (certificate of mailing or certified mail receipts) shall be submitted to the PERMIT GRANTING AUTHORITY no later than the commencement of the public hearing.

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

### **SECTION 6. DECISION**

**6.1** The permit shall be issued to the APPLICANT. If the APPLICANT is not the OWNER of the land, the APPLICANT, shall demonstrate that they have the legal permission of the OWNER to make an application and alter the SITE for EARTH REMOVAL OPERATION.

The decision of the PERMIT GRANTING AUTHORITY shall be made within ninety (90) days following the date of the close of the public hearing and shall be deemed approved by a majority vote of its members. The PERMIT GRANTING AUTHORITY shall have the power to continue a public hearing if it finds that such continuance is necessary to obtain additional information in order to make an informed decision.

- The required times for a public hearing and decision may be extended by written agreement between the APPLICANT and the PERMIT GRANTING AUTHORITY.
- The PERMIT GRANTING AUTHORITY may act to issue an EARTH Removal Permit with conditions, or may deny the application. If an application is denied, the findings for denial shall be included in the decision.
- A copy of the issued EARTH Removal Permit or denial thereof shall be mailed or hand-delivered to the APPLICANT within ten (10) business days of the Board's final action.
- A copy of the EARTH Removal Permit shall be recorded by the Applicant in the Registry of Deeds prior to commencement of work.

**6.2** **Mandatory Findings by PERMIT GRANTING AUTHORITY** - The PERMIT GRANTING AUTHORITY shall not issue an Earth Removal Permit unless it finds that such earth removal is necessitated by the proposed use and development:

- is in conformance with the procedures, standards and conditions contained herein;
- is able to be conditioned in a manner consistent with the purpose and intent of this Bylaw;
- will not be detrimental or injurious to abutting properties, neighborhoods, Town amenities or ways utilized in the transport of EARTH from the SITE;
- provides sufficient mitigating measures to address any adverse impacts to ENVIRONMENTALLY SENSITIVE AREAS;
- will result in no redirection or increase in rate and volume of existing surface water runoff onto abutting or downstream properties and ways;
- provides for safe vehicular and pedestrian passage and circulation on public and private ways;
- will result in no SEDIMENTATION beyond the boundary line of the SITE;
- will comply with all requirements of EARTH Removal Rules and Regulations, unless specifically waived by the PERMIT GRANTING AUTHORITY for good cause, and all other applicable requirements of this Bylaw; and
- all other applicable permits for the proposed use have been applied for.

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

- 6.3 Conditions** - Notwithstanding the Performance Standards outlined in the Rules and Regulations for EARTH REMOVAL OPERATIONS, the PERMIT GRANTING AUTHORITY shall impose such conditions, safeguards and limitations as it deems appropriate to protect abutting properties or ways, the neighborhood, community amenities, ENVIRONMENTALLY SENSITIVE AREAS and the Town of Stow, including, but not limited to:
- limitations on the hours of operation and duration of EARTH REMOVAL OPERATION activities;
  - limitations on the location of the EARTH REMOVAL OPERATION ACTIVITIES on the SITE;
  - requirement of mitigating equipment on trucks, including but not limited to suitable coverage of payload, to prevent dust and contents from affecting abutting properties and ways;
  - limitations on truck routes and/or transportation of EARTH over public or private ways which may cause undue injury to road surfaces;
  - plans for roadway impact mitigation, including but not limited to improved aprons and/or spill mitigation plans;
  - setbacks from abutting dwellings, properties and/or ENVIRONMENTALLY SENSITIVE AREAS;
  - screening of parking areas or other parts of the premises from adjoining premises or from the STREET by specified walls, FENCES, plantings or other devices, including a program of maintenance for said screening which will continue for the life of the permitted use;
  - continuing provision for adequate and legal disposal of all solid waste, sewage, REFUSE and any other potential pollutant generated by EARTH REMOVAL OPERATION;
  - inclusion of measures to ensure GROUND WATER protection, and to ensure the proposed development will not result in no redirection or increase in rate and volume of existing surface water runoff onto abutting or downstream properties and ways;
  - provision of any necessary easements, restrictions or other rights necessary accommodate existing uses and to carry out the project and/or the required conditions;
  - the location of construction staging or stockpiling;
  - regulation of number, design and location of access drives;
  - provision for security and construction fencing;
  - provision for phasing the EARTH REMOVAL OPERATION;
  - provision for restoration of the SITE, including financial guarantees;
  - provision for EROSION control measures to be in place and maintained;
  - provision for the safety and convenience of vehicular and pedestrian traffic;
  - provision for performance guarantee in order to secure performance of the APPLICANT'S obligations pursuant to the EARTH Removal Permit and this Bylaw;
  - installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land; and
  - proof that all other applicable permits have been obtained.

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

- 6.4 Time Limitation on EARTH Removal Permit** – EARTH Removal Permits shall lapse within a period of time to be specified by the PERMIT GRANTING AUTHORITY, depending on the scope of the project, not to exceed two years from the date of grant thereof.

The EARTH Removal Permit shall lapse if the EARTH REMOVAL OPERATION has not commenced, except for good cause within one (1) year from the date of grant thereof.

No EARTH REMOVAL OPERATION activity shall occur after the lapse of an EARTH Removal Permit.

### **SECTION 7. EXTENSION OR MODIFICATION OF EARTH REMOVAL PERMIT**

- 7.1 Extension** - A reasonable extension of said time, depending on the scope and phasing of the EARTH REMOVAL OPERATION, but not more than two additional years, may be granted by the PERMIT GRANTING AUTHORITY after a public hearing has been held where good cause is shown. Any request to the PERMIT GRANTING AUTHORITY for such extension of time shall be submitted to the PERMIT GRANTING AUTHORITY at least sixty (60) days prior to the date when the EARTH Removal Permit is due to lapse. Failure to submit such a request as prescribed herein shall be sufficient cause for the PERMIT GRANTING AUTHORITY to deny the requested time extension.

Notification of any deficiencies found through said review shall be forwarded to the property owner and EARTH Removal permit holder. Failure to rectify said deficiencies may result in rescission of the EARTH Removal permit or other enforcement proceedings.

- 7.2 Modification** - Upon request by the APPLICANT, the PERMIT GRANTING AUTHORITY may, where good cause is shown, modify the EARTH Removal Permit and impose additional conditions, as appropriate.

Criteria for approval of extension or modification applications may include, but not be limited to, impacts to abutting properties, ENVIRONMENTALLY SENSITIVE AREAS, adherence to permit conditions, number of permit violations, and actions taken to remedy said violations, and proposed changes to operation of activity and any substantive changes in operations proposed for the coming year of activity; and any additional information deemed necessary by the PERMIT GRANTING AUTHORITY to make an informed decision.

Extension and Modification Applications are subject to notifications in accordance with Sections 5.6 (Reports from Town Boards and Agencies) and 5.3 (Public Hearings) of this Bylaw.

## **ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

### **SECTION 8. PERFORMANCE GUARANTEE**

The PERMIT GRANTING AUTHORITY shall require a performance bond or other security in a form satisfactory to the PERMIT GRANTING AUTHORITY which is sufficient to ensure satisfactory performance of the requirements of the permit, including all phases of the EARTH REMOVAL OPERATION and restoration of the SITE, restoration of any damage to public ways, and any conditions imposed in the permit. Exceptions to this may be made only upon a written finding by the PERMIT GRANTING AUTHORITY that a performance guarantee is not warranted.

After completion of the operation, and upon receipt of a written request, the PERMIT GRANTING AUTHORITY) may grant a partial release of any security posted by the APPLICANT, owner or operator. The remainder of the security shall be released one year after the operation has been completed or expired, upon a final inspection and a finding that:

- removal and restoration has been completed in compliance with the permit and the standards and requirements of this Bylaw;
- if required, the APPLICANT has submitted an “as-built” plan, prepared by a registered professional engineer licensed in the Commonwealth and approved by PERMIT GRANTING AUTHORITY; and
- no deterioration of the SITE has occurred for a period of one year. During the year following the partial release of the security, the APPLICANT shall be responsible for repairing any damage to the SITE.

### **SECTION 9. INSPECTIONS**

The PERMIT GRANTING AUTHORITY and/or its agent shall have the right to inspect any permitted EARTH REMOVAL OPERATION for compliance with these conditions. The PERMIT GRANTING AUTHORITY may require a deposit for periodic inspections of permitted EARTH REMOVAL OPERATIONS. Failure of an APPLICANT to pay an inspection fee pursuant to M.G.L. Ch. 44 S. 53G shall be grounds for revocation of the permit.

The PERMIT GRANTING AUTHORITY, its agent or designee shall under the provisions of this Bylaw, act to issue notices of violations(s), cease and desist orders or revoke or suspend any permit for cause.

### **SECTION 10. ENFORCEMENT**

The provisions of this Bylaw shall be enforced by the Building Commissioner and/or Police Department in consultation with the PERMIT GRANTING AUTHORITY.

If the Building Commissioner and/or Police Department or PERMIT GRANTING AUTHORITY has reason to believe that there has been a violation of this Bylaw or the terms of a permit issued by the PERMIT GRANTING AUTHORITY, the Town shall give notice of the violation to the property owner/operator by hand delivery or by certified mail, return receipt requested, to the record address of the owner/operator as applicable. The notice shall require that operations immediately cease and desist, and specify a time for compliance which may include the application for a permit, measures to correct an imminent safety or health hazard and/or other measures. The notice may also assess a fine to the owner pursuant to this bylaw.

**ARTICLE 17. THE REMOVAL OF EARTH MATERIAL**

**Fines** - The penalty for violation of this bylaw or an Earth Removal Permit shall be assessed to the property owner at \$200.00 for each offense.

Each truckload of EARTH removed from the SITE shall constitute a separate offense under this Bylaw.

In addition to the penalties provided for above, the violation of any provision of this Bylaw or any condition of a permit issued hereunder, may, at the discretion of the PERMIT GRANTING AUTHORITY, be punishable by the immediate modification or revocation of the permit. No permit shall be modified or revoked until the holder thereof has been given notice and an opportunity to be heard by the PERMIT GRANTING AUTHORITY. A decision to modify or revoke a permit shall be made in writing and within 30 days of the close of the hearing. Modification or revocation of a permit shall not relieve the permit holder of the requirement to restore the SITE.

*(Article 17 adopted November 16, 2015)*

A true copy. Attest: Linda E. Hathaway  
Town Clerk of Stow