# TOWN OF TEWKSBURY

# TOWN BYLAWS

**Updated through 10.5.21 Special Town Meeting**

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## TOWN CHARTER

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

**SECTION 1.**
Upon the effective date of this act, the town of Tewksbury shall be governed by the provisions of this act. To the extent that the provisions of this act modify or repeal existing general laws and special acts or that body of law which constituted the town charter under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern.

**SECTION 2.**
The selectmen shall appoint the executive secretary, town counsel and except as otherwise provided by town bylaw, the members of all multimember boards, committees and commissions except those appointed by the moderator.

**SECTION 3.**
The school committee shall continue to be elected in conformity with the votes of the town meeting. All powers, rights and duties, except as herein provided, now or hereafter conferred or imposed by law upon the school committee, shall be exercised and performed by the school committee. Nothing in this act shall be construed to affect the powers and duties of the school committee as provided by law, except as specifically provided herein.

**SECTION 4.**
A member of the board of selectmen, or of the finance committee shall, during the term for which he was elected or appointed, be ineligible either by election or appointment to hold any other town office. Any person appointed by the town manager to any town office under the provisions of this act or of any general or special law shall be eligible during the term of said office to appointment to any other town office, except that the town accountant shall not be eligible to hold the position of town treasurer or the position of town collector. The town manager, subject to any applicable provision of the General Laws relating thereto, may assume the duties of any office which he is authorized to fill by appointment.

**SECTION 5.**
After adoption of this act, the selectmen shall forthwith advertise for applicants to serve on a committee to be known as the "town manager screening committee". Relatives of, employees of or business associates of elected officials shall not serve as members of the town manager screening committee".

This committee shall be made up of five citizens of Tewksbury. Duties of this committee shall be to screen all applicants and to submit three applicants for consideration by the selectmen, of this group the selectmen shall appoint the town manager. Members of this committee shall be prohibited from holding elected or appointed positions in the town of Tewksbury. Employees of the town of Tewksbury shall be excluded from consideration as members of this committee.

The committee shall be appointed by the selectmen, for a one year term with no person to serve more than one consecutive term. Each selectman will appoint one member and in the event of a vacancy the selectman whose nominee vacates shall be filled by that selectman for the remainder of the unexpired term.

This committee shall convene in the event of a vacancy in the office of manager but shall not be involved in the process in the event of reappointment.

**SECTION 5A.**
The selectmen elected as provided herein shall appoint, by a four-fifths vote, as soon as practicable, a town manager who shall be a person especially fitted by education, training and experience to perform the duties of the office. The town manager shall be appointed without regard to his political beliefs. He need not be a resident of the town or of the commonwealth when appointed, but shall become a resident of the town or live within a ten mile radius of the town during the first year of his appointment. He shall possess at least a bachelors degree and five years experience as a city manager, assistant city manager, town manager, assistant town manager, or comparable position in government. A masters degree may be substituted for two years experience. He shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed or approved by the selectmen. The selectmen shall employ a town manager for renewable three year terms. During the first six months of

his appointment, he shall be on a probationary period and may during said period be removed by the affirmative vote of at least four members of the board of selectmen at its convenience and without cause or hearing. Any person holding elective office in the town of Tewksbury shall be ineligible for appointment as town manager for a period of five years after leaving office.

**SECTION 6.**
Any vacancy in the office of town manager shall be filled as soon as possible by the selectmen. Pending the appointment of a town manager or the filling of any vacancy, the selectmen shall, within seven days, appoint a suitable person to perform the duties of the office.

**SECTION 7.**
The town manager may designate, by letter filed with the town clerk, a qualified officer of the town to perform his duties during his temporary absence or disability. In the event of failure of the town manager to make such designation, the selectmen may, by resolution, designate an officer of the town to perform the duties of the town manager until he shall return or his disability shall cease.

**SECTION 8.**
The selectmen, by a four-fifths vote, may remove the town manager. At least thirty days before such proposed removal shall become effective, the selectmen shall file a preliminary written resolution with the town clerk setting forth in detail the specific reasons for his proposed removal, a copy of which resolution shall be delivered to the town manager. The town manager may, within ten days of service of such resolution, reply in writing to the resolution and may request a public hearing. Service shall be deemed to have been accomplished by leaving a copy of such resolution at the town manager's last known abode. If the town manager so requests, the board of selectmen shall hold a public hearing not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution, and after full consideration the selectmen by a four-fifths vote of the full membership of the board, may adopt a final resolution of removal. In the preliminary resolution, the selectmen may suspend the town manager from duty, but shall in any case cause to be paid to him forthwith any unpaid balance of his salary during the period of consideration of the preliminary resolution. Upon the adoption of a final resolution of removal, the selectmen shall pay the town manager severance pay in the amount equal to one month's pay for each full year of service to the town, but in no event more than an amount equal to three month's pay.

**SECTION 9.**
The selectmen shall fix the salary of the town manager, subject to appropriation.

**SECTION 10.**
In addition to specific powers and duties provided in this act, the town manager shall have the general powers and duties enumerated in this section:

(a) The town manager shall supervise and direct the administration of all departments, commissions, boards and offices except the board of selectmen, the school committee, election officers and the registrars of voters.

(b) The town manager, in accordance with the provisions of this act and except as otherwise expressly prohibited by the General Laws, may reorganize, consolidate or abolish departments, com missions, boards or offices under his direction and supervision, in whole or in part, may establish such new departments, commissions, boards or offices as he deems necessary, and may transfer the powers and duties of one department, commission, board or office to another.

(c) Except as otherwise provided by this act, the town manager shall appoint upon merit and fitness alone, and subject to the provisions of chapter thirty-one of the General Laws where applicable, may remove all officers and employees of the town, except employees of the school department; town officers and employees not subject to the provisions of said chapter thirty-one shall not be subject to the provisions of said chapter thirty-one shall not be removed by him except on ten days notice in writing, setting forth the cause of such removal.

(d) Notwithstanding the provisions of this section one hundred and eight of chapter forty-one of the General Laws, but subject to all applicable provisions of chapter thirty-one of the General Laws, the town manager shall fix the compensation of all town officers and employees subject to removal by him.

(e) The town manager shall attend all regular meetings of the board of selectmen except when excused by said board.

(f) The town manager shall keep full and complete records of his office, and shall render as often as may be required by the selectmen, a full report of all operations during the period reported on.

(g) The town manager shall keep the selectmen fully advised as to the needs of the town and shall recommend to the selectmen for adoption such measures requiring action by them or by the town as he may deem necessary or expedient.

(h) With the exception of property under the jurisdiction of the school committee, the town manager shall have the jurisdiction over the rental and use of all town property and shall be responsible for the maintenance and repair of all town buildings. He shall be responsible for the preparation of plans and the supervision of work on existing buildings or the construction of new buildings.

(i) The town manager shall be responsible for the purchase of all supplies and materials and equipment, except books and educational materials for schools and books and other media for libraries, and shall approve the award of all contracts for all departments of the town. He shall make purchases for departments not under his supervision only upon requisition duly signed by the head of such department.

(j) The town manager shall administer either directly or through a person or persons appointed by him in accordance with this act all provisions of general and special laws applicable to said town, all bylaws and all regulations established by the selectmen.

(k) The town manager shall have the authority to prosecute, defend and compromise all litigation to which the town is a party, and shall be the executive officer of the town as referred to in chapter two hundred and fifty-eight of the General Laws pertaining to the processing of claims against the town.

(l) The town manager shall be the selectmen's agent for collective bargaining and may employ special counsel to assist him in the performance of these duties.

(m) The town manager shall perform such other duties, consistent with his office, as may be required of him by the bylaws of the town or by vote of the selectmen or town meeting.

(n) The town manager shall secure on or before December first of each year from all officers, boards and committees charged with equipment a list of all such equipment upon forms approved by the finance committee. Such list shall be filed with the town accountant who shall transmit them to the clerk of the finance committee.

(o) The town manager shall attend all town meetings and shall be permitted to speak when recognized by the moderator.

**SECTION 11.**
The town manager may without notice cause the affairs of any division or department under his supervision or the job related conduct of any officer or employee thereof to be examined. The town manager shall have access to all town books and papers for information necessary for the proper performance of his duties.

**SECTION 12.**
The board of public works is hereby abolished. The town manager shall succeed to all powers heretofore possessed or exercised by said board.

**SECTION 13.**
The town manager shall appoint the town accountant, chief assessor, town treasurer tax collector and all other town officials whose appointment or election is not specifically provided for herein. The town manager shall appoint, and may remove subject to all civil service laws where applicable, all department heads, all officers and all subordinates and employees for whom no other method of appointment is provided in this act, except persons serving under other elected agencies and appointments made by representatives of the common wealth.

Appointments to permanent positions made by the town manager shall become effective on the fifteenth day following the day notice of appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period, by a majority vote of the full board, vote to reject any such appointment.

**SECTION 13A.**
The building commissioner and assistant building commissioner shall be appointed by the town manager and the removal of the building commissioner or assistant building commissioner shall be by the town manager. Each may be removed for just cause but no such removal shall occur within ninety days following any town election in which there has been a change in the composition of the board of selectmen. Such building commissioner or assistant building commissioner shall be given written notice at least fourteen days prior to the building commissioner shall upon written request be granted a public hearing held by the board of selectmen shall, by a majority, vote either to confirm such removal or to reinstate the building commissioner or assistant building commissioner.

Said written request for a public hearing shall be made to the board of selectmen or through their office on or before the said date of removal. Said vote of the board of selectmen shall occur no later than seven days after the public hearing. If, after a written request for a public hearing, said hearing or said vote is not held as provided herein, the removed person shall be reinstated with full pay and benefits retroactive to the date of removal.

**SECTION 13B.**
The town manager shall appoint the town clerk. Notwithstanding any general or special law to the contrary, the town manager may remove, suspend or discipline the town clerk for just cause. The town clerk shall be given written notice at least 14 days prior to the date of removal, which shall specify the reasons for such removal. The town clerk shall, upon written request, be granted a public hearing held by the board of selectmen who shall vote to confirm such removal or to reinstate the town clerk by a majority vote.

The town clerk's written request for a public hearing shall be made to the board of selectmen on or before the date of removal. The vote of the board of selectmen shall occur not later than 7 days after the public hearing. If, after a written request for a public hearing, that hearing or vote fails to meet the standards in this section, the town clerk shall be reinstated with full pay and benefits retroactive to the date of removal.

**SECTION 14.**
The town treasurer tax collector shall receive as compensation a minimum of fifty percent of the salary of the town manager. The town accountant shall receive as compensation a minimum of thirty-three per cent of the salary of the town manager. The chief assessor shall receive as compensation a minimum of twenty-five (25) per cent of the salary of the town manager, or whatever such sum the town shall raise and appropriate as compensation at its annual town meeting.

**SECTION 15.**
After the adoption of this act, the registered voters of the town of Tewksbury shall, in accordance with any applicable laws, bylaws and votes of the town, continue to elect the following:

(a) Moderator
(b) Board of Selectmen
(c) School Committee
(d) Planning Board
(e) Board of Health
(f) Library Trustees
(g) Representative to Shawsheen Regional and Vocational School District Committee
(h) Housing Authority

The acceptance of this act shall not affect the term of office of any such elected member of such board, committee or authority. Every other elective office, board, committee, or commission of the town shall be terminated or shall become appointive as hereinafter provided, any other provision of law to the contrary notwithstanding. The term of office of any person elected to any office, board, committee or commission of the town, existing at the time of such acceptance and terminated hereunder, shall continue until the appointment of the town manager, and thereafter the said offices, boards, committees and commissions shall be abolished and all powers, duties and obligations conferred or imposed thereon by law, except as provided by this act, shall be conferred and imposed upon the town manager to the extent hereinafter provided. The term of office of any person elected to any office, board, committee or commission existing as an elected officer at the time of the acceptance of this act and having become appointive hereunder, shall continue until the term for which that person was elected shall have expired, and until the appointment and qualification of his successor.

The board of assessors shall consist of three members, to be appointed by the manager. The powers, duties and responsibilities of elected officials shall be as now or hereafter provided by applicable provisions of general laws, special acts, bylaws and votes of the town; except as otherwise expressly provided herein. The Trust Fund Commission shall consist of three (3) members to be appointed by the Board of Selectmen for a term of three (3) years. The term of office of the current members shall continue until the term for which that person was elected shall have expired or until the appointment and qualification of their successor.

The board of health shall be elected at the annual town election. The board shall consist of five (5) persons serving three (3) year terms with two (2) persons elected the first year, two (2) persons elected the second year and one (1) person elected the third year. For the purpose of implementation, the three (3) sitting members shall serve out their terms with two (2) open seats being filled at the next annual election, one (1) seat for three (3) years and the second for two (2) years.

Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available to the town manager for consultation, conference and discussion on matters relating to their respective offices.

**SECTION 15A.**

(a) Application - Any person who holds an elected office with more than six months remaining of the term of office, may be recalled from the office by the voters in the manner provided in this section.

(b) Recall Petitions - One hundred and forty or more voters may file with the town clerk an affidavit containing the name of the office whose recall is sought and a statement of the grounds upon which the petition is based. The signatures on such petitions shall contain the names of at least twenty voters in each of the precincts.

If said petition is found to be valid the town clerk shall thereupon deliver to the ten persons first named on such petitions, petition blanks demanding such recall, printed on forms which he shall keep available. The blanks may be completed by printing or typewriting; they shall be addressed to the board of selectmen; they shall contain the names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; they shall be dated and signed by the town clerk. The recall petitions shall be returned to the office of the town clerk within twenty days following the date they are issued, signed by at least fifty percent of the total number of persons voting at the previous annual town election.

The town clerk shall, within twenty-four hours following such filing with him, submit the petitions to the board of registrars of voters which shall within five days thereafter, certify thereon the number of signatures which are the names of voters.

(c) Recall Elections - If the petitions shall be certified by the registrars of voters to be sufficient, the town clerk shall forthwith submit the same with his certificate to the board of selectmen. Upon its receipt of the certified petitions the board of selectmen shall forthwith give notice, in writing, of said petition to the officer whose recall is sought. If said officer does not resign his office within five days following delivery of said notice, the board of selectmen shall order a special election to be held not less than thirty-five nor more than sixty days after the date of the certification of the town clerk that the petition is sufficient. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.

(d) Nomination of Candidates - An officer whose recall is sought may be a candidate to succeed all candidates, the publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with this act and the General Laws regulating elections.

(e) Propositions on the Ballot - Ballots used at the recall election shall state the proposition in the order indicated:

For the recall of
(name of officer)

Against the recall of
(name of officer)

Adjacent to each proposition shall be a place to vote for either of said propositions. After the said proposition shall appear the word “candidates” and the names of candidates arranged as prescribed by law.

If a majority of the votes cast on the proposition is against the recall the votes for the candidates need not be counted. If a majority of the votes cast is in favor of the recall the votes for candidates shall be counted and the candidate receiving the highest number of votes shall be declared elected.

(f) Officeholder - The incumbent shall continue to hold his office and to perform his duties until the recall election. If he is then not recalled he shall continue in his office for the remainder of his unexpired term, subject to recall as provided in paragraph (g).

If the officer is recalled he shall be deemed removed upon the certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

(g) Request of Recall Petition - No recall petition shall be filed against an officer within six months after he takes office, or in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters.

**SECTION 16.**
At the time provided by town by law, the town manager shall submit to the selectmen a careful, detailed estimate in writing of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures for the current year. He shall also submit a statement showing all revenues received by the town in the preceding fiscal year together with an estimate of the receipts of the current year and an estimate of income from all sources of revenue exclusive of taxes upon property in the ensuing year. He shall report the probable amount required to be levied and raised by taxation to defray all expense and liabilities of the town together with an estimate of the tax rate necessary to raise said amount. For the purpose of enabling the town manager to make up the annual estimates of expenditures, all boards, officers, and committees of the town shall, at the time provided by town bylaw, furnish all information in their possession and submit to him in writing a detailed estimate of the appropriation required for the efficient and proper conduct of their respective departments during the next fiscal year.

**SECTION 17.**
The selectmen shall consider the tentative budget submitted by the town manager and make such recommendations relative thereto as they deem expedient and proper in the interests of the town. At the time provided by town bylaw, the selectmen shall transmit a copy of the budget, together with all their recommendations relative thereto, to each member of the finance committee.

**SECTION 18.**
The town manager shall be chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with the provisions of section fifty-six of chapter forty-one of the General Laws shall be submitted to the town manager. The approval of any such warrant by the town manager shall be sufficient authority to authorize payment by the town treasurer, but the selectmen shall approve all warrants in the event of a vacancy in the office of town manager.

**SECTION 19.**
All laws, bylaws, votes, rules and regulations, whether enacted by authority of the town or any other authority, which are in force in the town of Tewksbury on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act, shall continue in full force and effect until otherwise provided by other laws, bylaws, votes, rules and regulations, respectively. All other laws, bylaws, votes, rules and regulations so far as they refer to the town of Tewksbury are hereby suspended but such suspension shall not revive any pre-existing enactment.

**SECTION 20.**
No contract existing and no action at law or suit in equity, or other proceeding pending at the time this act is accepted, or at the time of revocation of such acceptance, shall be affected by such acceptance or revocation, except that upon revocation any contract made by the town with the town manager then in office shall be terminated immediately upon such vote subject only to termination payment rights under section eight.

**SECTION 21.**
Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with this act for the performance of the said duties by another person or agency. No person in the permanent fulltime service or employment of the town shall forfeit his pay grade or time in service. Each such person shall be retained in a capacity as similar to his former capacity as is practical.

**SECTION 22.**
This act shall be submitted for acceptance to the voters of the Town of Tewksbury at a special or annual town election in the form of the following question, which shall be placed upon an official ballot to be used at said election: "Shall an act passed by the General Court in the year nineteen hundred and eighty-six, entitled "An Act establishing a selectmen town manager form of government in the town of Tewksbury" be accepted?

If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect, but not otherwise.

Approved by Special Town Meeting May 6, 1986
Approved by General Court July 16, 1986 (Chapter 275 Acts 1986)
Approved by Special Town Election November 8, 1986
Amended Annual Town Meeting May 4, 1987 (Change Section 2, 5A, 9, 10e, 16, 17) (Add Section 23 Rejected by General Court July 20, 1987)
Approved by General Court July 20, 1987 (Chapter 336 Acts 1987)
Approved by Governor July 23, 1987
Effective date October 14, 1987
Amended by Special Town Meeting February 17, 1988 (Add Section 13A)
Approved by General Court July 12, 1988 (Chapter 152 Acts 1988)
Approved by Governor July 15, 1988
Amended by Annual Town Meeting May 4, 1994 (Amend Section 15)
Approved by General Court November 15, 1995 (Chapter 229 Acts 1995)
Approved by Governor November 21, 1995
Approved by the Annual Town Meeting May 6, 2002
Approved by the General Court
Approved by the Governor January 1, 2003 (Chapter 474, Acts 2002)
Approved by the Annual Town Meeting May 5, 2003
Approved by the General Court
Approved by the Governor December 11, 2003 (Chapter 145 Acts 2003)
Amended by Special Town Meeting October 4, 2011(Add Section 13B, Amend Section 15 by striking out subsection (i)
Approved by the General Court March 12, 2012 (Chapter 57 Acts 2012)
Approved by the Governor March 22, 2012

**Title 1**

# GENERAL PROVISIONS

**Chapters:**

**1.01 Code Adoption**
**1.04 General Provisions**
**1.08 General Penalty**

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**Chapter 1.01**

**CODE ADOPTION**

**Sections:**

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**1.01.020 Title – Citation Reference.**
**1.01.030 Reference applies to all amendments.**
**1.01.040 Title, chapter and section headings.**
**1.01.050 Reference to specific bylaws.**
**1.01.060 Effect of bylaws on past actions and obligations.**
**1.01.070 Constitutionality.**

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**1.01.010 Adoption.**
There is hereby adopted the "Tewksbury Town By-Laws," as compiled, edited and published by Book Publishing Company, Seattle, Washington. (Art. 34 § 1, ATM 1992)

**1.01.020 Title – Citation Reference.**
This code shall be known as the "Tewksbury Town By-Laws" in any prosecution for the violation of any pro visions thereof or in any proceedings at law or equity. It shall be sufficient to designate any bylaw adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "Tewksbury Town By-Laws." Further reference may be had to titles, chapters, sections and subsections of the "Tewksbury Town By-Laws" and such reference shall apply to that of numbered title, chapter, section or subsection as it appears in the bylaw. (Art. 34 § 2, ATM 1992)

**1.01.030 Reference applies to all amendments.**
Whenever a reference is made to this code as the "Tewksbury Town By-Laws" or to any portion thereof, or to any bylaw of the Town of Tewksbury, Massachusetts, codified herein, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Art. 34 § 3, ATM 1992)

**1.01.040 Title, chapter and section headings.**
Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section thereof. (Art. 34§ 4, 1992)

**1.01.050 Reference to specific bylaws.**
The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with bylaws which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Art. 34 § 5, 1992)

**1.01.060 Effect of bylaws on past actions and obligations.**
Neither the adoption of this code nor the appeal or amendment hereby of any bylaw or part or portion of any bylaw shall in any manner affect the prosecution for violations of bylaws, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such bylaws, nor be construed as affecting any of the provisions of such bylaws relating to the collection of any such violation thereof, nor to affect the validity of any bond or cash pursuant to any bylaw and all rights and obligations there under appertaining shall continue in full force and effect. (Art. 34 § 6, 1992)

**1.01.070 Constitutionality.**
If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The Town Meeting hereby declares that it would have passed this code, and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, then the original bylaw or bylaws shall be in full force and effect. (Art. 34 § 7, 1992)

**Chapter 1.04**

**GENERAL PROVISIONS**

**Sections:**

**1.04.010 Code cite – Applicability Amendment and repeal procedure.**
**1.04.020 Definitions.**
**1.04.030 Authorized agents.**
**1.04.040 Computation of time.**
**1.04.050 Rules of construction.**
**1.04.060 Effect of repeal.**
**1.04.070 Severability.**

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**1.04.010 Code cite – Applicability Amendment and repeal procedure.**

A. These bylaws are hereby entitled, "The Town By-Laws for the Town of Tewksbury, Massachusetts."

B. These bylaws shall not affect any act done, any right accrued, any penalty incurred, any suit, prosecution or proceeding pending, or the tenure of office of any person holding office, at the time when they take affect.

C. Any and all of these bylaws may be repealed or amended or other bylaws may be adopted at a Town Meeting, providing notice has been given in the warrant for said meeting and that each section, being repealed, is specifically identified by chapter and section. (Art. 46 § 17 (part), ATM 1991)

**1.04.020 Definitions.**

The following words and phrases shall be construed as defined in this section unless from the context a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

A. "Gender," words used in the masculine gender shall include the feminine and neuter gender.

B. "General Laws," "MGL," or "G.L.," shall mean and refer to the General Laws of the Commonwealth of Massachusetts.

C. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by entirety, or the whole or a part of such building or land.

D. "Person," includes a natural person, joint venture, joint stock company, partnership, association, club, company, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

E. "Sidewalk," means that portion of the street between the curbline and the adjacent property line intended for the use of pedestrians.

F. "Singular and plural," the singular number includes the plural and the plural includes the singular.

G. "Street," includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways which have been or may hereafter be dedicated or excepted and open to public use, or such other public property so designated in any law of this Commonwealth.

H. "Tenant" and "occupant" applied to a building or land, include any person who occupies the whole or part of such building or land, whether alone or with others.

I. "Tenses," words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable. (Art. 46 § 17 (part), ATM 1991)

**1.04.030 Authorized agents.**

When an act is required to be done by a board, the same being such that the act may be done as well by an authorized agent. (Art. 46 § 17 (part), ATM 1991)

**1.04.040 Computation of time.**
Except when otherwise provided, the time which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Sunday or a holiday, in which case it shall also be excluded. (Art. 46 § 17 (part), ATM 1991)

**1.04.050 Rules of construction.**
The provisions of these bylaws and all proceedings under them are to be construed with a view to effect their objects and to promote justice. (Art. 46 § 17 (part), ATM 1991)

**1.04.060 Effect of repeal.**
Repeal shall not revive any bylaws. The repeal of a bylaw shall not repeal the repealing clause of a bylaw or revive any bylaw which has not been repealed thereby. (Art 46 § 17 (part), ATM 1991)

**1.04.070 Severability.**
The provisions of these bylaws are declared to be severable and if any section, sentence, clause, or phrase of these bylaws shall for any reason by held invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of these bylaws and they shall remain in effect, it being the intent that these bylaws shall stand notwithstanding the invalidity of any part. (Art. 46 § 17 (part), ATM 1991)

**Chapter 1.08**

**GENERAL PENALTY**

**Section:**
**1.08.010 Violation Penalty.**

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**1.08.010 Violation Penalty.**

A. All penalties recovered for violation of any of the foregoing bylaws shall be paid into the treasury of the Town.

B. Whoever violates any of the provisions of these bylaws whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine, not exceeding three hundred dollars ($300.00) for each offense.

C. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of these bylaws is committed, continued, permitted by any such person, and they shall be fined accordingly.

D. Violations of the Town bylaws and rules and regulations, may be enforced by noncriminal disposition in the manner provided by Massachusetts General Laws, Chapter 40, Section 21D, as amended by the Acts of 1990, Chapter 470.

E. Police officers of the Town of Tewksbury shall have the authority to enforce all of the Town bylaws and rules and regulations.

F. Town officials, each with respect to a specific violation of these bylaws and rules and regulations, and within their respective jurisdiction, shall also have the authority to enforce the by law and rules and regulations by noncriminal disposition.

G. All collections of fines and penalties shall be deposited into the Town Treasury. (Art. 46 § 17 (part), ATM 1991; ByLaws Art. IX § 1)

**Title 2**

# ADMINISTRATION AND PERSONNEL

**Chapters:**

**2.04 Town Meeting**
**2.08 Building Commissioner**
**2.12 Boards, Committees and Commissions**
**2.16 Council on Aging**
**2.20 Finance Committee**
**2.24 Records and Documents**
**2.28 Contracts by Town Officers**

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**Chapter 2.04**

**TOWN MEETING**

**Sections:**

**Article I. Meeting Procedures**
**2.04.010 Schedule established.**
**2.04.012 Annual Town Meeting.**
**2.04.015 Consent calendar.**
**2.04.020 Article submission.**
**2.04.030 Posting requirements.**
**2.04.040 Notice of adjournment.**
**2.04.050 Town offices chosen by ballot to be designated.**
**2.04.060 Quorum.**
**2.04.070 Minutes to be included in Annual Report.**
**2.04.080 Call to order.**
**2.04.090 Opening prayer.**
**2.04.100 Rules to govern speakers.**
**2.04.110 Reconsideration.**
**2.04.120 Final action when expenditure exceeds five hundred dollars.**
**2.04.130 Proceedings governed by Town Meeting Time, Second Edition, 1984, with the additions and as amended.**
**2.04.140 Town Clerk's duty to notify members when.**
**2.04.150 Procedure for voting on appropriations.**
**2.04.170 Certain percentage required for passage when.**
**2.04.180 Emergency meeting.**
**2.04.190 Motion to dissolve.**
**2.04.200 Amendment to personnel bylaws.**
**2.04.210 Amendment to bylaws.**

**Article II. Town Officers**
**2.04.220 Individual to hold only one elected office at a time.**

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## Article I. Meeting Procedures

### 2.04.010 Schedule established.

A. The Annual Town Meeting for the election of Town Officials shall be held on the first Saturday of April, and polls shall be opened from 8:00 A.M. to 8:00 P.M., except when Easter Sunday falls on the day following the first Saturday of April the said election shall be held on the second Saturday of April as above provided.

B. The Annual Town Meeting for consideration of warrant articles shall begin on the first Monday in May at 7:30 P.M. and conclude at 11:00 P.M., except as provided below. Subsequent meetings shall begin at 7:30 P.M. on Wednesday and Thursday of the same week and conclude at 11:00 P.M., except as provided below. The same schedule shall be observed in following weeks, if necessary. No business shall be conducted after 11:00 P.M. at any session except to complete action on the article or departmental budget then under discussion.

C. The Annual Town Meeting shall be divided into three sections.

Section One:
Article 1. Annual Town Election—Accomplished in April

Section Two shall begin on the first Monday in May at 7:30 P.M. and shall include the following articles:

Section Two:
Article 2. Elected official salaries
Article 3. Consent calendar
Article 4. Budget article
Article(s) Budget related articles
Article(s) Amend Personnel bylaws
Article(s) Amend Town bylaws
General Articles

If Section Two is completed before 11:00 P.M., the Annual Town Meeting shall adjourn to Wednesday at 7:30 P.M. to act on Section Three articles.

Section Three:
Amend zoning bylaws

(Art 21, STM 10.4.2016; Art. 32, ATM 2016; Art. 10 (part), STM 2005: Art. 18, STM 2001; Art. 20, ATM 2000: Art. 30, ATM 1998)

### 2.04.012 Annual Town Meeting.

Except for a motion to lay on the table at the Annual Town Meeting to a date, place and time specific, for any article related to an appropriation, transfer or borrowing of funds; the motion to lay on the table at the Annual Town Meeting is prohibited. At the call of the Budget, the Moderator shall call out the heading of each Budget Classification and if any voter wishes to speak on any budget listed under each Budget Classification, he/she should call out "Debate." Transfers of monies within each Budget Classification Total shall be prohibited without the prior written approval of the Town Manager and the Department Head responsible for such budget. In the event the Town Manager shall notify the Finance Committee and the appropriate monies shall be transferred to the department to which the employee is transferred. (Art. 9, STM 2006; Art. 10 (part), STM 2005: Art. 30, ATM 2002: Art. 30, ATM 1998)

### 2.04.015 Consent calendar.

At the call of the consent calendar, the Moderator will call out the number of the articles, one by one. If a voter objects to any particular article being included in the consent calendar he/she should say the word "HOLD" in a loud voice when the number is called. The article is then removed from the consent calendar and restored to its original numbered place in the warrant, to be acted upon, debated and voted in the usual manner. After calling of the individual items in the consent calendar, the Moderator shall ask that all the remaining items be passed as a unit by the voters.

The consent calendar shall include the following noncontroversial numbered articles and with a brief description printed under each article:

Article Sale of tax title property Article
Article Lease/purchase agreements Article
Article Sale of town owned land Article
Article Petition the General Court
Article Adoption of Massachusetts General Laws
Article Adoption of Special Acts
Article Acceptance of gifts and donations to the Town
Article Accept the Annual Town Report
Article Real estate and personal property revaluation FY _____
Article Reduce the tax levy
Article Authorize Chapter 90 funds

The Board of Selectmen may add other noncontroversial articles with a brief description, to the consent calendar which they consider would pass without debate. (Art. 20, STM 2001; Art. 30, ATM 1998)

**2.04.020 Article submission.**
The Board of Selectmen shall insert in the warrant for the Annual Town Meeting and any Special Town Meetings all articles submitted to them for inclusion by the elected Town Officials: Board of Selectmen, Town Clerk and Moderator and by elected Town Boards: Board of Health, Planning Board, Housing Authority, Library Trustees, School Committee, and Regional Technical School Committee. The articles submitted to the Board of Selectmen by the elected boards and elected committees must be submitted by a majority vote of the entire board or committee to require the article being included in the warrant. The Town Manager shall submit articles to the Board of Selectmen for insertion in the warrant. Articles submitted by the appointed boards or appointed committees shall be approved by a majority vote of the entire board or committee and shall be submitted to the Board of Selectmen. Upon receipt of the article the Board of Selectmen, at their next scheduled meeting, shall give due consideration of the article for inclusion in the Annual or Special Town Meeting Warrant and shall promptly notify the appointed board or appointed committee of their action. This is not intended to, and will not prevent any individual member or an elected and appointed board or committee, or any registered voter from submitting articles as permitted under Massachusetts General Laws, Chapter 39, Section 10.

The Sponsor submitting an article for any Town Meeting shall provide a brief description of no more than 100 words of the intent of the article. (Art. 30, ATM 1998)

**2.04.030 Posting requirements.**
The Warrant shall be posted by a Constable of the Town and shall be posted in a public place in each Precinct and in the Town Hall. At least three hundred copies shall be left at the Town Hall or at such convenient places as the Selectmen shall think proper. In addition, the Selectmen shall order that one Warrant be mailed to each dwelling in the Town two weeks before any town meeting. In addition and at the time of the posting the Warrant shall be placed on the Town's website. Warrants shall be available at the check-in tables before each town meeting provided, however, in regard to the mailing requirement, if a Town Meeting Warrant article amends a General or Zoning By-Law and the content of the article exceeds three (3) pages of the standard format of a Town Meeting Warrant page, a summary of that article shall be inserted into the Town Meeting Warrant in place of the entire article to be mailed. Such summary shall be prepared by Town Counsel. The summary shall also indicate the locations where the complete article may be located for review. The complete article shall be posted on the Town's website, two copies shall be made available for viewing at the Tewksbury Public Library, Senior Center, and Town Hall at the Town Clerk's Office, and shall comply with the requirements of M.G.L. c. 39, § 10. (Art. 26, ATM May 2010, Art. 28, ATM May 2017, Art. 26 ATM 2019)

**2.04.040 Notice of adjournment.**
Notice of adjourned town meetings shall be posted by the Town Clerk on local access cable TV and in the Town Hall as soon as practicable after adjournment, with a list of the articles to come before the town meeting. (Art. 30, ATM 1998)

**2.04.050 Town offices chosen by ballot to be designated.**
Such Town offices as are required by law to be chosen by ballot, and their respective terms of office, shall be designated in the warrant for the annual meeting. (ByLaws Art. I § 4)

**2.04.060 Quorum.**
The number of voters necessary to constitute a quorum at Town Meeting shall be zero (0). (By-Laws Art. I § 5)

**2.04.070 Minutes to be included in Annual Report.**
The Town Clerk shall include a copy of all Town Meeting minutes held during the current year in the Annual Report. (Art. 33, ATM 2002: By-Laws Art. I § 6)

**2.04.080 Call to order.**
At the time appointed the Moderator shall call the meeting to order and all persons shall be seated. The Moderator shall read each article before it is placed before the meeting for consideration unless the reading of the article is waived by the voters. (By-Laws Art. I § 7)

**2.04.090 Opening prayer.**
When the annual meeting has been duly organized the presiding officer shall call on any clergyman present to open the meeting with prayer, after which the Moderator shall submit the articles contained in the warrant to the action of the meeting. (By-Laws Art. I § 8)

**2.04.100 Rules to govern speakers.**
No voter shall speak twice on any one subject, if any other voter who has not spoken already and is standing to be recognized by the Moderator. No voter shall speak for more than five minutes at one time, except by vote of permission of the assembly. (Art. 30, ATM 1998)

**2.04.110 Reconsideration.**
No prior vote shall be reconsidered except to correct a procedural defect, scriveners error or an oversight. Any voter may make the motion to reconsider a prior vote, to correct a procedural defect, scriveners error or an oversight, which to prevail shall require a majority vote. (Art. 30, ATM 1998)

**2.04.120 Final action when expenditure exceeds five hundred dollars.**
No final action shall be taken at any meeting on the report of any committee previously chosen, when it involves an expenditure of five hundred dollars ($500.00) or more, unless the same shall be especially notified in the warrant calling such meeting. (By-Laws Art. I § 11)

**2.04.130 Proceedings governed by Town Meeting Time, Second Edition, 1984, with the additions and as amended.**
The proceedings of the meeting shall be governed by Town Meeting Time, a handbook of parliamentary law prepared under the auspices of the Massachusetts Moderators Association, and except as follows: when several different sums of money have been proposed, the smaller shall always be voted on first and when the motion to move the question is made the Moderator shall allow those presently standing, at the time of the motion, the opportunity to be heard and then he or she will take the vote to move the question; when these by laws conflict with Town Meeting Time, these By-Laws shall prevail. (Art. 30, ATM 1998)

**2.04.140 Town Clerk's duty to notify members when.**
It shall be the duty of the Town Clerk to immediately notify in writing all members of committees that may be elected or appointed at any town meeting, stating the business upon which they are to act and the names of the committee. (By-Laws Art. I § 13)

**2.04.150 Procedure for voting on appropriations.**
No appropriations or transfers of money in excess of one hundred thousand dollars ($100,000.00) by the Town at an Annual or Special Town Meeting shall be valid, when the Finance Committee has recommended a lesser amount than the Department Head has submitted to said Committee, unless the vote for said appropriation or transfer be taken by secret ballot. "In no event shall a secret ballot be required for items under the budget article for a vote on the items." (Art. 21, STM 2001)

**2.04.170 Certain percentage required for passage when.**
Any warrant article or motion there under receiving unfavorable action at any town meeting shall require a three fourths (¾) vote for adoption at a Special Town Meeting. This restriction shall apply when an article or motion presented at a Special Town Meeting contains the same subject matter or would produce the same effect as one acted on at a previous meeting. A request for a different sum of money shall not be construed as changing the subject matter of such an article or motion. (By-Laws Art. I § 16)

**2.04.180 Emergency meeting.**
In cases of emergency or unforeseen circumstances the Board of Selectmen may by a four fifths (4/5) vote call a Special Town Meeting in fourteen (14) or more days and, further, that notice of such emergency Special Town Meeting shall be the minimum requirements of such notice as provided by the General Laws of Massachusetts, notwithstanding any other provisions of the Town By-Laws regarding notice of Town Meeting and article or articles therein, which pertain directly to the emergency. (By-Laws Art. I § 18)

**2.04.190 Motion to dissolve.**
No motion, the effect of which would be to dissolve the meeting, shall be in order until every article on the Warrant has been duly considered and acted upon. This requirement shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place. (By-Laws Art. I § 19)

**2.04.200 Amendment to personnel By-Laws.**
"In any case where an amendment to the personnel By-Laws is proposed and such amendment changes the salaries of Town employees, the vote of said amendment shall be by secret ballot." (By-Laws Art. I § 20)

**2.04.210 Amendment to By-Laws.**
The By-Laws may be amended at any meeting, providing notice has been properly given in the Warrant for said meeting. (By-Laws Art. IX § 4)

## Article II. Town Officers

### 2.04.220 Individual to hold only one elected office at a time.

"No individual may hold more than one elected Town office at one time. In any case where an elected official seeks election to another office, the office he is holding at that time shall be declared vacant, if he is declared elected to the second office." (By-Laws Art. I § 21)

**Chapter 2.08**

**BUILDING COMMISSIONER**

**Sections:**
**2.08.010 Weighing and Measures Fee Schedule.**

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| Weighing and Measuring Devices | | |
|---|---|---|
| | Current | Proposed |
| Scales | | |
| Over 10,000 lbs | $100.00 | $150.00 |
| 5,000 to 10,000 lbs | $50.00 | $60.00 |
| 1,000 to 5,000 lbs | $30.00 | $40.00 |
| 100 to 1,000 lbs | $20.00 | $25.00 |
| 10 to 100 lbs | $10.00 | $15.00 |
| Less than 10 lbs | $5.00 | $7.00 |
| Apothecary | $5.00 | $12.00 |
| Gasoline Stations – Liquid Measuring Meters ½" – 1" each | $12.00 | $20.00 |
| Adjusting Charges – Liquid Measuring Meter (Per Meter) | | $15 |
| Fuel Oil Vehicle Tank Pump | $40.00 | $50.00 |
| Adjusting Charges – Fuel Oil Vehicle Tank Pump (Per Vehicle) | | $25 |
| Fuel Bulk Storage | $30.00 | $40.00 |
| Taxi Meters | $15.00 | $20.00 |
| Fabric Measuring | $7.00 | $10.00 |
| Wire – Rope and Cordage | $7.00 | $10.00 |
| Yardsticks/Tapes | $2.00 | $5.00 |
| Re-inspection (Per Device) | | $15.00 |
| Scanner Systems<br>1 to 3 Devices<br>4 to 11 Devices<br>12 or More Devices<br>**Scanner checks done once every two years | <br>$75<br>$150<br>$250 | *Note: These fees are the State Minimum. |

(Art. 38, ATM 2007)

**Chapter 2.12**

**BOARDS, COMMITTEES AND COMMISSIONS**

**Sections:**

**2.12.010 Removal of members.**
**2.12.020 Meetings - During Annual Town Meeting Sessions.**

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**2.12.010 Removal of members.**
Whenever a member of any appointed board, committee or commission is absent for more than twenty-five percent (25%) of its meetings during a calendar year, that by vote of the appointing authority without any hearing; except, however, where the General Laws provides that a member of a particular commission, board or committee may be removed for cause, just cause, good cause, or similar language, if a member of such committee, board or commission is absent for more than twenty-five (25%) per cent of its meetings during a calendar year, such absences shall be deemed cause, good cause, or just cause or grounds for removal. (Art. 12 (part), ATM 1983: By-Laws Art. IX § 12)

**2.12.020 Meetings - During Annual Town Meeting Sessions.**
No town Board, Commission, Committee, SubCommittee or reasonable facsimile thereof, whether appointed or elected, shall meet for any purpose, including the conduct of executive sessions and public hearings, on any date and at such time as the Annual Town Meeting is in session; except in the event of an emergency in which case a designated representative of any such Board, Commission, Committee, SubCommittee or reasonable facsimile thereof shall explain the nature of that emergency to the Moderator's satisfaction prior to scheduling, advertising, or posting notice of said emergency meeting. (Art. 34, ATM 1991)

**Chapter 2.16**

**COUNCIL ON AGING**

**Sections:**

**2.16.010 Purpose.**
**2.16.020 Membership.**
**2.16.030 Initial membership designated.**
**2.16.040 Election of Chairman.**
**2.16.050 Appointment of new members.**
**2.16.060 Council organization.**
**2.16.070 Limitations on members.**

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**2.16.010 Purpose.**
PURPOSES: To establish in the Town a Council for the Aging, hereinafter called the Council on Aging, pursuant to Chapter 40, Section 8B of the Massachusetts General Laws. Said Council shall coordinate and carry out programs designed to meet the problems of the aging in coordination with programs of the Department of Elder Affairs of the Commonwealth of Massachusetts. (Art. 39 (part), ATM 1982: By-Laws Art. IV § 5A)

**2.16.020 Membership.**
MEMBERSHIP OF COUNCIL: The Council shall consist of eleven (11) members who shall serve for a three (3) year term; The Board of Selectmen shall appoint five (5) members of the Council. The remaining six (6) Council members shall be appointed by the Council Chairperson from interested and representative community groups and individuals. (Art. 34 ATM 2014: Art. 34, ATM 2002: Art. 39 (part), ATM 1982: By-Laws Art. IV § 5B)

**2.16.030 Initial membership designated**.
INITIAL MEMBERSHIP: The Council shall initially consist of those members presently serving, including those members appointed by the Selectmen on July 7, 1981 and August 18, 1981, and those appointed by the Council Chairman on August 28, 1981. The Council Chairman elected on August 27, 1981, shall be the initial Council Chairman. All initial members shall serve for the balance of their appointed terms providing, however, that their terms shall expire on December 31st, next following the expiration date indicated in their current appointments. (Art. 39 (part), ATM 1982: By-Laws Art. IV § 5C)

**2.16.040 Election of Chairperson.**
ELECTION OF CHAIRPERSON: The Council shall each year, within the sixty (60) day period preceding June 30th meet and elect a Chairperson from within their membership by majority vote. (Art. 34 ATM 2014:Art. 39 (part), ATM 1982: By-Laws Art. IV § 5D)

**2.16.050 Appointment of new members.**
APPOINTMENT OF NEW MEMBERS: The Board of Selectmen shall, each year, prior to June 30th each year appoint persons to fill any vacancies among their five (5) appointments and each appointee to serve a three year term. The new Chairperson, elected as above, shall appoint persons to fill any vacancies among the remaining six (6) appointments each appointed to serve a three year term. All newly appointed members shall commence their terms on July 1st. (Art. 34 ATM 2014: Art. 39 (part), ATM 1982: By-Laws Art. IV § 5E)

**2.16.060 Council organization.**
ORGANIZATION OF COUNCIL: The Council shall, each year, within the sixty (60) day period following July 1st, elect a Vice Chairperson, Treasurer and Clerk from among their members by majority vote. Each officer so elected shall serve from the date of election until June 30th of the year of the election. (Art. 34 ATM 2014: Art. 39 (part), ATM 1982: By-Laws Art. IV § 5F)

**2.16.070 Limitations on members.**
LIMITATIONS: No Council Chairmen may be an elected official of the Town. No Council Member or members of his or her immediate family may, directly or indirectly, receive any compensation for service to the Council, or for the Council. (Art. 39 (part), ATM 1982: By-Laws Art. IV § 5G)

**Chapter 2.20**

**FINANCE COMMITTEE**

**Sections:**

**2.20.010 Composition.**
**2.20.020 Meetings, organization and records.**
**2.20.030 Budget submission requirements.**
**2.20.035 Capital outlay defined.**
**2.20.040 Estimate of expenditures.**
**2.20.045 Receipts, expenditures and transfers.**
**2.20.050 Board of Selectmen to consider budget.**
**2.20.060 Notice of recommendations to members.**
**2.20.070 Appearance before committee.**
**2.20.080 Notice of recommended budget.**

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**2.20.010 Composition.**
The Finance Committee will consist of seven members, each appointed to serve a three year term. The terms of appointment will be staggered so that three (3) terms of service will expire at the end of every third fiscal year beginning with fiscal year 2012 and two (2) terms of service will expire at the end of each of the two (2) subsequent fiscal years. The appointing authority for the purposes of this section shall consist of a body composed of the Moderator, the Chairman of the Board of Selectmen and the Chairman of the Finance Committee, a majority vote prevailing. (Art. 35, ATM 1995, ATM 5-9-12)

**2.20.020 Meetings, organization and records.**
The Finance Committee shall meet and organize by the election of a Chairman, Vice Chairman and Clerk at the first meeting held by the Finance Committee after the conclusion of the Annual or Special Town Meeting that establishes the budget for the fiscal year.

The Finance Committee shall consider all Town Meeting articles after giving one or more public hearings thereon and shall provide written recommendations to the Town Meeting as per Massachusetts General Laws Chapter 39 Section 16.

The number of members in attendance at the public hearings and at each meeting of the Finance Committee and a statement of the number of dissenting votes shall be included in the minutes of the Finance Committee.

The Finance Committee shall act on all Lateral and Reserve Fund Transfer requests submitted to them in ac accordance with the provisions of Massachusetts General Law Chapter 40 Section 6.

The records of the Finance Committee shall contain a list of all transfers requested and the reasons therefore and the action taken by the committee thereon.

The Finance Committee Annual Budget Recommendations Report shall include in parallel columns, each De apartment's adopted appropriation amount of the previous fiscal year, the Department Head request, the Town Manager's recommendations and the Finance Committee recommendations. (Art. 22, STM 2001; Art. 35, ATM 1995)

**2.20.030 Budget submission requirements.**
On or before the second Friday in January of each year all departments, boards, committees, including the School Department, vested by law or the Town Meeting with the receipt, disbursement or expenditure of monies shall submit in writing to the Town Manager their signed budget request for the next fiscal year. The Town Manager is responsible for budget requests from departments, boards or committees under his or her jurisdiction.

Each budget shall be in a format as required by the Town Manager and the Finance Committee but a mini mum shall include three categories of expenditures; salaries, operating, and capital outlay(s) and each category shall contain an itemization of expenditures.

Under salary expenditures; new position request(s) shall be shown as a separate line item(s). Unless a budget for a

department, board or committee is submitted at the time required and in the form required by the Town Manager and the Finance Committee no appropriation for said department, board or committee in excess of the appropriation for the previous years shall be made at Town Meeting. (Art. 30, ATM 1998)

**2.20.035 Capital outlay defined.**
For budget purposes, "capital outlay" is defined as moveable property, of a relatively permanent nature having a normal life expectancy of more than three years or having a purchase cost of $10,000.00 per item or more and including items such as furniture, office equipment, rolling stock including items purchased on a leasing or lease purchase basis. Items purchased on a leasing or a lease purchased basis are subject to annual appropriation. (Art. 23, STM 2001)

**2.20.040 Estimate of expenditures.**
On or before March 15th of each year, the Town Manager shall submit to the Board of Selectmen, Finance Committee and Town Clerk for a detailed estimate in writing of his proposed expenditures for Town Government for the ensuing fiscal year including the amounts required to meet the Interest and Maturing Bonds and notes or any outstanding indebtedness of the Town, and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the current fiscal year.

The Town Manager shall also submit a statement showing all revenues received by the Town in the preceding Fiscal Year together with an estimate of the receipts of the current fiscal year and an estimate of the sources of revenue for the ensuing fiscal year.

The Town Manager shall also submit a detailed estimate of the expenditures required for the Town to meet its obligations under the Education Reform Law for the ensuing fiscal year as well as a detailed estimate of the expenditures expected to be made in the current Fiscal Year (Schedule 19) and the amounts expended in the previous Fiscal Year (Schedule 1) for Education.

The Town Manager shall report the probable amount of property taxes to be levied and raised to defray all expenses and liability of the town together with an estimate of the tax rate necessary to raise said amount.

On or before March 15th of each year, the Town Manager shall submit to the Board of Selectmen, Finance Committee and Town Clerk his written recommendation to postpone action on the Annual Town Meeting budget articles until such time as financial information is available to adequately operate the town.

The Town Manager's recommendation to postpone final budget action shall be nonbinding and subject to Town Meeting Vote. (Art. 35, ATM 1995)

**2.20.045 Receipts, expenditures and transfers.**
Monthly, the Town Auditor shall forward to the Finance Committee a detailed schedule of the current fiscal years expenditures to date. This schedule shall also show the balance remaining in the current years appropriation including transfers made to date.

Monthly, the Town Auditor shall forward to the Finance Committee a detailed schedule of the current fiscal years receipts to date. This schedule shall also include a list of the amounts budgeted for the current fiscal year and the budget variance to date.

Monthly, the School Committee shall forward to the Finance Committee a detailed list of budget transfers made within their accounts together with a detailed list of their Current Year Expenditures to date and an explanation of any deviations from the Current Year School Spending Plan as submitted to the Department of Education on Schedule 19. (Art. 35, ATM 1995)

**2.20.050 Board of Selectmen to consider budget.**
The Board of Selectmen shall each fiscal year consider the budget submitted by the Town Manager and make such recommendations relative thereto as they deem expedient and proper in the interest of the Town. (Art. 35, ATM 1995)

**2.20.060 Notice of recommendations to members.**
On or before March 15 of each year, the Town Manager shall transmit a copy of his proposed budget for the ensuring year along with the departmental requests, and supporting documents, together with his recommendation relative thereto, to each member of the Finance Committee and the Board of Selectmen.

The Town Manager shall also file a copy of the proposed budget together with his recommendations relative thereto with the Town Auditor and the Town Clerk. (Art. 35, ATM 1995)

**2.20.070 Appearance before committee.**
Upon the request of the Finance Committee, the Town Manager, Department Heads and other Town Officials shall appear before said committee to explain their budget requests. (Art. 35, ATM 1995)

**2.20.080 Notice of recommended budget.**
The Finance Committee shall file its written recommendation for all warrant articles on or before noon of the Friday prior to the commencement of any Town Meeting, by making copies available at the Town Clerk's office. (Art. 30, ATM 1998)

**Chapter 2.24**

**RECORDS AND DOCUMENTS**

**Sections:**

**2.24.010 Manner of keeping secure.**
**2.24.020 Treasurer to have custody of certain documents.**

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**2.24.010 Manner of keeping secure.**
The records of the Town and all important papers shall be kept in a fireproof safe. (By-Laws Art. IX § 2)

**2.24.020 Treasurer to have custody of certain documents.**
Except as otherwise provided by law, the Treasurer shall have custody of deeds, bonds, contracts, insurance policies, and other similar documents owned by the Town, except that the bonds given by the Treasurer and the Collector of Taxes to the Town shall be in the custody of the Selectmen. (By-Laws Art. IX § 3)

**Chapter 2.28**

**CONTRACTS BY TOWN OFFICERS**

**Sections:**

**2.28.010 Conflict of interest prohibited.**
**2.28.020 Countersign by Town Manager, Town Auditor and Town Counsel.**
**2.28.030 Notice required for service contracts.**
**2.28.040 Leasing agreements.**

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**2.28.010 Conflict of interest prohibited.**
No member of the Board of Selectmen shall have any pecuniary interest, direct or indirect, either personally or through another person in any loan, contract or employment of any sort whatever, in which the Town is interested except by specific vote of the Town. And no other officer of the Town shall have any interest in any loan, contract or employment made by, with, or for that department to which his duties pertain in any case, or in any loan, contract or employment of the Town whatsoever, without the permission of the Selectmen ex pressed in a vote, which shall appear upon their records, together with the reasons therefore. If the Selectmen refuse such permission, a Town Officer may temporarily engage in any of the aforementioned activities pro viding a statement is filed with the Selectmen indicating approval for any such activity and signed by at least one hundred registered voters from each Precinct. The Selectmen shall include the question of such approval in the Warrant for the next Town Meeting to be held subsequent to such action and the decision of the voters thereat shall be final.

All contracts or employments made in violation of this law shall be void as to the Town, and no bills therefore shall be approved, audited or paid. (By-Laws Art. V § 1)

**2.28.020 Countersign by Town Manager, Town Auditor and Town Counsel.**
Any contract requiring an advertised sealed bid under Massachusetts General Laws Chapter 30B shall be approved and signed by the Town Manager, Town Auditor and Town Counsel before the contract is valid. (Art. 14 (part), ATM 1991: Art. 20, ATM 1984: Art. 16, STM 1982: By-Laws Art. V § 2)

**2.28.030 Notice required for service contracts.**
All service and supplies contracts subject to Massachusetts General Laws Chapter 30B shall follow the requirements of Massachusetts General Law Chapter 30B. (Art. 14 (part), ATM 1991: Art. 29, ATM 1983: By Laws Art. V § 3)

**2.28.040 Leasing agreements.**
The Town Manager is authorized to enter into Leasing Agreements with the option to purchase the equipment for Town departments. Said agreements shall not extend beyond five years and shall be subject to annual appropriations. Said agreements shall follow the other requirements of Massachusetts General Laws Chapter 30B. (Art. 7, ATM 1992)

**Title 3**

**REVENUE AND FINANCE**

**Chapters:**

**3.04 Revenue and Finance**
**3.08 Accounts, Auditing and Reports**
**3.12 Tax Title Procedures**
**3.14 Departmental Revolving Funds**

**Chapter 3.04**

**REVENUE AND FINANCE**

**Sections:**

**3.04.010 Duty of Tax Collector to report negligent parties.**
**3.04.015 Demand fee.**
**3.04.016 Interest on Late Payments.**
**3.04.020 Licensing authority Powers and duties.**
**3.04.030 Payment agreement Compliance required.**
**3.04.040 Exemptions.**
**3.04.050 Promissory notes Signing requirements.**
**3.04.060 Statement of appropriations required.**
**3.04.070 Estimates of expenditures required.**
**3.04.080 Authority to dispose of personal property of the town.**

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**3.04.010 Duty of Tax Collector to report negligent parties.**
The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall 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, 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. (Art. 23, 10.4.2016 STM; Art. 8 (part), STM 1989: By-Laws Art. III § 1A)

**3.04.015 Demand fee.**
The Town shall charge a fee for the demand notice on all water bills and sewer bills which are not paid within fourteen (14) days after the due date. (Art. 17, ATM 2003)

**3.04.016 Interest on Late Payments.**
The Town shall charge interest at the rate in effect for real estate tax bills under the provisions of Massachusetts General Laws Chapter 59 Section 57 for all late police and fire detail bills or take any action relative thereto. (Art. 12, STM May 2009, Art. 25, ATM May 2010)

**3.04.020 Licensing authority—Powers and duties.**
The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector 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 or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority form the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality at the date of issuance of said certificate. (Art. 7, ATM 1994; Art. 8 (part), STM 1989: By-Laws Art. III § 1B)

**3.04.030 Payment agreement—Compliance required.**
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. (Art. 8 (part), STM 1989: By-Laws Art. III § 1C)

**3.04.040 Exemptions.**
Sections 3.04.010 through 3.04.030 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 and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred forty. (Art. 8 (part), STM 1989: By-Laws Art. III § 1D)

**3.04.050 Promissory notes—Signing requirements.**
All promissory notes of the town shall be signed by the Treasurer and countersigned by the Selectmen. (By Laws Art. III § 3)

**3.04.060 Statement of appropriations required.**
At the conclusion of any Town Meeting, the Town Clerk shall send to the Auditor a certificate stating the amounts of the several appropriations made or expenditures authorized by the Town. (By-Laws Art. III § 4)

**3.04.070 Estimates of expenditures required.**
Selectmen and all boards, committee heads and departments of the Town authorized by law to spend money shall furnish to the Town Accountant, or if there is no Town Accountant, to the Town Treasurer, on or before December 15, detailed estimates of any income or monies likely to be received by the town which are already due or which are likely to be received by the Town during the ensuing year in connection with the Town's business or property entrusted to their care, and also the amount of encumbrances on any appropriations already made. (By-Laws Art. III § 6)

**3.04.080 Authority to dispose of personal property of the Town.**
Any board or officer who is the head of a department may dispose of personal property of the town which had become obsolete or worn, or no longer necessary for the operation of the department by notifying the Town Manager, in writing, who will then decide whether the personal property shall be disposed of under the requirements of Massachusetts General Laws Chapter 30B. If the value of said property is less than the thresholds under Chapter 30B, the Town Manager shall determine whether the property should be sold by a sealed bid or whether it shall be disposed of as solid waste. (Art. 13, ATM 1991: By-Laws Art. III § 7)

**Chapter 3.08**

**ACCOUNTS, AUDITING AND REPORTS**

**Sections:**

**3.08.010 Auditor Duties and compensation.**
**3.08.020 Annual audit required.**
**3.08.030 Appropriations Notice required when Investigation.**
**3.08.040 Special appropriations Term of availability limited.**
**3.08.050 Contracts for printing Annual Town Meeting reports Deadlines.**
**3.08.060 Town meeting Official record requirements.**
**3.08.070 Board of Health to report.**
**3.08.080 Actions taken in preceding year Reports required.**
**3.08.090 Debt report required.**
**3.08.100 Assessors to append Annual Report.**
**3.08.110 School Committee to append Annual Report.**
**3.08.120 All parties having charge of expenditures required to report.**
**3.08.130 Annual Town Reports to be ready when.**
**3.08.140 Boards to keep detailed report of all meetings.**
**3.08.150 Complete listing of salary schedules to be included in Annual Town Report.**
**3.08.160 Issuance of septic permits - Conservation Commission to be notified.**

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**3.08.010 Auditor Duties and compensation.**
The Auditor shall receive for his services such compensation as the Town shall determine. On request from heads of departments, or the Selectmen, he shall inform the board or officer making the request of the amount of the unexpended balance of any appropriation. (By-Laws Art. II § 1)

**3.08.020 Annual audit required.**
There shall be an annual audit of the Town's accounts, performed by a Certified Public Accounting firm, appointed by the Board of Selectmen . (Art. 32, ATM 2002: By-Laws Art. II § 2)

**3.08.030 Appropriations Notice required when—Investigation.**
All other appropriations other than the annual appropriations before named, to be asked for at any meeting of the Town, shall be filed in a written notice with the Selectmen at least thirty (30) days before said meeting stating object and sum of appropriation intended to be asked. It shall thereupon be the duty of the Selectmen to examine into the subject and be prepared to inform the Town thereon at the Town Meeting. (By-Laws Art. II § 3)

**3.08.040 Special appropriations Term of availability limited.**
Any appropriation not included in the annual budget, i.e., funds provided for special purposes, shall be available for a period not to exceed TWO (2) YEARS from January 1 of the year in which the funds are voted. At the expiration of this two-year period the unused or unencumbered balance in such appropriations shall revert to the Excess and Deficiency Fund. (By-Laws Art. II § 4A)

**3.08.050 Contracts for printing Annual Town Meeting reports Deadlines.**
The contracts for printing the Annual Town Reports shall be made by the Selectmen, and all annual reports and all other reports intended to be bound up with the Annual Town Reports shall be sent to the Selectmen not later than January 15 in order that they may be able to contract for printing them and to report upon the recommendations as required by Section 3.08.020 of this article. (By-Laws Art. II § 5)

**3.08.060 Town Meeting Official record requirements.**
The Town Clerk shall within one (1) week after the final adjournment of any Town Meeting submit to the Selectmen the official record of such meeting, and the Selectmen shall cause the same to be prepared for publication in the Annual Town Report. (By-Laws Art. II § 6)

**3.08.070 Board of Health to report.**
The Board of Health shall report such statistics, recommendations and suggestions as they shall deem suitable, in order to give the Town full information upon the subject of the public health and sanitary welfare of the inhabitants of the Town. (By-Laws Art. II § 7)

**3.08.080 Actions taken in preceding year Reports required.**
The Selectmen and Board of Health shall in their respective annual reports state what action they have taken in the year preceding. The Selectmen shall especially give full reports in regard to all suits against the Town, with all the circumstances relating thereto. (By-Laws Art. II § 8)

**3.08.090 Debt report required.**
In his annual report the Treasurer shall state specifically the objects for which the debt of the Town was incurred during the year preceding, and recite the vote under which the money was borrowed. He shall also state the amount of money received from other sources than taxation by the Town. (By-Laws Art. II § 9)

**3.08.100 Assessors to append Annual Report.**
The assessors shall append to the Annual Report a table of valuations, real, personal and total, the rate of taxation, and the amount of money raised, and they shall also publish a valuation list every fifth year, beginning with the Annual Report for the year 1948. (By-Laws Art. II § 11)

**3.08.110 School Committee to append Annual Report.**
The School Committee shall append to the Annual Report a statement of the total number of children who have attended the public schools during the year. (By-Laws Art. II § 12)

**3.08.120 All parties having charge of expenditures required to report.**
All boards, standing committees, special committees, or officers of the town, having the charge of the expenditure of money, shall annually report thereon in print in such a manner as to give the citizens a fair and full understanding of the objects and methods of such expenditures, referring however, to the report of the Auditor for specific details. (By-Laws Art. II § 13)

**3.08.130 Annual Town Reports to be ready when.**
The Annual Town Report shall be placed on the Town's website at least ten (10) days before the Annual Town Meeting and from the Town of Tewksbury's website three copies shall be printed and be available to the public in the Town Clerk's Office, Library, and the Board of Selectmen's Office. (STM, October, 2007)

**3.08.140 Boards to keep detailed report of all meetings.**
All elective and appointed Boards of the Town shall keep an accurate and detailed report of all meetings which they may hold. The report shall show the attendance, the maker of the motion, and the vote of each member on every question. Within a reasonable time after the adjournment of any meeting of such Boards, the Clerks of the respective Boards, or some person they may designate, shall file with the Town Clerk a copy of the proceedings, and the Town Clerk shall indicate there on the date and time such report was received. Said reports shall be made available to the public at reasonable times, either at the offices of said Boards or at the office of the Town Clerk. (Art. 29, ATM 1990: By-Laws Art. II § 15)

**3.08.150 Complete listing of salary schedules to be included in Annual Town Report.**
The Selectmen shall cause to be published in the Annual Town Report a complete listing of all salaries paid Town employees. (By-Laws Art. II § 16)

**3.08.160 Issuance of septic permits - Conservation Commission to be notified.**
The Building Commissioner and Board of Health offices are required to notify the Conservation Commission when issuing building or septic permits in wetland or floodplain regions. (Art. 31, ATM 2002: Art. 51, ATM 1981: By-Laws Art. II § 17)

**Chapter 3.12**

**TAX TITLE PROCEDURES**

**Sections:**

**3.12.010 Property taken under tax title procedures-Compliance with certain conditions.**

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**3.12.010 Property taken under tax title procedures-Compliance with certain conditions.**

Where property of less than 5,000 square feet without a building has been taken by the Town under tax title procedures, the sale of such property by the Town shall comply with the following provisions:

1. The property shall first be offered for sale to abutters at an offering to be held exclusively for abutters. "Abutters" shall be defined as an individual(s), partnership, corporation or other legal entity owning a piece of property which adjoins via a common lot line the property to be offered for sale. If any abutter's common property line is part of street or way whether open to the public or not, such abutter shall not qualify to participate in the first offering of sale to abutters as noted above.
2. The Board of Selectmen shall establish the minimum bid for the sale of each property to be offered plus administrative costs including advertising costs, legal costs and any pro forma taxes. The minimum bid shall be the greater of either the amount of property tax owed to the Town at the time such property is offered for sale or 75% of the fair market value for the property as calculated by the Board of Assessors.
3. The Board of Selectmen shall notify abutters as defined in paragraph one (1) of this article by certified mail that the Town intends to sell such property and provide the date, place and time of the sale along with the minimum acceptable bid.
4. The sale of such property shall be with the condition and/or covenant that requires such property to be combined with the Buyer's abutting property into a single lot.
5. If no abutter's bid on a property offered for sale exceeds the minimum bid as established in subsection 2 of this section, the Board of Selectmen may then open the sale to other bidders with a minimum bid as established in said subsection.
6. The Town shall first give notice of the time and place of sale by posting such notice of sale in some convenient and public place in the Town and advertising for two (2) successive weeks at least fourteen (14) days before the sale. Each sale, whether exclusively to abutters or opened to other bidders, must give notice as defined herein, except that for the exclusive abutters' sale advertising shall be required for one week at least fourteen (14) days before that sale.

Upon the petition to the Town Manager by two (2) abutters to a Town lot, the Town Manager and Board of Selectmen can agree to sell a Town lot to one of the two abutters who can agree to subdivide the Town lot so that a portion of the Town lot becomes a part of each abutter's existing lot. (Art. 15, ATM 1991: By-Laws Art. IX § 9: Art. 10, STM 2003: Art. 14, 10.3.17 STM)

**Chapter 3.14**

**DEPARTMENTAL REVOLVING FUNDS**

**Sections:**

**3.14.010 Purpose.**
**3.14.020 Expenditure Limitations.**
**3.14.030 Interest.**
**3.14.040 Procedures and Reports.**
**3.14.050 Table of Authorized Revolving Funds.**

This by-law establishes and authorizes revolving funds for use by town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by Massachusetts General Laws Chapter 44 § 53E½.

**3.14.020 Expenditure Limitations.**

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law without appropriation subject to the following limitations:

1. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
2. No liability shall be incurred in excess of the available balance of the fund.
3. The total amount spent during a fiscal year shall not exceed the amount authorized by town meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Board of Selectmen and Finance Committee.

**3.14.030 Interest.**

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

**3.14.040 Procedures and Reports.**

Except as provided in Massachusetts General Laws Chapter 44 § 53E½ and this by-law, the laws, charter provisions, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditure and payment of town funds shall apply to the use of a revolving fund, established and authorized by this by-law. The Finance Director shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Finance Director provides the department, board, committee, agency or officer on appropriations made for its use.

**3.14.050 Table of Authorized Revolving Funds.** The Table establishes:

1. Each revolving fund authorized for use by a town department, board, committee, agency or officer,
2. The department or agency head, board, committee or officer authorized to spend from each fund,
3. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Finance Director,
4. The expenses of the program or activity for which each fund may be used,
5. Any restrictions or conditions on expenditures from each fund; and
6. The fiscal years each fund shall operate under this by-law.

(Art. 26, ATM 2017; Art. 13, 10-2-18 STM; Art. 14, 10-2-18 STM)

| Revolving Fund | Department, Board, Committee, Agency or Officer Authorized to Spend from Fund | Fees, Charges or Other Receipts Credited to Fund | Program or Activity Expenses Payable from Fund | Restrictions or Conditions on Expenses Payable from Fund | Fiscal Years |
|---|---|---|---|---|---|
| Council on Aging | Director, COA | Fees charged and received from COA activities | Trips, activities, education programs, facilities and grounds maintenance and utilities | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |
| Board of Health | Health Director | Fees collected; medical reimbursements | Public health programs and vaccines | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |
| Parks and Recreation | Town Manager | Fees collected for field rentals | Summer activities and programs facilities and grounds maintenance and utilities | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |
| Traffic Signage | Dept. of Public Works Superintendent | Fees provided by developers | Purchase, manufacture and install street and traffic signs including pavement markings | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |
| GIS | Assistant Town Manager | Surcharge on permits across departments | Operate network-wide geographic information system | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |
| Stormwater | Dept. of Public Works Superintendent | Land disturbance permits | Maintain town-wide stormwater system | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |
| Records Preservation | Town Clerk | Fees, grants, donations | Preservation and safe keeping of historic records | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |
| Solid Waste, Recycling, Household Haz. Waste | Town Manager | Fees, grants, donations | Solid Waste, Recycling and household hazardous waste operations and programs | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |
| Hydrant Markers | Town Manager | Fees, grants, donations | Reimbursement of damaged markers and donations to install markers | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |
| Energy Efficiency of Town & School Buildings, equip. and infrastructure | Town Manager | Rebates, grants and donations generated from energy efficiency projects (Commonwealth, public utilities and others) | Energy efficiency projects | Salaries or wages of full-time employees shall be paid from the annual budget | FY 2018 & subsequent years |

**Title 4**

**(RESERVED)**

**Title 5**

**BUSINESS LICENSES AND REGULATIONS**

**Chapters:**

**5.04 Entertainment Establishments**
**5.08 Automatic Amusement Devices**
**5.09 Civil Fingerprinting Criminal History Check**
**5.10 Marijuana Retailers**
**5.10 Marijuana Establishments**

**Chapter 5.04**

**ENTERTAINMENT ESTABLISHMENTS**

**Sections:**

**5.04.010 Entertainers disclosure.**
**5.04.020 Conduct of entertainment establishments.**

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**5.04.010 Entertainers disclosure.**

Anyone who is obliged to file an entertainer's disclosure statement with the Commissioner of Public Safety pursuant to the provisions of Massachusetts General Laws Chapter 140, Section 181A, appearance under assumed names; statement filed; penalty, shall also file a copy of such disclosure with the Chief of Police. The copy of such disclosure shall be accompanied by a copy of photographic identification which sets forth the true name, legal address and date of birth of the entertainer. Or take any other action relative thereto. (Art. 14, ATM 1997)

**5.04.020 Conduct of entertainment establishments.**

1. The following shall apply to premises licensed in accordance with Massachusetts General Laws, Chapter 138 alcoholic liquors, or Chapter 140, Theatrical Exhibitions, Public Amusements, etc., Section 181, Licenses, Fees, Applications, suspension or revocation or 183A, Concerts, dances, exhibitions, public shows, etc. application, suspension or revocation, rules and regulations.

   A. No employee of a licensed establishment or other person may mingle with the patrons of the establishment while such person is unclothed or in such attire to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, nor may a licensed establishment allow any female person to mingle with patrons on the premises while she is appearing in any manner of attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

   B. It is forbidden to employ or permit any person in or on the licensed premises to perform any act or acts of sexual intercourse, masturbation, sodomy, flagellation or any sexual acts prohibited by law.

   C. Employees or entertainers may not engage in touching, caressing, or fondling of the breasts, buttocks or genitals of another.

   D. The provisions of this bylaw shall be deemed severable. (Art. 16, ATM 1997)

**Chapter 5.08**

**AUTOMATIC AMUSEMENT DEVICES**

**Sections:**

**5.08.010 Automatic amusement devices annual license.**

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**5.08.010 Automatic amusement devices annual license.**

In accordance with Massachusetts General Laws, Chapter 140, Section 177A, as amended from time to time, any individual or business desiring to keep and operate an automatic amusement device for hire, gain or re ward shall secure an annual license from the Board of Selectmen. The Board of Selectmen shall not grant a license for any automatic amusement device, which presents a risk of misuse as a gaming device. Automatic amusement devices, which represent a risk of misuse as gaming devices, are those devices which have one or more of the following features: (1) the device accumulates more than twenty-six (26) plays; (2) the device is equipped with a "knock off" switch, button or similar device; (3) the device has a mechanism for adjusting the odds; (4) the device has a remote control feature that can reset the device from another location; (5) the device is capable of returning money to the player, other than the change for the excess amount put in; (6) each game on the device does not cost exactly the same amount for each player, and a player may change any aspect of the game by paying a different amount than any other player before or during the game; and (7) there is a metering device that accounts for both money/points in and money/points out.

All licenses for automatic amusement devices granted by the Board of Selectmen shall be subject to inspection by the Tewksbury Police Department to insure conformance with submitted application information and local bylaw requirements. Any unlicensed automatic amusement device shall be subject to immediate seizure by the Tewksbury Police Department. Any person found in violation of this bylaw shall be punished by a fine of $200.00 for each offense.

If any sentence, clause or phrase of this bylaw is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions. (Art. 34, ATM 2000)

**Chapter 5.09**

**CIVIL FINGERPRINTING CRIMINAL HISTORY CHECK AUTHORIZATION**

**Sections:**

**5.09.010 Purpose**
**5.09.020 Criminal History Check Authorization**
**5.09.030 Regulations**
**5.09.040 Use of Criminal Record by Licensing Authorities**
**5.09.050 Fees**
**5.09.060 Effective Date**

**5.09.010 Purpose**

To enable the Police Department to conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for certain licenses and to adopt appropriate policies and procedures to effectuate the purposes of this By-Law.

**5.09.020 Criminal History Check Authorization**

A. The Police Department shall, as authorized by M.G.L. c. 6, § 172 B 1/2, conduct State and Federal Fingerprint Based Criminal History checks for individuals ("applicant") applying for the following licenses:
   1) Hawking and Peddling or other Door-to-Door Salespeople
   2) Manager of Alcoholic Beverage License
   3) Owner or Operator of Public Conveyance
   4) Dealer of Second-hand Articles
   5) Pawn Dealers
   6) Hackney Drivers
   7) Ice Cream Truck Vendors

B. At the time of fingerprinting, the Police Department shall notify the applicant fingerprinted that the fingerprints shall be used to check the applicant's criminal history records.

C. Upon receipt of the fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this By-Law to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI), or the successors of such agencies, as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in the By-Law.

D. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks consistent with this By-Law. The Town authorizes the Police Department to receive and utilize State Police, DCJIS, and FBI records in connection with such background checks, consistent with this By-Law. State and FBI criminal history shall not be disseminated to unauthorized persons or entities.

E. Upon receipt of a report from the Massachusetts State Police, the FBI or other appropriate criminal justice agency, an applicant may request and receive a copy of his or her criminal history record from the Police Department. Should the applicant seek to amend or correct his or her record, he or she must take appropriate action to correct said record, which action currently includes contacting the DCJIS for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant who wishes to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR 16.34. The Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this By-Law until it has complied with this paragraph.

F. The licensing authority shall not deny an applicant the license based on information in the record until the applicant has been afforded a reasonable period of time to correct or complete the information, or has declined to do so.

G. The Police Department shall communicate the results of fingerprint-based criminal record

background checks to the appropriate Town licensing authority. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his or her suitability for such license, or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

**5.09.030 Regulations**

The Board of Selectmen, is authorized to promulgate regulations for the implementation of the By-Law, in consultation with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database, and other applicable state laws.

**5.09.040 Use of Criminal Record by Licensing Authorities**

A. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the applicant in connection with the license applications specified in this By-Law. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the fingerprint check render the applicant unsuitable for the proposed licensed activity. The licensing authority shall consider all applicable laws, regulations and Town policies concerning an applicant's suitability in connection with the license in making this determination.

B. The Town licensing authority is authorized to deny any application, including renewals and transfers thereof, of any applicant who is determined unsuitable for the license, as determined by the licensing authority, due to information obtained pursuant to this By-Law.

**5.09.050 Fees**

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be one hundred dollars ($100).

**5.09.060 Effective Date**

This By-Law shall take effect on September 01, 2012, provided the requirements of M.G.L. c. 40, § 32, are satisfied. (5-9-12 STM)

**Chapter 5.10**

**MARIJUANA ESTABLISHMENTS**

**Sections:**

**5.10 Marijuana Retailers.**
**5.10 Marijuana Establishments.**

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**5.10 Marijuana Retailers.**

Consistent with M.G.L. c. 94G, § 3(a)(2), all types of marijuana retailers as defined in M.G.L. c. 94G, § 1, including all types of licensed marijuana retail-related businesses, shall be prohibited within the Town (Art. 20, 10-2-18 STM)

**5.10 Marijuana Establishments.**

Consistent with M.G.L. c. 94G, § 3(a)(2), all types of marijuana establishments as defined in M.G.L. c. 94G, § 1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, and/or any other types of licensed non-retailer marijuana-related businesses, except, however, marijuana retailers previously prohibited, shall be prohibited within the Town. This provision will expire December 31, 2019 (Art. 22, 10-2-18 STM)

**Title 6**

**ANIMALS**

**Chapters:**

**6.04 Dogs**

**Chapter 6.04**

**DOGS**

**Sections:**

**6.04.005 Purpose.**
**6.04.010 Reference to Massachusetts general laws.**
**6.04.020 Definitions.**
**6.04.030 Registration Licenses.**
**6.04.040 Vaccination against rabies.**
**6.04.050 Dog tag.**
**6.04.060 License fees Late fees Penalties.**
**6.04.070 Kennel License Fees.**
**6.04.080 Animal Control Officer.**
**6.04.090 Hearing Officer.**
**6.04.100 Leash law.**
**6.04.110 Public nuisances.**
**6.04.120 Disposition of dogs.**
**6.04.130 Disposition Process.**
**6.04.140 Non-Criminal Disposition of Violation.**
**6.04.150 Bylaw violation.**
**6.04.160 Penalty - Bylaw violation.**
**6.04.170 Dog Fund.**
**6.04.180 Massachusetts General Laws incorporated into this bylaw.**
**6.04.190 Effective implementation date of this bylaw.**
**6.04.200 Severability clause.**

**6.04.005 Purpose.**
These By-Laws are intended to guide those persons owning or keeping dogs within the Town of Tewksbury in their role as responsible pet owners. Although it is hoped these regulations will act as an educational tool, it must be understood that the enforcement of this bylaw is necessary to protect the rights and safety of the public. (Art. 21, ATM 1997)

**6.04.010 Reference to Massachusetts general laws.**
Any reference to a "Section" in this Bylaw shall mean Chapter 140 of the Massachusetts General Laws, unless otherwise stated. (Art. 21, ATM 1997)

**6.04.020 Definitions.**
Unless otherwise set out in this Bylaw, any term defined in Chapter 140, Section 136A, Massachusetts General Laws, shall have the same meaning in this Bylaw, and shall be expressly incorporated herein.

"Animal control officer", an appointed officer authorized to enforce sections 136A to 174D, inclusive. (Art. 37, ATM 2013)

"Animal shelter", Any premises designated for the purpose of impounding and caring for animals held under authority of this bylaw.

"At large", At large shall mean on or off the premises of the owner, and not under the control of the owner or authorized escort either by leash, cord, chain or otherwise.

"Enclosed area", A portion of the owner's property which is secured by fencing in such a manner that the dog, once inside the area cannot exit of its own accord. The Animal Control Officer, after an inspection of the area, will determine if the enclosed area is suitable or not.

"Kennel", a pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

- "Commercial boarding or training kennel", an establishment used for boarding, holding, overnight stays or training of animals that are not the property of the owner of such establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of such animal;

provided, however, that this definition shall not include an animal shelter or animal control facility, a pet shop licensed under section 39A of chapter 129, a facility which does not provide overnight boarding for animals but does provide dog grooming, dog training, supervised playtime of dogs or dog walking with not more than 12 dogs on a single premises or individuals who temporarily, and not in the normal course of business, board or care for animals owned by others.

- "Commercial breeder kennel", an establishment, other than a personal kennel, engaged in the business of breeding animals for sale or for exchange to wholesalers, brokers or pet shops in return for consideration.
- "Domestic charitable corporation kennel", a facility operated, owned or maintained by a domestic charitable corporation registered with the department, or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purpose while providing veterinary treatment and care.
- "Personal kennel", a pack or collection of more than 4 dogs, 3 months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed, use in legal sporting activity or other personal reasons; provided, further, that selling, trading, bartering or the distribution of such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided, further, that personal kennels shall not sell, trade, barter or distribute any dogs not bred from their personally owned dogs; and provided, further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not made for the purpose of profiting thereby.
- "Veterinary kennel", a veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that this definition shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment, observation, or will do so, only for the period of time needed to accomplish the needed veterinary care. (Art. 37, ATM 2013)

"Licensing Authority", As provided by the Massachusetts General Laws (MGL) is the Town Clerk. (Art. 37, ATM 2013)

"License Period", The license period shall be from January 1 of each year to December 31 of the same year.

"Livestock or Fowl", Animals or fowl kept or propagated by the owner for food or as a means of livelihood; also and deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the Department of Fisheries, Wildlife and Environmental Law Enforcement to be wild and kept by, or under a permit from, said department in proper houses or suitable enclosed yards. Such phrase shall not include dogs, cats and other pets.

"Owner", Owner shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog owned or kept in the Town.

"Person", An individual, partnership, company or corporation.

"Restraint", A dog shall be deemed to be under "restraint" if it is on the premises of the owner ac companied by a person who shall have the dog under control; or is in a suitably enclosed area; or if outside the premises of the owner, is accompanied by a person who shall have the dog under control by holding it firmly on a leash no greater than six (6) feet in length.

"Veterinary hospital", An establishment maintained and operated by a licensed veterinarian for the boarding of animals or the diagnosis and treatment of diseases and injuries of animals. (Art. 26, ATM 2004; Art. 21, ATM 1997)

**6.04.030 Registration – Licenses.**

The owner or keeper of any dog over the age of 6 months shall obtain a license for the dog. The registering, numbering, describing and licensing of a dog shall be conducted in the Office of the Town Clerk. The license shall be subject to the condition expressed in the license that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing live stock or fowl. (Art 37, ATM 2013)

Dogs must wear identification tags, attached to the collar, at all times when off the premises of the owner. The Town Clerk shall maintain a record of the identifying numbers and shall make this record available to the public. No person shall keep more than four (4) dogs, over the age of six (6) months, at any single family residence within the Town. (Art. 21, ATM 1997)

**6.04.040 Vaccination against rabies.**
The Town Clerk shall not grant such license for any dog unless the owner thereof provides the Town Clerk with either a veterinarian's certification that such dog has been vaccinated in accordance with the provisions of Section 145B (CH.140,MGL) or has been certified exempt from such provision as outlined in Section 137 or 137A (CH.140,MGL).

Vaccinated animals shall be revaccinated periodically in accordance with rules and regulations adopted and promulgated by the Massachusetts Department of Public Health. (Art. 21, ATM 1997)

**6.04.050 Dog tag.**
The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which shall be securely attached a tag in a form prescribed by and issued by the Town Clerk when a license is issued. Such tag shall state the following: (a) Town of Tewksbury, (b) year of issue, and (c) tag number. If any such tag shall be lost, the owner or keeper of such dog shall forthwith secure a substitute tag from the Town Clerk at a cost of five ($5.00) dollars.

The provision of Section 138 (change of owner and out of state/country), Section 138A (commercial sale) and Section 146 (license valid throughout Commonwealth) of (CH.140, MGL) shall be expressly incorporated herewith and shall henceforth apply under this Bylaw. (Art. 21, ATM 1997, Art. 32, ATM 2009)

**6.04.060 License fees Late fees – Penalties.**
The fee is $15.00 for a dog license, $20.00 if the dog has not been spayed or neutered, payable on January 1.

Late Fees: If your dog is not licensed by March 15th, an additional Late Fee of $5.00 will be assessed.

If your dog is not licensed by July 1st, an additional Late Fee of $10.00 will be assessed.

| | January 1st - March 15th | March 16th – July 1st | July 2nd – December 31st |
|---|---|---|---|
| Spayed or Neutered | $15 | $20 | $30 |
| Not Spayed or Neutered | $20 | $25 | $35 |

The license fee for a spayed or neutered dog shall be less than the license fee of an intact dog. Upon application for a license, the Town Clerk shall require a certificate from the veterinarian who spayed or neutered the dog as proof that the dog is spayed or neutered; provided, however, that if the city or town clerk is satisfied that the certificate of the veterinarian who spayed or neutered the dog cannot be obtained, the clerk may instead accept a receipt of a bill from the veterinarian who performed such procedure or a statement signed under the penalties of perjury by a veterinarian registered and practicing in the commonwealth describing the dog and stating that the veterinarian has examined the dog, which appears to have been spayed or neutered and incapable of propagation. (Art. 37, ATM 2013)

Except as provided by Section 138 (CH.140, MGL) a person applying for a license hereunder shall be obligated to pay all outstanding fees related to the dog in question previously required by this bylaw.

Determination of licensing eligibility, dogs not required to be licensed, or refunding license fees shall be determined as set out in Section 139, (CH.140, MGL).

Any dog, impounded by the Animal Control Officer or others duly authorized, which is not wearing a tag indicating a current rabies vaccination, shall be vaccinated by a licensed veterinarian. The owner shall be required to pay such cost. (Art. 26, ATM 2004; Art. 21, ATM 1997, Art. 32, ATM 2009)

**6.04.070 Kennel license – Fees.**
Any person maintaining a kennel shall have a kennel license.

Any person who meets the requirement of the Town Zoning By-Laws relating to kennels and the provisions of Section 137A, (CH.140, MGL) may apply for a license to operate from the Town Clerk on a form pre scribed and supplied by the Town Clerk upon payment of the required fee. In the case of an applicant for initial licensure, and in the case

of an applicant for license renewal, a licensing authority shall not issue a kennel license until a kennel has passed inspection by the Animal Control Officer. (Art. 37, ATM 2013)

Domestic charitable organizations incorporated exclusively to protect animals from cruelty, neglect or abuse, or for relief of suffering among animals may be issued a kennel license without charge provided the above requirements have likewise been met.

The provisions of Section 137B, (CH.140, MGL) (Sale of dogs by Kennels regulated) shall be expressly incorporated into this bylaw. The Board of Health, its designee, or the Animal Control Officer may at any time inspect, or cause a kennel to be inspected. If their judgment is that the facility is not being maintained in a sanitary and humane manner or that records are not being legally kept, a petition shall be filed with the Hearing Officer setting forth the facts.

Within seven (7) days of receiving such a petition, or a similar complaint by twenty-five (25) citizens alleging they are aggrieved or annoyed to an unreasonable extent by one (1) or more dogs in a kennel because of excessive barking or the vicious disposition of said dogs, or other conditions at such kennel which they claim constitute a public nuisance, the Hearing Officer shall notify all interested parties of a public hearing, the date of which shall be within fourteen (14) days of the original filing date. No longer than seven (7) days thereafter the Hearing Officer shall issue one of the following orders:

(a) Revoke/suspend its license or otherwise regulate such kennel;

(b) Dismiss the petition(s).

The Hearing Officer shall forthwith mail a copy of his/her decision to the license holder, and file copies with the Town Clerk and Animal Control Officer. Within ten (10) days thereafter the licensee may appeal an adverse decision to the District Court. A person who continues to operate a kennel after its license has been revoked or suspended shall be punished as set forth elsewhere in this bylaw. The provision of Section 137D (CH.140,MGL, Cruelty to Animals) shall be expressly incorporated under this bylaw.

Kennels shall be limited to a total of fifteen (15) dogs to be maintained on said premises. It shall be a violation of this bylaw to have any dogs on said premises over and above said number.

| Kennel License/Fees: | |
|---|---|
| Five (5) dogs or less | $50.00 |
| Ten (10) dogs or less | $100.00 |
| Fifteen (15) dogs or less | $150.00 |
| Over sixteen dogs | Prohibited |

Said fees are subject to all other conditions set forth in Section 139 (CH.140, MGL). (Art. 26, ATM 2004; Art. 21, ATM 1997, Art. 32, ATM 2009)

**6.04.080 Animal Control Officer.**

The Town Manager shall appoint an Animal Control Officer and as many Assistant Animal Control Officers as he/she determines necessary to enforce this bylaw and, said individual(s) shall enforce this bylaw and perform such other duties as the Town Manager may determine.

The Animal Control Officer shall seek out, catch and confine all dogs within the Town that have not been licensed within sixty (60) days of the time the dog is required to be licensed under this bylaw; and shall seek out, catch and confine any dogs within the Town that are found on public property, or on private property where said dog is trespassing and the owner or person in control of such property wants the dog removed, said dog being in violation of this requirement of this bylaw; and shall seek out, catch and confine any dog within the Town when said dog was cited for a violation of any provision of this bylaw, and the owner or keeper has failed, within twenty-one (21) days, to avail him/herself to the provision of this bylaw, or within twenty-one (21) days of a determination by the court under the provision of Chapter 1.08, General Penalty, Town by laws, that any sums are due and has failed to pay said sums.

Any owner or keeper of any dog who refuses to turn over any dog to the Animal Control Officer upon demand, said seeking out, catching or confinement authorized in the above paragraph shall be punished by a fine of one hundred and fifty ($150.00) dollars. Each day that said violation continues shall constitute a separate offense.

No person shall interfere with, hinder, molest or abuse an Animal Control Officer in the exercise of such responsibilities The provisions of Section 151 and 151A (CH.140,MGL) regarding euthanization and/or transfer of

any dogs shall apply and are expressly incorporated in this bylaw. No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture, and no Animal Control Officer, either privately or in the course of carrying out his/her official assignments as an agent for this Town, or shall any other agent of the Town, give, sell, or turn over any animal which may come into custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture. Whoever violates the provisions of this paragraph shall be punished as provided in Section 151 (CH.140,MGL).

Duties of Officers. Each police officer, Animal Control Officer or Assistant Animal Control Officer to whom such authority is issued shall, on the first week of every month, make returns to the Director of Public Health and shall state in said returns the number of dogs which he/she has caught, confined or euthanized, or made available for adoption, the names of the owners or keepers thereof and whether all unlicensed dogs in the Town have been caught, confined euthanized, or adopted, and the names of persons against whom complaints have been made under the provision of Chapter 140, MGL, and this bylaw relating to dogs, and whether com plaints have been entered against all of the persons who have failed to comply therewith since the previous report. (Art. 26, ATM 2004; Art. 21, ATM 1997, Art. 32, ATM 2009)

**6.04.090 Hearing Officer.**
The Town Manager shall appoint a Hearing Officer who shall act on his/her behalf of all matters pertaining to the enforcement of this bylaw and the settling of any disputes between dog owner/keeper, the Town or its residents. (Art. 21, ATM 1997)

**6.04.100 Leash law.**
No owner or keeper of any dog shall permit such dog to run at large at any time. The provisions of this section shall not be intended to apply to dogs participating in any dog show, nor to seeing eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place, nor to any dogs properly trained and under the control of aiding the deaf.

Restraint of Dogs. No person shall own, keep or harbor in the Town, within the confines of the owner's property (meaning owned, rented or leased), any dog which is left unattended and is not leashed or otherwise re strained or, if outside the premises of the owner (meaning owned, rented or leased), any dog which is not held firmly on a leash no greater than six (6) feet in length by a person who shall have control of such dog. This regulation shall not apply to a dog accompanying a person who, by reason of his/her disability, is physically unable to comply with the requirements of this bylaw or to any individual who utilizes a seeing-eye guide dog.

| Leash Law: | |
|---|---|
| 1st Offense | $50 |
| 2nd Offense | $100.00 |
| 3rd Offense | $300.00 |
| Each Subsequent Offense | $500.00 |

Unrestrained dogs may be taken by the Animal Control Officer or police and impounded in an animal shelter, and there confined in a humane manner. If the dog can be identified, the Animal Control Officer shall notify the owner of the impoundment. Impounded dogs shall be kept for seven (7) days unless reclaimed by their owner. Dogs not claimed within ten seven (7) or not placed in suitable homes may be placed in a recognized non-profit animal shelter that meets MSPCA standards for future adoption. In addition to or in lieu of impounding a dog found at large, the Animal Control Officer or police officer shall issue to the known owner of such dog a notice of the bylaw violation. Dogs being conveyed in a vehicle or boat shall be deemed to be under the personal control of the owner/keeper or custodian thereof. This bylaw shall not apply to dogs commonly known to be used for hunting, tracking or advanced obedience training purposes during any period said dogs are being used for such activity. Any dog being used for advanced obedience training shall have written proof of an AKC obedience certificate and be under total supervision, within fifty (50) feet, of a trainer or owner. (Art. 26, ATM 2004; Art. 21, ATM 1997, Art. 32, ATM 2009) (Art. 37, ATM 2013)

**6.04.110 Public nuisances.**
Every owner or keeper of a dog shall exercise proper care and control of his/her dog so as to prevent said dogs from becoming a public nuisance. It shall be deemed a public nuisance if any dog should trespass upon private or public property and deposit feces thereon, unless immediately removed by the owner or keeper of said dog.

Every Owner or keeper of said dog, who allows a dog in their control or possession to continuously bark for more than ten (10) consecutive minutes shall be deemed a PUBLIC NUISANCE.

Female Dogs in Heat. Every female dog in heat shall be confined in a building or secured enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding. The Animal Control Officer shall have the power to enforce a regulation to eliminate what he/she may deem to be a nuisance. Penalty for the violation of this section shall be: (Art. 15 STM 10-1-2019)

| | |
|---|---|
| 1st Offense | $50 |
| 2nd Offense | $100.00 |
| 3rd Offense | $300.00 |
| Each Subsequent Offense | $500.00 |

Noise, Disturbances, Chasing Vehicles, Trespassing, etc. No owner or keeper shall fail to exercise proper care and control of his/her dog to prevent said dog from becoming a public nuisance. Barking frequently or for continued duration or making sounds which create a noise disturbance across a residential real property boundary, molesting passersby, chasing vehicles, attacking people or other domestic animals, trespassing on school grounds or trespassing on private property in such a manner to damage property shall be deemed a nuisance. Penalty for the violation of this section shall be: (Art. 15 STM 10-1-2019)

| | |
|---|---|
| 1st Offense | $50 |
| 2nd Offense | $100.00 |
| 3rd Offense | $300.00 |
| Each Subsequent Offense | $500.00 |

Quarantine of Dog That Bites. The dog owner or keeper shall immediately, and within twenty-four (24) hours, notify the Board of Health if the dog bites a person.

A dog that bites a person shall be quarantined for ten (10) days if ordered by the Animal Inspector. During quarantine, the dog shall be securely confined and kept from contact with any other animal. At the discretion of the Animal Inspector the quarantine may be on the premises of the owner. If the Animal Inspector requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall at his/her own expense place it in a facility approved by the Animal inspector.

If said dog is in violation of one (1) or more of the following: unlicensed, unrestrained or is not currently vaccinated with anti-rabies vaccine, the owner shall surrender the animal for the quarantine period to a veterinary hospital at the owner or keeper's expense.

Animals Suspected of Being Rabid. No police officer or other person shall euthanize or cause to be euthanized any animal suspected of being rabid, except after the animal has been placed in quarantine and the diagnosis of rabies made by a licensed veterinarian. If a veterinarian or Animal Inspector diagnoses rabies in an animal in quarantine, then the animal shall be humanely euthanized and the head of such animal sent to a laboratory for pathological examination and confirmation of diagnosis.

Anti-Rabic Vaccine and Treatment. The Board of Health shall, upon application, furnish free of charge to any Town resident who has been exposed to rabies, or may have been so exposed, anti-rabic vaccine and anti-rabic treatment, in accordance with rules and regulations which the Massachusetts Department of Public Health is authorized to make. Any resident shall have the right to select his/her own physician, who shall be paid by the Town at a rate established by the Board of Health and the fact that a physician is a member of the Board of Health shall not disqualify him/her from being so selected and from being paid by the Town for his/her services. Reimbursement for the cost of furnishing vaccine and treatment shall be made from the Dog Fund.

Ordering Dogs Muzzled or Restrained. All the provisions of Section 167 (CH.140,MGL) shall be incorporated into this bylaw except that any dog held under the provisions of Section 167 (CH.140,MGL) may not be released until all the requirements of this bylaw, regarding licensing and the fee for care of the animal are complied with. All other provisions of Section 167 (CH.140,MGL) shall be incorporated herein. (Art. 26, ATM 2004; Art. 21, ATM 1997, Art. 37, ATM 2007, Art. 32, ATM 2009)

**6.04.120 Disposition of dogs.**

Any dog confined by the Animal Control Officer, unless picked up by the owner, shall be kept for at least seven (7) days, at which time said dog may be disposed of in a manner approved by the Board of Health, provided that at the end of seven (7) days, the Animal Control Officer may make available for adoption any dog not found to be diseased. Any

dog confined by the Animal Control Officer shall not be released to the owner or keeper until the owner produces evidence of a current dog license, The Animal Control Officer shall establish a procedure for the adoption of abandoned dogs and in conjunction with the Director of Public Health set any fees or deposits required. (Art. 37, ATM 2013)

Any fees in this paragraph are to be in addition to fees or lines as specified elsewhere in this bylaw and/or under Massachusetts General Laws. No dog shall be turned over or sold in any manner inconsistent with Section 151 (CH.140,MGL) or disposed of inconsistent with the provisions of Section 151A (CH.140,MGL).

Reclaiming Impounded Dogs. An owner reclaiming an impounded dog shall pay all boarding costs. -In addition, if applicable, veterinary costs plus costs for any required vaccinations as required by MGL c. 140 Section 145 B, if the dog is not up-to-date on its annual vaccinations, as certified by a licensed veterinarian. (Art. 37, ATM 2013)

The provisions of Section 160, and Section 161 (CH.140,MGL) regarding property damage, appraisal and reimbursement are expressly incorporated in this bylaw.

The provisions of Section 171 (CH.140,MGL), liability of damages, are expressly incorporated into this by law. (Art. 26, ATM 2004; Art. 21, ATM 1997, Art. 32, ATM 2009)

**6.04.130 Disposition Process**

The owner or keeper of the dog that receives a citation under this bylaw, may admit to the offense charged by personally or through a duly authorized agent or by mailing to the Town Clerk, said citation along with payment in the amount as authorized under the penalty provisions of this bylaw. Said payment shall be by postal note, money order or personal check. The payment to the Town shall operate as a final disposition of the case. (Art. 21, ATM 1997) (Art. 37, ATM 2013)

**6.04.140 Non-Criminal Disposition of Violation.**

If any person so notified by citation desires to contest the violation alleged in the citation notice, he/she may avail him/herself to the procedures established in Chapter 1.08, Section 1.08.010, of the Town of Tewksbury Town By-Laws. In either of the above cases, or if the owner or keeper of a dog fails to respond to the citation within twenty-one (21) days, the Town Clerk shall forward a copy of the citation to the District Court where it shall be handled under the provisions of Article 1, Section 2 of the Town By-Laws. (Art. 21, ATM 1997) (Art. 37, ATM 2013)

**6.04.150 Bylaw violation.**

Proceedings under this section shall not be criminal. If any violation is continuing, each day's violation shall be deemed to be a separate violation. Complaints will be sought in a District Court according to Chapter 140, Section 173A, Massachusetts General Laws.

Enforcement of this section may, in the first instance, be pursued through the provisions of Section 21D, Chapter 40, Massachusetts General Laws, which provides for a non-criminal disposition. The enforcing per sons shall be any police officer of the Town and the Animal Control Officer and the Assistant Animal Control Officer. (Art. 26, ATM 2004; Art. 21, ATM 1997)

**6.04.160 Penalty Bylaw violation.**

(1) The following penalties, except where otherwise indicated herein, shall be in effect for violations of the provisions of this bylaw: (Art. 37, ATM 2013, Art. 15 STM 10-1-2019)

| Non-Criminal Disposition through Chapter 1.08, General Penalty Town of Tewksbury, Town By-Laws: | |
|---|---|
| 1st Offense | $50 |
| 2nd Offense | $100.00 |
| 3rd Offense | $300.00 |
| Each Subsequent Offense | $500.00 |

(2) Penalties for violations of any provision of this bylaw, except where otherwise indicated, shall be one hundred ($100.00) dollars. (Art. 22, ATM 2000: Art. 21, ATM 1997, Art. 32, ATM 2009)

**6.04.170 Dog Fund.**

A Dog Fund is hereby created by the Town under the provisions of MGL., Chapter 44, Section 53E, said fund to be used as a depository for all monies collected as fees, fines, charges, penalties and other like monies imposed under this bylaw. It shall be administered by the Treasurer/Collector and may also receive funds from usual municipal financing methods.

Receipts allocated to this fund shall be deposited in a special account by the Treasurer.

Expenditures may be charged against this fund without prior appropriation, subject to the approval by the Town Clerk, and shall be limited to purposes directly connected to the enforcement of the provisions of the dog bylaw.

Said expenditures, or incurred liabilities, shall not exceed the available balance of the fund at any given time nor the actual amounts deposited to it during the previous fiscal year.

The unexpended balance in this account at the end of each fiscal year shall be deposited into the General Fund.

At the written request of the Town Clerk, to the Auditor, a portion of the unexpended balance shall remain in the Dog Fund, to provide for the purchase of supplies and technical services to maintain the Dog Program.

Any veterinarian registered under the provisions of Section 55 or 56A (Ch.112,MGL) who provided emergency treatment of a dog or cat that is injured on any public way in Tewksbury shall receive (in lieu of payment allowed in Section 151B, CH.140,MGL), payment from the Dog Fund provided by this bylaw. All other provisions of Section 151B (CH.140,MGL) shall be incorporated herein under this bylaw.

The Board of Selectmen shall determine certain salaries or expenses that may not be funded with this fund but must be appropriated through the usual municipal financing procedure, and such determination shall be binding on this administration of this fund by the Treasurer/Collector. (Art. 21, ATM 1997) (Art. 37, ATM 2013)

**6.04.180 MASSACHUSETTS GENERAL LAWS INCORPORATED INTO THIS BY-LAW**

The provisions of the following Sections of Chapter 140 of Massachusetts General Laws, as may be Amended from time to time, shall be incorporated into and apply to this By-Law as referred to in this article.

| **Section:** | |
|---|---|
| 137 | Registration and Licenses |
| 137B | Sale of Dogs by Kennels Regulated |
| 137D | No Dog Licenses to Persons Convicted of Cruelty to Animals |
| 138 | Licenses |
| 138A | Importation of Dogs & Cats for Resale |
| 139A | Shelters; sale or gift of dog or cat not spayed or neutered |
| 141A | Penalties for failure to license |
| 145B | Rabies Vaccination |
| 147 | Issuance of licenses & disposition of fees |
| 147A | By-Laws & Ordinances relative to regulations of dogs |
| 149 | Accounts |
| 150 | Dog Listing |
| 153 | Form of Warrant |
| 155 | Liability for Damage to Persons or Property |
| 155A | Indemnification |
| 156 | Any Person may Kill Dog, Under Certain Conditions |
| 157 | Vicious Dogs |
| 158 | Killing of Vicious Dogs |
| 159 | Treble Damages for Injuries |
| 160 | Bond by Owner or Keeper |
| 161A | No Reimbursement in Certain Cases |
| 162 | Reward for Killing or Evidence in Certain Cases |
| 163 | Notice to Owner to Kill or Confine Dog |
| 164 | Penalty for Failure to Kill or Confine |
| 166 | Damaged Parties, Choice of Remedies |
| 168 | Penalty for Failure to Muzzle or Restrain |
| 169 | Neglect of Duty by any Officer, Penalty |

| | |
|---|---|
| 171 | Liability of Dog Owner for Damage |
| 173A | Disposition of Complaints for Violation of Dog Control Laws |
| 174 | Recovery of Fines and Penalties |
| 174A | Regulating Killing of Dogs |
| 174B | Dogs to be restrained in Certain Rest Areas |
| 174D | Research Institutions |

**6.04.190 EFFECTIVE IMPLEMENTATION DATE OF THIS BY-LAW**

This By-Law shall go into effect on December 31, 1997, and until said date, all areas of Massachusetts General Laws and Chapter 1.08 and Chapter 6.04, Town of Tewksbury By-Laws shall remain in effect.

**6.04.200 SEVERABILITY CLAUSE**

If any section, subsection, sentence, clause or phrase of this By-Law is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this By-Law. No provision or interpretation of a provision of this By-Law is intended to be either in conflict with or an attempt to change any statutory provision in Chapter 140, Massachusetts General Laws, pertaining to dogs.

**Title 7**

**(RESERVED)**

**Title 8**

**HEALTH AND SAFETY**

**Chapters:**

**8.04 Alarm Systems**
**8.08 Hazardous Materials**
**8.12 Noise**
**8.16 Water Tests**
**8.20 Long Pond**
**8.24 Parking**
**8.28 Water Conservation/Emergency Restrictions and Requirements**

**Chapter 8.04**

**ALARM SYSTEMS**

**Sections:**

**Article I. In General**
**8.04.010 Definitions.**
**8.04.020 Automatic protection devices Restrictions on keying.**
**8.04.030 Keying to authorized intermediaries permitted.**
**8.04.040 Operational requirements for new installations.**
**8.04.050 Installation instructions to be provided Permit required prior to installation.**
**8.04.060 Notice prior to test or demonstration required.**
**8.04.070 Current list of installations and certain information required.**
**8.04.080 Time limitation on ringing of outside alarm.**
**8.04.090 Fines and cancellation service.**
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**Article II. Fire Alarm System**
**8.04.110 Malfunctions Fines assessed.**
**8.04.120 Penalty assessed under certain conditions.**
**8.04.130 Malfunction defined.**
**8.04.140 Billing procedure.**
**8.04.150 Action taken when bill delinquent. Article I. In General**

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## Article I. In General

### 8.04.010 Definitions.

For the purpose of this ByLaw the following terms have the definitions herein ascribed to them:

1.1 Automatic Protection Device: An electrically operated instrument composed of sensory apparatus and related hardware which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice alarm upon receipt of a stimulus from the sensory apparatus that has detected a physical force or condition inherently characteristic of a fire or unauthorized intrusion.

1.2 Central Station Protective System: A system, or group of systems operated for its customers by a person, firm or corporation with a franchise from the Town, in which the operations of electrical protection circuits and devices are transmitted to, recorded in, maintained and supervised from a central station or modified central station.

1.3 Direct Line: A telephone line leading directly to the communications center of the Fire Department or Police Department that is for use only to report emergency messages and signals on a person to person basis.

1.4 Indication: The instrumentation on a monitor panel at the receiving terminal of a signal line which produces both visual and audible alarm signals when activated by a signaling device in the same electrical circuit at an identifiable location or origin.

1.5 Key (To a Telephone line): To use a telephone line for transmitting a message, either by direct connection or by a mechanism not so connected that utilizes the microphone of a standard telephone to do so.

1.6 Primary Trunkline: A telephone line leading into the communication center of the Fire Department or Police Department that is for the purpose of handling emergency calls on a person to person basis, and which line is identified by a specific listing among the emergency numbers in the telephone directory issued by the Telephone Company serving the Town.

1.7 Signal Line: A line not connected to any standard telephone equipment which leads into an in dicator panel in the communications center of the Police Department or to such a panel in either a central station protective system or a modified central station and which is designed to transmit electrically an alarm signal readily identifiable as to location and origin.

1.8 Special Trunkline: A telephone line leading into the communications center of the Fire Department or the Police Department that is for the primary purpose of handling emergency messages which originate from automatic protection devices and are transmitted directly or through an intermediary. (Art. 30, ATM 1982; By-Laws Art. IX § 13 (part))

### 8.04.020 Automatic protection devices Restrictions on keying.

2.1 No automatic protection device that is installed after the effective date hereof by any person on premises of any kind in the Town of Tewksbury shall be keyed to a primary trunkline.

2.2 After the effective date hereof, any alarm equipment supplier who installs automatic protection devices in Town for the purpose of sending prerecorded emergency messages directly to the Fire Department or the Police Department shall first obtain necessary instructions including a designated telephone number from the particular department concerned with the types of messages in order to key such devices to a special trunkline into that department.

2.3 Within ninety (90) days after the effective date hereof, all automatic protection devices in the Town that were keyed on that date to a primary or secondary trunkline shall be disconnected therefrom. The owner or lessee of any such device shall be responsible for the disconnecting of it.

2.4 An owner or lessee of an automatic protection who has it disconnected as required by (2.3) of this section, may authorize an alarm equipment supplier to key the automatic protection device to a special trunkline into the Fire Department or the Police Department, provided that the recorded message shall not be transmitted for a period of time exceeding three (3) minutes. (By Laws Art. IX § 13 (part))

**8.04.030 Keying to authorized intermediaries permitted.**

3.1. Any person who has an automatic protection device in the Town may arrange to have such de vice keyed to any intermediaries who are authorized to relay emergency messages to the Fire Department or Police Department over a special trunkline. (By-Laws Art. IX § 13 (part))

**8.04.040 Operational requirements for new installations.**

4.1. Automatic protection devices installed on premises of any kind in the town that are keyed to a special trunkline shall meet minimum operational requirements as determined by the Police or Fire Chief.

4.2. No recorded messages shall be delivered to the Police or Fire Department more than three times as a result of a single stimulus of the sensory mechanism.

4.3. The time gap between delivery of each recorded message must be in the range from ten (10) to twelve (12) seconds.

4.4. The length of time for transmitting the recorded message must not exceed fifteen (15) seconds.

4.5. All telephone reporting devices will be equipped with an off and on switch which in the event of an alarm that is activated which is false, the owner may shut recording device off and notify the proper department immediately that it is a false alarm.

4.6. The sensory mechanism used in connection with such devices must be adjusted to suppress false indications of fire or intrusion so that the devices will not be activated by impulse due to transient pressure changes in water pipes, short flashes of light, wind noises such as rattling or vibrating doors or windows, vehicular noise adjacent to the installation or other forces unrelated to genuine alarms.

4.7. All components comprising such device must be maintained by the owner in good repair to assure reliability of operation. (By-Laws Art. IX § 13 (part))

**8.04.050 Installation instructions to be provided—Permit required prior to installation.**

5.1. Each alarm equipment supplier that sells or leases to a person an automatic protection device which is installed on such person's premises in the Town after the installation hereof, and which is keyed to a special trunkline, shall furnish that person with written instruction as to the way the device operates, along with a maintenance manual and a correct circuit diagram pertaining to such device.

5.2. Prior to the installation of an emergency reporting system, an installation permit shall be obtained from the wiring inspector. The fee for said permit shall be established by the Board of Selectmen. (By-Laws Art. IX § 13 (part))

**8.04.060 Notice prior to test or demonstration required.**

6.1. No person shall conduct any test or demonstration on an automatic protection device or a signaling device designed to make direct connection with headquarters of the Fire Department or Police Department without first notifying the Chief of the Department concerned with the particular kind of alarm. (By-Laws Art. IX § 13 (part))

**8.04.070 Current list of installations and certain information required.**

7.1. Every alarm equipment supplier who wants to connect automatic protection devices in the Town to the Police Department alarm board shall furnish the Police or Fire Chief with a current list of such installations showing the following:

1. Name, residence address, and telephone number of owner or lessee.
2. Address or place where device is installed and telephone number of that location.
3. Name and telephone number of two (2) other persons at different locations who are authorized to respond to an emergency and open the place where the device is installed and be able to re set, or terminate such device if found to be defective.

7.2. The supplier will contact the Town Contractor ten (10) days in advance of connection to the Town Board.

7.3. Telephone lines will be ordered by the Town contractor. (By-Laws Art. IX § 13 (part))

**8.04.080 Time limitation on ringing of outside alarm.**

8.1. The length of time for alarm ringing outside must not exceed fifteen (15) minutes. (By-Laws Art. IX § 13 (part))

**8.04.090 Fines and cancellation service.**

9.1. The following shall not count as false alarms:

1. Town Power Failure
2. Telephone Company Repair
3. Results of Major Storm
4. 30 Day New Installation
5. Break Activation, Fire or Smoke Activation

9.2. If an automatic protection device is activated with the exception of the above 9.1, the owner shall be allowed up to five false alarms per year. After the five false alarms, the owner will be charged $25.00 for each alarm up to and including the tenth false alarm, a fine of $50.00 will be charged to the owner for the 11th false alarm and each additional false alarm up to and including the 15th false alarm. A fine of $100.00 will be charged to the owner for each and every additional false alarm above the 15th false alarm.

9.3. A hearing may be requested before the termination from the Town Board, or the special trunkline within five days of official notification of such termination either by the Town, or the Town Alarm Board contractor. The hearing will be held with the Police Chief or the Fire Chief of the Department that the disconnection is being made. (By-Laws Art. IX § 13 (part)) (Art. 39, ATM May 2007)

**8.04.100 Town held harmless.**

10.1. The town shall take every reasonable precaution to assure that alarm and prerecorded messages received by the Town are given appropriate attention and are acted upon with dispatch. The town shall not be liable for any defects in operation of automatic protection devices and signal line systems, for any failure or neglect to respond appropriately upon receipt of an alarm from such a source. In the event that the Town finds it necessary to disconnect a defective automatic protection device or signaling device, that Town shall incur no liability by such action. (By Laws Art. IX § 13 (part))

**8.04.110 - Malfunctions Fines assessed.**
For any alarm system connected by master box to the TFD as defined herein, which malfunctions, the Fire Chief may assess a fine against such fire alarm system owner for each malfunction per fiscal year according to the following schedule:

First through third malfunction: No Charge

Upon the recording of the third malfunction by the TFD the Fire Chief shall notify the owner or/occupant of the building, in writing and by certified mail, of such fact, and at this time inform the owner of the malfunctioning fire alarm system the Department's policy regarding fines for malfunctions. A copy of the policy shall be sent to the owner at this time.

Fourth through sixth each malfunction: $100.00
Seventh through eleventh each malfunction: $200.00
Each malfunction after the eleventh: $300.00

No direct dialers to TFD; private fire alarm systems connected to the TFD by other automatic means, through a central station system, shall be subject to the fines for malfunctions as follows:

First malfunction: No Charge

Upon the recording of the first malfunction by the Fire Department, the Fire Chief shall notify the owner or/occupant of the building, in writing and by certified mail, of such fact, and at this time inform the owner of the malfunctioning fire alarm system the Department's policy regarding fines for malfunctions. A copy of the policy shall be sent to the owner at this time.

Second through third each malfunction: $100.00
Fourth through sixth each malfunction: $200.00 (Art. 37 (part), ATM 1990: By-Laws Art. XIV (part))

**8.04.120 Penalty assessed under certain conditions.**
Any malfunction of the fire alarm system which is the result of the failure of the property owner, occupant or their agents to notify the TFD 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 8.04.110. (Art. 37 (part), ATM 1990: By-Laws Art. XIV (part))

**8.04.130 Malfunction defined.**
For the purpose of this regulation, a malfunction of the fire alarm system shall be defined as follows:

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

b. Faulty control panel or associated equipment.

c. A water pressure surge in the automatic sprinkler equipment.

d. An accidental operation of an automatic sprinkler system.

**8.04.140 Billing procedure.**
Property owners will be billed once a month for the previous month's malfunction activity. All fines assessed shall be paid to the Town Treasurer for deposit in the General Fund. (Art. 37 (part), ATM 1990: By-Laws Art. XIV (part))

**8.04.150 Action taken when bill delinquent.**
If the bill is not paid within 30 days, a second notice will be sent. If the bill remains unpaid after the second 30 day period, a final notice will be sent informing the owner and/or occupant that the master box will be disconnected and the insurance company notified. (Art. 37 (part), ATM 1990: By-Laws Art. XIV (part))

**Chapter 8.08**

**HAZARDOUS MATERIALS**

**Sections:**

**8.08.010 Purpose.**
**8.08.020 Definitions.**
**8.08.030 Prohibited acts.**
**8.08.040 Control standards.**
**8.08.050 Administration and enforcement.**
**8.08.060 Certificate of compliance required.**
**8.08.070 Compliance review.**
**8.08.080 Renewal application.**
**8.08.090 License to store inflammables.**

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**8.08.010 Purpose.**
There is hereby adopted the following measures to provide adequate safeguards from hazardous materials which pose substantial present or potential hazards to the public health, welfare, safety and to the environment, and to establish a program to provide for safe management of all such hazardous materials. (Art. 31 (part), ATM 1983: By-Laws Art. XI § 1)

**8.08.020 Definitions.**
In this By-Law the following terms have the following meaning:

(a) By-Law: Town of Tewksbury bylaw entitled, "Control and Management of Hazardous Materials."

(b) Disposal: The unlawful discharge, deposit, injections, dumping, spilling, leaking, incineration or placing of hazardous materials into or on any land or water so that such hazardous materials or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(c) Hazardous Materials: A substance, or combination of substances, which because of its quantity, concentration, or physical chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed, however not to include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act of 1967 as amended, or source, special nuclear, or by product material as defined by the Atomic Energy Acts of 1954. Those substances considered to be hazardous materials shall include but shall not be limited to substances considered to be toxic or hazardous by the Division of Hazardous Waste of the Commonwealth of Massachusetts under the provision of Massachusetts General Laws, Chapter 21 9(c).

(d) Storage: The actual or intended containment of hazardous materials in a safe manner so as to prevent unlawful disposal. (Art. 31 (part), ATM 1983: By-Laws Art. XI § 2)

**8.08.030 Prohibited acts.**
The disposal of hazardous materials within the Town of Tewksbury is hereby prohibited except at a hazardous waste disposal facility established and maintained in accordance with applicable law. Occupancy of any existing or new premises, other than residential dwellings, is hereby prohibited except in conformance with the provisions of this bylaw. (Art. 31 (part), ATM 1983: By-Laws Art. XI § 3)

**8.08.040 Control standards.**

(a) All hazardous materials shall be properly stored within a building in product tight containers protected from corrosion, accidental damage or vandalism, and shall be used and handled in a manner which does not constitute disposal. An inventory of such hazardous materials stored or handled in quantities that could pose a present or potential hazard shall be maintained and reconciled with purchase, use, sales and disposal records at sufficient intervals to detect product loss. Subsurface fuel and chemical storage facilities in compliance with the applicable Massachusetts Fire Prevention Regulations shall be deemed to be in compliance with this standard.

(b) No hazardous materials shall be present in materials disposed on the site. Waste materials composed in part or entirely of hazardous materials shall be retained in product tight containers for removal and disposal by a hazardous waste licensee, or as directed by the Board of Health or its Enforcement Officer. (Art. 31 (part), ATM 1983: By-Laws Art. XI § 4)

**8.08.050 Administration and enforcement.**

The Provisions of this By-Law shall be enforced by the Board of Health or by a designated Enforcement Officer appointed annually by the Board of Health. (Art. 31 (part), ATM 1983: By-Laws Art. XI § 5)

**8.08.060 Certificate of compliance required.**

1. New Premises - Owners or occupants of new premises, other than residential dwellings, for which a building permit is issued after the effective date of this bylaw shall obtain a Certificate of Compliance prior to occupying the premises.

2. Existing Premises - Owners or occupants of existing premises other than residential dwellings, shall obtain a Certificate of Compliance before January 1, 1984 or upon any change in use of occupancy requiring a Certificate of Use and Occupancy under Section 119.0 of the Massachusetts Building Code whichever occurs first.

3. Requirements The Certificate of Compliance shall be issued by the Board of Health or by its Enforcement Officer upon demonstration by the owner or occupant that the use and occupancy of the premises are in conformance with the requirements of this ByLaw; or, in the case of existing premises not in compliance, shall specify a compliance schedule which is reasonable with regard to the public health threat involved and the difficulty of compliance. (Art. 31 (part), ATM 1983: By-Laws Art. XI § 5(a))

**8.08.070 Compliance review.**

Application for an original Certificate of Compliance shall be forwarded by the Board of Health or its Enforcement Officer to the Board of Selectmen, Conservation Commission, Fire Department and Water Department for determination that the proposed use meets all control standards. All information necessary to demonstrate compliance must be submitted including, but not limited to the following:

1. A complete list of all chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities that could pose a present or potential hazard ac companied by a description of measures to protect from corrosion, accidental damage or vandalism, leakage or any disposal together with provision to control any accidental disposals; and

2. A description of hazardous materials to be generated, indicating the type of storage and the method and place of disposal. Any information, record, or particular part thereof, obtained by the Board of Health or its Enforcement Officer pursuant to the provisions of this ByLaw shall, upon request, be kept confidential and not considered to be public record when it is deemed by the Board that such information, record or report relates to secret processes, methods of manufacture, or production or that such information, record or report if made public would divulge a trade secret. This section shall not prevent disclosure of any information necessary for an enforcement action.

The Board of Health or its Enforcement Officer shall act upon an application within thirty (30) days of a filing. Upon failure of the Board of Health or its Enforcement Officer to act within said thirty (30) days, the Certificate of Compliance shall be deemed to be granted. (Art. 31 (part), ATM 1983: By-Laws Art. XI § 5(b))

**8.08.080 Renewal application.**
Application shall be made for renewal of the Certificate of Compliance upon change in use or occupancy requiring a Certificate of Use. (Art. 31 (part), ATM 1983: By-Laws Art. XI § 5(c))

**8.08.090 License to store inflammables.**
The following fees are established for the licenses, permits, and the annual certificate, to use land, for the keeping, storage, or sale of petroleum fluids or compounds for resale or commercial use:

1999 gallons or 8,000 pounds: $60.00

1,000 - 4,999 gallons or 40,000 pounds: $90.00

5,000 - 9,999 gallons or 80,000 pounds: $120.00

10,000 - 29,000 gallons or 240,000 pounds: $150.00

30,000 - 99,999 gallons or 1,600,000 pounds: $255.00

100,000 - 199,999 gallons or 1,600,000 pounds $345.00

more than 200,000 gallons or 1,600,000 pounds $345.00

and the fee for an annual renewal certificate or registration required under Chapter 148, Section 13 of the General Laws, shall be one-half of the above license fee in accordance with the above schedule.

The certificate/permit of the Fire Department shall be twenty-five dollars ($25.00) per tank; or take any other action relative thereto. (Art. 11, STM 2006; Art. 35, ATM 1990: By-Laws Art. IX § 16)

**Chapter 8.12**

**NOISE BYLAW**

**Sections:**

**8.12.010 Declaration of policy.**
**8.12.020 Applicability.**
**8.12.030 Definitions.**
**8.12.040 Designated land use zones.**
**8.12.050 Exterior noise standards.**
**8.12.060 Special provisions.**
**8.12.070 Prima facie violation.**
**8.12.080 Penalties for violations.**
**8.12.090 Manner of enforcement.**
**8.12.100 Severability.**

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**8.12.010 Declaration of policy.**
In order to control excessive noise in the Town of Tewksbury, it is hereby declared to be the policy of the Town to prohibit such notice generated from or by all sources in this ByLaw. (Art. 12, STM 2003)

**8.12.020 Applicability.**
This ByLaw shall pertain to, but shall not be limited to, outdoor sound amplifying equipment, motor vehicles, trucks, construction and demolition equipment, industrial and commercial sources of sound, and other manmade sounds that cause noise. (Art. 12, STM 2003)

**8.12.030 Definitions.**
Except as may be specified herein, acoustical terminology used throughout this ByLaw is that approved as American National Standard Acoustical Terminology [ANSI S1.11994] by the American National Standards Institute (ANSI). The following words, phrases and terms as used in this ByLaw shall have the meanings as indicated below:

(a) "Background sound level" shall mean the sound level associated with a given environment, being a composite of sounds from all sources excluding the alleged Intruding Noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

(b) "Construction" shall mean those activities requiring a building permit. Construction shall also include any site preparation, seismic surveys, grading, assembly, erection, substantial repair, alteration or similar action, including demolition, for or of public or private right-of-way, structures, utilities or similar property.

(c) The abbreviation dBA shall mean the Aweighted sound pressure level expressed in decibels and referenced to 20 micropacals.

(d) "Emergency vehicle" shall mean any vehicle operated in an effort to protect, provide or restore public safety, including DPW Vehicles, ambulances, police vehicles and fire vehicles.

(e) "Emergency work" shall mean any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service.

(f) "Enforcing person" shall mean any police officer of the Town or any other Town employee designated by the Selectmen for this purpose. For complaints under Chapter 8.12 an enforcing person shall also include any authorized employee of the Office of Community Development.

(g) "Intruding noise" shall mean the total sound level created, caused, maintained by, or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

(h) "Leq" equivalent sound level, is the level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time varying sound during the same period, as measured with a sound level meter measuring Leq.

(i) "L10 Level" shall mean the A-Weighted sound level exceeded ten percent of the time.

(j) "Person" shall mean an individual or individuals, firm, association, co-partnership, joint venture, corporation or any entity recognized by applicable law, public or private in nature.

(k) "Pure tone" means any sound which can be distinctly heard as a single pitch or a set of single pitches, as defined by the EPA.

(l) "Sound level" shall mean the instantaneous Aweighted sound pressure level, in decibels, as measured with a sound level meter set to the "A" weighting scale, slow response.

(m) "Sound level meter" shall mean an instrument meeting American National Standard S1.41983 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data. (Art. 12, STM 2003)

**8.12.040 Designated land use areas.**
The properties hereinafter described are hereby assigned to the following noise zones:

| | |
|---|---|
| Land Use Area I: | All Residential Properties and the grounds of any school, day care, hospital or similar health care institution, house of worship or library while the same is in use, and any Cemetery. |
| Land Use Area II: | All other properties. |

(Art. 12, STM 2003)

**8.12.050 Exterior noise standards.**
It shall be a violation of this by law for any person at any location within the area of the Town to create Intruding Noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person, which causes a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the property boundary of the receiving land use. Daytime measurements are to be determined at an L10 level provided that at no time shall the exterior sound level in Land Use Area I and II exceed 90dBA or cause a PURE TONE condition for the receiving land use category.

Table I. Maximum Allowable Exterior Sound Level

| Land Use Area | Daytime level<br>7:00 AM to 10:00 PM | Nighttime Level<br>10:00 PM to 7:00 AM |
|---|---|---|
| I | 60 dBA | 50 dBA |
| II | 70 dBA | 65 dBA |

If the intruding noise is continuous and cannot reasonably be discounted or stopped for a time period whereby the background sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table I. (Art. 12, STM 2003)

**8.12.060 Special provisions.**
Limitation of Construction Activity: Noise associated with Construction is permitted between 7:00 AM and 7:00 PM on weekdays and Saturdays.

Noise associated with the following activities shall be exempted from the provisions of this ByLaw:

(a) Emergency Work or Emergency Vehicles.

(b) Activities, other than construction, conducted in public parks and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction including but not limited to school athletic and school entertainment events, and on church grounds, including but not limited to, bells or chimes and activities at the Tewksbury State Hospital, including but not limited to, the sounding of the horn, also known as the "fire horn;"

(c) Occasional outdoor gatherings, public dances, shows, and sporting entertainment events provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events;

(d) The maintenance of real property (not Construction), such as temporary use of power tools and equipment such as lawn mowers, snow blowers, chain saws and similar equipment, provided said activities take place between the hours of 5:00 AM and 10:00 PM on any day. (Art. 12, STM 2003)

**8.12.070 Prima facie violation.**

Any measured noise exceeding the sound level standards as specified in Sections 8.12.050 Exterior Noise Standards shall be deemed to be prima facie evidence of a violation of the provisions of this ByLaw. (Art. 12, STM 2003)

**8.12.080 Penalties for violations.**

(a) Violations under Chapter 8.12, in the discretion of the enforcing person, may be enforced by noncriminal disposition as provided in Chapter 40, Section 21D of the Massachusetts General Laws ("Section 21D").

(b) The penalty for a violation under 8.12.050 Exterior Noise Standards shall be $25 for a first offense next after the first warning, $100 for a second offense, $200 for a third offense, and $300 per offense, without limit, for each succeeding offense. Each day or part thereof shall constitute a separate offense.

(c) The penalty for a violation under 8.12.060 Special Provisions, Noise associated with construction, shall be $50 for a first offense next after the first warning, $100 for a second offense, $300 for a third offense, and each succeeding offense. Each day or part thereof shall constitute a separate offense. Additionally under 8.12.060, at the discretion of the enforcing person, all construction activities may be suspended following initial warning until the violation is cleared to the reasonable satisfaction of the enforcing person.

(d) An enforcing person taking cognizance of a violation of this ByLaw or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the clerk of the district court having jurisdiction thereof for the noncriminal disposition thereof in accordance with the provision of Chapter 40, Section 21D of the Massachusetts General Laws. The provisions of Section 21D are incorporated by this reference. (Art. 12, STM 2003)

**8.12.090 Manner of enforcement.**

(a) Violations of this Chapter shall be prosecuted in the same manner as other violations of the Tewksbury General By-Laws provided, however, that in the event of an initial violation of the provision of this ByLaw, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken in the event the cause of the violation has been removed or fully corrected within the time period specified in the written notice.

(b) In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred in which event the specified time period for abating the violation shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a complaint. (Art. 12, STM 2003)

**8.12.100 Severability.**

The invalidity of any section or provision of this ByLaw shall not invalidate any other section or provision hereof. (Art. 12, STM 2003)

**Chapter 8.16**

**WATER TESTS**

**Sections:**

**8.16.010 Reporting requirements.**

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**8.16.010 Reporting requirements.**

The results of any water test done at the request of or by any Board, Department, Commission or Elected Official, indicating contamination of any kind of any town water supply including but not limited to wells (whether online or not), pipelines and treatment plants, shall be communicated to the Board of Health within ten (10) days of receipt by the Board, Department, Commission or Elected Official initiating the test. (Art. 24 ATM 1985: By-Laws Art. IX § 5)

**Chapter 8.20**

**LONG POND**

**Sections:**
**8.20.010 Long Pond.**

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**8.20.010 Long Pond.**

1. Where a way which was formerly a private way has become a public way, property owners ad joining said way have no right to restrict or prohibit the repairs and use of the way by members of the public, the regulation and control of which have been entrusted to certain public officers.
2. No person shall operate a power propelled craft at a rate of speed in excess of ten (10) mph.
3. No person shall operate a power propelled craft at a rate of speed in excess of six (6) mph one half hour after sunset and until one half hour before sunrise.
4. All boats shall be equipped with the appropriate personal flotation device and all other necessary equipment required by law and if operated one half hour after sunset until one half hour before sunrise all motorboats shall be equipped with a white bright light in the stern visible around the horizon and a combined lantern in the fore part of the vessel and lower than the white light aft showing green to the starboard and red to the port. Non-powered motor vessels when underway from one half hour after sunset to one half hour before sunrise shall carry the white light.
5. All persons shall comply with the 323 CMR 2.08, Safety Certification for Minors if a minor is operating any type of vessel.
6. No person operating any type of boat shall deposit or allow to be deposited by any passenger litter of any type in said water.
7. Any power propelled craft equipped with a high power automotive type engine mounted in an exposed location or with a nonelectric engine shall be prohibited. Any dual hulled sailboat with a length of more than fourteen feet shall be prohibited.
8. No craft shall be operated by anyone under the influence of alcoholic beverages or drugs or in a reckless and disorderly manner, endangering life or property.
9. No bathing area, dock or raft shall be located more than 25 feet from the shoreline and shall be clearly marked with visible buoys and rope.
10. No person shall operate a motor vehicle on the ice or abandon a motor vehicle on the ice or in the water.
11. Ice boats may be operated from December 1st to March 1st, from sunrise to onehalf hour after sunset. Any operation of power augers shall be limited to the hours from 7:00 A.M. to 5 P.M.
12. No person shall operate an ice boat on ice having a thickness of less than six (6) inches.
13. All ice boats underway shall keep a distance of 25 feet from any residential or nonresidential shoreline and any unsafe or open water area.
14. No recovery or salvage operation shall be authorized except under the express approval of both the Police Department and Department of Public Works and under their direction and control.
15. The provisions of these By-Laws shall be enforced by local law enforcement officers, properly authorized local officials, and the Massachusetts Environmental Police. (Art. 19, ATM 1992; Art. 22, ATM 1991)

**Chapter 8.24**

**PARKING**

**Sections:**

**8.24.010 Overnight parking Snow/ice removal.**
**8.24.020 Handicapped parking.**
**8.24.030 Fire lanes.**

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**8.24.010 Overnight parking - Snow/ice removal.**

A. It shall be unlawful for any vehicle, other than one acting in an emergency to be parked on any street from 12:00 (Midnight) to 6:00 A.M. This shall take effect on November 1st of each year and end on March 31st. (A fine of twenty-five dollars ($25.00) will be imposed for a violation of this section).

B. It shall be unlawful for any vehicle, other than one acting in an emergency, to be parked on any street, day or night, when it is snowing or when icy conditions exist. (A fine of twenty-five dollars ($25.00) will be imposed for a violation of this section).

C. Any vehicle, other than one acting in an emergency, parked, day or night, on any street in the Town, so as to interfere with the work of removing or plowing snow, removing ice, or sanding the street, may be removed or towed away, at the sole expense of the registered owner of said vehicle, under the authority and direction of the Superintendent of the Department of Public Works to a public garage or any convenient place. The Superintendent of the Department of Public Works shall within a reasonable time, notify the Chief of Police of the removal of any such vehicle and of the place to which it has been removed, and the Chief of Police shall give like notice to the registered owner of the vehicle. Vehicles so towed away shall be stored in a safe place and restored to the registered owner thereof upon proper identification and full payment, to the Town or to the Keeper of the place of storage, for the expenses incurred in such removal and storage.

Inquiries, about vehicles so towed away, shall be made at the Police Station. (Art. 10, STM 2006; Art. 48, ATM 1991)

**8.24.020 Handicapped parking.**

It shall be unlawful to park a vehicle in a parking space reserved and designated for use by vehicles of handicapped persons unless authorized to do so by the terms of this bylaw or the General Laws of the Commonwealth of Massachusetts.

The owner of record or the 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 businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees:

(A) Shall reserve and provide, install and maintain, parking spaces in said off-street parking areas for any vehicle owned and operated by a handicapped person whose vehicle bears the distinguishing license plate authorized by Massachusetts General Laws, Chapter 90, Section 2 and this bylaw, according to the following formula:

| Total Number of Parking Spaces | Number of Handicapped Parking Spaces Required |
|---|---|
| 25 | 1 space |
| 26-40 | 5% but not less than 2 spaces |
| 41-100 | 4% but not less than 3 spaces |
| 101-200 | 3% but not less than 4 spaces |
| 201-500 | 2% but not less than 6 spaces |
| 501-1000 | 1.5% but not less than 10 spaces |
| 1001-2000 | 1% but not less than 15 spaces |
| 2001-5000 | .75% but not less than 20 spaces |
| 5001 | .50% but not less than 30 spaces |

(B) Shall provide, install, and maintain handicapped parking spaces which shall be 12 feet wide, or the handicapped spaces shall be provided in pairs of 8 foot spaces, separated by a 4 foot center aisle which is painted or striped yellow;

(C) Shall identify, install and maintain each handicapped parking space or pair of spaces by a sign. The sign shall be at a height of not less than 5 feet nor more than 8 feet to the top of the sign and shall be identified with white lettering against a blue background and shall bear the words, "Handicapped Parking, Special Plate Required, Violator Shall be Fined";

(D) Shall provide, install, and maintain Handicapped Parking spaces as near as possible to a building entrance or walkway and shall install a sidewalk ramp or curb cut to allow easy access to a handicapped person.

The owner of record or the person or body, as described in subsection B of this section, shall be allowed sufficient time, after the Attorney General's approval of this bylaw, to comply with subsections (B)(1) through (4) of the aforesaid Town bylaw.

The Chief of Police, or his designee, shall enforce subsection B of this section, of the aforesaid Town bylaw. The owner of record or the person or body, as described in subsection B of this section, who violates subsections (B)(1) through (4) after being sent a written notification of lack of compliance, including a copy of the aforesaid section of the Town By-Laws, shall be subject to the following fines:

| | |
|---|---|
| 1st offense | $100.00 |
| 2nd offense | $150.00 |
| 3rd offense | $200.00 |
| 4th or subsequent offense | $300.00 |

Said fines shall be paid to the Town Treasury.

Temporary Handicapped Parking Placard/Permit. Any motor vehicle bearing a handicapped Parking Permit, a Temporary Handicapped Parking Placard/Permit, or a motor vehicle Registration Plate designating the vehicle as one used by a handicapped person, shall be authorized to park in a designated handicapped parking space. (Art. 45 §§ 1—6, ATM 1991) (Art. 36, ATM 2013)

**8.24.030 Fire lanes.**

Upon determination of the Fire Chief that fire lanes are necessary for the protection of lives or property of the public in an area to which the public has access; the record owner, or the person having control of such premises, shall provide, install, and maintain, "NO PARKING FIRE LANES," signs and striping, in the locations designated by the Fire Chief. (Art. 49, ATM 1991)

**Chapter 8.28**

**WATER CONSERVATION/EMERGENCY RESTRICTIONS AND REQUIREMENTS**

**Sections:**

**8.28.010 Authority.**
**8.28.020 Purpose.**
**8.28.030 Definitions.**
**8.28.040 Declaration of a State of Water Supply Conservation.**
**8.28.050 Restricted water use.**
**8.28.060 Public notification of a State of Water Supply Conservation Notification of DEP.**
**8.28.070 Termination of a State of Water Supply Conservation Notice.**
**8.28.080 State of Water Supply Emergency compliance with DEP orders.**
**8.28.090 Penalties.**
**8.28.100 Severability.**

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**8.28.010 Authority.**
This bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. c.40, S21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c.41, S69B. This bylaw also implements the Town's authority under M.G.L. c.40, S41A, conditioned upon a declaration of water supply and emergency issued by the Department of Environmental Protection. (Art. 33, ATM 2000)

**8.28.020 Purpose.**
The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town of by the Department of Environmental Protection. (Art. 33, ATM 2000)

**8.28.030 Definitions.**

"Person" means any individual corporation trust, partnership or association or any other entity. "State of Water Supply Conservation" means a State of Water Supply Conservation declared by the Town pursuant to Section 8.28.040 of this bylaw.

"State of Water Supply Emergency" means a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c.21G, s1517.

"Water Users or Water Consumers" means all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes of water used at any particular facility. (Art. 33, ATM 2000)

**8.28.040 Declaration of a State of Water Supply Conservation.**
The Town, through its Town Manager may declare a State of Water Supply Conservation upon a determination by the Town Manager that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under Section 8.28.060 of this bylaw before it may be enforced. (Art. 33, ATM 2000)

**8.28.050 Restricted water use.**
A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restriction, conditions or requirements shall be included in the public notice required under Section 8.28.060.

a. Odd/Even Day Outdoor Watering. Watering outdoors by water users with odd numbered addresses is restricted to odd numbered dates. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.

b. Outdoor Watering Ban. Outdoor watering is prohibited.

c. Outdoor Watering Hours. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.

d. Filling Swimming Pools. Filling of swimming pools is prohibited.

e. Automatic Sprinkler Use. The use of automatic sprinkler systems is prohibited. (Art. 33, ATM 2000)

**8.28.060 Public notification of a State of Water Supply Conservation - Notification of DEP.** Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under Section 8.28.050 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection. (Art. 33, ATM 2000)

**8.28.070 Termination of a State of Water Supply Conservation - Notice.**
A State of Water Supply Conservation may be terminated by the Town Manager upon a determination of a State of Water Supply Conservation shall be given in the same manner required by Section 8.28.060. (Art. 33, ATM 2000)

**8.28.080 State of Water Supply Emergency compliance with DEP orders.**
Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency. (Art. 33, ATM 2000)

**8.28.090 Penalties.**
Any person violating this bylaw shall be liable to the Town in the amount of $50.00 for the first violation and $100 for each subsequent violation which shall insure the Town for such uses as the Town Manager may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by noncriminal disposition in accordance with Section 21D of Chapter 40 of the general laws. Each day of violation shall constitute a separate offense. (Art. 33, ATM 2000)

**8.28.100 Severability.**
The invalidity of any portion of this bylaw shall not invalidate any other portion thereof. Or take any other action relative thereto. (Art. 33, ATM 2000)

**Title 9**

# PUBLIC PEACE, MORALS AND WELFARE

**Chapters:**

**9.04 Alcoholic Beverages**
**9.08 Offenses Against Public Safety and Decency**
**9.12 Offenses Against Property**
**9.16 Weapons**
**9.18 Public Consumption of Marijuana or Tetrahydrocannabinol**

**Chapter 9.04**

**ALCOHOLIC BEVERAGES**

**Sections:**

**9.04.010 Definitions.**
**9.04.020 Consumption on public way prohibited.**
**9.04.030 Consumption on public and private property prohibited when.**
**9.04.031 Sale of low alcoholic beer.**
**9.04.040 Seizure of beverages possessed or consumed in violation.**
**9.04.050 Enforcement authority.**
**9.04.060 Violation Penalty.**

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**9.04.010 Definitions.**
The following definitions shall apply in interpretation and enforcement of this ByLaw:

1. "Public Way" shall mean the entire width between the lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and shall include the entire width of any sidewalk within the lines of such way. In the case of ways established by prescription or concerning which no official layouts exist, the edges of the surface of the travelled way shall be deemed to be the lines of such public ways.
2. "Alcoholic Beverages" shall mean any beverage defined as an alcoholic beverage in Section 1. of Chapter 138 of the General Laws of the Commonwealth of Massachusetts.
3. "Public Property" shall mean and include all Town Commons, school grounds, municipal parking lots, municipal parks, municipal playgrounds and all real property, buildings or offices owned or leased to the Town or occupied or used by any board, department, committee, commission, or office of the Town.
4. "Private Property" shall mean any real property within the Town of Tewksbury which is not owned by the Town.
5. "Consumption" shall mean to consume, drink or to have opened, or partially filled any container of alcoholic beverages, on his person or under his immediate control. (By-Laws Art. IX § 11 (part))

**9.04.020 Consumption on public way prohibited.**
No person shall consume any alcoholic beverages on any public way or on any way to which the public has a right of access. (By-Laws Art. IX § 11 (part)

**9.04.030 Consumption on public and private property prohibited when.**
No person shall bring any alcoholic beverages onto public property or onto any private property or possess or consume any alcoholic beverages in or upon any public property or private property without the permission of the owner or person lawfully in charge or control of such public or private property. (By-Laws Art. IX § 11 (part)

**9.04.031 Sale of low alcoholic beer.**
Whoever makes a sale or delivery of any low alcoholic beer, or any malt beverage with any alcoholic content, however much reduced, to any person under twenty-one years of age, either for his or her own use or for the use of his or her parents or any other person, or whoever procures any such beverages for a person under twenty-one years of age in any establishment licensed under Massachusetts General Laws Chapter 138, Section 12, 15, 19B or 19C shall be punished by a fine of not more than three hundred dollars ($300.00).

Such nonalcoholic beer or such malt beverages shall be sold only by establishments licensed by the town pursuant to Massachusetts General Laws Chapter 138. (Art. 5, STM 1992)

**9.04.040 Seizure of beverages possessed or consumed in violation.**
All alcoholic beverages possessed or consumed in violation of this ByLaw shall be seized and held until final adjudication of the charge against the person or persons arrested or summoned before the court. After adjudication all alcoholic beverages seized shall be returned to the person or persons entitled to the lawful possession of them. (By-Laws Art. IX § 11 (part))

**9.04.050 Enforcement authority.**
This By-Law shall be enforced on behalf of the Town by its Police Department which shall have the right to arrest any and all persons in violations of said By-Law. (By-Laws Art. IX § 11 (part))

**9.04.060 Violation - Penalty.**
Violations of this By-Law are punishable by a fine of Fifty ($50.00) Dollars for each offense. (By-Laws Art. IX § 11 (part))

**Chapter 9.08**

**OFFENSES AGAINST PUBLIC SAFETY AND DECENCY**

**Sections:**

**9.08.010 Loitering prohibited.**
**9.08.020 Limitations on posting of materials – Violation Penalty.**

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**9.08.010 Loitering prohibited.**
No person or persons shall loiter or gather within 150′ (feet) of the entrance of a polling place. Verbal solicitation of the voters within 150′ (feet) of a polling place is prohibited. (Art. 12 (part), ATM 1983; By-Laws Art. IX § 12)

**9.08.020 Limitations on posting of materials – Violation Penalty.**
No poster, card, handbill, placard, picture or circular intended to influence the action of the voter shall be posted, exhibited, circulated or distributed in the polling place, in the building where the polling place is located, on the walls thereof, on the premises of which the building stands, or within one hundred fifty (150) feet of property. Whoever posts, exhibits, circulates or distributes any poster, card, handbill, placard, picture or circular intended to influence the action of the voter, or any poster to be placed on the official ballot in violation of the above, shall be punished by a fine of not more than twenty ($20.00) dollars, or take any other action relative thereto. (Art. 12 (part), ATM 1983; By-Laws Art. IX § 13)

**Chapter 9.12**

**OFFENSES AGAINST PROPERTY**

**Sections:**

**9.12.010 Entering premises of another with malicious intent prohibited.**

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**9.12.010 Entering premises of another with malicious intent prohibited.**

No person shall enter upon the premises of another for the purpose of committing any wanton or malicious act, nor for the purpose or intention of invading the privacy of another by peeping into windows of a house or spying upon any person or persons therein, and no person, being on the premises of another, shall peep into the window of a dwelling house thereon nor spy upon any person or persons resident therein.

Nothing contained in this ByLaw shall be construed to abridge, nor in any way limit, the right of a Police Officer to enter upon private property nor to perform any act necessary in the performance of his official du ties. Violations of this bylaw shall be punished by a fine of $20.00 for each and every offense. (By-Laws Art. IX § 8)

## Chapter 9.16

## WEAPONS

**Sections:**

**9.16.010 Discharge of firearms prohibited Exemptions.**
**9.16.020 Permit issuance.**
**9.16.030 Violation Penalty.**

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### 9.16.010 Discharge of firearms prohibited Exemptions.

Discharge of Firearms: Within the Town limits of Tewksbury, Massachusetts no person or persons shall discharge any firearm, air or gas operated gun of any kind.

Except under the following conditions:

1) All law enforcement officers, whether federal, state or municipal in the lawful performance of their duties.
2) The discharge of firearms using blank ammunition in fulfilling but not limited to the needs of historical, ceremonial, competitive and sporting activities.
3) Contractors using powder-fired charge tools at a construction site.
4) Person or persons at an authorized target range.
5) Citizens in the lawful defense of themselves or others. (Art. 4 (part), STM 1988: By-Laws Art. IX § 14 (part))

### 9.16.020 Permit issuance.

The Board of Selectmen with the approval of the Chief Executive Officer of this Town and the Police Chief, may issue permits or licenses to maintain or operate rifle, pistol and revolver ranges which permits or licenses may, at any time, be revoked by the Chief Executive Officer and Board of Selectmen with just cause. (Art. 4 (part), STM 1988: By-Laws Art. IX § 14 (part))

### 9.16.030 Violation - Penalty.

A violation of this law shall result in the following:

First Offense: A warning

Second or Subsequent Offense: A $50.00 fine. (Art. 4 (part), STM 1988: By-Laws Art. IX § 14 (part))

**Chapter 9.18**

**PUBLIC CONSUMPTION OF MARIJUANA OR TETRAHYDROCANNABINOL**

**Sections:**

**9.18.010 Public consumption of marijuana or tetrahydrocannabinol prohibited.**
**9.18.020 Enforcement Authority.**
**9.18.30.1 Violation Penalty.**

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**9.18.010 Public consumption of marijuana or tetrahydrocannabinol prohibited.**
No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, & 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public. (Article 31, ATM 2009)

**9.18.020 Enforcement Authority.**
This bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, & 21, or by noncriminal disposition pursuant to G.L. c. 40, & 21D, by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer. (Article 31, ATM 2009)

**9.18.30.1 Violation - Penalty.**
The fine for violation of this bylaw shall be three hundred dollars ($300) for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, & 32L. (Article 31, ATM 2009)

**Title 10**

**VEHICLES AND TRAFFIC**

**Chapters:**

**10.04 Recreational and Snow Vehicles**

**Chapter 10.04**

**RECREATIONAL AND SNOW VEHICLES**

**Sections:**

**10.04.010 Prohibited when.**
**10.04.020 Exception – Violation Penalty.**

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**10.04.010 Prohibited when.**
No person shall operate an uninsured, unregistered, recreational vehicle, which is any motor vehicle designed for use over unimproved terrain, except vehicles used for agriculture, forestry, lumbering or construction, in the Town of Tewksbury, except that emergency and public safety officials may use such vehicles for emergency purposes. (By-Laws Art. XII (part))

**10.04.020 Exception – Violation Penalty.**
Except with the express permission of said land owner. Violations of this bylaw are punishable by the following fines:

| | |
|---|---|
| 1st offense | $ 50.00 |
| 2nd offense | $100.00 |
| 3rd offense | $150.00 |
| 4th offense | $200.00 |
| 5th offense | $300.00. |

(Art. 14, ATM 1987: By-Laws Art. XII)

**Title 11**

**RIGHTS-OF-WAY**

**Chapters:**

**11.04 Rights-of-Way**

**Chapter 11.04**

**RIGHTS-OF-WAY**

**Sections:**

**11.04.010 Preamble.**
**11.04.020 Introduction.**
**11.04.030 Definitions.**
**11.04.040 Necessity of a permit.**
**11.04.050 Requirements of application.**
**11.04.060 Application procedure.**
**11.04.070 Terms of the Right-of-Way Permit.**
**11.04.080 Rental payments.**
**11.04.090 Appeals.**
**11.04.200 Severability.**

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**11.04.010 Preamble.**

In partial fulfillment of the obligation to see to the prudent management of the Town's affairs and assets and in light of the continuing technological revolution in telecommunications, the passage of the Telecommunications Act of 1996 and the deregulation 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. (Art. 37, ATM 2002)

**11.04.020 Introduction.**

A. The purpose of and intent of this Right-of-Way ByLaw is to:

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 to:

1. Permit and manage reasonable access to the public Rights-of-Way on a competitively neutral basis; and
2. Manage Grants of Location in Public Ways; and
3. Conserve the limited physical capacity of the Rights-of-Way held in public trust by the Town; and
4. Assure that the Town is appropriately compensated when its Right-of-Ways are utilized by nongovernmental entities; and
5. Assure that the Town's current and ongoing 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
6. Assure that the Town can continue to fairly and responsibly protect the public health, safety and welfare.

B. This ByLaw 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. (Art. 37, ATM 2002)

**11.04.030 Definitions.**

"Applicant" means any person or entity, including without limitation implied, public utility, telecommunications carrier, local exchange or municipal department which owns or exercises general responsibility and control over any facility.

"Application" means the written application on a form prescribed by the awarding authority with any required documentation and the application fee by which an applicant or co-locator requests a Right-of-Way Permit.

"Application fee" means a fifty ($50.00) dollar nonrefundable processing fee which shall ac company each application for a Right-of-Way Permit.

“Attachment” means any device, apparatus, appliance, equipment, wire or cable or other thing including any telecommunications 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” means the Board of Selectmen of the Town of Tewksbury which has authority to exercise the powers granted by this bylaw.

“Co-locator” means any person or entity other than applicant who desires to use an existing or new facility.

“Contractor” means 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, re pair or maintenance work on overhead or underground facilities owned by applicant and per mitted by the awarding authority which are located in the right-of-way. The contractor for purposes of this bylaw 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” means the failure of the permit holder (including all contractors or other agents of permit holder) (i) to pay when due any license rental, (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 bylaw, 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 (6) consecutive months.

“DTE” means the Massachusetts Department of Telecommunications and Energy created by M.G.L. Chapter 25.

“Effective date” means the date upon which this bylaw becomes effective.

“Emergency repair work” means 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” means the volume of 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” means an overhead or underground facility which is in existence on the date of the application for a Right-of-Way Permit.

“Facility” means 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” means the Federal Communications Commission.

“Grandfathered facility” means an overhead or underground facility in existence on the effective date.

“Grant of location” means 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 bylaw.

“Grant of location applicant” means an applicant or co-locator which is a public utility con ducting a business described in M.G.L. Chapter 166, section 21 of the Massachusetts General Laws.

“Highway superintendent” means the Town Public Works Superintendent.

“Inspector of wires” means that individual appointed by the Town to fulfill the responsibilities set out in M.G.L. Chapter 166 section 32.

“License agreement” means 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.

“Licensed contractor” means a contractor who holds a current and valid public works construction license issued by the awarding authority.

“Local exchange carrier” means every person or entity that directly or indirectly owns, controls, operates and manages plant, equipment or property within the Town.

“M.G.L” means when the provisions of Massachusetts General Laws cited in this bylaw, are amended from time to time, the amendments shall be incorporated into and applied to this by law.

“Measurable interference” means interference as defined by FCC Regulations (47 C.F.R.) which affects the telecommunications services provided by permit holder.

“Modification” means a material physical change to an existing facility such that its use or occupancy is materially altered.

“New facility” means 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” means 7:30 A.M. to 3:30 P.M. Monday through Friday excluding holidays.

“Occupied area” means the area in square feet to be occupied by an overhead facility (including space adjacent to the facility and rendered practically unusable by others whether because of physical limitations or potential measurable interference or otherwise) all as reasonably determined by the awarding authority. In case of pole lines, for the purposes of computing square feet, the width dimension generally shall be determined with reference to the maximum distance that protuberances such as cross arms, guy wires, etc., extend perpendicularly from the centerline of the poles. Also included in the license for a pole at no additional rental, is the right to penetrate the surface of the right-of-way to the depth reasonably necessary to support the pole.

“Occupied volume” means the volume measured in cubic feet occupied by an underground facility (including space adjacent to the facility rendered practically unusable by others whether because of physical limitations or potential measurable interference or otherwise) all as reason ably determined by the awarding authority.

“Overhead facility” means any tower, telecommunications 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.

“Overhead license rental rate” shall have the meaning subscribed to it and shall be computed annually as set out in Section VIII A of this bylaw.

“Permit holder” means an applicant or co-locator to whom a Right-of-Way Permit has been granted.

“Permit term” means the period commencing on the date of filing of an application and ending upon the earlier to occur of: (i) the expiration of the useful life of the facility as reasonably determined by the awarding authority or (ii) ten (10) years from the date of application. “Planning board” means the Planning Board of the Town.

“Pole” or “poles” and “overhead wires and associated overhead structures” means poles, towers, supports, wires, conductors, stubs, platforms, cross arms, braces, transformers, insulators, cutouts, switches, communication circuits, appliance 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 Town; 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 antennae, 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 attachments” means 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” means 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 61, or electric railroad subject to M.G.L. Chapter 162.

“Public utility use” means the use of a facility by a public utility during the permit term in con ducting its regulated activities but not including any nonpublic utility 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” means 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” means a license required of all contractors who are not officers or employees of a public utility or of a Town department who wish to perform street opening work in the public ways of the Town.

“Regulated activities (of public utilities)” means 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” means 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” means 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 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” means 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” means any cutting, excavation 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 rules and regulations 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” means 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” means every person or entity that directly 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 M.G.L. Chapter 159 as a telecommunications common carrier. “Telecommunications facility” means a facility other than customer premises equipment used by a telecommunications carrier by a telecommunications service and includes software integral to such equipment (including upgrades), cables, wires, lines, wave guides, electronics, dishes and antennas.

“Telecommunications service” means the offering of telecommunications for a fee directly to the public or to such classes of users to be effectively available directly to the public regardless of the telecommunications facilities used.

"The Telecommunications Act of 1996" means Public Law 104104Feb. 8, 1996 110 Stat. 57.

"Town" means the Town of Tewksbury.

"Transmission line" means lines and associated structures used for the transmission of electric energy sold, or to be sold, at wholesale in interstate commerce.

"Underground facility" means 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. "Underground license rental payment" means the annual dollar amount to be paid by an applicant for use of right-of-way for an underground facility.

"Underground license rental rate" shall have the meaning subscribed to it and shall be computed annually as set forth in Paragraph VIII B of this bylaw.

"Usable space" means the total usable capacity of any overhead or underground facility located in the right-of-way as reasonably determined by the awarding authority. (Art. 37, ATM 2002)

**11.04.040 Necessity of a permit.**

A. No work in, on, under, along, above or across a Right-of-Way shall commence until the applicant and any co-locator each shall have applied for 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 have 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 attached hereto as Exhibit A.

B. An applicant or co-locator which wishes to continue to use a grandfathered facility after the expiration of the permit term 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.

C. Any applicant or co-locator who is using a grandfathered facility for any purpose other than a public utility use must notify the town of such use of each such facility within one hundred and twenty (120) days after the effective date wishes to make sure 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 nonpublic utility use.

D. 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, overhanging signs and sidewalk cafes are exempted from this bylaw.

E. 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.

F. A public utility that is petitioning for a grant of location in accordance with M.G.L. Chapter 166, section 22, Chapter 161, section 70 or Chapter 162 Section 8 as part of its application for a right-of-way 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.

G. No Right-of-Way Permit shall be granted unless applicant demonstrates to the reasonable satisfaction of the awarding authority that sufficient existing capacity remains in existing facilities to accommodate an attachment or that applicant will construct new facilities in accordance with the requirements of this bylaw. 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.

H. All construction work contemplated by this bylaw shall be done in a good and worker like 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 bylaw, (iii) any conditions contained in the Right-of-Way Permit, and (iv) such reasonable supplemental instructions not inconsistent with the foregoing as the awarding authority or its authorized representative may from time to time issue. work that involves street opening work must comply with the Town's street opening rules and regulations.

I. 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 Town department, public utility, telecommunications carrier or local ex tor and such holder performs all such right-of-way work as agent of permit holder. (Art. 37, ATM 2002)

**11.04.050 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 town 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 the service that 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 annual license rental payment for the facility as provided herein, 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, of annual 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 demonstrated need to construct the new facility or make an attachment to an existing facility.

2. A list of direct abutters' names and addresses.
3. The kind, size and tested strength of supporting 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. Applications 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 with in the right-of-way at a scale of one (1") 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 (500') feet of the new facility prepared by a registered professional engineer or other qualified professional.
2. A network map and an electronic copy showing the location and route of the new facilities superimposed on the public ways of the Town on a scale of one (1") inch equals one hundred (100') feet prepared by a registered professional engineer or other qualified professional.
3. The location of all existing facilities 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 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 an applicant's financial ability to construct, operate, maintain, relocate and re move 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.
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 coverage as specified in Section VI, Paragraph J of this by-law.

16. Such other and farther information as may be reasonably required by the awarding authority. (Art. 37, ATM 2002)

**11.04.060 Application procedure.**

A. Upon receipt of a completed and signed application, it will be forwarded to the Public Works Superintendent, Planning Board and Inspector of Wires for review. The Public Works Superintendent, Planning Board and Inspector of Wires shall promptly review the application and make written recommendations concerning permit conditions and supplemental instructions.

B. 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 ($1,000,000.00) dollars, the Town may require the applicant to enter into an agreement with the Town to reimburse the Town for the reasonable cost of engineering re view by the Town's consultant of the plans submitted. Applicants shall submit a deposit to se cure the cost of this review.

C. 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 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.

D. The awarding authority shall review the application, any evidence presented at a grant of location public hearing, and the recommendations received from the Public Works 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 reasonable consider such as:

1. The likelihood that the new facility will incommode the public use of public ways or endanger or interrupt navigation.

2. The financial and technical ability of the applicant or co-locator to construct new facilities or to use the right-of-way.

3. The capacity of the right-of-way to accommodate the proposed new facilities, modifications or attachments.

4. The capacity of the right-of-way to accommodate additional new facilities if the permit is granted.

5. Potential damage or disruption (including Measurable Interference with Telecommunications Services) to existing facilities, or public property if the permit is granted.

6. The effect, if any on public health, safety and welfare if the permit is granted.

7. The availability of alternate routes and/or locations for the proposed new facilities.

8. Applicable federal and state laws and Town By-Laws which might prohibit or affect the permit if granted.

E. If the application is considered favorably, a Right-of-Way Permit containing such conditions and supplemental instructions as the awarding authority reasonably deems appropriate shall promptly issue 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 of co-locator the reasons its application was not favorably considered.

F. 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. (Art. 37, ATM 2002)

**11.04.070 Terms of the right-of-way permit.**

A. Conditions of Permit. All Right-of-Way Permits granted are conditioned upon i) the applicant having obtained and submitted to the awarding authority, prior to construction and installation of its new facilities, a bond as required in subsection (K)(2) hereafter, ii) permit holder's agreement to make any excess capacity of its facility available to other applicants on commercially practical and technically feasible terms, iii) to the extent feasible and subject to reasonable availability and agreement between a telecommunications carrier and the Town concerning price, maintenance, access and security, interconnection of the new telecommunications facility with public buildings and iv) the execution and delivery of a Town Right-of-Way License Agreement substantially in the form of Exhibit A attached hereto 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 earlier to occur of: (i) the expiration of the useful life of the facility as reasonably determined by the awarding authority or (ii) ten (10) years from the date of the application. A permit holder desiring to continue to use the facility after the expiration of the permit term shall not more than one hundred eighty (180) days nor less than ninety (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 (6) months of the granting of the permit, (iii) permit holder has failed to re locate 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 (10) 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 the 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 re quire 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 (6) months following expiration of 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.

1. With the exception of permits held by Town departments and permits held by public utilities, within thirty (30) days following written notice from the Town, any person or entity that owns, controls or maintains any overhead or underground facilities located in the right-of-way for which a permit has not been obtained and which is not a grandfathered facility shall apply for a permit and may request a hearing before the awarding authority and shall have the opportunity at the hearing to present evidence. If the application for a permit is denied, applicant shall, at its own expense, remove such facilities from the right-of-way and restore the area to its original condition within six (6) months of the date of the denial of the permit.

2. In the event that the applicant fails to remove its facilities, the awarding authority may treat such as abandoned property and, among other remedies, remove the facility and restore the area at the owner's sole cost and expense.

F. Relocation of Facilities Due to Public Necessity.

1. 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 in writing 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 locations as shall have been approved by the awarding authority within ninety (90) 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 (90) days from the date of completion of the transfer.

2. 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 facilities 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 on behalf of the Town. Rights-of-Way Permits and grant of location for facilities that have been ordered to be relocated will be amended to reflect the new location once the facilities have been relocated.

G. Assignment of Facilities. Except in connection with a transaction to which M.G.L. Chapter 166, section 15B applies, a Right-of-Way Permit is not assignable. If a permit holder transfers ownership or use of its facilities to another entity, such entity must apply for and receive its own permit in accordance with this bylaw.

H. Nonexclusive Grant. No permit granted under this bylaw 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 bylaw 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 bylaw and the Town 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 is conditioned upon the agreement of the applicant to make excess capacity available to other co-locators on commercially practical and technically feasible terms. All new facilities for which a Right-of-Way Permit has been issued shall be constructed, installed and located in accordance with the following terms and conditions:

1. Attachment shall be installed within existing underground or overhead facilities whenever excess capacity exists within such facility.

2. Whenever existing facilities have been required by the Town to be located underground within a right-of-way, no permit will be granted for an overhead facility.

3. Whenever any existing facility is required by the Town for reasons of public necessity to be re located, each applicant owner shall relocate its facilities within a reasonable period of time and all co-locators who share the facility shall, absent extraordinary circumstances or undue hard ship as determined by the awarding authority, also relocate their attachments concurrently to minimize the disruption of the right-of-way.

4. Whenever new underground facilities must be constructed because the excess capacity of existing facilities has been exhausted, applicant shall anticipate its needs for at least thirty (30) years and is encouraged to construct new underground facilities sufficient to meet its needs for this time period as well as provide excess capacity to co-locators on commercially practical and technically feasible terms.

5. 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.

1. 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 Common wealth of Massachusetts and shall contain the following coverages and be in the following minimum amounts:

2. 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.

| | |
|---|---|
| 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 hire 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 Employers Liability | |
| Each Accident | $ 100,000.00 |
| Disease Policy Limit | $ 100,000.00 |
| Disease each Employee | $ 100,000.00 |

3. Certificate of insurance shall provide for at least thirty (30) days notice to the awarding authority or cancellations 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 holder 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:

   a. The satisfactory completion of installation and commencement of operation of the system in accordance with the terms of the permit,

   b. The indemnity of the Town from and against any and all claims for injury or damage to per sons or property, both real and personal, caused by the construction, and installation of the facilities authorized pursuant to the permit,

   c. The satisfactory restoration of adjoining property and public property in accordance with the provisions of this bylaw. 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 nor mal working hours. Permit holder must give notice of the intended right-of-way work seventy two (72) hours in advance to the Public Works Superintendent.

   b. Obligation to Locate Existing Facilities. Permit holder and contractor must inform itself 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 effect the right-of-way work.

   c. Non-Interference with Existing Facilities. Permit holder and 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 M.G.L. Chapter 164, section 76D, notify all public utilities in advance of making any excavation in a public way. Such notification shall be made by a 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 effected 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 or any other public structure.

   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.

   g. Trees. Permit holder or contractor shall not remove, even temporarily, any trees or shrubs which exist in the right-of-way 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 (2) inches and a minimum of four (4) feet in height in the identical location.

   h. Excavated Material. Permit holder or contract shall remove all excess excavated material, surplus water, muck, silt, residue or other runoff pump or remove 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 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 neigh boring property. Excluding emergency repairs, during the hours from 4:30 P.M. to 7:30 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 re moved by the permit holder or contractor immediately.

   1. 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 reseeded with good quality lawn seed.

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 thirty (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 as determined by the Highway Superintendent 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.

p. Emergency Repair Work. When notified by the Town, permit holder is required to respond to calls for emergency repair work within two (2) hours of the notice and to commence repairs immediately upon arrival at the site.
Failure to respond within two (2) hours a fine of $50.00 will be issued;
Failure to respond within three (3) hours a fine of $75.00 will be issued;
Failure to respond after 4 hrs, $100 fine per day until removed; payable to the Town of Tewksbury at the Office of the Board of Selectmen within 21 days.
A vote of the Board of Selectmen is necessary to void the violation fine.

q. 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 pre venting 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 (Art. 37, ATM 2002)

**11.04.080 Rental payments.**

Each applicant holding a Right-of-Way Permit for a facility, except to the extent as provided in paragraph (C) hereafter, shall make an annual license rental payment to the Office of the Board of Selectmen for the non-exclusive right to use certain rights-of-way in the Town.

Annual License Rental Payments shall be computed as set out in paragraphs (A) and (B) hereafter.

A. Overhead License Rental Payments.

1. The overhead license rental payment for each overhead facility shall be computed by multiplying the occupied area of the facility by the applicable overhead license rental rate.

2. The occupied area of an overhead facility shall be determined in the reasonable discretion of the awarding authority.

3. The overhead license rental rate shall be determined annually by the awarding authority within sixty (60) days of the commencement of each fiscal year utilizing assessment data for the fiscal year just ended. The rate for the fiscal year in which an application is filed (or the year of the effective date in the case of grandfathered facilities) shall be the applicable rate for the entire permit term.

4. An annual overhead license rate shall be calculated by:

a. Determining the assessed value of all taxable land in Town subject to tax in that fiscal year;

b. Dividing the amount obtained in (a) by the total number of acres of land in Town subject to tax in that

fiscal year and by expressing this quotient on a dollar per square foot basis (this represents a reasonable method to derive the value of the Town's investment in its rights of way and a reasonable return on such investment);

c. Determining in the reasonable judgment of the awarding authority the Town's combination of these two items shall be expressed as an amortization constant. (This constant represents the Town's reasonable judgment of the term over which the Town should recover in its investment in its rights-of-way and a reasonable return on such investment); and

d. Multiplying the quotient obtained in (b) above by the constant determined in (c) and by ex pressing this product in dollars per square foot.

B. Underground License Rental Payment.

1. The underground license rental payment for each underground facility shall be computed by multiplying the occupied volume of the facility by the applicable underground license rental rate.

2. The occupied volume of an underground facility shall be determined in the reasonable discretion of the awarding authority.

3. The underground license rental rate shall be determined annually by the awarding authority within sixty (60) days of the commencement of each fiscal year utilizing assessment data for the fiscal year just ended. The rate for the fiscal year in which an application is filed (or the year of the effective date in the case of grandfathered facilities) shall be the applicable rate for the entire permit term.

4. An annual underground license rental rate shall be calculated by dividing the product obtained from the calculation described in paragraph A(4)(d) above by the usable depth of the rights-of-way in the Town of Tewksbury as reasonably determined by the awarding authority and ex pressing the quotient so obtained in dollars per cubic foot.

C. Exemption from Payments. Applicants utilizing facilities (which includes use by co-locators) on the terms described below shall be exempt from the payment of underground or overhead rental payments during the period described as follows:

1. Applicants which are Town departments to the extent that such facilities are used only for municipal purposes are exempt from the payment of rental payments hereunder.

2. Applicants with grandfathered facilities shall be exempt from the payment of rental payments to the extent of the type and extent of the uses being made of such grandfathered facilities as of the effective date and during the period commencing on the effective date and ending on the expiration or earlier termination of the permit term.

3. Applicants with grandfathered facilities which after the effective date propose to make uses of them, or allow co-locators to make uses of them which are not public utility uses, shall have the exemption described in subparagraph (2) above reduced protanto as reasonably determined by the awarding authority and shall forthwith begin paying a protanto portion of the annual rental payment for the use of the facility no longer subject to exemption. The rental payment shall be calculated as described above and the calculation shall utilize the fiscal year in which the application for non-exemption is made. The protanto nonexempt portion of the annual rental payment shall be reasonably determined by the awarding authority by comparing the portion of the occupied area or occupied volume subject to nonexempt use to the total occupied area or occupied volume of the facility. Evidence of well-established uniform practices evidenced by written policies or procedures of applicants in establishing pole attachment fees for other similar charges to co-locators or in allocating costs among affiliates shall be considered as prima facie evidence in determining reasonable allocation by the awarding authority.

4. Applicants with new and existing facilities which after the effective date propose to make public utility use or allow co-locators to make public utility use of a facility shall be protanto exempt during the permit term from the payment of the appropriate annual rental payment otherwise payable with respect to such facility to the extent of its public utility use as set out in sub paragraph (3) above.

5. The routine replacement of a portion of a facility or a minor adjustment of the location of part of a facility (such as the replacement or relocation of a pole or replacement of wires or cables) in situations where the

use and capacity remain unchanged in some circumstances may require an application or co-locator to file an application for a Right-of-Way Permit but in such situations the exempt status of the facility shall not be affected.

6. All exemptions except those for Town departments shall end upon the end of the initial permit term, but in no event later than thirty (30) years from the effective date unless the applicable law shall require a continuation of the exemption. (Art. 37, ATM 2002)

**11.04.090 Appeals.**
A person or entity aggrieved by a decision of the awarding authority under this bylaw may appeal such decision to the appropriate court of competent jurisdiction or, to the extent applicable law provides, to the DTE or the FCC. (Art. 37, ATM 2002)

**11.04.200 Severability.**
If any clause, section, or other part of this bylaw shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this bylaw shall not be affected thereby but shall remain in full force and effect. (Art. 37, ATM 2002)

**Title 12**

**STREETS, SIDEWALKS AND PUBLIC PLACES**

**Chapters:**

**12.04 Streets**

**Chapter 12.04**

**STREETS**

**Sections:**


| | |
|---|---|
| **Article I.** | **Prohibited Acts** |
| **12.04.010** | **Breaking and/or digging up of streets prohibited.** |
| **12.04.020** | **Defacing for any purpose prohibited.** |
| **12.04.040** | **Certain vehicles on sidewalks prohibited.** |
| **12.04.050** | **Placing obstruction prohibited.** |
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| **12.04.070** | **Conformance required.** |
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| **12.04.100** | **Definition.** |
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**Article VIII. Sewer Connection Fees**
**12.04.400 General.**
**12.04.410 Method of assessing connection fees.**
**12.04.420 Connection fee payments.**

**Article IX. Excavation and Trench Safety**
**12.04.90 General.**

## Article I. Prohibited Acts

**12.04.010 Breaking and/or digging up of streets prohibited.**
No person or persons shall break or dig up, or aid in digging up, any part of any street, or remove any earth or gravel therefrom without first obtaining a written permit from the Department of Public Works Superintendent. (Art. 31, ATM 1990; By-Laws Art. VI § 1)

**12.04.020 Defacing for any purpose prohibited.**
No person shall make any marks, letters or figures of any kind, or place any sign, advertisement or placard upon or against any wall, fence post, ledge, stone, tree, building or structure, in or upon any street in this town, without permission of the owner thereof, nor in any way cut or mutilate any tree in any public highway. (By-Laws Art. VI § 2)

**12.04.040 Certain vehicles on sidewalks prohibited.**
No person shall drive or draw any cart or wagon, sled or other vehicle (except children's hand carriages) over or upon any footpath or sidewalk in the town, or permit any horses or other grazing animal under his care to go upon such sidewalks or stand thereon. (By-Laws Art. VI § 4)

**12.04.050 Placing obstruction prohibited.**
No persons other than an employee in the service of the Town or an employee in the service of an independent contractor acting for the Town shall place or cause to be placed any obstruction which include, but not be limited to, the depositing of snow, ice or the pumping of water on any traveled public way or sidewalk so as to impede the flow of traffic; or hinder the snow plowing operation on such public way; or deposit snow near or on any fire hydrant so as to obstruct the access to the fire hydrant; or allow the same to remain there without first obtaining the consent in writing of the superintendent of public works. All basketball hoops or other recreational equipment located on any right of ways used by vehicular traffic shall be removed for the time period effective November 1st of each year until April 1st of the following year. Such obstruction shall not include rubbish and recyclable materials put out for collection. The Police Department will be the sole enforcing agency of this ByLaw.

Whoever violates this section shall be punished by a fine:

| | |
|---|---|
| First Offense | Written Warning |
| Second Offense | $ 50.00 |
| Third and Subsequent Offenses | $100.00 |

(Art. 17, ATM 2003)

**12.04.060 Postering, etc. prohibited.**
No person shall place, throw, dump or otherwise deposit posters, handbills, flyers, advertising sheets, waste rubbish or garbage in or from the public streets or ways or other land owned by the Town or Selectmen. (By Laws Art. VI § 7)

## Article II. Numbering Requirements

### 12.04.070 Conformance required.

The Board of Selectmen shall require that every building used for a dwelling or a place of business in the Town of Tewksbury shall display the number assigned to it by the Board of Assessors.

No person shall, for a longer period than thirty (30) days after notification, neglect or refuse to affix to, or suffer to remain on, any property owned or leased by him, her or it, a dwelling or business number other than the one designated for such property by the Board of Assessors.

The following shall apply:

1. Legible numbers (not handwriting)
2. Securely and permanently attached
3. Attach number(s) in a conspicuous place, facing the street (Attach number(s) to the house not the door)
4. Attach 4" house numbers for visibility

Numbers to be restored and/or replaced when no longer clearly legible

In addition to the numbers(s) on your house it is suggested that you place them on both sides of your mail box.

Violations of this bylaw shall be prosecuted by the Chief of Police of the Town or his or her own initiative or on the order of the Fire Department, Town Manager or the Board of Selectmen. Any person who shall violate any of the provisions of this bylaw shall be subject to:

| | |
|---|---|
| First Offense | written warning |
| Second Offense | $30.00 fine |
| Third and Subsequent Offenses | $50.00 fine |

Each day any violation of this section shall continue shall constitute a separate offense. (Art. 17, STM 2001)

### 12.04.080 Barriers required when.

The Board of Selectmen may require owners of land that has been excavated to erect barriers or take other suitable measures within five days after such owners have been notified in writing by the Selectmen that, in their opinion, such excavation constitutes a hazard to public safety. Any person violating such an order shall be subject to a fine of $1.00. (By-Laws Art. VI § 9)

### 12.04.085 Street and/or Project Name and Numbering

The purpose of this Bylaw is to clearly identify street addresses and locations to avoid confusion, to protect the public welfare, and to provide for public safety, necessity and convenience in the case of fire, flood, medical and other emergencies.

a) The Board of Selectmen shall ensure that street names, street numbers, and project development and location names are not duplicated or confusing and meet the requirements of E911 and MassGIS standards. No naming or numbering of private ways, newly created ways, private driveways, or project names or locations shall be authorized without the approval of the Selectmen.

b) The Selectmen shall promulgate regulations establishing the standards governing the naming and numbering of such ways, properties, locations, and projects.

c) The Town will maintain an up-to-date Master Address Table using the assigned addresses and parcel identification numbers for all taxable and non-taxable properties. No person or entity shall publicly use or list an address or name for a property, location, building, or structure located within the Town for any purpose, unless that address is included in the Master Address Table. (Art. 30, ATM 2018 Added Section 12.04.085)

d) No street or public way shall be given a name that has a principal part which coincides with the principal part of the name of another street or public way within the Town. The addition of a subname to the principal part of an existing street or public way being named or renamed shall not be sufficient to be considered a different name. For the purpose of this section, subnames shall include but not be limited to auxiliary names such as and similar to: "center, lane, circle, parkway, road, drive, terrace, path, way, first, second, etc ..." For example, if the Town has a street or public way named Smith Street, a second street or public way shall not be named Smith Drive. (Art. 32, ATM 1990; By-Laws Art. VI § 3; Art. 30, ATM 2018 moved paragraph d) from section 12.04.030)

When a solicitor receives a license, the solicitor will be given a list of resident addresses they cannot solicit. If a business does solicit a residence on the Do Not Knock List, the solicitor will be fined and will not be allowed to solicit any homes in Tewksbury for a period of one year. (Art. 16 STM 2021)

**12.04.090 License required.**
It shall be unlawful for any solicitor or canvasser as defined in Section 12.04.100 of this chapter to engage in such business within the corporate limits of "the Town" without first obtaining a license in compliance with the provisions of this chapter. Any person who is not properly licensed under this bylaw shall be ordered to immediately cease and desist all solicitation in the Town until they attain a proper license. Whoever continues to solicit without a proper license and after being prohibited to do so by the Town Clerk or a Tewksbury Police Officer, shall be punished by a fine of not more than three hundred dollars ($300) for each violation. A person who commits such a violation(s) shall appear in court upon summons, except as provided under Section 12.04.180. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.100 Definition.**
A canvasser or solicitor is defined as any individual, whether resident of the Town or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for such services to be furnished or per formed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not, provided that such definition shall include any person who, for himself or herself, or for another person, firm or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.110 License application Requirements.**
An applicant for a license under this bylaw shall file with the Town Clerk a sworn application (in duplicate) in writing at least ten (10) working days prior to his or her requested starting date for solicitation on a form to be furnished by the Town Clerk, which shall give the following information:

(a) Name and Physical Description of the applicant;

(b) Permanent home address and full local address of the applicant;

(c) A brief description of the nature of the business and the goods to be sold;

(d) If employed, the name and address of the employer, together with credentials establishing the exact relationship;

(e) The length of time for which the right to do business is desired;

(f) The place where goods or property proposes to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.

(g) Two photographs of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be 2" by 2" showing the head and shoulders of the applicant in a clear and distinguishing manner. One picture will be retained by the Town Clerk and the other will be laminated onto the Solicitor Identification Card.

(h) The names of at least two reliable property owners of the Town who will certify as to the applicant's good character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate each character and business responsibility.

(i) A statement as to whether or not the applicant has been convicted of any crime, felony, mis-demeanor, or violation of any municipal bylaw, rule or regulation, the nature of the offense and the punishment or penalty assessed therefore.

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be one hundred dollars ($100). This fee may be waived for nonprofit organizations. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part), Art 27, ATM May 2017)

**12.04.120 License Investigation and issuance.**

(a) Upon receipt of a license application under this bylaw, the original shall be referred to as the "Chief", who shall cause such investigation of the applicant to determine the following facts;

(1) Whether or not fraud, misrepresentation, or false statements have been made in the application for license.

(2) Whether or not the applicant has been convicted of any crime or misdemeanor involving moral turpitude.

(b) If as a result of such investigation, the Police Chief or the Chief's designee shall find that either paragraph (a)(1) or (a)(2) is answered in the affirmative, the Chief shall endorse on such application the reasons therefore, and return the same application to the Town Clerk, who shall notify the applicant that the application is disapproved, and that no license will be issued.

(c) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief or his designee shall endorse on the application approved, and forward it to the Town Clerk. Upon payment of the prescribed license fee to the Town Clerk, the applicant may pick up his or her license and Solicitation Identification Card. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued, and the kind of goods to be sold there under, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Town Clerk shall keep a permanent record of all licenses issued. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.130 License fees.**

(a) The license fee which shall be charged by the Town Clerk for such license shall be $5.00 per day, $25.00 per week, $50.00 per month, or $100.00 per year. Fees shall be waived for non-profit organizations upon written request of the applicant and verification by the Town.

(b) The annual fees herein provided shall be assessed on a calendar year basis and on or after July first, the amount of such fee for annual license shall be one-half the amount stipulated above for the remainder of the year.

(c) None of the license fees provided for by this bylaw shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he or she may apply to the Town Clerk for an adjustment of the fee, so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his or her method of business and the gross volume of business and such other information as the Town Clerk may deem necessary, in order to determine the extent, if any, of such undue burden on such commerce. The Town Clerk shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which the Town Clerk shall determine whether the fee fixed by this bylaw is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable, and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the Town Clerk shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by Section 12.04.130(a) of this chapter. Should the Town Clerk determine the gross sales measure of the fee to be the fair basis, he/she may require the applicant to submit, either at the time of termination of applicant's business in the Town or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefore, provided that no additional fee during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license as prescribed in Section 12.04.130(a). (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.140 Bond required when.**
Every applicant, not a resident of the Town, or who being a resident of the Town, but representing a firm whose principal place of business is located outside the Commonwealth of Massachusetts, shall file with the Town Clerk a surety bond, running to the Town in the amount of $1,000 with surety acceptable to and approved by the Town Treasurer, conditioned that the said applicant shall comply fully with all the provisions of the By-Laws of the Town and the statutes of the Commonwealth of Massachusetts, regulating and concerning the business of a solicitor and guaranteeing to any resident of the Town that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing to any citizen of the town doing business with said solicitor, that the property purchased will be delivered according to the representations of said solicitor. Action on such bond may be brought in the name of the Town to the use or benefit of the aggrieved person. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.150 Solicitation Identification Card issuance.**
The Town Clerk shall issue to each licensee at the time of delivery of his or her license, an identification card which shall contain the words "Licensed Solicitor", the individual's picture and period for which the license is issued, and the number of the license in letters and figures easily discernible from a distance of ten feet. Such identification card shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his or her outer garment in such a way as to be conspicuous. A Special Identification Card to be worn in compliance with this section will be issued by the Town Clerk for solicitators of nonprofit organizations that are from the Town of Tewksbury. These identification cards will consist of information the Town Clerk deems to be necessary. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.160 Exhibition of license required.**
Solicitors and Canvassers are required to exhibit their licenses at the request of any resident. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.170 Enforcement authority.**
It shall be the duty of any police officer of the Town to require any person seen soliciting or canvassing who is not known by such officer to be duly licensed, to produce his or her solicitor's or canvasser's license and to enforce the provisions of this bylaw against any person found to be violating the same. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.180 Trespass prohibited.**
Whoever having a proper license issued by the Town without right, enters or remains in or upon private residences in the Town for the purposes of distributing, soliciting, or advertising material of a commercial nature after being forbidden to do so by the person who has lawful control of said premises, whether directly or by notice posted in a conspicuous place to mean; on a mailbox at the end of the driveway, a free standing posting at the edge of the driveway or property adjacent to the door in view from the street, or attached to the front corner of a residence by the driveway in clear view from the street, shall be punished by a fine or not more than one hundred ($100) dollars or by imprisonment for not more than thirty (30) days, or both such fine and imprisonment. A person who is found committing such trespass in the presence of a Police Officer, may be arrested without a warrant. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.190 Purchase and display of trespass notices.**
Notices that state, Solicitors No Trespassing Town ByLaw, are to be purchased at the Town Clerks office for a fee consistent with the cost to provide such notices.

After purchase they are to be attached to one of the conspicuous locations mentioned by the person(s) in lawful control of said premises. Nothing in this bylaw will prohibit a person from posting their property in accordance to the Massachusetts General Laws, Chapter 266, Section 120. Trespassing After Notice or preclude a Police Officer from using this statute when warranted. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.200 Solicitation hours.**
A canvasser or solicitor who has a proper license issued by the Town may solicit between the following hours, provided they comply with all the provisions of this bylaw:

Monday thru Friday 9:00 a.m. to 7:00 p.m.
Saturday & Sunday 10:00 a.m. to 5:00 p.m.

(Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.210 Keeping of records required.**
The Chief shall report to the Town Clerk all convictions for violation of this bylaw, and the Town Clerk shall maintain a permanent record for each license issued and record the reports of violation therein. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.220 Revocation of license when.**

(a) Licenses issued under the provision of this bylaw may be revoked by the Town Clerk after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation, or false statement contained in the application for license;

(2) Fraud, misrepresentation or false statement made in the course of carrying on a business as solicitor or as canvasser;

(3) Any violation of the bylaw codified in this chapter;

(4) Conviction of any crime or misdemeanor involving moral turpitude; or

(5) Conducting the business of soliciting, or of canvassing, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(6) High pressure tactics, harassment, or refusal to accept no as an answer, which has been submitted in writing to the offended party.

(b) Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be forwarded by certified mail to the licensee at his or her last known address at least five (5) days prior to the date set for hearing. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.230 Appeal.**
Any person aggrieved by the action of the Chief or the Town Clerk in the denial of a license as provided in Section 12.04.120 of this chapter, or the action of the Town Clerk in the assessing of the fee as provided in subsection 12.04.130(c) of this chapter, shall have the right of appeal to the Board of Selectmen of the Town.

Such appeal shall be taken by filing with the Board of Selectmen within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Board of Selectmen shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section 12.04.220 of this article for notice of hearing on revocation. The decision and order of the Board of Selectmen on such appeal shall be final. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

**12.04.240 License expiration.**
All annual licenses issued under the provision of this bylaw shall expire on the 31st of December in the year when issued. All other licenses shall expire on the date specified in the license. (Art. 13 (part), STM 1990: By-Laws Art. VI § 10 (part))

## Article IV. Loitering

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### 12.04.250 Reserved.

## Article V. Repairs On Private Ways

### 12.04.260 Terms and conditions.

The Town Manager/Board of Selectmen may cause the repairs to be made on private ways in the town provided that the following conditions are met:

a. The type and extent of temporary repairs shall include only the filling of holes or depressions in the subsurface of such ways with sand, gravel or other suitable materials where practical to be the same as or similar to those used for the existing surface of such ways and grading.

b. Before permanent repairs are to be made on any private way, the Town Manager/Board of Selectmen will make a determination by vote to see if such repairs will: a) improve public safety; b) be financially cost efficient to the Town, c) enhance the general welfare of the community.

c. Such permanent repairs can be made only upon petition by the abutters who own fifty (50%) percent of the linear footage of such total way and one hundred (100%) percent of the abutters adjacent to the affected area on which the work is to be done.

d. Betterment charges shall not be assessed.

e. The Town, its officers, agents and employees in making of repairs under this section shall not be liable on account of any damage caused by such repairs. Said repairs shall not be undertaken unless the Town Manager has in his possession agreements executed by all abutting owners of the affected area to release and save the town, its officers, agents and employees, harmless on account of any damage whatever caused by such repairs. Such agreements to release and save harmless shall be recorded in the Registry of Deeds and shall be deemed to be covenants running with the land and shall be binding upon all subsequent owners thereof.

f. Said private way shall have been opened to public use for six years or more, and in such cases Section Twenty-five (25) of Chapter Eighty-four (84) of the Massachusetts General Laws shall not apply.

g. No cash deposit shall be required for said repairs. (Art. 18, ATM 1989: By-Laws Art. VI § 12)

### 12.04.265 Sewer connection fee required when.

As of July 1, 1990, the owner of any house, building, or property situated within the Town and abutting on any street, alley or right-of-way in which there is actually located a public sanitary sewer of the Town; or any private sanitary sewer that connects to the Town system where the owner of such property will allow those abutting access to that sanitary sewer in accordance with the provisions of Town rules and regulations pertaining to sewer connection fees and the use of sewers; is hereby required at his/her expense to pay a sewer connection fee in accordance with the provisions of Town rules and regulations pertaining to sewer connection fees and the use of sewers within two years of the official notice to do so. Or take any other action relative thereto.

As of July 1, 2, 3, the owner of real property situated within the Town and abutting on any street, alley or right of way in which there is actually located a public sanitary sewer of the Town; or any private sanitary sewer that connects to the Town system where the owner of such property will allow those abutting access to that sanitary sewer in accordance with the provisions of Town rules and regulations pertaining to sewer connection fees and the use of sewers; is hereby required at owner's expense to pay a sewer connection fee in accordance with the provisions of Town rules and regulations pertaining to sewer connection fees and the use of sewers within five years of the official notice to do so. Or take any other action relative thereto. (Art. 3, STM 2002; Art. 23, ATM 1992)

## Article VI. Abatement of Nuisances

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### 12.04.270 Abatement authority - Terms and conditions.

To empower the Board of Selectmen to authorize the Chief of Police to remove to some convenient place by the means of an independent contractor any nonregistered motor vehicle incapable of moving under its own power on or within 50 feet of any way under the control of the municipality or within 40 feet of any lot line. There furthermore shall be no more than one unregistered motor vehicle on any property except those duly licensed for the sale, repair or dismantling of motor vehicles. The owner of said motor vehicle so removed shall be liable to the independent contractor for the removal and storage fees. All vehicles not claimed within 30 days shall become the property of the independent contractor. (By-Laws Art. VI § 16)

## Article VII. Roadwork Guidelines

### 12.04.290 Procedural guidelines.

When an organization or company plans to conduct roadwork, the following policy shall be adhered to:

I: PROCEDURAL GUIDELINES

A. The Police Department shall receive notice of request for a detail at least 24 hours prior to the start of the proposed work (emergencies excluded).

B. The Officer in charge at the time the request for a detail is received, shall, as soon as possible, seek an Officer for that detail. (Art. 30 (part), ATM 1989: By-Laws Art. VI § 20 (part))

### 12.04.300 Work requires Police Officer when.

A Police Officer shall be hired for the following work, whether by private organization or public agency:

A. Any street opening which directly affects or impedes vehicular traffic on a public way listed in Section 12.04.310.

B. Any work in or adjacent to a public way listed in Section 12.04.310 which directly affects or impedes vehicular traffic.

C. Any work in or adjacent to a public way listed in Section 12.04.310, shall not be required to have a Detail Officer if, based upon, but not limited to the following considerations, the Chief of Police or his designee determine it is not necessary.

1. DURATION: The amount of time spent working in one area does not exceed 15 minutes.

2. LOCATION: The work area does not extend beyond one-third of the travelled portion of the lane.

3. HAZARD: The work being performed does not constitute a safety hazard and proper precautions are taken to insure the safety of the public and the workers. (Art. 30 (part), ATM 1989: By-Laws Art. VI § 20 (part))

### 12.04.310 Specific instances requiring Police Officer.

A Police Officer shall be hired for any work (as specified in Section 12.04.300 above) on the following public ways:

| | | | |
|---|---|---|---|
| Andover St. | French St. | North St. | Trull Rd. |
| Astle St. | Helvetia St. | No. Billerica Rd. | Vale St. |
| Bailey Rd. | Hill St. | Park Ave. | Victor Dr. |
| Ballard Rd. | Hood St. | Patton Rd. | Water St. |
| Beech St. | James St. | Pike St. | Whipple Rd. |
| Bridge St. | Kendall Rd. | Pine St. | Whittemore St. |
| Carter St. | Lake St. | Pinnacle St. | Woburn St. |
| Chandler St. | Lee St. | Pleasant St. | |
| Chapman Rd. | Livingston St. | Pond St. | |
| Clark Rd. | Lowe St. | Pringle St. | |
| Colonial Dr. | Lowell St. | River Rd. | |
| Common St. | Main St. | Robinson Ave. | |
| Country Club Dr. | Maple St. | Rogers St. | |
| County Rd. | Marshall St. | Salem Rd. | |
| East St. | Marston St. | Shawsheen St. | |
| Fiske St. | McLaren Rd. | South St. | |
| Foster St. | Navillus Rd. | Summer St. | |

A Police Officer shall be hired for any work specified in Section 12.04.300 on all public ways between dusk and dawn. (Art. 30 (part), ATM 1989: By-Laws Art. VI. § 20 (part))

**12.04.320 Authority to determine validity of optional details.**
Where any work of the kind specified in Section 12.04.300 creates a hazard to the public safety on any public way not listed in Section 12.04.310, the Police Chief, Deputy Police Chief, Officer in Charge or his designee shall determine if a detail is necessary. (Art. 30 (part), ATM 1989: By-Laws Art. VI § 20 (part))

**12.04.330 Authorization to begin work.**
No work is to commence until such time as the detail officer is present or a cruiser is temporarily assigned to that location and is present and authorizes the work to begin. (Art. 30 (part), ATM 1989: By-Laws Art. VI. § 20 (part))

**12.04.340 Immediate hazards.**
When a hazard to the public safety exists on or adjacent to any public way the Police Chief, Deputy Police Chief, Officer in Charge or his designee shall assign a Detail Officer(s) to that location until such time as the responsible parties are contacted and the condition rectified. (Art. 30 (part), ATM 1989: By-Laws Art. VI § 20 (part))

**12.04.350 Violations - Article VII.**

First Offense: WARNING

Second Offense: $100.00 FINE

Third or Subsequent Offense: $300.00 FINE.

The Town Manager/Board of Selectmen reserve the right to suspend, revoke, or refuse to issue a permit to open a public way in Tewksbury for the purpose of performing construction work for just cause. (Art. 30 (part), ATM 1989: By-Laws Art. VI § 20 (part))

**12.04.360 Violations - General.**
Every person violating any of the provisions of any section of Articles IVI shall be punished by a fine not exceeding twenty dollars, for every offense, to be recovered by complaint, before a trial justice or district court of competent jurisdiction in the County of Middlesex. (By-Laws Art. VI § 6)

## Article VIII. Sewer Connection Fee

### 12.04.400 General.

The Town of Tewksbury, acting through its Town Manager or duly authorized agent, shall assess the owners of the land abutting a public sewer line installed after January 1, 2003 by the Town by a rate based upon the schedule listed below.

If any provisions of this bylaw or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without such invalid provisions or applications. (Art. 4, STM 2002)

### 12.04.410 Method of Assessing Connection Fees.

1. General.
   The Town of Tewksbury shall assess sewer connection fees based upon the following schedule:

| | Water Meter Size (inches) | Connection Fee |
|---|---|---|
| *”<“ | 5/8 single family home or well users using well for drinking water equals one sewer unit | $3,000.00 *(“<“ meaning less than or equal to) |
| ¾ | non-single family | $4,500.00 |
| 1 | “ “ “ | $7,500.00 |
| 1 ½ | “ “ “ | $15,000.00 |
| 2 | “ “ “ | $24,000.00 |
| 3 | “ “ “ | $48,000.00 |
| 4 | “ “ “ | $75,000.00 |
| 6 | “ “ “ | $150,000.00 |
| 8 | “ “ “ | $240,000.00 |
| 10 | “ “ “ | $345,000.00 |

   For properties with one water meter, which service multiple units or users, the following schedule shall apply:

   a. Duplex units shall be deemed to have two sewer units with kitchen facilities in each unit.

   b. Multiple family dwellings shall be deemed to have one sewer unit for each dwelling unit with a kitchen facility in the dwelling unit.

   c. Nonresidential condominiums or multiple tenant properties and hotels with kitchen facilities in each unit shall be deemed to have one sewer unit in each unit unless the meter size charge results in a higher assessment.

2. Connection Fees.
   The time of assessment of connection fees abutting a sewer line shall be that date upon which the sewer system with appurtenances is “approved for use” as so designated by the Superintendent of Public Works. (Art. 4, STM 2002)

### 12.04.420 Connection Fee Payments.

General.
Except as herein provided in section 12.04.265 and the provisions of the Massachusetts General Laws Chapter 83 relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefore, and interest thereon shall apply to assessments made under these regulations, and the Tax Assessor of the Town shall have all the powers conveyed by the Massachusetts General Laws.

Payment of Connection Fee
Within sixty (60) days of date of billing by the town, property owners shall pay a sewer connection fee either by electing to make payment;

2.1.1. in one lump sum; or,
2.1.2. over a (5) year period in five (5) equal installments.

If electing to pay in five (5) equal installments, the initial installment shall be due within sixty (60) days of date of billing by the town. All subsequent installments will be due on or before the first day of September of each subsequent fiscal year.

If the installment payment option is selected by the property owner, interest shall not be due and payable, provided however, if any installment payment is received after the due date, the annual installment shall be due and payable and shall be committed to the real estate tax bill for said property with interest also due from the due date until committal to the real estate tax bill at a rate proscribed by the town; and further provided, in the event the property is conveyed to a third party, the entire balance shall become due and payable. Property owners who have sewer available after January 1, 2003 but prior to July 1, 2007 and have not yet paid the connection fee in full, shall henceforth pay an installment each year equal to one-fifth of the total connection fee, commencing with the next installment due on or before the first day of September 2007. Upon the fifth (5th) anniversary date of each property owner's initial sewer billing date, the property owner shall pay the entire outstanding balance due.

In no instance shall a property owner have more than five (5) years from initial sewer billing to pay the entire connection fee. (Art. 36, ATM May 2007)

## Article VIII. Excavation and Trench Safety

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**12.04.90 Excavation and Trench Safety.**
Pursuant to the provision of Massachusetts General Laws Chapter 82A, Section 2, the Superintendent of Public Works is designated the official to issue permits for the excavation of trenches on privately owned land, public property or a public way, and further provided, shall enforce Massachusetts General Laws Chapter 82A and establish reasonable fees to cover the administrative costs of the permitting process, or take any action relative thereto. (Art 12, STM October 2008)

**Title 13**

# PUBLIC SERVICES

**Chapters:**

**13.04 Public Works By-Law**
**13.08 Water System (Reserved)**
**13.12 Solid Waste Collection**
**13.16 Municipal Services for Condominiums and Housing Cooperative Corporations**

**Chapter 13.04**

**PUBLIC WORKS BYLAW**

**Sections:**

**13.04.010 Administrative authority.**
**13.04.020 Recordkeeping requirements.**
**13.04.030 Conflict of interest prohibited.**
**13.04.040 Removal of Superintendent when.**
**13.04.050 Bond required when.**

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**13.04.010 Administrative authority.**
The operation of the department shall be under the control of a Superintendent of Public Works who shall have a bachelor's degree, or equivalent, in either management, public administration, or civil engineering or shall have a minimum of five years of responsible supervisory or administration experience, preferably in municipal government. (Art. 14, ATM 1986: By-Laws Art. X § 2)

**13.04.020 Recordkeeping requirements.**
The Superintendent shall keep full and complete records of the doings of his office and render to the Town Manager as often as it may require a full report of all operations under his control during the period reported upon; and annually and from time to time as required by the Town Manager, he shall make a synopsis of such reports for publication. He shall keep the Town Manager fully advised as to the needs of the Town within the scope of his duties, and shall furnish to the Town Manager each year, prior to December first, a carefully pre pared and detailed estimate in writing, of the appropriations required during the next succeeding fiscal year for the proper performance and exercise of all said powers, rights and duties. (Art. 36 (part), ATM 1990; By Laws Art. X § 3)

**13.04.030 Conflict of interest prohibited.**
The Superintendent during his tenure shall hold no other elective or appointive office nor shall he engage in any other business or occupation. (By-Laws Art. X § 4)

**13.04.040 Removal of Superintendent when.**
The Superintendent may be removed for just cause only, and by a majority vote of the board, provided, however, that no such removal shall occur within ninety days following any town election that has caused a change in the composition of the board. He shall be given written notice at least fourteen days prior to the date of removal, which shall specify the reasons for such removal. At his request in writing, a public hearing shall be held by the board on the charges brought against him. (By-Laws Art. X § 5)

**13.04.050 Bond required when.**
The Superintendent, if required by the Town Manager, shall give to the town a bond with a surety company authorized to transact business in the Commonwealth as surety, for the faithful performance of his duties in such sum and upon such conditions as the Town Manager may require. (Art. 36 (part), ATM 1990: By-Laws Art. X § 6)

**Chapter 13.08**

**WATER SYSTEM (RESERVED)**

**Chapter 13.12**

**SOLID WASTE COLLECTION**

**Sections:**

**13.12.010 Solid waste comingling.**

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**13.12.010 Solid waste comingling.**

Any person having a permit from the Town for removal of solid waste from residential buildings except a Town contracted solid waste hauler shall not comingle any residential waste collected or received from dwelling units, municipal buildings, school buildings and State owned buildings located in the Town with any commercial or industrial solid waste or any recyclables as defined by the Town in its Solid Waste Rules and Regulations or with any residential waste generated in another municipality. In addition, such person shall deliver on behalf of the Town to the NESWC refuse to energy facility only solid waste collected or received from dwelling units, municipal buildings, school buildings, and State owned buildings located within the Town.

Solid waste as defined in the preceding paragraph shall be delivered to the NESWC refuse to energy facility unless directed elsewhere by the Town Manager. Solid waste as defined in the preceding paragraph shall be credited to the Town of Tewksbury's tonnage account. The Town Manager in conjunction with NESWC shall determine how the costs for the delivered tonnage will be paid and/or how the tonnage will be credited to or subtracted from the Town's annual guaranteed tonnage. (Art. 14, ATM 1992)

**Chapter 13.16**

**MUNICIPAL SERVICES FOR CONDOMINIUMS AND HOUSING COOPERATIVE CORPORATIONS**

**Sections:**

**13.16.010 Municipal services for condominiums and housing cooperative corporations.**

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**13.16.010 Municipal services for condominiums and housing cooperative corporations.**

A. Except as provided in subsection (C) of this section, the Town of Tewksbury shall provide the following services to residential condominiums organized under M.G.L. c. 183A and to Housing Cooperative Corporations or single family structures within a development authorized under Massachusetts General Laws Chapter 40B organized under M.G.L. c. 15(B), S4, whether owner occupied or rental, and regardless of the number of units in the building, or buildings, comprising the Condominium or Housing Cooperative Corporation or single family structures within a development authorized under Massachusetts General Laws Chapter 40B in the same fashion as the Town of Tewksbury provided those services to single family residences:

1. Collection of recyclable materials and garbage.

B. Condominiums and Housing Cooperative Corporations or single family structures within a development authorized under Massachusetts General Laws Chapter 40B shall be required to pay to the Town of Tewksbury the cost of any insurance riders required by the Town of Tewksbury.

C. In lieu of providing some or all of the services set forth in subsection A(1) above, a municipality shall reimburse the Condominium or the Housing Cooperative Corporation or single family structures within a development authorized under Massachusetts General Laws Chapter 40B an amount equal to the costs incurred by the Condominium or Housing Cooperative Corporation or single family structures within a development authorized under Massachusetts General Laws Chapter 40B for providing those services, but not more than the costs that would be incurred by the Town of Tewksbury in providing those services directly. Any costs in excess of the amount which would have been incurred by the Town of Tewksbury shall be the responsibility of the Condominium or Housing Cooperative Corporation or single family structures within a development authorized under Massachusetts General Laws Chapter 40B:

1. Where the Town of Tewksbury elects to reimburse as here provided for, the Town of Tewksbury shall reimburse quarterly upon submission to the Town of Tewksbury by the Con dominium or Housing Cooperative Corporation or single family structures within a development authorized under Massachusetts General Laws Chapter 40B of an accounting of its costs incurred or those services for the preceding quarter; and

2. Wherever the term “municipality” is used hereunder, the term shall mean the Town of Tewksbury, its subdivisions, agents, servants and/or employees, or act in relation thereto.

D. Effective date July 1, 2001. (Art. 35, ATM 2002: Art. 35, ATM 2000)

**Title 14**

**COMMUNITY PRESERVATION**

**Chapters:**

**14.04 Community Preservation Committee**

**Chapter 14.04**

**COMMUNITY PRESERVATION COMMITTEE**

**Sections:**

**14.04.010 Establishment.**
**14.04.020 Duties.**
**14.04.030 Requirement for a quorum and cost estimates.**
**14.04.040 Amendments.**
**14.04.050 Severability.**
**14.04.060 Effective date.**

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**14.04.010 Establishment.**
There is hereby established a Community Preservation Committee (the Committee), consisting of seven (7) voting members pursuant to MGL C. 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members shall be as follows:

1. One member of the Conservation Commission as designated by the Commission for a term of three years;
2. One member of the Historical Commission as designated by the Commission for a term of three years;
3. One member of the Planning Board as designated by the Planning Board for a term of three years;
4. One member of the Parks and Recreation Department as designated by the Town Manager for a term of three years;
5. One member of the Housing Authority as designated by the Authority for a term of three years;
6. One member of the Board of Selectmen or their designee as appointed by the Board of Select men for a term of three years;
7. One resident member appointed by the Board of Selectmen for a term of three years.

Should any of the Commissions, Boards, Councils, or Committees who have appointment authority under this chapter be no longer in existence for whatever reason, the appointment authority for that Commission, Board, Council, or Committee shall become the Board of Selectmen. (Art. 44 (part), ATM 2005)

**14.04.020 Duties.**

1. The Committee shall study the needs, possibilities and resources of the town regarding community preservation. The Committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the parks and recreation department and the housing authority, or persons acting in those capacities or per forming like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.
2. The 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 this section. With respect to community housing, the Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.
3. The Committee may include in its recommendation to the Town Meeting, a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund (the Fund) to accomplish that specific purpose or to set aside for later spending for general purposes that are consistent with community

preservation. The Committee may recommend the issuance of general obligation bonds or notes in anticipation of revenues to be raised pursuant to section 3 of the Community Preservation Act (the Act), the proceeds of which shall be deposited in the Fund. Bonds or notes so issued may be at such rates of interest as shall be necessary and shall be repaid as soon after such revenues are collected as is expedient. The Town shall make every effort to limit the administrative costs of issuing such bonds by cooperating with other cities and towns using methods including, but not limited to, common issuance of bonds or common retention of bond counsel. Except as otherwise provided in this chapter, bonds or notes issued pursuant to this section shall be subject to the applicable provisions of said Chapter 44. The maturities of each issue of bonds or notes issued under this chapter may be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue bonds or notes or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.

As provided in the Act, no expenditures shall be made from the Fund without the approval of Town Meeting.

4. The Committee shall submit an annual administrative and operating budget for the Committee, which cannot exceed five percent (5%) of the annual revenues in the Fund, to Town Meeting for approval.

5. The Committee shall provide a summarized report and explanation in the Annual Report in such a manner to give the citizens a fair and full understanding and methods of such expenditures. (Art. 44 (part), ATM 2005)

**14.04.030 Requirement for a quorum and cost estimates.**
The Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Committee shall constitute a quorum. The Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs. (Art. 44 (part), ATM 2005)

**14.04.040 Amendments.**
This chapter may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with said Chapter 44B. (Art. 44 (part), ATM 2005)

**14.04.050 Severability.**
In case any section, paragraph or part of this chapter is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect. (Art. 44 (part), ATM 2005)

**14.04.060 Effective date.**
This bylaw shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of M.G.L. c.40, S. 32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make its initial appointments. (Art. 44 (part), ATM 2005)

**Title 15**

# BUILDINGS AND CONSTRUCTION

**Chapters:**

**15.04 Excavations**
**15.08 Building Regulations**
**15.12 Demolition of Historic Buildings**
**15.16 Stretch Energy Code**

**Chapter 15.04**

**EXCAVATIONS**

**Sections:**

**15.04.010 Terms and conditions.**
**15.04.020 Consultant designated.**
**15.04.030 Violation Penalty.**

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**15.04.010 Terms and conditions.**
No soil, loam, sand or gravel shall be removed from any land in the town, unless a permit for such removal has been issued by the Building Inspector. The Building Inspector shall issue a permit upon proper application only upon the following conditions:

1. No sand, or gravel, shall be removed from any land lower than one foot above the grade level of any adjacent street, or way, except when such removal is incidental to building construction or highway improvement or construction at the site of removal.
2. No permit to remove sand or gravel will be issued unless a topography map drawn by a professional engineer or registered land surveyor, showing existing and proposed elevations with two foot contours, major site features, access roads, method of drainage and all other pertinent data is first submitted. Said map shall also show distances and edges of the operation from all abutters, lines, streets, etc. No embankment shall have more than a two to one angle from its base to its top, all finish grades shall have a minimum rise of 6" per 100 feet. All stumps, rocks, logs, and branches shall be disposed of down to the grade established. All ledge shall be shaped down in general conformity with the grade. All loam and topsoil shall be saved and re placed to a minimum depth of six inches after the sand or gravel is removed.
3. The completion of the work shall be to the complete satisfaction of the Town of Tewksbury represented by the Building Inspector of said Town. All loam, sand or gravel must be disposed of within the Town. The Building Inspector, with the prior approval from the Selectmen, may require that a performance bond be posted to assure complete compliance with this ByLaw. (By-Laws Art. IX § 7 (part))

**15.04.020 Consultant designated.**
The services of the Town Engineer shall be made available for consultant purposes. (By-Laws Art. IX § 7 (part))

**15.04.030 Violation Penalty.**
The penalty for violation of this ByLaw shall be $200.00 for each offense and each day that the violation continues will constitute a separate offense.

**Chapter 40, Sec. 21, Clause 17 sets the penalty for the first offense at fifty (50) dollars.**
This Special Permit will not be required when such removal is incidental to building construction or highway improvement or construction at the site of removal. (By-Laws Art. IX § 7 (part))

**Chapter 15.08**

**BUILDING REGULATIONS**

**Sections:**

**15.08.010 Similarity in building names to be avoided.**

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**15.08.010 Similarity in building names to be avoided.**

No building or building complex shall be given a name that has a principal part which coincides with the principal part of the name of another building or building complex within the Town. The addition of a sub name to the principal part of a building or building complex being named or renamed shall not be sufficient to be considered a different name. For the purpose of this section, subnames shall include but not be limited to auxiliary names such as and similar to: Plaza, Park, Grotto, Mall, Terrace, Place, Shopping Center, Common, Village, Centers etc. For example, if the Town has a complex called Wamesit Village, a second complex shall not be named Wamesit Place. The petition or applicant shall include the principal name of the building or building complex on the application/plan when submitting the application/plan to the Planning Board or any Special Permit Granting Authority. The Planning Board or any Special Permit Granting Authority shall transmit forthwith a copy of the application/plan to the Fire Department for their written report. Failure of the Fire Department to make a recommendation or submit a report within 35 days of the receipt of the application/plan shall be deemed a lack of opposition. The concurring vote of 4 of the 5 members of the Planning Board or any Special Permit Granting Authority, or if the Special Permit Granting Authority is a 3 member board, the concurring vote of 2 of the 3 members shall be necessary to decide in favor of the request of the applicant/petitioner to name the building or building complex. No change, by the applicant/petitioner, in the naming of the building or building complex shall be allowed after the final vote of approval by the Planning Board or the Special Permit Granting Authority.

Any name change to any existing building or building complex shall require the Fire Department recommendation and the Planning Board approval of a concurring vote of 4 of the 5 members. The Building Commissioner is hereby authorized to enforce this ByLaw. (Art. 34, ATM 1990: By-Laws Art. IX § 15)

**Chapter 15.12**

**DEMOLITION OF HISTORIC BUILDINGS**

**Sections:**

**15.12.010 Purpose.**
**15.12.020 Definitions.**
**15.12.030 Procedures.**
**15.12.040 Enforcement and remedies.**
**15.12.050 Severability.**

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**15.12.010 Purpose.**
This bylaw is adopted to preserve and protect significant buildings within the Town which reflect distinctive features of the architectural, cultural, political, economic or social history of the Town; to encourage property owners of significant buildings to seek ways to preserve, rehabilitate or restore such buildings rather than demolish them; and by furthering these purposes, to preserve the resources of the Town and to promote the public welfare and to make the town a more attractive and desirable place in which to live. (Art. 21 (part), STM 1995)

**15.12.020 Definitions.**
As used in this chapter:

1. "Building" shall mean a combination of any materials, having a roof, to form a structure for the shelter of person, property or animals.
2. "Commission" shall mean the Tewksbury Historic Commission, created by vote of Tewksbury Town Meeting pursuant to Massachusetts General Law, c. 40A, sec. 8D.
3. "Demolition" shall mean any act of pulling down, destroying, removing or razing a building or commencing the work of total destruction.
4. "Permit" shall mean a permit issued by the Building Commissioner for the demolition of a building pursuant to an application.
5. "Significant building" shall mean any building or portion thereof which the Commission deter mines, as provided in Section 3 of this bylaw, to be in the public interest to be preserved or re habilitated, and whose demolition would be detrimental to the historical and/or architectural heritage and resources of the Town. (Art. 21 (part), STM 1995)

**15.12.030 Procedures.**

1. An application to the Building Commissioner for a demolition permit shall be made or co signed by the owner of record at the time of application. The Building Commissioner shall provide each applicant for a demolition permit with a copy of this bylaw and require each applicant to acknowledge receipt of the bylaw.
2. Upon receipt of an application for a demolition permit for a building, the Building Commissioner shall forward a copy thereof to the chairperson of the Commission. No demolition permit shall be issued at that time.
3. The chairperson or a designee of the Commission shall make an initial determination whether the subject of the application is a significant building. The categories shall be as follows:
   i. The building is located within any local historic district;
   ii. The building is listed on or is within an area listed on the National or State Registers of Historic Places; is eligible for listing on the National or State Registers of Historic Places; or is a building for which a preliminary determination of eligibility has been made by the Massachusetts Historical Commission; or
   iii. The building is associated with one or more significant historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the Town or Common wealth; or

iv. The building is historically or architecturally significant in terms of its period, style, method of building construction, or its association with a significant architect or builder, either by itself or as a part of a group of buildings; or

v. The building is already on a list established by vote of the Historic Commission using the criteria contained in paragraphs i through iv above.

4. If the Chairman makes an initial determination that the building is a significant building, the chairperson shall notify the Building Commissioner in writing within fifteen (15) days of receipt of the copy of the application that this bylaw does apply to the building and that no demolition permit may be issued at that time. After the expiration of fifteen (15) days from the date the chairperson received the copy of the application, if the Building Commissioner has not received notification that the building is a significant building, the Building Commissioner may, subject to the requirements of the State Building Code and other applicable law, issue the demolition permit.

5. The Commission shall hold a hearing on an application for demolition of a significant building within thirty (30) days of receipt of the copy of the application unless the Commission and the applicant shall jointly agree to extend the period. The Commission shall give public notice of the hearing by publishing notice of the time, place and purpose of the hearing in a local news paper at least seven days before such hearing. At least seven days before such hearing, the Commission shall mail a copy of such notice to the applicant, to the owners of property abut ting the property which is the subject of the hearing, and to other parties deemed by the Commission to be affected thereby.

6. If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of Tewksbury, the Commission shall notify the Building Commissioner within ten (10) days of such determination. Upon receipt of such determination, or after the expiration of fifteen (15) days from the date of the hearing, if the Building Commissioner has not received notification from the Commission, the Building Commissioner may, subject to the requirements of the State Building Code and other applicable law, issue the demolition permit.

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

8. Upon determination by the Commission that the significant building which is the subject of the application for a demolition permit is a preferably preserved significant building, the Commission within ten days shall so advise the applicant and the Building Commissioner and no demolition permit may be issued until two hundred and seventy (270) days after the date of the application for a demolition permit.

9. Within ten days of the determination, the Commission shall in writing invite the owner of record of a preferably preserved significant building and any other persons deemed appropriate to participate in an investigation of alternatives to demolition including but not limited to: incorporation of the building into the future development of the site; adaptive reuse of the building; utilization of financial incentives to rehabilitate the building; rezoning; or seeking a new owner willing to purchase and preserve, restore or rehabilitate the building.

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

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

    (b) The Commission is satisfied that for at least two hundred and seventy (270) days the owner has made continuing bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject building, and that such efforts have been successful.

11. Notwithstanding the provisions of section 3.6, the Building Commissioner may issue a demolition permit subject to conditions agreed to by the Commission and the applicant for a preferably preserved significant building at any time after receipt of written advice from the Commission and the applicant to the effect that the Commission is satisfied that demolition of the preferably preserved significant building subject to the conditions specified is the outcome most likely to secure the intent of this bylaw and that the applicant agrees to abide by the conditions specified.

12. An appeal from a determination by the Historical Commission that the subject of a demolition permit application is a preferably preserved significant building may be taken to the Board of Appeals. (Art. 21 (part), STM 1995) (Art. 32 ATM May 2011)

**15.12.040 Enforcement and remedies.**

1. The Building Commissioner is authorized to institute any and all proceedings in law or equity as the Building Commissioner deems necessary and appropriate to obtain compliance with the requirement of this bylaw, or to prevent a violation thereof.

2. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of two years after the date of the completion of such demolition. As used herein "premises" includes the parcel of land upon which the demolished significant building was located. The demolition of a significant building pursuant to a demolition permit issued on the basis of incorrect information shall be considered to be voluntary demolition in violation of this bylaw.

3. Upon a determination by the Commission that a building is a preferably preserved significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail so to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of section 4.2. (Art. 21 (part), STM 1995)

**15.12.050 Severability.** If any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect. (Art. 21 (part), STM 1995)

**Chapter 15.16**

**STRETCH ENERGY CODE**

**Sections:**

**15.16.010 Definitions.**
**15.16.020 Purpose.**
**15.16.040 Applicability.**
**15.16.060 Authority.**
**15.16.080 Stretch Code.**

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**15.010 Definitions.**
International Energy Conservation Code (IECC) – The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three year cycle. Since July 1, 2010, the baseline energy conservation requirements of the MA State Building Code defaulted to the latest edition, the IECC 2009 with Massachusetts amendments as approved by the Board of Building Regulations and Standards.

Stretch Energy Code Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA of the 8th Edition Massachusetts Building Code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

**15.16.020 Purpose.**
The purpose of 780 CMR 115 AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

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

**15.16.060 Authority.**
A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix.

780 CMR 115 AA may be adopted or rescinded by any municipality in the Commonwealth in the manner prescribed by law.

**15.16.080 Stretch Code.**
The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Tewksbury Town By-Laws, Chapter 15.16. (Art. 31, ATM May 2011)

**Title 16**

**SUBDIVISIONS (RESERVED)**

**Title 17**

**ZONING (RESERVED)**

**Title 18**

**ENVIRONMENT**

**Chapters:**

**18.04 Conservation Commission Wetlands Protection**
**18.10 Prohibition Single-Use Plastic Bags**

**Chapter 18.04**

**CONSERVATION COMMISSION WETLANDS PROTECTION**

**Sections:**

**18.04.010 Purpose.**
**18.04.020 Definitions.**
**18.04.030 Jurisdiction.**
**18.04.040 Exceptions.**
**18.04.045 Performance Standards.**
**18.04.050 Applications for permit and requests for determination.**
**18.04.060 Notice and hearings.**
**18.04.070 Time of receipt.**
**18.04.080 Coordination with other boards.**
**18.04.090 Permits, determinations Conditions.**
**18.04.100 Modifications.**
**18.04.110 Registry of deeds.**
**18.04.120 Certificate of compliance.**
**18.04.130 Regulations.**
**18.04.140 Enforcement.**
**18.04.150 Inspection.**
**18.04.160 Burden of proof.**
**18.04.170 Relation to the wetlands protection act.**
**18.04.180 Performance guarantee.**
**18.04.190 Appeal.**
**18.04.200 Amendments.**
**18.04.210 Penalties.**
**18.04.220 Preacquisition violation.**

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**18.04.010 Purpose.**

The purpose of the Wetlands Protection Bylaw ("Bylaw") is to protect the wetlands, related water resources, and adjoining land areas in the Town of Tewksbury ("Town"). The present state law is the Wetlands Protection Act, M.G.L. c.131, s.40, as amended ("Act"). The act sets minimum standards for every city and town in the Commonwealth of Massachusetts to follow. This Bylaw will enable the Town to protect local resource area and to reduce any significant or cumulative effect upon the wetlands in the Town.

The purpose of this Bylaw is to control activities deemed by the Tewksbury Conservation Commission to have a significant or cumulative effect upon wetland values, including but not limited to, the following: public and private water supplies, groundwater quantity, quality and supply, surface water quantity and quality, flood control, erosion and sedimentation control, prevention of storm damage, prevention and control of pollution, wildlife habitat, rare species habitat including rare plant and animal species, fisheries, agriculture and aqua culture and recreation values deemed important to the community. (collectively, the "wetland values protection by this Bylaw"). (Art. 30 § A, ATM 1991, STM May 2009)

**18.04.020 Definitions.**

The definitions given in 310 CMR 10.04 for the following terms shall apply to this Bylaw and statutory amendment protecting wildlife habitat in wetland resource areas enacted July 16, 1986 (Section 44 of Chapter 44 of Chapter 231 of the Acts of 1986), amending Section 40 of Chapter 131 of Massachusetts General Laws, amendments and regulations promulgated there under: dredge, fill flood control, freshwater wetlands, lake, bordering land subject to flooding, marsh, meadow, private water supply, public water supply, river.

The following definitions shall apply in the interpretation and implementation of this Bylaw. Except as otherwise provided herein or in the Commission's regulations, the definitions of terms shall be as set forth in the Wetlands Protection Act:

“Abutter” means the owner of any property any portion of which lies within 100 feet radially from any lot line of the subject property including owners of land directly opposite on any public or private street or way including any in another municipality or across a body of water. In the case of property that has frontage on a pond, abutters shall include all those properties with frontage on the pond or pond association if in existence. (ATM 5-9-12)

“Administrative Orders” shall include but not limited to enforcement orders, violation notices, orders of conditions, orders of resource delineation and Certificates of Emergency.

“Alter” includes, without limitation, the following activities, whether temporary or permanent, when taken to, upon or within, or when they affect local resource areas protected by this Bylaw:

(1) Removing, excavating, or dredging of soil, sand, gravel or aggregate materials of any kind;

(2) Changing preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns or flood retention characteristics;

(3) Draining or otherwise disturbing the ground or surface water level or water table;

(4) Dumping, discharging or filling with any material which may degrade water quality;

(5) Placing or removing of fill or other material, which would alter the elevation or land surface;

(6) Driving piles, erecting or repairing buildings (residential or commercial) or structures, as defined in the regulations implementing the bylaw, of any kind;

(7) Placing of obstructions in water, whether or not they interfere with the flow of water;

(8) Changing water temperature, biochemical oxygen demand, or any other physical, biological or chemical characteristics of the water;

(9) Destroying plant life, including cutting trees and shrubs;

(10) Conducting any work or activity which may cause or tend to contribute to pollution of any body of water or groundwater;

(11) Applying pesticides or herbicides;

(12) Any activities, changes or work which cause alteration of wildlife habitat; and

(13) Any activities, changes or work which pollute or cause displacement of any body of water or groundwater.

(14) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

“Bank” means the land area which normally abuts and confines a body of water; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

“Bogs” are areas where standing or slowly running water is near or at the surface during a normal growing season and where a vegetational community has a significant portion of the ground or water surface covered with sphagnum moss (Sphagnum), and where the vegetational community is made up of a significant portion of one or more of, but not limited to nor necessarily including all, of the following plants or groups of plants: aster (Aster nemoralis), azaleas (Rhododendron condense and R. viscous), black spruce (Pica Mariana) bog cotton (Eriophorum), cranberry (Vaccinium macrocarpon) high bush berry (Vaccinium corymbosum), larch (Larix laricina) laurels (Kalmia angustifolia and K. polifolia), leatherleaf (Chamaedaphne caly culata), orchids (Arethusa, Calopogon, Pogonia), pitcher plants (Sarracenia purpurea), sedges (Cyperaceae), sundews (Droseraceae), sweet gale (myrica gale) white cedar (Chamaecyparis thyoides).

“Bordering land subject to flooding” is an area with low, flat topography adjacent to and inundated by flood waters rising from creeks, streams, rivers, ponds (natural or created ) or lakes. The boundary of bordering land subject to flooding is the one hundred –year floodplain. It ex tends from the outer edge of a bank or bordering vegetated wetland.

“Bordering Vegetated Wetlands” are freshwater wetlands which border on creeks, streams, rivers, ponds and lakes in areas where the topography is low and flat. Bordering vegetated wet lands are areas where the soils are annually saturated and / or inundated such that they support a predominance (50% or greater) of wetland indicator plants. Types of vegetated wetlands include wet meadows, marshes, swamps and bogs. Wetlands and their boundaries shall be identified in the manner designated in the Massachusetts DEP Handbook “Delineating Bordering Vegetated Wetlands under Massachusetts Wetlands Protection Act,” March 1995, and future amendments, other DEP guidance documents generally accepted by Conservation Commissions for purposes of bordering vegetated wetland.

“Buffer zone” means land within 100 feet in a parallel line of any of the established wetland resource areas, including potential and certified vernal pools.

“Buffer Zone” means a band of land, contiguous or intermittent, with a defined dimension, subject to restriction, located in land within 100 feet of Wetland Resource Areas (200 feet in the case of rivers, and perennial streams and potentially identified or certified vernal pools). (Also known as Buffer Zone Resource Areas)

“Commission” means the Tewksbury Conservation Commission.

“Department” is the Department of Environmental Protection (DEP).

“Drained” means a condition in which ground or surface water has been removed by either natural or artificial means.

“Dredge” means to deepen, widen, or excavate, either temporarily or permanently. “Flooded” means a condition in which the soil surface is temporarily covered with flowing water from any source, such as streams overflowing their banks, runoff from adjacent or surrounding slopes, inflow from high tides, or any combination of sources.

“Freshwater wetlands” are wet meadows, marshes, swamps and bogs.

“Hill peat” means accumulation of organic soil in an upland position due to excess moisture resulting from subsoil seepage or lack of evapotranspiration.

“Isolated land subject to flooding” is any isolated depression without an inlet or outlet which at least once a year confines standing water to a volume of at least ¼ acre-foot of water with an average depth of at least six inches. The boundary is the perimeter of the largest observed or recorded volume of water confined in the basin.

“Lake (great pond)” means any open body of fresh water with a surface area of 10 acres or more.

“Large Isolated Wetlands” means isolated wetlands 5,000 square feet or larger.

“Limited Project” means construction of access drives or roadways across freshwater wetlands when no alternative access exists. Construction, reconstruction, operation, and maintenance of public utilities, including electrical distribution or transmission lines, sewers, water lines, natural gas pipelines, and telecommunication lines. Maintenance and improvement of existing public roadways including maintaining and improving drainage building (residential/ commercial)s, adding shoulders, correcting substandard intersections, and widening (provided that less than a single lane is widened and as found in the Massachusetts Wetlands Protection Regulations.)

“Local resource areas” means those areas of the Town referenced in the “Jurisdiction” section below. The Commission has jurisdiction over these local resource areas.

“Marshes” are areas where a plant community exists in standing or running water during the growing season and where a significant part of the vegetational community is composed of, but not limited to nor necessarily including all, of the following plants or groups of plants: arums (Araceae), bladder worts (Utricularia), burr reeds (Sparganiaceae), button bush (Cephalanthus occidentalis), cattails (Typha), duck weeds (Lemnaceae), eelgrass (Vallisneria), frog bits (Hy drocharitaceae), horsetails (Equisetaceae), hydrophilic grasses (Gramineae), leatherleaf (Cah maedaphne calyculata) pickerel weeds (Pontederiaceae), pipeworts (Eriocaulon), pond weeds (Potamogeton), rushes (Junceaceae), sedges (Cyperaceae), smartweeds (Polygonum), sweet gale ((Myrica gale), water milfoil (Haloragaceae), water lilies (Nymphaeaceae), water star worts (Callitrichaceae), water willow (Decodon verticillatus).

“Mottling” means spots or blotches of different color or shades of color interspersed with the dominant matrix color.

“No Build Zone” means that portion of the Buffer Zone up gradient of the No Disturb Zone and extending to a line fifty feet (50’) from the edge of those Wetland Resources, contiguous or intermittent, with a defined dimension, subject to restriction, defined in this bylaw.

“No Disturb Zone” means that portion of the Buffer Zone which extends twenty-five feet (25’) from the edge of those Wetland Resources, contiguous or intermittent, with a defined dimension, subject to restriction, defined in this bylaw.

“Oxidation” means the combining with oxygen as in the decomposition or breakdown of organic matter when exposed to air.

“Ped” means aggregation of individual soil particles into larger units planes of weakness between them.

“Permit Application” means any application for a permit or other action under the Massachusetts Wetlands Protection Act, MGL Ch. 131, Sec. 40, or the Town of Tewksbury Wetland Protection Bylaw. Examples include, but are not limited to, Notices of Intent, Abbreviated Notices of Resource Area Delineation, Requests for Determination of Applicability, Requests for a Determination of Negligible Impact, Requests for an Extension to an Order of Conditions, Requests for an Amended Order of Conditions, Requests for a Certificate of Compliance, and Requests for an amended Order of Resource Area Delineation.

“Person” means a entity which includes 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, a municipality, and any other legal entity, its legal representatives, agents or assigns.

“Ponds”: Shall include any substantially open body of fresh water with a surface area observed or recorded, within ten years prior to the date of application, of at least 5,000 square feet. Ponds may be either naturally occurring or manmade by impoundment, excavation, or otherwise. Ponds shall contain standing water except for periods of extended drought. For the purposes of this definition, extended drought shall be defined at 310 CMR 10.58.2 as it may be amended.

b. Notwithstanding the above, the following manmade bodies of open water shall not be considered ponds: swimming pools or other impervious manmade basins.

“Rare Species” means, without limitations, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

“Resource Areas (natural or created)” include any freshwater wetlands, marshes, wet meadows, bogs, swamps, lakes, ponds (natural or created), rivers, streams, banks, vernal pools, large isolated wetlands, land under water in each resource area, riverfront area, land subject to flooding or inundation by groundwater or surface waters, and buffer zones as defined in the Bylaw.

“Resource Area Values” include but are not limited to the following: public or private water supply, groundwater, flood control, erosion, and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, riverfront area values and recreation values deemed important to the community.

“River” shall be defined by 310 CMR 10.58.2 and as amended.

“Riverfront” shall be defined by 310 CMR 10.58.2 and as amended.

“Stream” shall be defined by 310 CMR 10.58.2 and as amended.

“Structure”- A combination of materials assembled at a fixed location to give support or shelter such as a building, house, barn, garage, or shed. The word “Structure” shall be construed, where the context requires, as though followed by the words “or part or parts thereof”. However, in reference to the No Build Zone, “Structure” shall not include fences, retaining walls, decks, patios, gazebos, lawn furniture, children’s toys such as sandboxes and swing-sets, rip-rapped areas, driveways, parking areas, sheds (not to exceed 120 square feet in floor area), or the like. (ATM 5-9-12)

"Swamps" are areas where ground water is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface, and where a significant part of the vegetational community is made up of, but not limited to nor necessarily include all of the following plants or groups of plants: alders (Alnus), ashes (Fraxinus), azaleas (Rhododendron canadense and R. viscosum), black alder (Ilex verticillata), black spruce (Picea mariana), buttonbush (Cephalanthus occidentalis), American or white elm (Ulmus Americana), white Hellebore (Veratrum viride), hemlock (Tsu ga Canadensis), highbush blueberry (Vaccinium corymbosum), larch (Larix laricina), cowslip (Caltha palustris), poison sumac (Toxicodendron vernix), red maple (acer rubrum), skunk cab bage (Symplocarpus foetidus), sphagnum mosses (Sphagnum), spice bush (Lindera benzoin), black gum tupelo (Nyssa sylvatica), sweet pepperbush (Clethra alnifolia), white cedar (Cha maecyparis thyoides), willow (Salicaeae), common reed (Phragmites communis), and jewel weed (Impatiens capensis).

"Vernal pools" means a confined depression which provides habitat for vernal pool species, whether or not certified by the Massachusetts Natural Heritage program. Vernal pool species are those vertebrate and invertebrate species listed in the January 1991 edition of Massachusetts Audubon Society's "A Citizen's Step-by-step guide to Protecting Vernal Pool's". In addition to the scientific definitions found in the Regulations, any confined basin or depression not occurring in existing lawns or driveways that, at least in most years, holds water for a mini mum of two continuous months during the spring and/or summer, contain at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife, and regardless of whether the site is contained within another resource area shall be defined as a vernal pool. The adjacent upland buffer zone re source area for vernal pools shall extend 200 feet outward from the mean annual high-water line defining the depression.

"Wetland Resource Area" is any resource area other than the buffer zone and riverfront area. "Wet Meadows" are areas where ground water is at the surface for the significant part of the growing season and near the surface throughout the year and where a significant part of the vegetational community is composed of various grasses, sedges, and rushes, made up of, but not limited to nor necessarily including all of the following plants or groups of plants: blue flag (Iris), vervain (Verbena), thoroughwort (Eupatorium), dock (Rumex), false loosestrife (Ludwi gia), hydrophilic grasses (Gramineae), loosestrife (Lythrum), marsh fern (Dryopteris thelypte ris), rushes (Juncaceae), sedges (Cyperaceae), sensitive fern (Ononclea sensibilis), and smart weed (Polygonum). (STM May 2009)

**18.04.030 Jurisdiction.**

(a) Except as permitted by the commission or as provided in this bylaw, no person shall alter dredge, fill, and remove the following local resource areas: ( STM May 2009)

(1) Within 200 feet of any river, perennial stream or vernal pool; ( STM May 2009)

(2) Within 100 feet of any bordering vegetated wetlands, freshwater wetland, wet meadow, marsh, swamp or bog; ( STM May 2009)

(3) Land under any of the bodies of water listed in (1) and (2) above;

(4) Within 100 feet of bordering or isolated land subject to flowing or inundation by groundwater or surface water. The term "inundation by groundwater" means having groundwater at or near the surface of the ground at least six months of the year.

(5) Within 100 feet of any brook, stream (intermittent or spring), pond (natural or created) or lake; (STM May 2009)

(6) Buffer Zone.
Where an activity is proposed within the Buffer Zone, the Commission shall presume that the activity has a high likelihood of altering any resource area adjacent to the Buffer Zone unless the proponent proves by a preponderance of the credible evidence that either:

(a) The buffer zone does not play a role in the protection of any of the wetland values of the Bylaw; or

(b) The activity shall occur in such a manner that any potential adverse environmental impacts on any of the wetland values are avoided. (STM May 2009)

(7) No Disturb Zone.
For the No Disturb Zone which extends twenty-five feet (25') from the edge of the Wetland Resources Area, the Commission shall require the applicant to maintain a minimum continuous 25foot wide No Disturb Zone of undisturbed, natural vegetation between the proposed activity and the resource area(s). The Commission shall also require a fifty feet (50') No Build Zone from the edge of the Wetland Resource Area, whereby the applicant is required to maintain any proposed building (residential or commercial) or structure, as defined in the regulations implementing the bylaw, at least 50 feet from the resource area(s).Partial encroachment into the No Build Zone is allowed subject to the following conditions:

(a) The encroachment shall not exceed 10% of the total area of the No Build Zone for the lot;

(b) The applicant shall demonstrate to the Commission's satisfaction that construction activities and future use of the site is not likely to result in intrusion into, or alteration of, the No Disturb Zone;

(c) The commission may require that permanent and visible demarcation of the No Disturb Zone is established and maintained in perpetuity so that current and future landowners are aware of the No Disturb Zone. (Art. 39, ATM 2013)

(8) Vernal Pools.
Where an activity is proposed within a vernal pool, the Commission shall presume that the activity has a high likelihood of altering the habitat for the vernal pool species unless the proponent proves by a preponderance of the credible evidence that either:

(a) The vernal pool shall not have been used by vernal pool species as a habitat;

(b) The activity shall occur in such a manner that any potential adverse environmental impacts on any *of the wetland values are avoided.* (Art. 36, ATM 2002; Art. 26, ATM 2001; Art. 33, ATM 1997; Art. 30 § C ATM 1991; Art. 30 § C, ATM 1991, STM May 2009)

(9) For stormwater management purposes, the Commission may allow encroachment into the no build zone. (ATM 5-9-12)

Exceptions.

(1) General Exceptions

a) The permit and application required by this Bylaw shall not be required for: Maintaining, repairing or replacing but not substantially changing or enlarging, an existing and lawfully located building (residential/ commercial) or facility used in the service of the public to provide electric, gas, water, telephone or other telecommunication services; Work performed for normal maintenance or improvement of land in agricultural use or in aqua cultural use; Mosquito control projects when performed by the Town or the Commonwealth or political subdivision thereof, or Maintenance by the Town of its drainage system.

These exceptions shall be permitted only if written notice with suitable plans has been given to the Commission at least twenty (20) business days prior to the commencement of work and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

b) The following are exempt minor activities as long as they are located in the riverfront area or buffer zone, but not within any resource area. These activities are described in the State Wetland Regulations (310 Code of Massachusetts Regulations 10.00 Section 10.58(6)). The landowner can proceed with these tasks without prior review by the Conservation Commission.

i) Unpaved pedestrian walkways for private use;

ii) Fencing that does not create a barrier to wildlife movement

Stone walls without mortared foundations;

Stacks of cordwood;

Vista pruning—the selective thinning of tree branches or understory shrubs to create a window to improve visibility—as long as it occurs more than 50 feet from the mean annual high-water line within a riverfront area or from a bordering vegetated wetland, whichever is farther. (This activity

does not include the cutting of trees with reduces the leaf canopy to less than 90 percent of the existing crown cover or the mowing or removal of understory brush.)

Planting of native trees, shrubs, or groundcover, but not turf lawns;

Conversion of lawns to decks, sheds, patios, and pools that are accessory to single family homes, as long as:

House existed prior to August 7, 1996;

Activity located more than 50 feet from the mean annual high-water of the riverfront area or bordering vegetated wetland (whichever is farther, and

Sedimentation and erosion controls used during construction

Conversion of patios, pools, sheds, or other impervious surfaces to lawn or natural vegetation

Activities, such as monitoring wells, exploratory borings, soil sampling, and surveying, that are temporary, have negligible impacts, and are necessary for planning and design purposes.

(Note; Maintenance of existing landscaping, including lawn mowing and pruning, is exempt from review regardless of location in the buffer zone or any wetland resource area.) (STM May 2009)

c) The following are exempt minor activities as long as they are located in the No Build Zone. These activities are described in the State Wetland Regulations (310 Code of Massachusetts Regulations 10.00 Section 10.58(6)). The landowner can proceed with these tasks without prior review by the Conservation Commission.

i) Unpaved pedestrian walkways for private use;

ii) Fencing that does not create a barrier to wildlife movement

Stone walls without mortared foundations;

Stacks of cordwood;

Vista pruning the selective thinning of tree branches or understory shrubs to create a window to improve visibility as long as it occurs more than 50 feet from the mean annual high-water line within a riverfront area or from a bordering vegetated wetland, whichever is farther. (This activity does not include the cutting of trees with reduces the leaf canopy to less than 90 percent of the existing crown cover or the mowing or removal of understory brush.)

Planting of native trees, shrubs, or groundcover, but not turf lawns;

Conversion of lawns to decks, sheds, patios, and pools that are accessory to single family homes, as long as:

House existed prior to May 1, 2002;

Activity located more than 25 feet from the Wetland Resource Area or bordering vegetated wetland (whichever is farther, and

Sedimentation and erosion controls used during construction

Conversion of patios, pools, sheds, or other impervious surfaces to lawn or natural vegetation Activities, such as monitoring wells, exploratory borings, soil sampling, and surveying, that are temporary, have negligible impacts, and are necessary for planning and design purposes.

(Note; Maintenance of existing landscaping, including lawn mowing and pruning, is exempt from review regardless of location in the buffer zone or any wetland resource area.) (STM May 2009)

(2) Emergency Projects. The permit and applications required by this bylaw shall not be required for 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, and provided that all the following conditions are met:

(a) Written notice has been given to the Commission prior to the commencement of work or within twenty-

four (24) hours after commencement. In cases determined by the Commission to be extreme emergencies, verbal notice may be accepted and written notice to be provided within five (5) business days;

(b) The Commission or its agent certifies the work as an emergency project;

(c) The work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and

(d) Within twenty-one (21) days of commencement of an emergency project an application for permit shall be filed with the Commission for review as provided in this bylaw. Upon failure to meet these conditions, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

(3) Public Good. Where a project is necessary for the protection of the health or safety of the public as determined by the Police Chief, Fire Chief, Superintendent of Public Works, or Board of Health, or a project substantially changes, enlarges, or creates a building , facility or structure as defined in the regulations a structure or facility used to provide local services of sewer, water, or stormwater drainage, or state or federally regulated public utilities such as electrical distribution or transmission lines, or communication, and natural gas lines, or public sidewalks, the Commission may waive the requirements associated with the No Disturb Zone and No Build Zone setbacks requirements of this bylaw, 18.04.30(6), and permit activities, provided that the applicant has proved by a preponderance of credible evidence that (1) there is no practicable alternative to the proposed project that would avoid or reduce the project's impact, and that (2) said project, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by the bylaw. The definition of practicable shall be the same as set forth in the Massachusetts Wetland Regulations 310 CMR 10.58(4), General Performance Standard of the Riverfront Area. (Art. 30 § D, ATM 1991: Art. 14, STM 2003, STM May 2009

(4) Waiver

(a) Where the strict application of this Bylaw, or the rules and regulations adopted by the Tewksbury Conservation Commission, owing to the shape or topography of the applicant's property, would impose severe economic hardship, as defined either in statute or case law, on the applicant, taking into account an investment based expectation, or when a waiver would serve a substantial public benefit, the Commission may at its sole discretion grant a waiver from the dimensional requirements of the No Disturb Zone, No Build Zone and allow impacts on the wetland areas protected by this Bylaw. Impact to the wet lands areas shall be minimized to the furthest possible and practicable extent and any appropriate replication or mitigation will be confined to the property itself. This exception shall not apply to property where the applicant, owner, or predecessors in title to the property, created the hardship or rendered the property unusable by their own actions.

(b) The Commission may grant a partial waiver from these By-Laws for alteration of a wetland resource area in situations where there are no feasible alternatives that provide fewer impacts to the resource area values. The applicant is responsible for conducting an alternatives analysis to show that there are no feasible alternatives. The Commission may, after considering the alternatives analysis, allow the alteration or temporary surface disturbance of up to a cumulative total no greater than 5,000 square feet of wetland resource area.

(c) Presumption of Significance: Where a proposed activity involves the removing, filling, dredging, or altering of a Buffer Zone, the Commission shall presume that protection of the Buffer Zone as a resource area as identified in this Bylaw is significant to the interests specified Section 18.04.010 of this bylaw. This presumption may be overcome upon a showing of clear and convincing evidence demonstrating that the Buffer Zone does not play a role in the protection of said interests. In the event that the Commission determines that the presumption has been overcome, it shall make a written determination of its findings. (STM May 2009)

(5) Additional Waiver Standards

a) Roadways The Commission may grant a waiver from these regulations for the construction and maintenance of a new roadway or driveway of minimum legal and practical width consistent with the Planning Board dimensional requirements to provide a single means of access from an existing public or private way to an upland area of the same owner, where no such means of access would otherwise be

available or would have been available across other land formerly held in common ownership with such upland area. The applicant is still bound by the maximum alteration limit of 5,000 square feet as described in section 18.04.40 (4) b) above. Replication of altered wetland resource areas shall be required by the Commission to minimize adverse impacts and to protect the interests defined in the Bylaw.

b) Prohibited Wetland Alterations Wetland alterations intended to make lands buildable, as by fulfilling septic system setback requirements, flood elevation requirements, or other minimum construction setback requirements, or to achieve minimum lot area requirements, are prohibited. Wetland alterations required to access upland parcels will not be allowed if that landowner, or a preceding owner, landlocked the parcel by selling upland access. The Commission may require the filing of a request for a waiver of certain Planning Board requirements in order to minimize wetland impacts.

c) Wildlife Habitat Evaluation Where alterations exceed the maximum allowable thresholds described in the State Regulations 310 CMR 10.00 for bank, land under a water body, bordering land subject to flooding or riverfront area, or where the alteration of a habitat of rare species is involved, or where vernal pool or vernal pool habitat would be altered, a wildlife habitat evaluation shall be performed in accordance with 310 CMR 10.60. The Commission may also require a wildlife habitat evaluation to be conducted when the applicant proposes alterations to any wetland resource area that the Commission determines to be of exceptional value to the wildlife habitat interests of the Bylaw.

d) Upland Habitat Upland habitat shall, to the fullest extent possible, not be used to locate wetland replication areas. (STM May 2009)

**18.04.45 Performance Standards.**

The following standards apply to the Buffer Zone of all the resource areas identified in this by bylaw:

25Foot No Disturb Zone: Except as otherwise provided in this bylaw, no activity is permitted within 25 feet of the delineated edge of the abovementioned wetland resource areas. Prohibited activities include, but are not limited to, grading, landscaping, vegetation clearing, cutting, filling excavating, road construction, and driveway construction. This standard has been adopted because the alteration of land immediately adjacent to a wetland is likely to result in the alteration of the wetland itself. Alterations typically result from extension of lawns, depositing/ dumping of yard waste, over grading, siltation, deposition of construction debris, unregulated filling, and clearing of vegetation, all of which is prohibited.

No Disturb Zone Demarcation: To maintain the perpetual integrity of the No Disturb Zone and to ensure that there will be no encroachments into this Zone by the applicant or future owners of the subject property, the Commission may require the No Disturb Zone to be marked on the ground, at the applicant's expense, with permanent markers. These markers shall be made of weather resistant material (i.e. granite, or concrete), and the Commission shall determine their number, size and location. The Commission may require one or more of these markers to bear, on their upland side, writing (i.e. permanent plaque or engraving) that shall read "No Disturbance beyond This Point by Order of the Tewksbury Conservation Commission." ( STM May 2009)

**18.04.050 Applications for permit and requests for determination.**

A person shall file with the Commission a written application form provided by the Commission requesting to perform activities regulated by the bylaw affecting local resource areas. The application shall include, in addition to the information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the local resource areas. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in its discretion may accept as the application for permit under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act.

Any person desiring to know whether or not a proposed activity or certain property is subject to this bylaw may request in writing a determination from the Commission. Such a "Request for Determination" shall contain information and plans specified in the Commission's regulations.

At the time of an application for permit or " Request for Determination", the applicant or requestor shall pay an application fee and, if necessary, a consultant fee. (Art. 30, § E, ATM 1991, STM May 2009)

**18.04.060 Notice and hearings.**
Any person filing a application for permit or a "Request for Determination" with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivery, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water; however, if the owner's property line is more than 1500 feet from the applicant's or requestor's property line, he or she is not an abutter. The notice to abutters shall include a copy of the application for permit or "Request for Determination", with plans, or shall state where copies may be examined and obtained by abutters free of charge. The Town shall not be responsible for providing free copies. A copy of the notice mailed or delivered and a list of all abutters and abutters to abutters as described above and their respective addresses, certified by the board of assessors from the most recent applicable tax list, shall be filed with the Commission at least one week prior to the public hearing date. (ATM 5-9-12)

The Commission shall conduct a public hearing on any application for permit or "Request for Determination". The applicant or requestor shall give, at his or her expense, written notice of the public hearing in a newspaper of general circulation in the Town. This written notice must be published at least five (5) business days prior to the public hearing.

"Request for Determination" of applicability filings submitted to the Conservation Commission exclusively for the purpose of septic system repair, shall be specifically exempted from the requirements of a public hearing including advertising and notification requirements.

The Commission shall commence the public hearing within twenty-one (21) days from receipt of a completed application for permit or "Request for Determination". The Commission may continue the hearing if the applicant or requestor authorizes an extension in writing. (ATM 5-9-12)

However, the Commission in its discretion may reject the applicant's or requestor's continuance request and proceed with the hearing. The Commission shall issue its permit or determination in writing within twenty one (21) days of the close of the public hearing unless a time extension is authorized in writing by the applicant or requestor.

The Commission in its discretion may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act.

The Commission shall have the authority to continue the hearing to a date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant, requestor or others, information and plans required of the applicant or requestor deemed necessary by the Commission in its discretion, or the comments and recommendations of the boards listed in Section 18.04.080. However, if the applicant or requestor objects to a continuance, the hearing shall be closed and the commission shall take action on such evidence as is then available.

Public Utilities (Roadways). Permit applications for constructing or maintaining public utilities in existing town roadways shall provide written notification to all abutters on both sides of the roadway for the extent of the Town road right-of-way that is located within the 100-foot buffer zone.

Public Utilities (Easements). Permit applications for constructing or maintaining public utilities located within property easements shall provide written notification to property owners of the easement and all abutters within 100 feet in all directions of the easement right-of-way for the extent of the easement that is located within the 100-foot buffer zone. "Request for Determinations" shall require written notification to property owners of the easement in which they intend to work. (Art. 13, STM 12-8-97; Art. 9, ATM 1996: Art. 30 § F, ATM 1991, STM May 2009, ATM 5-9-12)

**18.04.070 Time of receipt.**
The date of receipt of an application for permit or "Request for Determination" will be considered to be the date of the first regularly scheduled meeting of the Commission following submission of the completed filing at the Commission's office. (Art. 30 § G, ATM 1991, STM May 2009)

**18.04.080 Coordination with other boards.**
Any person filing an application for permit or a "Request for Determination" with the Commission shall provide copies thereof at the same time, by certified mail (return receipt, requested) or hand delivery, to the Board of Selectmen, Planning Board, the Board of Appeals, the Board of Health and the Building Inspector. The person providing such copies shall file an affidavit with the Commission stating that he or she has mailed or delivered the application for

permit or "Request for Determination" to the above named boards. The Commission shall not take final action until such boards have had fourteen (14) days from receipt of the application for permit or "Request for Determination" 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 or requestor shall have the right to receive any such comments and recommendations and to respond to them at a hearing of the Commission, prior to final action. (Art. 30 § H, ATM 1991, STM May 2009)

**18.04.090 Permits, determinations Conditions.**
If the Commission after a public hearing determines that the activities which are the subject of the application for permit are likely to have a significant or cumulative effect upon the wetland values protected by this By law, the Commission, within twenty-one (21) days of the close of the hearing, shall issue or deny a permit for the activities requested. If the applicant gives a written authorization for an extension, the Commission may issue its permit or denial on the date specified in the authorization. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable in order to protect the wetlands values, and all activities shall be done in accordance with those conditions.

The Commission is empowered to deny an application for permit for failure to meet the requirements of this Bylaw; for failure to submit the necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards and other requirements in the Commission's regulations; for failure to avoid or prevent significant or cumulative effect upon the wetland values protected by this Bylaw; and for failure to pay all required fees. It also shall deny an application for permit where it finds no conditions are adequate to protect the wetland values. The Commission shall duly consider any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

A permit shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue an annual extension not to exceed six (6) years from the original date of issuance; provided, that it receives a written request for a renewal at least thirty (30) days prior to the permit's expiration and provided that all work to that date has been done within the scope of the permit.

For good cause the Commission may revoke or modify a permit issued under this Bylaw. Before revoking or modifying a permit, the Commission must comply with Section 18.04.060 by giving notice to the permit holder, the public, town boards and the abutters and by holding a public hearing.

The Commission in its discretion may combine the permit or other action issued under the Bylaw with the Order of Conditions issued under the Wetlands Protection Act.

With respect to a "Request for Determination", the Commission, within twenty-one (21) days of the close of the hearing thereon, shall issue its determination in writing stating whether or not the proposed activity or property in question is subject to this Bylaw. If the applicant gives written authorization on or before the date specified in the extension. (Art.30 § I, ATM 1991, STM May 2009)

**18.04.100 Modifications.**
If the applicant proposes to make any changes in the Commission's originally approved plans, the applicant shall submit the amended plans to the Commission. The Commission in its discretion, if it deems the amendments to the plan significant, may require the filing of a new application for permit. This new application will be treated as a new application requiring a noticed hearing, application fee and, if necessary, a consultant fee. (Art. 30 § J, ATM 1991)

**18.04.110 Registry of deeds.**
No work proposed in any application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected thereby be registered land, in the land court section of the registry for the district wherein the land lies, and until the permit holder certifies in writing to the Commission that the permit has been so recorded and furnishes the recording data pertaining thereto. (Art. 30 § K, ATM 1991)

**18.04.120 Certificate of compliance.**
Upon completion of the project, the applicant shall immediately request in writing a Certificate of Compliance from the Commission. If the activities were completed in accordance with plans stamped by a registered professional architect, landscape architect, civil engineer or land surveyor, a written notice by said professional certifying

substantial completion with the plan and setting forth what deviations, if any, exist from the plan shall accompany the request for a Certificate of Compliance.

The Commission, any of its members, or its agent may conduct an inspection to validate the completion. The Commission shall take action on the respect within thirty (30) days of its submission at the Commission's office.

The Commission in its discretion may impose conditions on the Certificate of Compliance to assure continued operation and maintenance of permanent measures to prevent or control significant or cumulative effect upon the wetland values protected by this Bylaw. (Art. 30 § L, ATM 1991)

**18.04.130 Regulations.**
After public notice and hearing(s), the Commission shall promulgate regulations to effectuate the purposes of this Bylaw. Failure by the Commission to promulgate such regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate this Bylaw. (Art. 30 § M, ATM 1991)

**18.04.140 Enforcement.**
The Commission and its agents, only after showing proper identification, shall have the authority to enter upon privately owned land for the purpose of inspecting and monitoring property subject to a "Request for Determination".

The Commission shall have the authority to enforce this Bylaw, the regulations promulgated hereunder, and the permits issued hereunder by issuing violation notices or administrative orders, and by bringing civil and criminal court actions, including those seeking the imposition of municipal liens.

Upon written request of the Commission, the Board of Selectmen, Town Manager and Town Counsel, may take legal action for enforcement under civil law.

The Board and Officials of the Town shall have authority to assist the Commission in enforcement. Upon written request, the Police Chief or his designee may provide assistance to the Conservation Commission as it relates to court procedure.

For good cause the Commission may issue a cease and desist order or an enforcement order with or without prior notification to the property owner or applicant. The Conservation Administrator, upon informing the Commission Chair, may generate either or both of these actions which shall remain in effect until the next regularly scheduled meeting of the Commission. The Commission shall give the property owner or applicant notice of the meeting at least forty-eight (48) hours before convening it. At the meeting the Commission shall vote whether or not to continue the action.

The Commission may mandate the installation of temporary control measures if there is any danger of adversely affecting the local resource areas. These measures are to remain in effect and be maintained in place until the Commission allows their removal.

Under conditions of a cease and desist order or an enforcement order, another party may be retained by the Commission to complete the temporary control measures if the property owner or applicant is unable or un willing to do the work within a reasonable time as stated in the Commission's order, and if there is an immediate hazard to the local resource areas, wetland values protected by this Bylaw, or public safety. The costs associated with this work shall be borne by the property owner or applicant. (Art. 30 § N, ATM 1991, STM May 2009)

**18.04.150 Inspection.**
The Commission, its agents and officers shall have the authority to enter privately owned land for the purpose of performing its duties under this Bylaw, and may make or cause to be made such examinations, surveys or samplings as the Commission deems necessary. (Art. 30 § O, ATM 1991)

**18.04.160 Burden of proof.**
The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application for permit will not have a significant or cumulative effect upon the local resource areas and wetland values protected by this Bylaw. Failure to provide sufficient evidence to the commission supporting this burden shall be good cause for the Commission to deny a permit, or grant a permit with conditions, or to continue the hearing to another date to enable the applicant or others to present additional evidence.

However, if the applicant objects to a continuance, the hearing shall be closed and the Commission shall take action on such evidence as is then available. (Art. 30 § R, ATM 1991)

**18.04.170 Relation to the wetlands protection act.**
This Bylaw is adopted under the Home Rule statutes, independent of the Wetlands Protection Act and regulation promulgated hereunder. (Art. 30 § S, ATM 1991, STM May 2009)

**18.04.180 Performance guarantee.**

1. Bonds or Surety. The Commission may require the applicant to file a surety company performance bond or a deposit of money in an amount determined by the Commission to be sufficient to cover the cost of all or any part of the site alterations specified in the permit and/or shown on the plans approved by the Commission. Such bond or surety, if required to be filed or deposited, shall be approved, as to form and manner of execution by the Town Counsel, and as to sureties by the Town Treasurer, and shall be contingent upon the completion of such alterations within the time frame of the permit and extension, if granted. Such bond or surety shall remain in effect during an active order of conditions and any extension granted by the Commission.
2. Covenant. The Commission may require the applicant to secure the performance and observance of conditions imposed on the project, 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 the Town and members of the public, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.
3. Reduction of Bond or Surety. The penal sum of any required bond, or the amount of any deposit held hereunder may, from time to time, be reduced by the Commission and the obligations of the parties thereto released by the Commission in whole or in part.
4. Release of Performance Guarantee. Upon completion of site alterations required in the permit, security for the performance of which was given by bond, deposit or covenant, or upon the complete performance of the covenants with respect to the site, the applicant may request and agree on terms of release with the Commission.

If the Commission determines that said alterations have been completed in compliance with the conditions of the permit, it shall release the interest of the Town in such bond and return the bond or the deposit to the per son who furnished same, or release the covenant, if appropriate.

If the Commission determines that said alterations have not been completed in compliance with the permit, it shall, within forty-five (45) days, specify to the applicant, in writing, the details wherein said alterations fail to comply with the permit. (Art. 30 § U, ATM 1991, STM May 2009)

**18.04.190 Appeal.**
Any person aggrieved by the permit or decision of the Commission, whether or not previously a party to the proceeding, may appeal according to the Massachusetts General Laws. (Art. 30 § V, ATM 1991)

**18.04.200 Amendments.**
The rules and regulations of the Conservation Commission (as described in Section 18.04.130 of this chapter) may be amended from time to time by a majority vote of the Commission. Prior to taking a vote on an amendment, the Commission shall have held a public hearing on the proposed change(s). (Art. 30 § X, ATM
1991, STM May 2009)

**18.04.210 Penalties.**
Any person who violates any provision of this Bylaw, the regulations promulgated hereunder, or the permits issued hereunder, shall be punished by a fine as specified in the Commission's regulations which shall not exceed $300 for each offense. Each day the violation continues shall constitute a separate offense, and each provision of the Bylaw, regulations or permit violated shall constitute a separate offense. Each day the violation alters a local resource area shall constitute a separate offense. (Art. 30 § P, ATM 1991, STM May 2009)

**18.04.220 Preacquisition violation**.

Any person who purchases, inherits or otherwise acquires land upon which work has been done in violation of the provisions of this Bylaw or in violation of any permit issued pursuant to this Bylaw, and such violation notice is recorded at the registry of deeds or land court, shall forthwith comply with any order of the Commission and restore such land to its condition prior to any violation; provided, however, that no action, civil or criminal, shall be brought against such person if corrective action commences within six (6) months following the date of acquisition of the land by such person or within the time specified in the Commission's order. (Art. 30 § Q, ATM 1991)

**Chapter 18.10**

**PROHIBITION SINGLE-USE PLASTIC BAGS**

**Sections:**

**18.10.010 Purpose and Intent.**
**18.10.020 Definitions.**
**18.10.030 Regulations.**
**18.10.040 Enforcement and Penalties.**
**18.10.040 Effective Date.**

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**18.10.010 Purpose and Intent**

A. The purpose of this bylaw is to regulate the retail use of single-use plastic checkout bags and adopt the use of reusable, recyclable and biodegradable bags in the Town.

B. The manufacture and use of single-use checkout bags has a significant impact on the environment, including, but not limited to: contributing to pollution of land, waterways, and oceans; contributing to the death of marine animals through ingestion and entanglement; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil.

C. Plastic bags also affect human health by adding pollutants to the air breathed during the process of extracting oil from the ground, when they are disposed of by incineration, and when they break down adding toxic chemicals to the groundwater.

D. Plastic bags are rarely recycled and are not biodegradable. The reduction of plastic bags demonstrates the Town's concern for the Town and planet.

**18.10.020 Definitions**

A. Single-use plastic bag shall mean a plastic bag including but not limited to bags with integral handles made of non-biodegradable plastic that is less than 3.0 mils in thickness and is intended for single-use transport of purchased items provided by an establishment to a customer at the point of sale.

B. Recyclable paper bag means a paper bag that is 100% recyclable and displays in a visible manner on the outside of the bag the word "recyclable" or a symbol identifying the bag is recyclable and contains at least 40% post- consumer paper content and be marked as such.

C. Reusable checkout bag shall be a bag with handles that is specifically designed for multiple use, preferably made of natural fibers, that is at least 3.0 mils or thicker.

D. Retail establishment shall mean any business or vendor that sells or provides food, merchandise, goods, or personal services to the public. However, the term "retail establishment" does not include bazaars or festivals operated by nonprofit organizations or religious institutions.

**18.10.030 Regulations**

A. Except as otherwise provided herein, single-use plastic checkout bags shall not be distributed, used or sold for checkout or other purposes by any retail establishment within the Town. Existing stocks of single-use checkout bags shall be phased out within six months following the effective date of this bylaw.

B. Other thin-film bags used to contain dry cleaning, newspapers, produce, meat bulk foods, wet items, perishables and other similar merchandise, typically without handles, are still permissible.

C. If a retail establishment provides or sells checkout bags to customers, the bags must be one of the following:
   1. Recyclable paper bag, as defined above or
   2. Reusable checkout bag, as defined above

D. Retail establishments are encouraged to make reusable bags available for free or for sale to customers at a reasonable price.

**18.10.040 Enforcement and Penalties**

A. This bylaw shall be enforced by the Town Manager, and/or the Town Manager's designated agent and may be enforced by any lawful means in law or in equity including, but not limited to, a non-criminal disposition as provided in the M.G.L. c. 40 § 21D and/or appropriate provisions of the General Bylaws of the Town. The following penalties shall apply:

   First Offense: written warning
   Second Offense: $100
   Additional Offenses: $200

B. Subsequent offenses shall be determined as offenses occurring within two years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense.

**18.10.040 Effective Date**

A. This bylaw shall take effect April 1, 2019

B. Each section of this bylaw shall be construed as separate to the end that if any section, sentence, clause or phrase thereof shall be invalid for any reason, the remainder of this bylaw shall continue in force.
or take any other action relative thereto.(Art. 19, 10-2-18 STM)

**Chapter 19**

**STORMWATER MANAGEMENT & EROSION CONTROL**

**Sections:**

**19.010 Purpose**
**19.020 Definitions**
**19.030 Authority**
**19.040 Applicability**
**19.041 Regulated Activities**
**19.042 Exempt Activities**
**19.043 Activities Allowed to Request Exemption**
**19.050 Administration**
**19.060 Permits and Procedures**
**19.070 Fees**
**19.080 Surety**
**19.090 Waivers**
**19.100 Inspections**
**19.110 Enforcement**
**19.120 Stormwater Management Plan**
**19.130 Operation and Maintenance Plans**
**19.140 Severability**

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**19.010 Purpose**

A. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:

1. impairment of water quality
2. decreased flow in lakes, ponds, streams, rivers, wetlands and groundwater;
3. contamination of drinking water supplies;
4. erosion of stream channels;
5. alteration or destruction of aquatic and wildlife habitat;
6. flooding;
7. overloading or clogging of municipal catch basins and storm drainage systems; and
8. flooding and erosion on abutting properties.

The United States Environmental Protection Agency (EPA) has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the Town of Tewksbury water bodies and groundwater resources, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

In addition, this bylaw establishes stormwater management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be borne by abutters, townspeople and the general public

B. The objectives of this Bylaw are to:

1. protect water resources;
2. require practices that eliminate soil erosion and sedimentation;

3. control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
4. require practices to manage and treat stormwater runoff generated from new development and redevelopment;
5. protect groundwater and surface water from degradation or depletion;
6. promote infiltration and the recharge of groundwater;
7. prevent pollutants from entering the municipal storm drain system;
8. prevent flooding and erosion to abutting properties.
9. ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
10. ensure adequate long-term operation and maintenance of stormwater best management practices so they work as designed;
11. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
12. comply with state and federal statutes and regulations relating to stormwater discharges; and
13. establish the Town of Tewksbury legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

**19.020 Definitions.**

ABUTTER: The owner(s) of land abutting the land disturbance site.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aqua cultural use, as defined by the Massachusetts Wetlands Protection Act (M.G.L. c. 131 § 40) and its implementing regulations (310 CMR 10.00).

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Shall be the owner of record of all of the land shown on any plan submitted for approval to the Planning Board in accordance with the Stormwater Management Bylaw and Regulations, any person or persons acting on behalf of the applicant for purposes of preparing and submitting plans and documents to the Planning Board , and may include engineers, surveyors, contractors or attorneys, and may also include any person or persons having an equitable interest in the land under an agreement or option to purchase the land. The owner shall certify in writing the identity of each applicant who is authorized to submit plans and/or documents and act on behalf of the owner. Without such certification an applicant shall not act on behalf of the owner. The applicant shall submit the title reference or references from the Middlesex County Registry of Deeds indicating the owner of record. All applications shall include original signatures of all owners.

AUTHORIZED ENFORCEMENT AGENCY: The Planning Board and its employees or agents who will be in charge of enforcing the requirements of this bylaw.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

THE BOARD – Town of Tewksbury Planning Board

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or construction site materials that may adversely impact water quality, including but not limited to discarded building materials, concrete truck washout, chemicals, litter and sanitary waste.

CLEARING: Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a public land surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during preconstruction and construction related land disturbance activities.

GRADING: Changing the level or shape of the ground surface.

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

IMPAIRED WATER: A water is impaired if it does not meet one or more of its designated use(s). For purposes of the MS4 permit, "impaired" refers to categories 4 and 5 of the five-part categorization approach used for classifying the water quality standards attainment status for water segments under the Total Maximum Daily Load (TMDL) program. Impaired waters compilations are also sometimes referred to as "303(d) lists." Category 5 waters are impaired because at least one designated use is not being supported or is threatened and a TMDL is needed. Category 4 waters indicate that at least one designated use is not being supported but a TMDL is not needed (4a indicates that a TMDL has been approved or established by EPA; 4b indicates other required control measures are expected in result in the attainment of water quality standards in a reasonable period of time; and 4c indicates that the nonattainment of the water quality standard is the result of pollution (e.g. habitat) and is not caused by a pollutant.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

LAND DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LAND DISTURBANCE PERMIT: A permit issued by the Planning Board

LOT: An area or parcel of land or any part thereof, in common ownership, designated on a plan filed with the Town of Tewksbury by its owner or owners as a separate lot.

LOW-IMPACT DEVELOPMENT (LID): The use of innovative stormwater management systems that are modelled after natural hydrologic features. Rainfall is managed at the source using small, cost-effective landscape features located at the lot level.

MAJOR LAND DISTURBANCE: The disturbance of 40,000 square feet or more of land as listed in Section 19.041(B). Major land disturbances require a Land Disturbance Permit, as well as a Public Hearing.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Stormwater Standards and accompanying Stormwater Handbook, as amended, issued by the Department of Environmental Protection pursuant to authority under the Wetlands Protection Act, M.G.L. c. 131, §40, and the Massachusetts Clean Waters Act, M.G.L. c. §26-53. The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

MINOR LAND DISTURBANCE: The disturbance of five hundred (500) cubic yards or more of material or clearing activity which disturbs an area of 20,000 square feet or more and less than 40,000 square feet within any twelve (12) month period. Minor land disturbances require a Land Disturbance Permit but are exempt from the Public Hearing requirement.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, swales, brooks, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Tewksbury.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) CONSTRUCTION GENERAL PERMIT: A permit issued under the authority of the Clean Water Act (CWA) by the Environmental Protection Agency (EPA) which authorizes the discharge of stormwater (and certain authorized non-stormwater discharges) from construction sites that disturb one acre or more of land, and form smaller sites that are part of a larger common plan of development. This permit requires operators of such construction sites to implement stormwater controls to minimize the amount of sediment and other pollutants associated with construction sites from being discharged in stormwater runoff.

NEW DEVELOPMENT: Any construction activities or land alteration resulting in total earth disturbances greater than or equal to one half acre (or activities that disturb less than one acre of land but are part of a larger common plan of development disturbing greater than one acre) on an area that has not previously been developed to include impervious cover.

OPERATION AND MAINTENANCE PLAN: A plan developed by a Massachusetts licensed professional engineer (PE) describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORWs): Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands and other waters specifically designated.

OWNER: Shall be the owner of record of all the land shown on any plan submitted. The owner shall submit the title reference or references from the Middlesex County Registry of Deeds indicating the owner of record.

PERMITTEE: The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

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

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRECONSTRUCTION: All activity in preparation for construction.

PRIVATE STORM DRAIN SYSTEM or PRIVATE SEPARATE STORM SEWER SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system that is not owned and maintained by the Town.

REDEVELOPMENT: Any construction, land alteration, or improvement of impervious surfaces resulting in total earth disturbances greater than one half acre (or activities that disturb less than one acre of land but are part of a larger common plan of development disturbing greater than one acre) that does not meet the definition of new development (see above).

REGULATED ACTIVITY: Activities disturbing or substantially altering an area of 40,000 square feet or more. Regulated activities require a Land Disturbance Permit under this bylaw.

RESPONSIBLE PARTIES: Owner(s), persons with financial responsibility, and persons with operational responsibility.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land disturbing activities are, were, or will be performed.

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

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

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

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

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a qualified professional engineer (PE) or a professional public land surveyor (PLS), which includes structural and nonstructural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

TOTAL MAXIMUM DAILY LOAD (TMDL): A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive while still meeting water quality standards, and allocation of that amount to the pollutant's sources.

Total Suspended Solids (TSS): Material, including but not limited to trash, debris soils, sediment and sand suspended in stormwater runoff.

WATERCOURSE: A natural or man-made channel through which water flows, including a river, brook, or stream.

WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and in the Town of Tewksbury Wetland Protection By-law.

**19.030 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.

**19.040 Applicability.**

No person may undertake a construction activity, including clearing, grading and excavation that results in a land disturbance that will disturb equal to or greater than one half acre of land or will disturb less than one acre of land but is part of a larger common plan of development that will ultimately disturb equal to or greater than one acre of land draining to the Town of Tewksbury's municipal separate storm sewer system without a permit from the Planning Board. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site.

Except as permitted below or as otherwise provided in this Bylaw, no person shall perform any activity that results in disturbance or clearing of land without a land disturbance permit.

**19.041 Regulated Activities.**

A. For minor land disturbance, defined as the disturbance of five hundred (500) cubic yards or more of material or clearing activity which disturbs an area of 20,000 square feet or more and less than 40,000 square feet within any twelve (12) month period, the activity shall be allowed only under a Land Disturbance Permit issued by the Planning Board. Said permit shall be considered an administrative action by the Planning Board and no public hearing shall be required. The Department of Community Development shall be the administrator of a minor land disturbance permit.

B. Regulated activities by the Planning Board, which constitute major land disturbances, shall include, but not be limited to:

1. Land disturbance of 40,000 square feet or more of land, associated with construction or reconstruction of structures,
2. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 40,000 square feet or more of land,
3. Paving or other change in surface material over an area of 40,000 square feet or more causing a significant reduction of permeability or increase in runoff,
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 40,000 square feet,
5. Any other activity altering the surface of an area exceeding 40,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system, OR
6. Land disturbance where there is a 15% or greater slope and where the land disturbance is greater than or equal to 200 square feet within the sloped area.

C. Minimum performance standards for regulated activities:

Applications for a Land Disturbance Permit for both Minor Land Disturbances and Regulated Activities (Major Land Disturbance) shall include an Erosion and Sediment Control Plan. This Plan shall be designed to ensure compliance with this Bylaw, and if applicable, the NPDES General Permit for Stormwater Discharges from Construction Activities. The Plan shall ensure that the Massachusetts Surface Water Quality Standards (314 CMR 4.00) are met in all seasons, and shall conform to the design standards outlined in the most recent version of the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas.[1] The following minimum performance standards for erosion and sediment control shall be met on all regulated construction sites:

1. Erosion control structures will be located no closer than 15 feet from an abutting property line and will be designed so as not to create point discharges onto abutting properties.
2. Dust from all earthmoving activities shall be controlled.
3. Earth materials shall not be deposited onto any roadways.
4. The amount of disturbed area shall be minimized. Natural resources shall protected.
5. Vegetative stabilization measures shall be employed during the Regulated Activity and construction activity as required by the approving authority. All perimeter dikes and slopes, basin or trap embankments shall be stabilized with sod, seed, anchored mulch within seven (7) days of disturbance. All other disturbed areas shall be stabilized with sod, seed and anchored mulch within fourteen (14) days after disturbing activities are ceased.
6. Topsoil shall be stripped from disturbed areas and stockpiled in an approved area and stabilized with a temporary vegetative cover if left more than fifteen (15) calendar days. Perimeter sediment controls shall be installed around stockpiled topsoil.
7. During cold weather months, when seeding and sodding may be impractical, anchored mulch shall be applied as approved.
8. All storm drain inlets shall be protected, and all newly constructed outlets shall be armored in accordance with the above-mentioned guidelines.
9. Perimeter controls shall be used at the site.
10. All construction site entrances and exits shall be stabilized to prevent off-site tracking.
11. Stormwater controls shall be inspected at consistent intervals, including during or immediately after a storm.
12. Construction site operators shall control all construction and waste materials, as defined in Section 19.020 of this bylaw. These wastes may not be discharged to the MS4.

[1] https://www.mass.gov/files/documents/2016/08/qz/esfull.pdf

**19.042 Exempt Activities.**

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

1. Normal maintenance and improvement of Town owned public ways and appurtenances.
2. Normal maintenance and improvement of land in agricultural use.
3. Repair of septic systems when required by the Board of Health for the protection of public health.
4. Normal maintenance of currently existing landscaping, gardens or lawn areas associated with a single-family dwelling.
5. The construction of fencing that will not alter existing terrain or drainage patterns.
6. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.
7. Maintenance of existing town drainage system, including, but not limited to removal of trees, debris, sediment and trash from swales, brooks, culverts, and any other impediment to the flow of the town's drainage system.
8. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
9. As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the activities that disturb less than one acre and are not part of a larger common plan of development that disturbs more than once acre that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Standards as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

**19.050 Administration.**

A. The Planning Board shall administer this bylaw. The Town of Tewksbury's Community Development Department shall serve as the Planning Board's primary staff support for this bylaw. The Department may use the Director, Conservation Administrator, Town Engineer, or others to implement this bylaw.

B. The Planning Board and its agents shall review all applications for a land disturbance permit, conduct inspections, issue a final permit and conduct any necessary enforcement action.

C. The Planning Board may adopt and periodically amend Stormwater Regulations relating to Land Disturbance Permits, exemption or waiver applications; permit terms or conditions, Design Criteria, additional definitions, enforcement, fees (including application, inspection, and/or consultant fees), or other procedures and administration of this Bylaw 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 before the hearing date. After public notice and hearing, the Planning Board may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

D. The Planning Board will refer to the criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Standards, the criteria required under Section 19.120 of this bylaw, or with Design Criteria that may be developed or in Tewksbury's Subdivision Regulations, whichever is more stringent, in the protection of the town's environmental and infrastructure resources, for execution of the provisions of this Bylaw.

E. All meetings of the Planning Board are subject to the Open Meeting Law. A notice in the local newspaper of a hearing on the Land Disturbance Application and that the Planning Board is accepting comments on the Land Disturbance Application shall be published at the applicant's expense. The Land Disturbance Application shall be available for inspection by the public during normal business hours at the Town offices. Comments may be submitted to the Planning Board during business hours at the Town offices.

F. Filing an application for a land disturbance permit grants the Planning Board or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

G. The Planning Board may:

i. Approve the Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw;

ii. Approve the Application and issue a permit with conditions, modifications, requirements for operation and maintenance requirements of permanent structural BMPs, designation of responsible party, or restrictions that the Planning Board determines are required to ensure that the project will protect water resources and will meet the objectives and requirements of this Bylaw; or

iii. Disapprove the application and deny a permit if it finds that the proposed plan fails to meet the objectives and requirements of this Bylaw and its Regulations. If the Planning Board finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Planning Board may disapprove the application, denying a permit.

H. The Planning Board shall take final action on an Application within 30 days of receipt of a complete application. If in the Planning Board's opinion, additional time or information is required for review, the Planning Board by written agreement of the applicant may continue a consideration of the request to a date certain announced at the meeting.

I. Failure to take action shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without the Planning Board's action, the Land Disturbance Permit shall be issued by the Planning Board.

J. Appeals of Action by the Planning Board. A decision of the Planning Board shall be final. Further relief of a decision by the Planning Board made under this Bylaw shall be reviewable in the Superior Court or Land Court in accordance with the applicable law. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law. No work shall commence until the applicable appeal period has passed with no appeal or if an appeal has been filed, the appeal has been finally resolved by adjudication or otherwise.

K. All activity permitted by the Land Disturbance Permit must be completed within one year of permit issuance. Extensions of time can be granted by the Planning Board upon formal written request by the applicant. Should the one year pass without an extension being granted the permit is then considered revoked.

L. Project Completion. At completion of the project the permittee shall submit as built record drawings of all structural stormwater controls and treatment best management practices required for the site. The as built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional engineer. As built drawings must comply with the Town's Digital data submission requirements.

**19.060 Permits & Procedures.**

Permit Procedures and Requirements are defined and included as part of the Stormwater Management and Erosion Control Regulations promulgated as permitted under Section 19.050 of this Bylaw.

**19.070 Fees.**

The Planning Board shall establish fees subject to cover expenses connected with application review and monitoring permit compliance. The fees shall be sufficient to cover Town secretarial staff and professional staff. The Planning Board is also authorized to charge the applicant fees to pay a Registered Professional Engineer or other professional consultant to advise the Planning Board on any or all aspects of the project. The applicant for a Land Disturbance Permit may be required to establish and maintain an escrow account to cover the costs of said consultants.

**19.080 Surety.**

The Planning Board may require the permittee to post before the start of land disturbance activity, a surety bond, or other acceptable security. The form of the bond shall be approved by the Planning Board, which may consult with town counsel when necessary, and be in an amount deemed sufficient by the Planning Board to insure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the

bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Planning Board has issued a certificate of completion.

**19.090 Waivers.**

A. The Planning Board may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where the activity:

   1. is allowed by federal, state or local statutes and/or regulations, or

   2. is in the public interest, and is not inconsistent with the purpose and intent of this bylaw and its regulations.

B. Any applicant may submit a written request to be granted such a waiver at the time of submission. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that the activity is allowed by federal, state or local statutes and/or regulations or is in the public interest and is not inconsistent with the purpose and intent of this bylaw and its regulations.

C. All waiver requests shall be discussed and a decision will be made at the time of final action by the Planning Board.

D. If in the Planning Board's opinion, additional information is required for review of a waiver request, the Planning Board may continue a consideration of the waiver request to a date certain announced at the meeting. In the event the applicant fails to provide requested information, the waiver request shall be denied.

**19.100 Inspections**

A. The Planning Board or its agents shall inspect the project site at the following stages:

   1. Initial Site Inspection: prior to approval of any plan.

   2. Erosion Control Inspection: to ensure erosion control practices are in accordance with the filed plan.

   3. Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures.

   4. Final Inspection. After the stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system as installed. The Board shall inspect the system to confirm its "as built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate, he shall so report to the Board which will issue a Certificate of Completion.

B. If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Stormwater Management Plan, it shall be corrected by the permittee before the performance guarantee is released. If the permittee fails to act the Town of Tewksbury may use the surety bond to complete the work. Examples of inadequacy include, but shall not be limited to: errors in the infiltrative capability, errors in the maximum groundwater elevation, failure to properly define or construct flow paths, or erosive discharges from basins.

**19.110 Enforcement.**

The Planning Board or its authorized agent shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

A. Orders. The Planning Board or its authorized agent may issue a written order to enforce the provisions of this Bylaw or the regulations there under, which may include:

   1. a requirement to cease and desist from the land disturbing activity until there is compliance with the Bylaw or provisions of the land disturbance permit;

   2. maintenance, installation or performance of additional erosion and sediment control measures;

   3. monitoring, analyses, and reporting;

   4. remediation of erosion and sedimentation resulting directly or indirectly from the land disturbing activity;

5. compliance with the Operation and Maintenance Plan.

If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Tewksbury may, at its option, undertake such work, and the property owner shall reimburse the town's expenses. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Tewksbury, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within thirty (30) days of receipt of the notification of the costs incurred.

B. Fines. Any person who violates any provision of this Bylaw, regulation, order or permit issued there under, shall be punished by a fine of not more than $ 300.00. Each day or part there under that such violation occurs or continues shall constitute a separate offense.

C. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Planning Board may elect to utilize the noncriminal disposition procedure set forth in G.L. Ch. 40, §21D, which has been adopted by the Town, in which case the Planning Board or authorized agent shall be the enforcing person. The penalty for each violation shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**19.120 Stormwater Management Plan**

A. The Stormwater Management Plan shall contain sufficient information for the Board to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards, the requirements as set forth in Parts B through D of this section and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. The Planning Board may adopt regulations for specific submittal requirements.

B. Standards. All projects requiring a Land Disturbance Permit shall meet the Massachusetts Stormwater Management Standards as well as the requirements outlined in this section.

1. Low-Impact Development. Low-Impact Design (LID) practices shall be implemented in all projects to the maximum extent feasible. Applicants shall address each of the following LID principles in the project narrative:

- Preservation of natural areas;
- Tree Protection;
- Vegetation and landscaping;
- Riparian buffer protection;
- Limit land disturbance during construction;
- Limit new impervious surfaces;
- Promote the use of vegetative (green infrastructure) stormwater controls;
- Disconnect flow paths;
- Promote infiltration;
- Capture and reuse stormwater.

Applicants not incorporating low-impact development practices into their plans must indicate why LID is not feasible at the site.

2. The design of treatment and infiltration practices shall follow the guidance in Volume 2 of the Massachusetts Stormwater Handbook, as amended, or other federally or State approved BMP design guidance.

3. Stormwater management systems for major land disturbances on new development sites shall be designed to meet an average annual pollutant removal equivalent to 90% of the average annual load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 60% of the average annual

load of Total Phosphorus (TP) related to the total postconstruction impervious surface area on the site[2].

a. Average annual pollutant removal requirements are achieved through one of the following methods;

- installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016)[3] or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved BMP design guidance or performance standards (e.g., the MA Stormwater Management Handbook)[4] may be used to calculate BMP performance; or

- retaining the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the new development site; or

- meeting a combination of retention and treatment that achieves the above standards

4. Stormwater management systems for major land disturbances on redevelopment sites shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual post-construction load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 50% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site[5].

a. Average annual pollutant removal requirements are achieved through one of the following methods:

- Installing BMPs that meet to pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016)[6] or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved BMP design guidance or performance standards (e.g., the MA Stormwater Management Handbook)[7] may be used to calculate BMP performance; or

- retaining the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the new development site; or meeting a combination of retention and treatment that achieves the above standards.

5. All Stormwater Management Best Management Practices employed on new development and redevelopment sites within a watershed of a water body with a phosphorus impairment shall be shown to be optimized for phosphorus removal by the standards set forth by the Massachusetts Stormwater Management Handbook or the approved TMDL, if it exists, whichever is more strict.

6. Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions where feasible and are exempt from Section 19.120.B.4. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements of Section 19.120.B.4 fully.

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[2] *Pollutant removal is calculated based on average annual loading and not on the basis of any individual storm event.*

[3] *https://www.epa.gov/tmdl/opti-tool-epa-region-1s-stormwater-management-optimization-tool*

[4] *https://www.mass.gov/guides/massachusetts-stormwater-handbook-and-stormwater-standards*

[5] Pollutant removal is calculated based on average annual loading and not on the basis of any individual storm event.

[6] *https://www.epa.gov/tmdl/opti-tool-epa-region-1s-stormwater-management-optimization-tool*

[7] *https://www.mass.gov/guides/massachusetts-stormwater-handbook-and-stormwater-standards*

**19.130 Operation and Maintenance Plans**

A. A post construction Operation and Maintenance plan (O&M Plan) is required prior to final release of the project. The maintenance plan shall be designed to ensure compliance with the administered Land Disturbance Permit, this Bylaw and that the Massachusetts Surface Water Quality Standards, 314, CMR 4.00 are met in all seasons and throughout the life of the system. The Board shall make the final decision of what maintenance option is appropriate in a given situation. The Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. Once approved, The Operation and Maintenance Plan shall remain on file with the Town Engineer and shall be an ongoing requirement. The Planning Board may adopt regulations for specific submittal requirements.

B. Stormwater Management Easement(s).

1. Stormwater management easements shall be provided by the property owner(s) as necessary for:

   a. access for facility inspections and maintenance,

   b. preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100year storm event.

   c. direct maintenance access by heavy equipment to structures requiring regular cleanout.

2. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.

3. Stormwater management easements are required for all areas used for offsite stormwater control, unless a waiver is granted by The Board.

4. Easements shall be recorded with the Middlesex North County Registry of Deeds prior to issuance of a Certificate of Completion by the Board.

C. Use of Storage of Road Salt

1. Salt usage shall be minimized whenever feasible. Salt alternatives shall be used where deemed necessary by the Town.

2. Operation and Maintenance Plans for commercial or industrial projects must include a provision to prevent the exposure of any salt stockpiles stored on the property to precipitation and/or stormwater runoff.

D. Changes to Operation and Maintenance Plan

1. The owner(s) of the stormwater management system must notify the Board and Town Engineer of changes in ownership or assignment of financial responsibility.

2. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the Board, the Town Engineer and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

E. Maintenance Responsibility

The responsibility party named in the Operation and Maintenance Plan shall maintain in good condition and promptly repair and restore all structural and nonstructural stormwater BMPs and all necessary access routes and appurtenances (grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices). Such repairs or restoration and maintenance shall be in accordance with the approved stormwater management design plan, the stormwater maintenance agreement and the stormwater maintenance plan.

F. Maintenance Inspection by Planning Board, its agent, or Town Engineer

The Planning Board or its Representatives shall conduct periodic inspections for all stormwater practices for which a Stormwater Certificate of Completion has been issued in accordance with section 19.050. All inspections shall document any maintenance and repair needs and any discrepancies from the stormwater maintenance agreement and stormwater maintenance plan.

G. Record of Maintenance Activities

The responsible party shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be submitted to the Town Engineer on an annual basis.

**19.140 Severability.**

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect. (STM, October, 2007/STM October 2011; ATM 6/22/2020)

**Chapter 20**

**Municipal Storm Water Discharge ByLaw**

**Sections:**

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**20.020 Definitions**
**20.030 Applicability**
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**20.010 Purpose**

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

1. to prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
2. to prohibit illicit connections and unauthorized discharges to MS4;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to storm water discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, surveillance, monitoring, and enforcement.

**20.020 Definitions.**

For the purpose of this bylaw, the following shall mean:

ALLOWABLE CONNECTION:
Drainage facility, part of or a component of a drainage system and/or discharge that has been re viewed and approved by the Town for construction.

AUTHORIZED ENFORCEMENT AGENCY:
The Town's Department of Public Works (DPW) Superintendent or his or her designee to enforce this bylaw.

BEST MANAGEMENT PRACTICE (BMP):
An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of storm water runoff or storm water discharge.

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 National Pollutant Discharge Elimination System (NPDES) Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

DISCHARGE OF POLLUTANTS:

The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth of Massachusetts ("the Commonwealth") from any source.

DRAINAGE SYSTEM:

A network 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.

FACILITY:

Often referred to as facilities, including, but not limited to, land, and/or buildings or structures within property limits to serve a specific function affording a convenience or service.

GROUNDWATER:

Water 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.

ILLICIT CONNECTION:

A surface or subsurface drain or conveyance, which allows any non-permitted or unlawful discharge into the municipal storm drain system, including, but not limited to, sewage, process wastewater, cooling waters or wash water, and any connections from the indoor drains, sinks, sumps or toilets, without limitation regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLICIT DISCHARGE:

Direct or indirect discharge to the municipal storm drain system that is not composed entirely of storm water, except as exempted in Section 20.080. The term includes a discharge in compliance with NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 20.080, of this bylaw.

IMPERVIOUS SURFACE:

Any material or structure on or above or immediately below the ground that prevents water infiltrating the underlying soil. Impervious surface includes, but is not limited to, paved parking lots, sidewalks, and rooftops.

INDUSTRIAL ACTIVITY:

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

LESSEE:

A person that leases, orally or in writing, the use and/or possession of property from its owner.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:

The system of conveyances designed or used for collecting or conveying storm water, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, swale, gulley, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:

A permit issued by Environmental Protection Agency (EPA) (or by the Commonwealth 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:
Discharge to the municipal storm drain system not composed entirely of storm water.

NOTICE OF ADMINISTRATIVE APPEAL:
A written request by the alleged violator to the Town Manager as set forth in Section 20.120.6.

NOTICE OF APPEAL:
A written request with supplemental evidence by the alleged violator to the DPW Superintendent as set forth in Section 20.120.6.

NOTICE OF VIOLATION:
A written documentation from the Town to the person violating this bylaw as set forth in Section 20.120.3.

OWNER:
A person with a legal or equitable interest in a property.

PERSON:
An individual, partnership, association, firm, company, trust, corporation, agency, authority, department, or political subdivision of the Commonwealth or the federal government, and any other officer, employee, or agent of such person.

POLLUTANT:
Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, the following: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects 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.

PROCESS WASTEWATER:
Water which, during the manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate, product, finished product, or waste product.

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

STORM WATER:
Any surface flow, snow melt, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER MANAGEMENT PLAN:
A document containing narrative, drawings and details prepared by a registered professional engineer (PE) which includes structural and nonstructural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an operation and maintenance plan describing the maintenance requirements for structural best management practices.

SURFACE WATER DISCHARGE PERMIT:
A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes discharges to waters of the Commonwealth.

TOTAL SUSPENDED SOLIDS (TSS):
Material, including but not limited to, trash, debris, soils, silts, sediment, particulates and sand suspended in stormwater

TOXIC OR HAZARDOUS MATERIAL or WASTE:
Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include without limitation any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance de fines as Toxic or hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.000.

VIOLATOR:
Any person that does not comply with this bylaw.

WARNING NOTICE:
A written warning document from the Town to the person violating this bylaw as detailed in Section 20.120.2.

WATERCOURSE:
A natural or manmade channel or other water body through which water flows or a stream of water including a river, brook, or underground stream.

WATERS OF THE COMMONWEALTH:
All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WASTEWATER:
Any water or other liquid, other than a uncontaminated stormwater, discharged from a facility, including but not limited to, any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production use of any raw material, intermediate product, finished product, byproduct or waste product.

WETLANDS:
Coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to G.L.c.131, § 40 and 310 CMR 10.00 et seq.

**20.030 Applicability.**
This bylaw shall apply to all water entering directly or indirectly into the municipal storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by the DPW Superintendent.

**20.040 Authority.**
This bylaw is adopted under the authority granted by provisions of the Clean Water Act (1987) requiring National Pollutant Discharge Elimination System (NPDES) permits for storm water discharges. Under 40 CFR 122.34 (b)(3), The Clean Water Act, section 402 (p)(3)(B)(ii) requires that permits for municipal separate storm sewer systems (MS4) include a requirement to effectively regulate problematic non-storm water discharges into storm sewers. This bylaw in no way supersedes or diminishes the authority or jurisdiction of any state or federal regulations governing discharges to Waters of the Commonwealth or the United States or any other applicable regulation governing illicit discharges. Enforcement of said state and federal regulations are governed by those applicable government agencies.

**20.050 Responsibilities for Administration.**
The DPW Superintendent shall administer, implement and enforce this bylaw. Any powers granted to or du ties imposed upon the DPW Superintendent may be delegated in writing by the DPW Superintendent to his or her designee.

**20.060 Regulations.**
The Town Manager shall promulgate Regulations to implement and establish fees and penalties to effectuate the purpose of this bylaw. Failure by the Town Manager to promulgate such Regulations or fee and penalty structures shall not have the effect of suspending or invalidating this bylaw.

**20.070 Prohibited Activities.**

**20.070.1** Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-storm water discharge into the MS4, watercourse, or waters of the Commonwealth or the United States.

**20.070.2** Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulations or custom at the time of connection.

**20.070.3** Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of storm water into or out of the municipal storm drain system without prior written approval from the DPW Superintendent.

**20.080 Exemptions**
The commencement, conduct or continuance of any illegal or illicit discharge to the storm drain system is prohibited except for non-storm waters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system as described as follows:

**20.080.1** Waterline flushing;

**20.080.2** Flow from potable water sources;

**20.080.3** Springs;

**20.080.4** Natural flow from riparian habitats and wetlands;

**20.080.5** Diverted stream flow;

**20.080.6** Rising groundwater;

**20.080.7** Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005 (20), or uncontaminated pumped groundwater;

**20.080.8** Water from the exterior foundation drains, roof drains, footing drains (not including active ground water dewatering systems), or air conditioning condensation;

**20.080.9** Discharge from landscape irrigation or lawn watering.

**20.080.10** Water from residential activities, including, but not limited to, car washing, washing walkways, patios, house siding, windows, or similar exterior structure related washing activities;

**20.080.11** Discharge from de-chlorinated swimming pool water (less than one ppm total chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance.

**20.080.12** Discharge from street sweeping;

**20.080.13** Dye testing, provided verbal notification is given to the DPW or its agent prior to the time of the test and providing resulting concentrations are not at levels detrimental to resident aquatic organisms;

**20.080.14** Non-storm water discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

**20.080.15** Discharge for which advanced written approval is received from the DPW Superintendent or its agent as necessary to protect public health, safety, welfare or the environment.

**20.090 Watercourse Protection.**
Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the water course 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 water course, so that such structures will not become hazard to the use, function, or physical integrity of the water course.

**20.100 Compliance Monitoring.**

**20.100.1 Right of Entry: Inspection and Sampling After notification to the property owner.**

**20.100.1.1** The DPW Superintendent or his or her designee shall be permitted to enter and inspect facilities subject to regulation under this bylaw as often as may be necessary to determine compliance with this bylaw.

**20.100.1.2** 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 the DPW Superintendent or his or her designee.

**20.100.1.3** Facility operators and/or owners shall allow the DPW Superintendent or his or her designee the ready access to all parts of the premises were water may be discharged from into a municipal utility 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.

**20.100.1.4** The DPW Superintendent or his or her designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the DPW Superintendent to conduct monitoring and/or sampling of the facility's storm water discharge.

**20.100.1.5** The DPW Superintendent or his or her designee shall have 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.

**20.100.1.6** Unreasonable delays in allowing the DPW Superintendent or his or her designee access to a facility is a violation of a storm water discharge permit and of this bylaw. 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 DPW Superintendent or his or her designee reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this bylaw.

**20.100.2** Search Warrants
If the DPW Superintendent or his or her designee has been refused access to any part of the premises from which storm water is discharged, and the DPW Superintendent or his or her designee is able to demonstrate probable cause to believe that there may be a violation of this bylaw, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this bylaw or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the DPW Superintendent or his or her designee may seek issuance of a search warrant from any court of competent jurisdiction.

**20.110 Notification of Spills**

**20.111** Notwithstanding other requirements of local, state, or federal law, as soon as any person responsible for a facility, or responsible for emergency response for a facility or operation resulting in or which may result in discharge or pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous or toxic materials, the person shall immediately notify the municipal fire department. In the event of a release of nonhazardous material, the reporting person shall as soon as practical notify the DPW Superintendent and provide a written notification within three (3) business days thereafter of the spill occurrence. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain onsite a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Failure to provide notification of a release as provided above is a violation of this bylaw.

**20.120. Violation, Enforcement, and Penalties**

**20.120.1 Violations**

**20.120.1.1** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this bylaw or any regulations promulgated there under. Any person who violates this bylaw or its regulations may be subject to enforcement action, request for injunctive relief by a court of competent jurisdiction, or any other legal action as provided by law.

**20.120.1.2** In the event the violation constitutes an immediate potential danger to public health welfare or safety, the DPW Superintendent or his or her designee may enter upon the subject private property, without prior notice, and to take any and all measures necessary to abate the danger, eliminate the violation and/or restore the property to a safe condition, the cost of which will be the obligation and responsibility of the violating arty.

**20.120.2** Warning Notice
When the DPW Superintendent or his or her designee finds that any person has violated, or continues to violate, any provision of this bylaw or its regulations, or any order issued hereunder, the DPW Superintendent or his or her designee may serve upon said person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a timely resolution whereby any offending discharge will cease within a time frame stipulated within the Warning Notice. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the DPW Superintendent or his or her designee to take action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

**20.120.3** Notice of Violation

**20.120.3.1** Whenever the DPW Superintendent or his or her designee finds that a person has violated a prohibition or failed to meet a requirement of this bylaw, the DPW Superintendent or his or her designee may order compliance by written Notice of Violation to the responsible person and the owner of the property, if differ nt.

**20.120.3.2** The Notice of Violation shall contain:

(1) The name and address of the alleged violator and the owner of the property, if different;

(2) The address when available or description of the building, structure or land upon which the violation is occurring, or has occurred;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to restore compliance with this bylaw and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

(6) A statement that the determination of violation may be appealed to the Town Manager with a copy to DPW Superintendent by filing a written notice of appeal within 14 days of service of notice of violation; and

(7) A statement specifying that, should then violator fail to restore compliance within the established time schedule, the work will be done by the Tewksbury DPW or a contractor and the expense therefore shall be charged to the violator.

**20.120.3.3** Such notice may require without limitation:

(1) The performance of monitoring, analyses, and reporting;

(2) The elimination of illicit connections or discharges;

(3) The violating discharges, practices, or operations shall cease and desist;

(4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;

(5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control or treatment BMPs.

**20.120.4** Compensatory Action
In lieu of enforcement proceedings, penalties, and remedies authorized and impose upon a violator through this bylaw, the DPW Superintendent or his or her designee may grant an alternative compensatory actions by said violator, such as storm drain stenciling, attendance at compliance workshops, stream clean up, or the like as approved by the DPW Superintendent.

**20.120.5** Suspension of MS4 Access

**20.120.5.1** When the DPW Superintendent or his or her designee finds that any person has violated, or continues to violate, any provision of this bylaw, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the DPW Superintendent or his or her designee may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

(1) Immediately comply with all bylaw requirements; and

(2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

**20.120.5.2** Any person notified of a warning or notification of violation is directed to under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the Notice of Violation, the DPW Superintendent or his or her designee may or without obligation take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States or the Commonwealth and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The DPW Superintendent or his or her designee may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the DPW Superintendent or his or her designee that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this bylaw. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the DPW Superintendent within 30 days of receipt of the Notice of Violation. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite site for, taking any other action against the violator.

**20.120.5.3** In cases of emergency situations, the DPW Superintendent or his or her designee 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 or the Commonwealth. If the violator fails to comply with a Notice of Violation issued in an emergency, the DPW Superintendent or his or her designee may take such steps as deemed necessary and without obligation to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

**20.120.5.4** Any person discharging to the MS4 in violation of this bylaw may have its MS4 access terminated if such termination would abate or reduce an illicit discharge. The DPW Superintendent will notify a violator of the proposed termination of its MS4 access. The violator may first petition the DPW Superintendent with a Notice of Appeal and secondly, to the Town Manager for a reconsideration and hearing with a Notice of Administrative Appeal.

**20.120.5.5** A person commits an offence if the person reinstates a previously terminated MS4 access to premises pursuant to this section, without the prior approval of the DPW Superintendent.
20.120.6 Civil Penalties, Criminal Prosecution, Appeals and Enforcement

**20.120.6.1** In the event the alleged violator fails to take the remedial measures set forth in the Notice of Violation or otherwise fails to resolve the violations described therein within 30 days, or such greater period as the DPW Superintendent shall deem appropriate, after the DPW Superintendent has taken one or more of the actions described above, the DPW Superintendent may impose a penalty not to exceed $5000 (depending on the severity of the violation) per violation for each day the violation remains unremedied after the receipt of the Notice of Violation.

**20.120.6.2** Any person that has violated or continues to violate this bylaw shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty per violation per day. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**20.120.6.3** Any person receiving a Notice of Violation may appeal the determination of the DPW Superintendent. The Notice of Appeal must be received within 14 days from the date of the Notice of Violation with all supplemental evidence of the violating party to be entered into record as the basis of the appeal. If the appeal is denied by the DPW Superintendent, the violating party may within five (5) days submit a Notice of Administrative Appeal to the Town Manager. No supplemental evidence will be allowed with this second appeal. Hearing on the appeal before the Town Manager or his or her designee shall take place within 30 days from the date of receipt of the Notice of Administrative Appeal. The decision of the Town Manager shall be final.

**20.120.6.4** 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 of the decision of the DPW Superintendent and/or the Town Manager upholding the Notice of Violation, then representatives of the DPW Superintendent or his or her de signee may 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 to a safe condition, the cost of which will be the obligation and responsibility of the violating party. At the discretion of the DPW Superintendent, violations will be forwarded to the Massachusetts Department of Environmental Protection for corrective action. It shall be unlawful for any person in possession of any premises to refuse to allow the governmental agency or designated contractor to enter upon the premises for the purposes set forth above.

**20.130 Cost of Abatement of the Violation**
Within 30 days after cessation of the violation, the violator and the owner of the property, if different, will be notified of the cost of the abatement, including administrative costs. The violator or the property owner may file a written protest to the DPW Superintendent objecting to the amount of the assessment with 14 days.

**20.140 Violations deemed a Public Nuisance**
In addition to the enforcement process and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this bylaw that is deemed 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. State and/or federal regulation enforcement authorities may also be solicited to aid in enforcement actions.

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

**20.160 Transitional Provisions**
Property owners shall have 30 days from the effective date of the bylaw to comply with its provisions. (Art. 27, ATM 2010)

## Chapter 21.04 MAINTENANCE OF VACANT BUILDINGS AND LAND

**Sections:**

**21.04.010 Purpose**
**21.04.020 Definitions.**
**21.04.030 Maintenance Requirements.**
**21.04.040 Inspections.**
**21.04.050 Violations and Penalties.**
**21.04.060 Unsafe Buildings.**
**21.04.070 Severability.**

### 21.04.010 Purpose.

The purposes of this bylaw are to protect the welfare and economic vitality of the residents of the Town of Tewksbury (Town) by protecting property values, maintaining neighborhood integrity and accessibility, safeguarding against economic property blight, protecting Town resources, and ensuring the safe and sanitary maintenance of all vacant properties. Among other things, vacant properties can degrade the vitality of Tewksbury's business districts, frustrate local planning and development efforts, create increased specific risks of fire damage, vandalism and unlawful entry or uses, and give rise to other public health and safety hazards. This bylaw is intended to promote the Town's public welfare and economic health by requiring all property owners to register and properly maintain vacant commercial and industrial properties.

### 21.04.020 Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

"Building Commissioner"- The Building Commissioner of the Town or his or her designee.

"Legally occupied" - Occupied in accordance with the provisions of the Massachusetts Building Code.

"Owner" - A person or entity who, alone or severally with others:

A. Has legal or equitable title to any building or has care, charge or control of any building in any capacity including but not limited to agent, executor, executrix, administrator, adminstratrix, trustee, or guardian of the estate of the holder of legal title; or

B. Is a tenant with a legal right to possess an entire building; or

C. Is a mortgagee in possession of any building; or

D. Is an agent, trustee, receiver or other person appointed by the courts and vested with possession or control of a building; or

E. Is an officer or trustee of an association of unit owners of a condominium or cooperative which contains a vacant property.

"Vacant Building" -Any unoccupied nonresidential commercial or industrial real property which:

A. Is not legally occupied, is abandoned, or is not used for a period of at least twenty-one (21) consecutive days or longer by occupants having custody or legal right of entry to such property; or

B. Which is intermittently occupied by persons with legal right of entry, but exhibits in the opinion of the Building Commissioner dilapidated walls or doors which fail to prevent the entry of a trespasser for a period of more than seven (7) days.

### 21.04.030 Maintenance Requirements.

A. The owner of a vacant building must maintain the vacant building in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes, pertaining to the external/visible maintenance of the building and major system maintenance of the property.

B. The owner of a vacant building must promptly repair all broken windows, doors, other openings and any unsafe conditions at a vacant building. Boarding up of open or broken windows and doors is prohibited except as a temporary measure, unless the Building Commissioner determines that, due to vandalism or security reasons and due to circumstances out of the owner's control, the proper boarding of windows and doors is necessary for a determined period of time. Boards or coverings must be fitted to the opening size and colored to blend with the existing building color scheme.

C. The owner must maintain the building and property for the duration of the vacancy or abandonment. The owner shall maintain the condition of the building and property so as to appear not to be vacant. Upon notice by the Building Commissioner, any accumulated trash and/or graffiti shall be removed from the property by the owner within seven (7) days. The Building Commissioner and/or his or her designee will document violations. The owner of any building vacant for a period exceeding six months, whose utilities have been shut off, shall have those utilities removed or cut and capped to prevent accidents.

D. The owner may include advertising materials in the vacant space or displayed in the vacant property's street-facing windows.

E. Compliance with this bylaw shall not relieve the owner of any obligations set forth in any other applicable bylaw, regulation, codes, covenant conditions or restrictions and/or association rules and/or regulations. In case of a conflict with these rules and regulations, the stricter of the rules and/or regulations shall apply.

**21.04.040 Inspections.**

A. The Building Commissioner, Police Chief, Fire Chief and the Health Director, or their designees, shall have the authority to periodically inspect the exterior and interior of any building subject to this bylaw for compliance.

B. The Building Commissioner shall have the discretionary authority to disconnect utilities immediately if a potential hazard that may be dangerous to life and limb is present.

**21.04.050 Violations and Penalties.**

A. Violations of any portions of this bylaw shall be punishable by a fine of $250 per day and this fine cannot be waived by any town entity.

B. The Building Commissioner or his or her designee shall enforce all provisions of this bylaw and shall institute all necessary administrative or legal action to assure compliance. Any owner found to be in violation of this bylaw shall receive a written warning and a minimum of seven (7) days to remedy all violations prior to the institution of any enforcement action by the Commissioner. The Building Commissioner, acting on behalf of the Town, may also bring a civil action in a court of competent jurisdiction seeking equitable relief to enforce this bylaw. This bylaw may also be enforced through non-criminal disposition in accordance with the provisions of the Town bylaws.

**21.04.060 Unsafe Buildings.**

If the Building Commissioner determines the building to be unsafe, the Building Commissioner may act immediately in accordance with the Massachusetts State Building Code to protect public safety. Furthermore, nothing in this bylaw shall abrogate the powers and/or duties of municipal officials to act pursuant to any general statutory authority including, without limitation, MGL c.139, § 1 et seq. and MGL c.143, § 6 et seq.

**21.04.070 Severability**

If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, such provision shall be considered separate and apart from the remaining provisions, which shall remain in full force and effect; or take any action relative thereto. (Art. 16, STM 10-1-19)

## SPECIAL ACTS PERTAINING TO TEWKSBURY

| Town Meeting or Town Election Date | Chapter | Acts Of | Subject |
|---|---|---|---|
| 1734-35 | 164 | | Order for a town meeting at Tukesbury (sic). |
| 1832 | 156 | 1832 | An act to set off a part of the town of Tewksbury, in the county of Middlesex, and annex the same to Lowell, in said county. |
| 1874 | 307 | 1874 | An act to annex a part of the town of Tewksbury to the city of Lowell. |
| 1888 | 351 | 1888 | An act to annex a portion of the town of Tewksbury to the city of Lowell. |
| 1891 | 431 | 1888 | Appointment of a Superintendent of Schools. |
| 1897 | 417 | 1893 | Voting Precincts. |
| 1898 | 548 | 1898 | Term of Selectmen. |
| 1901 | 548 §. 332 | 1898 | Authorizing the election of a highway surveyor. |
| R.L. | 102 | | Public Shows. |
| R.L. | 28 | | Public Parks. |
| R.L. | 11 | | Voting Precincts. |
| 1904 | 264 | 1904 | An act to extend the jurisdiction of the police court of Lowell into Tewksbury and other towns. |
| 1906 | 335 | 1906 | An act to provide for the annexation of a part of the town of Tewksbury to the city of Lowell. |
| 1907 | 191 | 1907 | Board of Survey. |
| 1909 | 560 | 1907 | Road Commissioners. (ART. 21) |
| 1909 | 209 | 1908 | Providing for fire protection of forest and sprout lands. |
| 1911 | 494 | 1911 | Eight Hour Day. |
| 1912 | 503 | 1912 | Pensioning Laborers. |
| 1913 | 807 | 1913 | Workmen’s Compensation. |
| 1914 | 688 | 1914 | Saturday Half Holiday. |
| 1914 | 217 | 1914 | Laborer’s Vacation. |

| Town Meeting or Town Election Date | Chapter | Acts Of | Subject |
|---|---|---|---|
| 1914 | 790 | 1914 | Party Enrollment. |
| 1915 | | 1915 | Town Meeting Date. |
| 1919 | 203 | 1919 | An act to establish the Tewksbury fire and water district. |
| 1919 | 311 | 1919 | Continuation Schools. |
| 1920 | 240 | 1920 | Sunday Sports. |
| 1921 | 591 § 27 | 1920 | Authorizing the establishment of a fire department. |
| G.L. | 44 | | Accounting System. |
| 1924 | | 1924 | Town Meeting Date. |
| 1925 | | 1925 | Official Ballots. |
| 1928 | 83 | 1928 | Death Payments. |
| 1929 | 311 | 1929 | Water Supply. |
| 1935 | 446 | 1935 | An act establishing the Merrimac River Valley Sewerage District and defining its powers and duties. (applies to Tewksbury) |
| 1937 | 2 | 1937 | An act placing under civil service laws the office of chief of police of the town of Tewksbury. |
| 1942 | 500 | 1942 | An act authorizing the laying of water pipes in the town of Tewksbury by the city of Lowell. |
| 1945 | 727 | 1945 | Equal pay for women and men Teachers. |
| | 166 | 1946 | Establish Contributory Retirement. |
| 1946 | 72 | 1945 | Organizing a district for a Department of Veteran's Services. Eliminating §tion 2. |
| 1946 | 723 § 2 | 1945 | Accept acts by town meeting vote to organize a district for Department of Veteran Services. (eliminate §. 2) (ART. 36) |
| 1947 | 653 | 1947 | Merrimac River Valley Sewerage District. |
| 1951 | 61 | 1951 | An act authorizing the Town to supply itself & inhabitants with water. YES – 559, NO 120 (ART. 1) |
| 1955 | 297 | 1954 | Authorizes towns to establish commissions to promote business and industry and to appropriate money therefore<br>YES – 172, NO 2 (ART. 46) |

| Town Meeting or Town Election Date | Chapter | Acts Of | Subject |
|---|---|---|---|
| 1959 | 41 § 111D | 1949 | An act relative to granting of vacations for members of the regular or permanent police and fire sources in certain cities and towns (ATE) |
| | 107 | 1960 | An Act authorizing Tewksbury to lay water pipes within the Town of Andover |
| 1959 | 707 | 1960 | An act authorizing the Town to appropriate money annually or periodically for the 250th Anniversary of Town (ART. 78) |
| 1960 | 493 | 1959 | Increase annually amount of pension payable to former employees YES - 267, NO - 40 (ART. 13) |
| | 401 | 1961 | An act authorizing Trustees of the Tewksbury Hospital to sell certain property of Commonwealth to Town for (Junior High) school purposes. (Approx. 15.5 acres) |
| 1961 | 14 | 1961 | An act placing certain offices and positions in the town of Tewksbury under the civil service laws and rules. YES - 1845 NO - 886 (Repealed 4481 ATE YES - 1377 NO - 162 |
| 1961 | 39 | 1961 | Provides unlimited tenure for regular or permanent numbers of the police force, not including the Chief.<br>YES - 1703 NO - 984 (ATE) |
| 1961 | 120 | 1959 | Provides for increase in the amount of pension of certain retired police officers and firefighters not having attained age of sixty at time of retirement. |
| 1964 | 297 | 1964 | An act providing life tenure for Walter Doucette, the incumbent of the office of tree warden of the town of Tewksbury. |
| 1964 | 205 | 1964 | An act authorizing Town to convey certain land (Summer St.) (6.06 acres) to the Tewksbury Housing Authority for the construction of Housing for aged citizens. (ART. 83) |
| 1966 | 486 § 14 | 1964 | Regarding pensions of retired employees.<br>YES 318 NO 55 (ART. 21) |
| 1967 | 497 | 1967 | An act conveying a certain parcel of land on Livingston Street to town for recreational purposes (approx. 27 acres) (ART. 56) |
| 1968 | | | Establishing a Conservation Trust Fund. (ART. 65)<br>(As authorized by Acts 1966, Ch 108) |
| 1968 | 86 | 1968 | An act placing certain fulltime offices and certain fulltime positions which are not subject to the civil service law in the town of Tewksbury under said law. (ATE 3-8-69) |

| Town Meeting or Town Election Date | Chapter | Acts Of | Subject |
|---|---|---|---|
| 1968 | 729 | 1968 | An act authorizing the city of Lowell and the town to enter into an agreement for the tie-in of sewer for new school in Tewksbury. (STM 7-15-68 ART. 23) |
| 1968 | 713 | 1969 | An act authorizing Town to extend a certain sewerage system (Acts 1968, Ch. 729) to Wang Lab. (STM 9-18-68 ART. 4) |
| 1969 | 86 | 1968 | Placing certain fulltime positions not subject to the Civil Service Law in the Town under said Law (except the Chief of Police applies to fulltime offices in the Fire Department, Police Department and custodial positions in the Library. YES - 2118 NO - 1711 (ATE) |
| 1971 | 734 | 1966 | Elect a Charter Commission. YES - 3224 NO – 1284 (ATE 3-6-71) |
| 1971 | 731 | 1970 | Authorized to appoint Clifford Bolton, Charles Sullivan and Leith Westaway as regular police officers. YES - 3631 NO -1010 (ATE 3-6-71) |
| | 329 | 1971 | An act authorizing the Commonwealth to convey a certain parcel of land (Maple St.) to the Tewksbury Housing Authority. (Revert back to Commonwealth, Acts 1973, Ch. 827) |
| 1972 | 734 | 1966 (Not accepted) | Approval of Town Charter YES - 2617 *No - 2930 (ATE 3-4-72) |
| 1972 | 486 Ch 10 §. 39 | 1971 | Licenses for Beano. YES 4320 NO 1315 (ATE) |
| 1972 | 835 | 1970 | Adopt as amended: relative to a career incentive pay program for regular fulltime police officers, provided said collegiate work is related to the duties of a police officer. YES 421 NO 128 (Art 6) |
| 1973 | 220 § 2 | 1972 | Town may enter into an agreement with other cities or towns to provide mutual aid programs for police departments. YES 366 NO 40 (ART. 26) |
| 1973 | Provisions of 889 | 1971 | Additional compensation for assessors or asst. assessors who have completed certain courses of study. YES 127 NO 89 (ART. 84) |
| | 812 | 1972 | An act authorizing the Commonwealth to convey a certain parcel of land on North St. for school building purposes. (Approx. 90 acres) (Repealed by Acts 1973, Ch. 811) |
| | 827 | 1973 | An act authorizing Commonwealth to convey a certain parcel of land (Livingston St.) (6.79 acres) to the Tewksbury Housing Authority in exchange for certain other land. Elderly housing (Acts 1971, Ch. 329) |

| Town Meeting or Town Election Date | Chapter | Acts Of | Subject |
|---|---|---|---|
| | 811 | 1973 | An act authorizing the Commonwealth to convey certain land (North St. area & East St.) for school building purposes. (Approx. 90 acres) (Acts 1972, Ch. 812 is now repealed) |
| 1973 | 850 | 1973 | An act authorizing the Town to rescind its acceptance of the town relative to certain payment of certain costs for Group Life and Health Insurance coverage for retired teachers. (ART. 25) (Rescind acceptance of MGL Ch. 32B, §t. 11E by Selectmen vote) |
| | 1216 | 1973 | An act authorizing Commonwealth to convey certain parcel of land on East St. (1.274 acres) and to grant certain easements over certain land for sewer purposes. |
| 1973 | 707 | 1974 | An act authorizing the Town to transfer certain parcel of land on Livingston St. (1.876 acres) to the Housing Authority. (ART 35) |
| 1974 | 400 | 1974 | Authorizing Selectmen to act as Board of Public Works (3574 ATM Art. 11) (1976 ATM Art 23 Public Works ByLaw) |
| 1975 | 66 | 1975 | Positions under Civil Service; Fire Dept.; mechanic, ambulance attendant, alarm maintenance, Fire Lieutenant.<br>YES 2878 NO 865 (ATM) |
| | 744 | 1975 | An act authorizing the Trustees of the Tewksbury Hospital to lease certain water rights (#2 field on Pond St.) to the Town. |
| | 840 | 1977 | An act authorizing the Commonwealth to convey to Town a certain parcel of land on Chandler St. (approx. 3 acres) for a Senior Citizen Educational Drop-in Center |
| 1979 | 779 | 1979 | Accept from Commonwealth of Massachusetts a parcel of land 3.5 acres for police station East St. (ATM ART. 40) |
| 1978 | 808<br>Ch. 40A | 1978 | "The Zoning Act." YES 58 NO 25 (S/B ART. 60) |
| | 284 | 1979 | An act authorizing the Commonwealth to grant certain temporary and permanent easements over certain land to the Town. |
| 1978 | 446 | 1979 | Tenure of Office, William McMenimen, Director of Public Health. (ART. 47) |
| 1979 | 61 | 1980 | An act exempting Confidential Secretary and Senior Civil Engineer in the DPW from provisions of Civil Service Law and Rules. (ART 25) |
| 1979 | 37 | 1980 | An act permitting Roger J. Tanguay to take a Civil Service Exam for Police Officer in the Town of Tewksbury. (ART. 60) |

| Town Meeting or Town Election Date | Chapter | Acts Of | Subject |
|---|---|---|---|
| 1979 | 112 | 1980 | An act relative to the funding of salaries during July and August to teachers and other School Dept. professional employees. (ART. 4) |
| | 493 | 1979 | An act authorizing the Dept. of Public Health to convey certain land (Livingston St.) (5 acres) to Tewksbury Housing Authority. |
| 1981 | 14 | 1961 | Revoke: Acts 1961, Ch. 14, placing certain full time positions under civil service. YES - 1377 NO - 162 (ATE) |
| 1981 | 341 | 1981 | Town to obtain water from Merrimac River<br>Approved July 17, 1981 (STM 4-23-81 ART. 5) |
| 1981 | 61 | 1982 | Authorizing the town to sell and convey for residential purposes, land held for conservation purposes on Maple Road and Heath Street. (ATM ART. 33) |
| 1982 | 382 | 1982 | Extend issuance of notes for sewer construction from 10/22/82 to 10/22/83. |
| 1982 | 511 | 1982 | Permanent civil service status to members of the Department of Public Works: G. DeRoche, R. Westaway, W. Chandler, Jr., K. Ryan, and E. Doherty. (STM 6-21-82 ART. 10) |
| 1982 | 743 § 1 | 1981 | Regulates real estate tax exemptions.<br>YES - 121 NO - 17 (STM 6-21-82 ART. 17) |
| 1983 | 41 | 1983 | Town to contract for a supply of water (Deep Rock Wells)<br>(STM 9-27-82 ART. 2) |
| 1983 | 593 | 1983 | An act to convey to Conservation Commission lots adjacent to Long Pond for recreational purposes. (STM 8-26-81 ART. 11) |
| 1983 | 600 | 1983 | Tewksbury and city of Lowell to enter into contracts for the sale and the purchase of water (STM 7-28-83 ART. 3) |
| 1984 | 287 | 1983 | Commonwealth to convey a parcel of land on North Street and behind the North Street School to Town. (approx. 40 acres)<br>(ATM 1983 ART. 11) |
| 1984 | 305 | 1984 | An act permitting Francis Pappas to take the civil service exam for policeman notwithstanding the maximum age requirement.<br>(STM 12-12-83 ART. 8) |
| 1985 | 27 | 1985 | Exempt the position of Junior Engineer Aide from provisions of the Civil Service Law. (STM 11-14-84 ART. 9) |
| 1985 | 158 | 1985 | Provide for civil service status for Mary Ellen Barry as Policewoman Stenographer in the Police Department<br>(STM 11-15-84 ART. 25) |

| Town Meeting or Town Election Date | Chapter | Acts Of | Subject |
|---|---|---|---|
| 1985 | 214 | 1985 | An act to extend the time which the town may commence construction of the police station before the Title reverts back to the Commonwealth. (Amend Chapter 779, Acts of 1979, Line 18, strike out “5” insert “10”.) (ATM 1985 ART. 15) |
| 1985 | 503 | 1985 | Authorizes Gerald Colton to take the civil service examination for firefighter notwithstanding the maximum age requirement. (STM 10-7-85 ART. 13) |
| 1985 | 779 | | Commonwealth grant certain easements for sewer purposes. RESOLUTION (ATM 10-7-85) |
| 1986 | 188 § 13 | 1985 | Supplementing teachers compensation. YES - 315 NO - 22 (STM 1-21-86 ART. 8) |
| 1986 | 188 § 13 | 1985 | Supplementing teachers compensation (Shawsheen Reg. Voke) YES 203 NO 12 (STM 1-21-86 ART. 9) |
| 1986 | | 1986 | Selectmen Town Manager form of Government. YES - 1075 NO - 197 (STE) |
| 1986 | 275 | 1986 | Establishing a Selectmen Town Manager form of government. Establish Town Charter (STM 5-6-86 ART. 1) |
| 1987 | 671 | 1987 | Establish a Reserve Police Force (STM 9-28-87 ART. 12) |
| 1987 | 264 § 1 | 1987 | Exempting position of Building Inspector from Civil Service Law. (STM 5-6-87 ART. 2) |
| 1987 | 314 | 1993 | Conveyance of hospital land (expansion of baseball facilities. (STM 1-21-87 Art. 11) |
| 1987 | 336 | 1987 | Amendments relative to Selectmen Town Manager form of government. Town Charter (ATM 1987 ART. 17) |
| 1987 | 448 § 1 | 1987 | Relative to Office of Deputy Police Chief. (STM 1-21-87 ART. 5) |
| 1988 | 152 § 13A | 1988 | Relative to appointment of Building Commissioner and Assistant Building Commissioner. (STM 2-17-88 ART. 6) |
| 1990 | 306 | 1987 | Charge fees for municipal lien certificates on a sliding scale based on the type of property. (STM 10-22-90 ART. 15) (Amends MGL Ch. 60 § 23) |
| 1991 | 653 § 41 | 1989 | Quarterly Tax Bills (ATM 5-8-91 ART. 16) |
| 1991 | 291 | 1990 | Receive enhanced 911 telephone emergency service. (ATM 5-15-91 ART. 19) |

| Town Meeting or Town Election Date | Chapter | Acts Of | Subject |
|---|---|---|---|
| 1992 | 336 | 1991 | Teachers' Summer Pay Deferral and Amortization. (ATM 5-7-92 ART. 16) |
| 1993 | 399 § 1 | 1992 | Early retirement incentive program. (STM 2-8-93 ART. 1) |
| 1995 | 153 | 1995 | Commonwealth to convey parcel of land Chandler St. and Main St. Construction of new public library; by Aug. 1, 2001. (STM 10-12-95) |
| 1994 | 71 | 1993 § 83 | Early retirement incentive program/teachers (ATM S294 ART. 20) |
| 1994 | 151 | 1993 § 28 | School building lease/rental monies (ATM 5-4-94 ART. 21) |
| 1994 | 232 | 1995 | Foster School lease (STM May ART. 6) |
| 1994 | 229 | 1995 | Trust fund commissioners appointed (ATM 5-94 ART. 23) |
| 1995 | 60 | 1995 | Accept certain streets |
| 1995 | 254 | 1996 | Lease of land skating rink and recreations (ATM 5-95 ART. 21) |
| 1996 | 301 | 1996 | Street acceptance (ATM 5-96 ART. 13) |
| | 275 | 1994 | Division of capital planning and operations to convey certain land located in the Town of Tewksbury (Livingston St. area) (For recreational purposes, outdoor cultural, skating and other purposes) |
| | 207 | 1997 | Authorizing the town of Tewksbury to convey certain land Map 48 Lot 79 (Washington St.) Proceeds from sale for payment of the water plant expansion. |
| 1998 | 108 | 1999 | G. Cullen, civil service exam, firefighter, maximum age requirement |
| 1999 | 376 | 2000 | Accept certain streets |
| 2000 | 30 | 2001 | Accept town ways (ATM, 5-1-00, Art. 4 - 27) |
| 2000 | 36 | 2001 | Land swap—lot line relocation conservation/open space land (Eagle's Land Development) (STM, 12-13-00, Art. 7) |
| 2002 | 219 | 2002 | Commonwealth grant an Easement on Livingston St. to Tewksbury Housing Authority |
| 2002 | 251 | 2002 | Commonwealth exchange certain land to Town for cemetery & recreational purposes |
| 2002 | 345 | 2002 | Retirement of certain town employees (Police & Fire departments) |
| 2002 | 474 | 2002 | Compensation of Assessors |

| Town Meeting or Town Election Date | Chapter | Acts Of | Subject |
|---|---|---|---|
| 2002 | 506 | 2002 | Paul Thomas to be placed on Civil Service list for Police Officer |
| 2002 | 105 | 2003 | Affordable Housing Trust Fund |
| 2003 | 145 | 2003 | Board of Health from 3 members to 5 members |
| 2004 | 130 | 2004 | Utility Right-of-Way (Mill St./Bradford Rd.) Authorization to construct sewers under Art. 97 |
| 2011 | 59 | 2011 | Authorizes shift 50% of the sewer debt to the tax levy. |
| 2011 | 57 | 2012 | The Town Manager shall appoint the Town Clerk (STM 10-4-11) |
| 2011 | 116 | 2013 | An Act relative to a lease agreement between the Division of Capital Asset Management and Maintenance and the Tewksbury Hospital Equestrian Farm, Amends Chapter 296 of the Acts of 2006 |
| 2014 | 213 | 2014 | Authorizes the Division of Capital Asset Management and Maintenance to grant a sewer easement under Livingston Street recreational fields. |
| 2014 | 223 | 2014 | Authorizes the Division of Capital Asset Management and Maintenance to sell or lease a portion of state owned land located on the easterly side of Livingston Street near the Livingston recreational fields for recreational and open space purposes. |
| 2014 | 229 | 2014 | Authorizes the Division of Capital Asset Management and Maintenance to lease certain land to the Strongwater Farm Therapeutic Equestrian Center, Inc., Amends Chapter 296 of the Acts of 2006 |
| 2018 | 359 | 2020 | An Act authorizing the Town of Tewksbury to grant 7 additional licenses for the sale of alcoholic beverages to be drunk on the premises |

## TOWN'S ACCEPTANCE OF GENERAL LAWS

| Town Meeting/or Election Date | Means | Gen. Law | Purpose |
|---|---|---|---|
| 1874 | Town Meeting | Ch. 18 | Provides the selectmen of each Town may at any time appoint Police Officers. |
| 1893 | | Ch. 27 § 64-69 | Public statutes providing for the election of members of the Board of Selectmen. |
| 1897 | | Ch. 417 § 101 Stat/1893 | Authorizing division of the town into convenient voting precincts. |
| 1904 | | Ch. 102 § 172 | Revised laws authorizing board of selectmen to grant licenses to public parks. |
| 1905 | | Ch. 28 § 114 | Authorizing cities and towns to lay out public parks. |
| 1930 | Art. 22 | Ch. 41 § 45 | Establishing a board of commissioners of trust funds. |
| 6-6-45 | Art. 3 | Ch. 39 § 20 | Providing for the separation of the annual town election from the town business meeting. |
| 1-15-46 | O/B | Ch. 32 § 1-28 (inc) | Authorizes town to establish a contributory retirement system for its employees, except teachers. YES 941 NO 267 |
| 2-4-48 | Art. 39 | Ch. 41 § 81A-81Y | Establishes Planning Board. |
| 2-25-48 | Art. 53 | Ch. 140 § 132 1-36 (inc) | Smoke nuisance. Repealed by Ch. 672 Acts 1954. |
| 1950 | Art. 62 | | Accepted G.L. provision installing system by State Director of Accounts. |
| 2-21-51 | Art. 47 | Ch. 48 § 43 | Fire Chief; Role as forest warden. |
| 2-21-51 | Art. 48 | Ch. 48 § 44 | Fire Department: Application of General Laws Ch. 48, Sect 424344. |
| 2-20-52 | Art 52 | Ch. 143 § 3-12 (inc) | Pertaining to the establishment of a code of Building Laws. |
| 2-20-52 | Art 53 | Ch. 143 § 3 | Adopt a code of Building Laws and provisions for their enforcement. |
| 2-16-55 | Art 25 | Ch. 40 § 42A-42F (inc) | Collection of delinquent water charges through application of a lien on real estate. |
| 3-7-56 | S/B Art 12 | Ch. 41 § 100A | To indemnify an officer or employee for expenses or damages caused by town owned vehicles or property. YES 375 NO 35 |

| Town Meeting/or Election Date | Means | Gen. Law | Purpose |
|---|---|---|---|
| 3-11-59 | O/B ATE | Ch. 41 § 111D | An act relative to granting of vacations for members of the regular or permanent police and fire forces in certain cities and towns. |
| 1959 | Art. 17 | Provisions of Ch. 41 § 108A & 108C | Establishing a Personnel Board. (3 yr. term). |
| 3-19-60 | S/B Art 20 | Ch. 54 § 103A | Provides for absentee voting at town elections. YES 237 NO 40 |
| 3-19-60 | Art 21 | Ch. 41 § 1 | Authorize Town Treasurer to act as Town Collector. |
| 3-19-60 | S/B Art 25 | Ch. 40 § 8C | Provides for the establishment of a Conservation Commission. |
| 3-19-60 | Art 28 | Ch. 40 § 5B | Establishing a Stabilization Fund. |
| 3-12-60 | O/B ATE | CH. 147 § 16C | Five day week for members of Police Force. YES 1599 NO 1142 |
| 3-12-60 | O/B ATE | Ch. 32B § 10 | Authorizes town to provide a plan of group life insurance and medical insurance for certain persons in service of town. YES 1514 NO 1187 |
| 3-3-62 | Art 84 | Provisions of Ch. 40B | Authorizing town to become member of Lowell Regional Planning District. |
| 3-2-63 | S/B Art 87 | Ch. 41 § 108F | Minimum annual salary of each firefighter permanently employed in the Fire Department. YES 203 NO 148 |
| 12-31-62 | | Ch. 32 § 56-59 (inc.) | Retirement allowances; Veterans, town employed. Board of Selectmen; under authority contained in Chap. 297, Act of 1961, voted, unanimously in favor, to accept on 12-31-62. |
| 3-9-63 | O/B ATE | Ch. 32B § 11B | Extend contributory health insurance to elderly persons retired from the service of the town and their departments. YES - 1195 NO - 1049 |
| 3-9-63 | O/B ATE | Ch. 32B § 9A | Town to pay ½ premium costs payable by a retired employee for life insurance and medical insurance. YES - 1117 NO - 1094 |
| 3-2-63 | Art 35 | Ch. 121 § 26K | Establishing a Housing Authority. |
| 3-7-64 | S/B Art 2 | Ch. 41 § 108G | Minimum annual salary of each regular police officer of the Police Department. YES - 141 NO - 370 |
| 3-30-64 | S/B Art 90 | Ch. 147 § 32-47 (inc.) | Licensed boxing matches. YES - 280 NO - 45 |
| 10-25-65 | S/B Art 8 | Ch. 71 § 16-16I (inc.) | Provisions provide for the establishment of a regional school district. YES - 461 NO - 61 |

| Town Meeting/or Election Date | Means | Gen. Law | Purpose |
|---|---|---|---|
| 3-28-66 | S/B Art 14 | Ch. 40 § 22D | Removal of vehicles illegally parked or interfering with snow removal operations. YES - 182 NO - 53 |
| 3-7-66 | V/V Art 16 | Ch. 90 § 18A | Pedestrian Control Standards. |
| 3-7-66 | S/B Art 22 | Ch. 74 § 16-16I (inc.) | Establish a regional school district with Bedford, Billerica, Burlington, Tewksbury and Wilmington. YES - 361 NO - 39 |
| 3-20-67 | S/B Art 57 | Ch. 45 § 15 | Requires certain towns to provide public playgrounds. YES - 211 NO - 31 |
| 3-20-67 | S/B Art 66 | Ch. 40A § 20 | Unfavorable action by the Board of Appeals cannot be reconsidered within 2 years of the unfavorable action except with consent of all members of the Planning Board. YES - 168 NO - 84 |
| 3-24-69 | S/B Art 28 | Ch. 94 § 120 & 120A | License fees for slaughtering certain animals set by the Selectmen. YES - 303 NO - 25 |
| 3-18-70 | S/B Art 3D | Ch. 40§ 6B | Uniforms for Police and Fire Departments. YES - 383 NO - 115 |
| 4-13-70 | S/B Art 65 | Ch. 41 § 108I | Members of the Police Department after 1 year of photographic or fingerprinting work will receive a salary of $600.00 a year as long as he does such work. YES - 108 NO - 74 |
| 1-15-68 | O/B S/E | Ch. 48 § 58D | 42 hours work week for permanent members of the Fire Department. YES - 4718 NO - 2326 |
| 3-4-72 | A/T/E | Ch. 10 § 39 | Licenses for Beano. YES - 4320 NO - 1315 |
| 3-7-72 | S/B Art 6 | Ch. 41 § 108L | Adopt as amended: "relative to a career incentive pay program for regular full time police officers, provided said collegiate work is related to the duties of a police officer." YES - 421 NO - 128 |
| 3-8-72 | S/B Art 22 | Ch. 40 § 8D | Establish a Historic Commission 5 members appointed by the Selectmen. YES - 376 NO - 54 |
| 3-4-74 | S/B Art 16 | Ch. 40 § 6H | Private ways; repairs; immunity. YES - 230 NO - 25 |
| 6-10-74 | S/B Art 3 | Ch. 85 Sec 11A | Requires registration of bicycles. YES - 145 NO - 97 |
| 11-13-74 | S/B Art 3 | Ch. 41 § 100G | Payment of funeral and burial expenses of Firefighters and Police Officers killed in performance of duties. YES - 260 NO - 60 |
| 5-5-75 | S/B Art 63 | Ch. 71 § 82-86 (inc) | Rights and responsibilities of public secondary school students. YES - 205 NO - 149 |
| 4-5-75 | O/B ATE | Ch. 271 § 6B | Beano. YES - 3497 NO - 865 |

| Town Meeting/or Election Date | Means | Gen. Law | Purpose |
|---|---|---|---|
| 5-3-76 | ATM Art 8 | | Accept Town Bicentennial Flag as Official Town flag to be flown at all official town functions. Designed by Mrs. Peg Stetson. |
| 5-5-77 | ATM Art 26 | Ch. 40D § 3 | Establishes the Industrial Development Finance Authority. Board of Selectmen to appoint 5 members. |
| 5-1-78 | S/B Art 36 | Ch. 32 § 99 | Advance payments to Retirees. YES - 133 NO - 58 |
| 5-1-78 | S/B Art 37 | Ch. 32B § 7A | Additional or subsidiary rates to be paid for health insurance by the municipality. YES - 125 NO - 47 |
| 5-1-78 | S/B Art. 60 | Ch. 40A | "The Zoning Act". YES - 58 NO - 25 |
| 5-3-82 | S/B Art 37 | Ch. 32B § 11A | To increase life insurance, no additional premium to be paid by the Town. YES - 116 NO - 26 |
| 5-3-82 | S/B Art 58 | Ch. 40 § 4G | Increase public bidding purchase of equipment, supplies or materials to $4,000.00. YES - 130 NO - 43 |
| 6-21-82 | S/B Art 17 | Ch. 59 § 5 Clause 17C | Regulates real estate tax exemptions. (Ch. 743 Acts 1981) |
| 6-21-82 | S/B Art 18 | Ch. 90 § 20A1/2, 20C, 20D | Parking Clerk, fines and collection of fines. YES - 83 NO - 19 |
| 4-2-83 | O/B ATE | Ch. 258 § 13 | Indemnify elected and appointed officials. YES - 1469 NO - 1394 |
| 6-25-83 | O/B STE | Advisory Ref. Question | Local option Sunday opening package stores. YES - 1610 NO - 1478 |
| 11-6-84 | O/B S/E | | "Shall the public water supply for domestic use in Tewksbury be fluoridated?" YES - 6196 NO - 3994 |
| 5-7-84 | S/B Art 16 | Ch. 138 § 12B | No license, licensed under Ch. 138 § 12, shall permit any person to expose private areas. |
| 5-7-84 | S/B Art 29 | Ch. 59§ 5 Clause 37A | Real estate exemption for the blind. (Ch. 258, Acts 1982) |
| 5-7-84 | S/B Art 30 | Ch. 60A § 1 | Motor vehicle exemption for former prisoner of war. (Ch. 597, Acts 1982) |
| 5-7-84 | S/B Art 31 | Ch. 59 § 5 Clause 41B | Real estate exemption: An act providing relief from the impact of reevaluation. (Ch. 653, Acts 1982) |
| 5-7-84 | S/B Art 54 | Ch. 71 § 71E | Appropriations for and expenditures of receipts from adult education and continuing education programs. |

| Town Meeting/or Election Date | Means | Gen. Law | Purpose |
|---|---|---|---|
| 4-13-85 | O/B ATE | Ch. 32B | "Shall the Town purchase group life, accidental death and dismemberment insurance for its employees in accordance with M.G.L., Ch. 32B, with no premium contribution by the Town?" YES - 1133 NO - 666 |
| 5-5-86 | S/B Art 11 | Ch. 64G § 3A | Impose a 4% lodging room excise tax. (Eff. 7-1-86) YES - 330 NO - 140 |
| 5-8-86 | S/B Art 17 | Ch. 83 §16A-16F (inc.) | Provides for collection of delinquent Sewer charges via a lien on real estate. YES - 308 NO - 39 |
| 4-4-87 | O/B ATE | | Town pay ½ premium health insurance, etc. for surviving spouse or retired employee. |
| 9-28-87 | S/B Art 15 | Ch. 41 § 41B | Direct bank deposits for town employees. YES - 132 NO - 19 |
| 2-17-88 | S/B Art 11 | Ch. 148 § 26G | Automatic Sprinklers not otherwise regulated. YES - 108 NO - 12 |
| 5-2-88 | S/B Art 25 | Ch. 32B § 9D | Town paying percentage of insurance premium for surviving spouse of a deceased employee. |
| 5-2-88 | S/B Art 27 | Ch. 32B § 10A | Implementing a dental plan for town employees. |
| 5-1-89 | S/B Art. 34 | Ch. 59 § 5 Cl. 17D | Further regulating real estate exemptions. YES - 206 NO - 20 |
| 5-1-89 | S/B Art. 35 | Ch. 59 § 5 Cl. 41C | Further regulating real estate tax exemptions. YES - 185 NO - 7 |
| 5-3-89 | S/B Art. 39 | Ch. 40 § 57 | Allow the Town to deny any application for or revoke or suspend any local license or permit issued for any person, corporation or business who has neglected or refused to pay any local taxes, fees, assessments, or any other municipal charges. YES - 138 NO - 35 |
| 5-3-89 | S/B Art. 6 | Ch. 148 § 26C | Requiring smoke or heat detectors for dwellings not otherwise regulated. YES - 57 NO - 14 |
| 5-3-89 | S/B Art. 7 | Ch. 148 § 26H | Requiring automatic sprinklers in boarding houses. |
| 5-9-90 | S/B Art. 23 | Ch. 148 § 26I & 34 | Installation of automatic sprinkler systems. YES - 139 NO - 48 |
| 5-9-90 | S/B Art. 24 | Ch. 148 § 38A | Underground gasoline tanks. YES - 130 NO - 7 |
| 10-22-90 | S/B Art. 15 | Ch. 60 § 23(See Ch. 306 Acts of 1987) | Charge fees for Municipal Lien Certificates on a sliding scale based on the type of property. YES - 222 NO - 31 |

| Town Meeting/or Election Date | Means | Gen. Law | Purpose |
|---|---|---|---|
| 5-8-91 | S/B Art. 47 | Ch. 40 § 21D | Non-Criminal Disposition of By-Law Regulation YES - 144 NO - 25 |
| 5-8-91 | S/B Art. 16 | Ch. 59 § 57C | Quarterly Tax Bills. (Act 1989 Ch. 653 - Sect. 41) YES -141 NO - 72 |
| 5-6-92 | S/B Art. 5 | Ch. 32B § 18 | Medicare extension plans. Mandatory Transfer of Retirees YES - 61 NO - 7 |
| 5-4-92 | S/B Art. 33 | Ch. 41 § 38A | Allow the Tax Collector power to collect accounts due the Town YES - 260 NO - 42 |
| 11-18-93 | S/B Art. 3 | Ch. 90 § 22B Subsect. (b) to (k) | Abandonment of a motor vehicle YES - 76 NO - 4 |
| 5-1-95 | S/B Art. 22 | Ch. 44 § 53D | Recreation advanced reservations. YES - 108 NO - 8 |
| 5-1-95 | S/B Art. 26 | Ch. 60 § 2, paragraph 2 | Abatement of tax less than ten dollars. YES - 165 NO - 27 |
| 1996 ATM | S/B Art. 11 | Ch. 40 § 21B | Establish a personnel relations review board. YES - 104 NO - 38 |
| 5-9-96 | S/B Art. 19 | Ch. 32b § 9D½ | Additional rate insurance for surviving spouse YES - 45 NO - 2 |
| 1996 ATM | S/B Art. 11 | Ch. 41 § 108A & 108C | Rescind: Establishing a personnel board (1959). |
| 1997 ATM | S/B Art. 19 | Ch. 140 § 147A | Regulation of dogs/animals. Enact by laws, set and collect fees YES - 150 NO - 10 |
| 1998 | Town Manager | Ch. 40 § 39J | Water pricing system; definition of costs acting as Water Commissioner and Board of Public Works. |
| 1999 STM | Art. 3 | Ch. 44 § 53D | Recreation revolving fund. |
| 5/1/00 | Art. 4-26 | Ch. 40 § 22F | Certain municipal officers and boards to fix reasonable fees for services and licenses. |
| 5/1/00 | Art. 7 | Ch. 41 § 108P | Additional compensation for certified Treasurers and Collectors. |
| 5/1/00 | Art. 10 | Ch. 41 § 19K | Additional compensation for certified Town Clerks. |
| 5/1/00 | Art. 11 | Ch. 31 § 61A | Police officer and firefighter health and physical fitness standards; age of the police officer or firefighter. |
| 5/1/00 | Art. 11 | Ch. 31 § 61B | Wellness program for police officers and firefighters. |
| 10/1/02 | Art. 2 | Ch. 44 § 53F ½ | Establish Sewer Enterprise Fund. |

| Town Meeting/or Election Date | Means | Gen. Law | Purpose |
|---|---|---|---|
| 10/1/02 | Art. 7 | Ch. 60 § 3D | Voluntary contribution to defray the Real Estate taxes of elderly and disabled persons. |
| 10/7/03 | Art. 13 | Ch. 60 § 3C | Scholarship Fund. |
| 3/22/05 | Selectmen Meeting | Ch. 32B § 19 | Health carriers; contracts; public employees committees agreements with public authorities. |
| 5/2/05 | Art. 43 | Ch. 44B § 3-7 (inc) | Community Preservation Act. |
| 5/2/05 | Art. 6 | Ch. 44 § 53F ½ | Water Enterprise Fund (July 1, 2005). |
| 5/2/05 | Art. 32-6 | Ch. 44 § 53E ½ | Revolving GIS Fund Geographical Information System. |
| 5/2/05 | Art. 32-7 | Ch. 44 § 53E ½ | Revolving Fund Street & Traffic Regulatory Signage. |
| 5/7/07 | Art. 33-1 | Ch. 44 § 53E ½ | Revolving Fund Recreation Department (Summer Programs). |
| 5/9/07 | Art. 7 | Ch. 39 § 23D | Adjudicatory Hearing. |
| 10/2/07 | Art. 17 | Ch.59 § 5L | Deferral of Taxes Due. |
| 5/5/08 | Art. 32-8 | Ch. 44 § 53E ½ | Revolving Fund for Council on Aging. |
| 10/7/08 | Art. 7 | Ch. 44 § 53E ½ | Revolving Fund for Emergency 72 Hour Go Kits. |
| 5/5/09 | Art. 13 | Ch. 44 § 53E ½ | Revolving Fund for Preservation of Historical Records. |
| 10/6/09 | Art. 22 | Ch. 80 § 13B | Deferral of Betterment Assessments (Elderly Homeowners). |
| 10/6/09 | Art. 24 | Ch. 32B § 20 | Other Post-Employment Benefits (OPEB) Liability Trust Fund. |
| 5/3/10 | Art. 32-3 | Ch. 152 | Workers Compensation. |
| 10/5/10 | Art. 7 | Ch. 44 § 53E ½ | Revolving Fund for Stormwater & Drainage System Program. |
| 10/5/10 | Art. 14 | Ch. 41 § 110A | Office Closing on Saturday. |
| 5/2/11 | Art. 19 | Ch. 64L § 2 | Increase Meals Tax to 7%. |
| 5/2/11 | Art. 20 | Ch.64G § 2 | Increase Room Occupancy Tax to 7%. |
| 5/9/12 | Art. 39 | Ch 54 § 16A | Town Clerk may fill vacancy of Absent Election Officer. |
| 10/2/12 | Art. 13 | Ch 59 § 5K | Establish a property tax work off program for taxpayers over the age of 60 |

| Town Meeting/or Election Date | Means | Gen. Law | Purpose |
|---|---|---|---|
| 10/2/12 | Art. 14 | Ch 59 § 5N | Establish a property tax work off program for taxpayers who are Veterans |
| 5/6/13 | Art. 16 | Ch. 44 § 53E ½ | Revolving Fund for revenues & expenses related to operation of solid waste, recycling, and household hazardous waste programs |
| 5/6/13 | Art. 17 | Ch. 44 § 53E ½ | Revolving Fund for revenues & expenses related to fire hydrant markers |
| 5/8/13 | Art. 5 | Ch. 44 § 53E ½ | Revolving Fund for revenue and expenses related to improving energy efficiency of Town and School buildings, equipment, and infrastructure. |
| 10/1/13 | Art. 21 | Ch. 138 § 12 | Allows a holder of a malt and wine license to also sell liqueurs and cordials with BOS approval |
| 10/6/15 | Art.16 | Ch. 59 § 5 Clause 5C | Provides for a tax exemption of up to $1,500,000 in value for eligible non-profit Veterans organizations |
| 5/2/16 | Art. 13 | Ch. 44 § 53F ½ | Authorizes Cable Television Public Access Enterprise Fund |
| 10/2/18 | Art. 15 | Ch. 40U | Authorizes adoption of procedures regarding unpaid non-criminal bylaw violations |
| 5/6/19 | Art. 21 | Ch. 90, §17C | Authorizes the Board of Selectmen to establish a speed limit of 25 miles per hour in thickly settled or business districts |
| 10/1/19 | Art. 10 | Ch. 44, § 53F½ | Authorizes Stormwater Management Operations Enterprise Fund |

**BYLAW LIST AND DISPOSITION TABLE**

| Election Date | Article | Description |
|---|---|---|
| ATM 1990 | 33 | Repeals prior code Art. IX, §§ 10 and 14; Art. X, § 1and 7 [§ 2.08.010, 13.08.010] (Repealed) |
| STM 1991 | 8 | Amends prior code Art. VI, § 13 [12.04.265], sewer connection fee (Repealed by Art. 23, ATM 1992) |
| ATM 1991 | 13 | Amends prior code Art. III, § 7 [3.04.080], personal property dispersal (3.04) |
| ATM 1991 | 14 | Amends prior code Art. V, §§ 2 and 3 [§§ 2.28.020, 2.28.030] service contracts (2.28) |
| ATM 1991 | 15 | Amends prior code Art. IX, § 9 [3.12.010], property taken under tax Title procedures (3.12) |
| ATM 1991 | 22 | Adds prior code Art. 22 [Ch. 8.20], Long Pond (8.20) |
| ATM 1991 | 30 | Adds prior code Art. XV [Ch. 18.04], conservation commission wetlands protection (18.04) |
| ATM 1991 | 34 | Amends prior code Art. I, § 1 [§ 2.12.020], town meetings (2.12) |
| ATM 1991 | 36 | Amends prior code Art. IV, § 3A [§ 2.20.035], capital outlay fund (Repealed by Art. 35, ATM 1995) |
| ATM 1991 | 45 | Adds prior code Art. XVI [§ 8.24.020], handicapped parking (8.24) |
| ATM 1991 | 48 | Repeals and replaces prior code § 19 of Art. VI [repeals § 12.04.080 and adds § 8.24.010], snow and ice removal (8.24) |
| ATM 1991 | 49 | Adds prior code Art. XIV, § 7 [8.24.030], fire lanes (8.24) |
| ATM 1991 | 53 | Amends prior code Art. I, § 1 [§ 2.04.010], town meeting (Repealed by Art. 30, ATM 1998) |
| ATM 1991 | 54 | Rezone (Special) |
| STM 1992 | 5 | Adds § 9.04.031, low alcoholic beer (9.04) |
| ATM 1992 | 7 | Adds prior code § 4 to Art. V [§2.28.040], leasing agreements (2.28) |
| ATM 1992 | 14 | Adds prior code § 17 to Art. VI [§ 13.12.010], solid waste comingling (13.12) |
| ATM 1992 | 19 | Repeals and replaces prior code §§ 4, 5, 8 and 15 of Art. XVI [§ 8.20.010], Long Pond (8.20) |
| ATM 1992 | 23 | Repeals and replaces prior code Art. VI, § 13 [12.04.265], sewer connection fee (12.04) |
| ATM 1992 | 34 | Code adoption (1.01) |
| ATM 1993 | 19 | Amends Art. IV, § 3 (F) [§ 2.20.080], budget (Repealed by Art. 32, ATM 1994) |
| ATM 1993 | 20 | Amends prior code Art. IV, § 2 [§§ 2.20.020, 2.20.080], town meeting (Repealed by Art. 32, ATM 1994) |
| ATM 1994 | 7 | Amends § 3.04.020, licensing authority (3.04) |

| Election Date | Article | Description |
|---|---|---|
| ATM 1994 | 30 | Adds Ch. 18.06, wet area and watershed conservancy district (18.06) |
| ATM 1994 | 32 | Amends §§ 2.20.035 and 2.20.090; repeals and replaces §§ 2.20.020, 2.20.030, 2.20.040 and 2.20.080, finance committee (Repealed by Art. 35, ATM 1995) |
| ATM 1994 | 33 | Amends § 6.04.010, dogs (Repealed by Art. 21 ATM 1997) |
| ATM 1995 | 23 | Adds § 3.08.041, recreation advance reservations (Repealed by Art. 3, STM 1999) |
| ATM 1995 | 29 | Amends § 2.04.020, town meeting (Repealed by Art. 30, ATM 1998) |
| ATM 1995 | 35 | Repeals and replaces Ch. 2.20, finance committee (Repealed by Art. 39, ATM 1999) |
| STM 1995 | 21 | Adds Ch. 15.12, demolition of historic buildings (15.12) |
| ATM 1996 | 27 | Amends § 12.04.050, streets (12.04) |
| STM 1996 | 9 | Amends § 18.04.060, conservation commission wetlands protection (18.04) |
| STM 12-8-97 | 13 | Amends § 18.04.060, septic system repair (18.04) |
| STM 5-7-97 | 9 | Repeals and replaces § 2.04.010(B), town meeting (Repealed by Art. 30, ATM 1998) |
| ATM 1997 | 14 | Adds § 5.04.010, entertainers disclosure (5.04) |
| ATM 1997 | 16 | Adds § 5.04.020, entertainment establishments (5.04) |
| ATM 1997 | 17 | Repeals and replaces § 12.04.070, streets (Repealed by Art. 17, STM 2001) |
| ATM 1997 | 18 | Amends § 12.04.050, streets (12.04) |
| ATM 1997 | 21 | Repeals and replaces Ch. 6.04, dogs (6.04) |
| ATM 1997 | 32 | Amends § 18.04.020, wetlands protection (18.04) |
| ATM 1997 | 33 | Amends § 18.04.020, wetlands protection (18.04) |
| STM 10-7-97 | 3 | Repeals and replaces § 2.04.010(B), town meeting (Repealed by Art. 30, ATM 1998) |
| STM 10-7-97 | 21 | Amends § 2.20.030, finance committee (Repealed by Art. 30, ATM 1998) |
| ATM 1998 | 30 | Adds §§ 2.04.012 and 2.04.015, repeals and replaces §§ 2.04.010, 2.04.020, 2.04.030, 2.04.040, 2.04.100, 2.04.130, 2.20.030 and 2.20.080 and repeals § 2.04.160, administration and personnel (2.04, 2.20) |
| ATM 1998 | 31 | Amends § 3.04.090, revenue and finance (Repealed by Art. 28, ATM 2001) |
| ATM 1998 | 33 | Adds § 2.08.010, building commissioner (2.08) |
| ATM 1999 | 39 | Repeals and replaces § 2.20.035, capital outlay defined (Repealed by Art. 23, STM 2001) |

| Election Date | Article | Description |
|---|---|---|
| STM 5-5-99 | 3 | Repeals § 3.08.031 (Repealed) |
| STM 10-5-99 | 20 | Amends § 2.04.010(C), town meeting (2.04) |
| STM 10-5-99 | 21 | Amends § 6.04.170, dog fund (6.04) |
| STM 10-5-99 | 22 | Repeals and replaces § 6.04.160(1)(b); repeals § 6.04.160(3), dogs (6.04) |
| STM 1999 | 9 | Accept certain streets (Special) |
| ATM 2000 | 427 | Accept town ways (Special) |
| STM 2000 | 7 | Land swap lot line relocation (Special) |
| ATM 2000 | 33 | Adds Ch. 8.28, water conservation/emergency restrictions and requirements (8.28) |
| ATM 2000 | 34 | Adds Ch. 5.08, automatic amusement devices (5.08) |
| ATM 2000 | 35 | Adds Ch. 13.16, municipal services for condominiums and housing cooperative corporations (13.16) |
| ATM 2001 | 26 | Amends § 18.04.030, buffer strip (18.04) |
| ATM 2001 | 28 | Repeals § 3.04.090, town clerk fee (Repealer) |
| STM 2001 | 17 | Repeals and replaces § 12.04.070, dwelling or business numbering requirements (12.04) |
| STM 2001 | 18 | Repeals § 2.04.010(C) (Repealed) |
| STM 2001 | 20 | Amends § 12.04.015 [2.04.015], consent calendar (2.04) |
| STM 2001 | 21 | Repeals and replaces § 2.04.150, procedure for voting on appropriations (2.04) |
| STM 2001 | 22 | Repeals and replaces § 2.20.020(6), meetings, organizations and records (2.20) |
| STM 2001 | 23 | Repeals and replaces § 2.20.035, capital outlay defined (2.20) |
| ATM 2002 | 30 | Amends § 2.04.012, town meeting lottery (2.04) |
| ATM 2002 | 31 | Amends § 3.08.160, conservation commission notification septic permit issuance (3.08) |
| ATM 2002 | 32 | Amends § 3.08.020, annual audit required (3.08) |
| ATM 2002 | 33 | Amends 2.04.070, minutes for annual report (2.04) |
| ATM 2002 | 34 | Amends § 2.16.020, membership (2.16) |
| ATM 2002 | 35 | Amends § 13.16.010, municipal services for condominium and housing cooperative corporations (13.16) |
| ATM 2002 | 36 | Amends § 18.04.030, jurisdiction (18.04) |

| Election Date | Article | Description |
|---|---|---|
| ATM 2002 | 37 | Adds Ch. 11.04, right-of-way (11.04) |
| STM 2002 | 3 | Amends § 12.04.265, sewer connection fee required (12.04) |
| STM 2002 | 4 | Adds Art. VIII, sewer connection fee (12.04) |
| ATM 2003 | 16 | Repeals and replaces § 12.04.050, placing obstruction prohibited (12.04) |
| ATM 2003 | 17 | Adds § 3.04.015, demand fee for unpaid water and sewer bills (3.04) |
| STM 2003 | 10 | Amends § 3.12.010, property taken under tax title procedures (3.12) |
| STM 2003 | 12 | Adds Ch. 8.12, noise bylaw (8.12) |
| STM 2003 | 14 | Amends § 18.04.040, wetland protection bylaw (18.04) |
| ATM 2004 | 26 | Amends Ch. 6.04, dogs (2.04) |
| ATM 2005 | 44 | Adds Ch.14.04, community preservation committee (14.04) |
| STM 2005 | 10 | Amends § 2.04.012, annual town meeting lottery (2.04) |
| STM 2006 | 9 | Amends § 2.04.012, annual town meeting (2.04) |
| STM 2006 | 10 | Amends § 8.24.010, snow and ice removal (8.24) |
| STM 2006 | 11 | Amends § 8.08.090, license to store inflammables (8.08) |
| ATM 2007 | 36 | Amends § 12.04.420, Payment of (Sewer) Connection Fee (12.04) |
| ATM 2007 | 37 | Amends § 6.04.110, Public Nuisances (Dog) (6.04) |
| ATM 2007 | 38 | Amends § 2.08.010, Weights & Measures Fee Schedule (2.08) |
| ATM 2007 | 39 | Amends § 804.090, False Alarms - Fines & Cancellation of Service Section 9.2 (8.04) |
| STM 2007 | 14 | Amends § 3.08.130, Annual Town Reports (3.08) |
| STM 2007 | 19 | Amends § 2.04.230, Town Clerk's Salary (2.04) |
| STM 2007 | 20 | Amends § Chapter 19 Stormwater Management & Erosion Control |
| STM 2008 | 12 | Adds Art. IX, 12.04.90, Excavation and Trench Safety (12.04) |
| STM 2009 | 12 | Adds Section 3.04.016, Interest on Late Payments (3.04) |
| ATM 2009 | 31 | Adds Section 9.18, (New) Public Consumption of Marijuana or Tetrahydrocannabinol<br>9.18.010, Public consumption of marijuana or tetrahydrocannabinol prohibited (9.18)<br>9.18.020, Enforcement Authority (9.18)<br>9.18.30.1, Violation  Penalty (9.18) |

| Election Date | Article | Description |
|---|---|---|
| ATM 2009 | 32 | Amends § Chapter 6, Fee Adjustments Relating to Dogs<br>6.04.050, Dog Tag (6.04)<br>6.04.060, License Fees/Late Fees/Penalties (6.04)<br>6.04.070, Kennel License/Fees (6.04)<br>6.04.080, Animal Control Officer (6.04)<br>6.04.100, Leash Law (6.04)<br>6.04.110, Public Nuisances (6.04)<br>6.04.120, Disposition of Dogs (6.04)<br>6.04.160, Penalty ByLaw (6.04) |
| STM 2009 | 6 | Amends Conservation Wetland Protection Chapter 18, Sections 18.04.010 through 18.04.220 |
| STM 2009 | 12 | Adds Section 3.04.016, Interest on Late Payments (3.04) |
| ATM 2010 | 25 | Interest on Late Payments (Police & Fire Details) (3.04) |
| ATM 2010 | 26 | Town Meeting Warrants Posting Requirements (2.04) |
| ATM 2010 | 27 | Municipal Storm Water Discharge (Chapter 20) |
| ATM 2011 | 31 | Enact Title 15, Chapter 15.16 entitled, “Stretch Energy Code” |
| ATM 2011 | 32 | Amends Chapter 15.12, “Demolition of Historic Buildings” |
| STM 2011 | 19 | Amends Chapter 19, Stormwater Management & Erosion Control |
| ATM 2012 | 33 | Amends Chapter 18, Conservation Commission Wetlands Protection By-law by changing the definition of abutter from 300 feet to 100 feet. |
| ATM 2012 | 34 | Amends Chapter 18, Conservation Commission Wetlands Protection By-law by adding certificate of mailing to the requirement of notification to abutters. |
| ATM 2012 | 35 | Amends Chapter 18, Conservation Commission Wetlands Protection By-law, Section 18.04.020 Definitions, by adding a definition for the term “structure” |
| ATM 2012 | 36 | Amends Chapter 18, Conservation Commission Wetlands Protection By-law, by adding a new subparagraph to Section 18.04.30 Jurisdiction as follows: (9) For stormwater management purposes, the Commission may allow encroachment into the No Build Zone |
| ATM 2012 | 38 | Amends Chapter 2.20: Finance Committee, section 2.20.010 Composition, by: decreasing the Finance Committee membership from 9 members to 7 members |
| STM 2012 | 6 | Adds Chapter 5.09, Civil Fingerprinting Criminal History Check Authorization |
| ATM 2013 | 36 | Deletes Section 8.24.020 Handicapped Parking - Temporary Handicapped Parking Permit |
| ATM 2013 | 37 | Amends Chapter 6.04 Dogs |

| Election Date | Article | Description |
|---|---|---|
| ATM 2013 | 39 | Amends Chapter 18.04 Conservation Commission Wetlands Protection, Section 18.04.030 Jurisdiction, by replacing subsection (7) with new language. |
| ATM 2014 | 34 | Amends Chapter 2.16 Council on Aging |
| STM 2014 | 5 | Deletes Section 2.04.230 Town Clerk's Salary |
| ATM 2016 | 32 | Amends Chapter 2.04.010 Town Meeting Schedule Established |
| STM 2016 | 21 | Amends Chapter 2.04.010 Town Meeting Schedule Established |
| STM 2016 | 23 | Amends Chapter 3.04 Revenue and Finance |
| ATM 2017 | 26 | Adds Chapter 3.14, Departmental Revolving Funds |
| ATM 2017 | 27 | Amends Article III. Solicitors and Canvassers Section 12.04.110 License application Requirements |
| ATM 2017 | 28 | Amends 2.04.030 Posting Requirements for Town Meeting Warrants |
| STM 2017 | 14 | Amends Chapter 3.12 Tax Title Procedures Section 3.12.010 Property taken under tax title procedures Compliance with certain conditions |
| ATM 2018 | 30 | Adds Section12.04.085 Street and/or Project Name and Numbering and moves Section 12.04.030 to this section as paragraph (d.) |
| STM 2018 | 13 | Amends Chapter 3.14 Section 3.14.050 Table of Authorized Revolving Funds by adding additional purposes to the Council on Aging Revolving Fund |
| STM 2018 | 14 | Amends Chapter 3.14 Section 3.14.050 Table of Authorized Revolving Funds by adding additional purposes to the Parks and Recreation Revolving Fund |
| STM 2018 | 19 | Adds Chapter 18.10 Prohibition Single-Use Plastic Bags |
| STM 2018 | 20 | Adds Chapter 5.10 Marijuana Retailers |
| ATM 2019 | 25 | Amends Chapter 2.20 Finance Committee by deleting 2.20.090 Action valid when |
| STM 2019 | 15 | Amends Chapter 6.04 Dogs - 6.04.160 Penalty Bylaw violation |
| STM 2019 | 16 | Adds Chapter 21.04 Maintenance of Vacant Buildings and Land |
| ATM 2020 | 19 | Amends Chapter 19 Stormwater Management & Erosion Control |
| STM 2021 | 16 | Amends Article III. Solicitors and Canvassers by creating a "Do Not Knock Registry". |