

TOWN OF CANTON GENERAL BY-LAWS

ARTICLE I

GENERAL PROVISIONS

Section 1. Penalty for Violation of By-Laws (Criminal Complaint) ¹⁻¹

Whoever violates any by-law of the Town whereby any act or thing is enjoined, required, or prohibited, shall forfeit and pay for each offense a fine not exceeding fifty dollars unless some other penalty is herein expressly provided and authorized by law.

Section 2. Non-criminal Enforcement of By-Laws Violations ¹⁻²

Any enforcing person taking cognizance of a violation of any provision of these By-Laws, (or of any rule or regulation of a town officer, board or department of the town), the violation of which is subject to a specific penalty may, as an alternative to the initiation of criminal proceedings, seek enforcement through a non-criminal proceeding in the district court pursuant to the provisions of General Laws, Chapter 40, Section 21D. For each provision of the General By-Laws for which no other penalty is provided the penalty shall be understood to be the sum of fifty dollars (\$50.00).

Such proceeding shall be initiated by giving to the offender a written notice to appear before the clerk of the district court, at Stoughton during normal business hours, not later than twenty-one days following 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 offender whenever practicable in acknowledgment that such notice has been received. For the purpose of this section the words "enforcing person" shall mean any person who is empowered to enforce the specific by-law, rule or regulation of the town which has been, or is being violated.

Section 3. Appointment to Town Office ¹⁻³

No appointing authority shall appoint any person to serve as a member of a multiple member body unless such person, at the time of appointment, is a resident of the town. Any person serving as a member of any multiple member body of the town who during the term of office for which appointed removes from the town shall, forthwith, be deemed to have vacated such office.

¹⁻¹ Amended under article 24, ATM April 26, 2000.

¹⁻² Inserted under article 6, STM March 14, 1983. Amended under article 24, ATM April 26, 2000.

¹⁻³ Inserted under article 19, ATM May 6, 1996.

This provision shall not be construed to prevent a non-resident town officer, or town employee, from serving as a member of a multiple member body representing the office or employment held.

ARTICLE II

TOWN MEETING

Section 1. Annual Town Election, Time of²⁻¹

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 first Tuesday after the first Monday in April each year. The polls shall be opened at seven o'clock A.M. and shall not be closed before eight o'clock P.M. in the Town Hall or in some other location designated by the Selectmen.

Section 2. Annual Town Meeting, Time of²⁻²

The Annual Town Meeting for the transaction of business shall be held on the last Monday of April of each year at 7:30 P.M. in the Morse Auditorium or in some other location designated by the Selectmen.

Section 3. Notice of Town Meeting²⁻³

All Town Meetings shall be notified by posting attested copies of the Warrant calling the same at the Post Office and in not less than six other public places, twenty-one days at least before the day of the meeting.

Section 4. Return of Service

The Constable or person who serves a warrant for a Town Meeting shall, immediately after making service thereof, deliver to the Town Clerk, the original warrant, with his return endorsed thereon, stating fully the manner in which he served the same.

Section 5. Warrant Articles; Copies to Finance Committee

Copies of all articles submitted for insertion in the Warrant for any Annual or Special Town Meeting, shall be forwarded forthwith to the Finance Committee for its consideration.

Section 6. Notice of Adjourned Session

Copies of the vote adjourning any Town Meeting, shall be posted by the Town Clerk in at least two public places in the Town as soon as practicable after the adjournment.

²⁻¹ As amended under article 41, ATM 1964 and under article 6, STM April 27, 1992.

²⁻² As amended under article 14, ATM 1958 and under article 22, STM September 15, 1986.

²⁻³ As amended under article 17, ATM 1962.

Section 7. Closing of Warrant ²⁻⁷

The closing date and time for the submission of articles by petition to be placed on the warrant for an annual or special Town Meeting shall be published by the Board of Selectmen, in the local town newspaper at least ten (10) days before the closing of the warrant.

Section 8. Elective Office Prohibition ²⁻⁸

No person shall hold more than one (1) elective municipal office in the Town of Canton on or after March 3, 1981. If elected to another office, that person's former office shall automatically become vacant and the vacancy filled as prescribed by the General Laws of the Commonwealth.

²⁻⁷ Inserted under article 76, ATM 1980.

²⁻⁸ Inserted under article 75, ATM 1980.

ARTICLE III³
BY-LAW PROVIDING THE PROCEDURE FOR ANNUAL TOWN
MEETING WARRANT AND REPORT
PREPARATION/PUBLICATION AND TOWN MEETING
ADMINISTRATION

SECTION 3.1 FILING OF ARTICLES^{3-3.1}

A. Warrant Articles to Adopt or Amend Zoning By-Laws

All subject matter seeking to adopt or amend zoning by-laws which is submitted for consideration as articles for insertion in the warrant for the annual town meeting (the “zoning articles”) shall be filed in the office of the Board of Selectmen prior to twelve o'clock (12:00) noon on not less than the one hundred and twentieth (120th) day preceding the date on which the opening session of said meeting is to be held. On the said one hundred and twentieth (120th) day preceding the date on which the opening session of said meeting is to be held, the warrant shall be closed as to zoning articles, and as soon as practicable thereafter a listing of all proposed warrant zoning articles which were received on or before the said one hundred and twentieth day preceding said scheduled date shall be prepared and signed by the Board of Selectmen. The said listing shall, forthwith, be submitted to the town counsel for review and formatting.

The Board of Selectmen shall within fourteen days of receipt of such zoning articles submit them to the Planning Board for review. The Planning Board shall then hold a public hearing thereon at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning articles are submitted to the Planning Board by the Board of Selectmen, in accordance with M.G.L. c. 40A, § 5.

No vote at town meeting to adopt a zoning article shall be taken until a report with recommendations by the Planning Board has been submitted to the town meeting or twenty-one days after said Planning Board hearing have elapsed without submission of such report. After such hearing and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, the town meeting may adopt, amend (and then adopt), or reject such proposed zoning articles.

B. All Other Warrant Articles

All subject matter seeking other than to adopt or amend zoning by-laws which is submitted for consideration as articles for insertion in the warrant for the annual town meeting (the “non-zoning articles”) shall be filed in the office of the Board of

³ Article III of these By-Laws was deleted in its entirety by action taken under article 2, STM June 2, 1969. A new Article III was inserted under article 32, ATM April 28, 2003.

^{3-3.1} Amended under article 46 ATM, May 2, 2005.

Selectmen prior to twelve o'clock (12:00) noon on not less than the ninetieth (90th) day preceding the date on which the opening session of said meeting is to be held. On the said ninetieth (90th) day preceding the date on which the opening session of said meeting is to be held, the warrant shall be closed as to non-zoning articles, and as soon as practicable thereafter a listing of all proposed warrant non-zoning articles which were received on or before the said ninetieth day preceding said scheduled date shall be prepared and signed by the Board of Selectmen. The said listing shall, forthwith, be submitted to the town counsel for review and formatting.

SECTION 3.2 PETITION ARTICLES

The Board of Selectmen shall insert in the warrant for every annual town meeting all subjects the insertion of which shall be requested of them, in writing, by ten (10) or more registered voters of the town.

SECTION 3.3 ARTICLES NOT REQUIRING PETITIONS

The warrant at an annual town meeting shall provide one or more articles providing for termination and closeout of prior special appropriations and for the transfer of funds from one existing account to another or the appropriation of additional funds as may be deemed to be needed and necessary by the Finance Director of the Board of Selectmen, the Finance Committee or the Board of Selectmen.

The Board of Selectmen shall insert in the warrant for every annual town meeting all subjects the insertion of which shall be initiated by the board or requested of them, in writing, by any elected or appointed multiple member body. The Board of Selectmen may also approve for insertion in the warrant proposed articles submitted to the board by any other town office, department or agency.

SECTION 3.4 PREPARATION OF THE WARRANT

There shall be filed with each subject proposed to be included as an article in the annual town meeting warrant a brief statement of explanation by the proponent.

Any proposed warrant article shall be deemed to be incomplete unless all available plans, specifications and estimates and other supporting data necessary for its consideration by town meeting, as well as the explanation of the purpose of the article, are submitted prior to said deadlines. The insertion of any subject matter as an article in the warrant by the Board of Selectmen shall be conclusive evidence of compliance with the condition set forth in the preceding sentence, and the board's decision shall be final.

SECTION 3.5 PUBLICATION OF THE WARRANT

Annually, on or before the sixtieth (60th) day preceding the date on which the opening session of the annual town meeting is to be held, the Board of Selectmen shall issue, in final form, a warrant calling the annual town meeting and setting out the subjects to be acted upon at the said meeting. In accordance with Section 2.4, the warrant as thus published may omit certain subjects which were included in the list of subjects submitted on or before

the one hundred and twentieth day for zoning articles and ninetieth day for all other articles preceding the date on which the opening session of the annual town meeting is to be held but it shall not contain any subject which was not included on such list.

SECTION 3.6 REPORT AND RECOMMENDATIONS

There shall be published for every annual town meeting a copy of the warrant and a report to the voters which shall contain the explanation and relevant data submitted in accordance with Sections 2.4, together with the articles; provided, however, that voluminous supporting material necessary for consideration of the report to town meeting may, in the alternative and at the discretion of the Finance Committee and (with respect to zoning articles) the Planning Board, be made reasonably available for inspection at public locations prior to town meeting.

In addition to the report of the Planning Board setting out its recommendations as to all zoning articles as required by section 2.1, the Finance Committee shall prepare a written report, setting out its conclusions and recommendations, including the reasons therefore, regarding articles in the warrant. The report shall also include as an appendix the annual report of the capital outlay and planning committee, setting forth (i) a five-year capital plan for the information and guidance of town meeting and (ii) a one-year capital plan that the committee believes should be approved by the ensuing annual town meeting and the method of financing same. In addition, the Board of Selectmen shall have the opportunity to include in the report its conclusions and recommendations, including the reasons therefore, regarding articles in the warrant that relate to its general superintendence over the administration of town affairs.

Not later than the fourteenth (14th) day prior to the date on which the opening session of the annual town meeting is to be held, one copy of the warrant and report shall be posted on the town's website and another copy shall be delivered or mailed to each residence that contains one or more registered voters.

SECTION 3.7 CONSENT CALENDAR

Before every annual town meeting the moderator, after consultation with the chairs of the Board of Selectmen and the Finance Committee, shall select from the warrant those articles which in the experience and judgment of such officers are deemed likely to be adopted without debate and cause such articles, and the motions to be made under each one of them, to be identified in a Consent Calendar included as part of the report required to be prepared by Section 2.6.

At an appropriate time during the town meeting, the moderator shall announce consideration of the Consent Calendar. Upon such announcement by the moderator the chair of the Finance Committee shall forthwith move to adopt the motions in the consent calendar, as a group, without debate. After seconding of the motion the moderator shall recognize any voter for the purpose of holding out any article and shall cause any article thus held out to be deleted from the motion to adopt. When all requests to hold out articles have been received, the moderator shall put the motion as modified to a vote. Adoption of the motion by unanimous vote shall constitute adoption of all of the motions contained therein. Thereafter all articles held out, or if the motion to adopt is not voted unanimously, all articles in the Consent Calendar, shall be acted upon individually as otherwise provided in town meeting procedures.

SECTION 3.8 RULES GOVERNING AMENDMENTS TO A MAIN MOTION

A motion to amend or to substitute another motion must be submitted to the moderator in writing. The moderator may refuse to accept a proposed amendment or substitution not in writing.

Whenever possible, copies of proposed amendments or substitutions should be given to the town moderator and the Town Clerk in advance of the meeting at which the motion is made.

If the proposed amendment or substitution consists of thirty words or more, it shall be duplicated and a copy made available to every person present before the meeting is asked to vote on the motion to amend or to substitute.

When an amendment or substitute motion is under consideration, debate is limited to a discussion of that amendment or substitute motion only, and discussion on the main motion is out of order until a vote is taken on the motion to amend or substitute.

ARTICLE IV

THE OPENING AND PROCEDURE OF TOWN MEETINGS FOR THE TRANSACTION OF MUNICIPAL BUSINESS

Section 1. Reading of the Warrant and Return of Service

The warrant for the Town Meeting and the return of the person who has served the same shall be read by the Town Clerk, unless the meeting votes that the reading of the articles in the warrant be dispensed with.

Section 1A. Moderator ^{4-1A}

The Moderator chosen to preside over the Annual Town Meeting for the transaction of municipal business shall continue in that office until the next Annual Town Meeting. If a moderator so chosen is absent a Temporary Moderator shall be chosen to preside.

Section 2. Limitation on Admission to Voters; Exception

No person whose name does not appear upon the list of registered voters shall be admitted upon the floor of the hall where a Town Meeting is being held, and the voting list shall be used to determine who shall be admitted by Tellers appointed by the presiding officer. Other persons may be admitted upon the floor of the hall with the permission of the Moderator.

Section 3. Quorum ⁴⁻³

Section 4. Town Moderator, Powers and Duties ⁴⁻⁴

(a) In General – The town moderator shall preside and regulate the proceedings at town meetings so as to preserve order and decorum. The town moderator shall decide all questions of order, subject to a motion to appeal the ruling of the chair as provided by law, by by-law or by the rules of parliamentary procedure. Every ruling involving a question of order shall be entered into the records of the town meeting by the town clerk. The town moderator may appoint another voter to perform the duties of the town moderator subject to the approval of Town Meeting in order to speak on an article appearing in the warrant, if ill or called away, or in any other instance where it might be construed a conflict of interest for the town moderator to preside.

(b) Parliamentary Guidelines - In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the town by-laws, town policies, procedures and practices, the town moderator (and the voters) shall be guided by the principles of fairness, clarity, and efficiency, in that order. In determining any parliamentary question, the town moderator shall give due

^{4-1A} Inserted under article 2, STM June 2, 1969.

⁴⁻³ Article IV, Section 3 of these By-Laws was deleted in its entirety by action taken under article 18, ATM April 29, 1996.

⁴⁻⁴ Section 4 replaced under article 35, ATM April 26, 2006.

regard to the entire body of scholarship encompassing parliamentary procedure, but with particular emphasis on the most recently published edition of Town Meeting Time, a manual of parliamentary procedure published by the Massachusetts Moderators Association, but resort may also be had for guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

Section 5. Order of Business⁴⁻⁵

The order of business at the annual town meeting shall be as follows:

1. the election of a moderator,
2. the adoption of procedures to govern the conduct of the meeting,
3. to hear the reports of committees appointed at prior town meetings,
4. to hear a report on the fiscal condition of the town,
5. to act on a, so-called, consent agenda,

After all of the above matters have been taken up the other articles in the town meeting warrant shall be acted upon in the order in which they are drawn, in lottery fashion, by the town clerk, assisted by the town moderator.

When an article has been drawn in the lottery it shall then, at once, be acted upon and no other article shall be taken up until the drawn article has been fully disposed of, provided, however, a motion to return the article to the lottery pool until some other article has been acted upon, may be accepted by the moderator if made prior to any discussion on the merits of the drawn article.

All articles which in the opinion of the moderator could, or might raise, appropriate or transfer any funds or otherwise obligate the town to spend or encumber any funds, shall be acted upon before the general appropriation article is taken up.

The moderator may declare that certain articles must be acted upon in a particular order of sequence, or that one article must be acted upon before another article may be acted upon, or that an article is to be taken up at a time certain. In any such situation the articles shall be acted upon in the order and at the time determined by the town moderator. Any decision by the Moderator may be appealed to the floor of town meeting in accordance with Article IV, section 4 of the General Bylaws of the Town.

Section 6. Reconsideration⁴⁻⁶

If an article in the Warrant has once been acted upon and disposed of, it shall not be again considered at the same meeting, or any adjournment thereof except by a two-third (2/3) vote of the voters present and voting on the motion to reconsider.

⁴⁻⁵ Section 5 replaced under article 35, ATM April 26, 2006.

⁴⁻⁶ As amended under article 35, ATM April 26, 2006.

No final vote shall be reconsidered unless notice shall have been given not less than thirty-six week day hours preceding the time a vote is taken on the question: "Shall the final vote taken under article [oo] of this warrant be reconsidered?"

Whenever a motion is made (and seconded) to reconsider a previously completed final vote, the moderator shall place said motion on the calendar for action as the first order of business at the next session of the town meeting held more than thirty-six week day hours after the time the said motion is made.

Section 7. Reports of Committees

No reports of Committees shall be in order unless made under an article in the Warrant which indicates the subject to be reported upon, or the report of the Finance Committee on an article which indicates the subject to be reported upon.

Section 8. Conduct of Speakers

Every person when about to speak shall rise, respectfully address the chair and wait until he is recognized by the Moderator, and in speaking he shall refrain from mentioning by name any other person present, shall confine himself to the question under consideration and avoid personalities.

Section 9. Conduct of Speakers, Continued

No person shall address the meeting without first being recognized by the Moderator and all persons shall, at the request of the Moderator, be silent. When two or more persons shall rise to speak at the same time the Moderator shall name the one entitled to speak.

Section 10. Limitation of Speaking

Without first obtaining leave of the meeting, no person shall speak more than twice on any question except to correct a mistake or misstatement, or to make an explanation, and no person shall speak more than ten minutes at any one time without being again recognized by the Moderator.

Section 11. Limitations on Debate⁴⁻¹¹

(a) Time Limit – Debate may be closed not less than ten minutes following the adoption of a vote to limit debate under an article to a fixed time.

(b) End All Debate – All debate may be terminated under an article by the adoption of a vote to "move the previous question" with a plurality of two-thirds, or more of the voters present and voting. The moderator shall refuse to accept a motion to move the previous question when made by a speaker after said speaker has made any remarks concerning the merits of the main question then pending.

⁴⁻¹¹ Section 11 replaced under article 35, ATM April 26, 2006.

Section 12. Voting⁴⁻¹²

When a question is put to the voters the sense of the meeting shall, in the first instance, be determined by the voices of the voters, and the moderator shall announce the vote as it appears to the moderator by the sound. If the moderator is in doubt, the sense of the meeting shall next be determined by a show of hands, and if the moderator is in further doubt the sense of the meeting shall finally be determined by a standing vote. If the announcement of a vote by the moderator is immediately doubted by seven or more voters standing in their place for that purpose, the moderator shall, without debate, determine the vote by ordering a standing vote and shall appoint tellers to make and return the count, as provided in section 15. At the discretion of the town moderator the voice vote, or the show of hands vote, may be eliminated. There is no appeal from the results of a standing vote.

If a two thirds, four fifths or nine tenths vote of a town meeting is required by statute, a standing vote shall be taken, and the vote shall be recorded in the records by the town clerk; provided, however, if a two-thirds vote of a town meeting is required by statute, a declaration by the town moderator that the vote constitutes that number shall be sufficient, unless said declaration shall immediately be doubted by seven or more voters as aforesaid. If a four fifths or nine tenths vote of a town meeting is required, the Moderator may choose to see by voice vote whether the vote is unanimous, in which case no standing vote shall be necessary.

Section 13. Disclosure of Interest⁴⁻¹³

Any person who is employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking thereon.

Section 14. Emergency Measures⁴⁻¹⁴

No vote adopted at any town meeting for the transaction of business, except a vote to adjourn, shall be operative until the final dissolution of said town meeting, unless the meeting at which the vote in question is adopted, also votes by a two-thirds majority of those present and voting, that the vote in question relates to an existing emergency, in which case the said vote shall take full force and effect immediately.

Section 15. Teller Voting Procedure⁴⁻¹⁵

- a. That two tellers for each of the three seating sections of the hall be assigned, plus one teller for the official's table.
- b. That residents be requested to stay in their places until a total vote is completed and announced.

⁴⁻¹² Section 12 replaced under article 35, ATM April 26, 2006.

⁴⁻¹³ Inserted under article 34, ATM 1951.

⁴⁻¹⁴ Inserted under article 10, ATM 1965.

⁴⁻¹⁵ Inserted under article 63, ATM 1971.

- c. That the doors to the hall be closed during the tallying of a vote and standees be required to take a seat in the hall or any place designated by the Moderator.
- d. That a list of at least 20 volunteer tellers be kept by the moderator and that they be used on a rotating basis.
- e. That a tallied vote be posted, by section, as it is taken, on a large blackboard.
- f. That all votes be counted and recorded "Ayes" first and "Nays" second.

Section 16. Labor Contracts⁴⁻¹⁶

At least forty-five (45) days before the start of a Town Meeting at which any labor contract between the town and any municipal employee or group of municipal employees is to be presented to any Town Meeting for funding, copies of the contract shall be placed on file by the municipal employer for public examination, inspection and review in the Office of the Board of Selectmen, Finance Committee, Town Clerk and at the Canton Public Library, and further in case of any labor contract entered into by the School Committee, copies of any such contract shall also be placed on file at its Administration Offices. In addition, all such labor contracts shall be posted at Town Meeting in a conspicuous place designated by the Moderator. A representative of the municipal employer shall certify to the Town Meeting that the foregoing requirements have been met. Such certification shall be conclusive.

Section 17. Motion to Require the Use of Written Ballots⁴⁻¹⁷

Written ballots may be used to determine a vote under any article in the warrant (1) in the discretion of the moderator made in advance of the meeting, or (2) if said use is directed by a majority vote of the town meeting in lieu of the procedures for voting set out in Article IV, Section 12. Notwithstanding the requirements of Article IV, section 5 of these General Bylaws, whenever the town meeting votes to cause the vote under any article in the warrant to be taken by written ballots the vote shall be suspended for not less than thirty-six week day hours in order to allow time for ballots to be prepared and procedures to be put in place for the conduct of said voting. The town moderator shall place said motion on the calendar for action as the first order of business at the next session of the town meeting held more than thirty-six weekday hours after the time the said motion has been voted.

⁴⁻¹⁶ Inserted under article 6, STM held June 10, 1991 and as amended under article 18, ATM 1991.

⁴⁻¹⁷ Section 17 inserted under article 35, ATM April 26, 2006.

ARTICLE V

TOWN CLERK

Section 1. Notice of Town Votes to Town Agencies

The Town Clerk, as soon as possible after a vote of the Town has been passed which relates particularly to or effects the duties of any Board, Committee, or Officer of the Town shall furnish a copy of such vote to such Board, Committee, or Officer.

Section 2. Notice of Election or Appointment to Individuals

The Town Clerk shall promptly cause to be notified in writing each officer or each member of every Committee who may be elected or appointed at any Town Meeting or in pursuance of any vote thereto. Such notice shall contain a copy of the vote creating the Committee and the names of all members of such Committees.

Section 3. Notice of Appropriations to Certain Town Officers

The Town Clerk shall promptly after each session of a Town Meeting furnish the Assessors, Town Treasurer and Board of Selectmen with a statement of all moneys appropriated by the Town at each session and the purpose for which said moneys were respectively appropriated.

Section 4. Official Bulletin Board⁵⁻⁴

The Town Clerk shall erect and maintain a principal official "Town Bulletin Board" outside his office in the corridor of lower Memorial Hall, so as to provide easy and unrestricted public access at all times that Memorial Hall is open, and he shall post on said bulletin board all official legal public notices, and all notices of meetings of boards, committees and commissions as required by Chapter 39, Section 23B of the Massachusetts General Laws.

Section 5. Fees to be Charged by Town Clerk⁵⁻⁵

The fees are to be set by the Town Clerk in accordance with applicable law including GL c. 262, s. 34, or otherwise pursuant to GL c. 40, s. 22F.

⁵⁻⁴ Inserted under article 78, ATM 1980.

⁵⁻⁵ Inserted under article 29, ATM 1984 and as amended under article 32, ATM 1990. Section 5 deleted in its entirety and replaced under article 53, ATM April 26, 2004.

Section 6. Notice of Town Votes to General Court⁵⁻⁶

The Town Clerk, as soon as possible after a vote of the Town has been passed which requires a special legislative act in accordance with the provisions of Section 8 of Article 89 of the amendments to the State Constitution, shall notify in writing, the State Representative and State Senator of the district in which the Town is situated, and shall provide said representative and senator with a certified copy of said vote, and any other information necessary to ensure that the legislation is promptly and properly filed.

⁵⁻⁶ Inserted under article 41, ATM 1982.

ARTICLE VI

GENERAL COMMITTEES

Section 1. Appointment of Members

All Committees except as otherwise provided by Law or by By-Law or by vote of the meeting shall be appointed by the Moderator as soon as may be after the passage of the vote creating the Committee and in choosing a Committee by nomination from the floor, no person shall nominate more than one member of such Committee.

Section 2. Temporary Chairman, Provision When No Report of Committee

Unless otherwise provided, the first named member of a Committee shall immediately call all members of the Committee together for the purpose of organization, and each Committee shall thereafter proceed with its duties and report to the Town as promptly as possible, and unless it is sooner discharged, it shall make a report at the next Annual Meeting. All members of a Committee which fails or neglects to make a report at each Annual Meeting, shall by such failure be held to have resigned and without further action or vote new members shall be appointed.

Section 3. Conflict of Interest⁶⁻³

No town officer, employee, or member of any town board or committee, shall in his official capacity make or pass upon or participate in making or passing upon any sale contract, agreement, license or permit, in which he, directly or indirectly, has any personal or financial interest. A violation of any provision of this section shall in addition to the penalties provided in Article I, Section 1, hereof render the sale, contract, agreement, license or permit, in respect to which such violation occurred, voidable on behalf of the Town at the option of the Board of Selectmen.

Section 4. (disallowed by the Attorney-General)

Section 5. Copies of Reports to Finance Committee

All special Committees shall submit a copy of their report to the Finance Committee for its consideration before said report can come before the Town for action, except such committees who have a question under consideration which does not involve an appropriation by the Town.

⁶⁻³ As amended under article 35, ATM 1951.

Section 6. Permanent Filing of Committee Reports

All reports of Committees, except reports of progress, shall be permanently file for preservation with the Town Clerk, and if the Board of Selectmen deem best, or the Town so votes, the report of any committee shall be published as a part of the next Annual Town Report.

Section 7. Minutes of Meetings to be filed with Town Clerk ⁶⁻⁷

All multiple member bodies, whether elected, appointed or otherwise constituted shall file with the Town Clerk, with reasonable promptness following their approval, minutes of all meetings. Said minutes shall be signed by the Secretary, and shall be submitted in accordance with rules of uniformity established by the Town Clerk.

⁶⁻⁷ Inserted under article 17, ATM 1989.

ARTICLE VII

TOWN FINANCE AND ADMINISTRATION

PART A - DEPARTMENT OF MUNICIPAL FINANCE ^{7A}

(A) Establishment

There shall be a department of finance which shall be responsible for the management of the fiscal and financial affairs of the town and for the supervision and coordination of all activities of all government agencies in relation to any fiscal or financial matters except for those fiscal or financial matters which are authorized to be under the administration of the School Committee at the time this by-law is enacted.

(B) Purpose

It is the intention of this by-law to consolidate all of the fiscal and financially related activities and functions of the town into a single department as noted in paragraph A – Establishment; in order to attain the efficiencies and economies of scale, to reduce or eliminate duplication and overlapping of services, responsibilities and functions and to improve the communication and coordination between and among the various offices and agencies of the town. It is the further intention of this by-law that the director of finance be authorized to assign responsibilities and functions between and among personnel within the department, permanently or from time to time, without regard to the lines of responsibilities which have previously been associated with the several offices herein consolidated.

(C) Scope of Department Activities

The Department of Finance shall be responsible for and shall include the following functions:

- (1) Coordination of all financial services and activities of the Town government;
- (2) Maintenance of all accounting records and other financial statements for all Town governmental offices and agencies;
- (3) The payment of all financial obligations on behalf of the Town;
- (4) The receipt of all funds due to the Town from any source;

^{7A} Inserted under article 12, ATM 1990.

- (5) The rendering of advice, assistance and guidance to all other Town offices and agencies in any matter relating to financial or fiscal affairs;
- (6) The monitoring throughout the fiscal year of the expenditure of funds by Town offices and agencies, including the periodic reporting of all such offices and agencies on the status of accounts with recommendations concerning fiscal and financial policies to be implemented by such offices and agencies.
- (7) Supervision of the purchase of all goods, supplies and materials by all Town Governmental offices and agencies, including a central purchasing system, and an inventory control system.
- (8) Supervision of all data processing functions, activities and equipment of the Town and any of its governmental offices or agencies.
- (9) Maintains close contact with School Superintendent, Business Manager and other officials regarding intergovernmental matters affecting the financial operations of the Town.

(D) Director of Finance

- (1) **Appointment, Term of Office** – There shall be a Director of Finance appointed by the Board of Selectmen to serve for an initial term of two years and subsequent terms of re-appointment for this person shall be for a term of three years and until a successor is appointed and qualified. Terms of appointment for any successors (new hire) shall be for a two year initial term followed by a re-appointment for a three year term until a successor is appointed and qualified. The Director of Finance may be terminated by the Board of Selectmen.
- (2) **Qualifications** - The Director of Finance shall be a person especially fitted by education, training and experience to perform the duties of the office. At the time of appointment the Director of Finance shall hold at least the following minimum qualifications:

a bachelors degree in a field appropriately related to finance, including, but not limited to business administration or public administration and shall have had at least seven years of progressively responsible experience in public or governmental finance, provided, however, that two years of experience may be substituted for the Masters degree in public administration or related field.

- (3) **Powers and Duties**^{7-A-1} - The Director of Finance shall be responsible to and report directly to the Board of Selectmen for the effective operation of the Department of Finance and all of the fiscal and financial activities of the Department. The Director of Finance shall, with approval of the Board of Selectmen, appoint and discharge employees within the Division of Finance. The Director of Finance shall supervise all activities of the Department of Finance and shall direct and assign all personnel serving in the said department.

The Director of Finance may serve, notwithstanding any provision of this law which may appear to the contrary, as the head of any other division within the department or may appoint the head of one office within the department to serve in addition as the head of another office within the department.

The Director of Finance shall have the following specific powers and duties:

- (a) to assure that a full and complete inventory of all Town property is kept, including all such property under the jurisdiction of the School Committee.
- (b) to be responsible for purchasing all supplies, material and equipment for all offices and agencies of the Town to the extent provided in section one hundred and three of Chapter forty-one of the General Laws, and for the purposes of Chapter thirty B of the General Laws such officer shall be deemed to be Chief Procurement Officer of the Town. The Director of Finance may delegate any of the powers and duties of the Office of Chief Procurement Officer to one or more procurement officers to serve specific Town Offices or agencies in the manner provided in Section nineteen of Chapter thirty B.
- (c) to be responsible for the development of an annual operating budget and an annual capital improvement plan to be submitted to the Board of Selectmen and subsequently to the Finance Committee as provided for by existing by-law and for the oversight throughout each fiscal year of the expenditure of all Town funds pursuant to such budgets as are adopted by the Town.

The Director of Finance shall receive all requests made for the expenditure of Town funds from every Town office and agency. The Director of Finance shall assemble all such requests into a

^{7-A-1} As amended under Article 35, ATM 1993.

form deemed to be best suited to show a complete financial plan for all Town funds and activities for the ensuing fiscal year. In making such arrangement the Director of Finance may alter in any manner the requests made for appropriations by any Town office or agency, except those headed by officers or multiple member bodies elected directly by the voters.

The Director of Finance shall, annually, prepare a proposed Town operating budget for the ensuing fiscal year within fiscal guidelines recommended by the Board of Selectmen. The proposed operating budget prepared by the Director of Finance shall utilize modern concepts of fiscal presentation so as to furnish a maximum amount of information and the best financial controls. The proposed operating budget shall show in detail all estimated income from the proposed property tax levy and from every other source, by category.

- (d) to adopt and to promulgate rules and regulations governing any subject within the jurisdiction of the department as are necessary to implement the provisions of this by-law.

(E) Operating Offices

The Department of Finance shall consist of the following offices:

(1) **Office of Collections**

The office of Collections shall be headed by a Town Collector appointed by the Director of Finance, subject to the approval of the Board of Selectmen, who shall serve for an indefinite term.

The Town Collector shall collect all accounts due to the Town from any source, the Town Collector shall upon receipt of a tax list and warrant from the board of Assessors collect the taxes and make a return thereon to the Board of Assessors. The Town Collector shall give to the Town Treasurer an account of all funds received by the Office of Collections and shall pay over and account to the Town Treasurer all money received by said office. Except as otherwise provided in this by-law, the Town Collector shall have all of the powers, duties and responsibilities which are given to Town Collectors by General Law.

(2) **Office of Treasury Management**

The Office of Treasury Management shall be headed by a Town Treasurer appointed by the Director of Finance, subject to the approval of the Board of Selectmen and who shall serve for an indefinite term.

The Town Treasurer shall receive and take charge of all money belonging to the Town. The Town Treasurer shall according to the order of the authorized officers of the Town pay out and make all disbursements of funds on behalf of the town. Except as otherwise provided in this by-law the Town Treasurer shall have all of the other powers, duties and responsibilities which are given to town Treasurers by General Law.

(3) **Office of Accounting**

The Office of Accounting shall be headed by a Town Accountant appointed by the Director of Finance, subject to the approval of the Board of Selectmen, and who shall serve for an indefinite term.

The Office of Accounting shall examine the books and accounts of all offices and agencies entrusted with the custody or expenditure of money. The Office of Audit [accounting] shall have free access to all such books, accounts, bills, vouchers and other records of financial transactions as may be necessary for the performance of its auditing functions. The Office of Audit [accounting] shall at least once in each fiscal year verify the cash balances of such offices and agencies by actual count of the cash and by reconciliation of bank balances. The office of Audit [accounting] shall prepare all warrants for the expenditure of Town funds before any payment is made by the Office of Disbursements. Except as otherwise provided in this by-law the Town Accountant shall have all of the other powers, duties and responsibilities which are given to Town Accountants by General Law, including the authorization to report matters of fraud, waste, improper or illegal activity to the Board of Selectmen.

(4) **Office of Information Systems** ^{7-AE4}

The Office of Information Systems shall be headed by a manager of Information Systems Services, appointed by the Director of Finance, subject to the approval of the Board of Selectmen, and who shall serve an indefinite term.

The Office of Information Systems shall

1. Encourage the use of information systems technology by all town departments, offices and agencies as a means to increase administrative and operational productivity.
2. Determine and recommend information systems technology solutions including computer and related

^{7-AE4} Inserted under article 30, ATM April 29, 2002.

resources acquisition, documentation requirements, system change costs and data development methods to meet current and anticipated town requirements.

3. Determine the feasibility of converting specific operations to utilize emerging information technology innovations and make related recommendations.

4. Review and evaluate all proposals or requests from all town departments, offices and agencies for information systems technology services and provide related assistance on request, subject to the direction and priorities established by the Finance Director.

5. Oversee appropriate use of information systems computer and computer-related personnel, equipment, and processes by the efficient and effective management of the acquisition and use of these resources.

(F) Transitional Provisions

Any person holding any office or position in any Town agency affected by the adoption of this by-law at the time of its taking effect shall be continued in the said office or position until the term for which they were elected or appointed has expired. All such officers and all Town employees serving in such Town Agencies shall be continued in the service of the Town without loss of any benefit to which they might otherwise have been entitled.

This by-law shall take effect upon the effective date of the appointment of the first person to fill the Office of Director of Finance and shall be deemed to be in effect for all purposes of all provisions of this by-law, it being understood, however, that in the best interests of the town of Canton such officer should not be expected to personally assume or to exercise all of powers, duties and responsibilities of the office simultaneously with the assumption of the office and that some of the functions of the office, specifically intending to include the budget making and the purchasing provisions contained in this by-law, will be phased in and assumed by such officer on a gradual basis.

In any case in which the provisions of this by-law do or may conflict with the provisions of any other by-law heretofore adopted the provisions of this by-law shall be deemed to prevail.

PART B - FINANCE COMMITTEE

Section 1. Composition of Committee; Limitations ^{7-B-1}

There shall be a Committee called the Finance Committee which shall consider any and all municipal operations involving an appropriation by the Town, for the purpose of making reports and recommendations thereon to the Town. Such Committee shall consist of twelve voters, who shall serve without pay, none of whom, during their service on such Committee, shall hold any regular elective Town office, having to do with the expenditure of Town money, and no member of such Committee after serving three consecutive terms shall be eligible for appointment to succeed himself.

Section 2. Transitional ^{7-B-2}

The Warrant Committee of the town in office at the time this By-Law shall become effective, except those ineligible to serve under the preceding section of this article is hereby: continued in office, hereinafter called Finance Committee, and the members thereof shall continue to hold office until their successors shall take office as hereinafter provided.

Section 3. Method of Appointment; Terms of Office; Organization; Filling of Vacancies ^{7-B-3}

The Moderator shall at each Annual Town Meeting, for the transaction of business, appoint four (4) members of the Finance Committee to serve for three (3) years, and if one or more vacancies shall have occurred in the Finance Committee since the last Annual Town Meeting, for the transaction of business, one member to serve for the unexpired term of each member through whom such vacancy shall have been created.

^{7-B-1} As amended under article 18, ATM 1957 and under article 19, ATM 1989.

^{7-B-2} As amended under article 13, ATM 1953.

^{7-B-3} As amended under article 13, ATM 1953, under articles 59 and 61, ATM 1985 and under article 19, ATM 1989.

If there is a vacancy in the Finance Committee whether caused by death, resignation or otherwise, the Finance Committee shall immediately notify the town Moderator in writing and the Moderator shall thereupon fill such vacancy for the unexpired term. Members absent from one-third of the regularly scheduled meetings in any calendar year may be removed by a two-thirds vote of the other members present and voting. Said committee shall choose its own officers. Upon completion of the annual town meeting, and prior to the first day of July, the Finance Committee shall meet at the call of the Town Clerk who shall act as temporary Chairman until the Committee organizes by the choice of a Chairman and Secretary.

Section 4. Duty of Committee, In General

It shall be the duty of the Finance Committee to study the financial affairs of the town and to advise with all the Officers of the Town as to expenditures and recommendations for appropriations to be made by them. To this Committee shall be referred all articles of the Warrants calling for appropriations.

Section 5. Right of Access

The Committee shall have access to all facts, figures, records and other information relating to all fiscal affairs of Town Departments, Boards, Committees or Officers and the same shall be furnished forthwith by any Department, Board, Committee, Officer, or employee whenever so requested by the Committee.

Section 6. (Disallowed by Attorney-General)

Section 7. Procedures

The Finance Committee shall consider the various articles in the Warrants for all the Town Meetings held during the period for which they are appointed including the Warrant for the Annual Town Meeting next after their appointment and they shall report in print at all Town Meetings their estimates and recommendations for action of the Town.

Section 8. Distribution of Reports ^{7-B-8}

Section 9. Quorum ^{7-B-9}

Five (5) members of the Finance Committee shall constitute a quorum thereof.

Section 10. (Disallowed by Attorney-General)

^{7-B-8} As amended under article 39, ATM 1960. Section 8 was repealed by a vote taken under article 32, ATM April 28, 2003.

^{7-B-9} As amended under article 19, ATM 1989.

Section 11. Reports by Town agencies to Provide Certain Information ^{7-B-11}

The Selectmen, all Departments, Boards, Committees, or Officers authorized by law to expend money shall furnish to the Finance Committee, on or before the first Monday in August of each year, detailed reports of the expenditures for the previous year and on or before the second Monday in December detailed estimates of the amounts necessary for the proper maintenance and administration of the several departments under their jurisdiction for the ensuing year except that said estimates for the school department shall be submitted on or before the last Friday in January.

Section 12. Poll of Members ^{7-B-12}

The recommendations of the Finance Committee with reference to the various Articles of the Town Warrants shall include a poll of the votes taken at the meetings of the Finance Committee, said poll to show only the number of Committee members voting in favor of or against the actions recommended by the full Committee.

^{7-B-11} As amended under article 18, ATM 1962 and under article 19, ATM 1989.

^{7-B-12} Inserted under article 19, ATM 1963.

ARTICLE VIII

FINANCIAL REGULATIONS

Section 1. (Disallowed by Attorney-General)

Section 1A. Sale of Town Owned Land ^{8-1A}

Whenever town owned land is to be sold or otherwise disposed of, and whether acquired for municipal purposes, or as a result of a tax lien or foreclosure, or otherwise, an Article to authorize such disposition shall be placed in the warrant for a Town Meeting.

Section 2. Information on Tax Bills

The Collector shall cause to be printed upon the Tax Bills a statement of the Law relative to the date when Taxes are payable and the rate of interest charged on unpaid Taxes.

Section 3. Salary of Tax Collector ⁸⁻³

Section 4. Unexpended Balances ⁸⁻⁴

Section 5. Conflict of Interest ⁸⁻⁵

Section 6. Solicitations for Bids ⁸⁻⁶

Section 7. Exception to Above

Nothing in this article contained shall prevent the awarding of contracts without such advertising in cases of extreme emergency so declared by the Board of Selectmen.

Section 8. Bond Required ⁸⁻⁸

Every contract exceeding one thousand dollars (\$1,000.00) shall be accompanied by a suitable bond for the performance of the same, or by deposit of money or security to the amount of such bond, if so requested by the Officer or Board authorized to make the contract.

Section 9. Audit of Accounts

All of the accounts of the Town shall be audited annually by the Director of Accounts, in accordance with the provisions of Chapter 44, Section 35, of the General Laws (Tercentenary Edition).

^{8-1A} Inserted under article 21, ATM 1984.

⁸⁻³ Article VIII, Section 3 was deleted in its entirety by action taken under article 51, ATM April 28, 1999.

⁸⁻⁴ Article VIII, Section 4 was deleted in its entirety by action taken under article 51, ATM April 28, 1999.

⁸⁻⁵ Article VIII, Section 5 was deleted in its entirety by action taken under article 51, ATM April 28, 1999.

⁸⁻⁶ As amended under article 50, ATM 1964, article 33, ATM 1978, article 9, ATM 1981 and under article 12 (part A), ATM 1991. Section 6 was deleted in its entirety by action taken under article 19, ATM April 30, 2003.

⁸⁻⁸ As amended under article 33, ATM 1978.

Section 10. Procedure for Procurements ⁸⁻¹⁰

All purchases and other procurements of supplies, articles, materials and services by town officers and town employees shall be made in conformity with the procedures required by Chapter thirty B of the General Laws.

Section 11. Recreation Fund ⁸⁻¹¹

The Recreation Commission is hereby authorized to accept grants or gifts from the Federal Government, from a charitable corporation, from a private corporation or from an individual. Such funds as may from time to time be received shall be deposited with the Town Treasurer and held as a separate account.

The Recreation Commission is further authorized to deposit to said fund all sums received in connection with the conduct of programs or activities it is authorized to conduct.

The Recreation Commission may, with the approval of the Selectmen, expend funds from the said account for any recreational purposes it is authorized to perform without further appropriation.

Section 12. Pequitside Fund ⁸⁻¹²

The Conservation Commission is hereby authorized to accept grants or gifts from the Federal Government, from a charitable corporation, from a private corporation or from an individual. Such funds as may from time to time be received shall be deposited with the Town Treasurer and held as a separate account.

The Conservation Commission is further authorized to deposit to said fund all sums received in connection with the conduct of programs or activities it is authorized to conduct.

The Conservation Commission may, with the approval of the Selectmen, expend funds from the said account for any purpose in the restoration, repair, modification and maintenance of the buildings, structures, grounds and property at Pequitside Farm, without further appropriation.

Section 13. Denial, Revocation or Suspension of Local Licenses and Permits ^{8-13/8-13b}

- (a) Any Town agency may deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise, who has neglected or refused to pay

⁸⁻¹⁰ Inserted under article 57, ATM 1967. Article VIII, Section 10 was deleted in its entirety and replaced by a new section 10 by a vote taken under article 51, ATM April 28, 1999.

⁸⁻¹¹ Inserted under article 77, ATM 1971.

⁸⁻¹² Inserted under article 52, ATM 1987.

⁸⁻¹³ Inserted under article 14, ATM 1992.

^{8-13b} As amended under article 21, ATM May 16, 1994.

any local taxes, fees assessments, betterments or any other municipal charges, including amounts assessed under MGL Chapter 40 Section 21D or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event, or matter is carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees assessments, betterments or any other municipal charges.^{8-13a}

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

^{8-13a} Inserted under article 29, ATM May 14, 1997.

- (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 that 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 sixty-eight in the business or activity conducted in or on said property.

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

Section 14. Due Dates for Payments to Town, Interest on Unpaid Balances

Unless some other provision is made by law which permits a longer time for payment, all bills for the payment of any sum to the Town of Canton shall be due on the thirty-first day following the date such bill has been issued.

Interest shall be added to any balance which remains unpaid after such thirty-first day at the same rate as is provided in section fifty-seven of chapter fifty-nine of the General Laws.⁸⁻¹⁴

Section 15. Fee Rate for Delinquencies Requiring Demand Notices⁸⁻¹⁵

For each written demand issued by the Collector and provided for by law, the Collector shall charge a fee of ten dollars (\$10.00), which fee shall be added to, and collected as part of, the amount of the tax, as provided by Chapter 60, Section 15, subsection (2) of the General Laws.

⁸⁻¹⁴ Inserted under article 13, ATM 1992.

⁸⁻¹⁵ Inserted under article 23, ATM 2009.

ARTICLE IX

TOWN REPORTS

Section 1. Submission of Reports

Each Town Officer, Board, Commission and Committee shall annually on or before the fifteenth day of January each year, prepare and submit to the Board of Selectmen, a report in writing covering clearly and concisely the work of his department for the preceding year. Each of such reports shall be published in the Annual Town Report.

Section 2. Contents of Town Report

The report shall contain the Financial Report for the preceding fiscal year, detailed estimates of the amounts of money which will be required for the current fiscal year, specific statements as to what Town Ways and County Ways have been laid out, altered or ordered, what damages have been assessed and paid, what claims are outstanding and what claims have been presented against the Town, what suits have been commenced by or brought against the Town, and the circumstances relating thereto, and what repairs have been made upon public buildings.

Section 3. Distribution of Town Reports⁹⁻³

Upon request the Board of Selectmen shall cause to be delivered a copy of the Annual Town Report for the preceding year to every legal voter who so requests a copy.

⁹⁻³ Inserted under article 39, ATM 1960. Amended under article 33, ATM April 26, 2004.

ARTICLE X

DUTIES OF TOWN OFFICERS

Section 1. Town Counsel ¹⁰⁻¹

(a) Establishment, Appointment

There shall be a Town Counsel who shall be an attorney admitted to practice in the Commonwealth and having a particular background and experience in municipal law who shall be appointed by the Board of Selectmen for a term not to exceed three years.

(b) Compensation, Conditions of Appointment

The Town Counsel shall be employed under an individual contract of employment, as provided in Title II, section 3.02 (e) of the Personnel By-Law of the Town.

(c) Authorities and Responsibilities ^{10-1(c)}

The Town Counsel shall be responsible for the legal affairs of the Town and shall personally provide, or, shall personally supervise the provision by others, of all legal services necessary for the proper and efficient conduct of the Town's affairs. The Town Counsel shall keep the Board of Selectmen fully apprised of the status of all legal matters affecting the Town by frequent oral and written reports directly to it or to it through such official with such title as designated by the Board of Selectmen and as authorized under Chapter 41, Section 23A of the General Laws. In all matters assigned for trial to outside attorneys provision shall be made requiring such Counsel to meet with the Board of Selectmen and/or the office or agency being represented in such action, at such times as may be determined by the Board of Selectmen, or such office or agency, for pre-trial conferences and status reports.

The Town Counsel shall devote some portion of time, to be determined by the Board of Selectmen from time to time, to consist of regular office hours at the town hall, for the convenience of town offices and agencies. The Town Counsel shall also be available to meet and confer with town officers and employees, department heads and multiple member bodies at any time mutually convenient to the parties.

The duties of the Town Counsel shall specifically include, but are not to be construed as limited to, the following matters:

¹⁰⁻¹ Article X, Section 1 was deleted in its entirety and replaced by a new Section 1 by action taken under article 46, ATM April 26, 1999.

^{10-1(c)} Amended under article 34, ATM May 5, 2004.

1. Title examination for all real estate and other property to be acquired by the Town, approval of deeds and other instruments in writing under which the Town takes title to the same.
2. Draft all deeds, leases, conveyances and releases to be executed in behalf of the Town and all contracts, bonds, obligations or other agreements in writing whereby the Town assumes any pecuniary, contractual or other liability to be executed by any town official, board, department or committee by virtue of any special or general authorization.
3. Draft formal orders, notices, votes, adjudications or decrees for the layout, relocation, alteration or discontinuance of town ways and for the taking of lands or interests in lands, in behalf of the Town, by purchase or eminent domain, for any municipal purpose.
4. Attend all town meetings and, at the request of the Moderator thereof, advise the town meeting on questions of law relating to the subject matter of any matter before the town meeting and as to the form of proposed votes or motions or the legality of any particular action proposed to be taken by the town meeting.
5. Provide advice or opinion to all elective or appointive town officers, multiple member bodies, or departments as to any function of their respective offices or on any specific question of law in relation thereto.
6. Appear and act as attorney for the Town, or for any town officer in their official capacity, in any suit, action complaint or court proceedings in which the Town, or such town officer in their official capacity, is a party plaintiff or a party defendant, subject to the advice and consent of the Board of Selectmen.
7. Appear and act for the Town and its officers, boards and committees before state and county boards and officials, executive departments and committees of the legislature, in all proceedings involving the rights, duties or interests of the Town, subject to the request and direction of the Board of Selectmen.
8. Appear for and defend any town officer against whom in person any suit or proceedings in court has been brought, founded on an official action performed in good faith relative to a matter in which the Town in its corporate capacity has a duty to perform, a right to defend, or an interest to protect, provided the Board of Selectmen, at the request of such officer, directs the Town Counsel, in writing, so to do.

9. Advise the Board of Selectmen with respect to the question of whether or not to compromise and settle claims or suits against the Town.

10. To develop, organize and maintain, in current status, all Town legal files and records including both paper and computer data information.

11. To perform such other duties related to the office of Town Counsel as may from time to time be assigned by vote of the Board of Selectmen.

12 Additional Counsel, Special Counsel - No Town agency shall, unless authorized by state statute, by a vote of the Town, or by a vote of the Board of Selectmen, employ, advise with or consult any attorney or counsellor at law, other than the Town Counsel, with regard to its duties, or to any town business, provided, however, that whenever a jurisdictional dispute shall arise between two or more Town agencies and the matter appears to be one which is proper for a judicial determination such authorization to employ legal counsel shall not be denied. In certain cases it is recognized that the Town Counsel might be inconvenienced by a conflict of interest, or by the appearance of a conflict of interest, in such cases separate, independent counsel shall be employed by the Town. The Town Counsel, after consultation with the affected agencies, shall decide which agency (if any) it wishes to represent.

Section 2. Street Openings ¹⁰⁻²

Section 3. Copies of Records ¹⁰⁻³

Except as otherwise provided by law, every officer having custody of any public record shall furnish copies thereof on payment of a fee of fifty (\$.50) cents for each page thereof.

Section 4. Building Renovations Committee ¹⁰⁻⁴

(a) Composition, Mode of Selection, Term of Office, Vacancies - There shall be a permanent Building Renovations Committee responsible for design review and construction of public buildings, additions to public buildings, renovations and repairs to public buildings and other facilities and such other projects as may be assigned to such committee by vote of the town meeting.

The Building Renovations Committee shall consist of twelve members selected as follows: six members shall be appointed by the Town Moderator, for terms of three years so arranged that the term of two shall expire each year, one person to be designated by the Board of Selectmen, one person to be designated by the

¹⁰⁻² Article X, Section 2 was deleted in its entirety by action taken under article 47, ATM May 5, 1999.

¹⁰⁻³ This was Section 3 of Article I when these By-Laws were adopted in 1936. It has been moved to this location as a more suitable place for its subject matter.

¹⁰⁻⁴ Inserted under article 23, ATM 2002.

School Committee, one person to be designated by the Board of Trustees of the Public Library, one person to be designated by the Commission on Disabilities and one person to be designated by the Capital Outlay and Planning Committee, (such persons may, but need not, be members of the multiple member body by which they are designated) and who shall be designated by the respective multiple member bodies annually; the Finance Director shall serve by virtue of office as a member of the committee either personally or by designating a deputy to attend meetings. The appointing authority as provided in this paragraph shall forthwith, fill any vacancy, which occurs in the membership of the committee.

The Building Renovations Committee may appoint not more than three persons to represent the interests of the users of any facility being constructed, remodeled or renovated to serve as advisors to the Building Renovations Committee during the period of such construction, repair or renovation. Such persons may participate in the discussions of the Building Renovations Committee, but shall have no power to vote.

(b) Powers and Duties - The Building Renovations Committee shall be responsible for the supervision of all building and or facilities related projects, which are approved and or funded by any motion under any article at a town meeting.

The Building Renovations Committee shall be responsible for the assignment of all town meeting approved design and or construction projects, (and whether termed construction, reconstruction, remodeling, renovation, repair, or otherwise), the building committee shall be responsible for soliciting, reviewing, negotiating and awarding all contracts for the design and or the construction of buildings or other facilities, it shall be responsible for the supervision of all periodic design review, construction management and construction work in progress. The committee may delegate the periodic design review responsibility and or the construction management responsibility and or the day-to-day construction administration responsibility to an employee (e.g. a clerk of the works) and or consultant(s) and or it may assign such responsibility to one or more members acting as a sub-committee of the full committee.

The Building Renovation Committee may, with the approval of a sponsoring agency, call upon any town agency or their employees for assistance, as it may deem to be necessary and or desirable in the furtherance of its responsibilities.

The Building Renovations Committee shall be the approving agency for payment of all invoices submitted in connection with construction and design of projects assigned to it. The Building Renovations Committee may delegate its approval responsibility of individual invoices to its chair, or to the chair of a sub-committee established for a particular project

The Building Renovations Committee shall be responsible for review and approval of change orders for projects under the committee's responsibility. The Building Renovations Committee may delegate its approval responsibility of

individual change orders to its chair, or to the chair of a sub-committee established for a particular project Any such change orders must be formally approved at the next regularly scheduled meeting of the committee, such vote shall identify the source of funding.

The Building Renovations Committee shall be responsible to review and approve all preliminary and or final design plans to ensure such documents are in compliance with the program specifications and or scope of work requirement(s) of the sponsoring agency, and which will become the basis for developing preliminary cost estimates and or final bid solicitations. The committee shall be authorized to engage such structural engineering and or other consultants' effort as may be necessary to carry out its design review related responsibilities, the funding for such effort shall be included in the town meeting approved funding for such project.

The Building Renovations Committee shall, be authorized to engage construction management effort as may be necessary to carry out its construction management-related responsibilities, the funding for such effort shall be included in the town meeting approved funding for such project.

The Building Renovations Committee shall, be authorized to engage construction administration effort as may be necessary to carry out its construction administration related responsibilities, the funding for such effort shall be included in the town meeting approved funding for such project.

The Building Renovations Committee shall have the authority to transfer unspent funds from a completed project to an incomplete project with insufficiencies, provided however funds are available as verified by the Finance Director, and that such transfers will not result in a change in the scope of work approved by the town meeting.

The Building Renovations Committee shall file, at least annually, a report listing all projects under the jurisdiction of the committee and the status of the work. Notwithstanding any report which may be prepared for publication in the annual town report, the report required by this paragraph shall be based on a fiscal, not a calendar, year.

Section 5. Permit Advisory Committee¹⁰⁻⁵

(a) Establishment, Purpose

1. There shall be a Permit Advisory Committee (the "PAC"), the purpose of which is to expedite the development review process in the Town. The PAC shall help streamline the application and review process by performing a preliminary staff review of proposed projects.

¹⁰⁻⁵ Inserted under article 31, ATM 2006.

2. Specifically, the PAC shall expedite the development review process in Canton by:
 - i. meeting with prospective permit applicants to share information and offer guidance and assistance;
 - ii. listening to the prospective applicant's proposed ideas for development;
 - iii. informing the applicant of the Town's approval process, bylaws, requirements, rules and regulations with which the applicant and the proposed project must conform;
 - iv. coordinating Town concerns and departmental responsibilities to communicate requirements to permit applicants;
 - v. assisting the Town's regulatory boards by identifying the salient issues regarding proposed development projects; and
 - vi. facilitating communication among Town departments and professional staff who regulate and advise on land use development.

(b) Composition, Appointment, Term of Office ^{10-5(b)}

1. The composition of the PAC shall be as follows:
 - i. one member representing: Board of Selectmen
 - ii. one member representing: Planning Board
 - iii. the Town Planner
 - iv. one member representing: Zoning Board of Appeals
 - v. one member representing: Conservation Commission
 - vi. one member representing: The Building Department
 - vii. one member representing: The Economic Development Commission
 - viii. one member representing: The Police Department
 - ix. one member representing: The Fire Department
 - x. two members representing the Citizens at Large.
 - xi. one member representing the Historical Commission
 - xii. one member representing the Department of Public Works
 - xiii. one member representing the Board of Health.
2. Each PAC member shall be a member of and appointed annually by the entity which the member represents, except for the Two Citizens at Large, who shall be appointed annually by the Board of Selectmen.

(c) Town of Canton Development Handbook

1. The PAC is authorized to publish and from time to time amend guidelines which shall outline the process of obtaining permits for project development in the Town.
2. The guidelines shall be entitled the Town of Canton Development Handbook (the "Development Handbook").

^{10-5(b)} Amended under article 29, ATM 2008

3. The Development Handbook shall be an advisory guide containing summary information only. The Development Handbook shall not affect the applicability of the by-laws, rules, regulations, requirements and standards for development in the Town, including without limitation federal and state statutes and regulations, the Zoning By-law, the General By-laws and the Planning Board's Subdivision Rules and Regulations.

ARTICLE XI

JUNK DEALER AND COLLECTOR

Section 1. Selectmen to License

The Selectmen may license suitable persons to be dealers in and keepers of shops for the purchase, sale, or barter of junk, old metals, or second-hand articles, in the Town. They may also license suitable persons as junk collectors, to collect, by purchase or otherwise, junk, old metals, and second-hand articles from place to place in the Town.

Section 2. Non-Licenses Operation Prohibited

No person shall be a dealer in, or buy, sell, or barter, junk, old metals, or second-hand articles, in the Town of Canton, unless the person so buying, selling or bartering, has a license thereof duly issued.

Section 3. Records to be Kept; Records to be Open; Name of Owner to be Displayed

Every keeper of a shop for the purchase, sale or barter of junk, old metals, or second-hand articles, within the limits of the Town of Canton, shall keep a book in which shall be written at the time of every such purchase of any such article, a description thereof, the name, age and residence of the person from whom purchased, the day and hour when such purchase was made. Such book shall be open at all times to the inspection of the Selectmen, and any person authorized by them to make such inspection.

Every keeper of such shop shall put in a suitable and conspicuous place in such shop a sign having his name and occupation legibly inscribed thereon in large letters. Such shop and all articles or merchandise therein may at all times be examined by the Selectmen, or by any person authorized by them to make such examinations. No keeper of such shop, or any dealer in such articles shall directly or indirectly either purchase or receive by way of barter or exchange any of the articles aforesaid of a minor or apprentice, knowing or having reason to believe him to be such.

Section 4. Display of License ¹¹⁻⁴

Every person licensed under Section 1 shall post his license in some suitable and conspicuous place upon the licensed premises.

¹¹⁻⁴ Inserted under article 21, ATM 1991.

Section 5. Restrictions on Operation: Hours, Location ¹¹⁻⁵

No person keeping a shop for the purchase, sale, or barter of junk, old metals, or secondhand articles shall purchase or receive, either directly or indirectly, any of the aforesaid articles or have his shop open for the transaction of business except between 8:00 A.M. in the morning and 8:00 P.M. in the evening. No such Licensee shall directly or indirectly purchase or receive any such articles at any place other than the address displayed on the license unless specifically invited into the residence of a potential customer or at a bona fide trade show.

Section 6. Use of True Names ¹¹⁻⁶

No person offering any article for sale shall give a wrong or false name or address or fictitious information pertaining to his identity. No person holding a license under Section 1 shall knowingly write a wrong or false name or address of a person thus offering an article for sale, or knowingly permit the entry of such wrong or false name or address in the bound book as defined in section 3. Any police officer taking cognizance of any such violation may request the offender to state his true name and address.

Section 7. Weekly Reports to Be Submitted to Police Department ¹¹⁻⁷

Every person keeping a shop for the purchase, sale, or barter of junk, old metals or second hand articles shall make out and deliver, either in person, or by United States Mail weekly, an accurate description of all articles and coins either purchased or received, directly or indirectly, during the preceding week. All lists shall be submitted on a format as prescribed by the Chief of Police and shall be submitted at close of business on Fridays. If submitted via United States mail it shall be postmarked no later than the Saturday immediately following.

Section 8. Severability ¹¹⁻⁸

The provisions of this Article are severable, and, if any of its provisions shall be held unconstitutional or invalid by any court of competent jurisdiction, the decision of said court shall not affect or impair any of the remaining provisions.

Section 9. Penalty for Violations ¹¹⁻⁹

Any violation of preceding Sections 2 through 6 shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars for a first offense, and upon a second or subsequent offense a fine of not less than fifty dollars nor more than one hundred dollars, and the licensing authority shall consider said violation and conviction at any public hearing to suspend or revoke said license.

¹¹⁻⁵ Inserted under article 21, ATM 1991.

¹¹⁻⁶ Inserted under article 21, ATM 1991.

¹¹⁻⁷ Inserted under article 21, ATM 1991.

¹¹⁻⁸ Inserted under article 21, ATM 1991.

¹¹⁻⁹ Inserted under article 21, ATM 1991.

ARTICLE XII

PUBLIC CARRIAGES

Section 1. Selectmen to License

The Board of Selectmen may license hackney carriages or motor vehicles properly insured for the conveyance of persons for hire from place to place within the Town and they may revoke such licenses at their discretion and a record of all licenses so granted or revoked shall be kept by the Selectmen.

Section 2. Penalty for Unlicensed Operation ¹²⁻²

No person shall set up, use or drive in the Town, any unlicensed hackney carriage or other motor vehicle for the conveyance of passengers for hire from place to place in the Town under a penalty established from time to time by the Board of Selectmen, but which shall never be less than Fifty Dollars (\$50.00). Every vehicle unlicensed shall constitute a separate offense.

Section 3. Rules and Regulations ¹²⁻³

The Board of Selectmen may adopt, and may from time to time amend, rules and orders for the regulation of carriages and vehicles used within the Town and may provide for and set penalties for the violation of such rules and orders and may set and receive an annual fee for each license granted. Such rules and orders may include, but not be limited to the establishment of the licensing period, license fee or fees, establishment of fares for both metered and unmetered vehicles and inspections.

¹²⁻² As amended by Article 72, ATM 1986.

¹²⁻³ As amended by Article 72, ATM 1986.

ARTICLE XIII¹³

PLANNING BOARD

Section 1. General Powers and Duties

The Board shall perform the duties prescribed by Sections 70 and 71 of Chapter 41 of the General Laws. It shall be the duty of the board also to consider and advise upon municipal improvements in regard to which the advice of the Board, at any time, may be asked by an official of the Town. The Board may upon its own initiative make to any official or officials of the Town such recommendations in regard to municipal improvements as the Board may from time to time think proper or expedient.

¹³ Notwithstanding the provisions of this section the town has accepted the provisions of the, so-called, improved method of municipal planning board, accordingly, has the powers, duties and responsibilities which are provided in sections 81A through 81GG of chapter 41 of the General Laws.

ARTICLE XIV

POLICE REGULATIONS

Section 1. Digging or Other Alterations in a Public Way

No person shall 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 grade or width of any public way, without the written license of the Selectmen, which shall prescribe the limitations or restrictions of such license.

Section 2. Obstructions of Public Ways and Sidewalks

No person shall place, or cause to be placed, upon any public way or sidewalk, any lumber, iron, wood, coal, trunk, bale, box, crate, cask, barrel, package or other thing, and allow the same to remain for more than one hour, or more than ten minutes after being notified by a police officer to remove the same, provided that the provisions of this section shall not apply to placing of ashes, refuse or garbage in proper receptacles for collection under public authority.

Section 3. License Required for Certain Uses of Public Ways

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

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

Section 4. Guard Posts and Light Required in Public Ways

No person shall leave any vehicle or material or place any obstruction in any sidewalk, street or public place and suffer the same to remain there overnight without maintaining a sufficient light and suitable guards over or near the same throughout the night, nor allow the same to remain after notice from a police officer, constable or the Selectmen to remove the same.

Section 5. Littering ¹⁴⁻⁵

Whoever places, throws, deposits, discharges or causes to be placed, thrown, deposited or discharged any thrash, bottles, cans, refuse, rubbish, garbage, debris, scrap, waste, or any other material of any kind on the property of another on any land not assigned by the Board of Health in accordance with the provisions of Section one hundred and fifty A of Chapter one hundred eleven of the General Laws as a dumping ground shall, if such action is not punishable by citation under the provisions of Section sixteen and sixteen A of Chapter two hundred seventy of the General Laws, be punished pursuant to this by-law to the maximum amount permitted by law whether computed for each day on which a violation occurs, or, continues or for each item discarded constituting a separate offense, or some combination thereof.

Section 6. Effluent, Rubbish, Garbage

No person shall place or cause to be placed in any street or way, public or private, of this Town, the content of any sink, cesspool, or privy, nor place or cause to be placed any rubbish or garbage therein, except in proper containers for the immediate removal therefrom.

Section 7. Fruit Skins, etc

No person shall throw upon any sidewalk or crosswalk, any banana skin, orange peel, or any slippery or greasy substance.

Section 8. Ice or Snow

No person shall throw or place or cause to be thrown or placed, any ice or snow into or upon any public way in such a manner as to obstruct traffic or endanger travel upon the public way.

Section 9. Activities Restricted

No person shall engage in any game, sport or amusement in any public way, whereby the free, safe, and convenient use thereof by travelers thereon shall in any way be interrupted, or the occupants of adjoining premises annoyed or disturbed.

¹⁴⁻⁵ Article XIV, Section 5 was deleted in its entirety and replaced by a new Section 5 by action taken under article 43, ATM May 5, 1999.

Section 10. Markings

No person, unless required by Law so to do, shall make any marks, letters, figures of any kind upon or against any wall, fence, post, ledge, stone, building or structure, in or upon any public way in the Town without the permission of the owner thereof nor upon any sidewalk or upon any property of the Town without the consent of the Selectmen.

Section 11. Littering

No person shall deposit papers, circular or advertising matter of any kind in the public ways of the Town nor distribute the same through the Town in such manner as to create a nuisance or litter.

Section 12. Bonfires

No person shall make a bonfire in any public way or place without first obtaining in writing the permission of the Chief of the Fire Department.

Section 13. Discharge of Firearms, Fireworks¹⁴⁻¹³

No person shall, except in the performance of some duty required or justified by Law, or in abating a nuisance, or in the lawful defense of the person, family or property of any citizen, or at any military exercise, or upon written permission of the Board of Selectmen, discharge any air gun or gun, pistol or other firearm, in or upon any street or public place, or within 300 feet thereof, or in any building or within 300 feet of any building in the Town.

No person shall explode or cause to be exploded any squib, cracker serpent or other preparation which consist wholly or in part of gun powder or other explosive, upon any street or public place within the Town, except on such occasion and of such character and kind as the Chief of Police may, by public notice, permit.

Section 14. (Disallowed by the Attorney-General)

Section 15. Public Drinking¹⁴⁻¹⁵

- (a) Whoever shall, within the limits of any public way located within the town, whether that public way be a town way, county highway, state highway, or a private way open to the public, consume intoxicating beverages, shall be punished by a fine not exceeding twenty-five dollars. This section shall also be construed to prohibit the following: The consumption of intoxicating beverages by any person while that person is standing, sitting, walking, running or otherwise present within such way or is within any vehicle, whether parked or moving, which is within the limits of such public way.

¹⁴⁻¹³ As amended by article 48, ATM 1975, See section 42 of this article for another by-law of similar character.

¹⁴⁻¹⁵ Inserted under article 35, ATM 1975.

- (b) Whoever shall consume any intoxicating beverages in any public building, or on any public property, including, parks, cemeteries, school houses and school grounds, and public squares, or in any private way or parking area regulated under the provisions of Chapter 90, section 18 of the General Laws shall be punished by a fine not exceeding twenty-five dollars.
- (c) The foregoing paragraphs (a) and (b) shall not apply to any activity licensed by the Board of Selectmen under the applicable provisions of the Massachusetts General Laws.
- (d) It shall be the duty of any police officer of the town to arrest any person who violates the provisions of paragraphs (a) and (b) and to cause such person to be brought before a Justice of the District Court of Southern Norfolk County, Stoughton, Massachusetts upon a complaint for violation thereof.

Section 16. (Disallowed by the Attorney-General)

Section 17. (Disallowed by the Attorney-General)

Section 18. Markings

No person shall make indecent figures, or write any obscene words upon, or deface by marks, in any manner, any fence, building, sidewalk, crosswalk or ledge in the Town.

Section 19. Coasting

No person shall coast upon any sidewalk in the town, nor shall any person coast upon any of the public ways of the Town except upon such streets as the Selectmen may designate each year by public notice.

Section 20. Coasting, Continued

Said streets may be posted by barriers and any unauthorized person or persons moving such barriers shall be subject to a fine of not more than twenty (\$20) dollars for each offense.

Section 21. Nude Bathing

No person shall bathe or swim in the open in any waters within the Town in a state of nudity.

Section 22. (Disallowed by the Attorney-General)

Section 23. Permission of Police Chief, Sales

No person shall place or keep any table, stall, booth, cart or other structure, in any public way or other public place in the Town or upon any sidewalk for the sale of food, fruit, merchandise or other thing, without permission first being obtained from the Chief of Police.

Section 24. Permission of Chief, Overhanging Objects

No person shall construct, erect, place, establish or maintain any signboard, shade or awning over any part of a public street or sidewalk unless the same be securely and safely supported and unless the lowest part of said signboard be not less than ten feet, and the lowest part of said shade or awning be not less than seven feet above the level of such street, or sidewalk; nor shall any person have the right to maintain any such sign board, shade or awning as aforesaid, until the Chief of Police shall have certified to the Board of Selectmen that the same is securely fastened so as not to endanger persons on the sidewalk or street.

Section 25. Permission of Chief, Music

No person, other than a member of regularly organized band or other musical organization, shall play upon or make a noise with any kind of musical instrument in any street, way or other public place in the Town without first obtaining permission so to do from the Chief of Police.

Section 26. Permission of Chief, Parades

No person shall take part in any parade, pageant, on any public way or in any other public place in the Town unless permission has been granted for such parade, or procession by the Chief of Police.

Section 27. Removal of Light Device

No person shall extinguish or remove without authority, any public lamp, lantern, bomb or torch in any public way or other public place.

Section 28. Pole Climbing, Prohibited

No person, except an employee of the Town or of a Telephone, Telegraph or Electric Light Company, shall climb any telephone or electric light pole on any public way or in any public place in the Town. No person shall climb any tree on any public way or in any public place in the Town without having first obtained permission so to do from the Tree Warden.

Section 29. Injury to Public Property

No person shall willfully deface or injure any public playground, planting space, flowerbed, grass border, guidepost, official sign, post, or signaling device for the direction of traffic, lamp post or lantern or any building fence or monument or other thing situated, erected or made for the use or ornament of the Town.

Section 30. Fouling of Public Troughs

No person shall place on any drinking fountain, trough, or basin of water, set up or established in any public way or other public place for the use of men or beast, any dirt, stone, ashes, rubbish, or other material; nor shall any person unnecessarily waste or use the water in such drinking fountain, trough, or basin.

Section 31. Spitting; Intoxicating Liquors

No person shall spit upon the floor or walls of any public building or carry into said buildings or upon the grounds connected therewith, any spirituous or intoxicating liquors, for the purpose of drinking or selling the same.

Section 32. Repealed ATM 1970 (article 23)

Section 33. (Disallowed by the Attorney General)

Section 34. Peeping Toms

No person 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.

Section 35. Curfew

Inserted under article 13, STM December 1954. Disallowed by the Attorney-General when submitted following ATM 1992 recodification vote.

Section 36. Disturbing the Operators of Vehicles

No person shall signal or stop the operator of any vehicle or accost the operator thereof for the purpose of selling or distributing any merchandise or advertising matter, or tickets of admission to any game, show, or entertainment.

Section 37. Permission of Police Chief, House to House Solicitation¹⁴⁻³⁷

No person shall go from house to house within the Town, begging or soliciting alms or contributions for any person, cause or organization, except a local religious, charitable, fraternal, civic or educational cause or organization, without having first recorded his name and address with the Chief of Police and furnish such other information as may be requested. The Chief of Police shall thereupon, if satisfied as to the honesty of the applicant, issue a permit which shall state that said person has duly registered and is entitled to go from house to house for the purpose specified.

¹⁴⁻³⁷ As amended under article 53, ATM 1974.

Each out of town permittee shall pay to the town of Canton a permit fee of ten dollars (\$10.00) and each local permittee shall pay to the town of Canton a permit fee of two dollars (\$2.00), both of which shall expire thirty (30) days next following the date of issuance. No permit shall be issued for solicitors or canvassers after the hours of 5 P.M.

Section 38. Regulation Regarding Swimming Pools ¹⁴⁻³⁸

Every person who owns a residential swimming pool shall provide and maintain adequate safety devices the intent of which is to prevent accidental drowning of small children.

A. Definition:

"Swimming Pool": A body of water contained in an artificial receptacle, whether in or above the ground, used or intended to be used for swimming, wading or recreational bathing.

"Residential Swimming Pool": A swimming pool used or intended to be used solely by the owner or tenant thereof and his family, and by friends invited to use it without payment of any fee.

B. Enclosure:

Every outdoor residential swimming pool, capable of containing a depth of water exceeding twenty-four inches at one point, shall be completely surrounded by a fence or wall not less than four feet in height. The fence or wall shall be so located as to surround the entire pool, contiguous walks and any diving structure or platform. A building may be used as part of such enclosure. A fence surrounding the entire property shall meet the intent of this section. Each such fence or wall shall be so constructed as not to have openings, holes, or gaps larger than four inches in any dimension except for doors and gates and except for picket fences in which case, however, the gaps between the pickets shall not exceed four inches. All fences shall be constructed of wood, chain link, or other material which meets the intent of this article. Every fence shall be substantially anchored to posts set into the ground. All gates or doors opening through enclosure shall be of not less than the same height as the fence or wall and shall be equipped with a self-closing and self-latching device located not less than four feet above ground for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.

Portable swimming pools incapable of containing a depth of water exceeding twenty-four inches at one point must be protected with a safety cover when unattended.

¹⁴⁻³⁸ Inserted under article 38, ATM 1967.

C. Building Permit:

The owner shall obtain from the building inspector, a permit for the construction of a permanent swimming pool. Existing pools not conforming to the safety requirements of this section shall be modified within three months from the date of enactment of this section.

Section 38A. Grading of Residence Lots ^{14-38A}

No persons shall construct the driveway of a dwelling with a garage under or attached except in such manner as to insure that no surface water from the street enters into it. To determine whether or not a proposed dwelling will meet this requirement, a plan shall be submitted to the Building Inspector at the time of application for a building permit showing the garage floor to be at least 12" above the center line elevation of the street at a point opposite the center line of the house foundation, or alternately providing for the disposal of water that collects within the driveway or approach area in a manner acceptable to the Building Inspector.

The final grading of the lot from the front line of the house shall be toward the street and the remainder of the lot will be graded to shed water away from the foundation so that no surface water stands or is trapped on the lot or adjacent property.

Section 39. Regulation of Dogs ¹⁴⁻³⁹

Section 1: License Fees, Exceptions ^{14-39(l)}

- (1) License Fee - All fees for dog licenses and kennel licenses, fines and penalties shall be set by the Town Clerk in accordance with any applicable law or otherwise pursuant to GL c. 40, s. 22F; dog license fees shall be based on the rate set for unspayed females unless a certificate signed by a licensed veterinarian is filed certifying that said dog, is incapable of propagation

^{14-38A} Inserted under article 68, ATM 1971.

¹⁴⁻³⁹ This section was adopted in its present comprehensive form under article 28, ATM 1984, replacing a simple "leash law" which had been inserted under article 39, ATM 1967 and amended under article 9, ATM 1969. Amended under article 31, ATM April 26, 2004.

^{14-39(l)} As amended under article 33, ATM 1990. Amended under article 59, ATM April 26, 2004.

A certified copy of such certificate on file in the office of any city or town clerk in the Commonwealth may be accepted as evidence that such operation has been performed. If the town clerk is satisfied that a certificate of the veterinarian who spayed the dog cannot be obtained, he may accept in lieu thereof a statement made under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that he has examined the dog and in his opinion the dog is not capable of propagation by reason of spaying. Until a certificate of a veterinarian who has examined the dog in question is produced the license fee for the licensing period shall be at the rate of an unspayed female.

When application is made for a dog license the applicant shall also exhibit proof, by a veterinarian's certificate, that the dog has been vaccinated against rabies, within the last three years if the dog is six months of age or over, as required by General Laws chapter 140, section 115B.

No fee shall be charged for a license for a dog specifically trained to lead or serve a blind person; provided that a certificate issued by the division of the blind is exhibited certifying that the dog is so trained and is actually used by a blind person.

No license fee or part thereof shall be refunded because of a subsequent death, loss, spaying, removal from this commonwealth or any other disposal of the dog, nor shall any license fee or part thereof paid by mistake be paid back after it has been paid to the county pursuant to General Laws chapter 140 section 147 of the General Laws.

In addition to the license fee as otherwise required by this section the owner of any dog which has not been licensed on or before May 30th in any year shall be subject to a late fee to be paid to the Town Clerk at the time such dog is licensed, said fee to be in addition to the license fee for all dogs licensed on or after May 30th of any year.

Section 2: Disturbing the Peace

No person shall own or keep in the Town any dog which by biting, excessive barking, howling or in any other manner disturbs the quiet of the public.

Section 3: Complaint of Nuisance

If any person shall make a complaint first in writing to the Animal Control Officer that any dog owned or harbored within his jurisdiction is a nuisance by reason of vicious disposition or excessive barking or of other disturbance, the Animal Control Officer shall investigate such complaint which may include an examination under oath of the complainant, submit a written report to the Selectman of his findings and recommendations, together with the written complaint. Upon receipt of such report and examination of the complainant and the owner of the dog, under oath, the Selectmen after hearing, of which time the owner of the dog will be given due notice to appear, may make such order concerning the restraint, muzzling, disposal of such dog, dismissal of the complaint or such other action as may be deemed necessary. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen days to enable the Selectmen to issue their order following the receipt of the report of the Animal Control Officer. If the Selectmen fail to act during the period of interim order, upon examination of the period the interim order is automatically vacated.

Section 4: Restraint or Muzzling

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

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

ALL OF THE ABOVE ARE SUBJECT TO PENALTIES OR FINES

Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Animal Control Officer shall submit, in writing, to the Selectmen a report of his action and the reasons therefore. Upon receipt of such report, the Selectmen may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. If the Selectmen fail to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order automatically is vacated. If the dog is ordered to be restrained or muzzled six weeks of a twelve month period the Selectmen must issue a permanent order of restraint, muzzling or disposal of said animal.

Section 5: Appeal of Restraint or Muzzling

The owner or keeper of any dog that has been ordered to be restrained or muzzled or which has been restrained under this article may, within ten days after such order, bring a petition in the District Court, addressed to the Justice of the Court, praying that the order may be reviewed by the court, and after such notice to the officer or officers involved as the court may deem necessary it shall review such action, hear the witnesses and affirm such order unless it shall appear that it was made without proper cause or in bad faith, in which case such order shall be reversed. The decision of the court shall be final and conclusive upon the parties.

Section 6: Full Time Leash Law

Any person owning or harboring a dog shall not cause or allow said dog to roam at large * in any of the streets or public ways or places within the confines of the Town of Canton, or upon the premises of anyone other than the owner or keeper, unless the owner or occupant of such premises expressly grants permission. Under no circumstances shall a dog even though secured by suitable lead be allowed on private property, unless specific permission has been granted by the owner of said property. No dog shall be permitted in any public place or on any public thoroughfare inclusive of all Town owned property and properties under the authority of the Commonwealth of Massachusetts that are situated in the Town of Canton, unless said dog is restrained by a chain or lead not exceeding seven (7) feet in length that is of suitable test for the size of dog that is being restrained, and is attended by a person of adequate age and discretion to properly control its actions or is at the heel ** position beside a competent person and demonstrably obedient to the person's command.

Section 7: Unlicensed Dogs; Licensed Dogs Not Wearing Tags

Any dog within the limits of the Town, unlicensed or not wearing a valid license tag shall be impounded by the Animal Control Officer and not release until pound fees, in accordance with the General Laws, and pickup fees are paid and current license is obtained from the Town Clerk. Any dog not claimed within ten days will become the property of the Town of Canton, and will be disposed of by the Animal Control Officer by whatever humane means are available.

Section 8: Dogs in Estrus Cycle

If the Animal Control Officer determines that a dog in her estrus cycle (even when confined to the property of her owner or keeper) is attracting other dogs to her area, which condition causes disturbance on or damage to neighboring property or public area, he may pick up and impound the dog for the duration of her estrus cycle, releasing thereafter to the owner or keeper upon payment of pickup and pound fees; or the Animal Control Officer may require the owner or keeper to place and keep such dog, while in such cycle, in a commercial or boarding kennel or to remove it from the area so that the nuisance is abated.

Section 9: Pound and Equipment

The Board of Selectmen may select a commercial kennel facility within the Town or use the existing Town Kennel to impound or keep dogs that have been apprehended by the Animal Control Officer as being strays or violators of the law, providing that both of the foregoing are within cost limitations and specifications set by the Board of Selectmen.

Section 10: Fines and Penalties ^{14-39(X)}

- a. Failure to License a Dog in a timely manner \$ 25.
- b. Violations of the Leash Law
 - 1st Offense \$ 25.
 - 2nd Offense within 12 months of first \$ 50.
 - 3rd Offense within 12 months of first \$ 75.
 - 4th Offense within 12 months of first \$100.
 - All subsequent, within 12 months of first \$100.
- c..Dog Bite – The Animal Control Officer must make a judgment as to the severity and the provocation of the bite to determine the processing and procedure for this violation.
 - 1st Offense \$ 25.
 - 2nd Offense \$ 50.
 - 3rd and all subsequent offenses \$100.
- d. Dog found in School Yard, in addition to Section X, B \$ 25.
- e. Nuisance complaints, including, but not limited to, barking, littering, defecating or micturating on sidewalks or private property.
 - 1st Offense \$ 25.
 - 2nd Offense, within 12 months of first \$ 50.
 - All subsequent occurrences of same violation occurring within 12 months of the first. \$ 50.
- f. Failure to comply with an order of restraint issued in accordance with MGL Chapter 140, Section 168 \$ 50.
- g. Failure to comply with an order issued under the authority of MGL c. 140, section 163 to kill or confine

^{14-39(X)} As amended under article 33, ATM 1990 and amended under article 25, ATM May 1, 2002. Amended again under article 34, ATM April 30, 2003.

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| a dog that has worried, maimed or killed livestock or fowls | \$ 25. |
| h. Failure to cause a dog to be vaccinated against rabies as required by MGL chapter 140, section 145B | \$ 25. |

Section 39A. Regulation of Pit Bulls ^{14-39A}

Section 1. Purpose

Dogs known as "pit bulls" have generally-exhibited traits such as (i) powerful instincts for dominance which naturally result in a proclivity for fighting; (ii) a strong prey drive, which inspires a natural chase instinct that often results in their aggressive pursuit of cats, rabbits, other dogs, and human children; (iii) a stubbornness that results in sustained, unyielding aggressiveness once an attack begins; (iv) powerful jaws capable of crushing bones and hanging on to victims even while the animal withstands infliction of injury or pain; and (v) a combination of stamina, agility, strength, and "gameness" (the will to successfully complete a task). Judicial and legislative bodies have reacted by noting that the classification of pit bulls as dangerous animals has a rational basis in fact and that adopting controlling measures in order to reduce the likelihood of human injury bears a rational relationship to the governmental objectives of preserving public health, public safety, and public welfare. The Town of Canton believes it is necessary to regulate, subject to certain exceptions with certain restrictions, pit bulls in order to fulfill its primary mandate to protect human health, safety, and welfare within the Town.

Section 2. Definitions

As used in this Section 39A, the following terms shall have the meanings set forth below:

PIT BULL - Any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog of mixed breed displaying the majority of the physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds, such characteristics being identifiable as an element of its breeding by a licensed veterinarian, by the animal control officer, or by any other qualified person, or any dog registered or licensed as a pit bull. Specifically excepted from this definition is any dog with proof by American Kennel Club or United Kennel Club papers or by a written certification or written notice from a veterinarian licensed in the Commonwealth of Massachusetts that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier.

TOWN - The Town of Canton;

^{14-39A} Inserted under article 19, ATM 2007

OWNER - Any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports, or sells a pit bull; KEEPER - Any person who possesses, keeps, exercises control over, maintains, harbors, transports, or sells a pit bull whether or not that person is an owner;

HOUSEHOLD - All persons residing in one dwelling unit in the Town of Canton, whether such persons are related by blood or by marriage or are unrelated;

ANIMAL CONTROL OFFICER - The Animal Control Officer of the Town of Canton; MUZZLE - A restraining appliance made of metal, plastic, leather, cloth, or a combination of these materials that, when fitted and fastened over a pit bull's snout/mouth/head, prevents the pit bull from biting but allows room for the pit bull to breathe/pant;

SECURE TEMPORARY ENCLOSURE - A secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a securable door used for the ingress and egress of a pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure without human assistance.

HEARING OFFICER - The Town of Canton Board of Selectmen or the Town board or Town official designated by the Town Board of Selectmen to conduct hearings required by this by-law.

Section 3. Pit Bulls Prohibited

- (a) It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, house, harbor, transport, or sell within the Town any pit bull, subject only to the exceptions set forth in sub-paragraphs (b)-(g), below.
- (b) The owner or keeper of a pit bull that is registered and licensed with the Town Clerk as of the date of enactment of this by-law may apply for a pit bull license in accordance with the requirements of section 4, below, such license to be the subject of annual renewal. Any owner or keeper who has applied for and received a pit bull license in accordance with this sub-paragraph and who maintains the pit bull at all times in compliance with the pit bull license requirements of section 4, below, and all other applicable requirements of this Section 39A may keep a pit bull within the Town.
- (c) Any person who is not covered by sub-paragraph (b), above, shall be entitled to apply for one annual pit bull license in accordance with the requirements of section 4, below. Notwithstanding the foregoing, no household in the Town shall be occupied at any one time by more than one owner or keeper of a pit bull licensed under this sub-paragraph (c) and in accordance with this Section 39A.
- (d) The Town Kennel may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this Section 39A;
- (e) Any humane society operating an animal shelter which is registered and licensed by the Town may temporarily hold any pit bull that it has received or

otherwise recovered, but only for so long as it takes to contact the Town Kennel and either turn the pit bull over to the Town Kennel employees or to receive permission to destroy or to have destroyed the pit bull pursuant to the provisions of sections 5 and 6, below, if applicable.

(f) A person may temporarily transport into and hold in the Town a pit bull for the sole purpose of showing such pit bull in a place of public exhibition, contest, or show sponsored by a dog club association or similar organization, provided that the sponsor have received written permission from the Town's Board of Selectmen, have obtained all other permits or licenses required by by-law, and furnishes protective measures adequate to prevent pit bulls from escaping or injuring members of the public. The person who transports and holds a pit bull for showing shall at all times while the pit bull is being transported within the Town keep the pit bull confined in a secure temporary enclosure.

(g) Failure by the owner or keeper to comply or remain in compliance with all of the terms of an applicable exception set forth above shall subject the pit bull to immediate impoundment and/or disposal pursuant to sections 5 and 6, below, and shall operate to prevent the owner or keeper from asserting such exception as a defense in any proceeding under sections 5, 6, and 7, below.

Section 4. Pit Bull License Requirements

The owner or keeper of any pit bull who is allowed to apply for an annual pit bull license under section 3(b) or section 3(c), above, shall at the time of application for the annual pit bull license comply with or otherwise provide sufficient evidence that the owner or keeper is in compliance with all of the following regulations:

(a) The owner or keeper of the pit bull shall keep current the license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license. A pit bull license tag must be obtained by the owner or keeper at the time of issuance of the license. Such license tag shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the license was issued. If the pit bull tag is lost or destroyed, a duplicate tag may be issued upon the payment of a twenty dollar (\$20) fee;

(b) The owner or keeper must be at least 21 years of age;

(c) The license application form to be completed by the owner or keeper and presented to the Town Clerk shall require (i) the complete legal name of the pit bull's owner and/or keeper and presentation of a positive form of government-issued picture identification (no photocopies) for the owner and/or keeper, and the Animal Control Officer shall make a copy of such identification and attach it to the application; (ii) the complete residential address of the pit bull's owner and/or keeper; (iii) the complete address where the pit bull will be primarily housed/sheltered; (iv) the telephone number of the pit bull's owner or keeper; (v) the complete details of the pit bull's physical identification, including but not limited to breed, sex, weight, color, markings, and any other distinguishing physical characteristics, all provided by the owner and/or keeper; (vi) a photograph of the pit bull that is not more than thirty (30) calendar days old; and (vii) the complete details of the pit bull's documented identification, including but not limited to the pit bull's registration and/or license number as issued by the

Town and true and accurate copies of the pit bull's rabies vaccination and a copy of the pit bull's health record as prepared by a veterinarian which shall not be dated more than thirty (30) calendar days from the application for registration of the pit bull under this sub-section;

(d) The owner or keeper shall present to the Town Clerk proof that the owner or keeper has procured liability insurance in the amount of at least two hundred thousand dollars (\$200,000), covering any damage or injury which may be caused by a pit bull during the twelve-month period covered by the pit bull license. The policy shall contain a provision requiring the insurance company to provide written notice to the Town Clerk not less than fifteen (15) days prior to any termination of the policy and not less than five (5) days subsequent to cancellation or expiration of the policy;

(e) The owner or keeper, at the owner's or keeper's own expense, shall have had the pit bull spayed or neutered and shall present to the Town Clerk in connection with the license application documentary proof from a licensed veterinarian that this sterilization has been performed. This requirement shall be waived upon a written statement from a licensed veterinarian that the procedure should not or cannot be performed for reasons of the health or age of the animal. If funds are available through any Town spay/neuter account, the Animal Control Officer will assist owners or keepers who are residents of the Town seeking assistance for the spaying or neutering of their dog(s);

(f) Upon an owner's or keeper's successful application, the Animal Control Officer shall provide to the successful owner or keeper registering a pit bull (i) a pit bull license tag; (ii) a complete copy of the application for registration and license as submitted by the owner or keeper; (iii) a written summary of all methods for contacting the Animal Control Officer, including but not limited to the Animal Control Officer's telephone number during business hours, the Animal Control Officer's telephone number during non-business hours, the telephone number of the Town Police Department, and the 24-hour helpline or hotline for the Town; and (iv) a legible copy of this Section 39A;

(g) The license tag issued by the Animal Control Officer pursuant to this section shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the license tag was issued. If the pit bull license tag is lost or destroyed, a duplicate may be issued by the Animal Control Officer upon the owner or keeper's application and payment of a fee in the amount of twenty-five dollars (\$25.00);

(h) The Animal Control Officer and the Town Clerk shall each maintain a file containing the license numbers, pit bull tag numbers, and the names and addresses of the owner or keepers. The owner or keeper shall notify the Animal Control Officer and the Town Clerk in writing of any change of address;

(i) At all times when a pit bull is at the property of the owner or keeper, the owner or keeper shall keep the pit bull confined, either in a secure temporary enclosure or within the premises of the owner or keeper or within a fenced enclosure from which the dog cannot escape. At all times when a pit bull is away from the property of the owner or keeper, the owner or keeper shall keep the pit bull either securely leashed and muzzled or in a secure temporary enclosure;

(k) The owner or keeper shall not sell or otherwise transfer the pit bull to any person resident in the Town except a member of the owner's or keeper's

immediate family who will then become the owner or keeper and will be subject to all of the provisions of this section 39A. The owner or keeper shall notify the Town Clerk within five days in the event that the pit bull is lost, stolen, dies, or has a litter. In the event of a litter, the owner or keeper (i) must deliver the puppies to the Town Kennel for destruction or (ii) shall permanently remove the puppies from the Town and provide sufficient evidence of such removal by the time the puppies are weaned. In no event shall the owner or keeper be allowed to keep in the Town a pit bull puppy born after the date of enactment of this Section 39A that is more than eight weeks old. Any pit bull puppies kept contrary to the provisions of this subsection are subject to immediate impoundment and disposal pursuant to this Section 39A;

(l) The owner or keeper shall have posted at each possible entrance to the owner's or keeper's property where the pit bull is kept a conspicuous and clearly legible sign. Such sign must be at least eight and one-half (8 ½) inches by eleven (11) inches in rectangular dimensions and shall contain only the words "WARNING - PIT BULL DOG" in lettering which is not less than two inches in height and which is in sharp contrast with the background of the sign.

Section 5. Impoundment

(a) Any pit bull found by the Animal Control Officer or any member of the Town Police Department to be on the loose, at-large, or unconfined, or which has been observed by the Animal Control Officer or any member of the Town Police Department to have mauled, bitten, attacked, threatened, or in any way menaced another animal or human shall be presumed to be in violation of this by-law and shall be subject to immediate impoundment;

(b) The Animal Control Officer is authorized to immediately impound any Pit Bull which is in violation of this by-law and which does not fall within the exceptions listed therein. The Animal Control Officer is authorized to house and/or dispose of any impounded Pit Bull at his/her sole professional discretion.

Section 6. Impoundment Procedure and Enforcement

(a) The Animal Control Officer is empowered to make whatever inquiry or investigation is deemed necessary to ensure compliance with the provisions of this by-law. The Animal Control Officer is empowered to seize and impound any pit bull found to be in violation of this by-law or any pit bull for which the owner or keeper has failed to comply with the provisions of this Section 39A;

(b) The Animal Control Officer shall not release a pit bull from impoundment unless the owner or keeper (i) provides proof of registration and license satisfactory to the Animal Control Officer, (ii) provides adequate proof that any violations of this by-law have been corrected in a manner satisfactory to the Animal Control Officer; (iii) remits payment to the Animal Control Officer of all fines issued pursuant to violations under this by-law; and (iv) remits payment to the Animal Control Officer for the costs associated with the impounding of the pit bull and the term of impoundment of the pit bull;

(c) The Animal Control Officer and the Town Police Department shall each have the authority and shall cooperate with each other to the greatest extent possible

to enforce the provisions of this by-law. The Town Police Department shall notify the Animal Control Officer of any location or address at which a pit bull is observed;

(d) A pit bull found in violation of this by-law shall be subject to immediate impoundment;

(e) Any violation of this Section 39A shall be subject to a fine of twenty-five dollars (\$25.00) for the first offense, and a fine of one hundred dollars (\$100) for each additional offense. In addition, upon any violation of this Section 39A, the owner's or keeper's pit bull shall be subject to impoundment. Each day a violation exists shall be considered a separate and distinct violation. This by-law may also be enforced pursuant to the provisions of G.L. c. 40, § 21D.

Section 7. Appeal Procedure

(a) The owner or keeper of a dog that has been impounded pursuant to this by-law or that has been the subject of a citation for a violation under this by-law may dispute the classification of such a dog as a pit bull or whether the provisions of this by-law for enforcement have been complied with by filing a written petition with the Animal Control Officer for a hearing concerning such classification no later than seven (7) calendar days after the date of impoundment or citation. A petition shall include, but not be limited to, (i) the complete legal name and social security number of the pit bull's owner and/or keeper; (ii) the complete residential address of the pit bull's owner and/or keeper; (iii) the complete address where the pit bull is primarily housed/sheltered; (iv) the telephone number of the pit bull's owner and/or keeper; (v) the complete details of the pit bull's documented identification, including but not limited to the pit bull's registration and/or license number as issued by the Town; and (vi) a summary of the facts that the petitioner wishes to introduce for consideration in support of the petitioner's appeal. The written petition shall be submitted under oath or affirmation.

(b) The hearing will be held before the hearing officer. Any facts which the petitioner wishes to be considered shall be submitted under oath or affirmation, either in writing or orally at the hearing. The hearing officer shall make a final determination of the petitioner's appeal. Such final determination shall be considered a final action by a municipal board. If the dog is found to be a pit bull and the impoundment or the citation is in compliance with this by-law, the pit bull shall be destroyed unless the owner or keeper produces evidence deemed sufficient by the hearing officer that the pit bull is to be removed permanently from the Town and the owner or keeper pays the cost of impoundment. If the dog is found not to be a pit bull or the impoundment or citation is determined by the hearing officer not to have complied with this by-law, the dog shall be released to the owner or keeper with no impoundment fee imposed unless the dog was impounded as a result of the provisions of Section 39.

Section 40. Junk Automobiles ¹⁴⁻⁴⁰

- (a) No person or entity, corporate or otherwise, as owner or as one in control of premises, shall keep in the open in any area of the Town of Canton, except land designated by the Board of Selectmen for public dumping purposes, any junk automobile, as defined in Paragraph (b) of this Section:
- (b) For the purpose of this By-Law, a junk automobile shall be one which is worn out, cast off, or discarded, and which is ready for dismantling or destruction, or which has been collected or stored for salvage, or for stripping, in order to make use of parts thereof. Any parts from such a vehicle shall be considered junk automobile under this By-Law.
- (c) Any person or entity who violates this By-Law shall be liable to a fine of \$20.00 for each day said violation continues.

Section 41. Water Wells ¹⁴⁻⁴¹

- (a) No person or entity corporate or otherwise, as owner or as one in control of premises shall excavate or drill in the Town of Canton for the purpose of creating and maintaining a well for commercial use without first obtaining from the Board of Selectmen written authorization for said excavating or drilling.
- (b) Any person or entity who violates this By-Law shall be liable to a fine of \$20.00 for each day said violation continues.

¹⁴⁻⁴⁰ Inserted under article 18, ATM 1969.

¹⁴⁻⁴¹ Inserted under article 21, ATM 1970.

Section 42. Discharge of Firearms ¹⁴⁻⁴²

No person shall fire or discharge any gun, rifle, fowling piece, pistol, revolver, or other firearm within one thousand (1,000) feet of any street, public place, square, or golf course in the town, except with the permission of the Board of Selectmen, or in any private ground, except with the consent of the owner thereof; provided however, that this by-law shall not apply to the use of such weapons at any military exercise, or in the lawful defense of the person, family or property of a citizen.

Section 43. Hours of Operating Earth Moving Equipment ¹⁴⁻⁴³

No person shall operate heavy earth moving equipment or vehicles within the Town on any weekday (Monday-Friday) except between the hours of 7:00 A.M. to 6:00 P.M., nor on any Saturdays except between the hours 8:00 A.M. and 5:00 PM or any Sundays or Massachusetts state holidays at any time, except in the event of emergency or for public safety or other purposes approved by the Chief of Police or his designee, provided in every such case such person has first applied and paid an application fee (to be set from time to time by the Board of Selectmen) to and received from the Chief of Police or his designee an express written Waiver of Time Limits waiving compliance with this Section 43. For the purposes of this Section 43, heavy earth moving equipment and vehicles shall include, but not be limited to backhoes, bulldozers, dump trucks, cement mixers and equipment and vehicles used in or for excavating, filling, transporting, holding, moving or removing soil, loam, sand, gravel, stone, clay, sod, minerals, organic matter, debris, construction materials or other earth materials or compounds. Persons found in violation of this section may be fined not more than two-hundred dollars (\$200.00) for each offense. Each day that such violation continues shall constitute a separate offense.

Section 44. Underground Storage of Flammable Fluids ¹⁴⁻⁴⁴

Section 1.

Any flammable liquid or gasoline storage tank installed below the ground under license duly granted by the Board of Selectmen will be tested for leakage at the expense of the owner upon installation, and according to the following schedule, the date of which shall be determined by the license date or the date of installation whichever is later.

Day of installation

Every 5 years up to 20 years

Every 2 years up to 30 years

Annually unless the Fire Chief determines that conditions indicate more frequent testing be done.

¹⁴⁻⁴² Inserted under article 74, ATM 1971 (see also Article XIV, Section 13 of these By-Laws). Amended under article 25, motion 1, ATM April 24, 2000, disallowed by Attorney General.

¹⁴⁻⁴³ Inserted under article 53, ATM 1973. Amended under article 31, ATM 2008.

¹⁴⁻⁴⁴ Inserted under article 41, ATM 1980.

Such testing will be done under the supervision of the Chief of the Fire Department using the **Kent/Moore Test Method**. The tank or tanks shall be removed by the owner, at no expense to the Town, if they should fail the test, or at anytime when they shall become a hazard because of leakage or otherwise, in the opinion of the Chief of the Fire Department.

Section 2.

The fact of installation, maintenance and/or usage of such storage tanks under a license duly granted by the Board of Selectmen shall constitute an agreement on the part of the owner or owners of such tanks to save and hold harmless the Town of Canton from any and all reasonable and necessary expenses of removing the said tanks upon expiration of the license, or at any time when the same shall be required, in the opinion of the Chief of the Fire Department.

Section 3.

The fact of installation, maintenance and/or usage of such storage tanks under a license duly granted by the Board of Selectmen shall constitute an agreement on the part of the owner or owners to remove at the cost of the owner or owners such tanks upon the discontinuance or abandonment of that business necessitating or using such tanks whether or not such discontinuance and/or abandonment by less than the five year limitation above mentioned. Removal of such tanks under the provisions herein shall be within one hundred and eighty days of the date of discontinuance or abandonments.

Section 4.

Jurisdiction over any and all leakage of flammable liquid or fumes or other harmful and injurious matter into any main, line or other conduit below the surface of the ground, constituting a detriment to the public health and/or safety of the public, shall be vested with the office of the Chief of the Fire Department.

Section 5.

Upon satisfactory showing of such leakage into any such main, conduit or line, the Chief shall cause to be sent, registered mail, notification of such leakage to all owners of land duly licensed for such storage of gasoline or other flammable or injurious material in the area defined as the source of such leakage. Such notice shall contain the following: (1) the fact of leakage and the particular main, line or conduit affected; (2) the defined area within which the source of leakage is located if ascertainable; (3) a demand upon the owner(s) of such licensed land within the defined area to take necessary action to test and confirm the absence of any such leakage from storage tanks upon the owner's particular land; (4) a reasonable time limit within which to effect such tests, not to exceed seventy-two hours; (5) notification of the intention of the town to make such reasonable and necessary tests as

are requested upon the failure of the owner to take action; (6) the amount of charge for such tests in the event the owner fails to comply with the demand.

Section 6. The fact of installation, maintenance and or usage of such storage tanks under license of the Board of Selectmen, with the actual or implied consent of the owner of such land, shall constitute an agreement on the part of the owner of such licensed land to take such action as requested above to discover the presence or absence of any such leakage; and shall further constitute an agreement on the part of the owner to hold and save harmless the Town from any reasonable and necessary expenditures incurred by the Town in testing the licensed land upon failure of the owner to comply with the notification of the Chief of the Fire Department.

Section 7.

Any tanks installed in a flood plain area will be in a concrete vault.

Section 8.

The fee for an original license duly granted by the Board of Selectmen shall not exceed \$25.00. The fee for annual renewal shall not exceed \$20.00.

Section 45. (No By-Law with this section number has been adopted.)

Section 46. Fire Lanes ¹⁴⁻⁴⁶

- A. It shall be unlawful to obstruct or to block any private way with a motor vehicle or by any other means so as to prevent ingress and egress over such private way by fire apparatus or by any other emergency public safety vehicle.
- B. The Chief of the Fire Department is hereby authorized to designate 'fire lanes' in shopping centers, at multiple family residential areas near any commercial or industrial buildings or at any other place as in the judgment of such officer the public safety requires. Such 'fire lanes' shall consist of an area at least twelve feet in width and shall be plainly marked and designated 'fire lanes' by painting on the road surface and by the posting of signs, located and approved by the Fire Chief.
- C. Any motor vehicle or other object left or placed in a fire lane so as to obstruct or in any way to impede access by fire apparatus or by any other emergency public service vehicle may be removed under the direction of a police officer at the expense of the owner and without liability to the Town of Canton.
- D. Any person who violates any of the preceding sections shall for each offense be punished by a fine of twenty-five dollars.

¹⁴⁻⁴⁶ Inserted under article 16, ATM May 16, 1994.

Section 47. Certain Fire Signaling Devices Prohibited. ¹⁴⁻⁴⁷

Whoever installs, consents or causes to be installed, maintains, or consents or causes to be maintained, in any building or structure a mechanical device that is automatically keyed to or that activates the telephone lines or numbers controlled by, or listed to, the Canton Fire Department, shall be punished by a fine of not more than \$50.00; provided however, that, until sixty days after this section takes effect, the provisions of this section shall not apply to such mechanical protection devices installed prior to the date upon which this section takes effect. For the purpose of this section, "mechanical protection device," means an electrically operated instrument composed of sensory apparatus designed to detect a physical force or condition characteristic of a fire or unauthorized entry.

Section 48. Alarm System, Registration and Regulations By-Law. ¹⁴⁻⁴⁸

A. Definitions

For the purpose of this by-law, the following terms, phrases, words and their derivations shall have the meanings given herein.

When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) The term "Alarm System" means an assembly or equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention to which police are expected to respond. Fire Alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this by-law. The provisions of Section 3 of this by-law shall not apply to any governmental agency.
- (2) The term "False Alarm" means (a) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents; (b) any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery, or burglary, or attempted threat. For the purpose of this definition, activation of alarm systems by acts of God, including, but not limited to, power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

¹⁴⁻⁴⁷ Inserted under article 45, ATM 1980.

¹⁴⁻⁴⁸ Inserted under article 46, ATM 1980.

B. Control and Curtailment of Signals Emitted by Alarm Systems

- 1) Every alarm user shall submit to the Police Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system who can open the premises wherein the alarm system is installed.
- 2) All alarm systems installed after the effective date of this ordinance which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within ten (10) minutes after activation of the alarm system.
- 3) Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7:00 PM and 6:00 AM which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (1) of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of the inhabitants of an area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal the Police Chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (1) of this section in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made.

C. Penalties

- 1) Upon receipt of three or more false alarms within a calendar year the Police Chief may order the user:
 - (a) to discontinue the use of the alarm
 - (b) may disconnect any direct connection to the Police Department
 - (c) May order that further connections to the communications console in the Police Department will be contingent upon the user equipping any alarm system with a device that will shut off any AUDIBLE horn or bell within ten (10) minutes after activation of the alarm system
- 2) The user shall be assessed twenty-five (\$25.00) dollars as a false alarm service fee for each false alarm in excess of three (3) occurring within a calendar year. All fees assessed hereunder shall be paid to the Town Treasurer for deposit in the general fund.

Section 49. Numbering of Dwellings ¹⁴⁻⁴⁹

Every structure in the town used or occupied for dwelling purposes shall have permanently affixed to it, in a manner so as to be visible from the street, the number assigned to said structure. At the time of the sale or transfer of ownership of any such structure the Fire Department, while in the conduct of the inspection of the premises as required by General Laws, Chapter 148 Section 26F, shall verify that such numbers are present and visible.

¹⁴⁻⁴⁹ Inserted under article 47, ATM 1986. The third paragraph was inserted by STM April 27, 1992 under article 8 of the warrant. Amended under article 34, ATM May 5, 2004.

Letters or numerals shall be visible from the street side of the property and a minimum of 3" tall. Script is not acceptable. If the building is set back on the property, a number mounted on a mail box or lamp post will be acceptable.

The numbers of all buildings shall be assigned by the Board of Selectmen on the recommendations made to it by a committee which shall consist of the Chief of Police, the Fire Chief, the Building Commissioner, the Superintendent of Public Works, the Deputy Assessor, Town Clerk and such official with such title as designated by the Board of Selectmen and as authorized under Chapter 41, Section 23A of the General Laws.

Section 50. Regulation of, so called, Yard Sales ¹⁴⁻⁵⁰

Non-Business Sales of Goods and Merchandise

I. RESIDENT HOUSEHOLDS - Any person occupying a residence within the Town of Canton may be permitted to hold a sale of household goods for the type commonly known as "yard", "tag", or "garage" sales on the premises where such residence is located provided that no such premises may be used for such purposes on more than two consecutive days twice in any one calendar year, in accordance with the following procedure:

1. An application for a special permit authorizing such sales shall be filed in the office of the Board of Selectmen not less than fourteen days prior to the date, or dates, for which the permit is requested. A fee as set by the Board of Selectmen pursuant to Chapter 40, Section 22F of the Massachusetts General Laws shall be included with each application when filed.
2. A copy of the application shall be filed by the applicant with the Fire Department and with the Police Department.
3. Within seven days following the receipt of an application for a special permit under this section the Chief of the Fire Department and the Chief of the Police Department shall advise the Board of Selectmen of any special conditions which they believe should be attached to any special permit as may be granted in order to protect the public peace, health and safety.
4. The Board of Selectmen shall, forthwith following receipt of the recommendation of the Police or Fire Department, issue or deny such application for a permit to conduct a sale of household goods and may attach to any such permit as may be granted, terms or conditions to govern the conduct of the sale.

¹⁴⁻⁵⁰ Inserted under article 34, ATM May 15, 1995. Amended under article 25, ATM April 26, 2004.

- II. NON-PROFIT ORGANIZATIONS - Any religious, civic, fraternal or other non-profit organization having its office, hall or otherwise conducting its activities in the Town of Canton may sponsor a "yard", "tag", or "garage" sale on the property owned or leased by it, or otherwise made available to it for the purposes of any such sale, by filing an application as provided in Section 1, provided, however, no fee shall be required for a permit.
- III. ADDITIONAL SALES, ONE CALENDAR YEAR - It is the intention of this By-Law that the conduct of "yard", "tag", or "garage" sales be limited to not more than two such sales at any one location or parcel of land in any one calendar year.

The Board of Selectmen may, by special petition filed with it, and which sets out in clear an specific terms the reason or reasons upon which an applicant believes an exemption should be granted, permit additional sales at the same location in the same calendar year.

- IV. PENALTIES - Any person found to be in violation of any provision of this by-law shall be punished by a fine not to exceed the maximum amount prescribed by law. Each day on which a violation occurs shall be considered a separate violation. This section may be enforced by any police officer of the town pursuant to the provisions of Section 21D of Chapter 40 and when so enforced the penalty shall be one hundred dollars (\$100.00).

Section 51. Regulations for New Dwellings¹⁴⁻⁵¹

In all new dwellings the bottom of the cellar floor or basement must be at least twelve inches above the maximum ground water table. The driveway for any dwelling with a garage under or a garage attached shall be so constructed that street surface water is prevented from flowing onto the driveway and into the garage. Provision shall be made for the disposal of all water which may collect within the approach to the garage. No surface water shall be permitted to enter the garage. In the absence of any other acceptable alternative the garage floor shall be a minimum of six inches higher than the centerline elevation of the street. Without exception of the lot shall be graded in a manner which sheds water away from the foundation and prevents the accumulation of any standing or trapped water.

The own or builder shall submit a plot plan stamped and signed by the registered professional engineer to the Town Engineering Division. The plan shall show the location of test pits dug for the purpose of locating the ground water table. An as built drawing, stamped and signed by a registered professional engineer, shall be submitted to the Town Engineering Division upon the completion of the project.

¹⁴⁻⁵¹ Inserted under article 33, ATM May 22, 1995.

Section 52. Designated Handicapped Parking ¹⁴⁻⁵²

- A. Designated parking spaces for vehicles owned and operated by disable veteran, or by handicapped persons and bearing the distinctive number place, or placards authorized by Massachusetts General Laws Annotated Chapter 90 Section 2 or distinctive number plate, or placards or other devices authorized and issued for the same purpose by any other state, country, province, or territory shall be provided in public and private off-street parking areas.
- B. Any person or body that has lawful control of a public or private way, or of improved or enclosed property used as off-street parking areas for business, shopping, malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, multi-unit residential dwellings for rent or lease for any term, or for any other area, where the public has a right of access as invitees or licensees shall be required to reserve spaces in said off-street parking areas for any vehicle owned an/or operated by a disabled veteran or handicapped person whose vehicle displays the distinguishing license plate or placard authorized by Section A according to the following formula:

<u>Total Spaces</u>	<u>Required Handicapped Parking</u>
15 - 25	1 space
26 - 40	2 spaces
41 - 75	3 spaces
70 - 100	4 spaces
101 - 150	5 spaces
151 - 200	6 spaces
201 - 300	7 spaces
301 - 400	8 spaces
401 - 500	9 spaces
501 or more	2% of total spaces

Outpatient Medical Facilities: 10% of total spaces

Facilities specializing in treatment of, or services for people with mobility impairments: 20 % of total spaces

¹⁴⁻⁵² Inserted under article 35, ATM May 14, 1997.

- C. Designated handicapped parking spaces shall be placed, constructed and sized as follows:
- 1) Accessible space, shall be level.
 - 2) Accessible spaces shall be at least 8 feet wide with level access aisles at least 5 feet wide marked on pavement.
 - 3) Access aisles shall be designated by “slashes” or “crosshatches” permanently marked on pavement.
 - 4) Parking areas not paved shall allow the same dimensions for each handicapped parking space as paved areas.
 - 5) Two accessible spaces may share a common aisle. These spaces should be in a location providing the shortest route of travel to an accessible entrance. If there is more than one accessible entrance, the spaces shall be located near each accessible entrance.
 - 6) Sidewalks at such spaces shall have curb cuts at each access aisle constructed so that a handicapped person is not required to enter the flow of traffic to access the curb cut.
- D. One in eight designated handicapped parking spaces with a minimum of one shall be designated as “van accessible”. Van accessible spaces shall be eight feet wide with an aisle eight feet wide allowing a van to operate a lift. Alternatively all spaces may be “universal” spaces eleven feet wide with an access aisle five feet wide.
- E. There shall be an above grade sign at each designated handicapped parking space. The bottom of the sign shall not be lower than five feet from the ground. The top of the sign shall not be more than eight feet from the ground. The sign shall show at minimum the "International Symbol of Access" in white on a blue background or in blue on a white background. All “van accessible” Handicapped spaces shall be marked as such either on the above grade sign or directly below it using the words “Van Accessible” in white on a blue background or blue on a white background. All signs and markings shall be subject to the approval of the Chief of Police or his/her designee.
- F. The leaving of unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons as authorized by Section A and B, or in such a manner as to obstruct a curb cut or ramp designed for use by handicapped persons as a means of access to a public way or to a place to which members of the public have rights of access as invitees or licensees shall be prohibited.

- G. The penalty for violations of Sections A, B, C, D, or E shall be ten dollars (\$10.00) per day per violation after the person or body having lawful control of the ways or property described in Section B has been given written notice and not less than thirty (30) days to comply.
- H. The penalty for violations of Section F shall be one hundred dollars (\$100.00). The vehicle(s) may be removed pursuant to Massachusetts General Laws Chapter 266, Section 120D. Violators shall be cited in accordance with Massachusetts General Laws Chapter 90, Sections 20A and 2QA ½.
- I. Violations of Sections A, B, C, D, or E shall be enforced by the Police Department or by the Building Commissioner under the procedure for Non Criminal Disposition of violations of municipal regulations, pursuant to MGL Chapter 40 Section 21D.

Section 53. Maintenance and Repair of Private Ways ¹⁴⁻⁵³

(a) **Permitted Maintenance and Repairs**. When public necessity and the interest of public safety require it, the following types of maintenance and repairs may be performed on approved private ways at a time and in a manner determined by the Superintendent of the Department of Public Works, or his designee:

- (1) Grading, including the furnishing of gravel, fill or other materials as required to properly repair the roadway surface.
- (2) Maintenance, repair or replacement of drainage systems, including piping, culverts, catch basins and other drainage structures.
- (3) Patching of potholes and heaved areas.
- (4) Crack sealing as required to preserve the integrity of the roadway surface.

Such maintenance and repairs may be undertaken on the initiative of the Superintendent of the Department of Public Works. Such maintenance and repairs may be undertaken upon receipt by the Department of Public Works of a petition signed by the owners of not less than fifty-one percent (51 %) of the frontage abutting the private way.

¹⁴⁻⁵³ Inserted under article 44, ATM April 28, 1999.

(b) Annual Expenditure of Town Funds; Cash Deposit; Liability.

The annual expenditure of Town funds on any individual private way for the above-listed maintenance and repairs shall not exceed five hundred dollars (\$500.) per mile or portion thereof for labor and materials. In the event that maintenance and repairs in excess of this amount shall be required, betterment charges shall be assessed to all abutters.

A cash deposit shall not be required prior to undertaking these maintenance and repairs.

Neither the Town nor its officers or employees shall be liable on account of any damages resulting from such maintenance and repairs.

(c) List of Approved Private Ways. A complete list of all private ways to which this section applies shall be kept by the Town Clerk. The Superintendent of the Department of Public Works shall, annually, submit a list of additions or deletions to said list to be approved by the Board of Selectmen at least ninety (90) calendar days before the start of the fiscal year. All of the approved private ways shall be posted with an appropriate sign stating "Private Way" at the points where they enter upon or unite with an existing public way.

Section 54. Laser Pointer Use Restricted¹⁴⁻⁵⁴

**ARTICLE XIV (A) - ^{14A}
GAS PIPING AND APPLIANCES**

¹⁴⁻⁵⁴ Inserted under article 25, ATM April 26, 2000, disallowed by Attorney General.

^{14A} Deleted by article 29, ATM May 16, 1994.

ARTICLE XV ¹⁵ **WETLANDS PROTECTION BY-LAW**

Section 1. Purpose

The purpose of this by-law is to protect the foreshores, wetlands, related water resources, and adjoining land areas in this municipality by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion, and sedimentation control, storm damage, storm damage prevention, water pollution, fisheries, shellfish, wildlife habitat, recreation, aesthetics, agriculture, and aqua values (collectively, the "wetland" values protected by this by-law).

Section 2. Jurisdiction ¹⁵⁻²

Except as permitted by the Conservation Commission or as provided in this by-law, no person shall remove, fill, dredge, build upon, or alter the following resource areas: within 200 feet of a riverfront area as defined in MGL Chapter one hundred and thirty-one Section forty, within 100 feet of freshwater wetland, coastal wetland, marsh wet meadow, bog or swamp; within 100 feet of any bank, beach, dune, or flat; any lake, river, pond, stream, estuary, or the ocean; within 100 feet of any lake, river, pond, stream, estuary, or the ocean: any land under said waters; or within 100 feet of any land subject to flooding or inundation by groundwater, surface water, tidal action, or coastal storm flowage.

Section 3. Exceptions ¹⁵⁻³

The permit and application required by this by-law shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, drainage, sanitary sewer, telephone, telegraph or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged, and provided that written notice has been given to the Commission fourteen (14) days prior to commencement of work. The Commission may after reviewing the proposed work require that a permit application be filed with the Commission as provided in this by-law.

¹⁵ A Wetlands protection by-law was first inserted under article 95, ATM 1980. Under article 26, ATM 1986 a more comprehensive by-law was substituted for the 1980 version.

¹⁵⁻² As amended under article 38, ATM May 19, 1997.

¹⁵⁻³ As amended under article 11, STM April 29, 1989.

The permit and application required by this by-law shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement, provided that the Conservation Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time & place certified by the Conservation Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the commission for review as provided in this by-law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in the Wetlands Protection Act shall not apply.

Section 4. Application for Permits and Requests for Determination¹⁵⁻⁴

Written applications shall be filed with the Commission to perform activities regulated by this by-law affecting the resource areas protected by this bylaw. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this by-law.

The Commission in an appropriate case may accept as the application and plans under this by-law the Notice of Intent and plans filed under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, or as it may be amended from time to time.

Any person desiring to know whether or not a proposed activity or an area is subject to this by-law may in writing request a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission. In the absence of regulations, the same notice, plans and specifications required to be filed by an applicant under M.G.L., Chapter 131, Section 40, or as it may be amended from time to time, will be accepted as fulfilling the filing requirements of this by-law.

¹⁵⁻⁴ As amended under article 38, ATM May 19, 1997.

At the time of an application or request the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, M.G.L., Chapter 131, Section 40. In addition, the Commission is authorized to require the applicant to pay the costs and expenses of any expert consultant deemed necessary by the Commission to review the application or request up to a maximum of \$5,000.00. The Commission may waive the filing fee and costs and expenses for an application or request filed by a government agency and shall waive them for a request for determination filed by a person having no financial connection with the property which is the subject of the request.

Section 5. Notice and Hearings ¹⁵⁻⁵

Any person filing a application or request for determination with the Commission at the same time shall give written notice thereof, by certified mail or hand delivery (if by hand delivery, the applicant shall provide notarized proof of delivery to the Commission) to all abutters according to the most recent records of the Assessors, including those across a traveled way or body of water. The Assessors shall certify to the Commission the names and addresses of all abutters and such certification shall be conclusive for all purposes. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters free of charge. When a person requesting a determination is other than the owner, the request, the notice of the meeting and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any applications or request for determination, with written notice given at the expense of the applicant, five working days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination. The Commission shall issue its permit or determination in writing within 31 days of the close of the public hearing thereon. The Commission in an appropriate case and its discretion, may combine its hearing under this by-law with any hearing required to be conducted under the Wetlands Protection Act, M.G.L., Chapter 131, Section 40, or as amended from time to time.

¹⁵⁻⁵ As amended under Article 24, ATM 1991.

The Commission shall have authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the Commission in its discretion, or comments and recommendations of boards and officials listed in Section 6. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

Section 6. Coordination With Other Boards ¹⁵⁻⁶

Any person filing a permit application shall provide a copy thereof at the same time, by certified mail or hand delivery (if by hand delivery, notarized proof of delivery shall be provided to the Commission), to the Board of Selectmen, Planning Board, Zoning Board of Appeals, Board of Health, Town Engineer, Fire Chief, and Building Inspector. The Commission shall not take final action until such boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations, and respond to them at a hearing of the Commission, prior to final action.

Section 7. Permits, Determinations, and Conditions

If the Commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this by-law, the Commission, within 31 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission is empowered to deny a permit for failure to meet the requirements of this by-law; for failure to submit necessary information and plans requested by the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetlands values protected by this by-law; and where conditions are not adequate to protect those values, or if in the commission's judgment such denial is necessary to preserve environmental quality of both the subject lands and contiguous lands. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year

¹⁵⁻⁶ As amended under article 24, ATM 1991.

period, provided that a request for a renewal is received in writing by the Commission prior to expiration.

For good cause the commission may revoke or modify a permit issued under this by-law after public notice and public hearing, and notice to the holder of the permit.

The Commission in an appropriate case may combine the permit or other action on an applications issued under this by-law with the Order of Conditions issued under the Wetlands Protection Act.

Section 8. Regulations

After public notice and public hearing the Commission may promulgate rules and regulations to effectuate the purposes of this by-law. 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 by-law.

Section 9. Definitions

The following definitions shall apply in the interpretation and implementation of this by-law.

- (a) The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town by-laws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.
- (b) The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this by-law:
 - (a) Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
 - (b) Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
 - (c) Drainage or other disturbance of water level or water table;
 - (d) Dumping, discharging or filling with any material which may degrade water quality;
 - (e) Placing of fill, or removal of material, which would alter elevation;

- (f) Driving of piles, erection or repair of buildings, or structures of any kind;
 - (g) Placing of obstructions or objects in water;
 - (h) Destruction of plant life including the cutting of trees;
 - (i) Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
 - (j) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- (c) The term "Commission" means the Canton Conservation Commission.
- (d) All other definitions as set forth in M.G.L., Chapter 131, Section 40 and Massachusetts Regulation 310 CMR issued by the Department of Environmental Quality Engineering are hereby made a part of this by-law.

Section 10. Security

As part of a permit issued under this by-law, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- (a) By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission;
- (b) By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

Section 11. Enforcement

The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this by-law, or in response to a request for a prior determination, and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.

The Commission shall have authority to enforce this by-law, its regulations and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission the chief of police shall take legal action for enforcement under criminal law.

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

Any person who violates any provision of this by-law, regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the by-law, regulations, or permit violated shall constitute a separate offense.

In the alternative to criminal prosecution the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Chapter, 40, Section 21D, or as it may be amended from time to time.

Section 12. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this by-law. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 13. Relation to the Wetlands Protection Act

This by-law is adopted under the Home Rule Amendment to the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and regulations thereunder.

Section 14. Severability

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

ARTICLE XVI

MISCELLANEOUS

Section 1. Filling Vacancies in Non-Elective Positions ¹⁶⁻¹

Section 2. Building By-Law Board of Appeals

This by-law was rendered inapt due to the adoption of the state building code superseding all local codes, It was "disallowed" by the Attorney-General when submitted following the ATM 1992 recodification vote.

Section 3. Soil Removal ¹⁶⁻³

Pursuant to the provisions of M.G.L., Chapter 40, Section 21 (17), as amended, no soil, loam, sand, or gravel shall be removed from any land not in public use in the Town of Canton, except as otherwise provided in Section X of the Canton Zoning By-Law.

Section 4. Trailer By-Law ¹⁶⁻⁴

For the prevention of fire and the preservation of life, health and morals, the location, use, parking, storage, and occupancy of trailers in the Town of Canton is hereby regulated pursuant to the provisions of M.G.L., Chapter 143, as amended.

Definition:

In this By-Law, the term "trailer" shall mean any of the various types of vehicles which depend for mobility on an attached vehicle or other propelling apparatus, and which are used, or may be used for human habitation or for business purposes, but excluding vehicles used only for the transportation of materials, products, or animals. Any trailer which, by removal of wheels, by anchoring to a foundation, by incorporation into a fixed structure, or otherwise has its mobility reduced, shall, nevertheless, be considered as a "trailer" within the scope of this By-Law.

¹⁶⁻¹ Inserted under article 40, ATM 1964. Section 1 deleted in its entirety under article 24, ATM May 8, 2002.

¹⁶⁻³ Inserted under article 11, STM May 23, 1966.

¹⁶⁻⁴ Inserted under article 17, ATM 1957.

Special Regulation:

No person shall park, store, occupy or use a trailer for living or business purposes except:

1. In an approved trailer park.
2. In a garage or other accessory building, or in the rear half of a lot owned or occupied by the owner of the trailer (if placed so as to conform to the yard requirements of the Zoning By-Laws for main buildings in the same district), but its use for business and/or living purposes is prohibited, except that the Board of Appeals may subject to reasonable conditions and safeguards, authorize:
 - a. The use of a trailer as a temporary office incidental to construction on or development of the premises on which located.
 - b. The temporary use of a trailer for living purposes owner of the lot on which located for a period not exceeding three (3) months, provided that such authorization shall not be renewed or extended to exceed a total of twelve (12) months in any case.
3. The owner of a lot may permit occupancy of such lot by non paying guests using a trailer for living purposes for a period not exceeding one (1) month in any calendar year. A permit for this purpose must be obtained from the Building Inspector before the land can be so occupied.

Zoning and Other By-Laws:

No provision of the Zoning By-Laws or any other legal statutes, by-laws, or regulations pertaining to the location, use or construction of, buildings shall be nullified by the provisions hereof.

Section 5. Disposition of Tax Title Property

- (a) Prior to disposition of any property held by the Town under tax title, either by assignment of such tax title or sale, (except to allow redemption as provided by law), the Town Treasurer or Tax Collector, as the case may be, shall submit a written report to the Finance Committee, Conservation Commission and the Planning Board, indicating the land area, location and general description of the property in question, the amount of back taxes owing, the name and address of the record owner, and the proposed disposition.

- (b) Within forty-five days after receipt of said report, the Finance Committee, Conservation Commission and Planning Board shall determine whether the best interests of the Town will be served by (a) Assignment of the Town's tax title; (b) Sale of the property at public auction; or (c) Retention of the property by the Town, through foreclosure of its tax title. The Finance Committee, Conservation Commission and Planning Board shall make their recommendations in writing to the Town Treasurer.
- (c) Upon receipt of said reports, or at the expiration of said 45 days, the Treasurer or Tax Collector may dispose of such property in accordance with the provisions of M.G.L., Chapter 60, as amended.

Section 6. Council on Aging ¹⁶⁻⁶

- (a) **Appointment, Powers** - The Board of Selectmen shall appoint a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in cooperation with programs of the Commission on Aging established under Chapter 6, Section 73 of the General Laws.
- (b) **Composition** - The Board of Selectmen shall appoint the Council on Aging consisting of seven (7) members. Upon acceptance of this by law, the Board shall appoint three (3) members for three (3) year terms, two (2) members for two (2) year terms and two (2) members for one (1) year terms. Members can be re-appointed for concurrent terms. The members of the Council shall serve without pay.
- (c) **Vacancies** - Whenever a vacancy shall occur in the membership of the Council, by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled by appointment by the Selectmen for the remainder of the term.
- (d) **Organization** - The Council on Aging at its first annual meeting and thereafter, annually in April of each year, shall elect from its membership a President, 1st Vice President, 2nd Vice President, Secretary and Treasurer. Each officer shall hold office until the next annual election. In the event a vacancy occurs in any of the offices above, the Council shall hold a special meeting for the purpose of electing one of its members to fill such vacancy.
- (e) **Annual Report** - The Council shall prepare and submit an annual report of its activities to the Town and shall send a copy thereof to the Commission on Aging.

¹⁶⁻⁶ Inserted under article 2, STM October 19, 1970.

Section 6A. Beautification Committee ^{16-6A}

There shall be a Beautification Committee consisting of five members appointed by the Selectmen for overlapping terms of three years. Preference in appointments shall be given to persons having interest in the fields of landscape architecture, horticulture, engineering, architecture, planning and art or other fields germane to the function of the Committee.

The committee shall serve as advisors to the Selectmen and other Boards, departments and commissions of the Town in matters relating to aesthetics, recommend plans for public buildings and other public areas and may undertake direction of projects as authorized by the Selectmen.

The Committee shall be authorized to accept and use donations from private sources for said projects and that a detailed accounting of the fund be presented to the Finance Committee on a semi annual basis and furthermore shall be published in the Town Report.

Section 7. Private and Public Dumping Grounds

Inserted under article 46, ATM 1979. This section was "disallowed" by the Attorney-General when submitted following the ATM 1992 recodification vote.

Section 7A. Capital Planning Committee ^{16-7A}

(a) Establishment, Scope - There shall be a Capital Planning Committee (also referred to as the "CPC", or hereinafter referred to as the "Committee") which shall consider requests for Capital Expenditures as herein defined to be made by the Town, and which shall be responsible for Capital Planning on a continuing basis.

(b) Composition - The Committee shall consist of seven (7) members who shall be registered voters of this Town.

(c) Mode of Appointment, Term of Office, Vacancies – Members of the Committee shall be appointed by the Town Moderator for a term of three (3) years so arranged that the terms of office of no more than three (3) members should expire each year. The Town Moderator for the balance of the unexpired term shall fill vacancies in membership.

^{16-6A} Inserted under article 23, ATM 1974.

^{16-7A} Inserted under article 18, ATM 1977. Section 16-7A was deleted in its entirety and a new section 7A inserted under article 22, ATM April 28, 2003.

(d) Restrictions on Appointments - No person shall be eligible for appointment to the Committee; (1) who is a full-time employee of the Town; (2) where such appointment would cause two (2) persons to serve simultaneously who are members, or representatives of the same Town agency; (3) for a fourth consecutive three year term, or having been appointed to fill an unexpired term, for a third consecutive three year term where such appointment would result in consecutive service of more than ten (10) years. A member of the Committee who removes from the Town, or, who accepts a full-time Town position, which would render him/her ineligible to serve, shall cease to be a member of said Committee.

(e) Submissions by Town Agencies and Citizen Petitioners – Annually, every Town agency shall file with the Committee, not later than December 31, a compilation of proposed Capital Expenditures which it anticipates will be made by or for it during the five (5) fiscal years next following said filing. The submitted report shall be made on forms provided by the Committee. The provisions of this section shall include the School Committee but shall not be construed to conflict with or supersede the provisions of M.G.L., Chapter 71, Section 34.

For each town meeting, the Committee shall receive a list of citizen-initiated petitions that will require the expenditure of capital funds in order to fulfill the intent of the petition.

(f) Definition of Capital Expenditures - For the purpose of this By-Law the term "Capital Expenditure" shall include Cash Capital or Debt Capital-related expenditures for purchases of items, programs, services or projects which:

CASH CAPITAL:

1. Have a total cost of less than One Hundred Thousand Dollars (\$100,000), but not less than Five Thousand Dollars (\$5,000) for: (1) a single-item purchase or service; (2) multiple common-item purchases that are bundled under an umbrella contract with a single vendor; (3) bundled purchases that are based on need; or, (4) bundled components of a project, program or service; or,
2. Have a total cost of less than One Hundred Thousand Dollars (\$100,000), but not less than Five Thousand Dollars (\$5,000) for individual vehicles and/or equipment, when it is determined that this is the most appropriate method of funding the acquisition.
3. The foregoing 1 or 2 shall, when practicable, have a useful life of at least three (3) years.

DEBT CAPITAL:

1. Have a total cost of at least One Hundred Thousand Dollars (\$100,000) for: (1) a single-item purchase or service; (2) multiple common-item purchases that are bundled under an umbrella contract with a single vendor; (3) bundled purchases that are based on need; or, (4) bundled components of a project, program or service; or,
2. Have a total cost of at least One Hundred Thousand Dollars (\$100,000) for individual vehicles and/or equipment, when it is determined that this is the most appropriate method of funding the acquisition.
3. The foregoing 1 and 2 must have a useful life of more than three (3) years.
4. Must comply with laws and/or regulations governing borrowing of funds.

(g) Responsibilities - The Committee shall consider the relative need, timing and cost of each Capital Expenditure, which is proposed, including methods of financing, any Federal or State aid, the cost of maintaining any facility or equipment, and the effect each Capital Expenditure may have on the financial condition of the Town. The Committee shall conduct due diligence reviews of major building, land improvement and/or infrastructure-related capital requests in order to fulfill its review responsibility.

The Committee shall review and evaluate citizen-initiated petitions that involve the proposed expenditure of capital-related funds.

The Committee may make such examinations, hold public hearings, and may, with the approval of the sponsoring agency, call upon any Town agency for assistance as it may deem to be necessary or desirable in the furtherance of its responsibilities.

The Committee shall ensure that any Debt Capital Expenditure recommendations it makes comply with Finance Director-issued bond management program requirements.

The Committee, working in conjunction with the sponsoring agencies, shall prepare and issue Capital Expenditure Classification Guidelines, which can be amended from time-to-time, to facilitate selection of Cash Capital and/or Debt Capital Expenditures that could fall under the bundled purchases Capital Expenditure criterion.

The Committee shall work with the sponsoring agencies, Finance Director and others as part of a continuous improvement effort to ensure that Capital Planning within the Town stays abreast with the changing needs of the community.

(h) Report and Recommendations – Annually, the Committee shall prepare a balanced five-year capital plan, which shall be submitted to the annual town meeting for the purpose of information and guidance. Annually, the Committee shall also prepare a balanced one-year capital plan, which will be acted upon at the annual town meeting, as part of the Warrant deliberation.

Annually, the Committee shall submit balanced one-year and five-year plans to the Finance Committee not later than March 15. The one-year balanced plan will recommend to the Finance Committee those Capital Expenditure proposals that the Committee believes should be approved by the ensuing annual town meeting and the method (Cash Capital or Debt Capital) of financing same.

Both the balanced one-year and five-year Capital Expenditure plans, as prepared by the Committee shall be included as an appendix, in the report of the Finance Committee to be distributed as provided in Article VII, Section 8, Town of Canton By-Laws.

The Committee prepared capital plan shall include: (1) a concise summary of its contents; (2) a listing of Capital Expenditures proposed to be undertaken in the five fiscal years next ensuing; (3) cost estimates, (4) method of financing (Cash Capital or Debt Capital), and recommended time schedules (fiscal years).

(i) Transition Provision – Adoption of this By-Law revision by the annual town meeting will immediately govern the operation of the Committee.

Section 8. Poll Hours ¹⁶⁻⁸

The polls for all federal, state and town elections shall be opened at seven o'clock AM and shall not be closed before eight o'clock PM.

Section 9. Regulating Smoking ¹⁶⁻⁹

This by-law amendment is promulgated under the authority granted to the Town pursuant to the provisions of Section six of Article 89 of the amendments to the Constitution of the Commonwealth and every other enabling authority as may be. "Smoking is prohibited in all workplaces, restaurants, bars, and all enclosed or public places within the Town of Canton except as may be authorized in section F of this by-law.

A. Statement of Purpose:

Whereas conclusive evidence exists that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and whereas the harmful effects of tobacco smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers; and whereas environmental tobacco smoke [hereinafter ETS], which includes both exhaled smoke and the side stream smoke from burning cigarettes and cigars, causes the death of 53,000 Americans each year; and whereas in 2000, the Public Health Service's National Toxicology Program listed environmental tobacco smoke as a known human carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997), now, therefore, the voters of the Town of Canton in town meeting assembled, recognize the fight of those who wish to breathe smoke free air and establishes this bylaw to protect and improve the public health and welfare by prohibiting smoking in public places.

B. Authority:

This bylaw amendment is promulgated under the authority granted to the town pursuant to the provisions of Section six of Article 89 of the amendments to the State Constitution and every other enabling authority as may be.

C. Definitions:

For the purposes of this bylaw, the following words shall have the meanings respectively ascribed to them by this paragraph:

Board: The Board of Health of the Town of Canton

Bar: An establishment whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages.

Employee: Any person who performs services for an employer with or without

¹⁶⁻⁸ Inserted under article 102, ATM 1980.

¹⁶⁻⁹ Inserted under article 16, ATM 1994 and amended under article 39, ATM May 1, 2002. Section 9 replaced in its entirety under article 35, ATM May 5, 2004.

compensation.

Employer: A person, business agent, partnership, association, corporation, trust, or other organized group of individuals, including the Town of Canton, or any agency thereof, which utilizes the services of one (1) or more employees.

Enclosed Space: A space bounded by walls (with or without windows) and enclosed by doors, including, but not limited to, offices, rooms and halls. The term is intended to also include more than just rooms within a building or any other fully enclosed space and includes any area which has one or more sides or a roof or the exterior portion of a building which is covered by a roof (e.g. an entry or egress to the building) or places which provide screening from the wind by having one or more walls (e.g. a bus stop); the term is further intended to include vehicles owned by the Town and vehicles used in public transportation and the waiting areas adjacent to or in places where public transportation is provided.

Person: Any individual, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the business agents or designees of any of the foregoing.

Public Place: Any building or facility owned, leased, operated or occupied by the municipality, including school buildings or grounds; any area open to the general public including, but not limited to, libraries, museums, theaters, auditoriums, indoor sports arenas and/or recreational facilities, inns, hotel and motel lobbies, educational facilities, stores, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrances, elevators accessible to the public, licensed child-care locations and bars.

Public Transportation: Buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the Town of Canton including indoor platforms by which such means of transportation may be accessed.

Retail Tobacco Store: Any establishment whose primary purpose is to sell or offer for sale tobacco products and tobacco paraphernalia, in which the sale of other products is clearly incidental and neither possesses nor is required to possess a retail food permit.

Smoking: Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any form.

Town: The Town of Canton

D. Smoking Prohibited:

Smoking is prohibited in all workplaces, restaurants, bars, and all enclosed or

public places within the Town of Canton except as may be authorized in section F of this bylaw.

E. Posting Notice of Prohibition:

Every person having control of premises upon which smoking is prohibited by and under the authority of this bylaw shall conspicuously display upon the premises "No Smoking" signs using a clearly readable font with at least 2-inch highly contrasted lettering, or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it at least 6 inches in diameter).

F. Exceptions:

• Notwithstanding the provisions of Paragraph D of this bylaw, smoking may be permitted in the following places and/or circumstances:

1. Private residences, except those portions used as a childcare or health care office when operating as such,
2. Retail tobacco stores where the owner or manager ensures that persons under the age of eighteen (18) may never enter the premises at any time, and where the owner or manager conspicuously posts signs, acceptable to the Board, at the entrance(s) stating that persons under the age of eighteen (18) are prohibited from entering the premises and stating further that environmental tobacco smoke is hazardous to health;

G. Conflict with Other Laws or Regulations:

Notwithstanding the provisions of the foregoing Paragraph F of this regulation, nothing in this regulation shall be deemed to amend, repeal or override applicable fire, health or other regulations or statutes so as to permit smoking in areas where it is prohibited by such fire, health or other regulations or statutes.

H. Violations:

Any person, employer, and/or his or her employee or business agent, who violates any provision of this bylaw, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in MGL c 40, § 21D or by filing a criminal complaint at the appropriate venue. It shall be the responsibility of an employer, or his or her employee or business agent, to ensure compliance with all sections of this bylaw.

I. Penalties:

Any person who violates any provision of this bylaw shall be subject to a fine of one hundred dollars (\$100) for a first offense, two hundred dollars (\$200) for a second offense within one year of the date of the first offense and three hundred dollars (\$300) for a third or subsequent offense within one year of the date of the first offense. Violations of this bylaw may be enforced in the manner provided in MGL c 40, § 21D.

J. Waivers:

No waivers or exemptions shall be granted to this bylaw, except as provided under section F of this bylaw.

K. Enforcing Persons:

Enforcement of this bylaw shall be conducted by the Canton Police Department, Canton Board of Health and its designees.

L. Severability:

This bylaw is severable. If any paragraph or provision of this bylaw is found to be illegal, unenforceable, contrary to other superceding laws or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

M. Replacement:

This bylaw shall replace, in its entirety, Canton By-law Article 16, section 9 as inserted in Article 39, the anti-smoking bylaw, approved by the 2002 Annual Town Meeting.

Section 10. Fire Alarm and Fire Protection Systems: Secured Key Access
16-10

Any building other than a residential building of less than six (6) units which has a fire alarm system or other fire protection system shall provide a secure key box installed in a location accessible to the Fire Department in case of emergency. This key box shall contain keys to fire alarm control panels and other keys necessary to operate or service fire protection systems. The key box shall be of a type approved by the Chief of the Fire Department and shall be located and installed as approved by said Chief. Any building owner in violation of this by-law after receiving due notice from the Fire Chief shall be subject to a fine of Fifty Dollars (\$50.00) per violation. This section may be enforced by the Fire Chief in the manner provided in section 21D of Chapter 40.

Section 11. Fees for the Sealing of Weighing and Measuring Devices ¹⁶⁻¹¹

The fees for sealing weighing and measuring devices shall be as set by the Board of Selectmen pursuant to Chapter 40, Section 22F of the Massachusetts General Laws.

In case of metric system the nearest English equivalent shall apply.

¹⁶⁻¹⁰ Inserted under article 21, ATM 1989.

¹⁶⁻¹¹ Inserted under article 34, ATM 1986. Amended under article 25, ATM April 26, 2004.

Section 12. Street Openings ¹⁶⁻¹²

Subsection 1. Introduction

From time to time, it is necessary to excavate in a Public Way in order, for example, to install, repair, or remove utilities or install or realign a driveway including the possible removal or re-alignment of curbing and/or fencing. Excluded from the operation of this By-Law is the general reconstruction or repair of Public Ways by the municipal or state agency responsible for the maintenance and repair of such Public Ways. This Street Opening By-Law is necessary to protect the health and safety of all persons traveling on public ways and is adopted in accordance with the authority granted, inter alia, by Art. 89, section 6 of the Amendments to the Massachusetts Constitution, MGL Chapter 40, section 21, MGL Chapter 165 section 20, MGL Chapter 166 section 25 and MGL Chapter 166A.

Subsection 2. Definitions

ADA – The Americans with Disabilities Act of 1990, as amended (42 USC 12101-12213), and the Accessibility Guidelines for Buildings and Facilities (Appendix to Part 1191) of the U.S. Architectural and Transportation Barriers Compliance Board, as amended.

Applicant – Any Public Utility, municipal department, person or entity who owns or exercises general responsibility and control over: (i) utility or other pipes, ducts, lines or other thing buried in or under a Public Way, or (ii) real property abutting a Public Way, or (iii) real property served by the Public Way or by items of the type specified in (i) above and who wishes to perform Street Opening Work.

Application Fee – A non-refundable processing fee, as provided in the Fee Schedule which is appended hereto, shall accompany each application for a Street Opening Permit.

Architectural Access Board Regulations – The Rules and Regulations of the Architectural Access Board, Mass. Executive Office of Public Safety (521 CMR), as amended.

Awarding Authority – The Board of Selectmen of the Town of Canton is hereby granted the authority to exercise the powers granted by this By-Law.

Awarding Authority Representative – That municipal officer or employee to whom the Awarding Authority in a writing has delegated some of its powers hereunder so that the process of permit-granting, inspection, and administration will proceed expeditiously.

¹⁶⁻¹² Inserted under article 38, ATM April 27, 1998.

Cold Patch – A dense graded or open graded mix with cutback asphalt as the binder with 1% of the mix being hydrated lime based on the total weight of the aggregate. The mineral aggregates and bitumen shall be proportioned and combined to meet the limits specified in Table A, Subsection M 3.11.03 and M 3.11.04 of The Standard Specifications. Bituminous material shall be either cutback asphalt, Grade MC-250 or MC800 conforming to Section M3.02.0 of the Standard Specifications.

Compaction – Compressing of suitable material and gravel that has been used to backfill a trench by means of mechanical tamping to within 95% of maximum dry density as determined by the modified Proctor Test in accordance with ASTM 1557 method D.

Contractor – All officers or employees of Applicant performing Street Opening Work or any person or entity engaged by or on behalf of Applicant to perform Street Opening Work. The Contractor for purposes of this By-Law and for all questions of liability in connection with any Street Opening work shall be conclusively deemed agents of Applicant for whom Applicant is fully responsible.

Controlled Density Fill – Also called flowable fill, CDF is a mixture of portland cement, flyash, sand and water. It shall contain a minimum of 250 pounds of class F flyash or high air (25%) and will be self-leveling. It is hand-tool excavatable.

Default – The failure of the Permit Holder (including all Contractors or other agents of Permit Holder) to (i) comply fully with provisions of applicable laws and regulations, (ii) comply fully with all of the applicable provisions of this By-Law and the Street Opening Permit including written supplemental instructions, the municipality's General By-Laws or other applicable law, and (ii) keep its Certificate of Insurance in full force and effect.

Department of Public Works – The municipal agency generally responsible for the repair and maintenance of Public Ways within the municipality.

Emergency Repair Work – Street Opening Work which must be commenced immediately to correct (i) a hazardous condition which could reasonably be expected to result in injury, loss of life, property damage or (ii) a condition which has resulted in the catastrophic failure of a utility transmission trunk line.

Gas Company – A Public Utility to which C. 164 section 70 of the MGL applies.

Infra-Red Process – That restorative procedure whereby an infra-red heater softens existing pavement to a depth of one and one half inches, the softened area is treated with a penetrating asphalt emulsion, uniformly scarified and raked to a workable condition, and the treated surface then compacted by use of a steel-wheeled roller for the purpose of creating a smooth driving surface consistent with adjacent pavement.

Licensed Contractor – A contractor who holds a current and valid Public Works Contractors Construction License issued by the Awarding Authority.

Newly Paved Road – A road that has been re-paved within the past five years.

Normal Working Hours – 7:30 am to 3:30 pm Monday through Friday excluding holidays.

Permit Holder – An applicant to whom a Street Opening Permit has been granted.

Permanent Patch – A final repair of Street Opening Work to be performed in accordance with this By-Law.

Permanent Patch Window – That period of time commencing twelve months after and up to eighteen months from the date of installation of the Temporary Patch.

Processed Gravel – Inert material that consists of hard, durable stone and coarse sand, free from loam and clay, surface coatings and deleterious materials and which meets MI 03.1 of The Standard Specifications.

Public Utility – Includes a Gas and Electric company as defined in MGL C. 164 section 1, telephone and telegraph company subject to Chapter 159 section 12, and cable TV companies or other telecommunication providers regulated by the Dept. of Telecommunications and Energy.

Public Way – Any road, including such appurtenances as berms, curbs, drains, sewers, water mains, sidewalks and paved and unpaved shoulders within the public right-of-way lay-out to which the public has access and the Town is responsible for maintaining. Also referred to as a street.

Public Works Contractors Construction License – A license required of all Contractors who are not officers or employees of a Public Utility or municipal department who wish to perform work including Street Opening Work on Public Ways.

Refundable Deposit – That amount of cash or money represented by a certified bank check deposited by Applicant with its Application to secure Applicant's performance of Street Opening Work in accordance with this By-Law.

Standard Specifications – The Mass. Department of Public Work's Standard Specifications for Highways and Bridges, latest edition.

Street Opening Permit – A permit granted by the Awarding Authority to an Applicant for permission to do Street Opening Work in a Public Way.

Street Opening Work – Any cutting, excavating, compacting, construction, repair or other disturbance in or under a Public way together with restoration of the Public Way in accordance with this By-law following such disturbance but excluding the location or relocation of utility poles for which a grant of location has been obtained pursuant to MGL Chapter 166 section 27.

Temporary Patch – The application of either Cold Patch or two separate gradations of bituminous concrete consisting of binder and top layers and compaction to achieve a density equal to that of the surrounding pavement following excavation and compaction.

Subsection 3. General

No work (except the commencement of Emergency Repair Work in accordance with paragraph 7 hereof) in or under a Public Way shall commence until the Applicant shall have applied for in accordance with Paragraph 4, and obtained from the Awarding Authority, a Street Opening Permit. All work contemplated by this By-Law shall be done in a good and workmanlike manner using best engineering and construction practices and shall be done in accordance with (i) all applicable laws and regulations, (ii) all of the provisions of this By-Law, (iii) any conditions contained in the Street Opening Permit, and (iv) such reasonable supplemental instructions not inconsistent with the foregoing as the Awarding Authority or its Representative may from time to time issue. A Permit Holder shall cause to be restored those portions of a Public Way disturbed by the Permit Holder to as good a permanent condition, in the reasonable judgment of Awarding Authority or its Representative, as they were in when Permit Holder made application thereunder.

No person or entity may perform any work (including Street Opening Work or Emergency Repair Work) in or under a Public Way unless it is a Permit Holder and (i) is a municipal department or Public Utility or their respective officers or employees (ii) is the holder of a current and valid Public Works Contractors Construction License, or (iii) has engaged such a holder and such holder performs all such Street Opening Work or Emergency Repair Work as agent of Permit Holder.

Subsection 4. Application Procedure

The applicant shall file on forms designated by the Awarding Authority a completed and signed application at the office of the Awarding Authority (with a copy delivered simultaneously to the Department of Public Works) each time it desires to perform Street Opening Work. The application shall be accompanied by any and all plans, certifications, certificates of insurance and other items specified in the Application or reasonable requested by the Awarding Authority. If the Applicant does not intend to perform the Street Opening Work itself it must in the Application designate a Licensed Contractor to perform the work as its agent. The Application shall also be accompanied by the Application Fee and the Refundable Deposit.

The Department of Public Works shall promptly review the Application and make written recommendations concerning approval to the Awarding Authority and, if appropriate, shall include recommendations concerning permit conditions and supplemental instructions.

The Awarding Authority shall make a prompt determination on the Application taking into account the following and such other facts as it may reasonably consider:

- 1) the recommendation of the Department of Public Works
- 2) the reason for the Street Opening Work
- 3) whether the street is recently constructed or repaved
- 4) whether there are other reasonable means adequate to accomplish the purpose for which the Street Opening Permit is sought.

If the application is considered favorably, a Street Opening Permit containing such conditions and supplemental instructions as the Awarding Authority reasonable deems appropriate shall promptly issue. If the Application is not favorably considered, the Awarding Authority shall communicate in writing to Applicant the reasons its application was not favorably considered.

Subsection 5. Refundable Deposit and Account

The Amount of the Refundable Deposit to secure proper restoration of a Public Way after Street Opening Work is determined in the reasonable judgment of the Awarding Authority based on the extent of the Work. (A current schedule of deposits for standard work is attached.)

Following notice given by Permit Holder that final permanent repairs to the Public Way have been completed, the Awarding Authority or Representative will make a final inspection. Once the Awarding Authority or Representative has concluded that permanent repair work has been satisfactorily completed and that Applicant has no other uncured defaults under Street Opening Permits, it shall release the unexpended balance of the deposit serving as security for the Street Opening Permit related to the inspected work.

All Refundable Deposits that an Applicant submits for Street Opening Permits shall be held by the Awarding Authority in one Account which shall be designated as the Applicant's Refundable Deposit Accounts. Applicants upon request may receive periodic reports as to the balance standing within this account. Should a deposit associated with a specific permit be insufficient to secure the proper repair of a Public Way following a Default by the Permit Holder, the Awarding Authority without limitation to other remedies available to it can deduct the cost of the proper repair from Applicant's Refundable Deposit Account for the purpose of funding the proper repairs. To the extent required by C. 164 of the General Laws applicable to Gas Companies, the provisions of this section and Section 6 hereafter shall not be applied to Gas Companies which in their application for Street Opening Permits claim the exemption set out herein.

Subsection 6. Fee and Deposit Changes; Municipal Exemption

From time to time hereafter the Awarding Authority, after public notice and hearing, may amend the schedule of deposits, the application fee, the hourly after-hours inspection charges or any other amounts due under this By-law. A reasonable hourly charge for inspectional services which must be performed outside of Normal Working Hours in accordance with a posted schedule established by the Awarding Authority will be billed to Permit Holder and due and payable fifteen days after billing. In extraordinary situations where extensive installation or renewal of utility lines overburden the normal capacity of the municipal departments to conduct inspections, the Awarding Authority can, after notice to Permit Holder, or as a condition of the Permit, elect to treat all inspections as after-hours inspections and bill Permit Holder accordingly. Applicants which are municipal departments are exempt from payment of all fees and deposits hereunder. Public Utilities to the extent exempted as provided in Paragraph 5 above are exempt from payment of all fees except the Application Fee.

Subsection 7. Emergency Repair Procedure

If the conditions for Emergency Repair Work exist, then an applicant after given oral, faxed or electronic notice to the Police and Department of Public Works may commence Street Opening Work. All such Emergency Repair Work shall be done in strict compliance with this By-Law except for compliance with any notice provision inconsistent with such emergency action.

On the business day following the commencement of Emergency Repair Work, the Applicant shall file with the Awarding Authority (i) a written statement setting forth in detail the facts and circumstances constituting the conditions for Emergency Repair Work, (ii) an Application for a Street Opening Permit covering the Street Opening Work already commenced in accordance with Paragraph IV, (iii) the filing fee and required Refundable Deposit. If all of the materials such as plans, etc, are not then available to Applicant, Applicant will supply them as soon as available. Awarding Authority will promptly process the Application and grant the Street Opening Permit with such conditions and supplemental instructions as it may reasonable require.

Subsection 8. Insurance ¹⁶⁻¹²⁻⁸

The Permit Holder and/or each Licenses Contractor shall acquire and continuously maintain while it possesses any Street Opening Permits liability insurance coverage on all personnel and equipment to be used in the Street Opening Work which insurance is to be with companies licensed to do business in this commonwealth and shall contain the following coverages in such amounts as may from time to time may be promulgated for such purposes by the Board of Selectmen:

¹⁶⁻¹²⁻⁸ As amended under article 47, ATM May 5, 1999 and amended under article 37, ATM May 1, 2002.

Commercial General Liability Insurance - including operation, independent contractors, complete operations for a period of one year from completing the street opening work, XCU hazards, broad form property damage and personal injury.

Automobile Liability Insurance - covering owned, non-owned and leased or otherwise hired vehicles.

Worker's Compensation and Employer's Liability Insurance

Subsection 9. Licensed Contractors

Any Contractor or other person or entity that wishes to perform work on a Public Way and which is not either a municipality or a Public Utility (including their respective officers or employees) must be licensed by the Awarding Authority. Application for a Public Works Contractors Construction License must be made on a yearly basis. (See appropriate sections of the General By-Laws.)

Subsection 10. Terms of the Street Opening Permit

10.1 Term of Permit – All Street Opening Permits shall be valid for thirty days and, upon written request to the Awarding Authority, renewable for an additional thirty days. Permits must be present at the work site. Permits can be revoked by the Awarding Authority if the Applicant is in Default.

10.2 Inspections – Inspections may take place at the following events:

- a. prior to backfilling the trench
- b. following completion of Temporary Patch placement
- c. during the Permanent Patch Window
- d. following completion of Permanent Patch placement

Permit Holder or Contractor will notify Awarding Authority Representative when an inspection is desired and co-ordinate the timing of such inspection.

10.3 Working Hours – Except in emergency situations, Street Opening Work will occur during Normal Working Hours. The Permit Holder must give notice of the intended Street Opening Work seventy-two hours in advance to the Superintendent of Public Works, and, unless the requirement for a police detail is waived by the Police Chief of the municipality, must arrange for any pay for a police detail to be present throughout the period of time that Street Opening Work is being conducted.

10.4 Dig-Safe – The Permit Holder shall, in accordance with all current laws of the Commonwealth of Massachusetts, notify all Public Utilities seventy-two hours in advance of making any excavation in a

street. Such notification shall be made by means of obtaining a DIG-SAFE number. Said number shall be provided on the Street Opening Permit application. The Permit shall not be issued until this information is provided.

- 10.5 Existing Utilities** – Before starting any excavation, the Permit Holder or Contractor must confer with all Public Utilities to obtain information from each as to the horizontal and vertical locations of existing utilities and other conditions that may affect the excavation. The Permit Holder or Contractor shall not interfere with any existing utility without the written consent of the Awarding Authority Representative and the owner of the utility. If it becomes necessary to relocate an existing utility, this shall be done by its owner and the cost of such work shall be done by the Permit Holder. The Permit Holder or Contractor shall inform itself as to the existence and location of all underground utilities and protect the same against damage.
- 10.6 Protection of Existing Lines and Structures** – The Permit Holder or Contractor shall adequately support and protect by timbers, sheeting, etc. all pipes, conduits, poles, wires, cables or other appurtenances which may be in any way affected by the excavation work and shall do everything necessary to support, sustain and protect them under, over, along or across such work area. The excavation work shall be performed and conducted in such a manner that it shall not interfere with access to fire stations, fire hydrants, water gates, underground vaults, catch basins or any other public structure.
- 10.7 Adjoining Property** – The Permit Holder or Contractor shall, at all times and at its own expense, preserve and protect from injury any adjoining property by providing proper foundations and shall take such other precautions as may be necessary for this purpose. The Permit Holder or contractor shall at all times and at its own expense shore up and protect all buildings, walls, fences, trees and other property likely to be damaged during the progress of the Street Opening Work and shall be responsible for all damages to public or private property or streets resulting from its failure to properly protect and carry out said work. The Permit Holder or Contractor shall not remove, even temporarily, any trees or shrubs which exist in planting strip areas without first obtaining the consent of the Superintendent of Public Works.
- 10.8 Damaged Trees** – In the event a tree is either accidentally destroyed by the Permit Holder or Contractor or is authorized for removal by the Awarding Authority Representative, the Permit Holder or Contractor shall remove the tree, stump and debris from

the work site, and replace the tree with an identical species with a minimum caliper of two inches in the identical location.

10.9 Pedestrian Crossings, Open Trenches – The Permit Holder or Contractor shall, where possible, maintain safe crossings for two lanes of vehicle traffic at all public intersections as well as safe crossings for pedestrians at intervals of not more than three hundred (300) feet. If any excavation is made across a Public Way, it shall be made in sections to assure maximum safe crossing for vehicles and pedestrians. An open trench may not exceed three hundred (300) feet unless specifically permitted by the Awarding Authority or its Representative. If the Public Way is not wide enough to hold the excavated material for temporary storage, the material shall be immediately removed from the location.

10.10 Traffic – The Permit Holder or Contractor shall take appropriate measures to assure that during the performance of the Street Opening Work, so far as practicable, normal traffic conditions shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the adjoining property and to the general public. The Awarding Authority Representative may permit the closing of streets and walks to all traffic for a period of time. Unless the requirement for a police detail is waived by the Police Chief of the municipality, the Permit Holder shall engage a police detail to maintain traffic control and public safety at the project site while Street Opening Work is in progress. Warning signs shall be placed a sufficient distance from the project site in order to alert all traffic coming from both directions. Cones or other approved devices shall be placed to channel traffic. Warning signs, lights and such other precautions shall conform to the Manual on Uniform Traffic Control Devices. Construction materials and equipment on the site shall be limited in quantity and in the space they occupy so that they do not unduly hinder and block traffic.

10.11 Gutters and Basins – The Permit Holder or Contractor shall keep all gutters free and unobstructed for the full depth of the adjacent curb and for at least one (1) foot in width from the face of such curb at the gutter line. Catch basins shall be kept clear and serviceable.

10.12 Excavated Material – The Permit Holder or Contractor shall remove all excess excavated material, surplus water, muck, silt, residue or other ran-off pumped or removed from excavations from the site.

10.13 Temporary Repairs – At the end of each day, all trenches must be plated if repair work is not completed and/or back-filled, compacted and temporarily patched on the day repair work is completed. No open un-plated trenches are permitted overnight and work in plated

trenches must be continually prosecuted to completion to minimize the time trenches are plated.

- 10.14 Noise** – The Permit Holder or Contractor shall perform the work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. During the hours from 10:00 p.m. to 7:00 a.m. the Permit Holder or Contractor shall not use, unless otherwise specifically permitted, in writing, by the Awarding Authority or Awarding Authority Representative any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.
- 10.15 Debris and Litter** – All debris and litter remaining from the Street Opening Work site shall be removed by the Permit Holder or Contractor in a timely manner.
- 10.16 Restoration of Pavement Markings** – All permanent pavement Markings (crosswalks, center lines, fog lines) which are damaged during Street Opening Work shall be restored in kind by and at the expense of the Permit Holder.
- 10.17 Lawn Surfaces and Plantings** – All lawn surfaces which are disturbed during Street Opening work shall be replaced with sod or six (6) inches of screened loam, lime, fertilized and re-seeded with good quality lawn seed. Any areas containing plantings shall be restored to their original condition with the same or similar plantings.
- 10.18 Erosion Control** – The Permit Holder shall be responsible for all erosion control and for obtaining any necessary permits from the Conservation Commission. The Permit Holder or Contractor shall protect drainage structures from siltation by whatever means required including but not limited to the installation of hay bales and/or filter fabric. In the event that a drainage structure becomes damaged from siltation as a result of the Street Opening Work, the Permit Holder or Contractor shall clean the structure before completing the Temporary Patch.

Subsection 11. Required Construction Techniques

All Street Opening Work and materials used therein must conform to the most recently published edition of the Massachusetts Highway Department's Standard Specifications for Highways and Bridges, with the federal OSHA requirements and with the American with Disabilities Act and the Architectural Access Board Regulations as then currently in effect. In addition, the following specific requirements also apply. Exceptions to these requirements may be made at the discretion of the Awarding Authority or Awarding Authority Representative at the time the Street Opening Work is in progress.

- 11.1 Excavation** – Existing pavement shall be cut in neat, true lines along the area of the proposed excavation. Unstable pavement shall be removed over cave-outs and breaks and the sub grade treated as the main trench. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench. Cut-outs beyond the limits of the trench lines must be normal or aligned parallel to the center line of the trench. Excavations shall be made in open cut. Trenches and excavations shall be braced and sheathed in accordance with the requirements of the Occupational Safety and Health Act (OSHA). Sections of bituminous or cement concrete sidewalks shall be removed to the nearest scoreline or approved cut edge.
- 11.2 Back-Filling and Compaction** – Excavations shall be filled with approved backfill. Approved backfill consists of either Controlled Density Fill, suitable excavated material or gravel meeting M 1.03.0 or M 1.03.1 of The Standard Specifications. The Permit Holder may select which of these three to use in the excavation. Suitable excavated material shall mean previously excavated granular material but which does not include blacktop, clay, silt, organic material, concrete, roots, boulders, or stones larger than four inches in diameter. If the hole is to be filled with suitable excavated material, a backfill course shall be placed in approximately twelve (12) inch lifts of maximum compaction to four inches below asphalt grade (See Diagrams 1, 2, and 3). A base course consisting of four inches of processed gravel or equivalent (i.e. suitable excavated material containing no stones larger than one and one half inch in diameter) shall then be placed on top of the backfill course. The backfill and base course shall be compacted to not less than ninety-five (95) percent of maximum dry density as determined by the modified Proctor Test in accordance with ASTM 1557 Method D. The Permit Holder if directed by the Awarding Authority or its Representative will retain at its expense, a professionally qualified geotechnical consultant to perform this test. The results of this test shall be given to the Superintendent of Public Works.

If Controlled Density Fill is used as back-fill material it must contain a minimum of 250 pounds of class F flyash or high air (25% plus) and be self-leveling. It must be Type 1E or 2E (very flowable). Flowable fill is to be batched at a ready mix plant and is to be used at a high or very high slump (1'-12"). In lieu of the slump test, a 6" long, 3" diameter tube may be filled to the top and then slowly raised. The diameter of the resulting "pancake" may be measured and the range of the diameter shall be 9" to 14". It shall be flowable, require no vibration and after it is placed excavatable by hand tools and/or small machines. The ingredients shall comply with the following:

Portland cement	AASHTO M85
Fly Ash	AASHTO M 295 Class F
Sand	M 4.02.02 – ASTM C33
Air	M 4.02.05

Type 1E and 2E must meet the following requirements:

Compressive Strength	28 days	90 days
	30-80 psi	100psi ma.
Slump		10-12 inches
Air		1-30%

If Controlled Density Fill is used as back-fill material, it must fill the excavation to immediately below asphalt grade. The Contractor must then place the excavation with a heavy duty steel plate adequate to carry heavy traffic and wait twenty-four hours for the CDF to cure prior to applying the Permanent Patch.

If an excavation is back-filled with Controlled Density Fill in accordance with this By-Law, then a Temporary Patch need not be installed but a Permanent Patch may be installed immediately. Permanent Patches installed over Controlled Density Fill shall consist of four (4) inches of bituminous concrete applied in a two and one-half inch base course and a one and one-half inch top course of bituminous concrete all installed in accordance with this By-Law. If an excavation in a cement concrete Public Way is filled with Controlled Density Fill, then the provisions of paragraph 5(a) of this By-Law may be omitted, but the provisions of paragraph 5(b) and 5(c) must be complied with.

11.3 Temporary Patches

- (a.) Bituminous Concrete Following proper compaction, a temporary Patch which shall be the thickness of the existing asphalt pavement or a minimum of four inches whichever is greater shall be applied. It shall consist of either Cold Patch or bituminous concrete plant-mixed hot asphalt aggregate. (See Diagrams)
- (b.) Temporary Patch to be maintained for one year. A Temporary Patch that has been back-filled and Compacted shall be maintained by the Permit Holder or Contractor so that the patched surface and the surrounding area remain a single smooth unbroken plane for a period of time no shorter than one year after placement of the Temporary Patch.

11.4 Permanent Patches – Except when installed over Controlled Density Fill as described in paragraph 2 above, Permanent Patches shall be installed not less than twelve nor more than eighteen

months from the date of installation of the Temporary Patch. Upon request by the Permit Holder or Contractor, the Awarding Authority Representative will inspect the Temporary Patch and determine if final settlement of the trench has occurred. The Awarding Authority Representative will notify the Permit Holder or Contractor within seven days of the inspection whether the Permanent Patch can be installed. Public Utilities or municipal departments may schedule Permanent Patches to replace all Temporary Patches then within the Permanent Patch Window without receiving prior approval from the Awarding Authority but must give the Awarding Authority and its Representative not less than seventy-two hours prior notice.

A Permanent Patch shall consist of one of the following: (a) cold planing the Temporary Patch to a depth of one and one-half inches and then installing a minimum of one and one-half inches of top course of bituminous concrete, or (b) the excavation of the Temporary Patch in a bituminous concrete Public Way and replacement of this material with any additional processed gravel needed and two and one half inches of base course and one and one-half inches of top course of bituminous concrete (See Diagrams 1 and 2) or (c) application of the Infra-Red Process to the Temporary Patch, or (d) the certification by the Awarding Authority Representative made during the Permanent Patch Window that the Temporary Patch in his reasonable judgment meets fully the standard of a Permanent Patch and thus requires no further work.

- (a) **Cold Planing** – If the cold planing method is used, the area to be cold planed must extend at least twelve (12) inches beyond all sides of the existing Temporary Patch. (See Diagram 2) This area must be cold planed to a depth of one and one-half inches. Any broken or irregular edges of existing pavement shall be cut away in straight lines leaving a sound vertical face at least twelve (12) inches back from all edges of the existing pavement. The Permit Holder must provide a dust control system capable of complying with environmental air quality standards during cold planing and sweep the Public Way following completion of the cold planing work. All abutting edges of the existing pavement will be painted with an asphalt emulsion immediately prior to the placement of the Permanent Patch. The Permanent Patch will consist of the application of a top course of a minimum of one and one-half inches of bituminous concrete plant-mixed hot asphalt aggregate. After raking and rolling, the grade of the Permanent Patch shall match the existing bituminous surface of adjacent pavement. The finished Permanent Patch shall be level having no depressions retaining water on any of the surface. All seams of the

finished perimeter shall be sealed with penetrating asphalt emulsion.

- (b) **Excavation** – Any Temporary Patch that has been patched with Cold patch must be excavated and replaced with a bituminous concrete base in accordance with this paragraph. If the excavation method is chosen and if additional cutting of the existing pavement is required, it shall be done in neat straight lines. Any broken or irregular edges of existing pavement shall be cut away in straight lines leaving a sound vertical face at least twelve (12) inches back from all edges of the existing pavement. (See Diagram 1 and 3). All abutting edges of the existing pavement shall be painted with an asphalt emulsion immediately prior to the placement of the Permanent Patch. The Permit Holder or Contractor shall remove and dispose of all excavated material and thoroughly compact the surface of the sub-base.

Following excavation the Permanent Patch shall consist of a bituminous concrete base and top laid and rolled in two (2) courses. The binder (base course) shall be a minimum of two and one half (2½) inches in depth and the top course shall be one and one half (1½) inches in depth.

The minimum total thickness of both courses, measured after rolling, shall be four (4) inches or equal to the material that was previously excavated. If after compaction, more than four inches of Permanent Patch is needed in order to restore the excavated area to finish grade, additional bituminous concrete shall be used in the base course. The base course shall be placed and carefully raked and thoroughly rolled to the required thickness. The top course shall be placed to a grade that will match the existing bituminous surface after rolling. All seams of the finished perimeter shall be sealed with penetrating asphalt emulsion. The finished Permanent Patch shall be level having no depressions retaining water on any of the surface.

- (c) **Infra-Red Process** – If the Infra-Red Process is utilized to install the Permanent Patch, the area to be repaired shall be thoroughly cleaned to eliminate all potential contaminants. An infra-red heater shall be positioned over the area to be repaired for a period of time required to plasticize the existing pavement to a depth of one and one half inches. Oxidation of the pavement caused by improper heating techniques must be avoided. If this

condition occurs, all oxidized material must be removed and replaced with Class I bituminous concrete meeting the Standard Specifications of the Mass. Highway Dept.

The softened area shall be inwardly reworked from approximately one foot beyond all sides of the original Temporary Patch. This designated area shall be treated with a penetrating asphalt emulsion, uniformly scarified and raked to a workable condition. For street crossings and/or trenches with jogs, the reworked area will be extended beyond the outermost jog in a straight line parallel with the opposite outermost jog. Under no circumstances may the infra-red heat treatable patching mix that is used register a temperature under 200 degrees F.

After the paving mixture has been properly admixed and raked to grade, compacting shall be obtained by use of a steel-wheeled roller of sufficient weight to establish a uniform density comparable to that of the surrounding pavement surface within the work area. The finished Permanent Patch shall be level having no depressions retaining water on any of the surface. All seams of the finished perimeter shall be sealed with penetrating asphalt emulsion.

A petroleum resin sealant shall be applied consistently to the entire heated area by mechanical means or hand application at an approximate rate between .1 and .25 gallons per square yard. Actual rate will be determined on site by an approved absorption test method. A mineral filler will then be broadcast over the newly sealed area to absorb any excess liquid and prevent tracking and the area immediately opened to traffic.

- (d) **Certification** – If a Permit Holder seeks to qualify a Temporary Patch as a Permanent Patch, it must make the application for inspection set out above and specify in it its request for certification. The Awarding Authority Representative will notify the Permit Holder within thirty days of the request whether the Temporary Patch has been certified as a Permanent Patch. If it is not so certified, the Permit Holder shall forthwith cause a Permanent Patch utilizing one of the three remaining methods set out above to be utilized.
- (e) **Newly Paved Roads** – On Newly Paved Roads, the Awarding Authority Representative may require in addition

to the placement of the Permanent Patch, that the Permanent Patch shall be treated by a process (infra-red, microwave or equivalent) that will ensure that the Permanent Patch is integrated into the existing bituminous surface in a seamless manner.

- (f) **Final Inspection of Permanent Patch** – Following completion of the Permanent Patch, the Permit Holder or Contractor shall give notice thereof to the Awarding Authority Representative who shall inspect the Permanent Patch. If the Awarding Authority Representative is satisfied that the road has been restored to as good a condition as existed prior to the Street Opening Work, he shall so note on the Street Opening Permit and any Refundable Deposit securing that Street Opening Work shall be refunded promptly to Applicant. If the Awarding Authority Representative determines that the Permit Holder is in Default, the Awarding Authority may proceed in accordance with Paragraph XIII, Remedies, of this By-Law.

11.5 Special Rules for Cement Concrete Roadways – Any excavation in a cement concrete Public Way or Public Way with a cement concrete base with a bituminous concrete surface shall be backfilled as described in paragraph 2 and Temporarily Patched as described in paragraph 3. Immediately prior to the installation of a Permanent Patch, the following shall be done:

- (a) the Temporary Patch and sufficient back-filled material shall be removed.
- (b) a six-inch reinforced concrete slab shall be Laid over the back-filled trench extending one (1) foot beyond all edges of the trench surface and allowing for four (4) inches of bituminous concrete to be installed above the slab. The slab shall have steel reinforcing for tensile strength in accordance with good engineering practices. The Permit Holder or Contractor shall install a temporary heavy duty steel place adequate to carry heavy traffic over the trench until the concrete slab shall, have adequately cured.
- (c) once the concrete slab shall have cured, there shall be installed four (4) inch layer of bituminous concrete applied in a two and one-half inch base course and a one and one-half inch top course all in accordance with Diagram 3 and generally in accordance with this By-Law.

11.6 Shoulders – Suitable excavated material shall be placed in layers not to exceed six (6) inches in depth and Compacted. Shoulders shall be re-constructed to their existing condition and either loamed with six (6) inches of loam, limed, fertilized and seeded with

roadside grass mix or covered with four (4) inches of wood chips as directed by the Awarding Authority Representative.

- 11.7 Sidewalks** – Any excavation in a concrete or bituminous concrete sidewalk shall require that the entire sidewalk area containing the trench be replaced. Any concrete sidewalk section that is excavated or damaged by the excavation must be replaced in its entirety. Suitable excavated material or gravel shall be placed in layers not to exceed six (6) inches in depth and Compacted. All sidewalk areas will be installed by the Permit Holder or Contractor in conformance with the ADA and the Architectural Access Board Regulations currently in effect. Bituminous concrete sidewalks shall have two courses (two inches of binder and one inch of top) of bituminous concrete plant-mixed hot asphalt aggregate applied to an rolled to create a pavement surface consistent with the adjacent bituminous concrete surface. Concrete sidewalks shall have four inches of poured concrete applied to finish grade. The concrete shall be placed in alternate slabs 9 meters in length except as otherwise ordered. The slabs shall be separated by transverse pre-formed expansion joint filler 13 millimeters in thickness. Concrete driveway openings shall have six inches of poured concrete applied to finish grade. Pre-formed expansion joints will be installed against buildings, walls, steps, foundations or existing concrete block.
- 11.8 Curb and Berm** – Any curbing or berm which is damaged or removed as part of the Street Opening Work shall be properly replaced in kind. The use of cast-in-place concrete curbing is prohibited. All salvageable granite curb that is removed from the Public Way and is excess is the property of the town and shall be delivered to the Department of Public Works by the Permit Holder or Contractor.
- 11.9 Wheelchair Ramps** – Existing wheelchair ramps which are damaged or removed under Street Opening Work shall be reconstructed in kind and in conformance with the ADA and the Architectural Access Board Regulations that are currently in effect.

11.10 Curb Cuts – Any curb cut within a Public Way cannot exceed the following dimensions unless specifically approved by the Awarding Authority Representative:

Single Family Dwelling	16 feet
Multi-Family Dwelling	18 feet
Two Family Dwelling	18 feet
Commercial Property	24 feet

Driveway entrances into Public Ways must butt into and not overlap the edge of the existing roadway hardened surface. The driveway must be graded in such a manner that no ponding of water occurs within the Public way and in accordance with the Architectural Access Board Regulations. Driveways shall not be located on small radius curves and shall be positioned as to provide maximum sight distance and safety.

Subsection 12. Suspension and Revocation

The Awarding Authority or Awarding Authority Representative, if it believes a Default has occurred, can suspend immediately for up to 21 days a Street Opening Permit by communicating such suspension to any of the Permit Holder, Licensed Contractor, or any of their respective representatives at the job site.

The Awarding Authority may revoke a Street Opening Permit granted hereunder after notice and hearing if it shall reasonable determine that a Default has occurred. Permit Holder shall be given not less than five days prior written notice of the time and place of the hearing and shall have the opportunity at the hearing to present evidence. Any person aggrieved by the decision of the Awarding Authority may appeal such decision to the appropriate court of competent jurisdiction or to the extend applicable law provides, to the Department of Telecommunications and Energy.

Subsection 13. Remedies

If a Permit Holder or Licensed Contractor shall be in Default as defined herein, the Awarding Authority may:

1. Suspend or revoke the Street Opening Permit as provided in Subsection 12 above. If the Street Opening Work has commenced but is not completed at the time of a suspension or revocation, the Awarding Authority can order the Street Opening work to be completed by another Licensed Contractor the cost of which is paid for from the Permit Holders Refundable Deposit Account or by Permit Holder if the Refundable Deposit is insufficient or does not exist.

2. Suspend or revoke the Licensed Contractor's Public Works Construction License pursuant to the Public Works Construction By-Law.
3. Assert the Town's legal remedies.

STREET OPENING BY-LAW

FEE SCHEDULE

Application Fee – \$50.00

Inspectional services after Normal Working Hours - \$50.00 per hour

Nominal Schedule of Refundable Deposits for Street Opening Work in Public Ways:

To open to center of Public Way	\$300.00 each opening
To open across the Public Way	\$600.00 each opening
To open to center of state highway	\$1,500.00 each opening
To open across a state highway	\$2,000.00 each opening
To open trench in unpaved shoulder	\$10.00 per linear foot (parallel to street)
To open trench in paved Public Way	\$25.00 per linear foot (parallel to street)
Curb cut for a private driveway	\$200.00
Curb cut for a subdivision street	\$500.00

Newly Pave Roads (Infra-Red or equivalent)

To center of Public Way	\$700.00
Across the Public Way	\$1,400.00

To open a sidewalk (includes 3 sq. yds.)

Bituminous concrete sidewalk	\$300.00
Concrete sidewalk	\$600.00

To excavate a sidewalk (over 3 sq. yds.)

Bituminous concrete sidewalk	\$15.00 per sq. yd.
Concrete sidewalk	\$25.00 per sq. yd.

Note: The actual amount of each Refundable Deposit shall be reasonably determined by the Awarding Authority to be sufficient to secure Applicant's performance under this By Law.

DIAGRAM #1

**BITUMINOUS CONCRETE
TRENCH PATCH DETAIL**

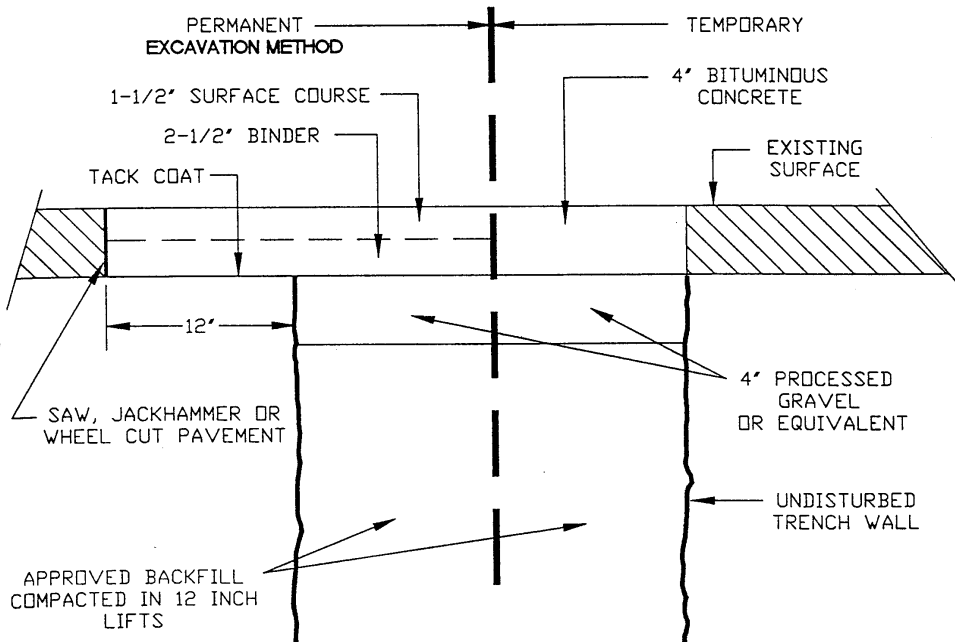


DIAGRAM #2
BITUMINOUS CONCRETE
TRENCH PATCH DETAIL

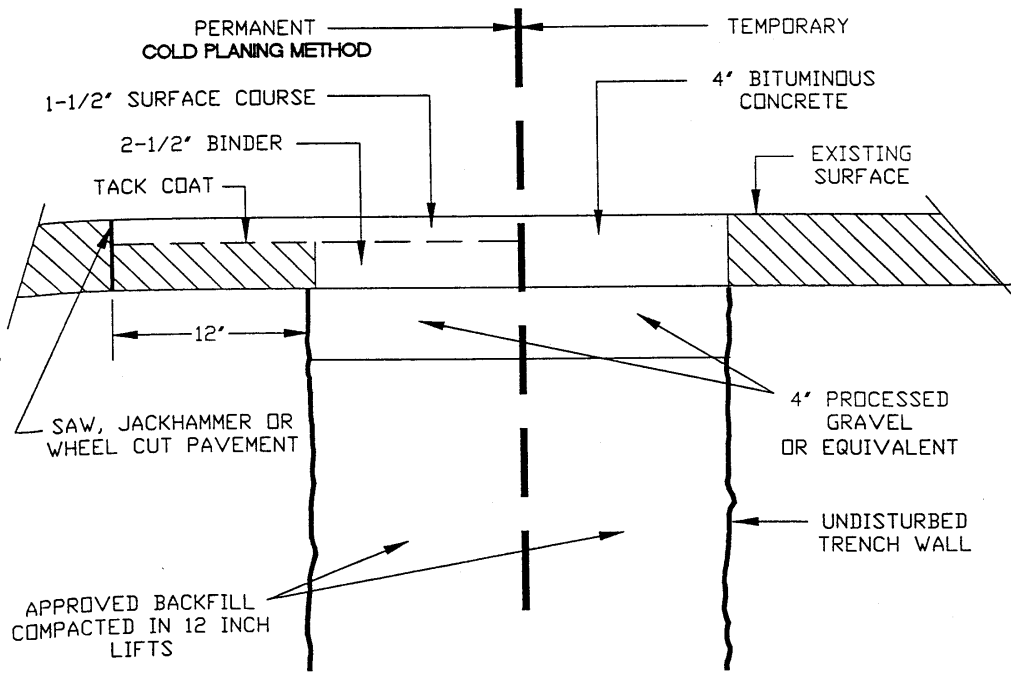
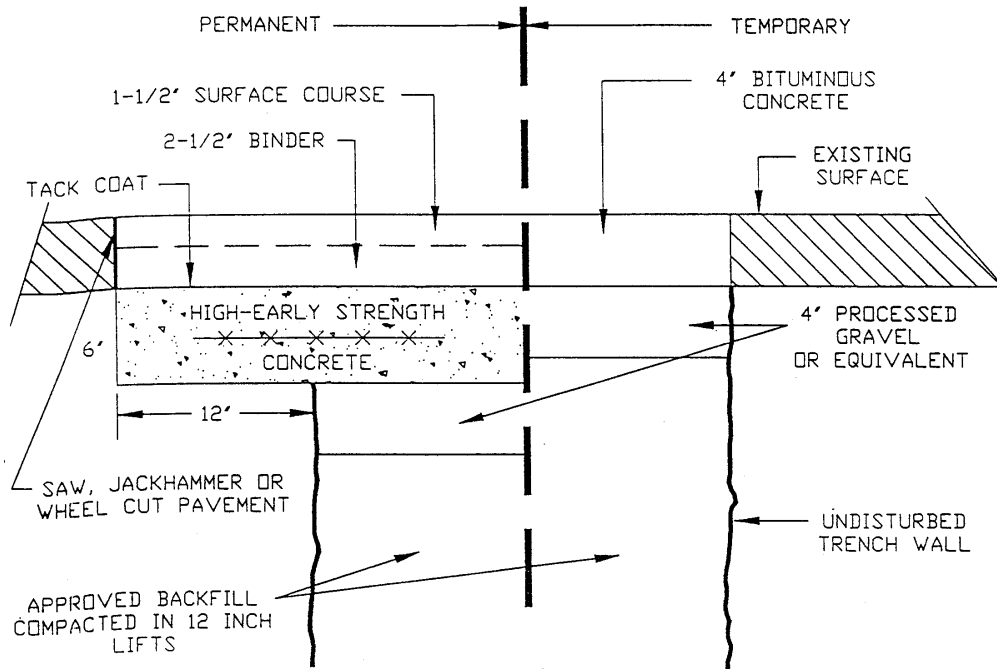


DIAGRAM #3
BITUMINOUS CONCRETE
OVER REINFORCED CONCRETE
TRENCH PATCH DETAIL



NOTE: HEAVY DUTY STEEL PLATING TO BE PLACED OVER TRENCH AREA UNTIL THE CONCRETE IS SUFFICIENTLY CURED

Section 13. Public Works Construction ¹⁶⁻¹³

Subsection 1. Introduction

From time to time, it is necessary to excavate a Public Way in order to install, repair, or remove utilities or install or realign a driveway with the possibility of removing curbing and/or fencing. It is desirable that persons working in or under a Public Way have the necessary skills to perform this work in a competent manner so that Public Ways are maintained to protect the health and safety of all persons traveling on them. This By-Law is adopted under authority granted by MGL Chapter 40 section 21.

Subsection 2. Definitions

Awarding Authority – The Board of Selectmen of the Town of Canton has authority to exercise the powers granted by this By-Law.

Awarding Authority Representative – That municipal officer or employee, if any, to whom the Awarding Authority has, in writing, delegated some of its powers hereunder so that the process of license granting and administration will proceed expeditiously.

Department of Public Works – The municipal agency generally responsible for the repair and maintenance of Public ways with the municipality.

License Applicant – Any person or entity in the general contracting business, qualified to do business in the Commonwealth of Massachusetts who wishes to perform Street Opening work in a Public Way either as a Permit Holder or as agent for one or more Permit Holders.

License Application Fee – An annual \$50.00 non-refundable fee payable in cash or by check made payable to the Awarding Authority each time a License Application or renewal is filed.

Licensed Contractor – A contractor who holds a current and valid Public Works Construction License issued by the Awarding Authority.

Permit Holder - An “Applicant” as defined in the Street Opening By-Law to whom a Street Opening Permit has been granted.

Public Way – Any road, including such appurtenances as berms, curbs, drains, sewers, water mains, sidewalks and paved and unpaved shoulders within the public right-of-way to which the public has access and the Town is responsible for maintaining. Also referred to as a Street.

¹⁶⁻¹³ Inserted under article 38, ATM April 27, 1998.

Public Works Contractors Construction License – That license required of certain persons or entities who wish to perform Street Opening Work in Public Ways.

Street Opening Permit – A permit granted pursuant to the Street Opening By-Law conferring permission to do Street Opening Work in a Public Way.

Street Opening Work – Any cutting, excavating, compacting, construction, repair or other disturbance in or under a Public Way together with restoration of the Public Way in accordance with the Street Opening By-Law following such disturbance, but excluding the location or relocation of utility poles for which a grant of location has been obtained pursuant to MGL Chapter 166 section 27.

Violation – The failure of the Licensed Contractor, its employees, agents and subcontractors to (i) comply fully with any or all provisions of this By-Law, the Street Opening By-Law, and any Street Opening Permits or supplemental instructions, the Town’s General By-Laws or other applicable law, or (ii) to keep its Certificate of Insurance in full force and effect.

Subsection 3. General

No person or entity may become a Licensed Contractor unless it shall:

- (1) be in the general contracting business, and
- (2) be qualified to do business in the Commonwealth, and
- (3) be qualified, in the reasonable judgment of the Awarding Authority, by experience, training of personnel, financial resources, and previously demonstrated, satisfactory performance of the entity, and/or those individuals who control it, to perform Street Opening Work in Public Ways in the municipality, and
- (4) have completed the licensing process described below.

A License Applicant may demonstrate its compliance with (3) above by presenting to the Awarding Authority evidence that it holds a current “Pre-Qualification Rating” issued by the Massachusetts Department of Public Works pursuant to 720 CMR 5.00 which, in the reasonable judgment of the Awarding Authority, is sufficient in terms of Class of Work, Maximum Capacity Rating and Single Capacity Rating (all as defined in 720 CMR 5.00) to demonstrate sufficient capacity to perform anticipated Street Opening Work. A License Applicant whose Public Works Contractors Construction License has been suspended or revoked in the three year period preceding the date of the current application may not demonstrate compliance with (3) above using this method.

Public Works Contractors Construction Licenses are valid from the date issued until December 31 of the year in which issued unless sooner suspended or

revoked. A Public Works Contractors Construction License must be renewed each year.

Subsection 4. Application Procedure

The License Applicant shall file on forms designated by the Awarding Authority a completed and signed application at the offices of the Awarding Authority (with a copy delivered to the Department of Public Works). The License Application shall be accompanied by any and all certificates, certificates of insurance demonstrating compliance with (5) hereafter, and other items specified in the Application or reasonably requested by the Awarding Authority. It shall also be accompanied either by evidence that License Applicant is currently and appropriately “pre-qualified” pursuant to 720 CMR 5.00 or by such evidence of License Applicant’s compliance with the provisions of (3), above, as Awarding Authority reasonably may require. The License Application shall also be accompanied by the License Application Fee.

The Department of Public Works shall promptly review the Application and make written recommendations thereon.

The awarding Authority shall make a prompt determination on the License Application in accordance with the standards set out in (3) above.

If the License Application is favorably considered, a Public Works Contractors Construction License shall be promptly issued. If the License Application is not favorably considered, the Awarding Authority shall communicate in writing to License Applicant the reasons its application was not favorably considered. The Awarding Authority may establish streamlined procedures for renewal applications.

Subsection 5. Insurance ¹⁶⁻¹³⁻⁵

Each Licensed Contractor shall acquire and continually maintain while licensed hereunder liability insurance coverage on all personnel and equipment to be used in the Street Opening Work which insurance is to be with insurance companies licensed to do business in the Commonwealth of Massachusetts and shall contain the following coverages and be in the following minimum amounts:

Commercial General Liability Insurance including operators, independent contractors, complete operations, XCU hazards, broad form property damage and personal injury.

General aggregate:	\$2,000,000.00
Products/Complete Operations:	
Aggregate	\$2,000,000.00
Each occurrence	\$1,000,000.00

¹⁶⁻¹³⁻⁵ As amended under article 47, ATM May 5, 1999.

Personal & Advertising Injury	\$1,000,000.00
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Automobile Liability Insurance – Covers owned, non-owned and hired vehicles.

Bodily Injury	\$500,000.00 each person
	\$1,000,000.00 each accident
Property Damage Liability	\$250,000.00

Workers Compensation and Employer Liability

Bodily Injury By Accident	\$100,000.00
Bodily Injury By Disease	\$500,000.00
Bodily Injury By Disease	\$100,000.00

Each licensed Contractor agrees to maintain at the Licensee's expense all insurance required by law for its employees, including disability, workers compensation and unemployment compensation.

Certificates of Insurance shall provide for at least thirty (30) days notice to the Awarding Authority of cancellation or material change. The name of the Awarding Authority shall be listed as an additional insured on the Certificate of Insurance to be provided the by the Applicant. The Awarding Authority is not responsible for any loss or damage whatsoever to the property of the Lincensee.

Evidence of such insurance shall be supplied to the town at least once in each calendar year and as may be otherwise required by the Awarding Authority.

Subsection 6. Suspension and Revocation

The Awarding Authority or Awarding Authority Representative, if it believes a Violation has occurred, can suspend immediately for up to 21 days a Public Works contractors Construction License by communicating such suspension to Licensed Contractor or any of its representatives at the job site.

The Awarding Authority may revoke a Public Works Contractors Construction License granted hereunder after notice and hearing if it shall reasonable determine that a violation of this By-Law has occurred. A Licensed Contractor shall be given not less than five days prior written notice of the time and place of the hearing and shall have the opportunity at the hearing to present evidence. No Public Works Contractor whose license has been revoked may re-apply for a Public Works Contractors Construction License during the twelve month period following a revocation. Any person aggrieved by the decision of the Awarding Authority may appeal such decision to the appropriate court of competent jurisdiction.

**APPLICATION FOR A PUBLIC WORKS CONTRACTORS
CONSTRUCTION LICENSE**

Applicant's Name _____

Applicant's Address _____

Applicant's Telephone No. _____

As part of this Application, Applicant: submits the names of six references, details its prior experience and lists the equipment that it has available to do Street Opening Work, and submits a Certificate of Insurance showing liability coverages in the required amounts.

Applicant certifies that it has complied with all laws of the Commonwealth of Massachusetts relating to the filing of all State tax returns and payment of all state taxes required under said laws.

Applicant, by its signature in the space provided below, acknowledging the benefit conveyed to Applicant by the receipt of the Public Works Contractors Construction License, hereby covenants and agrees with the Town of Canton to defend, indemnify and hold harmless the Town of Canton, its Board of Selectmen (Awarding Authority) and all of its officers, employees and agents of and from any and all claims, demands, suits or other proceedings and from any and all liabilities arising or claimed to have arisen out of or to be in any way related to: (i) this Application, (ii) any Street Opening Work as defined in the Public Works Contractors Construction License By-Law or (iii) any action or failure to act by Applicant, its officers, employees, agents or contractors in connection with any work performed or failed to be performed by or on behalf of Applicant in or under any Public Way in the Town of Canton.

Signature of Applicant

Date: _____

(for office use)

Date Application Received: _____

Application complete? _____ Missing _____

Determination of Awarding Authority

Date License Issued _____ Expiration Date _____

First Renewal Issued _____ Expiration Date _____

Second Renewal Issued _____ Expiration Date _____

Third Renewal Issued _____ Expiration Date _____

Signature of Awarding Authority

**EXPERIENCE AND EQUIPMENT SHEET
APPENDIX TO APPLICATION FOR A PUBLIC WORKS CONTRACTORS
CONSTRUCTION LICENSE**

REFERENCES:

(Name	Address	Telephone)

PAST EXPERIENCE:

EQUIPMENT:

Name of Applicant _____

Signature of Applicant _____

Section 14. Restrictions On Water Use ¹⁶⁻¹⁴

Subsection 1. Authority.

This by-law is adopted under 'home rule' powers conferred on municipal governments by section six of article two of the amendments to the state constitution and by section thirteen of chapter forty-three B of the General Laws, and under municipal powers to protect the public peace, health, safety, general welfare and convenience of its inhabitants and the public generally, and including but not limited to, the provisions of General Laws chapter forty, sections twenty-one, thirty-nine E, forty-one and forty-one A (MGL c. 40, §§ 21, 21D, 39E, 41 and 41A).

Subsection 2. Purpose.

This by-law is enacted for the purpose of protecting, preserving and maintaining the public peace, health, safety, general welfare and convenience of its inhabitants and of the public generally by providing a method by which it can be assured there will be, at all times, an adequate supply of pure, fresh, wholesome water for human consumption and for bathing, cleaning and other personal use and an adequate supply of water for fire fighting and fire suppression purposes.

Subsection 3. Definitions.

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

"STATE OF WATER SUPPLY CONCERN" - *A state of water supply concern* exists when the level in the Neponset River drops to a level predetermined or established by the Board of Selectmen as the threshold for such status, or in a particular circumstance, because of a then prevailing condition, the Board of Selectmen determines there is a then existing need to protect the water supply and declares the condition to exist.

"STATE OF WATER SUPPLY EMERGENCY" – *A state of water supply emergency* exists when the supply of water provided by the MWRA drops to a level predetermined or established by the Board of Selectmen as the threshold for such status, or in a particular circumstance, because of a then prevailing condition, the Board of Selectmen determines there is a then existing need to protect the water supply and declares the condition to exist.

"WATER TAKERS" – The term *water takers* includes all persons (natural or corporate) and every other entity of whatever form as

¹⁶⁻¹⁴ Inserted under article 30, ATM April 26, 1999.

may be, connected to the public water supply of the Town of Canton, whether or not the use of such water shall be billed in his, her or its name.

Subsection 4. Restrictions on the Use of Water.

A. Whenever the Board of Selectmen declare that a state of water supply concern or a state of water supply emergency exists, the Board of Selectmen may issue such restrictions, conditions, requirements, provisions or regulations restraining the use of water supplied by the Town as it may determine are necessary to protect the public water supply.

B. Whenever the Board of Selectmen determine to place restrictions, conditions, requirements, provisions or regulations restraining the use of water it shall give notice to the water takers, to the public and to the Massachusetts Department of Environmental Protection in the manner provided in section 5, below.

Subsection 5. Notification of restraint of water use.

Notification of any provision, restriction, requirement or condition with which users of water supplied by the Town of Canton are required to comply shall be deemed to be sufficient if it is published once in a newspaper of general circulation within the Town of Canton or by such other notice as is reasonably calculated to reach and inform all water takers and others who use the water supply of the Town of Canton.

Subsection 6. Violation of water supply regulations.

A. Following a declaration by the Board of Selectmen that a state of water supply concern or a state of water supply emergency exists in the Town no person shall violate any water supply provision, condition, requirement or restriction imposed by the Board of Selectmen in a plan approved by the Department of Environmental Protection.

B. Any person, being a water taker, an inhabitant of the Town, or otherwise, who violates any water restriction, condition, requirement, provision or regulation restraining the use of water imposed by the Board of Selectmen pursuant to the provisions of this by-law shall be punished by a fine of fifty dollars (\$50). Each instance of noncompliance with any restriction, condition, requirement, provision or regulation restraining the use of water shall constitute a separate violation. This by-law shall be enforced in accordance with the provisions of Article 1, Section 2, of the General By-Laws of the Town of Canton. For the purpose of enforcing the provisions of this section the Superintendent of Public

Works, or his designees, shall be deemed to be enforcing person(s).

Section 15. Poles And Overhead Wires And Associated Overhead Structures; Prohibited¹⁶⁻¹⁵

Any person, firm, corporation, partnership, their agents and employees, who has been granted, or may be granted, any license, permission, or other authority to construct or to maintain poles and overhead wires and associated overhead structures upon, along, under or across any public ways, is forbidden from installing or constructing, and shall remove immediately any poles, overhead wires and associated overhead structures which are located on, along, or across the following section of roadway described below:

Washington Street from Sherman Street to Neponset Street.

Section 16: Consolidated Drainage By-law¹⁶⁻¹⁶

Section 1. Purpose

The purpose of this by-law is to preserve and maintain the waterways in the Town of Canton and to protect the Town of Canton's drinking water supply from contamination, recognizing that much of the storm water which falls on the Town's surface eventually makes its way to one of the many brooks, streams or rivers that run through the Town.

A corollary purpose of this by-law is to provide for the health, safety, and general welfare of the citizens of the Town of Canton through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This by-law establishes methods for controlling the introduction of pollutants into the municipal separate storm drain system [storm sewer system (MS4)] in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this by-law are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user.
- (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this by-law

All new construction in the Town shall incorporate systems to encourage the recharge of storm water back into the groundwater table. Contractors are

¹⁶⁻¹⁵ Inserted under article 39, ATM April 24, 2000.

¹⁶⁻¹⁶ Inserted under article 35, ATM May 2, 2001.

directed to the applicable sections of the "Rules and Regulations" of the Planning Board.

Section 2. Definitions

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

Authorized Enforcement Agency: The Town of Canton Department of Public Works (DPW), employees or designees of the Superintendent, designated to enforce this bylaw.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 5 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Drainage System: The storm water collection system which is made up of the open water courses, swales, ditches, culverts, canals, streams, and pipes through which the surface water flows and the town ways over which it flows.

Groundwater: All water found beneath the surface of the ground.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 8 of this by-law.

Illicit Connections. An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any

connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Impervious Surfaces: Materials or structures on or above the ground that does not allow precipitation to infiltrate to the underlying soil.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. Means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Person: means any individual, association, organization, partnership, firm, corporation or other entity recognized by-law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Recharge Areas: Areas that collect precipitation or surface water and carry it to an aquifer.

Storm Drainage System. Publicly owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Rainfall that exceeds the soils capacity to absorb and runs across the surface to brooks and streams to be collected in the ponds and rivers of the Town. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm Water Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

Toxic or Hazardous Material: Any material or mixture of physical, chemical, infectious characteristics posing a significant, actual or potential hazard to the water supply or a hazard to human health if such substance or mixture were discharged to the land or water of the Town of Canton. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws Chapter 21C and 21E, and 310 CMR 30.00, and also including such products as solvents and thinners in quantities greater than normal household use.

Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Section 3. Applicability

This by-law shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

Section 4. Other Applicable By-Laws

The reader is directed to the following By-laws, which contain regulations concerning drainage:

Article XIV Police Regulations; Section 38A Grading of Residence Lots and Section 51. Regulations for New Dwellings.

Article XV Wetlands Protection By-law

Article XVI Miscellaneous, Section 3. Soil Removal

Zoning By-law, Section E, Article 5.2, Groundwater Protection District

Article XVII Hazardous Materials Regulations of the Board of Health

Section 5. Responsibility For Administration

The Department of Public Works shall administer, implement, and enforce the provisions of this by-law. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Superintendent of Public Works to persons or entities acting in the beneficial interest of or in the employ of the agency.

Section 6. Severability

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

Section 7. Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this by-law are minimum standards; therefore this by-law does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

**Section 8. Prohibited Activities
Prohibition of Illegal Discharges.**

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any non-storm water discharge to the storm drain system is prohibited except as described as follows:

The following discharges are exempt from discharge prohibitions established by this by-law: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection

Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the DPW for any discharge to the storm drain system.

Prohibition of Illicit Connections.

The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

This prohibition expressly includes, without limitation; illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

A person is considered to be in violation of this by-law if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

No person shall block, cause to be filled or in any way obstruct the normal flow of storm water into or out of the storm water disposal system.

No person shall dump or dispose of yard waste (leaves, grass clippings, etc.) into the open watercourses (swales, brooks and streams), that make up the storm water system.

No person shall discharge, or cause to be discharged, water or any other liquid, on to the streets, sidewalks or ways of the town in such a manner as to cause an obstruction of traffic or to endanger travel by freezing or otherwise.

No one shall deliberately direct, or cause to be directed, an increase or change to the flow of storm water from one's own property onto abutting property.

Section 9. Other Prohibited Activities

Drains - No one shall tie any pump, cellar, yard, roof or area drain directly into the storm water drainage system without a permit from the Department of Public Works.

Catch basins: - No person shall directly or indirectly dump, discharge or cause or allow to be discharged into any catchbasin, any solid waste, construction debris, paint or paint product, antifreeze, hazardous waste, oil, gasoline, grease and all other automotive and petroleum products, solvents and degreasers, drain cleaners, commercial and household cleaners, soap, detergent, ammonia, food and food waste, grass or yard waste, animal feces, dirt, sand gravel or other pollutant. Any person determined by the DPW to be responsible for the discharge of any of the above substances to a catchbasin may be held responsible for cleaning the catchbasin and any other portions of the storm water system impacted, paying the cost for such cleaning or for paying any penalties assessed by the Town.

All catch basins constructed shall be equipped with oil interceptors (hoods) approved by the Department of Public Works.

Pools: - Residents shall drain their pools in such a way as not to cause a nuisance to the neighborhood. Pool water shall be dechlorinated by allowing it to stand for a week prior to draining.

Sanitary Sewer System - It is strictly prohibited by both town and MWRA regulations to tie any type of drain into the sanitary sewer system. This restriction applies to all types of drainage, including roof drains and cellar or basement drains.

Septage - No person shall discharge or cause or allow to be discharged any septage, or septage tank or cesspool overflow into the Town's storm water drainage system.

Storage & Disposal of Hazardous Material - No one shall dispose of anything other than clear water into the town's storm drainage system. The disposal of waste, gasoline or any other hazardous material into the storm drainage system is strictly prohibited and is in violation of various state and federal pollution laws.

Private drainage systems: - It is prohibited for anyone with a private drainage system from tying into the public storm water disposal system without a permit from the Department of Public Works. The maintenance of any and all private drainage systems shall be the responsibility of the owners.

Section 10. New Construction

All new drainage construction in the Town of Canton shall be constructed in accordance with Section 3.6 STORMWATER MANAGEMENT of the Rules and Regulation of the Planning Board.

Any new construction, which shall render impervious 15% or 2,500 square feet of any lot, whichever is greater, shall require a drainage permit from the Department of Public Works.

Section 11. Suspension Of MS4 Access

Suspension due to Illicit Discharges in Emergency Situations

The DPW may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this by-law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

Section 12. Industrial Or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Department of Public Works prior to the allowing of discharges to the MS4.

Section 13. Monitoring Of Discharges

Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

Access to Facilities.

The DPW shall be permitted to enter and inspect facilities subject to regulation under this by-law as often as may be necessary to determine compliance with this by-law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

Facility operators shall allow the DPW ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

The DPW shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

The DPW has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the

written or oral request of the DPW and shall not be replaced. The costs of clearing such access shall be borne by the operator.

Unreasonable delays in allowing the DPW access to a permitted facility is a violation of a storm water discharge permit and of this by-law. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this by-law.

If the DPW has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this by-law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this by-law or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

Section 14. Requirement To Prevent, Control, And Reduce Storm Water Pollutants By The Use Of Best Management Practices

The DPW will adopt requirements identifying Best Management Practices for any activity, operation, or facility, which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

Section 15. Watercourse Protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section 16. Notification Of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the DPW within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 17. Special Provisions In General

For commercial and industrial uses, to the extent feasible, run-off from impervious surfaces shall be recharged on site by diverting runoff toward areas covered with vegetation for surface infiltration. Such run-off shall not be discharged directly to rivers, streams or other surface water bodies. Subsurface infiltration shall be used only where other methods are infeasible and shall be preceded by oil, grease and sediment traps, to facilitate removal of any contaminants. All recharge areas shall be permanently maintained in full working order by the owner(s).

Commercial cleaners:

It is prohibited for commercial home cleaners, rug cleaners, car washes, etc., to dispose of their wastewater into the storm water system.

Dumpsters:

Areas around dumpsters shall be bermed and drained to a central catchbasin, which shall be equipped with an oil interceptor approved by the Department of Public Works.

Fertilizer storage:

The outdoor storage of salt, de-icing material, pesticides or herbicides is prohibited. The commercial storage of fertilizers and other soil conditioners shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.

Stables, (etc.):

Any stable, feedlot, kennel or resident who houses more than four farm animals shall provide for the pretreatment of all run-off from the property as approved by the Board of Selectmen. All permanent animal manure storage areas shall be covered and/or contained to prevent the generation and escape of contaminated run-off or leachate.

Vehicular storage:

Any area where more than six (6) vehicles are stored or parked for a period of more than one week shall be drained to catchbasins equipped with oil interceptors.

Section 18. Enforcement

Notice of Violation.

Whenever the DPW finds that a person has violated a prohibition or failed to meet a requirement of this by-law, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required; the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

2. Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 30 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

3. Enforcement Measures After Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days the decision of the Department of Public Works upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall

be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

4. Cost of Abatement of the Violation

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest shall be added to any balance which remains unpaid after such thirty-first day at the same rate as is provided in Section fifty-seven of Chapter fifty-nine of the General Laws.

5. Injunctive Relief

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this by-law. If a person has violated or continues to violate the provisions of this by-law, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

6. Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this by-law, the authorized enforcement agency may impose upon a violator alternative compensatory action such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

7. Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this by-law is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

8. Criminal Prosecution

Any person that has violated or continues to violate this by-law shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$300.00 dollars per violation per day.

The authorized enforcement agency may recover all attorneys' fees court costs and other expenses associated with enforcement of this by-law, including sampling and monitoring expenses.

9. Remedies Not Exclusive

The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Section 19. Penalties

Any person or entity who violates this by-law shall be liable to the Town in the amount of \$50.00 for the first day, and \$50.00 for each day thereafter during which such violation shall continue. Each separate instance of noncompliance following the issuance of any warning or citation pursuant to this section shall constitute a separate violation.

Section 20. Transitional Provisions

Implementation of special provisions:

Residents and owners of commercial establishments shall have one year from the effective date of this by-law for the implementation of the regulations under the special provisions above.

Section 17. Mapping Commission ¹⁶⁻¹⁷

(a) Establishment – There is hereby established a mapping commission for the purpose of developing or coordinating the development of comprehensive maps of Canton, including, but not limited to, parcel boundaries, location of utility lines, pipelines, and other structures, land use or items of geographic or geological interest.

(b) Composition, Term of Office – The Mapping Commission shall consist of the Superintendent of Public Works, the head of the engineering division within the Department of Public Works, the Town Planner and the Information Systems Manager who shall serve by virtue of their office as members of the Mapping Commission.

(c) Powers and Duties – The Mapping Commission shall: (1) develop and administer programs relating to mapping of the community; (2) advise, assist and cooperate with state, regional and federal agencies in developing appropriate programs and policies relating to such mapping; (3) apply for, receive, expend, represent and act on behalf of the town in connection with federal grants, grant programs or reimbursements or private grants; (4) accept gifts, grants, bequests and devises from any source, whether public or private, for the purpose of assisting in the discharge of its duties; (5) seek to coordinate the activities of governmental and private bodies organized for similar purposes. The Mapping Commission shall seek to coordinate all mapping efforts in Canton in order that

¹⁶⁻¹⁷ Inserted under article 47, ATM May13, 2002.

duplicative efforts be minimized. The Mapping Commission may offer for sale any products of its efforts, including maps, reports or other materials. The Mapping Commission shall have all of the other powers and duties as are given to such commissions in Section 8K of Chapter 40 of the General Laws, or otherwise.

Section 18. Title 5 Restrictions¹⁶⁻¹⁸

The Town's Board of Health may, in specific cases as the Board of Health deems necessary, require, approve, accept, file, record and enforce covenants and restrictions related to real property, arising from the requirements, implementation or enforcement of Title 5 of the State Environmental Code (310 CMR 15.000, et seq., as the same may be amended), including but not limited to the siting, construction, grading, installation, upgrade, expansion and/or alteration of on-site sewage treatment and disposal systems and for the transport and disposal of septage.

Section 19. Community Preservation Committee¹⁶⁻¹⁹

19.1 The Community Preservation Committee is established consisting of nine voting members pursuant to G. L. Chapter 44 B.

19.2 The Community Preservation Committee shall be appointed by the Board of Selectmen and consist of one member each from the:

19.2.1 Conservation Commission as designated by the Conservation Commission, Historical Commission as designated by the Historical Commission and Planning Board as designated by the Planning Board for an initial term of three years and thereafter for a term of three years;

19.2.2 Recreation Commission as designated by the Recreation Commission and Housing Authority as designated by the Housing Authority and the Canton School Committee as designated by the Canton School Committee, for an initial term of two years and thereafter for a term of three years;

19.2.3 Board of Selectmen as designated by the Board of Selectmen, Capital Planning Committee as designated by the Capital Planning Committee and one community member, appointed for an initial term of one year and thereafter for a term of three years.

19.3 The Community Preservation Commission shall study the needs, possibilities, and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards and hold one or more public informational hearings yearly on the needs, possibilities and resources of the Town regarding community preservation. Notice of these public hearings shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.

¹⁶⁻¹⁸ Inserted under article 16, ATM 2006.

¹⁶⁻¹⁹ Inserted under article 29, ATM 2006.

19.4 The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in G.L. Chapter 44 B. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

19.5 The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes consistent with the Community Preservation Act.

19.6 The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

Section 20. Temporary Fire Watch Patrols¹⁶⁻²⁰

A. Purpose: In order to avoid relocating persons from or evacuation of, any building, structure, place of business, place of habitation or vacant or abandoned building or structure which in the judgment of the Chief of the Canton Fire Department or is imminently dangerous or presents the existence of conditions likely to cause fire or explosion, the Chief of the Canton Fire Department may order the owner, agent, or manager of such a building, structure, business or place of habitation to provide a temporary fire watch patrol if the Chief of the Canton Fire Department determines a reasonable level of fire or life safety may be obtained by the implementation of such an Order.

B. Rules and Regulations:

(1) The temporary fire watch personnel necessary to comply with any Order issued pursuant to subpart A of this section of the By-laws shall be specially trained in fire prevention and in the use of fire extinguishers and occupant hose lines, in sounding building fire alarms, in understanding the particular fire safety situation of public education purposes, be able to instantly communicate with fire alarm office by radio, and remain alert and undistracted during this/her assigned hours.

(2) The owner of any building, structure, place of business, place of habitation or vacant or abandoned building or structure shall be responsible for any and all costs associated with the temporary fire watch patrol.

¹⁶⁻²⁰ Inserted under article 29, ATM 2007, as approved by Attorney General

C. Appeal: Any person aggrieved by the issuance of an Order pursuant to subpart A of this section of the By-laws may file with the Board of Selectmen with a copy to the Chief of the Canton Fire Department of a notice of appeal within thirty days (30) after issuance of such Order. In the event of such an appeal, the Board of Selectmen shall promptly hear such appeal and may affirm or deny the appeal, or may remand the appeal back to the Chief of the Canton Fire Department for further investigation.

D. Enforcement: If the owner fails to comply with the Order issued pursuant to subpart A of this section of the By-laws, then the Chief of the Canton Fire Department may deploy Fire Department personnel or make other arrangements to provide personnel sufficient to perform the requirements of any such Order at the expense of the property owner, who shall be billed monthly by the Fire Department for the costs thereof for so long as the property owner continues to fail to provide his own personnel meeting the training requirements of subpart B(1) of this section of the By-laws, to perform such requirements of the Order, until the first to occur of the property owners compliance with the Order or the Order expiration or termination of the Order. In addition, if such Order issued pursuant to subpart A of this section of the By-law is not obeyed, the Chief of the Fire Department may seek a court order requiring compliance with such Order.

E. Penalties: If the billings issued by the Fire Department to the property owner for costs incurred by the town pursuant to subpart D of this section of the By-law are not reimbursed to the Town, such nonreimbursed billings shall constitute a "municipal charges lien" in accordance with G. L. Ch. 40, upon the property upon which the temporary fire watch patrol was provided.

Section 21. Scenic Road By-Law¹⁶⁻²¹

1.0 Introduction/Purpose

A. The Town of Canton has designated certain roads in the Town as scenic roads pursuant to M.G.L. c. 40 Section 15C.

B. The purpose of this Scenic Road By-law is to establish penalties and enforcement procedures for unauthorized cutting, or removal of Scenic Road Trees and unauthorized tearing down or destruction of stone walls, or portions thereof.

2.0 Definitions

As used in this Scenic Road By-law, the following words shall have the following meanings.

A. Scenic Road Tree: any tree greater than one and one half inches in diameter one foot from the ground within a scenic road or on the boundaries thereof.

3.0 Proscribed Activities

¹⁶⁻²¹ Inserted under article 20, ATM 2007

A. Any repair, maintenance, reconstruction, or paving work done with respect to any scenic road in the Town shall not involve or include the cutting, or removal of any Scenic Road Tree in whole or in part, or the tearing down or destruction of a stone wall, or portion thereof, except with the prior written consent of the Planning Board after a public hearing.

4.0 Penalties

A. Any violation of Section 3.A of this Scenic Road By-law shall be punished by a fine of three hundred dollars (\$300.00).

B. Each violation of Section 3.A of this Scenic Road By-law shall constitute a separate offense.

5.0 Rules and Regulations

A. The Planning Board may adopt rules and regulations after a public hearing to further implement this By-law.

6.0 Enforcement

A. The Planning Board and its agents, the Tree Warden or his deputy and any officer with police powers may issue enforcement orders directing compliance with this Scenic Road By-law and may undertake any other enforcement action authorized by law.

B. The Planning Board and its agents and the Tree Warden and his deputy may enforce this Scenic Road By-law without limitation by a civil action for injunctive relief filed in a court of competent jurisdiction.

C. Non-criminal Disposition

1. This Scenic Road By-law may be enforced without limitation through non-criminal disposition pursuant to M.G.L.c.40 Section 21D.

2. The Planning Board, its agent, the Tree Warden and his deputy are hereby designated as the enforcing persons for such non-criminal disposition.

D. Nothing in this Scenic Road By-law shall preclude its enforcement by any lawful means not stated herein.

Section 22. Excavation and Trench Safety¹⁶⁻²²

Purpose.

The purpose of this chapter is to establish reasonable standards to protect the safety of the citizens of the Town of Canton from the hazards inherent in trenches and to provide for penalties for individuals who violate any provision of this chapter.

(a) Authority, Fee.

Pursuant to the provisions of MGL Ch. 82A, the regulations of the Department of Public Safety in conjunction with the Division of Occupational Safety as promulgated under 520 CMR 14.00 regarding excavation and trench safety are

¹⁶⁻²² Inserted under article 39, ATM April 29, 2009.

expressly incorporated into this bylaw by reference. A reasonable fee to defray the cost of administration incurred in the review and processing of permits under this chapter shall be established pursuant to MGL Ch. 40, s. 22F and Ch. 82A, s. 2.

(b) Permitting Authority.

The Director of the Department of Public Works or his designee shall serve as the "Permitting Authority" for excavations to take place on both property that is owned or controlled by a public agency or that a public agency otherwise has a property interest in, including but not limited to an easement, and for excavations to take place on privately owned land. The Director of the Department of Public Works or his designee, acting as the Permitting Authority, may delegate some or all of his authority under this chapter to the Building Inspector and the Fire Chief or his designee.

(c) 28-4. Police Detail.

In the event that the Permitting Authority becomes aware or is notified of an unattended trench during a time when the permit holder is unavailable, it may require a fire department detail to attend such unattended trench, that is unprotected by any means provided for in 250 CMR 14.00, to protect the general public, the cost of which shall be assessed to the permit holder.

(d) 128-5. Application.

The provisions of this chapter shall apply to any excavator in the Town of Canton.

(e) 128-6. Violations.

Any person violating this section shall be fined three hundred dollars (\$300.00) for each offense, each day constituting a separate offense. The enforcing persons for this bylaw shall be the Permitting Authority or his designees and any one fire shift commander of the Town of Canton. Non-criminal disposition of violations shall be available to apply to violations pursuant to Article I, General Provisions, Section 2 of the By-Laws of the Town of Canton.

Section 23. Right-Of-Way¹⁶⁻²³

I. Preamble

In partial fulfillment of the obligation to see to the prudential management of the Town's affairs and assets and in light of the continuing technological revolution in telecommunications, the recent passage of the Telecommunications Act of 1996 and the de-regulation of the electric and natural gas industries in the Commonwealth, the Town hereby establishes a comprehensive and fair system of regulation for all entities which desire to use the Town's Rights-of-Way.

II. Introduction

The purpose and intent of this By-Law is to:

¹⁶⁻²³ Inserted under article 28, ATM April 27, 2009.

Provide the Town with accurate and current information concerning all facilities located in the Town's Rights-of-Way together with current information concerning entities owning or controlling the Facilities, and

- a. Permit and manage reasonable access to the public Rights-of-Way on a competitively neutral basis, and
- b. Manage Grants of Location in Public Ways and approve locations to insure that facilities in Rights-of Way do not incommode the public use of Rights-of-Way or endanger or interrupt navigation, and
- c. Conserve the limited physical capacity of the Rights-of-Way held in public trust by the Town, and
- d. Assure that the Town is appropriately compensated when its Rights-of-Ways are utilized by non-governmental entities, and
- e. Assure that the Town's current and on-going costs of granting and regulating private access to and use of the public Right-of- Way are fully paid by the persons seeking such access and causing such costs, and
- f. Assure that the Town can continue to fairly and responsibly protect the public health, safety and welfare.

This by-law is adopted in accordance with the authority granted, inter alia, by Amendment Article 89 to Article II of the Massachusetts Constitution, M.G.L. Chapter 43B section 13, M.G.L. Chapter 40 sections 4, 21 and 22F, and Chapter 85.

III. Definitions

Applicant: Any person or entity, including without limitation implied, Public Utility, Telecommunications Carrier, Local Exchange Carrier or municipal department which owns or exercises general responsibility and control over any Facility.

Application: The written application on a form prescribed by the Awarding Authority executed by the Applicant together with a plan showing the location and details of the Facility in question and the Application Fee by which an Applicant or Co-Locator requests a Right-of-Way Permit.

Application Fee: A fifty dollar (\$50.00) non-refundable processing fee which shall accompany each application for a Right-of-Way Permit.

Attachment: Any device, apparatus, appliance, equipment, wire or cable or other thing including any Telecommunication Facility installed or proposed to be installed on or in any Existing Facility whether by Applicant or Co-Locator or proposed to be installed on any New Facility by Applicant or Co-Locator.

Awarding Authority: The Board of Selectmen of the Town of Canton which has authority to exercise the powers granted by this By-Law.

Co-Locator: Any person or entity other than Applicant who desires to use an Existing or New Facility.

Contractor: All officers or employees of Applicant or Co-Locator who perform or any person or entity engaged by or on behalf of Applicant or Co-Locator to perform construction, repair or maintenance work on Overhead or Underground Facilities owned by Applicant and permitted by the Awarding Authority which are located in the Right-of-Way. The Contractor for purposes of this By-Law and for all questions of liability in connection with any construction, repair or maintenance work on Overhead or Underground Facilities owned by Applicant which are located in the Right-of-Way shall be conclusively deemed an agent of Applicant or Co-Locator for whom Applicant or Co-Locator is fully responsible.

Default: The failure of the Permit Holder (including all Contractors or other agents of Permit Holder) (i) to pay when due any License Rental Payment, if any, (ii) to perform fully any covenant of the License or otherwise fail to comply with any provision of the License Agreement, the Right-of-Way Permit or the By-Law following ten days prior written notice to Licensee from Town (iii) to keep its Certificate of Insurance in full force and effect, or (iv) to provide the service that is outlined in its Application (except for interruptions in service due to Emergency Repair Work) for a period of six consecutive months.

DTE: The Massachusetts Department of Telecommunications and Energy created by Chapter 25 M.G.L. **Effective Date:** The date upon which this By-Law becomes effective.

Emergency Repair Work: Right-of-Way Work which must be commenced immediately to correct a hazardous condition in which the safety of the public is in imminent danger, such as a threat to life or health of the public or where immediate correction is required to maintain or restore essential Public Utility service.

Excess Capacity: The volume or capacity in any Existing Facility that is not being used or is not proposed to be used as part of a concrete plan for the future at the time that an Application is made for a Right-of-Way Permit by an Applicant or Co-Locator.

Existing Facility: An Overhead or Underground Facility which is in existence on the date of the Application for a Right-of-Way Permit.

Facility: Any Overhead or Underground Facility or Attachment thereto including without limitation any utility or other pipe, duct, line, pole, wire, cable, transmission line, conduit, pedestal, wave guide, dish, antenna electronic or other thing located or proposed to be located in, on, above, along, under or across a Right-of-Way.

FCC: Federal Communications Commission.

Grandfathered Facility: An Overhead or Underground Facility in existence on the Effective Date.

Grant of Location: Permission granted by the Awarding Authority of the Town to a Public Utility, in order to conduct its Regulated Activities, to locate poles, piers, abutments or conduits or attachments thereto or railway routes on, in, above, along, under or across a Public Way in accordance with the procedures set out in M.G.L. Chapter 166 section 22, Chapter 161 section 70, Chapter 162 section 8 and with this By-Law.

Grant of Location Applicant: An Applicant or Co-Locator which is a Public Utility conducting a business described in section 21 of Chapter 166 of the Massachusetts General Laws.

Highway Superintendent: That individual, appointed or elected in accordance with Chapter 41, sections 1, 66 or 69E of the M.G.L.

Inspector of Wires: That individual appointed by the Town to fulfill the responsibilities set out in M.G.L. Chapter 166 section 32.

License Agreement: An Agreement between the Town and an Applicant owner of a Facility setting forth detailed contractual terms and obligations of the owner of a Facility and entered into incident to the grant of a Right-of-Way Permit.

License Rental Payment: The one-time or annual dollar amount to be paid by an Applicant to the Town, as the Town and an Applicant and/or Co-Locator may agree upon, if any, for the use of the Right-of-Way for an Overhead Facility or Underground Facility.

Licensed Contractor: A Contractor who holds a current and valid Public Works Construction License issued by the Awarding Authority.

Local Exchange Carrier: Every person or entity that directly or indirectly owns, controls, operates and manages plant, equipment or property within the Town used or to be used for the purpose of offering telephone service and which is licensed by the FCC and certified by the DTE under C. 159 M.G.L. as a local exchange carrier.

Measurable Interference: Interference as defined by FCC Regulations (47 C.F.R) which affects the Telecommunications Services provided by a Permit Holder.

Modification: A material physical change to an Existing Facility such that its use or capacity is materially altered.

New Facility: An Overhead or Underground Facility or an Attachment that has not yet been constructed but that is proposed and described in an Application for a Right-of-Way Permit.

Normal Working Hours: 8:00 A.M. to 3:30 P.M., Monday through Friday, excluding holidays.

Overhead Facility: Any tower, Telecommunication Facility and Pole including Poles and Overhead Wires and Associated Overhead Structures including Attachments located or proposed to be located above the surface of the Right-of-Way including the underground supports and foundations for such facilities.

Permit Holder: An Applicant or Co-Locator to whom a Right-of-Way Permit has been granted.

Permit Term: The period commencing on the date of filing of an Application and ending upon the revocation of a Right-of-Way Permit.

Planning Board: The Planning Board of the Town of Canton.

Pole or Poles and Overhead Wires and Associated Overhead Structures: poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cut-outs, switches, communication 'circuits, appliances attachments, and appurtenances located above ground, upon, along or across any Public Way or private ways of the Town and used or useful in the transmission of intelligence by electricity or otherwise, or for the transmission of television signals, whether by electricity or otherwise, or for the transmission of electricity for lighting, heating or power, or for the construction or operation of a street railway or an electric railroad; provided, that said phrase shall not mean or include any of the following: poles, towers, overhead wires and associated overhead structures used exclusively in the transmission but not the distribution of electricity; poles used exclusively for police and fire alarm boxes or any similar municipal equipment installed under the supervision and to the satisfaction of the engineer of the municipality; wires (exclusive of supporting structures) crossing any portion of any underground utility district from which overhead wires have been prohibited, or connecting to buildings on the perimeter of such portion, when such wires originate in an area from which poles and overhead wires and associated overhead structures are not prohibited; overhead. wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the same building or to an adjacent building without crossing any public Right-of-Way; radio antennas, their associate equipment and supporting structures used by a utility for furnishing communication services; and service terminals including transformers in pedestals above ground used to distribute electric or communication service in underground systems.

Pole Attachment: An Attachment which is a wire or cable for transmission of intelligence by telegraph, telephone or television, including cable television, or for the transmission of electricity for light, heat, or power or for the transmission of Telecommunications Services and any related device, apparatus, appliance or equipment installed upon any Pole or in any telegraph duct or conduit owned or controlled in whole or in part by one or more Public Utility.

Public Utility: A gas and electric company subject to M.G.L. Chapter 164, telephone and telegraph company subject to M.G.L. Chapter 166, cable TV

company subject to M.G.L. Chapter .166A, water and aqueduct company subject to M.G.L. Chapter 165, or street railway subject to M.G.L. Chapter 161 or electric railroad subject to M.G.L. Chapter 162.

Public Utility Use: The use of a Facility by a Public Utility during the Permit Term in conducting its Regulated Activities but not including any non-Public Utility use by such Public Utility or any use by a non-regulated affiliate of a Public Utility or any other use by any other person or entity.

Public Way: Any road (including such appurtenances as berms, curbs, drains, sewers, water mains, sidewalks and paved and unpaved shoulders within the paper layout) to which the public has access and that the Town is responsible for maintaining.

Public Works Construction License: A license required of all Contractors who are not officers or employees of a Public Utility or of a municipal department who wish to perform Street Opening Work in the Public Ways of the Town.

Regulated Activities (of Public Utilities): The transmission of natural gas and electricity by a gas or electric Company subject to M.G.L. Chapter 164, the transmission of voice or telegraph messages by a telephone and telegraph company subject to M.G.L. Chapter 166, the transmission of video broadcasts by television or cable television (including other, activities deemed incidental thereto by federal law) subject to M.G.L. Chapter 166A, the provision of street railway services subject to M.G.L. Chapter 161 or transportation by electric railroad subject to M.G.L. Chapter 162.

Right-of-Way: The surface and space on, along, above and below any real property which is a Public Way or other way in which the Town has an interest in law or equity, whether held in fee or other estate or interest, or as trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, river, tunnel, viaduct, bridge, park, skyway, or skyway bridge.

Right-of-Way Permit: A permit granted by the Awarding Authority to an Applicant for permission to construct, to repair and maintain, and to use Overhead and Underground Facilities that it owns and which are located or to be located in the Right-of-Way. Also a Permit granted by the Awarding Authority to a Co-Locator for an Attachment to a New or Existing Facility.

Right-of-Way Work: Any construction, repair or maintenance of utility or other pipes, ducts, lines, poles, wires, cables, conduits, pedestals, antennas, dishes, electronics or other thing located in, on, above, under or across a Right-of-Way.

Street Opening Work: Any cutting, excavating, compacting, construction, repair or other disturbance in or under a Public Way together with restoration of the Public Way in accordance with the Town's Street Opening By-Law following such

disturbance but excluding the location or relocation of utility poles for which a Grant of Location has been obtained pursuant to M.G.L. Chapter 166 section 22.

Telecommunications: The transmission between or among points specified by the user of information of the user's choosing without change in the form or content of the information as sent and received.

Telecommunications Carrier: Every person or entity that directly or indirectly owns, controls, operates or manages plant, equipment or property within the Town used or to be used for the purpose of offering Telecommunications Service and which is licensed by the FCC and certified by the DTE under C. 159 M.G.L. as a Telecommunications common carrier.

Telecommunications Facility: A Facility other than customer premises equipment used by a Telecommunications Carrier to provide Telecommunications Service and includes software integral to such equipment (including upgrades), cables, wires, lines, wave guides, electronics, dishes and antennas.

Telecommunications Service: The offering of Telecommunications for a fee directly to the public or to such classes of users as to be effectively available directly to the public regardless of the Telecommunications Facilities used.

The Telecommunications Act of 1996: Public Law 104-104 - Feb. 8, 1996. 110 Stat. 57.

Town: The Town of Canton.

Transmission Line: Lines and associated structures used for the transmission of electric energy sold, or to be sold, at wholesale in interstate commerce.

Underground Facility: Any pipe, duct, line and conduit and Telecommunications Facility or other thing including Attachments located or proposed to be located under the surface of the ground but excluding the underground foundations or supports for Overhead Facilities.

Usable Space: The total usable capacity of any Overhead or Underground Facility located in the Right-of-Way as reasonably determined by the Awarding Authority.

IV. Necessity Of A Permit

No work in, on, under, along, above or across a Right-of-Way or use of a Right-of-Way shall commence until the Applicant and any Co-Locator each shall have submitted to the Town an Application for a Right-of-Way Permit and obtained from the Awarding Authority a Right-of-Way Permit. Applicants with Grandfathered Facilities and any Co-Locator with Grandfathered Facilities located in the Right-of-Way shall be deemed to have applied for and been granted a valid Right-of-Way Permit for the Permit Term for such Facilities and to

be subject to all of the provisions of the License Agreement substantially in the form set forth below.

An Applicant or Co-Locator which wishes to continue to use a Grandfathered Facility after the expiration of the Permit Term or such Grandfathered Facility's useful life (as determined by the Awarding Authority) each must file an Application and treat such Facility as a New Facility. From and after the Effective Date, Applicant or Co-Locator must also obtain a Right-of-Way Permit for any modification of or new Attachment to a Grandfathered Facility.

Any Applicant or Co-Locator who is using a Grandfathered Facility for any purpose other than a Public Utility User must notify the Town of such use of each such facility within 120 days after the Effective Date. Any Applicant or Co-Locator which after the Effective Date wishes to make a use of its Grandfathered Facility which is not a Public Utility Use must, prior to commencing such use, apply for and obtain a Right-of-Way Permit for such non-Public Utility Use.

Traffic lights, fire hydrants, mail boxes and intrusions in the Right-of-Way that are accessory uses to the primary use of the property such as awnings, balconies, over-hanging signs and sidewalk cafes are exempted from this By-Law.

Prior to the Town accepting a private way as a Public Way, such Applicant with a Facility located in, on, under or across the private way and each Co-Locator using such Facility including a Co-Locator Public Utility shall apply for and obtain a Right-of-Way Permit from the Awarding Authority.

A Public Utility that is petitioning for a Grant of Location in accordance with Ch. 166 section 22, Ch. 161 section 70 or Ch. 162 section 8 of the M.G.L. as part of its Application for a Right-of-Way Permit shall so indicate on the Application. A Right-of-Way Permit granted to a Public Utility for a Facility to the extent of Public Utility Use shall constitute a Grant of Location as well.

Except for Transmission Lines, in the event that all of the Usable Space of Existing Overhead Facilities has been used up, the Town may in its reasonable discretion require that the Applicant construct New Underground Facilities.

All construction work contemplated by this By-Law shall be done in a good and workmanlike manner using best engineering and construction practices and shall be done in accordance with (i) all applicable laws and regulations, (ii) all of the provisions of this By-Law, and (iii) any conditions contained in the Right-of-Way Permit. Without limiting this By-law in any manner, work that involves Street Opening Work must comply with the Town's Street Opening By-Law.

No person or entity may perform any work in or under a Right-of-Way unless it is a Permit Holder and (i) is a municipal department, Public Utility, Telecommunications Carrier or Local Exchange Carrier or their respective officers or employees or (ii) has engaged a Licensed Contractor and such holder performs all such Right-of-Way Work as agent of Permit-Holder.

V. Requirements Of Application

A. Information Required of All Applicants and Co-Locators

Applicants or Co-Locators seeking a Right-of-Way Permit shall file on forms designated by the Awarding Authority a completed and signed Application at the office of the Awarding Authority which shall include the following information:

1. The identity and legal status of the Applicant or Co-Locator including any parent or affiliated corporation.
2. The address and telephone number of the corporation and the name of the officer, agent or employee responsible for the accuracy of the Application.
3. If a Public Utility (or municipal department), the federal identification number of the entity. All others must in addition specify their FCC license number and submit evidence of certification by the DTE.
4. A general description of Applicant's Existing Overhead or Underground Facilities within the Town that it is using to provide service and the service that it is currently providing.
5. A detailed description of the service that Applicant or Co-Locator intends to offer or provide to persons, firms, businesses or institutions within the Town and whether the use of the Facility to provide the service will constitute a Public Utility Use.
6. A detailed description of the Underground or Overhead Facilities Applicant or Co-Locator intends to use or construct, their useful life and full dimensions of the proposed Facility including but not limited to the following: height of Poles, number of wires and their diameter, height of wires above the Right-of-Way, voltage of electric transmission lines, diameter of mains and conduits.
7. Maps or plans showing the exact location of the Existing or proposed New Facility in the Right-of-Way using engineering metes and bounds, street names and intersecting street names. Show a north arrow.
8. A statement as to whether New Facilities will be built or Existing Facilities will be used and who is the Applicant with respect to such Facility.
9. In the case of a Co-Locator seeking a Permit for an Attachment to a Facility the Applicant of which is exempt in whole or part from the obligation to make a License Rental Payment for the Facility as provided herein, if any, such application shall be made jointly by Applicant and Co-Locator. Each must sign the application and Applicant must acknowledge in a writing in form and substance satisfactory to the Town, its obligation to pay the amount, if any, as a License Rental Payment due the Town in respect of such Attachment.
10. The names of Co-Locators who share or will share the Facility. Applicants must provide evidence that Co-Locators have received their own Right-of-Way Permit and identify all pending Co-Locator Applications.
11. Evidence that Applicant or Co-Locator has obtained all other governmental approvals and permits needed to use Existing Facilities and to offer or provide services.

B. Petitions for Grants of Location

Applicants or Co-Locators that are Public Utilities and that are seeking a Grant of Location as part of the Right-of-Way Permit shall also provide the following information as part of the application:

1. A statement as to the purpose for constructing the New Facility or make an Attachment to an Existing Facility.
2. A list of abutters' names and addresses.
3. The kind, size and tested strength of supporting or service wires for Poles.
4. The maximum voltage that will be transmitted over wires and the maximum cubic feet of gas that will be transported through mains.
5. The size and pressure of gas mains and what the main is made of.
6. A list of all posts, Poles or other supports of wires included in the Grant of Location.
7. The number of cross arms in use with each Pole and the number of wires that are already attached thereto and the number of wires that are proposed.
8. The location of conduits and manholes in relation to the Existing Underground Facilities and proposed New Underground Facilities.

C. Applicants for New Facilities Must Submit Additional Information.

If New Facilities are to be constructed, Applicant must submit the following additional information as part of the Application:

1. Preliminary engineering plans, specifications and a Site Plan of the facilities to be located within the Right-of-Way at a scale of one inch equals forty (40) feet which shall show (i) all property lines, (ii) the exact location of the proposed New Facilities, and (iii) Existing Facilities, streets, landscape features, residential dwellings, and all buildings located within five hundred feet (500') of the New Facility prepared by a Registered Professional Engineer or other qualified professional.
2. A network map showing the location and route of the New Facilities superimposed on the Public Ways of the Town on a scale of one inch equals one hundred feet (100') prepared by a Registered Professional Engineer or other qualified professional.
3. The location of all Existing Facilities of Applicant and any Co-Locator located along the proposed route.
4. The specific trees, structures, improvements, facilities and obstructions, if any, that Applicant proposes to temporarily or permanently remove or relocate.
5. Evidence as to what, if any, Excess Capacity is available for Attachments to Existing Facilities located along the proposed route with a specification of how much Excess Capacity will exist after the installation of the New Facility. If co-location is not proposed, an affidavit attesting to the fact that Applicant made diligent but unsuccessful efforts to obtain permission to install or co-locate New Facilities on Existing Facilities, the reason for the denial of co-location' and whether an appeal to the DTE has been adjudicated.

6. If New Facilities are to be constructed, the Excess Capacity that will exist in or on them after their installation and use by the Applicant and any identified Co-Locator.
7. The useful life of the Proposed Facility or Attachment
8. Information as to the type and frequency of any Telecommunications Equipment that will be installed.
9. A preliminary construction schedule and completion date.
10. Financial statements prepared in accordance with generally accepted accounting principles demonstrating Applicant's financial ability to construct, operate, maintain, relocate and remove the proposed Facilities.
11. Information in sufficient detail to establish Applicant's technical qualifications, experience and expertise regarding the Facilities to be constructed and operated.
12. Evidence that Applicant has obtained all other governmental approvals and Permits needed to construct the New Facilities, including but not limited to any necessary Street Opening Permits.
13. The name of the Licensed Contractor who will perform the construction work or a copy of the Public Works Construction License that Applicant has obtained from the Town.
14. An Application Fee.
15. A Certificate of Insurance in coverages as specified in Section VI-J of this By-Law.
16. Such other and further information related to the construction and use of a Facility as may be reasonably required by the Awarding Authority in its form Application.

VI. Application Procedure

Upon receipt of a completed and signed Application, it will be forwarded to the Highway Superintendent, Planning Board and the Inspector of Wires for review. The Highway Superintendent, Planning Board and Inspector of Wires shall promptly review the Application and make written recommendations concerning approval to the Awarding Authority and, if appropriate, shall include recommendations concerning permit conditions and supplemental instructions.

If the Application involves the construction of New Facilities, the modification of Existing Facilities or a program of Attachments the total construction cost of any of the foregoing is estimated to exceed one million dollars, the Town and Applicant may enter into an agreement for the Applicant to reimburse the Town for the reasonable cost of engineering review by the Town's consultant of the plans submitted. In such a case, Applicants shall submit a deposit to secure the cost of this review which will be held in a segregated account in accordance with C. 44 section 53G of the Mass. General Laws.

If the Right-of-Way Application includes a Petition of the Applicant for a Grant of Location, the Awarding Authority shall promptly schedule a public hearing and, if required by statute, publish a public notice of the hearing. Owners of property abutting the property on which the New Facility is proposed will be notified by the

Town at least fourteen days prior to the public hearing and given the opportunity to speak at the public hearing and present evidence.

The Awarding Authority shall review the Application, any evidence presented at a Grant of Location public hearing and the recommendations received from the Highway Superintendent, Planning Board and Inspector of Wires and make a prompt determination on the Application taking into account the recommendations received, testimony and evidence presented if any, and such other facts as it may reasonably consider such as:

- A. The likelihood that the New Facility will incommode the public use of public ways or endanger or interrupt navigation.
- B. The financial and technical ability of the Applicant or Co-Locator to construct New Facilities or to use the Right-of-Way.
- C. The capacity of the Right-of-Way and the Existing Facilities thereat to accommodate the proposed New Facilities, modifications or Attachments.
- D. The capacity of the Right-of-Way and the Existing Facilities thereat to accommodate additional New Facilities if the Permit is granted.
- E. Potential damage or disruption (including Measurable Interference with Telecommunications Services) to Existing Facilities, or public property if the Permit is granted.
- F. The effect, if any, on public health, safety and welfare if the Permit is granted.
- G. The availability of alternate routes and/or locations for the proposed New Facilities.
- H. Applicable federal and state laws and Town by-laws which might prohibit or affect the Permit if granted.

If the Application is considered favorably, a Right-of-Way Permit containing such conditions and supplemental instructions regarding the location and installation of Facilities as the Awarding Authority reasonably deems appropriate shall promptly be issued upon the satisfaction of any conditions precedent, which the Awarding Authority may establish. If the Application is not favorably considered, the Awarding Authority shall communicate in writing to Applicant or Co-Locator the reasons its Application was not favorably considered.

If a Grant of Location has been requested as part of the Application for a Right-of-Way Permit and the Application has been considered favorably, the Right-of-Way Permit shall also constitute an Order Granting the Location. The Grant of Location will specify where the New Facility or Attachment may be placed, and (with the exception of Grants of Location for Transmission Lines) the kind of Poles, piers or abutments which may be used, the number of wires or cables which may be attached thereto, the height to which the wires or cables may run and the maximum voltage between conductors to be carried through same. Grants of Locations for Poles are limited to one Pole per Location. The Grant of Location may contain such other conditions and supplemental instructions as the Awarding Authority reasonably deems appropriate.

VII. Terms Of The Right-Of-Way Permit

A. Conditions of Permit.

All Right-of-Way Permits granted are conditioned upon 1) the Applicant having obtained and submitted to the Awarding Authority, prior to construction and installation of its New Facilities, a Bond as required in sub-section (K)(2) hereafter, and 2) the execution and delivery of a Town of Canton Right-of-Way License Agreement substantially in the form set forth below and otherwise in form and substance satisfactory to the Awarding Authority.

B. Permit Term

Rights-of-Way Permits shall be valid for the period commencing on the date of filing of an Application and ending upon the Revocation of a Right-of-Way Permit. A Permit Holder desiring to continue to use the Facility after the expiration of the Permit Term shall not more than 180 days nor less than 90 days before expiration of the current Permit file an Application with the Town for a Permit as though the Existing Facility were a proposed New Facility. Each Co-Locator must also file for a new Permit.

C. Revocation of Permits.

Except to the extent that a Right-of-Way Permit also constitutes a statutory Grant of Location and current law limits the ability of the Awarding Authority to revoke a Grant of Location, the Awarding Authority during the Permit Term may revoke a Right-of-Way Permit granted hereunder after notice and hearing if it shall reasonably determine that (i) Permit Holder is in Default (ii) Permit Holder fails to construct the Facilities for which a Permit was granted within six months of the granting of the Permit (iii) Permit Holder has failed to relocate its Facility or Attachment to a new location within the designated time following an order from the Awarding Authority to relocate such Facility or Attachment or (iv) if the Awarding Authority" determines that public necessity and convenience requires the revocation of a Grant of Location held by a street railway. The Permit-Holder shall be given not less than ten days prior written notice of the time and place of the hearing on revocation and shall have the opportunity at the public hearing to present evidence.

D. Removal of Facilities.

Following revocation of the Permit or the expiration of the Permit Term without an application to continue to use the Facility unless then existing statutes shall require a different result and, if ordered by the Town, Permit Holder shall cease using the Right-of-Way. Permit Holder shall remove all of its Overhead and Underground Facilities from the Right-of-Way and restore the area to its original condition within six months following expiration or revocation of the Permit. In the event that the Permit Holder fails to remove its Facilities, the Awarding Authority may treat such as abandoned property and, among other remedies, remove the Facilities and restore the area at the owner's sole cost and expense.

E. Removal of Unauthorized Facilities.

The location of any Overhead or Underground Facility covered by a Right-of-Way Permit may be changed by order of the Awarding Authority if it determines in its reasonable discretion that public necessity, the incommoding of the public's use of the public ways or public endangerment or interruption of navigation requires relocation of the Facility. Except for Emergency Repair Work, Applicant is required to notify all Co-Locators upon receiving an order to relocate the Facility from the Awarding Authority. Applicant and all Co-Locators shall, at their own expense, relocate their Facilities to such location as shall have been approved by the Awarding Authority within ninety days of the receipt of the order of the Awarding Authority. Upon relocation Applicant shall promptly supply Awarding Authority with "as built" plans of the relocated Facility. Following the transfer of the Facility and any Attachments from the Existing Facility to the New Facility, the Existing Facility shall be removed from the site within ninety days from the date of completion of the transfer.

Except to the extent allowed by law and unless directly and proximately caused by the willful, intentional or malicious acts by the Town, the Town shall not be liable for any damage to or loss of any Overhead or Underground Facility located in the Right-of-Way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling or work of any kind in the Right-of-Way by or on behalf of the Town. Rights-of-Way Permits and Grants of Location for Facilities that have been ordered to be relocated will be amended to reflect the new location once the Facilities have been re-located.

F. Re-Location of Facilities due to Public Necessity

The location of any Overhead or Underground Facility covered by a Right-of-Way Permit may be changed by order of the Awarding Authority if it determines in its reasonable discretion that public necessity requires relocation of the Facility. Except for Emergency Repair-Work, Applicant is required to notify all Co-Locators upon receiving an order to relocate the Facility from the Awarding Authority. Applicant and all Co-Locators shall, at their own expense, relocate their Facilities to such location as shall have been approved by the Awarding Authority within ninety days of the receipt of the order of the Awarding Authority. Upon relocation Applicant shall promptly supply Awarding Authority with "as built" plans of the relocated Facility. Following the transfer of the Facility and any Attachments from the Existing Facility to the New Facility, the Existing Facility shall be removed from the site within ninety days from the date of completion of the transfer.

Unless directly and proximately caused by the willful, intentional or malicious acts by the Town, the Town shall not be liable for any damage to or loss of any Overhead or Underground Facility located in the Right-of-Way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling or work of any kind in the Right-of-Way by or on behalf of the

Town. Rights-of-Way Permits and Grants of Location for Facilities that have been ordered to be relocated will be amended to reflect the new location once the Facilities have been re-located.

G. Assignment of Facilities

Except to the extent that Section 15B of Chapter 166 of the Massachusetts General Laws and other current law limits the ability of the Town to transfer a Right-of-Way Permit, a Right-of Way Permit is not assignable. If a Permit-Holders transfers ownership or use of its Facilities to another entity, such entity must apply for and receive its own Permit in accordance with this By-Law.

H. Non-exclusive grant

No Permit granted under this By-Law shall confer an exclusive right, privilege, license or franchise to occupy or use the Right-of-Way of the Town for delivery of services or any other purposes. No Permit granted under this By-Law shall convey any right, title or interest in the Right-of-Way but shall be deemed a license to use and occupy the Right-of-Way in accordance with the terms of this By-Law and the Town of Canton Right-of-Way License Agreement. Further, no Permit shall be construed as a warranty of title. A Permit granted shall be limited to a license to use only that specific portion of a Right-of-Way as specified in the Plan that accompanies the Application and in any Permit or License Agreement.

I. Co-Location of Facilities

Issuance of a Right-of-Way Permit may be conditioned upon the agreement of the Applicant to make Excess Capacity available to the Town. The Town reserves the right to place, free of charge, signal circuits, signal supply circuits and the equipment attached to these circuits belonging to the Town and used by it exclusively for municipal purposes on or in all Existing Facilities with Excess Capacity and on or in New Facilities then owned or controlled by an Applicant which is a Public Utility and shall be allowed access whenever necessary to place, maintain or remove its wires and cables.

J. Insurance

The Permit Holder shall acquire and continuously maintain while it possesses a Right-of-Way Permit liability insurance coverage on all personnel and equipment used to construct, operate, maintain and repair the Overhead and Underground Facilities located within the Right-of-Way. This insurance must be with insurance companies licensed to do business in the Commonwealth of Massachusetts and shall contain the following coverages and be in the following minimum amounts:

Commercial General Liability Insurance- including operation, independent contractors, complete operations for a period of one (1) year from completing the street opening work, XCU hazards, broad form property damage and personal injury.

General Aggregate:	\$ 2,000,000.00
Products and complete operations	
Aggregate	\$ 2,000,000.00
Each occurrence	\$ 1,000,000.00
Combined single limit	\$ 1,000,000.00

Automobile Liability Insurance (covers owned, non-owned and hired vehicles)	
Bodily Injury Liability	\$ 500,000.00 each person
	\$ 1,000,000.00 each accident
Property Damage Liability	\$ 250,000.00 each accident
Combined Single Limit	\$ 1,000,000.00

Worker's Compensation and Employer's Liability	
Each Accident	\$ 100,000.00
Disease- Policy Limit	\$ 500,000.00
Disease- each Employee	\$ 100,000.00

Certificates of Insurance shall provide for at least thirty (30) days notice to the Awarding Authority of cancellation or material change. The name of the municipality shall be listed as an additional insured on the Certificate of Insurance.

K. Construction Requirements

1. All Permit Holders are required to obtain a Building and Electrical Permit (if applicable), and (except for Poles and Attachments thereto) a Street Opening Permit from the Awarding Authority. Once commenced, construction shall proceed at an uninterrupted and consistent pace so that the Right-of-Way Work described in the Permit will be completed within a reasonable time.
2. Before commencing construction, Permit Holders shall submit to the Awarding Authority a Performance Bond, with corporate surety satisfactory to the Awarding Authority, in an amount equal to the value of the construction which shall, assure: the satisfactory completion of installation and commencement of operation of the system in accordance with the terms of the Permit, , and the satisfactory restoration of adjoining property and public property in accordance with the provisions of this By-Law. This bond shall be maintained in force until one year after the completion of the construction work.
3. Construction of New Facilities must conform to the plan accompanying the Application and to the terms of the Permit and License Agreement All Right-of-Way Work must conform to the Americans with Disabilities Act and the Architectural Access Board Regulations as currently in effect
4. Right-of-Way Work shall comply with the following:
 - a. Working Hours. Except for Emergency Repair Work, Right-of-Way Work shall occur during Normal Working Hours. Permit Holder must give notice of the intended Right-of-Way Work seventy-two hours in advance to the

Highway Superintendent and unless the requirement for a police detail is waived by the Police Chief of the Town, must manage for and pay for a police detail to be present throughout the period of time that the Right-of-Way Work is being conducted.

- b. **Obligation to Locate Existing Facilities.** Permit Holder or Contractor must inform itself as to the existence and location of all Existing Facilities located in the same general area as the New Facilities are to be located and must confer with the owners thereof in order to obtain information as to the vertical and horizontal locations of the Facilities and other conditions that might affect the Right-of-Way Work.
- c. **Non-Interference with Existing Facilities.** Permit Holder or Contractor shall not interfere with an Existing Facility without the written consent of the Awarding Authority and the owner of the Existing Facility. If it becomes necessary to relocate an Existing Facility to accommodate the New Facility, this shall be done by its owner and the cost of such work shall be borne by the Permit Holder.
- d. **Dig Safe.** Permit Holder shall, in accordance with Chapter 164 section 76D of the M.G.L., notify all Public Utilities seventy-two hours in advance of making any excavation in a Public Way. Such notification shall be made by means of obtaining a DIG-SAFE number. Said number shall be provided on the Street Opening Application.
- e. **Protection of Existing Facilities.** Permit Holder or Contractor shall adequately support and protect by timbers, sheeting etc. all Existing Overhead or Underground Facilities which may be in any way affected by the Right-of-Way Work and shall do everything necessary to support, sustain and protect them under, over, along or across such work area. Excavation work shall be performed and conducted in such manner that it shall not interfere with access to fire stations, fire hydrants, water gates, underground vaults, catch basins nor to any other public structure, fixture or improvement to the extent access to such other public structure, fixture or improvement is necessary for the protection of the safety, health or welfare of the public.
- f. **Adjoining Property.** Permit Holder or Contractor shall, at all times at its own expense, preserve and protect from injury any adjoining property and shall take such precautions as may be necessary for this purpose. Permit Holder shall be responsible for all damages to public or private property or streets resulting from its failure to properly protect and carry out the Right-of-Way Work to the extent allowed by law and shall restore all such adjoining property to the condition that existed immediately prior to the performance of any Right-of-Way Work.
- g. **Trees.** Permit Holder or Contractor shall not remove, even temporarily, any trees or shrubs which exist in the Right-of-Way Work area without first obtaining the consent of the Town. In the event a tree is either accidentally destroyed by the Permit Holder or Contractor or is authorized for removal by the Town, Permit Holder or Contractor shall remove the tree, stump and debris from the work site and replace the tree with an identical species with a minimum caliper of two inches in the identical location.

- h. Excavated Material. Permit Holder or Contractor shall remove all excess excavated material, surplus, water, muck, silt, residue or other run-off pumped or removed from excavations from the Right-of-Way Work site.
- i. Temporary Repairs of Underground Facilities. At the end of each day, all trenches must be plated if repair work is not completed. No un-plated trenches are permitted overnight and work in plated trenches must be continually prosecuted to completion to minimize the time trenches are plated.
- j. Noise. Permit Holder or Contractor shall perform the Right-of-Way Work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. During the hours from 10:00 P.M. to 7:00 A.M. Permit Holder or Contractor shall not use, unless otherwise specifically permitted by the Awarding Authority any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.
- k. Debris and Litter. All debris and litter remaining from the Right-of-Way Work site shall be removed by the, Permit Holder or Contractor in a timely manner.
- l. Lawn Surfaces and Plantings. All lawn surfaces which are disturbed during Right-of-Way Work shall be replaced with sod or six (6) inches of screened loam, lime, fertilized and re-seeded with good quality lawn seed. Any areas containing plantings shall be restored to their original condition with the same or similar plantings.
- m. Erosion Control. Permit Holder shall be responsible for all erosion control and for obtaining any necessary permits from the Town. Permit Holder or Contractor shall protect drainage structures from siltation by whatever means required including but not limited to the installation of hay bales and/or filter fabric. In the event that a drainage structure becomes damaged from siltation as a result of the Right-of-Way Work, Permit Holder or Contractor shall clean the structure before completing the Right-of-Way Work.
- n. As Built Plans. Within 30 days following completion of construction of New Facilities, Permit Holder shall file with the Awarding Authority complete As-Built Plans of the New Facilities including an accurate map certifying the location of all Facilities within the Right-of-Way prepared by a Registered Professional Engineer or other qualified professional.
- o. Tree trimming. Permit Holders who own and maintain Overhead Facilities are responsible for trimming trees or other vegetation growing in the Right-of-Way to prevent their branches or leaves from touching or otherwise interfering with the Overhead Facility. All trimming or pruning shall be at the sole expense of the Permit Holder and performed under the supervision of the Town.

L. Emergency Repair Work

When notified by the Town, Permit Holder is required to respond to calls for Emergency Repair Work within two hours of the notice and to commence repairs immediately upon arrival at the site.

M. Maintenance.

Permit Holder shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures of Overhead or Underground Facilities and accidents which are likely to cause damage, injuries or nuisances to the public. Owners of Poles shall, upon the receipt of written notice served by the Inspector of Wires, promptly make such substitution or repairs of such Poles, wires, posts, supports or attachments as may be required by the Inspector of Wires.

VIII. Rental Payments

To the extent the Town and an Applicant holding a Right-of-Way Permit for a Facility may agree, an Applicant holding a Right-of-Way Permit for a Facility shall make a License Rental Payment to the Town for the non-exclusive right to use certain Rights-of-Way in the Town of Canton.

IX. Appeals

A person or entity aggrieved by a decision of the Awarding Authority under this By-Law may appeal such decision to the appropriate court of competent jurisdiction or, to the extent applicable law provides, to the DTE or the FCC.

X. Severability

If any clause, section, or other part of this By-Law shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this By-Law shall not be affected thereby but shall remain in full force and effect.

XI. Exemption For Licensed Cable Operators

Notwithstanding any provision of this By-Law to the contrary, any Applicant that holds a valid license issued by the Town pursuant to G.L. c. 166A, § 3 (a "CATV License") shall be exempt from, and shall not be required to submit to the Town an Application for permission to install, maintain or operate Facilities legally authorized by such Applicant's CATV License or otherwise to comply with the provisions of this By-Law to the extent such Applicant's CATV License authorizes the Applicant to install, maintain and operate its Facilities in the Town and provided that such Applicant remains in compliance with all the requirements and conditions of its CATV License, G.L. c. 166A and applicable regulations of the DTE.

ARTICLE XVII ¹⁷

SECTION 1: HAZARDOUS MATERIALS

Subsection 1: Authority

This By-Law is adopted by the Town of Canton under its home rule powers, its police powers to protect the public health and welfare, and its authorization under M.G.L., Chapter 40, Section 21.

Subsection 2: Purpose

This By-Law is intended to protect the public health, safety and welfare, and the environment; as well as preserve and maintain the existing and potential groundwater supply, groundwater recharge areas, and surface waters within the Town from contamination with hazardous materials.

Subsection 3: Definitions

The following definitions shall apply in the interpretation and implementation of this By-Law.

Hazardous Materials means a product or, waste or combination of substances which because of quantity, concentration, or physical, or chemical, or infectious characteristics may reasonably pose, in the determination of the enforcing authority, a substantial present or potential hazard to the human health safety or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance which may create a special hazard in the event of a spill, leak, fire, or exposure and all substances deemed a hazardous waste in M.G.L., Chapter 21C shall also be considered a hazardous material for the purpose of the By-Law.

Contingency plan means a document setting an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous materials which could threaten public health, safety, or welfare, or the environment.

Discharge means the disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment.

¹⁷ This article was inserted under article 26 ATM 1983.

Materials Safety Data Sheet means the form containing data on physical characteristics, flammability, explosivity, reactivity, and the health and safety hazards of specific chemicals, as well as information relative to procedures recommended for spills and leaks of specific chemicals and special protections and precautions to be taken in the handling of specific chemicals.

Reportable Discharge means all discharge greater than three gallons liquid volume or five pounds dry weight, or any discharge which would potentially threaten the public health and safety or the environment by entering surface water, ground waters, or water recharge areas, or by emitting toxic fumes or gases into the air. Discharges which are in compliance with all Federal, State, and local regulations, or which are permitted by governing Federal, State, or local agencies are not considered reportable discharges.

Subsection 4: Severability

Each provision of this By-Law shall be construed as separate to the end, that if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

Subsection 5: Hazardous Materials Not Subject to Regulation By This By-Law

The following materials are not within the scope of authority of this By-Law:

1. Domestic Sewage
2. Household waste including garbage, trash and septage from single and multiple residences, hotels and motels.
3. Wastes generated from the growing of agricultural crops and the raising of animals, including manure which are returned to the soil as fertilizer.

Subsection 6: Registration Requirements

Every owner, or operator of a commercial or industrial establishment (including municipal, state, and federal operations) which stores, transports, uses, handles, or otherwise manages hazardous materials, (excluding fuel oil stored for the purpose of heating buildings located on site) totaling more than fifty gallons liquid volume or twenty-five pounds dry weight shall register with the Board of Health.

Registration includes the following:

- (1) Submission of a map or written description locating areas where hazardous materials are stored, handled, or in use, specifying approximate average quantities of materials in each location and the special handling required in a fire, leak, spill, or exposure. Areas must also be identified which store emergency equipment including medical supplies, along with a brief description of the capabilities of the equipment.

This map or written description must also be posted in one of the following on site locations: (a) Guard Shack, (b) Fire Alarm Box (c) Sprinkler Riser, (d) Other location acceptable to the Head of the Fire Department. The location of this posting must be specified during registration.

- (2) Submission of names, addresses, and telephone numbers of all qualified "Emergency Coordinators" who are individuals identified by owners or operators of commercial or industrial establishments which must register in accordance with this By-Law. "Emergency Coordinators" must be knowledgeable in the types of hazardous materials used at the establishment, proper storage and handling of those materials, familiar with the establishment emergency contingency plan, and authorized as on-site coordinator in the event of any emergency.
- (3) Keep on file at all times in an on-site location known and acceptable to all "Emergency Coordinators", Materials Safety Data Sheets on all hazardous material manufactured, stored, or used at the establishment. These Materials Safety Data Sheets must be available to the Board of Health and the Head of the Fire Department during routine inspections, investigation, and in the event of an emergency.
- (4) Keep on file at all times in an on-site location known and accessible to all "Emergency Coordinators" an Emergency Contingency Plan which identifies "Emergency Coordinators" and details the area where and ways in which an emergency could come about, the techniques and procedures to be used for prevention and control of such emergencies, the emergency equipment available on-site, outside agencies and organizations who should be notified and/or may provide services in an emergency, an evacuation plan for personnel, and an inventory of the types, approximate quantities, and methods of storage, transportation, and disposal of all hazardous material.

Subsection 6.1. Effective Date of Registration Requirements

- (A) Registration required by subsection 6 shall be initially submitted by Sept. 1, 1983 and annually thereafter within thirty days of January 1 each year. Records required in subsection 6 to be kept on file at each establishment should be updated as frequently as necessary to ensure proper handling of hazardous materials and adequate procedures to minimize emergencies and the damage which would result from such emergencies.

- (B) Owners and operators of commercial and industrial establishments who have not previously registered in accordance with subsection 6 shall if they meet registration requirements, register initially within thirty days of meeting such requirements and thereafter within thirty days of January 1 of each year.

Subsection 6.2 Updating of Registration Information

All information required under subsection 6 of this By-Law must be kept current to reflect substantial changes in quantities or types of hazardous materials on-site.

Subsection 7. Hazardous Materials Generally

All hazardous materials within the Town of Canton must be stored, handled, transported and used in such a way as to minimize discharges and to ensure maximum protection of the environment and the public health, safety and welfare.

Subsection 7.1

All commercial and industrial establishments (including municipal, state, and federal operations) must provide adequate employee training programs to ensure proper use, storage, transportation and handling of hazardous materials.

Subsection 7.2

Owners and operators of establishments registered in accordance with subsection 6 of this By-Law must keep sufficient records to detect significant loss of hazardous materials and provide best estimates of quantities of hazardous materials on-site.

Subsection 7.3

All locations where hazardous materials are stored or used in quantities that could cause a substantial hazard in the event of a spill, leak, fire or exposure, shall be designated with legible warning signs of bright yellow, or other equally conspicuous color, indicating the potential danger and how to overcome or avoid such danger.

Subsection 7.4

All hazardous materials shall be held in product tight containers. All containers of hazardous materials which permit leakage or spillage shall be disposed of or repaired to its original product tight state.

Subsection 7.5

Every owner of a commercial or industrial establishments (including municipal, state, or federal operations) shall comply with all Federal, State, and Municipal Laws and Regulations relative to Hazardous Materials.

Subsection 8. Above Ground Storage of Hazardous Materials

- (A) Above ground containers of hazardous materials shall be kept in an orderly manner, shall be adequately marked to identify the hazard and shall be stored on a surface impervious to the material being stored. The storage area shall be enclosed by a permanent dike of impermeable construction. The volume of the area enclosed by the dike shall be equal to or greater than the capacity of the containers within the dike.
- (B) There shall be no storage of incompatible chemicals (those which react with one another to create a special hazard) in the same area.
- (C) Drainage and ventilation of storage areas containing hazardous materials shall be constructed and maintained so as to control spills, fumes, noxious gases and other potential sources of contamination.

Subsection 9. Underground Storage

The following provisions shall apply to all underground liquid hazardous materials storage systems.

Subsection 9.1 ^{17-9.1}

Owners shall comply with the current and amended Massachusetts Board of Fire Prevention Regulation 527 CMR 9.00: Tanks and Containers.

Regulatory authority 527 CMR 9.00: M.G.L. c. 22, ss. 14; c. 148, ss. 9, 10, 28, 37, 38 and 38E.

Subsection 9.2 ^{17-9.2}

Subsection 9.3 ^{17-9.3}

Subsection 9.4 ^{17-9.4}

Subsection 9.5 ^{17-9.5}

^{17-9.1} As amended under article 37, ATM May 12, 1997.

^{17-9.2} Deleted by article 37, ATM May 12, 1997.

^{17-9.3} Deleted by article 37, ATM May 12, 1997.

^{17-9.4} Deleted by article 37, ATM May 12, 1997.

^{17-9.5} Deleted by article 37, ATM May 12, 1997.

Subsection 10. Effective Date

All storage provisions contained in Subsection 7, 8, and 9 must be complied with by July 1, 1984.

Subsection 11. Reporting Requirements

Any person having knowledge of a reportable discharge of hazardous material shall immediately report the discharge to the Board of Health, and if involving flammable or explosive materials, to the Head of the Fire Department.

Subsection 12. Protection of Public Water Supplies

In order to protect and preserve existing drinking water sources, the following uses are prohibited within one thousand (1,000) feet of the head of a gravel packed well used as a source of municipal drinking water unless exempted by a variance in accordance with subsection 14 of this By-Law:

- A. Automotive service and repair shops, junk and salvage yards, and car washes.
- B. Storage of road salts or other deicing chemicals.
- C. Use of chemicals for deicing unless deemed necessary for public safety.
- D. The discharge of hazardous materials.
- E. Commercial or industrial uses which require registration in accordance with subsection 6 of this By-Law.
- F. Commercial and industrial uses which discharge process waste waters on-site, excluding discharges permitted in accordance with all applicable State and Federal regulations which are shown to contain no contaminants.
- G. Commercial or industrial uses which re-charge storm water to ground water, without passage through oil and grease traps and sediment traps, constructed, operated, and maintained to minimize groundwater contamination.

Subsection 13. Permits Required

- (A) A permit shall be required and obtained from the Board of Health upon the recommendation of the Fire Department for all new commercial or industrial establishments requiring registration in accordance with subsection 6.2, prior to the operation of said establishment, to determine that the provisions of this By-Law have been met.^{17-13(A)}

^{17-13(A)} As amended under article 37, ATM May 12, 1997.

- (B) A permit shall also be required and obtained from the Board of Health upon the recommendation of the Fire Department for all establishments requiring registration in accordance with subsection 6, who seek to install additional above ground or underground hazardous materials storage tanks. ^{17-13(B)}

Subsection 14. Variances

The Board of Health may vary the application of any provision of this By-Law, unless otherwise required by law, in any case when, in its opinion, the applicant had demonstrated that an equivalent degree of environmental protection required under this By-Law will still be achieved. The applicant at his own expense must notify all abutters by certified mail at least ten days before the Board of Health meeting at which the variance request will be considered. The notification shall state the variance sought and the reasons thereof. Any variance granted by the Board of Health shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons for denial. The Board of Health may, as an alternative to denial of a variance impose such conditions as it deems necessary to contribute to the environments protection required under this By-Law.

Subsection 15. Enforcement

- (A) The Board of Health or its agent(s) shall be the enforcing authority of the By-Law.
- (B) The Board of Health or its agent(s) and the Head of the Fire Department may enter upon privately owned property for the purpose of performing their duties under this By-Law. ^{17-15(B)}

Subsection 16. Penalty

Any person who violates any provision of this By-Law shall be punished by a fine of not more than three hundred (\$300.00) dollars. Each day or portion thereof during which a violation continues shall constitute a separate offense if more than one, each condition violated shall constitute a separate offense. This By-Law may be enforced pursuant to M.G.L., Chapter 40 Section 21D by a Canton Police Officer or other officer having police powers.

Subsection 17. Fees

Any person registering storage of hazardous materials pursuant to subsection 6 shall pay to the town of Canton an annual registration fee of \$15.00. Such a fee shall be due on the same date as the annual registration. Failure to pay shall constitute a violation and shall be subject to the penalties of subsection 16 of the By-Law.

^{17-13(B)} As amended under article 37, ATM May 12, 1997.

^{17-15(B)} As amended under article 37, ATM May 12, 1997.

ARTICLE XVIII ¹⁸

FIRE ALARM SYSTEMS

Section 1. Fire Alarm Systems

Town of Canton By-Laws are hereby amended by adding the following By-Law to be entitled "Fire Alarm Systems".

Section 2. Definitions

When used in this By-Law, unless a contrary intention clearly appears, the following words shall have the following meaning:

- A. Canton Fire Department hereinafter referred to as CFD as used throughout.
- B. "Central station operating company": A company equipped to receive a fire alarm signal from each of its customers and which then transmits to the CFD location of any such alarm the central station operating company receives.
- C. "Fire Alarm System": Any heat-activated, smoke-activated, flame-energy activated or other such automatic device capable of transmitting a fire signal to either a central station operating company or directly to the CFD by way of a master box.
- D. "Fire alarm system malfunction": The transmittal of a fire alarm to a central station operating company or directly to the CFD by way of a master box which alarm is caused by improper installation of a fire alarm system, a mechanically defective alarm system, lack of maintenance, or some other reason that causes a fire alarm to sound even though there is no actual fire or situation that could evolve into a fire.
- E. "Fire alarm system owner": An individual or entity who owns the title to and/or has on a business or residential premises a fire alarm system equipped to send a fire alarm signal to a central station operating company or directly to the CFD by way of a master box.
- F. "Fire Chief": The Chief of the CFD.
- G. "Master box owner". An individual or entity who has on a business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the CFD by way of a master box.

¹⁸ This article was inserted under article 30, ATM 1990.

Section 3. Connection of Fire Alarm Systems to the CFD by Way of a Master Box¹⁸⁻³

- A. Every master box owner whose fire alarm system on the effective date of this By-Law connected to the CFD by way of a master box, shall pay the following fees:

Annual Fee	\$250.00
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- B. Every master box owner whose fire alarm system is connected after the effective date of this By-Law to the CFD by way of a master box shall pay the following fees:

Permit Fee	\$30.00
Connection Fee	\$125.00
Annual Fee	\$250.00

- C. Before any fire alarm system is connected to the CFD master box owner shall provide the Fire Chief with the following information:

1. The name, address and home and work telephone numbers of the master box owner.
2. The street address where the master box is located.
3. The names, addresses and telephone numbers of the persons or businesses protected by the fire alarm system connected to the master box.
4. The names, addresses and home and work telephone numbers of at least two persons other than the owner who can be contacted twenty-four hours a day, who are authorized by the master box owner to respond to an alarm signal and who have access to the premises in which the master box is located.
5. Such other information as the Fire Chief may require.

¹⁸⁻³ As amended under article 37, ATM April 26, 1999.

In the event a fire alarm system has been connected to the CFD by way of a master box, prior to adoption of this by-law, the master box owner shall comply fully with the requirements of this section within sixty (60) days after notice by first class mail of the requirements of this section.

If a master box owner fails to comply with this section, the Fire Chief in his discretion may assess a fine of seventy-five dollars (\$75.00) for each day of non compliance.

Section 4. Connection of Central Station Operating Companies to the CFD
18-4

- A. Every central station operating company who has a direct Connection prior to the effective date of this By-Law to the CFD shall pay the following fees:

Annual Fee	\$250.00
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- B. Every central station operating company who makes a direct connection after the effective date of this By-Law to the CFD shall pay the following fees:

Permit Fee	\$30.00
Connection Fee	\$125.00
Annual Fee	\$250.00

- C. Before any central station operating company is connected with the CFD, it shall provide the Fire Chief with the following information.

1. The name, address and telephone numbers of the central station operating company.
2. The names, addresses and home and work telephone numbers of at least two persons who can be contacted twenty four hours a day, who are authorized by the central station operating company to respond to an alarm signal and who have access to the premises from where the alarm signal is emitting to the central station operating company.
3. The name, address, home and work telephone numbers and location of the premises of each customer of the central station operating company who has a fire alarm system equipped to send a fire alarm signal to the central station operating company.

¹⁸⁻⁴ As amended under article 37, ATM April 26, 1999.

4. Such other information as the Fire Chief may require.

If at the passage of this By-Law a central station operating company already has a direct connection to the CFD central station operating company shall comply with the requirements of this section within sixty days after notice by first class mail of the requirements of this section.

If a central station operating company fails to comply with this section, the Fire Chief may assess a fine of seventy-five dollars (\$75.00) for each day of non-compliance.

Section 5. Updating Information ¹⁸⁻⁵

Every master box owner and every central station operating company shall be responsible for updating annually the information herein required to be provided to the Chief. If the information provided changes, the master box owner and the central station operating company shall provide the Fire Chief with the updated information and shall pay the fee, if any, required by this By-Law.

If a master box owner or a central station operating company fails to comply with this section, the Fire Chief may assess a fine of seventy-five dollars (\$75.00).

Section 6. Fire Alarm System Malfunctions: Fines ¹⁸⁻⁶

If there is a fire alarm system malfunction, as defined herein, the Fire Chief may assess a fine against a fire alarm system owner for each malfunction per fiscal year according to the following schedule:

- A. First Through Third Malfunction No Charge

Upon the recording of the third false alarm by the CFD, the Fire Chief shall notify the owner of the building, in writing and by certified mail, of such fact, and at this time inform the owner of the Department's policy with regard to charging for false alarms. (send copy of policy at this time).

Fourth Through Sixth Malfunction	\$75.00
Seventh Through Eleventh Malfunction	\$250.00
Each Malfunction After the Eleventh	\$500.00

- B. Private fire alarm systems connected to the CFD by other automatic means or through a central station system shall be subject to the above conditions.

¹⁸⁻⁵ As amended under article 37, ATM April 26, 1999.

¹⁸⁻⁶ As amended under article 37, ATM April 26, 1999.

- C. Any false fire alarm which is the result of the failure of the property owner, occupant or their agents to notify the CFD of repair, maintenance or testing of the internal fire alarm system within the protected premises, shall cause a penalty to be assessed in accordance with Section (A).
- D. For the purposes of this regulation, a false defined as follows:
 - 1. The operation of a faulty smoke or heat detection device.
 - 2. Faulty control panel or associated equipment.
 - 3. A water pressure surge in automatic sprinkler equipment.
 - 4. Accidental operation of an automatic sprinkler system.
 - 5. An action by an employee of the owner or occupant of the protected premises or a contractor employed by the owner or the occupant causing accidental activation of the internal fire alarm system.
- E. Property owners will be billed once a month for the previous months malfunction activity. All fines assessed shall be paid to the Town of Canton Fire Department for deposit to the general fund.
- F. If the bill is not paid within thirty days, a second notice will be sent. If the bill is not paid after another thirty day period final notice will be sent informing the owner and/or occupant that the master box will be disconnected and the insurance company notified.

Section 7. Appeal Procedure

Any fire alarm system owner who is aggrieved by an action taken by the Fire Chief under this By-Law may, within ten (10) days after notice of such action, file an appeal, in writing, to the Board of Selectmen of the Town of Canton (the Board). The Board shall hold a hearing, and shall issue a written decision in which it affirms, annuls or modifies the action taken by the Fire Chief.

The Board shall mail its decision by certified mail to the owner within ten (10) days after hearing and shall file a copy of its decision in the office of the Town Clerk within such ten (10) day period. The decision of the Board shall be a final administrative decision. The owner shall have thirty (30) days from the date of the filing of the written decision in the Office of the Town Clerk to seek judicial review in a court of competent jurisdiction.

The Board shall mail its decision by certified mail to the owner within ten (10) days after hearing and shall file a copy of its decision in the office of the Town Clerk within such ten (10) day period. The decision of the Board shall be a final administrative decision. The owner shall have thirty (30) days from the date of the filing of the written decision in the Office of the Town Clerk to seek judicial review in a court of competent jurisdiction.

Section 8. Regulations and Enforcement

The Fire Chief may promulgate such regulations as may be necessary to implement this By-Law. The Fire Chief is authorized to pursue such legal action as may be necessary to enforce this By-Law.

Section 9. Deposit in the General Fund

All fines assessed herein shall be payable to the Town of Canton Fire Department for deposit to the General Fund.

Section 10. Severability

The provisions of this by-law shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 11. Municipal Fire Alarm Master Box Disconnects¹⁸⁻¹¹

Municipal Fire Alarm Master Boxes shall be connected, disconnected, or reconnected only by the following personnel: (a) licensed electricians, as authorized by the Canton Fire Chief, may connect, disconnect and/or reconnect municipal fire alarm master boxes after demonstrating their ability properly to disconnect and reconnect a municipal master fire alarm box.

Section 12. Fire Alarm Company and Technicians Certification Fee¹⁸⁻¹²

Every Fire Alarm Company certified pursuant to Section 11 by the Canton Fire Department shall be charged a fee to be set by the Canton Fire Chief pursuant to Chapter 40, Section 22F of the General Laws of the Commonwealth.

¹⁸⁻¹¹ Section 11 inserted under article 44, ATM April 27, 2005 as approved by Attorney General.

¹⁸⁻¹² Section 12 inserted under article 45, ATM April 27, 2005.

ARTICLE XIX¹⁹

PROTECTION AND PRESERVATION OF HISTORIC BUILDINGS

Section 1: Intent and Purpose. This by-law is adopted for the purpose of protecting and preserving significant buildings and structures, which constitute or reflect distinctive features of the history, architecture, and/or the character of the Town of Canton. Through this by-law the Town desires to encourage owners, and others, to preserve, rehabilitate, or restore such significant buildings and structures rather than demolishing, removing or relocating them. To achieve these purposes, the Canton Historical Commission is empowered to advise the Canton Building Commissioner concerning the issuance of permits for demolition, removal, or relocation of significant buildings and structures as provided in this by-law.

Section 2: Definitions. For the purpose of this by-law, the following words and phrases shall have the following meanings:

- a) Building: An independent structure resting on its foundations and designed for the shelter or housing of persons, animals, chattels or property of any kind.
- b) Commission: The Canton Historical Commission.
- c) Demolition: Any act of pulling down, destroying, razing, removing, or relocating 25% or more of a structure. Percentage shall be calculated by applicant.
- d) Demolition Permit: The permit issued by the Building Commissioner as required by the State Building Code for the demolition, or partial demolition or removal of a building or structure from its lot, or the moving of the building or structure on its lot.
- e) Historically Significant Building or Structure: Any building or structure which (1) is associated with one or more historic/prominent persons or events; (2) is associated with the architectural, cultural, economic, political or social history of the Town of Canton, the Commonwealth of Massachusetts and/or the United States of America; (3) embodies the distinctive characteristics of a type, period, style and method of building construction, or represents the work of a particular architect or building, either by itself or in the context of a group of buildings or structures.
- f) Building Commissioner: Canton Building Commissioner
- g) Removal: To transfer a structure from its existing location.

¹⁹ This section inserted under article 31, ATM April 30, 2003. Amended under article 36, ATM April 27, 2009

h) Structure: Any combination of materials assembled, constructed, erected or maintained at a fixed location and placed permanently or temporarily in or on the ground.

i) Applicant: The person(s) or entity applying for a demolition determination under this bylaw. The Applicant must be the owner of record of such property at time of application.

Section 3: Regulated Buildings and Structures. The provisions of this by-law shall apply **only** to the following buildings and structures:

a) Any building or structure listed on, or which is the subject of a pending application for inclusion on, the National Register of Historic Places or the Massachusetts State Register of Historic Places; or

b) Any building or structure which, in whole, or in part, was built prior to 1940. The age of the buildings and structures shall first be determined by Assessor's records.

Section 4: Procedure.

a) Application: The Commissioner shall forward a copy of each demolition permit application for a building or structure identified in This by-law Section (3) to the Chairman of the Historical Commission within 7 business days of the filing of such applications and shall notify the applicant that their application falls under the regulations of the This by-law, Demolition of Historically Significant Buildings and Structures.

b) Historically Significant Determination: Within 45 days of receipt of the demolition permit application by the Chairman of the Historical Commission, the Commission shall hold a public meeting to hear and collect information and evidence to determine whether the building or structure is historically significant. The applicant for the permit shall be notified in writing at least 7 days prior to the public meeting.

At least five (5) business days prior to the public meeting, the applicant shall provide to the Commission three (3) sets of photographs showing all sides of the building(s) or structure(s), and three (3) copies of a plot plan of the property.

The public meeting shall consist of a discussion of the proposed demolition of the building(s) and/or structure(s). A site visit with the Commission and landowner may also occur, if deemed appropriate by the Chairperson or Commission.

If the Commission determines that the building(s) or structure(s) is/are not historically significant, the Commission shall notify the Building Commissioner, Town Clerk, and applicant of its decision, including the reasons for such a determination, and the Building Commissioner may issue a demolition permit.

If the Commission fails to notify the Building Commissioner of its determination within 10 days after the public meeting, the building(s) or structure(s) shall be deemed not historically significant and the Building Commissioner may issue a demolition permit.

If the Commission determines that the building(s) or structure(s) is/are historically significant, the Commission shall notify the Building Commissioner, Town Clerk, and applicant in writing of its determination and the reason therefore.

c) Historically Significant Building or Structure Demolition/Removal Plan Review:

1) After the Commission's determination that a building(s) or structure(s) is/are historically significant, the applicant for the demolition permit shall submit to the Commission 10 copies of a demolition/removal plan that includes the following information.

a) A plot plan sufficient to show the location of the building(s) or structure(s) to be demolished/removed in relation to its property lines, and other buildings on the property;

- Photographs of all sides of the building(s) or structure(s);

- A brief description identifying the reasons for the proposed demolition/removal.

- Public Hearing

Within 60 days from its receipt of the demolition/removal plan, the Commission shall hold a public hearing with respect to the demolition/removal application and plan.

If a demolition/removal plan is not submitted the Commission shall hold a public hearing with respect to the available information within 90 days of the determination of the building(s) or structure(s) Historical Significance.

The public hearing shall be advertised in a newspaper of local circulation at least 7 days but no more than 30 days prior to the date of the public hearing. The advertisement shall be paid for by the Petitioner. The Petitioner shall provide the public hearing notice to all parties of interest (abutters) of the property where the building(s) or structure(s) is/are to be demolished, removed, or relocated at least 7 days, but no more than 30 days prior to the date of the public hearing. The public notice shall include the date, time and location of the public hearing. (Parties of Interest (Abutters) as defined in Chapter 40A, MGL)

d) Decision.

- Within 10 days of the close of the Commission's public hearing the Commission shall make a written decision, including the reasons for the determination, as to whether or not the building(s) or structure(s) is/are worthy

of preserving. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the permit granting authority.

- If the building or structure is determined by the Commission not to be worthy of preservation, or if the Commission fails to file its written decision with the Building Commissioner and Town Clerk within 10 days of the close of the public hearing, the Building Commissioner may issue a demolition permit.
- If the building(s) or structure(s) is/are determined to be worthy of preservation, then the Building Commissioner shall not issue a demolition permit for a period of six (6) months from the date of the Commission's decision is filed with the Building Commissioner. During this period, the applicant shall make an effort to locate a purchaser for the building(s) or structures(s), who is willing to preserve, rehabilitate or restore the building(s) or structure(s). The Commission may instruct the Building Commissioner to issue a demolition permit prior to the expiration of the six (6) month period if:
 - i) The Commission is satisfied that the applicant for the demolition permit has made a bona-fide, reasonable and unsuccessful effort to locate a purchaser for the building(s) or structure(s) who is willing to preserve, rehabilitate or restore the building(s) or structure(s); or
 - ii) The applicant for the demolition permit has agreed to accept a demolition permit according to certain conditions approved by the Commission.
- e) No permit for demolition of a building determined to be an Historically Significant Building or Structure under subsection d) of this section shall be issued by the Building Commissioner until all permits and approvals for use and development of the site after the demolition have been issued. Such permits and approvals shall include, but are not limited to, any necessary zoning variances, special permits, Planning Board permits and approvals, Conservation Commission permits and approvals, and Board of Health permits and approvals.
- f) The Building Commissioner may issue a demolition permit after compliance with the Demolition Delay Bylaw. The demolition permit is valid under the State Building Code for a period of six months. If the building or structure is not taken down within six months after the issuance of the demolition permit by the Building Commissioner, the applicant must request an extension of the Historical Commission's demolition decision. The Historical Commission shall issue an extension of its demolition decision, authorizing the Building Commissioner's issuance of a new demolition permit, if the property ownership or nature of the project has not changed. A change in property ownership or change in the nature of the project, however, shall require the property owner to submit a new application for a new demolition decision to be heard by the Historical Commission.

Section 5: Emergency Demolition. Nothing in This by-law, Section (4) shall be inconsistent with the procedures for the emergency demolition and/or securing of buildings and structures established by General Laws Chapter 143, Sections 6 - 10.

Section 6: Non-Compliance. Anyone who demolishes, removes, or relocates a building or structure identified in Section (3) without complying fully with the provisions of This by-law, shall be subject to a fine of not more than \$300 as limited by Chapter 40A, MGL.

In addition, unless a demolition permit was obtained for such demolition, removal, or relocation and unless such permit was fully complied with, the Building Commissioner shall not issue a building permit to any property on which a building or structure identified in Section (3) has been demolished for a period of two (2) years from the date of demolition, even if an assessed fine is paid.

Section 7: Administration. The Commission may adopt such rules and regulations as are necessary to administer the terms of this by-law. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this by-law.

Section 8: Severability. In case any section, paragraph, or part of This by-law is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part of such ordinance shall continue in full force and effect.

ARTICLE XX²⁰

SOIL EROSION AND SEDIMENT CONTROL

1. TITLE

This by-law shall be known, and may be cited as, the Town of Canton Soil Erosion and Sediment Control By-Law.

2. PURPOSE

This by-law is adopted for the purpose of eliminating, or reducing, the harmful impacts of soil erosion and sedimentation on the public health, safety, and welfare, and the environment by prohibiting any increase in sediment laden runoff from land disturbing activities and by prohibiting stream bank erosion along bodies of water. This by-law regulates activities with potential for such impacts by requiring permits and pre-activity review. For activities above the thresholds of jurisdiction under this by-law, either a full or limited land disturbance permit is required, and compliance with permit conditions. By implementing the controls in permit conditions and in this by-law, and in regulations promulgated pursuant to this by-law, erosion and sediment shall be controlled so as to protect water quality, flood storage, stream flow, wildlife habitat, aquatic resources, and public safety.

3. JURISDICTION²⁰⁻³

No person shall clear, cut, grade, or perform any land-disturbing activity on an area of land 5,000 square feet or greater without first applying for and receiving an approved full or limited land disturbance permit from the Conservation Commission in accordance with this by-law. Land in agricultural use at the time of the adoption of this by-law is exempt from the permitting required under the by-law. The Commission shall have authority to promulgate rules and regulations to implement this by-law, to review permit applications, to grant or deny permits, and to enforce the provisions of this by-law. The Conservation District will provide technical services to the Commission in the review of plans, perform monitoring and inspections or any other matter under this by-law.

4. APPLICATION PROCEDURES

Where a full or limited land disturbance permit is required, a written application shall be submitted to the conservation commission. The owner of the property on which the proposed activity is to be conducted shall sign the application. In addition, the applicant, if the applicant is not the owner, shall sign the application. If the owner or applicant is a business entity, the chief executive officer or other officer with authority shall sign the application. Any application or other submittal in support thereof shall be submitted to the conservation commission in duplicate by certified mail or hand delivery. Upon receipt, the application shall be marked with the date and time received and a file number shall be assigned.

²⁰ Article 20 inserted under article 37, ATM April 30, 2003.
²⁰⁻³ Amended under article 29, ATM April 29, 2009.

5. COORDINATION WITH TOWN AND OTHER AGENCIES

Any person filing a permit application with the conservation commission shall submit a copy thereof at the same time, by certified mail or hand delivery, to the Board of Selectmen, Planning Board, Board of Appeals, Board of Health, Building Inspector, and the local conservation district. The person filing such application shall at the same time submit to the conservation commission a written notice that these copies have been submitted to these other agencies. The conservation commission shall not take final action on an application until such boards and officials have had fourteen calendar days from their receipt to submit written comments, if any, to the conservation commission. The applicant shall have the right to receive such written comments, if any, and to respond to them, if desired, prior to final action.

6. COMPLIANCE

No land disturbing activity shall take place, unless exempt by the terms of this by-law, without compliance with a land disturbance permit issued by the conservation commission, with the plans approved by that permit, and with any rules and regulations promulgated by the conservation commission. In addition, any land-disturbing activity shall comply with all federal, state, and local statutes, regulation and by-laws/ordinances and shall obtain and comply with any other necessary permits, licenses, or other approvals.

7. MODIFICATION OF PLANS

Any change in or alteration of a land-disturbing activity approved in a permit, and any approved plans, shall be submitted to the conservation commission, prior to any further land disturbing activities, for prior review and approval. If in the judgment of the conservation commission the change or alteration is substantial, the conservation commission may require that an amended application shall be submitted. If any change or alteration takes place during land disturbing activities, the conservation commission may require the installation of interim erosion and sediment control measures before the change or alteration may be approved.

8. FEES

The conservation commission by regulation shall promulgate an application fee schedule for full and limited land-disturbance applications and compliance certificates. The fee specified in such a fee schedule shall be made payable to the conservation commission and shall accompany the permit application or request for certificate of compliance. The conservation commission may require a fee for review of any change in or alteration from an approved permit or plan. This town hereby accepts the provisions of General Laws, chapter 44, § 53E.

The conservation commission may in any year in which the town votes to make the provisions of chapter forty-four, section 53E½ applicable to such special fund, draw upon said special account for costs and expenses in processing applications, plans, changes or alterations, certificates of compliance, providing notices, conducting hearings, meetings, field inspections and other reviews,

performing services by the conservation commission staff and other departments, agencies, boards, officers and employees of the town/city in reviewing matters pending, performing measurements, testing, monitoring, and other evaluations, and mileage, recording, and telephone costs. Provided, however, that only those costs and expenses reasonably attributable to review, approval, disapproval, or other actions on applications, plans, changes or alterations, or certificates of compliance may be so charged against said special account. This filing fee schedule when adopted by the conservation commission shall include a declaration that the conservation commission has determined the fees to be charged are reasonably commensurate with the expense incurred by the town in providing these municipal services to applicants.

The application fee is non-refundable. Any applicant aggrieved by the imposition of, or size of, the fee, or any act related thereto, may appeal the decision of the conservation commission to the Board of Selectmen, in the same manner as is provided for appeal of certain other similar matters in chapter forty-four, section fifty-three G.

In addition to the filing fee imposed by this by-law and by regulations promulgated by the conservation commission hereunder, the conservation commission is authorized to require the applicant to pay the reasonable costs and expenses incurred by the conservation commission for specific expert engineering and consulting services deemed necessary by the conservation commission to review an application, plan, change or alteration, or certificate of compliance, up to a maximum of five thousand dollars (\$5,000). Said payment may be required by the conservation commission at any point in reviewing or deliberating prior to a final decision being rendered. Said services may include but are not necessarily limited to soil survey and delineation, hydrogeologic and drainage analysis, erosion and sedimentation potential, and environmental/land use law. The conservation commission is hereby authorized to impose a requirement that engineering and consulting services designated by the conservation commission be paid by the applicant whenever an application proposes any of the following: five hundred (500) square feet or greater of alteration of a freshwater or coastal wetland; fifty (50) linear feet or greater of alteration of a bank or waterway; five hundred (500) square feet or greater of alteration of land within one hundred (100) feet of a body of water; alteration of greater than five hundred (500) square feet of land under a water body; discharge of any sediment or siltation into or contributing to surface or ground water; or construction of a detention or retention basin or other drainage device.

Said fee for expert engineering and consulting services may in any year in which the town votes to make the provisions of chapter forty-four, section 53E1/2 applicable to such special fund, be expended by the conservation commission for the purpose allocated without further appropriation.

The conservation commission may draw upon said special account for services approved by the conservation commission at a public meeting. Provided, however, that only those costs and expenses reasonably attributable to review,

approval, disapproval, or other action on applications, plans, changes or alterations or certificates of compliance may be so charged against said special account.

Fees are non-refundable. Any applicant aggrieved by the imposition of, or size of, the fee, or any act related thereto may appeal the decision of the conservation commission to the Board of Selectmen, in the same manner as is provided for appeal of certain other similar matters in chapter forty-four, section fifty-three G.

9. BOND

The conservation commission may require that the applicant post a performance bond, as a condition of a permit, in form and content approved by the municipal attorney before construction may commence. This bond shall ensure that the installation and maintenance of soil erosion and sediment control procedures are completed as approved by the conservation commission, within a time specified in the permit.

If satisfactory to the conservation commission, the applicant may substitute a certificate of guarantee, irrevocable letter of credit, or cash bond in lieu of a performance bond. Any performance bond or letter of credit shall be executed and maintained by a financial institution, surety, or guaranty company qualified to do business in the Commonwealth.

10. CERTIFICATION

At the time of application, the applicant shall certify in writing the name of the person who is responsible for sediment control for the land-disturbing activity which is the subject of the application. Said person shall ensure that said activity takes place in accordance with the application, plan, and permit conditions.

11. REGISTRY OF DEEDS

Prior to commencement of any land-disturbing activity, the applicant shall record the permit with the registry of deeds for the county in which the activity is to take place, or the appropriate land court section of said registry, and shall submit to the conservation commission written proof of such recording.

12. FULL LAND DISTURBANCE PERMIT

The following land-disturbing activities shall require a full land disturbance permit:

- A. Clearing and grading activity disturbing an area of more than twenty thousand (20,000) square feet; OR
- B. Volume of earth movement resulting in a total quantity of (five hundred (500) cubic yards or more of earth; OR
- C. Land-disturbing activities on two or more contiguous lots within a twelve month period.

The following information shall be submitted, at a minimum, with any full land disturbance application: a plan adequately describing the proposed activity; the items specified below: and any additional information specified in regulations promulgated by the conservation commission. The applicant shall submit any additional information requested by the conservation commission or the conservation district during review of the application.

Detailed engineering plans for proper soil erosion and sediment control shall be submitted including the following, at a minimum:

1. A locus map, legend, and north arrow;
2. A scale showing one inch equals forty feet;
3. Title blocks identified by project name or parcel;
4. Delineation of the total land area to be disturbed;
5. Boundary lines of lots and delineation of land area where activity is to be performed;
6. Contours showing existing and proposed elevations and/or contours at two foot intervals;
7. Symbols for sediment and erosion control practices including detail and elevation;
8. Existing and proposed roadways;
9. Delineation of wetland areas;
10. Delineation of the 100 year flood plain;
11. Street profiles showing proposed grades and elevations;
12. Proposed storm drainage systems;
13. All bodies of water, including streams, rivers, lakes, and ponds, within 100 feet of the proposed activity;
14. A description of construction activities, in sequence, which specifies the expected date of soil stabilization and completion;
15. Temporary and permanent soil erosion and sediment control measures;
16. Temporary and permanent seeding and other vegetative controls.

If any structural soil erosion and sediment control is deemed necessary in the judgment of the conservation commission, the detailed engineering plans shall include the following additional information:

1. Detailed location of any dam or basin;
2. Plan view of any dam or basin;
3. Spillway designs showing calculations and profiles;
4. Emergency spillway designs showing calculations, profiles, and cross-sections;
5. Runoff calculations for peak runoff during a 100-year storm;
6. Notes and construction specifications;
7. Type of sediment trap;
8. Drainage area to any sediment trapped
9. Volume of storage required;
10. Outlet length or pipe sizes;

11. Storage depth below outlet or cleanout elevation;
12. Embankment height and elevation;
13. A portable safety fence surrounding any basin or trap, not less than forty-two inches in height with openings not more than three inches in height, firmly anchored at spacing no greater than eight feet.

The Conservation Commission shall review and respond to any completed permit application within forty-five calendar days of receipt, or such additional time as is necessary to provide coordination with other local boards and officials in accordance with Section V above. If the conservation commission denies the application, the Conservation Commission shall specify its reasons in writing. The decision with permit or denial shall be mailed or hand delivered by the Conservation Commission to the applicant. Any person aggrieved by the decision of the Conservation Commission may appeal in the nature of certiorari to the Superior Court.

13. LIMITED LAND DISTURBANCE PERMIT

Any land-disturbing activity not requiring a full land disturbance permit, if it meets the limitations below, shall require a limited land disturbance permit application:

- A. Activity disturbing an area of land no more than 20,000 square feet and no less than (delete "10,000 square feet") (insert "5,000 square feet) square feet.^{20-13A}
- B. Volume of earth movement resulting in a total quantity of no more than five hundred (500) cubic yards of earth no less than one hundred (100) cubic yards; AND
- C. Activity involving a parcel of land having a final graded slope no steeper than three horizontal units to one vertical unit, equivalent to a slope of 33 percent; AND
- D. Any area of soil cut or filled not exceeding four feet in vertical depth at its deepest point as measured from the natural ground level.

An application for a limited land disturbance permit shall, at a minimum, include a sketch of the parcel or parcels on which the activity is to take place, drawn so as to include soil erosion and sediment control practices, roadways, waterways, building or buildings to be constructed, topography, and a stabilized construction entrance.

The Conservation Commission shall review and respond to the permit application within forty-five calendar days of receipt, or such additional time as necessary to provide coordination with other boards as specified in Section V above. If the permit is denied, the conservation commission shall specify its reasons in writing. The decision with permit or denial shall be mailed or hand delivered by the

^{20-13A} Amended under article 29, ATM April 29, 2009.

conservation commission to the applicant. Any person aggrieved has a right to appeal a decision of the conservation commission in the nature of certiorari to the appropriate Superior Court.

14. STABILIZATION

Vegetative stabilization measures shall be employed. All perimeter dikes and slopes, basin or trap embankments shall be stabilized with sod, seed, and anchored straw mulch within seven calendar days of disturbance. All other disturbed areas shall be stabilized with sod, seed, and anchored straw mulch within fourteen calendar days after disturbing activities have ceased. Topsoil shall be stripped from disturbed areas and stockpiled in an approved area and stabilized with temporary vegetative cover if left for more than thirty calendar days. Perimeter sediment controls shall be installed around stockpiled topsoil. During the months of October through March, when seeding and sodding may be impractical, anchored mulch shall be applied as approved by the conservation commission.

15. EXTENSION

A full or limited land-disturbance permit shall be valid for one year from the date the permit is issued. The conservation commission may grant one extension for an additional year, upon written request for renewal no later than thirty (30) days prior to expiration. Thereafter a new application shall be required.

16. INSPECTION

The conservation commission, in its discretion, may conduct an inspection at any stage of construction to ensure compliance with the terms of this by-law and any permit. The Conservation Commission also may require the applicant to submit periodic oral or written reports at any stage of construction. The Conservation Commission shall be authorized to conduct announced or unannounced inspections at any reasonable time. In any event, upon completion of the land disturbing activities approved by a permit, the applicant shall notify the Conservation Commission to request an inspection.

17. COMPLIANCE CERTIFICATE

Upon satisfactory completion of land-disturbing activity, in accordance with a permit and any approved plan, the applicant shall request that the Conservation Commission issue a certificate of compliance. The conservation commission shall conduct an inspection prior to granting such a certificate of compliance and releasing any performance bond or other security. The Conservation Commission shall grant such certificate unless the activity is found to be in violation of this by-law or any regulations, permit, or approved plan.

18. ENFORCEMENT

Upon request of the Conservation Commission, the Board of Selectmen and the town counsel shall take legal action for enforcement of this by-law under civil law. Upon request of the Conservation Commission the chief of police shall take legal action for enforcement under criminal law. Municipal boards and officers, including any police officer or other officer having police powers, shall have

authority to assist the Conservation Commission in enforcement. The Conservation Commission shall have the power and duty to enforce this by-law, regulations thereunder, and permits, including but not limited to issuance of violation notices and enforcement orders. An enforcement order may require the halt to any illegal work, removal of equipment, and site restoration.

19. VIOLATIONS/PENALTIES

Violations of this by-law, any regulations hereunder, or any permit shall be punished by a fine of not more than \$300 per day. As an alternative to criminal prosecution in a specific case, the Conservation Commission may elect to utilize the non-criminal disposition procedure set forth in General Laws, chapter 40, § 21 D.

20. EDUCATION

The Conservation Commission, within its available resources, should provide education programs on soil erosion and sediment control to the general public and persons regulated by this by-law. Workshops and seminars should provide guidelines and advice to ease the permit application process and foster acceptance of good erosion control practices.

21. DEFINITIONS

For the purposes of this by-law the following words and phrases shall have the following meaning, unless a different meaning is clearly evident from all of the circumstances:

AGRICULTURE: Land in agricultural use means land presently and primarily used in producing or raising agricultural commodities for commercial purposes.

ANCHORED MULCH: Mulch consisting of straw, woodchips, emulsifier, and other appropriate materials, bound together by anchored pegs and twine.

APPLICANT: Any natural person, individual, partnership, corporation, trust agency, department, political subdivision, or other legal entity requesting a soil erosion and sediment control permit for proposed land-disturbing activity.

CLEAR: The act of removing vegetative cover in a manner that does not disturb root mat or the existing soil surface.

CUT: The excavation of soil, sand, gravel, stones, or other earth material from the land.

CONSERVATION COMMISSION: The conservation commission of the town of Canton.

CONSERVATION DISTRICT: The conservation district for the county in which this municipality lies.

ENGINEERING PLAN: A plan developed by a professional engineer, landscape architect, land surveyor, or person duly qualified, whose name appears on said plan.

EROSION: The process by which the ground surface is worn by natural forces such as wind, water, ice, gravity, and glaciers or by artificial means.

FILL: Any act by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, pulled, or transported, and includes the conditions that result from that act.

GRADE: An act by which soil is cleared, stripped, stockpiled, or any combination thereof.

LAND-DISTURBING ACTIVITY: Any action that causes the alteration of earth, sand, rock, gravel, vegetation, or similar material on land.

ONE HUNDRED-YEAR FLOODPLAIN: An area delineated under the Federal Emergency Management Act (FEMA.) indicating the extent of flooding as a result of a 100-year storm.

PERIMETER CONTROL: A measure that prevents erosion and sedimentation through the use of earth and dikes at the outer extent of land disturbing activities.

PERMIT: The full or limited land-disturbance permit issued by the Conservation commission authorizing land-disturbing activity in accordance with the requirements of this by-law.

SEDIMENT: Organic material or minerals transported or deposited by the movement of wind, water, ice, gravity, glaciers, or by artificial means.

SEDIMENT BASIN: A temporary barrier or dam constructed across a drainage way or at another suitable location to intercept and trap sediment.

SEDIMENT TRAP: A temporary sediment control measure formed by excavation or embankment to intercept and trap sediment.

SITE: Any lot or parcel of land or area of property where land disturbing activities are, were, or will be performed.

SLOPE: The inclined surface of a fill, excavation, or natural terrain.

SOIL: Any earth, sand, rock, gravel, or similar material.

STRIP: Any activity, which removes the vegetative surface cover Including but not limited to tree removal, clearing, grubbing, and storage or removal or topsoil.

WETLAND: Any resource area, which is subject to the Wetlands Protection Act, General Laws, chapter 131, § 40 and the Town of Canton Wetland By-law.

ARTICLE XXI²¹

STORMWATER MANAGEMENT

1.0 INTRODUCTION

A. It is hereby determined that:

1. Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition, and decrease groundwater recharge;
2. Land development projects and other land use conversions also contribute to increased nonpoint source pollution and degradation of receiving waters;
3. The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, surface water drinking water supplies, groundwater resources, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters;
4. These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment, by the use of both structural and nonstructural Best Management Practices;
5. Localities in the Commonwealth of Massachusetts are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and nonpoint source pollution.

B. Therefore, the Town of Canton has established this stormwater management bylaw to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. This bylaw regulates the post-construction stormwater controls for both new and redevelopment projects.

C. It has been determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and

²¹ Inserted under article 16, ATM May 2, 2007

nonpoint source pollution associated with post-development stormwater runoff.

2.0 PURPOSE

A. The purpose of this Bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. Proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, and promote groundwater recharge to protect surface and groundwater drinking supplies. This Bylaw seeks to meet that purpose through the following objectives:

1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
2. Require that new development, redevelopment and all land conversion activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;
3. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of storm water runoff; establish minimum design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality;
4. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
5. Encourage the use of nonstructural stormwater management, stormwater better site design practices or “low-impact development practices”, such as reducing impervious cover and the preservation of greenspace and other natural areas, to the maximum extent practicable.

6. Provide for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;
7. Ensure that there is an adequate funding mechanism, including surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this Bylaw;
8. Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, and for the inspection of approved active projects, and longterm follow up; Establish certain administrative procedures and fees for the submission, review, approval, or disapproval of stormwater plans, and the inspection of approved projects.

B. Nothing in this Bylaw is intended to replace the requirements of, the Town of Canton Flood Plain Zoning Bylaw, the Town of Canton Wetlands Protection Bylaw, or any other Bylaw that may be adopted by the Town of Canton. Any activity subject to the provisions of the abovesited Bylaws must comply with the specifications of each.

3.0 DEFINITIONS

The following definitions shall apply in the interpretation and implementation of this Bylaw. Additional definitions may be adopted by separate regulation:

- A. **ALTER:** Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as “alteration of drainage characteristics,” and “conducting land disturbance activities.”
- B. **BEST MANAGEMENT PRACTICE (BMP):** Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.
- C. **BETTER SITE DESIGN:** Site design approaches and techniques that can reduce a site’s impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for stormwater management.

- D. GENERAL STORMWATER MANAGEMENT PERMIT (GSMP): A permit issued for an application that meets a set of pre-determined standards outlined in the Regulations to be adopted by the Stormwater Authority under Section 4 of this Bylaw. By meeting these pre-determined standards, the proposed project will be presumed to meet the requirements and intent of this Bylaw.
- E. HOTSPOT: Land uses or activities with higher potential pollutant loadings, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas.
- F. MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.
- G. NEW DEVELOPMENT: Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.
- H. NONPOINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.
- I. PERSON: Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of *Canton* and any other legal entity, its legal representatives, agents, or assigns.
- J. PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the *Canton Conservation Commission*. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish predevelopment conditions.

- K. **POST-DEVELOPMENT:** The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Postdevelopment refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.
- L. **RECHARGE:** The replenishment of underground water reserves.
- M. **REDEVELOPMENT:** Any construction, alteration, or improvement exceeding land disturbance of 5,000 square feet, where the existing land use is commercial, industrial, institutional, or multifamily residential.
- N. **STORMWATER AUTHORITY:** The Town of Canton Conservation Commission or its authorized agent(s). The Conservation Commission is responsible for coordinating the review, approval and permit process as defined in this Bylaw. Other Boards and/or departments participate in the review process as defined in the Stormwater Regulations adopted by the Conservation Commission.
- O. **STORMWATER CREDITS:** A form of incentive for developers to promote conservation of natural and open space areas. Projects that comply with prescribed requirements are allowed reductions in stormwater management requirements when they use techniques to reduce stormwater runoff at the site.
- P. **STORMWATER MANAGEMENT PERMIT (SMP):** A permit issued by the *Conservation Commission* after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.
- Q. **STORMWATER UTILITY:** A special assessment district set up to generate funding specifically for stormwater management. Users within the district pay a stormwater fee, and the revenue thus generated directly supports maintenance and upgrade of existing storm drain systems; development of drainage plans, flood control measures, and water-quality programs; administrative costs; and sometimes construction of major capital improvements.

4.0 AUTHORITY

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

5.0 ADMINISTRATION

- A. The Conservation Commission shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the *Commission* may be delegated in writing by the Commission to its employees or agents.

- B. Stormwater Regulations. The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Commission after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date. After public notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

- C. Stormwater Management Manual. The Conservation Commission may utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy for execution of the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

- D. General Permit. The Conservation Commission shall have the authority to develop a General Stormwater Management Permit (GSMP) for specific types of projects, such as, without limitation Construction of a Deck, Patio, Retaining Wall, Existing Driveway Expansion, Shed, Swimming Pool, Tennis or Basketball Court. Any such General Stormwater Management Permit Requirements shall be defined and included as part of any Stormwater Regulations promulgated pursuant to this Bylaw.

- E. Actions by the Conservation Commission. The Conservation Commission may take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of Stormwater Regulations promulgated pursuant to this Bylaw: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.

- F. Appeals of Action by the Conservation Commission. A decision of the Conservation Commission shall be final. Further relief of a decision by the

Conservation Commission made under this Bylaw shall be reviewable in any court of competent jurisdiction.

- G. Stormwater Credit System. The Canton Conservation Commission may adopt, through the Regulations authorized by this Stormwater Management Bylaw, a Stormwater Credit System. This credit system will allow applicants the option, if approved by the Commission, to take credit for the use of stormwater better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure by the Commission to promulgate such a credit system through its Regulations or a legal declaration of the invalidity of the credit system by a court shall not act to suspend or invalidate the effect of the other provisions of this Bylaw.
- H. Stormwater Utility. The Board of Selectman may adopt, through the Regulations authorized by this Stormwater Management Bylaw, a Stormwater Utility pursuant to M.G.L. Chapter 83 Section 16 and Chapter 40 Section 1A. The Board of Selectman shall administer, implement and enforce this Utility. Failure by the Canton Board of Selectman to promulgate such a Stormwater Utility through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of the other provisions of this Bylaw.

6.0 APPLICABILITY

A. This bylaw shall be applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that will result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Section 5.B of this Bylaw. All new development and redevelopment under the jurisdiction of this Bylaw as prescribed in this Bylaw shall be required to obtain a Stormwater Management Permit.

B. Exemptions - No person shall alter land within the Town of Canton without having obtained a Stormwater Management Permit (SMP) for the property with the following exceptions:

1. Any activity that will disturb an area less than 5000 square feet or less than 25% of a contiguous property, whichever is less. This exception may not be applied for contiguous properties held in common ownership at the time of adoption of this Bylaw that may have been previously subdivided and/or are attributed to multiple separate owners;
2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A Section.

3. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
4. Repair or replacement of an existing roof of a single-family dwelling;
5. The construction of any fence that will not alter existing terrain or drainage patterns;
6. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns;
7. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Conservation Commission.
8. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw;

C. Redevelopment Projects - Redevelopment projects are presumed to meet the specified stormwater management requirements described in the Stormwater Regulations of the Town of Canton if the total impervious cover is reduced by 40% from existing conditions. Where site conditions prevent the reduction in impervious cover, stormwater management practices shall be implemented to provide stormwater controls for at least 40% of the site's impervious area. When a combination of impervious area reduction and stormwater management practice implementation is used for redevelopment projects, the combination of impervious area reduction and the area controlled by a stormwater management practice shall equal or exceed 40%.

D. Hotspots - An alteration, redevelopment, or conversion of land use to a hotspot such as, without limitation: auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas, shall require a Stormwater Management Permit.

7.0 PROCEDURES

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 5.B. of this Bylaw.

8.0 ENFORCEMENT

The Conservation Commission, or an authorized agent of the Conservation Commission shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater regulations promulgated as permitted under Section 5.B. of this Bylaw.

9.0 SEVERABILITY

The invalidity of any section, provision, paragraph, sentence, or clause of this Bylaw shall not invalidate any other section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

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CANTON ACCEPTANCE OF STATUTES

DATE	ARTICLE #	VOTED
4/26/10	35	Chapter 40U as inserted by Chapter 26 of the Acts of 2010 collection of unpaid municipal fines
4/26/10	29	Chapter 43D priority development sites, 10 Pequot Way and 40 Pequot Way
4/26/10	19	Chapter 59, Section 5, Clause 54 to establish a value of \$10,000 as the minimum value of personal property to be subject to taxation
4/26/10	18	Chapter 64G, Section 3A room occupancy excise
4/29/09	41	Chapter 73, Section 4 real estate tax exemptions
4/27/09	40	Chapter 43D priority development sites, 777 Dedham Street and 480 Neponset Street
4/29/09	37	Chapter 183A, Section 20 ratify purchase of North Street condominium purchase
4/29/09	34	Chapter 39, Section 23D permit local board members to miss session of hearing
4/28/08	37	Chapter 110 of the Acts of 2007 to pay costs of funeral and burial expenses for firefighters and police officers killed in performance of duty
5/2/07	14	Chapter 71, Section 71F to establish a school department revolving accountant
5/2/07	13	Chapter 71, Section 71E to establish a school building rental revenue revolving account
5/2/07	27	Chapter 59, Section 5, Clause 54 to establish a value of \$5,000 as the minimum value of personal property to be subject to taxation
4/30/07	18	Chapter 32B, Section 18 mandatory transfer of retirees to Medicare
4/30/07	21	Chapter 43D, Sections 1 through 16 expedited permitting
4/26/06	38	Chapter 31, Section 58A providing that applicants for appointment to the police and fire departments be under the age of thirty-two years
10/24/05	20	Chapter 59, Section 5, Clauses 17D, 22, 22A, 22B, 22C, 22D, 22E, 37A and 41C to authorize additional real estate property tax exemptions
5/5/04	32	Chapter 64G to establish a local hotel occupancy tax rate
	29	Chapter 59, Section 2A(a) Assessors determining fair cash valuation of real property
4/26/04	14	Chapter 40, Section 8A REVOKED
	17	Chapter 148, Section 26I multiple dwelling units; new construction; automatic sprinkler systems
	16	Chapter 148, Section 26H lodging or boarding houses; automatic sprinkler systems
	15	Chapter 148, Section 26G nonresidential buildings or additions; automatic suppressant or sprinkler systems
	45	Chapter 31, Section 58A REVOKED
4/30/03	37	Chapter 44, Section 53E
	16	Chapter 59, Section 5K (as amended by Section 52 of Chapter 184 of the Acts of 2002) increasing to \$750 the maximum amount that may be deducted from property tax bills of elderly persons
4/28/03	18	Chapter 59, Section 5, Clause 41K (as inserted by Section 51 of Chapter 184, Acts of 2002) making certain adjustments to the law governing the abatement of property taxes of certain elderly persons
1/27/03	5	Chapter 32, Section 103, Paragraph (h) which will equalize the cost of living adjustment made to retired employees who are receiving a contributory or non-contributory pension
5/7/01	36	Chapter 59, Section 5, Clause 54 to establish a value of \$3,000 as the minimum value of personal property to the subject to taxation

DATE	ARTICLE #	VOTED
5/7/01	37	Chapter 31, Section 58A providing that applicants for appointment to the police and fire departments be under the age of thirty-two years REVOKED at 4/26/04 ATM under Article 45
5/7/01	39	Chapter 143, Section 3Z authorizing an Assistant Building Inspector to perform work of his trade in the Town of Canton provided that any work so performed is examined by another Building Inspector
5/3/00	40	Chapter 59, Section 5K of the General Laws (as inserted by Section 49 of Chapter 127, Acts of 1999) authorizing the establishment of a program to allow persons over the age of sixty years to volunteer to provide services to the Town.
4/28/99	36	Chapter seventy-three of the acts of 1986, as amended by chapter one hundred and twenty-six of the acts of 1988, granting an additional real estate tax exemption to taxpayers under Section 5 of Chapter 59 of the General Laws.
4/29/98	15	Chapter 59, Section 57C authorizing property tax bills to be made payable in four installments.
4/29/98	37	Chapter 32B, Section 18 re. Medicare health benefits supplement plan offered by the Town.
5/13/96	17	Last paragraph of Section 12 of Chapter 138 re. sale of liqueurs and cordials by common victuallers holding a license to sell wines and malt beverages.
5/15/95	23	Section 57C of Chapter 59 authorizing the issuance of property tax bills quarterly to take effect July 1, 1996.
1/19/94	10	Section 8J of Chapter 40 (MGL) to establishing a commission on disability.
1/19/94	11	Section 13C of Chapter 40 (MGL) establishing claim reserves to pay workers compensation claims until such claims are fully paid.
5/12/93	38	MGL Chapter 32, Section 22D , re. Norfolk County Retirement System.
5/12/93	39	Section 48 of chapter 133 of the acts of 1992 as amended by section 1 of chapter 399 of the acts of 1992 re. early retirement incentive program.
4/29/92	8	Penultimate paragraph of MGL Chapter 41, Section 81U .
	12	Chapter 83 Section 16G re. deferral of sewer charges.
	11	Chapter 40, Section 42J re. deferral of water charges.
	9	Chapter 60, Section 2 re. abate certain unpaid property tax bills.
5/4/92	10	Chapter 40, Section 22F re. reasonable charges for any services rendered or work performed.
	25	Chapter 40, Section 3 .
	15	Chapter 40, Section 58 re. unpaid water and sewer charges
5/9/88	58	Chapter 41, Section 100G ¼ re. payment of funeral and burial expenses of Police Officers and Firefighters whose death was incurred in the line of duty.
10/24/88	29	Chapter 71, Section 40 re. paying all teachers in the Canton Public Schools,.
4/27/87	5	Chapter 40, Section 39K re. "Enterprise Fund" for the skating rink and re. "Enterprise Fund" for Pequitside Farm (so called).
	8	Chapter 59, Section 5 a new Clause 41c .
	9	Chapter 59, Section 5 a new clause 17D .
3/10/86	41	Chapter 360, Acts of 1985 , rights of certain firefighters and police officers who were laid off in the years n.
3/12/86	75	Chapter 148, Section 26E , installation of approved smoke detectors.
4/14/86	49	Chapter 140, Section 147A (as amended by Chapter 308 of the Acts of 1985), re. dog licenses fees or fines.
6/4/84	24	C. 59, s5, cl. 37A re. taxation of property owned by a blind person.
6/4/84	25	C. 59 s5, cl 41B re. basis for exemption from taxation of property of a person over the age of 70 years.

DATE	ARTICLE #	VOTED
5/30/84	5	Chapter 60A, Section 1 , as most recently amended by C.597, Acts of 1982, re. exemption to the motor vehicle excise tax to certain prisoners of war.
8/8/83	1	Chapter 32B, Sections 7A and 9E re. annual premium cost of group insurance.
10/25/82	6	Chapter 41, Section 69B re. all expenditures for Salaries, Expenses and Capital Improvements be subject to Town Meeting Approval.
6/10/82	33	Chapter 59, Section 5, Clause 17(c) re. increasing certain real estate tax exemptions.
	34	Chapter 138, Section 12B re. regulating nude entertainment on premises licensed to sell alcoholic beverages.
6/1/81	33	Chapter 40, Section 81 re. establishing an Energy Resource Commission.
6/1/81	34	Chapter 40, Section 8E re. establishing a Youth Commission.
11/9/81	11	Chapter 90 specifically Sections 20A, 20C, 20D, 20E or Section 20A ½ re. local administration and enforcement of parking regulations.
3/10/80	42	Chapter 148, Section 26C , re. automatic smoke or heat detectors in certain places of public accommodation.
	47	Chapter 40, Section 8G re. mutual aid agreements with other Police Departments
7/21/75	2	Chapter 41, Section 97 re. establishment and membership of a Police Department
3/12/73	13	Chapter 350, Acts of 1972 , entitled "An Act authorizing the Town of Canton to pay a sum to Mildred Morse Allen."
3/13/72	76	Chapter 310 of the Acts of 1971 entitled: "An Act providing for the payment of the funeral and burial expenses of Firefighters and Police Officers killed in the performance of duty."
3/8/71	20	Chapter 576, Acts of 1970 , entitled: "An Act authorizing the Town of Canton to pay a sum of money to Nicholas J. Marathas for certain medical bills incurred by him as a result of injuries received in the line of duty as a Firefighter in said Town."
3/2/70	20	Chapter 148, Section 56 re. maintaining an open-air parking space without a license.
3/13/67	13	Chapter 33, Section 59 , re. no loss of pay or vacation to employees in Armed Forces.
10/9/67	13	Chapter 401 of the Acts of 1966 re. workmen's compensation employee definitions.
3/9/64	12	Chapter 478 of the Acts of 1963 entitled: "An act increasing the amounts of pensions and retirement allowances payable to certain former public employees."
3/23/64	42	Chapter 40, Section 8D as inserted by Section 4 of Chapter 697 of the Acts of 1963, establishing an Historical Commission.
	45	Chapter 41, Section 108G as inserted by Chapter 19 of the Acts of 1963m, entitled: "An Act Establishing An Alternate Schedule of Minimum Annual Compensation for Police Officers in Certain Cities and Towns."
3/25/63	46	Chapter 40, Section 8C , as amended by Chapter 258 of the Acts of 1961, establishing a Conservation Commission.
3/6/61	29	Chapter 48, Section 42, 43 and 44 of the General laws, establishing a fire department under the control of an officer to be known as the chief of the fire department.
3/14/60	24	Chapter 493 of the Acts of 1959 entitled: "An Act Increasing the Amounts of Pensions and Retirement Allowances Payable to Certain Former Public Employees."
	25	Chapter 228 of the Acts of the General Court of Massachusetts 1969 entitled: "An act establishing a minimum annual compensation for police officers in certain cities and towns."

DATE	ARTICLE #	VOTED
3/2/59	1	Chapter 41, Section 19B of the General Laws providing permanent tenure for Maurice E. Ronayne, Jr., the present incumbent in the office of Town Clerk.
	2	Chapter 32B of the General Laws, re. life and health insurance for town employees.
3/10/58	19	Section 17B of Chapter 180 , being Chapter 489 of the Acts of 1956, entitled "An Act Authorizing Pay-Roll Deductions on Account of Contributions to Community Chests or United Funds in the case of certain Town Employees."
3/12/56	25	Chapter 670 of the Acts of 1955 entitled: "An Act Relative to Increasing the Amounts of Pensions, Retirement Allowances and Annuities Payable to Certain Former Public Employees."
	31	Chapter 166 Section 32 as amended providing for the appointment of an inspector of wires.
3/8/54	39	Chapter 41, Section 111G , re. vacation time.
12/13/54	9	Chapter 297 of the Acts of 1954 (Chapter 40, Section 8A , General Laws) entitled: "An Act Authorizing Cities and Towns to establish commissions to promote business and industry, and to appropriate money therefore," and Chapter 511 of the Acts of 1954 entitled: "An Act to authorize Towns to establish interim commissions to promote business and industry and to appropriate money therefore." Chapter 40, Section 8A REVOKED at April 26, 2004 ATM Article 14
3/9/53	19	Chapter 781 of the Acts of 1951 entitled "An Act Relative to increasing the amounts of Pensions and Retirement Allowances Payable to Certain Former Public Employees" and Chapter 624 of the Acts of 1952 entitled : "An Act Relative to increasing the amounts of Pensions, Retirement Allowances and Annuities Payable to Certain Former Public Employees."
	52	Chapter 147, Section 16C of the General Laws re. five day week for members of the police department in the town of Canton.
	53	Chapter 149, Section 33B of the General Laws providing for a five day week of forty hours for employees of the Town of Canton.
3/12/51	12	Chapter 820 of the Acts of 1950 entitled "An Act providing for an increase in the annual amounts of certain pensions, retirement allowances, annuities and other benefits payable by the Commonwealth and its political subdivisions to certain former employees and persons claiming under them."
11/22/49	8	Chapter 85, Section 11A regarding the registration of bicycles.
3/10/47	45	Chapter 40, Section 30A of the General Laws (Ter. Ed.) re. Reconsideration of appeal or petition for variance from terms of ordinance or By-law after unfavorable action.
	46	Chapter 40, Section 27A re. Reconsideration of proposed change in ordinance or by-law after unfavorable action.
	48	Chapter 40 Section 12 of the General Laws (Ter. Ed.), re. purchase or lease land for a bathing beach.
	58	Chapter 207 of the Acts of 1946 entitled: "An Act Relative to the Licensed Operation on the Lord's Day of Bowling Alleys."
3/11/46	11	Chapter 723 of the Acts of 1945: an Act authorizing the establishment and maintenance of Municipal Departments and of Districts for furnishing information, advice and assistance to Veterans of World War II or other Veterans
3/13/44	31	Chapter 139, Sections 1, 2 and 3 regarding the disposition, alteration or regulation of burnt or dangerous buildings.
3/4/40	26	Chapter 147, Section 16B re. Police officer shall be excused from duty for one day out of every six without loss of pay.
	33	Chapter 54 as amended by Chapter 77 of the Acts of 1937 , regarding absentee voting at regular town elections.

CANTON ACCEPTANCE OF STATUTES

SPECIAL ACTS

Chapter 95, Acts of 1885, An Act to Supply the Town of Canton with Water

Chapter 186, Acts of 1899, An Act to Change the Boundary Line Between the Towns of Canton and Sharon

Chapter 435, Acts of 1899, An Act to Authorize the Town of Canton to Supply Knollwood Cemetery with Water

Chapter 124, Acts of 1906, An Act to Authorize the Town of Canton to Furnish Water in Certain Sections of the Towns of Sharon and Stoughton

Chapter 272, Acts of 1908, An Act to Authorize the Conveyance of the Wheeler Estate in the Town of Canton

Chapter 162, Acts of 1913, An Act to Authorize the Town of Milton to Supply Water to a Part of the Town of Canton

Chapter 185, Acts of 1914, An Act to Authorize the Town of Canton to Supply Knollwood Cemetery with Water

Chapter 21, Acts of 1919, An Act to Authorize the Town of Canton to Refund Certain Indebtedness

Chapter 384, Acts of 1920, An Act to Authorize the Trustees of the Massachusetts Hospital School to Acquire Additional Land in the Town of Canton

Chapter 453, Acts of 1920, An Act Relative to the Division into Day and Night Forces of Permanent Members of the Fire Department of the Town of Canton

Chapter 301, Acts of 1928, An Act Enlarging the District to Which Certain Laws Relative to the Emission of Smoke Shall Apply, and Providing for Further Investigation Relative to the Emission of Smoke in Such District

Chapter 13, Acts of 1931, Resolve Providing the Reimbursement of the Town of Canton for Money Expended in the Care and Treatment of Certain Tubercular Patients

Chapter 333, Acts of 1933, An Act Providing for the Disposal of the Sewage from the Massachusetts Hospital School Through the Sewerage System of the Town of Canton

Chapter 103, Acts of 1935, An Act Relative to the Construction of Particular Sewers and Connecting Drains in the Town of Canton

Chapter 175, Acts of 1937, An Act Authorizing the Trustees of the Massachusetts Hospital School to Convey Certain Land in the Town of Canton

Chapter 13, Acts of 1941, An Act Establishing a Town Manager Form of Government for the Town of Canton

Chapter 5, Acts of 1946, An Act Authorizing the Town of Canton to Borrow Money for the Purpose of Constructing, Equipping and Furnishing a School Building

Chapter 276, Acts of 1948, An Act Authorizing the Town of Canton to Establish a Board of Public Works Exercising the Powers of Certain Other Boards, Departments and Town Officers and Authorizing the Selectmen to Act as said Board

Chapter 379, Acts of 1948, An Act Authorizing the Election of Selectmen for Three Year Terms in the Town of Canton

Chapter 147, Acts of 1949, An Act Authorizing the Town of Sharon to Furnish and Sell Water to the Town of Canton and to Purchase Water From the Town of Foxborough and Authorizing the Town of Foxborough to Purchase Water From the Town of Sharon

Chapter 204, Acts of 1949, An Act Authorizing the Town of Canton to Borrow Money for the Purpose of Constructing, Equipping and Furnishing a School Building

Chapter 178, Acts of 1949, An Act Validating the Zoning By-Laws of the Town of Canton

Chapter 241, Acts of 1950, An Act Authorizing the Town of Canton to Pension Edward F. Healy, a Former Selectmen, Sewer Commissioner and Superintendent of Sewers in said Town

Chapter 141, Acts of 1951, An Act Authorizing the Town of Canton to Reimburse Frank Losordo & Son, Inc. for Money Expended in Connection with the Construction of Water Works in said Town

Chapter 14, Acts of 1953, An Act Providing for Nonpartisan Town Elections in the Town of Canton

Chapter 54, Acts of 1956, An Act Providing for Nonpartisan Town Elections in the Town of Canton

Chapter 446, Acts of 1962, An Act Placing the Office of Building Inspector of the Town of Canton Under the Civil Service Laws and Rules

Chapter 21, Acts of 1965, An Act Repealing the Law Placing the Office of Building Inspector of the Town of Canton Under the Civil Service Laws and Rules

Chapter 449, Acts of 1966, An Act Validating Certain Proceedings Taken by the Town of Canton Relative to the Payment of a Sum of Money to Donald P. McNeice

Chapter 390, Acts of 1967, An Act Providing for Nonpartisan Town Election in the Town of Canton

Chapter 379, Acts of 1970, An Act Authorizing the Appropriation of Certain Funds of the Town of Canton Previously Raised by Bond Issue

Chapter 576, Acts of 1970, An Act Authorizing the Town of Canton to Pay a Sum of Money to Nicholas J. Marathas for Certain Medical Bills Incurred by him as a Result of Injuries Received in the Line of Duty as a Firefighter in said Town

Chapter 144, Acts of 1971, An Act Authorizing the Town of Canton to Borrow Money to Acquire Certain Land and Buildings for Conservation and Recreation Purposes

Chapter 350, Acts of 1972, An Act Authorizing the Town of Canton to Pay a Sum of Money to Mildred Morse Allen

Chapter 559, Acts of 1973, An Act Providing for the Granting of Certain Easements by the Metropolitan District Commission to the Town of Canton

Chapter 583, Acts of 1975, An Act authorizing the Conveyance of the Property of the First Universalist Church and Others in the Town of Canton

Chapter 225, Acts of 1981, An Act relative to the Funding of Salaries Payable to Teachers and Other Professional Employees of the School Department in the Town of Canton

Chapter 512, Acts of 1981, An Act authorizing and directing the Department of Public Health to Convey a Certain Parcel of Land in the Town of Canton to the Canton Housing Authority

Chapter 77, Acts of 1982, An Act providing that the Placement of the Names of Candidates for Public Office on the Official Ballot used in Municipal Elections in the Town of Canton shall be drawn by lot

Chapter 78, Acts of 1982, An Act providing for the Recall of Elected Officials of the Town of Canton

Chapter 186, Acts of 1984, An Act authorizing the Town of Canton to Convey Certain Land in said Town to Stephen and Alice Braconi in Exchange for Certain Other Land in Said Town

Chapter 185, Acts of 1985, An Act authorizing the Division of Capital Planning and Operations to grant easements to Audrey C. Fields and Barbara F. Walker, Trustee

Chapter 373, Acts of 1986, An Act further regulating the sale of alcoholic beverages in certain towns

Chapter 186, Acts of 1993, An Act authorizing the Town of Canton to pay a certain unpaid bill

Chapter 361, Acts of 1998, An Act authorizing the Town of Canton to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises

Chapter 88, Acts of 2000, An Act rescinding the acceptance by the Town of Canton of a certain general law

Chapter 177, Acts of 2002, An Act authorizing the Town of Canton to grant an easement to the Town of Stoughton

Chapter 208, Acts of 2002, An Act authorizing the Town of Canton to appoint certain police officers

Chapter 331, Acts of 2002, An Act increasing the membership of the Board of Selectmen of the Town of Canton

Chapter 394, Acts of 2004, An Act relative to the appointment of Retired Police Officers in the Town of Canton

Chapter 391, Acts of 2006, An Act providing for recall elections in the Town of Canton

Chapter 92, Acts of 2006, regarding Easements to Pequit Development Partners LLC from town conservation land

Chapter 496, Acts of 2008, An Act authorizing the appointment of alternate members of the Town of Canton Historical Commission