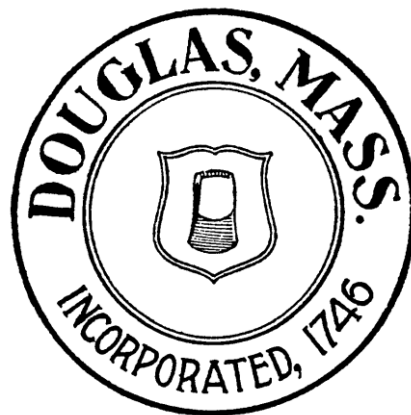


\$10.00

# Town of Douglas



# General Bylaws

**TOWN OF DOUGLAS  
GENERAL BYLAWS**

Adopted: January 1, 1974

Amended:

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## **NON-CRIMINAL DISPOSITION**

Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision the following bylaws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections. Each day on which any violation exists shall be deemed to be a separate offense. (\*Adopted under Article 17 at the Annual Town Meeting held on May 16, 1998, and approved by the Attorney General on July 27, 1998.)

## **ARTICLE 1: TOWN MEETINGS**

### **SECTION 1: ANNUAL TOWN MEETING**

The annual town meeting for the election of officers and for voting upon such matters as are required to be placed upon the official ballot shall be held on the second Tuesday of May in each year. The annual town meeting for the transaction of business shall be held the first Monday in May of each year at an hour no earlier than 6:00 pm and to adjourn no later than 10:00 pm. If action on the articles in the warrant for such a meeting shall not be completed on said Monday, the meeting shall be adjourned from day to day thereafter (Saturdays, Sundays and holidays excepted) until such business is completed. (\*Adopted under Article 19 at the Annual Town Meeting held on May 17, 1999, and approved by the Attorney General on September 9, 1999.) (Amended under Article 14 at the Annual Town Meeting held on May 17, 2005, and approved by the Attorney General on September 7, 2005.)

### **SECTION 2: SPECIAL TOWN MEETING**

Special town meetings may be called from time to time in accordance with the General Laws of the Commonwealth. If action on the articles in the warrant for a special town meeting is not completed on the day for which the meeting is called, the meeting shall be adjourned to such other day as may be determined by vote of said meetings.

### **SECTION 3: REQUEST FOR SPECIAL TOWN MEETING**

On the written request of two hundred registered voters or twenty per cent of the total number of registered voters, whichever is less, the Selectmen shall call a special town meeting to be held within forty-five days of the receipt of such request for vote by official ballot on the acceptance or rejection of the question or questions presented in said written request which are not otherwise prohibited by law from being the subject of a referendum vote. The hours for voting at such meeting shall be established by the Selectmen in accordance with the law governing the conduct of town elections. The question or questions appearing on the official ballot shall be in such form as the Town Counsel shall determine and certify to the Town Clerk.

### **SECTION 4: LEGAL NOTIFICATION**

Legal notification of an annual or special town meeting and legal service of the warrant therefor shall be effected by posting attested copies of the warrant in the Municipal Center and at two other places in the town to which the public has general access.

### **SECTION 5: WARRANT**

The warrant for every annual town meeting shall include every article submitted to the Selectmen on or before the first Friday in March (amended under Article 10 at the Annual Town Meeting held on May 2, 2011, and approved by the Attorney General on August 23, 2011.) in each year by (i) ten or more voters, or (ii) the head of any town department, any elected town officer or town board, relating to the area of responsibility of such department head, officer, or board; and such other articles as are required by law or determined by the Selectmen for inclusion. Except as otherwise required by law, no action shall be taken at any town meeting with respect to a report of any committee unless an article with respect thereto shall have been included in the warrant.

### **SECTION 6: ORDER OF BUSINESS**

The first order of business at any town meeting shall be the reading by the Town Clerk of the articles in the warrant therefor, unless such reading is waived by a majority vote of the meeting. No business at any town meeting shall be conducted prior to ten o'clock in the morning except the reading or waiving of reading of said articles and the opening of the polls and the conduct of voting for election of officers and upon matter required by law to be determined by ballot. Articles in the warrant shall be acted upon in the order in which they stand, unless otherwise determined by a two-thirds vote of the meeting.



## **SECTION 7: QUORUM**

A quorum for the conduct of business at any town meeting other than the election of town officers or a vote on a matter required by law to be determined by ballot, shall consist of fifteen registered voters provided however a number less than a quorum may take action with respect to adjournment.

## **SECTION 8: VOTING AT TOWN MEETING**

Except as otherwise provided by law or by Section 3 of this Article, the vote of a majority of those qualified to vote, in attendance, and voting at any town meeting for the transaction of business shall determine the adoption or rejection of any question considered by the meeting. The sense of a meeting on any matter shall first be taken by voice vote. If any seven voters question the result announced by the Moderator, a standing vote shall be taken and determined by counters appointed by the Moderator. A vote by ballot shall be taken upon the rising to question the result of the standing vote by the voters numbering not less than one-third of the number reported to have participated in the standing vote.

## **SECTION 9: RECONSIDERATION**

Reconsideration on any matter determined by voice vote or standing vote may be had by a motion therefor submitted to the Moderator prior to completion of action on the article in the warrant acted upon next subsequent to the article sought to be reconsidered. Said motion for reconsideration and reconsideration, if any, shall then become the next order of business.

## **SECTION 10: ROBERT'S RULE OF ORDER**

The conduct of any town meeting shall be in accordance with Robert's Rules of Order, except as inconsistent with law or these Bylaws. During consideration of any article, motions may be made to adjourn, to move the previous question, to postpone indefinitely or to a definite time and shall be decided without debate and in the order stated. Motions to commit, to amend and to entertain a substitute motion may be made, and shall be debated and acted upon in that order. Action on a motion to adjourn shall not have the effect of dissolving a meeting unless prior thereto all articles on the warrant have been fully determined.

## **SECTION 11: MOTIONS**

All motions, except such as are procedural in nature, shall be submitted in writing. No person shall speak a second time upon any question until others who have not spoken have had the opportunity to do so, provided however the Moderator may permit a previous speaker to amend or explain his remarks. The floor of the meeting shall be reserved exclusively for eligible voters, except as to persons invited by vote of the meeting, to be present for the purpose of providing information to the meeting. All persons present at a meeting shall be seated except when addressing the chair, participating in a standing vote or leaving the meeting.

## SECTION 12: RECORDING TOWN MEETINGS

The Annual Town Meeting and any and all Special Town Meetings held throughout the year, shall be recorded electronically for future broadcast on Local Cable Access, and shall be archived for future reference. (Amended under Article 33 at the Annual Town Meeting held on May 19, 2003, and approved by the Attorney General on August 6, 2003.)

## SECTION 13: EDITORIAL REVISIONS

A. The Town Clerk is authorized to assign appropriate numbers or letters to bylaw sections, subsections, paragraphs, and subparagraphs where none are approved by Town Meeting; and if such numbering or lettering is approved by Town Meeting, to make non-substantive editorial revisions to the same to ensure consistent and appropriate sequencing and numbering; and to make non-substantive editorial revision to references regarding such numbering or lettering as contained within the bylaws to ensure accuracy and conformity.

B. All such editorial revisions shall be identified with a footnote which describes the revision and the reason therefore. (Adopted under Article 13 at the Annual Town Meeting held on May 6, 2019, and approved by the Attorney General on July 12, 2019, posted and effective date is July 17, 2019.)

## ARTICLE 2: ADMINISTRATION AND FINANCE

### RECURRING BUSINESS

#	Department	Receipts	Expenditures
1	Simon Fairfield Library pursuant to MGL Chapter 44, § 53E ½	All fines received during Fiscal Year 2018 by the Simon Fairfield Library	The Simon Fairfield Library Board of Trustees may expend a sum not to exceed Two Thousand Five Hundred dollars (\$2,500) for the purpose of purchasing books, films and other library supplies and materials.
2	Home Composting Program pursuant to MGL Chapter 44, § 53E ½	All receipts received in connection with the Home Composting Program	The Board of Health may expend a sum not to exceed Two Thousand Five Hundred dollars (\$2,500) for the purpose of operating the Home Composting Program.
3	Planning Board & Engineering – MGL Chapter 44, §53E ½	Project fees received that are associated with staff review.	The funds may be expended without further appropriation by the Planning Board or Town Engineer for such consulting and project review costs. Expenditures from the fund may not exceed \$30,000.
4	Conservation – MGL Chapter 44, §53E ½	Project fees received that are associated with staff review.	The funds may be expended without further appropriation by the Conservation Commission or their Conservation Agent for such consulting and project review costs. Expenditures from the Fund may not exceed \$30,000.

5	Zoning Board of Appeals – MGL Chapter 44, §53E ½	Project fees received that are associated with staff review.	The funds may be expended without further appropriation by the Zoning Board of Appeals or Town Engineer for such consulting and project review costs. Expenditures from the fund may not exceed \$30,000.
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(Adopted under Article 8 at the Annual Town Meeting 5/1/2017, approved by the Attorney General 7/27/2017, posted and effective date is 8/3/2017.)

**SECTION 1**

**(a)** The **Selectmen** shall act as town agents and shall have authority to appoint all town officers not required by law to be elected, except such officers whose appointment is otherwise provided for by these bylaws or by vote of a town meeting. They shall appoint a Clerk who shall keep a permanent record book in which all their votes, orders and proceedings shall be recorded in order of occurrence.

**(b)** The Selectmen shall appoint a **Town Counsel** who shall act as attorney and legal counsel for the town and its various departments, officers, boards and committees, to institute and prosecute legal actions in the name of the town; to defend legal actions brought against the town; and, subject to the availability of funds for the purpose, to compromise and settle actions and claims against the town, as authorized by the Selectmen not inconsistent with any vote of the town. Said Town Counsel shall serve at the pleasure of the Selectmen.

**(c)** The Selectmen shall appoint a **Town Accountant** who shall perform the duties and possess the powers of Town Auditor as provided by law. The Selectmen annually shall request an audit of the town's accounts by the Director of Accounts as authorized by law.

**(d)** The Selectmen shall make such rules and regulations as they shall deem appropriate, consistent with law and these bylaws, for the government and discipline of the Police Department and for the regulation of motor vehicle traffic and parking in the town.

**(e)** A **Council on Aging** for the town is hereby established for the purpose of coordinating and/or carrying out programs designed to meet the problems of aging in coordination with programs of the Commonwealth of Massachusetts Department of Elder Affairs. The Council shall have all the powers and duties as set forth in the provisions of the General Laws, Chapter 40, Section 8B, and any amendment thereto. The Selectmen shall annually appoint no less than seven (7) nor more than eleven (11) members to said Council. (Adopted under Article 10 at the Annual Town Meeting held on Saturday, May 17, 1975 and approved by the Attorney General on August 25, 1975.)

## **SECTION 2**

**(a)** The **Collector of Taxes** may use all means of collecting taxes which the Town Treasurer may use when appointed a Collector of Taxes and in addition thereto may collect water and sewer use payments charged by the Water and Sewer Departments respectively. (\*Adopted under Article 18 at the Annual Town Meeting held on May 16, 1981 and approved by the Attorney General on August 17, 1981.)

**(b)** Pursuant to General Laws, Chapter 60, Section 62A, payment agreements between the Treasurer and persons entitled to redeem parcels in tax title are hereby authorized. Such agreements shall be for a maximum term of no more than five years. Each agreement will require a minimum payment at the inception of 25% needed to redeem the parcel. During the term of the agreement the treasurer may not bring an action to foreclose the tax title unless payments are not made in accordance with the schedule set out in the agreement or timely payments are not made on other amounts due the municipality that are a lien on the same parcel. (\*Adopted under Article 11 at the Special Town Meeting held on November 14, 2011 and approved by the Attorney General on February 13, 2012.)

## **SECTION 3**

**(a)** There shall be a Town **Finance Committee** composed of nine members who shall be appointed by the Town Moderator. Three members shall be appointed subsequent to each annual town meeting to serve for a term of three years. Vacancies among said members shall be filled by appointments by the Town Moderator for the unexpired term. The Committee shall elect from among its members a Chairman, Vice Chairman and Secretary. Subsequent to the first annual town meeting held after this bylaw becomes effective, the Town Moderator shall appoint, in addition to the three members for a term of three years provided for above, such additional members for terms of one or two years as is necessary to ensure that the terms of three members shall expire each year. (Adopted under Article 13 at the Annual Town Meeting held on May 16, 1992 and approved by the Attorney General on September 18, 1992.)

**(b)** All articles in a town meeting warrant requiring or purporting to require an appropriation, shall be referred to the Town Finance Committee which Committee shall report its recommendations to the Town Meeting. For the annual town meeting, these recommendations shall be available in print at the office of the Town Clerk at least seven days prior to said meeting.

**(c)** It shall be the duty of the Finance Committee, from time to time during the fiscal year, to inquire into the expenditures and commitments of each town department and it shall have access to all records of each town department, officer, board or committee. The Finance Committee shall meet with representatives of the various town departments, officers, boards and committees, at least one month prior to the annual town meeting to discuss the budgetary requirements for the ensuing fiscal year of such departments, officers, boards and committees. Each such department, officer, board and committee

shall, 90 days prior to the next annual town meeting, furnish to the Finance Committee and to the Town Accountant, an itemized estimate of the amounts necessary for the administration of its or his department during the ensuing fiscal year.

## **SECTION 4**

### **Non-Attendance by Members of Appointed Boards and Committees**

#### **2.4.1 Purpose and Scope:**

The business of the Town requires the active participation of the members of its appointed boards, committees, and commissions (hereinafter collectively referred to as "board").

#### **2.4.2. Excused and Unexcused Absence Defined:**

An "excused absence" is defined as one where the absent board member gives the board chairperson notice prior to the meeting that he or she will be absent from that meeting. An "unexcused absence" is defined as one where the absent member fails to notify the chairperson of the board prior to the meeting from which the member will be absent. The chairperson is not required to do anything other than to report to the board at its meeting whether a prior notice of absence was or was not given by the absent member.

#### **2.4.3. Minutes Requirements:**

Each board to which this bylaw applies shall list membership attendance in its minutes for each meeting by identifying the members present and absent. For each absent member, the minutes must state whether the member absence was "excused" or "unexcused".

#### **2.4.4. Automatic Removal:**

A member with four (4) consecutive unexcused meeting absences during any fiscal year shall be deemed to have resigned. Written notice will be given by the board chairperson to the former member with copies to the Town Clerk, Board of Selectmen, and appointing authority.

#### **2.4.5. Exceptions:**

The provisions of this bylaw shall not apply where law has otherwise specified a mechanism for the removal of a member. (Amended under Article 10 at the Annual Town Meeting held on May 5, 2014 and approved by the Attorney General on July 29, 2014)

## **SECTION 5**

(a) Every Town officer, board and committee to whose account town funds have been appropriated shall prepare and file with the Selectmen, prior to January 31<sup>st</sup> in each year, an annual town report of their activities and expenditure of funds so appropriated.

(b) The Selectmen shall prepare and cause to be printed for distribution before the date of the Annual Town Meeting in each year, an annual Town report

which shall include the reports filed under the provisions of the foregoing Section 5(a), a list of all elective and appointive town officials, all other matter required by law or vote of the Town, and such additional material as they may deem appropriate. (Amended under Article 19 at the Annual Town Meeting held on May 5, 2008 and approved by the Attorney General on August 20, 2008.)

(c) The **Board of Assessors** shall, subject to appropriation therefor, prepare and publish at intervals of not more than five (5) years, a list of the owners, as of January 1st in the year of publication, of all assessable properties in the town together with the assessed valuation of each said property and such other information as they may deem appropriate.

(d) Every town officer, board and committee having jurisdiction and control over any town property shall keep current an inventory of the same and shall provide the Selectmen with a copy of said inventory at such time and in such form as the Selectmen may direct.

## **SECTION 6**

(a) Unless otherwise provided by a vote of town meeting the Board of Selectmen or chief procurement officer designated pursuant to G.L. Chapter 30B is authorized to enter into any contract for the exercise of the Town's corporate powers, on such terms and conditions as are deemed appropriate. Notwithstanding the foregoing, the Board of Selectmen or chief procurement officer shall not contract for any purpose, on any terms, or under any conditions inconsistent with any applicable provision of any general or special law. (\*Adopted under Article 7 at the Special Town Meeting held on September 10, 1980 and approved by the Attorney General on January 2, 1981.) (\*\*Amended under Article 13 at the Annual Town Meeting held on May 12, 1990 and approved by the Attorney General on October 1, 1990.)

The provisions of this section, in whole or in part, may be suspended by order of the Selectmen upon the filing by the Selectmen, with the Town Clerk, a statement of the emergency condition affecting the health or safety of the people or their property on which said suspension is based.

(b) Any officer, board or committee of the town having jurisdiction of tangible property owned by the town may, with the approval of the Selectmen, sell any such property which has become obsolete or is otherwise of no use and value to the town, provided however, that if the original cost to the town of such property exceeded two thousand dollars, such sale shall be made to the highest bidder at a public auction, notice of which had been advertised at least seven days in advance of the auction sale in a newspaper in general circulation in the town.

## **SECTION 7**

(a) No contract for materials or property of any kind to an amount exceeding five hundred dollars in any one year shall be made in behalf of the town by any town department, board or committee with any of its members,

officers or employees or with the spouse of any of them, unless such member, officer, employee or spouse therefor is the lowest responsible bidder on written sealed competitive bids or unless specifically authorized by vote of the Selectmen, setting forth the reason therefor, which vote shall be filed in their records.

(b) No town officer or salaried employee of the town (or agent or employee thereof) shall receive any compensation or commission for any work done by him in his own department, except his official salary and fees allowed by law, without the permission of the Selectmen set forth in a vote by them setting forth the reasons therefor which vote shall be filed in their records.

## **SECTION 8: Capital Improvement**

### **The objectives of this bylaw are to:**

- i. Create and maintain a credible, sensible, and affordable Town Capital Improvement Program; and
- ii. Prioritize and schedule the use of Town resources to build, replace and maintain the public facilities and equipment needed by, and required to responsively serve, the citizens of the Town of Douglas.

### **a. Establishment of Capital Improvement Committee**

1. There shall be established a Capital Improvement Committee, hereinafter referred to as "Committee", which shall perform the duties set forth in the following sections of this by-law and shall be governed by the provisions hereof.
2. The Committee shall consist of nine (9) registered voters of the Town of Douglas, including up to five (5) department heads or their representatives appointed by the Board of Selectmen for a one (1) year term, and 4 members-at-large, who shall be appointed by the Board of Selectmen for a term of three years, with the initial appointment of one (1) member for one (1) year, two (2) members for two (2) years and two (2) members for three (3) years. (Amended under Article 34 at the Annual Town Meeting held on May 19, 2003, and approved by the Attorney General on August 6, 2003.)

### **b. Vacancies; Officers; Compensation**

1. Whenever a vacancy occurs on the Committee, the Board of Selectmen shall fill it. Any person appointed to fill a vacancy shall hold office for the unexpired term of the person succeeded.
2. The Committee shall annually elect from among its members a Chairperson, and such other officers as it shall deem appropriate.
3. Committee members shall serve without compensation.

**c. Authorities and Responsibilities**

1. The Committee shall be responsible for surveying the growth and other needs of the Town and the physical condition and adequacy of all town buildings and facilities. The Committee shall meet from time to time with representatives of all town departments to learn and understand the capital outlay needs of each.
2. The Committee shall consider the relative need, the timing, the cost and the proposed method of financing each capital expenditure proposed. The Committee shall prepare and shall annually revise, update and extend a capital outlay program that forecasts the projected capital expenditure needs of the Town for the five fiscal years next ensuing.

**d. Capital Expenditure Defined**

For the purpose of this by-law, a Capital Expenditure is defined as any non-recurring expenditure financed in whole or in part by town funds for capital improvements having a substantial useful life (in excess of four years) the total cost of which exceeds \$10,000.00 or such other threshold level as may be established annually by the Capital Improvement Committee, Finance Committee, Board of Selectmen, including:

1. Any acquisition, disposition, lease or transfer of land; or
2. Any acquisition, disposition, lease or transfer of motor vehicles; or
3. Any acquisition or lease of any single item of equipment.
4. Any construction, reconstruction, replacement, extension or other improvement of public buildings, highways, sidewalks, storm drains, sewerage installations, playgrounds, parks or substantially similar public works, or for a facility, structure or a utility appurtenant to any of the same.
5. The cost of planning and design studies in preparation for capital projects.

**e. Duties of Committee; Town Meetings**

1. The Committee shall ascertain annually what capital expenditures will be required by the Town during the subsequent five (5) fiscal years and identify such other community capital needs as may be anticipated to occur over the next 20 years. In making its determinations, the Committee shall consult with such officers of the Commonwealth of Massachusetts and of the Town and it's various Boards and Committees, as in its discretion it shall deem appropriate and beneficial. Department heads and chairpersons of all boards, commissions and committees of the Town, whether elected or appointed, shall submit to the Committee, not later than July 1 of each year, recommendations and statements of needs and/or proposed plans involving capital expenditure requirements for the subsequent five (5) fiscal years.
2. The Committee shall present an annual Capital Improvement Plan to the Town at the Annual Town Meeting, and shall include in such Plan its recommendations for the scheduling of capital expenditures and for the



financing of such expenditures. The Town Meeting may annually adopt a five-year Capital Improvement Plan with projects and funding allocations to be considered at the next Annual Town Meeting. All capital improvement items proposed after adoption of the Capital Improvement Plan shall be forwarded to the Finance Committee and Capital Improvement Committee for accelerated review. Any failure to follow these procedures shall give authority to the Board of Selectmen to exclude a capital request from the Warrant, except in the case of a petitioned article. To add such project, the Capital Improvement Committee shall endeavor to delete such other project(s) as may be necessary to keep within the programmed amount available for capital projects. The Board of Selectmen, in its sole discretion, may determine that an emergency exists, and waive the aforementioned requirements.

3. The Committee shall prepare and maintain a Community Resource profile to be a basis of reference in the Capital improvements program planning and recommendations. This profile should include, but not be limited to, the following:
  - (a) ten (10) year record and ten (10) year projection of the Town's growth in population;
  - (b) the ten (10) year record and ten (10) year projection of the number of public, residential, commercial, industrial and other buildings, structures and facilities;
  - (c) estimated value, floor space and/or land areas of public, residential, commercial, industrial and other building, structures and facilities;
  - (d) current school student population, and the total, per student and per taxpayer costs for the current fiscal year;
  - (e) five (5) year projection of school student population;
  - (f) total acreage of each zoning district, with a classification, by percentage, of developed, developable and undevelopable acreage in each zoning district;
  - (g) ten (10) year record of town expenditures, in total and by department, board, committee or other functional group or unit;
  - (h) ten (10) year record of tax rates;
  - (i) ten (10) year record of total assessments; and
  - (j) list of capital improvement commitments for the current year, and the prior and subsequent five (5) fiscal years.

**f. Regulations.**

The Committee may adopt regulations setting forth information standards and requirements for the inclusion of projects in the Capital Improvement Plan. (\*Adopted under Article 2 at a Special Town Meeting held on November 8, 1999, and approved by the Attorney General on March 14, 2000, Amended under Article 2 at a Special Town Meeting held on April 3, 2006 and approved by the Attorney General on May 2, 2006.)

## **SECTION 9: Administration of the Senior Citizen Property Tax Work-off Abatement Program**

The Board of Assessors shall review all applications to the Senior Citizen Property Tax Work-off Abatement Program to determine program eligibility and shall make all eligibility and abatement determination at their sole discretion without appeal. The Board of Assessors shall require the annual filing of applications with supporting documentation to establish an applicant's eligibility; such applications shall not be considered as public records. The Selectmen's Office shall coordinate the assignment of qualified program applicants to provide volunteer service jobs in the various municipal departments and shall certify to the Board of Assessors by November 1 of each year a record of the hours worked by each program participant.

Program applicants must be 60 years of age or over as of January 1 of any year for which an abatement application is filed.

The total abatement on a volunteer's domicile, from the Senior Citizen Property Tax Work-off Abatement Program and any other exemptions, shall not reduce the real estate tax bill to less than 10 percent of the total fiscal year tax.

The hourly rate per hour of volunteer service in the Senior Citizen Property Tax Work-off Abatement Program shall not exceed the Commonwealth's minimum wage.

Annually, the Board of Assessors shall determine the maximum number of volunteers which can be declared eligible for an abatement of up to \$750 per fiscal year. (Adopted under Article 8 at a Special Town Meeting held on October 11, 2000 and approved by the Attorney General on February 26, 2001. Amended under Article 17 at the Annual Town Meeting held on May 20, 2002, and approved by the Attorney General on August 5, 2002).

## **Section 10: Open Government**

### **a. Purpose**

The Government of the Town of Douglas operates for the best interests of the residents of Douglas. The residents of Douglas deserve excellent access to the key operations of their Government. The Government of the Town of Douglas functions best in an open environment. This bylaw establishes certain minimum standards by which the operations of the Government of the Town of Douglas shall be made available to the Public by their Government.

### **b. Definitions**

1. Committees: All governmental bodies subject to the Open Meeting Law
2. Executive Administrator: The person appointed to the role of Executive Administrator of the Town, or any such successor position.

3. Town Web Site: An electronic publishing system under the direction of the Executive Administrator, known at the time of this article as [www.DouglasMA.org](http://www.DouglasMA.org), or any successor to this system. The Executive Administrator shall be responsible for providing adequate training to Committees and Employees regarding the use of this system. The Executive Administrator shall define standards for the publishing of information described by this bylaw, and distribute these standards to all Committees no less than every two years. Information added to the Town Web Site under this bylaw shall remain available to the public for no less than the relevant Retention Periods set forth by the Secretary of the Commonwealth.

### **c. Meeting Minutes**

1. All Town Committees shall file minutes of each of their public meetings with the Town Clerk within 70 days of that meeting. Such filing shall be in common electronic form unless the person preparing these minutes does not prepare said minutes in electronic form, in which paper format is acceptable. The Town Clerk shall keep these minutes readily available for public inspection for a period of not less than one year, and shall archive all documents electronically for no less than the relevant Retention Periods set forth by the Secretary of the Commonwealth.
2. All Town Committees shall add minutes of each of their public meetings to the Town's Web Site within 70 days of that meeting, in a manner consistent with formats defined by the Executive Administrator. If the person preparing said minutes does not prepare said minutes in any electronic form, or the Committee does not have the capability to add meetings to the Town's Web Site, the minutes filed with the Town Clerk shall be accompanied by notice to this effect, in which case the Town Clerk shall be responsible for adding said minutes to the Town Web Site.
3. If a Committee has not approved the minutes of a meeting within 70 days following that meeting, the Committee shall publish and distribute unapproved meeting minutes of that meeting in accordance with this bylaw. These unapproved meeting minutes shall be replaced by approved minutes within 30 days of their approval.
4. If a Committee's minutes include matters held legally under Executive Session, the minutes of and only of the Executive Session shall not be provided to the Clerk or added to the Town Web Site. The minutes of the public session, including the motion to enter the Executive Session, are public and shall be published and distributed consistent with this bylaw. When Executive Session minutes are released, they shall be published and distributed consistent with this bylaw within 30 days following their release.

#### **d. Public Meetings**

1. The Town Clerk shall publish the date, time, and location of all meetings posted in accordance with the Open Meeting Law on the Town Web Site.
2. The Town Clerk shall not be required to publish information regarding meetings scheduled more than ninety days in advance.

#### **e. Open Government Coordinator**

1. The Executive Administrator shall annually appoint one or more persons to the unpaid position of Open Government Coordinator.
2. The Open Government Coordinator shall, no less than annually:
  - a. Review compliance with this bylaw.
  - b. Make non-binding written recommendations on improving the public's access to Government, and supply these recommendations to the Executive Administrator, Board of Selectmen, and Town Clerk.
  - c. Publish information regarding the above review and recommendations for inclusion in the Town's Annual Report and on the Town Web Site.

#### **f. General Provisions**

1. This bylaw shall in no way be interpreted to conflict with the Massachusetts Open Meeting Law, Public Records Law, or any other state or federal law.

This bylaw shall be in full force and effect as of January 1, 2009. (Adopted under Article 18 at the Annual Town Meeting held on May 5, 2008, and approved by the Attorney General on August 20, 2008.)

2. Beginning in Fiscal Year 2012, and each year thereafter, the chief administrative officer of the Town shall make accessible electronically, through a link on the Douglas Town web site, each and every personnel employment contract for all departments in the Town which has been signed and is in force. Whenever any new contract replaces an expired contract, or when a contract is extended, with or without modifications, then said new or extended contract(s) shall replace the existing contract(s) on the Town web site. Said contracts shall be accessible in their entirety. (Adopted under Article 18 at the Annual Town Meeting held on May 2, 2011, and approved by the Attorney General on August 23, 2011.)

## **ARTICLE 3: PUBLIC SAFETY**

### **SECTION 1: DISCARDING OF GARBAGE**

Except as authorized by the Board of Health, no person shall deposit, discard or leave any garbage, rubbish, refuse or any other waste matter on any street or way, public place, body of water or vacant lot in the town, nor transport such material over any street or way; nor deposit the same in any public dump of the town. (Amended under Article 24 at the Annual Town Meeting held on May 17, 2004, and approved by the Attorney General on June 28, 2004.)

PENALTY:                    1<sup>ST</sup> OFFENSE - \$100.00  
                                     2<sup>ND</sup> & SUBSEQUENT OFFENSES - \$200.00  
ENFORCING AGENT:      BOARD OF HEALTH

### **SECTION 2: SIDEWALK ICE & SNOW REMOVAL**

The owner or occupant of any premises abutting on a public way of the town on which there is a public sidewalk shall as soon as reasonably possible, so dispose or treat ice and snow accumulating thereon as to make said sidewalk reasonably available and safe for public passage. No person shall lay, throw or place or cause to be laid, thrown or placed, in any public way of the town ice or snow in such quantity or condition as to obstruct public passage of said way.

PENALTY:                    1<sup>ST</sup> OFFENSE - \$25.00  
                                     2<sup>ND</sup> & SUBSEQUENT OFFENSES - \$50.00  
ENFORCING AGENT:      Police Officers/Building Commissioner

### **SECTION 3: LOITERING**

No person shall in any public way of the town or on any sidewalk thereof, stop, stand, loiter or otherwise engage in any activity so as to interfere with the free, safe and convenient use of said way or sidewalk or to obstruct the normal movement of vehicular or pedestrian traffic thereon and any person so doing shall, at the direction of a police officer, promptly cease such interference or obstruction. (Amended under Article 24 at the Annual Town Meeting held on May 19, 2003, and approved by the Attorney General on August 6, 2003.)

PENALTY:                    1<sup>ST</sup> OFFENSE - \$25.00  
                                     2<sup>ND</sup> & SUBSEQUENT OFFENSES - \$50.00  
ENFORCING AGENT:      Police Officers

### **SECTION 4: WELL/CESSPOOL COVERINGS**

The owner of any premises within the town on which is located a well, cistern, cesspool or other hazardous excavations shall cause the same to be protected at ground level by masonry, covering or barriers adequate to the purpose. (Amended under Article 20 at the Annual Town Meeting held on May 17, 2004, and approved by the Attorney General on June 28, 2004.)

PENALTY: 1<sup>ST</sup> OFFENSE - \$100.00  
2<sup>ND</sup> & SUBSEQUENT OFFENSES - \$200.00  
ENFORCING AGENT: BOARD OF HEALTH

**SECTION 5: OBSTRUCTING VISIBILITY**

No person shall erect or maintain in the town any fence, hedge or other obstruction to visibility which exceeds three feet in height, is located within thirty-five feet of any intersection of traveled ways and limits or obstructs the view of operators of motor vehicles entering such intersection. (Amended under Article 25 at the Annual Town Meeting held on May 19, 2003, and approved by the Attorney General on August 6, 2003.)

PENALTY: 1<sup>ST</sup> OFFENSE - \$50.00  
2<sup>ND</sup> & SUBSEQUENT OFFENSES - \$100.00  
ENFORCING AGENT: Police Officers

**SECTION 6: FIRE**

No person shall make any fire in any street or way in the town or within twenty feet of any building, except as authorized by a permit issued by the Chief of the Fire Department.

PENALTY: \$300.00  
ENFORCING AGENT: Fire Chief

**SECTION 7: DOG DISTURBANCE**

No person shall keep in the town any dog which disturbs the peace and quiet of any neighborhood or endangers the safety of any person, nor permit a dog owned or kept by him to be in any public building except on a leash. The Selectmen may order the restraint or muzzling for not more than thirty days of any dog which has bitten or threatened any person or domestic animal, created a disturbance or damaged property, subject however, to such right of appeal from such order as may be provided by law. Any dog owner who fails to license their dog on or before May 30th in any year shall be charged an additional fee of ten (\$10.00) dollars for each dog which has not been timely licensed. The fees so collected shall be deposited in the Town Treasury to become part of the Town's General Fund. (\*Amended under Article 27 at the Annual Town Meeting held on June 25, 1983 and approved by the Attorney General on October 12, 1983.)

**<sup>1</sup>SECTION 8: STREET LIGHTS**

No person shall extinguish any street light or extinguish or remove any light placed to denote an obstruction or a defect in any way or street, without proper authority.

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<sup>1</sup> \*Article 3 Public Safety: Sub-section 8 was unassigned. Renumbered sub-sections 9 – 15 to sub-sections 8 – 14. (July 17, 2019)

PENALTY: \$50.00  
ENFORCING AGENT: Police Officers

**SECTION 9: HYDRANTS, GATES, ETC.**

No person shall intermeddle with any hydrant, gate, gate box or water pipe placed or located within the limits of any public way of the town without permission from the Systems Manager of the Water/Sewer Department or from a member of the Board of Water/Sewer Commissioners. (Amended under Article 24 at the Annual Town Meeting held on May 17, 2004, and approved by the Attorney General on June 28, 2004.)

PENALTY: \$200.00  
ENFORCING AGENT: Systems Manager of the Water/Sewer Department

**SECTION 10: PUBLIC DRINKING**

Except as duly licensed under law or there by-laws by the Board of Selectmen of the Town of Douglas, no person shall drink or have in his possession an open container of an alcoholic beverage as defined in Chapter 138, Section 1, of the General Laws while on, in, or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park, or playground, or private land or place without consent of the owner of person in control thereof. All alcoholic beverages being used in violation of this ordinance shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the Court, at which time they shall be returned to the person entitled to lawful possession. (\*Adopted under Article 19 at the Annual Town Meeting held on Saturday, May 13, 1978 and approved by the Attorney General on July 17, 1978.) (Amended under Article 26 at the Annual Town Meeting held on May 19, 2003, and approved by the Attorney General on August 6, 2003.)

PENALTY: 1<sup>ST</sup> OFFENSE - \$50.00  
2<sup>ND</sup> & SUBSEQUENT OFFENSES - \$100.00  
ENFORCING AGENT: Police Officers

**SECTION 10.1: Public Consumption of Marijuana or Tetrahydrocannabinol**

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

This 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, Section 21, or by noncriminal disposition pursuant to G.L.c. 40 Section 21D, by the Board of Selectmen, the Executive Administrator, or their duly authorized agents, or any police officer. The fine for violation of the 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, Section 32L. (\*Adopted under Article 16 at the Annual Town Meeting held on Monday, May 4, 2009, and approved by the Attorney General on June 23, 2009.)

### **SECTION 11: DRIVEWAYS**

Prior to the construction of any new driveways that exits onto a public road or onto a private road that is part of an approved subdivision, the owner thereof must submit a plot plan of the proposed layout to the Highway Superintendent for his approval. In such proposal the owner must take into consideration the location of ingress and egress, insuring (1) that the public's safety on the major road is protected and also (2) that there will be no buildup of water and ice on the major road. (Adopted under Article 10 at the Special Town Meeting held on Thursday, June 29, 1978 and submitted to the Attorney General for approval on July 10, 1978.)

PENALTY:                                    1<sup>ST</sup> OFFENSE - \$25.00  
    2<sup>ND</sup> & SUBSEQUENT OFFENSES - \$50.00  
ENFORCING AGENT:            Building Commissioner/Highway Superintendent

### **SECTION 12: VIOLATION OF ARTICLE**

Any person who violates any provisions of this Article shall, in addition to all other penalties provided by law, be subject to a fine not exceeding two hundred dollars for each offense. (Adopted under Article 20 at the Annual Town Meeting held on Saturday, May 13, 1978 and approved by the Attorney General on July 17, 1978.)

### **SECTION 13: DISPOSAL OF SOLID WASTE**

The disposal of solid waste and/or hazardous waste by means of incineration and/or resource recovery and/or any other burning method shall be prohibited within the Town of Douglas. (Adopted under Article 13 at the Annual Town Meeting on May 16, 1987 and approved by the Attorney General on September 16, 1987.) (Amended under Article 21 at the Annual Town Meeting held on May 17, 2004, and approved by the Attorney General on June 28, 2004.)

PENALTY:                                    1<sup>ST</sup> OFFENSE - \$100.00  
    2<sup>ND</sup> & SUBSEQUENT OFFENSES - \$200.00  
ENFORCING AGENT:            BOARD OF HEALTH



## **SECTION 14: HOUSE NUMBERING**

**(a) Preamble.** Pursuant to the statutory authorization granted under Massachusetts General Laws Chapter 40, Section 21(10), the Town of Douglas hereby enacts this bylaw requiring and regulating the numbering of residential, commercial and industrial buildings within the municipal boundaries of the Town of Douglas.

**(b) Purpose.** The standards and regulations set forth within the provisions of this Bylaw shall have the purpose and effect of promoting the general health, safety, welfare and convenience of the inhabitants of the Town of Douglas by reducing the difficulty in quickly responding to individual residences in cases of police, fire, medical or other emergency situations requiring immediate location and response; by facilitating the delivery efforts of the United States Postal Service through the creation of a numbering system for all delivery locations; by decreasing the potential for traffic accidents caused by motorists searching for address locations; by improving local census data gathering capabilities; by improving the accuracy of important legal documents requiring address location information; and by assisting in the planning efforts of a growing community.

### **(c) Administration.**

1. This bylaw shall be administered by the Board of Selectmen of the Town of Douglas who shall see that building numbers are assigned to all residential, commercial and industrial structures, and that such numbering is conducted in conformance with the Town of Douglas Street Numbering Guidelines to be promulgated under the authority of the Board of Selectmen, and adopted, following a public hearing, by the Board of Selectmen in order to provide guidance in the development of a consistent numbering system.
2. The Town Clerk shall prepare and maintain through annual update a street list of the Town of Douglas consisting of an alphabetical listing of all streets, with residents or business names listed in the order of their assigned numbers.
3. The Board of Selectmen shall see to the preparation of a Town Map indicating the approximate location of the numbering system within the Town.

**(d) Compliance.** All building owners and/or occupants are required to display assigned numbers in the following manner.

1. Number on the structure or residence. Where the residence or structure is within fifty (50) feet of the edge of a street right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.
2. Number at the street line. Where the residence or structure is over fifty (50) feet from the edge of the street right-of-way, the assigned number

shall be displayed on a post, fence, wall or mail box at the property line in the vicinity of the walk or access drive to the residence or structure.

**3. Size and color of number.** Numbers shall be displayed in a color and size approved for use by the Board of Selectmen and shall be located so as to be visible from the street.

**(e) New Development.** Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number or numbers from the Building Inspector. This shall be done at the time of the issuance of the building permit.

**(f) New Subdivisions.** Any prospective subdivider shall show a proposed lot numbering system on the preliminary subdivision plan. Approval of the Planning Board shall constitute the assignment of numbers to the lots of the subdivision.

**(g) Enforcement.** Enforcement of this Bylaw shall be as follows:

**1.** The Building Inspector of the Town of Douglas shall be the enforcement agent for the purposes of this Bylaw.

**2.** Any property owner found to be in violation of any section of this Bylaw shall be notified in writing of the violation by the Building Inspector. Any person who permits said violation to continue for a period of sixty (60) days subsequent to the receipt of a written notice from the Building Inspector concerning said violation shall be assessed a penalty by the Board of Selectmen of not more than one hundred dollars (\$100.00) for each violation. For the purposes of this Bylaw, each successive day during which any violation is committed or permitted to continue after sixty (60) days of the receipt of a written notice from the Building Inspector shall constitute a separate violation. (\*Adopted under Article 30 at the Annual Town Meeting held on May 16, 1987 and approved by the Attorney General on September 16, 1987.)

PENALTY:                   1<sup>ST</sup> OFFENSE - \$25.00  
                                      2<sup>ND</sup> & SUBSEQUENT OFFENSES - \$50.00

## **ARTICLE 4: LICENSES AND PERMITS**

### **SECTION 1: LICENSING BOARD**

The Selectmen shall, for all purposes of law, constitute the licensing board of the town.

### **SECTION 2: PUBLIC ASSEMBLY/PARADES**

The Selectmen shall have jurisdiction and control of the public ways and property of the town for purposes of providing orderly conditions for public assembly and parades and no such public assembly or parade shall be held on a public way or public property except upon a permit issued by the Selectmen

setting forth the time, place and occasion, which permit shall not be withheld or restricted except as required for maintenance of public order. (Amended under Article 29 at the Annual Town Meeting held on May 19, 2003, and approved by the Attorney General on August 6, 2003.)

PENALTY: \$100.00  
ENFORCING AGENT: Police Officers

### **SECTION 3: LICENSE FOR TRANSPORTATION**

The Selectmen may issue licenses for the transportation of persons by motor vehicles for hire and may designate the use of certain portions of public ways as stands for licensed persons. Such licenses shall be issued on an annual basis, commencing January first in each year, may be renewed, suspended or revoked and shall be conditioned upon payment of a fee of ten

dollars for each motor vehicle of each licensee. No person may engage in the transportation of persons by motor vehicles for hire nor use such designated stands without being so licensed.

PENALTY: \$10.00  
ENFORCING AGENT: Board of Selectmen or their Designee

### **SECTION 4: BUSINESS LICENSE**

The Selectmen may issue licenses to conduct the business of buying, selling and otherwise dealing in junk, scrap metals and used articles on such terms and conditions as they may provide including payment of an annual license fee not exceeding ten dollars. No person shall engage in such business unless so licensed.

PENALTY: \$10.00  
ENFORCING AGENT: Board of Selectmen or their Designee

### **SECTION 5: FIRE PERMITS**

To the extent permitted by law, the Chief of the Fire Department may issue permits for fires on public ways or public property or private property.

PENALTY: \$300.00  
ENFORCING AGENT: Fire Chief

### **SECTION 6: VIOLATION OF ARTICLE**

Any person who engages in any activity, which under the terms of this Article requires a license or permit, without such license or permit, shall be subject to a fine not exceeding ten dollars for each separate offense thereunder.

## **SECTION 7: LICENSES AND PERMITS OF DELINQUENT TAXPAYERS**

(a) The Tax Collector shall annually, and may periodically, 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.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the 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 from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be 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 as the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of

chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred 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 and forty. (Amended/Adopted under Article 15 at the Annual Town Meeting 5/1/2017, approved by the Attorney General 7/27/2017, posted and effective date is 8/3/2017.)

## **SECTION 8: STRETCH ENERGY CODE**

(a) 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. The baseline energy conservation requirements of the MA State Building Code are the IECC 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 9th edition Massachusetts building code, as may be amended, the Stretch Energy Code is an appendix to the Massachusetts building August 2016 code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

- (b) 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 new buildings.
- (c) Applicability: This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable and amended.
- (d) 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 Douglas General Bylaws under this Section. The Stretch Code is enforceable by the inspector of buildings or building commissioner. (Adopted under Article 18 at the Annual Town Meeting 5/1/2017, approved by the Attorney General 7/27/2017, posted and effective date is 8/3/2017.)

## **SECTION 9: MARIJUANA**

(a) No person shall carry on the business cultivate, process, package, deliver, obtain, manufacture, process, package, brand, sell or otherwise transfer, or test marijuana or marijuana products, or otherwise operate a Marijuana Establishment as defined by Massachusetts General Laws Chapter 94G within the Town unless first duly licensed thereof by the Board of Selectmen, to be renewed annually.

(b) The number of Marijuana Retail Licenses issued in the Town of Douglas shall be limited to the greater of three (3) or twenty (20%) percent of licenses issued in the Town of Douglas for retail sale of alcoholic beverages not to be drunk on the premises where sold, which shall be calculated by rounding up to the next whole number.

(c) The Board may adopt reasonable rules and regulations related to the issuance of such licenses, including the fees to be paid therefore and the conditions to be satisfied by any applicant for such a license.

(d) Applicants for a license annually shall file an application on a form provided by the Board of Selectmen, signed under the penalties of perjury by the applicant, containing such information as the Board of Selectmen may reasonably require from time to time. Each applicant shall pay an application fee as may be reasonably determined from time to time by the Board of Selectmen.

(e) The Board of Selectmen must act upon the application at one of their next three regularly scheduled meetings, holding a public hearing thereon, with due written notice provided to the applicant of the time, date and location where such hearing will be heard.

(f) The Board of Selectmen may approve, deny or approve the application with conditions. Such decision shall be based on the evidence taken at the public hearing, consistent with the protection of the health, safety and welfare of the public, and consistent with the regulations promulgated by such board.

(g) The Board of Selectmen or its agents may at any time enter upon the premises of a person who is licensed by them under this Section, to ascertain the manner in which the person conducts the business carried on under such license.

(h) The Board of Selectmen may issue orders as appropriate to aid in the enforcement of this regulation and may enforce these provisions in equity, including the request for injunctive relief, in a court of competent jurisdiction. Any failure to comply with any Order issued hereunder shall result in the issuance of a formal warning. Any failure to comply with such a warning shall result in a fine of \$100.00. Any failure to comply after the issuance of said initial fine may be punishable by a subsequent fine of \$300.00. Each day of a continued non-compliance shall constitute a separate violation. Further, the Board of Selectmen may hold a hearing,

with notice to the licensee, to determine if such license should be modified, suspended or revoked.

Home Rule Amendment [art. 89 of the Amendments to the Massachusetts Constitution]; Massachusetts General Laws, Chapter 94G, § 3, 935 CMR 500.000. (Adopted under Article 11 at a Special Town Meeting on 1/13/2018, approved by the Attorney General 2/22/2019, posted and effective date is 2/27/2019.)

## **ARTICLE 5: REGULATION OF PROPERTY**

### **SECTION 1: ZONING BYLAWS**

The Zoning By-Laws of the town as presently in force and as they may be duly amended are hereby incorporated herein by reference.

### **SECTION 2: SUB-DIVISION**

Sub-division of land in the town shall be made only in accordance with rules and regulations therefor adopted and published by the Planning Board of the town, which said rules and regulations as presently in force or as they may be duly amended are hereby incorporated herein by reference.

### **SECTION 3: PETITION OF PRIVATE WAYS**

All private ways to be accepted by the town must be petitioned for not later than October 1st in each year for submission to the next ensuing annual town meeting. Except as otherwise provided by law, the development and construction of said streets shall be in accordance with the specifications for ways established by the Planning Board for purposes of sub-division of land.

### **SECTION 4: PRIVATE WAY REPAIRS**

#### **Section 4 – Repair of Private Ways**

**4.1.1** The Town may make temporary repairs on private ways which have been open to public use for a period of six (6) consecutive years or more, provided the-repairs are for the protection of the health and safety of the general public using , - such private ways, subject to the provisions of this Bylaw.

**4.1.2** No repairs shall be made on private ways that have not been released from covenant and/or bond.

#### **Section 4.2 - Minor Temporary Repairs**

**4.2.1** The Town may make minor temporary repairs upon a private way in the Town. Such repairs shall be made only after the board of selectmen determines that, based on recommendation from the highway superintendent, the repairs are required by public necessity. No petition by

abutters shall be necessary for the Town to make such minor repairs.

**4.2.2** Minor temporary repairs shall include the filling of holes in the subsurface of such ways and repairs to the surface materials thereof. Materials for such repairs, where practical, should be the same as, or similar to, those used for the existing surfaces of such ways, but may include surfacing the ways with, bituminous materials, including but not limited to bituminous concrete.

**4.2.3** Minor temporary repairs shall be limited to minor work such as filling, patching and not more than grading or scraping twice per year. Such repairs shall not include surfacing, resurfacing, installation of drainage of any kind or the original construction of sidewalks, curbing, street construction, or brush cutting and tree removal.

**4.2.4** The cost of such minor temporary repairs shall be borne entirely by the Town, subject to funds being available through an appropriation voted by the Town; no betterment shall be assessed against the abutters; and, no cash deposit shall be required.

### **Section 4.3 - Major Temporary Repairs**

**4.3.1** The Town may make major temporary repairs on a private way in the Town. Such repairs shall be made only after a petition has been filed in the office of the board of selectmen. Such petition shall identify the repairs to be made and shall be signed by the owners of no less than fifty (50) percent of the lineal frontage of said way. Where a property is owned by more than one person or entity, each such person, and where appropriate, each trustee and/or representative, must sign the petition in order for that property's frontage to count towards the frontage percentage.

Following the submission of said petition, the board of selectmen shall conduct a public hearing, at which hearing interested persons may present evidence relative to the petition.

No repairs shall be made until the board, by a majority vote of its members, and following such hearing, determines that such repairs are required by public necessity, and until the town meeting has appropriated funds for such repairs.

**4.3.2** Following such determination by the board that said repairs are a public necessity, the board shall issue an order stating on its face that betterment are to be assessed upon the owners of estates which derive particular benefit or advantage from making of such repairs.

Such-assessment shall be a sum equal, in the aggregate, to the total cost of such repairs, and, in the case of each estate, shall be in proportion to the frontage thereof upon such private way.



**4.3.3** Such repairs may include surfacing, resurfacing and the installation of drainage, but shall not include the original construction of sidewalks, curbing or street construction. No cash deposit shall be required.

**4.3.4** Drainage easements, if necessary, shall be the responsibility of the petitioners.

#### **Section 4.4 – Assessments**

**4.4.1** Except as herein otherwise provided, the provisions of G.L. c.80, as it relates to public improvements and assessments therefor, shall apply to major temporary repairs, as defined in this Bylaw, to private ways where such repairs are ordered to be made under authority of this Bylaw.

**4.4.2** Any assessment made in accordance with the provisions of this Bylaw upon the owner of an estate shall be paid within six (6) months of the date that such assessment is levied, where the total assessment is less than two hundred dollars (\$200.00).

**4.4.3** Where the total assessment amounts to two hundred dollars (\$200.00) or more, the owner of the estate may divide the payment of such assessment into not more than ten (10) equal payments, the final installment payment to be made not later than five (5) years from the date of the levy of the assessment.

**4.4.4** Assessments made under this Bylaw shall constitute a lien upon the land assessed in accordance with the provisions of G.L. c.80, §12.

#### **Section 4.5 - Liability**

**4.5.1** In no event shall the Town be liable for bodily injury, death or damage to personal property caused by reason of a defect or want of repair in any private way.

**4.5.2** The Town shall not be liable or accountable for any damage caused by repairs made pursuant to this Bylaw.

**4.5.3** G.L. c.84, §25 shall not apply

(Adopted under Article 22 at the Annual Town Meeting held on May 7, 2018 and approved by the Attorney General on July 9, 2018.)

#### **<sup>2</sup>SECTION 5: SCENIC ROADS**

The purpose of this bylaw is to set forth the process and criteria by which any public way may be recommended to a town meeting for designation as a scenic

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<sup>2</sup> Article 5 Regulation of Property: Sub-section 5 was unassigned. Renumbered sub-sections 6 & 7 to sub-sections 5 & 6. (July 17, 2019)

road as provided for under MGL Chap 40 Section 15C. This bylaw further ensures that:

- i. Ways will be recommended for designation as scenic roads on stated criteria.
- ii. Ways so designated will not be altered without following proper procedures and without adherence to proper considerations.
- iii. Ways so designated will not be altered by the decision of any person, organization, or agency other than the planning board.

Provided further, however, that all current property owners on any public way being considered for designation as a scenic road, shall be notified by registered letter of any public hearing held in conformance with MGL Chapter 40 Section 15C.

### **(a) Definitions**

In the absence of contrary meaning established through legislative or judicial action pursuant to MGL Chapter 40, Section 15C, the following terms contained in that statute shall be defined as follows:

#### **1. CUTTING OR REMOVAL OF TREES**

“Cutting or removal of trees” shall mean the removal of one (1) or more trees, trimming of major branches or cutting of roots.

#### **2. REPAIR, MAINTENANCE, RECONSTRUCTION, OR PAVING WORK**

“Repair, maintenance, reconstruction, or paving “work” shall mean work done within the right-of-way by any person or agency, public or private. (Within this definition is any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as scenic road.) Construction of new driveways or alteration of existing ones is also included, insofar as it takes place within the right of way.

#### **3. ROAD**

“ Road” shall mean a right-of-way of any way used and maintained as a public way including the vehicular traveled way plus necessary appurtenances with the right-of-way such as bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks, but not intersecting streets or driveways. When the boundary of the right-of-way is in issue so that a dispute arises as to whether or not certain trees or stonewalls or portions thereof are within or without the way, the trees or stonewalls, shall be presumed to be within the way until the contrary is shown.

#### **4. SCENIC ROAD**

“Scenic Road” shall mean a road so designated pursuant to M.G. L Chapter 40, Section 15C and these regulations.

## 5. TEARING DOWN OR DESTRUCTION OF STONE WALLS

“Tearing down or destruction of stone walls or a portion thereof shall mean the unpermitted destruction of a stone wall or portion thereof or the unpermitted temporary removal and replacement of stone walls or a portion thereof at the same location with the same materials.

## 6. TREES

(a) “ Trees” shall include a tree whose trunk has a diameter of one and one-half (1 1/2) inches or more as measured one (1) foot above ground.

(b) “Public shade trees” shall mean all trees within any public way or on the boundaries thereof.

### **(b) Criteria for Designation of a Scenic Road**

The Planning Board, Conservation Commission, or Historical Commission shall, in determining which roads or portions of roads should be submitted to town meeting for designation as a scenic road. The following criteria should be considered:

- (a) Ways bordered by trees of exceptional quality.
- (b) Ways bordered by stone walls.
- (c) Ways bordered by any other natural or man-made features of aesthetic value.
- (d) Ways for which any alteration is being planned or is likely to be planned in the future.
- (e) Ways for which any alteration would lessen the aesthetic value or natural or man-made features bordering them.

### **a. Notification of Designation As A Scenic Road**

Upon the designation, by Town Meeting of any roads or portions of road as a scenic road, The Planning Board shall take the following steps within sixty (60) days of such designation:

1. Notify all municipal departments that may take any action with respect to such road.
2. Notify the State Department of Public Works.
3. Publish in the local paper, by an informal article, that the road (or roads) have been so designated.
4. Indicate such designation on all maps currently in use by municipal departments.
5. Notify all utility companies or other such parties which may be working on the border of such roads.
6. Notify abutters as they appear on the most recent tax list by regular mail.

## **b. Procedures**

### **1. Filing**

Any person, organization, state, or municipal agency seeking the written consent of the planning board regarding the cutting or removal of trees or tearing down or destruction of stone walls, or portions thereof on a scenic road shall file a request with the planning board together with the following:

- (a) The text of a legal notice identifying the location of the proposed action in terms enabling readers to locate it with reasonable specificity on the ground without need for additional plots or references, and describing in reasonable detail the proposed changes to trees and stone walls.
- (b) A statement of purpose, or purposes, for the changes proposed.
- (c) A list of owners as of latest tax map of properties located in whole or in part within one hundred feet (100') of the proposed action.
- (d) Except in the case of Town agencies, a deposit sufficient to cover the cost of advertising and notifications.
- (e) Any further explanatory material useful to adequately inform the Planning Board.

### **2. Notice**

The Planning Board shall, as required by statute, give notice of its public hearing by advertising twice in a newspaper of general circulation in the area. This notice shall contain a statement as to the time, date, place, and purpose of the hearing with a reasonable description of the action proposed by the applicant. Copies of this notice shall also be sent to the Selectmen, the Conservation Commission, the Historical Commission, Town Engineer, Tree Warden, Department of Public Works and the owners of property within one hundred feet (100') of the proposed action.

### **3. Timing of Notice**

The first publication of the notice shall be as soon as feasible after the Planning Board receives the request from the applicant, and shall in all cases be at least fourteen (14) days before the hearing. The last publication shall occur, as required by statute, at least seven (7) days prior to the hearing.

### **4. Timing of Hearing**

The Planning Board shall hold a public hearing within sixty (60) days of the planning board meeting at which a properly filed request is received. The date and time of the public hearing shall be set outside of normal weekday work hours 8:00 AM-5 PM., Monday through Friday so as to encourage maximum citizen participation.

## 5. Timing of Decision

The Planning Board shall make a decision on the request within twenty-one (21) days of the public hearing.

## 6. Public Shade Tree Act

Notice shall be given and Planning Board hearings shall be held in conjunction with those held by the Tree Warden acting under MGL Chapter 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by the Tree Warden, or vice versa. The Planning Board decision shall contain a condition that no work should be done until all applicable provisions of the Public Shade Tree Law, MGL Chapter 87, have been complied with.

### **c. Considerations**

The Planning Board's decision on any application for proposed action effecting scenic roads shall be based on consideration of the following:

1. Preservation of natural resources.
2. Environmental Values.
3. Historical Values.
4. Scenic and aesthetic characteristics.
5. Public Safety.
6. Compensatory actions proposed, such as replacement of trees or walls.
7. Other sound planning consideration.

### **d. General**

The planning board may adopt more detailed regulations for carrying out the provisions hereunder.

### **e. Violations**

A violation of this by-law shall be punishable on a 1st offense by a fine of \$50, upon a 2nd offense by a fine of \$75, and upon a third or additional offense by a fine of \$200 for each offense. (Adopted under Article 10 at a Special Town Meeting held on April 19, 2000 and approved by the Attorney General on October 11, 2000.)

## **SECTION 6: Expedited Permitting of Priority Development Sites**

### **a. Purpose**

The purpose of this Bylaw is to set forth the procedural requirements for the expedited permitting of "Priority Development Sites," for use by potential project applicants, the Technical Review Team and the boards and commissions of the Town of Douglas. This Bylaw should be read in conjunction and harmony with G.L. c. 43D and 400 CMR 2.00, et seq. In the event of a conflict between this by-law and said statute and/or

regulations, the latter shall control.

The intent of this Bylaw, said statute and said regulations is to encourage the applicant and the municipality to work together to make the permitting process more efficient and timely. As such, applicants are encouraged to submit preliminary applications and final applications in a manner which is as complete as is possible and which will better enable the municipality to act in a more efficient manner.

**b. The Expedited Permitting Program**

The Expedited Permitting Program created by G.L. c. 43D provides communities adopting it with a tool for targeted economic development at locations zoned for commercial, industrial and/or mixed-use projects. By designating appropriate areas “Priority Development Sites” and creating a streamlined 180-day permitting process therefore, the Town of Douglas aims to attract responsible development. The Expedited Permitting Program shall be employed as per G.L. c. 43D, 400 CMR 2.00, et seq., all applicable General Bylaws and the Zoning Bylaw.

**c. Pre-application Procedure**

1. Technical Review Team

The Technical Review Team is an informal five-member working group consisting of the chairperson, or his/her designee, of each of the following boards/commissions: the Planning Board, the Conservation Commission, Board of Health, Water and Sewer Commission and the Economic Development Commission. The Technical Review Team shall NOT include a member of the Zoning Board of Appeals.

In addition to the specific review requirements set forth in Sections (c) 2-6 below, the duties of the Technical Review Team shall include but not be limited to the following:

- i.. solicit consultants annually to provide a pool of consultants which will be prepared to work with the Technical Review Team and any other board or commission reviewing a Priority Development Site Application(s);
- ii.. meet in an expeditious and timely manner upon receipt or a request for a preliminary review or upon receipt of a Priority Development Site Project Application;
- iii . determine all permits, reviews and predevelopment reviews required for a project;
- iv. distribute all applications to the appropriate boards and/or commissions as expeditiously as possible and without delay;

and

v. render decisions expeditiously.

## **2. Preliminary Review**

Prior to submission of application(s) for the development of a Priority Development Site, an applicant shall request, in writing, a meeting with the Technical Review Team to identify permits and/or approvals required for the project. In addition to other preliminary explanatory material, the Applicant shall provide a concept plan as part of the preliminary review. Said meeting shall occur no later than fourteen (14) days following submission of a written request by the applicant to the Economic Development and Permit Coordinator. It is the responsibility of the Economic Development and Permit Coordinator to forward said request to the Technical Review Team.

## **3. Priority Development Site Project Application**

Following the meeting set forth in paragraph 2 above, an applicant shall complete the PDS Project Application which requires identification of all applications for permits and/or approvals submitted therewith along with all other required applications. It shall be the responsibility of the Town Clerk to maintain the PDS Project Application. Upon completion, the PDS Application and all identified and completed applications for permits and/or approvals and the necessary application fees shall be submitted to the Town Clerk. The Applicant shall be required to submit the requisite number of copies of each application according to the requirements of the appropriate board or commission. The Applicant shall be required to submit the number of copies of the Priority Development Site Application as determined from time to time by the Economic Development and Permit Coordinator. It is the responsibility of the Town Clerk to forward said materials to the Technical Review Team.

## **4. Application Fee**

In addition to payment of the fees imposed by the boards and/or commissions in carrying out their permitting and/or project review responsibilities, an Applicant shall be required to pay a Priority Development application fee according to the fee schedules of the appropriate boards together with its submission of the PDS Project Application. Said Fee may be changed from time to time by a majority vote of the Board of Selectmen or other appropriate Board/Committee.

**5. Completeness Review**

Upon receipt of a PDS Project Application and all required applications for permits and/or approvals, the Technical Review Team shall provide one (1) copy thereof to the Economic Development and Permit Coordinator and one (1) copy to a technical consultant which shall be selected by the Team. Within twenty (20) business days following submittal of said materials, the Technical Review Team shall complete a two-part completeness review. First, the Team shall perform an administrative assessment of the PDS Application and accompanying application(s). Second, the Team shall solicit feedback from the technical consultant as to the technical completeness of the PDS Application and all other accompanying application(s).

**6. Notice of Completeness**

The Technical Review Team shall notify the applicant by certified mail as to the completeness of the PDS Application and applications submitted therewith and, if determined to be incomplete, provide an explanation as to the basis for said determination prior to the expiration of twenty (20) business days. Said determination of completeness shall be by a unanimous vote of the Technical Review Team. If the Team fails to provide notification within twenty (20) business days from the applicant's date of submission, the Form and application(s) shall be deemed complete.

**d. Review by Boards and/or Commissions**

**1. 180-day Review**

Pursuant to G.L. c. 43D, § 5(a) and 400 CMR 2.09, all permit reviews shall be completed and final decisions rendered for Priority Development Site projects within 180 days following either (a) mailing of a certified notice of completeness by the Technical Review Team or (b) the expiration of twenty (20) business days from the date of submittal of a Priority Development Site Application and application(s) without notice from the Technical Review Team.

**2. Scope**

In accordance with G.L. c. 43D, for Priority Development Site projects, there shall be an expedited review of any application for a formal determination, order of conditions, license, certificate, authorization, registration, plan approval, zoning relief or other approval or determination with respect to the use, development or redevelopment of land, buildings and/or structures. Approvals sought in accordance with the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land and



building permits or approvals are exempt from the 180-day decision deadline.

### **3. Extensions**

The 180-day decision deadline may be extended by an applicant for good cause shown, upon written request of the applicant or of any board or commission with the consent of the applicant. Following written notice to the applicant and the applicable board and/or commission, said deadline may be extended for up to thirty (30) days if the Board of Selectmen determines, within 150 days following the issuance of a notice of completeness, that a previously unidentified permit or approval is necessary. Following written notice to the Executive Office of Economic Development and Interagency Permitting Board, said deadline may be extended by the Board of Selectmen if: (a) action by a federal, state or other municipal government agency is required for board and/or commission action; (b) pending judicial proceedings affect the ability to proceed on an application; or (c) enforcement proceedings have been commenced that may affect an application.

### **4. Automatic Grant of Approval**

Failure of any board or commission to take final action on an application within the 180-day decision deadline shall be considered a grant of the relief requested by the applicant. Within fourteen (14) days following the expiration of said deadline, an applicant shall be required to file an affidavit with the Town Clerk attaching the application, providing the facts giving rise to the grant and stating that notice thereof was provided by certified mail to all parties to the proceedings and those otherwise entitled to notice.

### **e. Appeals**

An appeal from any decision rendered by a board or commission for a Priority Development Site project, or from an automatic grant of approval as per Section d(4), above, shall be filed no later than twenty (20) days following issuance of the final permitting decision or the conclusion of the 180-day decision deadline, as extended, whichever is later. In accordance with G.L. c. 43D, § 10 and 400 CMR 2.13 said appeal shall be brought and consolidated the Division of Administrative Law Appeals. (Adopted under Article 21 at the Annual Town Meeting held on May 5, 2008, and approved by the Attorney General on August 20, 2008.)

## **ARTICLE 6: WATER-SEWER DEPARTMENT**

### **SECTION 1: ESTABLISHMENT OF WATER/SEWER DEPT.**

(a) There is hereby established in the Town of Douglas a Water-Sewer Department, which shall have all the powers and duties now vested in the Water Department and the Sewer Department. Upon acceptance of these bylaws by the Town of Douglas as hereinafter provided, the aforesaid departments are hereby abolished and their powers and duties shall be transferred to and shall be under the direction of the Water-Sewer Department, hereinafter referred to as the Department.

### **SECTION 2: WATER/SEWER BOARD**

(a) The Department will come under the jurisdiction of a Water-Sewer Board, an elected body consisting of three members, hereinafter referred to as the Board. The initial members thereof shall be elected, one to serve for one (1) year, one to serve for two (2) years and one to serve for three (3) years from the date of the Annual Town Meeting at which they are elected, and thereafter when the term of any member expires, his or her successor shall be elected to serve for three (3) years. In all cases the members shall serve until their successors are elected and qualified. The members of the Board shall, after each election, elect one of their members to act as chairperson of the Board for the ensuing year. No member of the Board shall hold any other elective Town Office.

(b) The Department shall be under the supervision and control of a Superintendent appointed by the Board with the advice of the Administrative Assistant to the Board of Selectmen and the approval of the Board of Selectmen. Any vacancy of the position of Superintendent shall be filled according to this subsection.

(c) Said Superintendent shall be a person qualified by education, training and experience and shall be responsible for the operational and administrative functions of the Department in accordance with a job description to be developed by the Board and approved by the Personnel Board.

(d) The salary of said Superintendent shall be determined by the Board, and must be consistent with any pay and classification plan adopted by the Personnel Board. Said compensation shall be subject to appropriation by the Town Meeting.

(e) Said Superintendent shall hold an indefinite term subject to the will of the Board and the requirements of the Personnel Bylaw. During tenure, the Superintendent shall hold no elective Town Office.

### **SECTION 3: ABOLITION**

(a) No existing contract or liability shall be affected by the abolition of the aforesaid Departments, and the Superintendent shall in all respects be the lawful successor to the offices so abolished.

**(b)** All persons employed by or under the supervision of the offices and departments abolished by this act shall be transferred to the Department. All such transfers of employees shall be made without loss of pay, and without change of their seniority, retirement or pension rights or any other privileges under any provision of law or bylaw. (Adopted under Article 31 at the Annual Town Meeting held on May 16, 1987 and approved by the Attorney General on September 16, 1987.)

## **SECTION 4: WATER USE RESTRICTIONS**

### **a. Authority**

This Bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. c.40, §§21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This bylaw also implements the Town's authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

### **c. Purpose**

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

### **c. Definitions**

1. "Person" shall mean any individual, corporation trust, partnership or association, or other entity.
2. "State of Water Supply Emergency" shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c.21G, §15-17.
3. "State of Water Supply Conservation" shall mean a State of Water Supply Conservation declared by the Town pursuant to section 4 of this bylaw.
4. "Water Users or Water Consumers" shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

### **d. Declaration of a State of Water Supply Conservation**

The Town, through its Water and Sewer Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a

State of Water Conservation shall be given under this bylaw before it may be enforced.

**e. Restricted Water Uses**

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

6. Odd/Even Day Outdoor Watering: Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
7. Outdoor Watering Ban: Outdoor watering is prohibited.
8. 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.
9. Filling Swimming Pools: Filling of swimming pools is prohibited.
10. Automatic Sprinkler Use: The use of automatic sprinkler systems is prohibited.

**f. 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 hereunder 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.

**g. Termination of a State of Water Supply Conservation; Notice**

1. A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists.
2. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required herein.

**h. 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.

**i. 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 inure to the Town. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of chapter 40 of the general laws. The enforcing agent for this bylaw shall be any employee of the Douglas Water/Sewer Department or any elected Water/Sewer Commissioner. Each day of violation shall constitute a separate offense.

**j. Severability**

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof. (\*Adopted under Article 2 at a Special Town Meeting held on April 19, 2000 and approved by the Attorney General on October 11, 2000.) (Amended under Article 26 at the Annual Town Meeting held on May 17, 2004.)

**SECTION 5: WATER SUPPLY EMERGENCY**

**(a) Authority.** This Bylaw is adopted by the Town of Douglas under its home rule powers, its police powers to protect public health and welfare and its specific authorization under Massachusetts General Laws Chapter 40, Section 21 and 21D.

**(b) 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 emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town of Douglas or by the Department and included in the Town of Douglas plan approved by the Department of Environmental Protection to abate the emergency.

**(c) Definitions.** For the purpose of this Bylaw:

**ENFORCEMENT AUTHORITY** shall mean the Town of Douglas' Board of Water-Waste Water Commissioners or other Department or Board having responsibility for the operation and maintenance of the Water Supply, the Health Department, the Town Police, Special Police, and any other locally designated body having police powers.

**STATE OF WATER SUPPLY EMERGENCY** shall mean a state of water supply emergency declared by the Department of Environmental Protection pursuant to General Laws Chapter 21G and General Laws Chapter 111, Section 160, or by the Governor.

**(d)** The following shall apply to all users of water supplies supplied by the Town of Douglas:

Following notification by the Town of Douglas of the existence of a state of water supply emergency, no person shall violate any provision, condition, requirement or restriction included in a plan approved by the Department of Environmental Protection which has as its purpose the abatement of a water supply emergency.

Notification of any provision, restriction, requirement, or condition with which users of water supplied by the Town of Douglas are required to comply to abate a situation of water emergency shall be sufficient for purposes of this Bylaw if it is published in a newspaper of general circulation within the Town of Douglas or by such other notice as is reasonably calculated to reach and inform all users of the Town of Douglas' supply.

**(e) Penalty Enforcement.** 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 separate instance of any warning or citation pursuant to this Section shall constitute a separate violation.

**(f) Right of Entry.** Agents of the enforcement authority may enter any property for the purpose of inspecting or investigating any violation of this Bylaw or enforcing against the same.

**(g) Severability.** The invalidity of any portion or provisions of this Bylaw shall not invalidate any other portion, provision or section hereof.

**(h) Penalty and Enforcing Agents.**

PENALTY: \$300.00  
ENFORCING AGENT: Systems Manager of the Water/Sewer Department,  
Board of Health/Police Officers

(Adopted under Article 15 at the Annual Town Meeting held on May 12, 1990 and approved by the Attorney General on October 1, 1990.) (Amended under Article 28 at the Annual Town Meeting held on May 19, 2003, and approved by the Attorney General on August 6, 2003.) (Amended under Articles 23, 25 & 26 at the Annual Town Meeting held on May 17, 2004, and approved by the Attorney General on June 28, 2004.)

**ARTICLE 7: ANIMAL CONTROL BYLAW**

**SECTION 1: PURPOSE**

1. The purpose of this bylaw is to achieve the objectives of the animal control enabling legislation contained in Chapter 140, Section 147A of the Massachusetts General Laws, which includes the regulation of domesticated animals within the borders of the Town of Douglas, Massachusetts, the licensing of dogs, and the establishment of fines for violation of this bylaw.

2. This bylaw is adopted for the above purposes under the authority provided by, and in accordance with the provisions of Chapter 140, Section 147A of the General Laws, as amended.

## **SECTION 2: APPLICATION**

This Bylaw shall apply to all dogs owned by or kept by residents of the Town of Douglas: all dogs harbored or kept in the Town of Douglas whether or not for hire: and all dogs physically within the Town of Douglas, whether on public or private property and regardless of whether ownership can be determined. This By-Law also shall apply to all residents of the Town of Douglas who bring or harbor one or more dogs within the Town of Douglas.

## **SECTION 3: BYLAW SUPERIORITY**

This Bylaw supersedes any policies, directives, dog control or dog restraint Bylaws now in effect. Unless otherwise provided for or mandated by law.

## **SECTION 4: SEVERABILITY**

Should any portion, section or provision of this Bylaw be found invalid for any reason, that finding shall not affect the validity and force of any other section, portion or provision of this Bylaw.

## **SECTION 5: RESPONSIBILITIES OF THE DOG OFFICER**

1. It shall be the responsibility of the Animal Control Officer to maintain proper records as required by the Town of Douglas.

2. It shall be the duty of the Animal Control Officer to investigate complaints concerning any dogs which are alleged to be in violation of Town Bylaws and/or MA General Law and to apprehend any dog found by him to be a public nuisance and to impound such dog in a suitable place or to order the owner thereof to restrain such dog.

3. The Animal Control Officer or acting Animal Control Officer shall have the authority to issue citations, penalties and enforce this Bylaw and any regulations adopted under this Bylaw.

## **SECTION 6: LICENSING - FINES AND PENALTIES**

1. Chapter 140, Section 137 of the Massachusetts General Laws requires that all dogs wear a collar with a valid license and rabies tag. (Amended under Article 19 at the Annual Town Meeting held on May 19, 2003, and approved by the Attorney General on August 6, 2003.)

2. License Fees:
  - January 1 through March 1
    - Males and Females - Twenty Dollars - (\$20.00)
    - Neutered and Spayed - Fifteen Dollars - (\$15.00)
3. Hobby Kennel License – Ninety Dollars - (\$90.00)
4. Breeder Kennel License – One hundred Twenty Dollars - (\$120.00)
5. Commercial Kennel License - One Hundred Fifty Dollars - (\$150.00)
6. Fines:
  - a: After March 1 - Fifteen Dollar Fine - (\$15.00)
  - b: After April 1 - Twenty-Five Dollar Fine - (\$25.00)

## **SECTION 7: DEFINITIONS**

### AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE INDICATES:

1. **DOG** shall mean all animals of the canine species, both male and female.

2. **WORKING DOG** shall mean a dog used in the performance of a particular set of tasks, while used in such a capacity. Examples include guard dogs, seeing eye dogs and dogs used to control a farmer's flock or herd.

3. **HUNTING OR SPORTING DOG** shall mean a dog under the control and direction of its owner or keeper while used in training or actual hunting. It also includes dogs used in events or trials participating under sanctioned competitions.

4. **OWNER** shall mean any person or persons, firm, association or corporation, owning, keeping or harboring a dog as herein defined.

5. **PUBLIC NUISANCE** shall mean any dog deemed to be a public nuisance if not found to be on the premises of the owner of such dog or upon the premises of another person with the knowledge and express permission of such other person except:

a: If such dog is being used as a so-called "hunting dog", during open hunting season or at any time when necessary for field training, and is being supervised as such by a person competent to restrain such dog so that it shall not be a threat to public safety.

b: Unless such dog is a seeing-eye guide dog or hearing dog, according to the Massachusetts General Laws.

c: Unless such dog is under restraint as defined in **Sec:8**



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

6. **HOBBY KENNEL** shall mean a kennel as described in **Sec:18** with more than three (3) dogs six (6) months or older.

7. **BREEDER KENNEL** shall mean a kennel as described in **Sec:17** with not more than ten (10) dogs six (6) months or older.

8. **COMMERCIAL KENNEL** shall mean a kennel as described in **Sec:17** with ten (10) plus dogs.

9. **DOMESTIC ANIMAL** shall mean all animals as described in MGL 131 Sec. 23.

## **SECTION 8: RESTRAINT**

1. The owner shall keep his dog under restraint at all times and shall not permit such dog to be at large off his property, including but not limited to school grounds, recreation areas and cemeteries, unless the dog is accompanied by its owner or other person responsible for the dog, who is in full control of such dog, or unless the dog is held firmly on a leash of not more than six (6) feet.

2. For the purpose of this section "full control" means that the dog will respond to command, order or signal of the owner or other person responsible for the dog shall, at all times, by his command, order or signal, prevent his dog from bothering, worrying, annoying, chasing or barking at any person or vehicle including bicycles, or killing, chasing or harassing livestock, fowl or other pets.

3. Any owner shall confine in a building or secure enclosure, any dog used for security and not remove said dog from the building or enclosure unless it is securely muzzled.

4. Every female dog in heat shall be kept in a building or secure enclosure or in a boarding kennel, so that she cannot come into contact with another dog.

## **SECTION 9: PROHIBITIONS**

1. No owner or keeper shall allow a dog to become a public nuisance as defined in Section 7 Subsection 5, Paragraphs A through C inclusive. Failure to comply with this section constitutes a violation of this Bylaw.

2. Any dog that bites a person shall be quarantined for ten (10) days, subject to Massachusetts General Laws, Chapter 129, Section 21 and Chapter 129, Section 30.

3. This Bylaw shall not be construed to prohibit the use of hunting, sporting or working dogs in their normal capacities, as defined in Section 7, Subsections 2 & 3 inclusive.

4. Defecating anywhere but on the property of its owner or keeper, unless picked up and disposed of properly by its owner or keeper.

## **SECTION 10: IMPOUNDMENT**

1. **NOTICE TO OWNER** If a dog impounded pursuant to Section 10, Subsection 2 has upon it the name and address of the owner, or if the name of the owner is otherwise known, then the animal control officer shall immediately notify the owner, and if the owner is known, then no notice shall be necessary.

2. **IMPOUNDMENT BY ANIMAL CONTROL OFFICER** a dog may be picked up and impounded when:

- a: Found at large, without full control of owner.
- b: Found unmuzzled when an order for muzzling of such dog is in effect.
- c: Having bitten, attacked or threatened the health or safety of a person.
- d: Chasing any vehicle upon a public way or upon any way open to the public travel in the town.
- e: Having damaged or littered property other than the owner's.
- f: Found without a license.
- g: In violation of Section 8 of this Bylaw.

## **SECTION 11: REDEMPTION OF IMPOUNDED DOGS**

The owner or keeper of any dog impounded under the provisions of this Bylaw may redeem such dog, provided he or she first:

- a: Procures from the Town Clerk a license and tag for any such dog that is not licensed.
- b: The owner of any dog impounded pursuant to Section 11 may reclaim such dog upon reimbursement to the Animal Control Officer of his expense for maintaining such dog while impounded. In any event, the Animal Control Officer shall not charge more than Fifteen Dollars (\$15.00) for a reimbursement of such expenses for the first twenty-four hour period or any part thereof that the dog is held by him, and Fifteen Dollars (\$15.00) for each additional day.
- c: Any dog which has been impounded under the provisions of this Bylaw and has not been redeemed by its owner or keeper within ten (10) days, may be disposed of in accordance with the provisions of Massachusetts General Laws, Chapter 140, Section 151A.

## **SECTION 12: OWNER RESPONSIBLE FOR RESCUE COSTS**

The owner, keeper or person responsible for any animal injured or killed by a motor vehicle shall be responsible for the cost of all rescue response, emergency care, treatment and/or disposal of said animal.

## **SECTION 13: PERSONS CONVICTED OF CRUELTY TO ANIMALS**

Any person or persons found guilty of a violation of any provisions of SECTION 77, 80A, 94 or 95 OF CHAPTER 272 (MASSACHUSETTS GENERAL LAW) will forfeit the right to own or keep any animal within the Town of Douglas and must immediately, upon conviction, surrender all animals in his/her possession to the Animal Control Officer.

## **SECTION 14: ENFORCEMENT**

The Animal Control Officer or Police shall be empowered to enforce provisions of this Bylaw. Fines assessed under this Bylaw shall be paid to the Town Clerk within 21 days of issuance of a citation by the Animal Control Officer or Police. Failure to pay such fine shall be violation as described in the NON-CRIMINAL COMPLAINT FORM (CH 40 SEC 21D).

## **SECTION 15: VIOLATIONS**

Violations of this Bylaw shall be punishable by such fines as described in the NON-CRIMINAL COMPLAINT FORM (CH40 SEC 21D) or by CRIMINAL COMPLAINT at the discretion of the Animal Control Officer.

## **SECTION 16: APPOINTMENT OF AN ANIMAL CONTROL OFFICER**

1. The Board of Selectmen shall appoint an Animal Control Officer for the Town of Douglas. The Animal Control Officer and/or his Agent shall be appointed as Special Police Officers by the Town of Douglas, Chief of Police and sworn in by the Town Clerk.

2. The Animal Control Officer and/or his Agent is not required to be a resident of the Town of Douglas.

3. The Animal Control Officer shall be a salaried employee of the Town of Douglas. The Animal Control Officer shall receive such compensation as agreed upon by the Animal Control Officer and the Board of Selectmen. Such agreed upon salary may be funded with monies from the Dog Control Revolving Account.

4. The Animal Control Officer shall have the responsibility, authority and power as an agent of the Town of Douglas to enforce the provisions of the Animal Control Bylaw and Massachusetts General Law, Chapter 140.

## **SECTION 17: KENNELS – BREEDER OR COMMERCIAL**

1. No person shall house more than three (3) dogs, age six (6) months or older, on a single premises without first applying for a kennel license with the Town Clerk. A copy of the special permit from the Zoning Board of Appeals must be included, or such application shall be denied. Upon review of the application, the Animal Control Officer, along with the Health Department Agent, shall inspect the facility prior to the issuance of any kennel license. The Animal Control Officer and/or the Health Department Agent may deny the application if the facility is not in compliance with any or all sections of this Bylaw.

2. It shall be a condition of the issuance of any kennel license that the Animal Control Officer shall be permitted to inspect all animals and the premises where animals are kept at any time following reasonable notice to the licensee and shall, if permission for inspection is refused, revoke the license of the refusing owner or keeper with no part of the fee refunded.

3. Any person who receives a kennel license shall erect a kennel in accordance with the following specifications:

a: A minimum of four by eight (4x8) feet for each dog shall be provided

b: Locks on gates to prevent the escape of dogs and the entry of children shall be provided

c: Kennels shall be sixty (60) feet from the street and forty (40) feet from lot lines.

4. No person convicted of cruelty to animals shall be issued a license to operate a kennel.

5. Any person or persons who holds a kennel license shall make available to the Animal Control Officer and the Police Department an emergency number where they can be reached.

6. Kennel licenses shall be given only to people who apply under the conditions of operating a breeding and/or commercial facility as defined in Sec: 7 Subsection: 8 & 9.

7. Kennel licenses shall not be given to any person who is not a resident of the Town of Douglas unless they are operating a commercial business.

8. Pet stores shall not be required to carry a kennel license as long as they are in accordance with MGL C 129 39A.

9. All complaints received of a kennel will be handled in accordance with MGL C 140 S 157 as amended.

## **SECTION 18: HOBBY KENNEL**

1. No person shall house more than three (3) dogs, age six (6) months or older on a single premises without first applying for a Hobby Kennel license with the Town Clerk.

2. A Hobby Kennel is one where four (4) to eight (8) dogs are housed for the primary purpose of pleasure (pets) or hunting, and where there is no boarding and no breeding for the purpose of selling pups.

3. Each Hobby Kennel license holder shall give the animal control officer and the police department an emergency number where the license holder can be reached.

4. Any complaints received of a kennel may be handled in accordance with G.L. c.140, §157, as amended.

5. It shall be a condition of each hobby kennel license that the Animal Control Officer shall be permitted to inspect all animals and the premises where animals are kept following reasonable notice to the licensee. If permission for inspection is refused, such refusal shall be grounds for revoking the license, with no fee refunded. (Amended under Article 18 at the Annual Town Meeting held on May 19, 2003, and approved by the Attorney General on August 6, 2003.)

PENALTY:	1 <sup>ST</sup> OFFENSE – Written Warning
	2 <sup>nd</sup> OFFENSE - \$25.00
	3 <sup>rd</sup> OFFENSE - \$50.00
	4 <sup>th</sup> & SUBSEQUENT OFFENSES - \$100.00
ENFORCING AGENT:	Animal Control Officer/Police Officers

## **ARTICLE 8: WETLAND BYLAW**

### **SECTION 1: PURPOSE**

The purpose of this Bylaw is to protect the floodplains and wetlands of the Town of Douglas by controlling activities deemed to have a significant effect upon wetland values, including but not limited to the following: Public or Private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution control, wildlife, recreation, aesthetics and fisheries (collectively, the "interests protected by this Bylaw").

### **SECTION 2**

No person shall remove, fill, dredge, alter or build upon or within one hundred feet of any bank, fresh water wetland, flat, marsh, meadow, bog, swamp or upon or within one hundred feet of any estuary, creek, river, stream, pond or lake, or upon or within one hundred feet of any land under said waters or upon or within one hundred feet of any land subject to flooding or inundation, or within one hundred feet of the 100-year storm line, other in the course of maintaining, repairing or replacing but not substantially changing or enlarging, an existing and

lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph, and other telecommunication services, without filing written application for a permit so to remove, fill, dredge, alter or build upon, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a permit issued pursuant to this Bylaw.

Such application may be identical in form to a Notice of Intention filed pursuant to Mass. General Laws Chapter 131, Section 40, shall be sent by certified mail to the Douglas Conservation Commission, and must be filed concurrently with or after applications for all other variances and approvals required by the Zoning Bylaw, the Subdivision Control Law or any other bylaw or regulation have been obtained; Such application may be identical in form to a Notice of Intention filed pursuant to Mass. General Laws, Chapter 131, Section 40, shall be sent by certified mail to the Douglas Conservation Commission, and must be filed concurrently with or after applications for all other variances and approvals required by the Zoning By-Law, the Subdivision Control Law or any other bylaw or regulation have been obtained; provided, however, that such application shall be filed concurrently with an application for a special permit and/or site plan review for any project located on the Priority Development Sites (PDS), as designated by Town Meeting pursuant to G.L. c. 43D and identified in the Assessor's records as Map 113, Lot 2; Map 115, Lot 5; Map 205, Lots 2-3; Map 206, Lots 1-2; Map 207, Lots 1-2; and Map 230, Lot 2. The Conservation Commission shall set a filing fee by regulation, but no filing fee is required when the Town of Douglas files an application for a permit. Copies of the application shall be sent at the same time, by Certified Mail, to the Board of Selectmen, the Planning Board and the Board of Health. Upon written request of any person, the Conservation Commission shall, within twenty-one days, make a written determination as to whether this Bylaw is applicable to any work or land thereon. When the person requesting a determination is other than the owner, notice of the determination shall be sent to the owner as well as to the requesting person. (Amended under Article 13 at the Special Town Meeting held on November 27, 2007, and approved by the Attorney General on March 6, 2008.)

### **SECTION 3**

The Conservation Commission shall hold a Public Hearing on the application within twenty-one days of its receipt. Notice of the time and place of the Hearing shall be given by the Conservation Commission at the expense of the applicant, not less than five days prior to the Hearing, by publication in a newspaper of general circulation in Douglas and by mailing a Notice to the applicant, the Board of Health, Board of Selectmen, Planning Board and to such other persons as the Conservation Commission may by regulation determine. The Conservation Commission, its agents, officers, and employees may enter upon privately owned land for the purpose of performing their duties under this Bylaw. A public hearing on a permit application for work proposed the Priority Development Sites (PDS), as designated by Town Meeting pursuant to G.L. c. 43D and identified in the Assessor's records as Map 113, Lot 2; Map 115, Lot 5; Map 205, Lots 2-3; Map 206, Lots 1-2; Map 207, Lots 1-2; and Map 230, Lot 2; shall normally be closed within 120 days. (Amended under Article 13 at the

Special Town Meeting held on November 27, 2007, and approved by the Attorney General on March 6, 2008.)

#### **SECTION 4**

If, after the Public Hearing, the Conservation Commission determines that the area which is the subject of the application is significant to the interests protected by this Bylaw, the Conservation Commission shall, within twenty-one (21) days of such hearing, issue or deny a permit for the work requested. If it issues a permit after making such determination, the Conservation Commission shall impose such conditions as it determines are necessary or desirable for the protection of those interests, and all work shall be done in accordance with those conditions. If the Conservation Commission determines that the area which is the subject of the application is not significant to the interests protected by this Bylaw, or that the proposed activity does not require the imposition of conditions, it shall issue a permit without conditions within twenty-one (21) days of the public hearing. Permits shall expire one year from the date of issuance, unless renewed prior to the expiration, and all work shall be completed prior to expiration.

#### **SECTION 5**

The Conservation Commission shall not impose additional or more stringent conditions pursuant to Chapter 131, Section 40 of the General Laws than it imposes pursuant to this Bylaw, nor shall it require a notice of intention pursuant to Section 40 to provide materials or data in addition to those required pursuant to this Bylaw.

#### **SECTION 6**

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

#### **SECTION 7**

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this Bylaw. Failure to provide adequate evidence to the Conservation Commission supporting a determination that the proposed work will not harm the interests protected by this Bylaw shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions, or, in the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

## SECTION 8

The following definitions shall apply in the interpretation and implementation of this Bylaw:

The term "**person**" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agencies, public or quasi-public corporations or bodies, the Town of Douglas, and any other legal entity, its legal representatives, agents or assigns. The term "**alter**" shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:

- (a) Removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
- (b) Changing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention characteristics;
- (c) Drainage or other disturbance of water level or water table;
- (d) Dumping, discharging or filling with any material which may degrade water quality;
- (e) Driving of piles, erection of buildings or structures of any kind;
- (f) Placing of obstructions whether or not they interfere with the flow of water;
- (g) Destruction of plant life;
- (h) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water.

The term "**banks**" shall mean that part of land adjoining any body of water which confines the water.

The term "**normal maintenance or improvement**" of land in agricultural use shall mean only:

1. Tilling practices customarily employed in the raising of crops;
2. Pasturing of animals, including such fences and protective structures as may be required;
3. Use of fertilizers, pesticides, herbicides, and similar materials subject to state and federal regulations covering their use;
4. Constructing, grading or restoring of field ditches, sub surface drains, grass waterways, culverts, access roads and similar practices to improve drainage, prevent erosion, provide more effective use of rainfall, improve equipment operation and efficiency, in order to improve conditions for the growing of crops.



**"Improvement"** of land in agricultural use may also include more extensive practices such as the building of ponds, dams, structures for water control, water and sediment basins, and related activities but only where a plan for such activity approved by the Conservation District of the Soil Conservation Service is furnished to the Conservation Commission prior to the commencement of work. All such activity shall subsequently be carried out in accord with said plan. In the event that the work is not carried out in accordance with the required plan, the Conservation Commission may place a stop order on said work and have recourse to such measures as if the plan were an order of conditions.

## **SECTION 9**

The Conservation Commission may adopt additional definitions not inconsistent with this Section 8 in its regulations promulgated pursuant to Section 6 of this Bylaw.

## **SECTION 10**

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

## **SECTION 11**

The Conservation Commission may require, as a permit condition, that the performance and observance of other conditions be secured by one or both of the following methods:

- (a) By a bond or deposit of money or other negotiable securities in an amount determined by the Commission to be sufficient to secure faithful and satisfactory performance of work required by the conditions set forth, and payable to the Town of Douglas. Other evidence of financial responsibility which is satisfactory to the Conservation Commission may be accepted in lieu of bonding. Notwithstanding the above, the amount of such bond shall not exceed the estimated cost of the work required or the restoration of affected lands and properties if the work is not performed as required, whichever is greater. Such bond or other security shall be released upon issuance of a Certificate of Compliance.
- (b) By a conservation restriction, easement or other covenant running with the land, executed and properly recorded (or registered, in the case of registered land).

## **SECTION 12**

The application required by the third paragraph of this Bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the citizens of Douglas and to be performed by an administrative agency of the Commonwealth or by the Town. Emergency projects shall mean any projects certified to be an emergency by the Commissioner of the Department of Environmental Quality Engineering and the Conservation Commission if this Bylaw and Massachusetts General Laws Chapter 131, Section 40, as amended, are both applicable, or by the Conservation Commission if only this Bylaw is applicable. In no case shall any removal, filling, dredging or altering authorized by such certification extend beyond the time necessary to abate the emergency.

The provisions of this Bylaw shall not apply to work performed for normal maintenance or improvement of lands in agricultural use as of the effective date of this Bylaw.

## **SECTION 13**

Any person who violates any provision of this Bylaw or of any condition or a permit issued pursuant to it shall be punished by a fine of not more than \$200.00. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This Bylaw may be enforced pursuant to Massachusetts General Laws Chapter 40, Section 21D, By a Town police officer or other officer having police powers.

Upon request of the Commission, the Board of Selectmen and Town Counsel shall take such legal action as may be necessary to enforce this Bylaw and permits issued pursuant to it.

## **SECTION 14**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof. (\*The Wetland Bylaw was adopted under Article 6, Section 3, at a Special Town Meeting held on January 5, 1983. Amended under Article 17 at the Annual Town Meeting held on May 20, 2002, and approved by the Attorney General on August 5, 2002.)

# **ARTICLE 9: SIGN BYLAW**

## **9.1 Purpose**

This Bylaw is adopted for the regulation of signs within the Town of Douglas. Created to protect and enhance the visual environment, diminish visual confusion, enhance the character of the town, and stimulate responsible business activity without unduly restricting lawful enterprise.

It is in the Town's best interest to provide the townspeople and traveling public with information and guidance concerning public accommodations, facilities, commercial services and points of scenic, cultural, historic, educational,

recreational, agricultural and religious interest in an effort to better serve the public and enhance the natural rural charm of our community.

## **9.2 Applicability**

The provisions of this section shall apply to the construction, erection, alteration, use, illumination, location and maintenance of all signs located out-of-doors, including signs affixed on any part of a building, free-standing signs, and signs visible through windows from outside a building. The provisions of Article 9 will not apply to any sign that is reviewed and approved by the Planning Board under a site plan review process.

## **9.3 Definitions**

When used in this article, and in this article only, the following words shall have the meaning set forth below.

**Business Center:** Any aggregation of two (2) or more stores or industrial uses, which share a parking area in common.

**Business Center Identifier Sign:** A sign, which contains the place and name of a business center.

**Business Premises:** That space put to any use permitted in a business district.

**Business Use:** Any property with primary use being commercial or industrial use.

**Changeable, Message/Movable Sign:** Any sign intended to announce a changing product, sale or other temporary condition within a premises and capable of being moved without dismantling.

A sign designed to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a federal, state, county or local election.

**Decorative Sign:** Any sign that is displayed as a decoration, is not used to advertise a product that is sold on the premises on which the sign is displayed and for which the owner or occupant of the property receives no consideration.

**Directional or Informational Sign:** Any sign erected near a street or driveway area necessary for the safety and direction of vehicle or pedestrian traffic.

**Directory Sign:** Any sign listing the name and location of the occupants of a site or building.

**Electric Sign:** Any sign illuminated by incandescent or florescent lamps or luminous tubes or similar illumination device.

**Entrance Sign:** Any sign erected at the entrance to the property of a Business where the business(es) cannot be seen from the road.

**Erected:** Attached, constructed, reconstructed, altered, enlarged or moved. Erected shall not mean repainted, cleaned, repaired or maintained except where a structural change is made. Altered includes changes in the lettering or symbols on the sign.

**Freestanding Sign:** Any sign that is not attached to, erected on or supported by a building.

**Holiday Decorations:** Any embellishment or ornament normally associated with the celebration of a holiday.

**Individual Letter Sign:** Any sign made up of separate self-contained letters.

**Industrial Use:** Any use permitted in an industrial district.

**Multifamily Dwelling:** A residential dwelling complex containing three or more units on one or more properties.

**Parking Area:** A public or private area used for parking motor vehicles.

**Projecting Sign:** Any sign other than a wall sign suspended from or supported by a structure and projecting out therefrom.

**Projection:** The distance a sign extends beyond the structure to which it is attached.

**Residential Use:** Any property with primary use being residential including but not limited to one or two-family residential use.

**Roof Sign:** Any sign attached to or erected on the roof of a structure.

**Sign:** Any symbol, message, design or device designed to be visible from the exterior and used to advertise, identify or inform about any product, premises, person or activity.

**Sign Structure:** The supports, uprights, braces and framework of the sign.

**Street:** Any public way or private ways open to the public.

**Temporary Sign:** Any sign not intended by virtue of its construction or content to be maintained indefinitely.

**Trees:**

- (a) "Trees" shall include a tree whose trunk has a diameter of one and one-half (1 1/2) inches or more as measured one (1) foot above ground.
- (b) "Public shade trees" shall mean all trees within any public way or on the boundaries thereof.

**Wall Sign:** Any sign attached to or erected against the wall of a structure with the display surface of the sign in a plane parallels to the plane of the wall, which does not project more than twelve (12) inches from the face of the structure.

**Window Sign:** Any sign displayed through, or on a window of a building.

### **9.3 Requirements**

#### **9.3.1 Signs Allowed by Right**

The following signs are allowed by right in all districts.

##### **9.3.1.1 Political, Ideological, Religious or Charitable Message Signs**

Display or expressions of political, ideological or charitable ideas shall be exempt from the provisions of this bylaw, provided that no such sign shall be affixed to a tree or utility pole in a public way, or on town property.

##### **9.3.1.2 Pre-existing, non-conforming Signs**

Pre-existing, non-conforming signs may be maintained but not re-located. Changing the content of a sign as long as it remains under the same ownership, and maintains its size and lighting does not constitute a replacement.

##### **9.3.1.3 Temporary construction Signs**

One temporary sign, not exceeding 10 square feet, except as required under federal and state agency regulations, denoting the architect, engineer, owner and contractor performing construction, repair, renovation or development currently in progress on the premises where the sign is located is permitted, however a separate subdivision sign may be placed at each street entrance to the subdivision, and further provided that the sign or signs shall be promptly removed within 48 hours upon completion of construction, repair or renovation.

##### **9.3.1.4 Special event Signs**

Provided that such a temporary promotional sign:

- a. Shall be firmly anchored;
- b. Shall be removed within 48 hours after the event to which it relates has taken place;
- c. Shall not be attached to a fence, utility pole, tree or similar structure on public property;
- d. Shall not exceed 10 square feet; and
- e. May be erected on town property with the consent of the Board of Selectmen or their designee and the Building Commissioner.
- f. Hand-held signs shall be exempted from Subsection 9.3.1.3 4 a. above.

##### **9.3.1.5 Real estate Signs**

One real estate sign having an area of not more than 10 square feet and advertising the sale, rental or lease of the premises on which it is maintained is permitted. In a Residential District, one For Sale, Rent or Lease sign shall be allowed per lot, and one such sign shall be permitted for each business or establishment in any other Zoning District. Such a sign shall not be illuminated,

may be a movable sign and shall be removed immediately following the closing of a sale, lease or rental agreement.

#### **9.3.1.6 Agricultural Signs**

A sign associated with an agricultural use as referred to in Section 3 of M.G.L., Ch. 40A, offering for sale produce and other farm products. The maximum display area of such sign may be up to 12 square feet. Such sign may be movable.

#### **9.3.1.7 Fuel Pump Signs**

Fuel pump signs located on service station fuel pumps identifying the name or type of fuel and price thereof.

#### **9.3.1.8 Governmental Signs**

Signs, including movable signs, erected and maintained by the Town of Douglas, any other municipal corporation, the Commonwealth of Massachusetts, or the Federal Government on any land, building or structure in use by such governmental entity. Any other signs erected by such governmental entity at any location required for public or environmental health, safety or notification purposes, or announcing the date, time and place of elections or town meetings.

#### **9.3.1.9 Identification Signs**

For single and two family residential uses in any zoning district, one sign on a lot identifying the occupants of the dwelling, an authorized home occupation and/or any other use which is conducted on the lot and is permitted in a residential district. In a residential district, one sign on a lot identifying a non-conforming use. All such signs shall not exceed two square feet of display area and shall not be illuminated, except when coincidental to the illumination of a building, driveway or similar feature.

Any residential dwelling or its accessory uses may have a single sign of not more than four square feet for each dwelling unit for non-commercial messages. Such sign may also pertain to a permitted accessory use such as a home based business.

#### **9.3.1.10 Landmark Signs**

Any sign determined by the Board of Selectmen to be of particular artistic or historic merit that is unique or extraordinarily significant to the town. Such a sign may be new or old, it may or may not comply with this Bylaw, it may be a picture, mural, statue, sculpture or other form of artistic expression, it may warrant preservation in its original form or may be in need of restoration, or it may be a marker to identify or commemorate a particular significant location, a historic event or person, or a natural feature.

#### **9.3.1.11 Menu Signs**

One menu sign per restaurant, affixed to the exterior wall of a restaurant with a maximum display area of 2 square feet.

#### **9.3.1.12 Multifamily Dwelling Signs**

A sign identifying the name of a multifamily residential dwelling, not exceeding 6 square feet in display area. If freestanding, its height shall not exceed 4 feet above ground level and if mounted to the exterior wall of a building no portion thereof shall be higher than 6 feet from the ground.

#### **9.3.1.13 Sandwich Boards Movable Signs**

Sandwich Boards Movable signs such as sandwich boards or menu boards for restaurants intended to be used on a regular basis are allowed one per premise only provided that such signs stand on legs and do not exceed four feet in height.

#### **9.3.1.14 Traffic Signs**

Standard traffic signs and control devices. Sign limitations do not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers and visitors, whether in a vehicle or on foot, of any business, industry or residence. Such signs shall not carry the name of any business or project.

#### **9.3.1.15 Neon Window Signs**

Neon window signs provided that the display area shall not exceed ten square feet or cover more than 20 percent of the window in which they are erected, whichever is less. There shall be not more than one such sign allowed per principal use. As with any other sign, a neon window sign shall not be illuminated longer than 30 minutes before opening of after closing of the store or business.

#### **9.3.1.16 Tag sale and similar event Signs**

One sign, which may be a movable sign, on the lot where the sale occurs, displaying the event title together with the date, time and location of the event. Such sign shall not exceed 6 square feet in display area and shall not be illuminated. Such sign shall not be erected sooner than 7 days before the sale and it shall be removed not later than 1 day after the sale. These signs are prohibited, as defined in Section 9.3.3, from placement on public shade trees, memorial squares and town commons.

#### **9.3.1.17 Small Signs**

Any sign with a surface area of three square feet or smaller is exempt from the requirements of this bylaw.

#### **9.3.1.18 Window Signs**

Signs installed or erected over or behind windows shall be exempt from this bylaw with the exception of those referenced in Section 9.3.1.15 above.

#### **9.3.1.19 Decorative Signs**

Any sign that is displayed as a decoration, is not used to advertise a product that is sold on the premises on which the sign is displayed and for which the owner or occupant of the property receives no consideration.

### 9.3.2 Signs Allowed by Permit

#### 9.3.2.1 Dimensional Limitations

No new sign exceeding three square feet, unless specifically permitted in Section 9.3.1 of this Bylaw, shall hereafter be erected, constructed or altered without the approval of the owner, and until after a permit has been issued by the Building Commissioner. Table 9.1 below lists the maximum limitations on signage by district and by use when permitted by the Building Commissioner. Signs exceeding the requirements in the table below are prohibited unless the sign is allowed by appeal to the Board of Selectmen or a Site Plan Review Permit is issued by the Planning Board. Animated or electronic flashing signs also requires a permit from the Planning Board.

**Table 9.1:** Maximum dimensional standards for signs, by zoning district and use, that exceed the “by right” area identified in 9.3.2.1, that require a permit issued by the Building Commissioner.

Zone	USE								
	AGRICULTURAL			RESIDENTIAL			COMMERICAL		
	Max. No. of Signs	Max. Total Area (sf)	Max Height (ft.)	Max. No. of Signs	Max. Total Area (sf)	Max Height (ft.)	Max. No. of Signs	Max. Total Area (sf)	Max Height (ft.)
RA	2	18	6	1	6	6	1	6	6
VR	1	9	6	1	6	6	1	6	6
RC-1	1	9	6	1	6	6	1	8	6
RC-2	1	9	6	1	6	6	1	8	6
VB	1	9	6	1	6	6	1	8	6
Comm	2	18	6	2	12	6	2	32	10
Ind	2	18	6	2	12	6	2	32	10
SFOS	2	18	6	2	18	6	2	18	6

#### 9.3.2.2 Application

All applications for signs requiring a Sign Permit shall be made to the Building Commissioner using the Town of Douglas’ approved application form. The application must be signed by the owner of the sign and the owner of the property where the sign is to be erected and submitted with appropriate plans. The Building Commissioner shall have the authority to reject any Sign Permit application which is not complete when submitted. Additionally, the Building Commissioner may require structural design calculations supporting the design of a sign, on a case by case basis.



### **9.3.2.3 Time Limitations**

The Building Commissioner shall approve or disapprove any application for a Sign Permit within 30 days of receipt of the complete application. If the Building Commissioner should fail to approve or disapprove an application for a Sign Permit within such 30 day period, the application shall be deemed to be approved.

### **9.3.2.4 Fees.**

The Board of Selectmen shall establish, and from time to time review a Sign Permit application fee which shall be published as part of a Sign Permit application form and be paid to the Building Commissioner upon application for each sign permit issued under this Bylaw.

## **9.3.3 Prohibited Signs**

All signs not conforming to the provisions of this section (Article 9) are specifically prohibited and include, but are not limited to the following sign types.

1. No sign shall be placed on town property or within the right-of-way of the town without prior approval from the Board of Selectmen. However, at no time shall any signage be allowed on memorial squares, cemeteries, telephone/utility poles, or shade trees unless it is specifically associated with the normal operation of that site/purpose.
2. No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items or advertising, depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31 shall be displayed in the windows of, or on the building of, any establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.
3. Any sign that is illuminated in a manner that may cause a nuisance.
4. Any sign that is erected in a manner that it poses a risk to public health and safety by its construction methodology or location, as determined by the Building Commissioner.

## **9.4 Violations / Enforcement / Appeals**

### **9.4.1 Violations**

The Building Commissioner shall have the authority to inspect signs in order to determine whether any sign poses a risk to the health and safety of the public, or further to determine if they meet the requirements of this Section of the Bylaw. In the event that the Building Commissioner determines that a sign does not meet the requirements of this Bylaw or is otherwise deemed unsafe, a violation notice will be issued to either the property owner where the sign is located, the sign owner, or both as may be appropriate.

#### **9.4.1.1 Abandoned Signs**

Except as otherwise provided in this article, any sign that is located on property which becomes vacant and is unoccupied for a period of three months or more, or any sign which pertains to a time, event or purpose which no longer applies shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned, unless the property remains vacant for a period of six months or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.

#### **9.4.1.2 Dangerous Signs**

No person shall maintain or permit to be maintained on any premises owned or controlled by him any sign which is in an unsafe condition so as to pose a threat to public safety. Any such sign shall be removed or repaired by the owner of the sign or the owner of the premises.

#### **9.4.1.3 Removal of Signs by the Building Commissioner**

(a) The Building Commissioner shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous, or materially, electrically, or structurally defective sign, or a sign for which no permit has been issued.

(b) The Building Commissioner shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that, if the sign is not removed or the violation is not corrected within 20 days, the sign shall be removed in accordance with the provision of this section.

(c) All such notices shall either be hand-delivered or sent by certified mail. Any time periods provided in this section shall be deemed to commence on the date of the receipt of the certified mail or date of hand delivery. For all other signs, the notice shall be mailed to the owner of the property on which the sign is located as shown on the last equalized assessment roll. If known, or with reasonable care should be known, the notice shall be mailed to or delivered to the owner of the sign and the occupant of the property.

#### **9.4.2 Appeals**

Any person having an interest in the sign or the property may request an appeal to the Building Commissioner's determination/action under this section (Article 9) by filing a written notice with the Town Clerk within thirty (30) days from the date of the determination. The appeal shall clearly state the specifics for the appeal and any justification as to why the appeal should be granted. The Board of Selectmen shall hear the petition for appeal within 30 days of it being received by the Town Clerk and will have 30 days after hearing the appeal to issue its determination.

### **9.4.3 Penalties**

A violation of any provision of this sign bylaw shall be subject to a fine of \$100 per offense. Each day of violation constitute a separate offense. This bylaw may be enforced by non-criminal disposition by the Building Commissioner.

### **9.5 Severability**

If any section or provision of this bylaw is found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other section or provision of this Bylaw. (\*Adopted at a Special Town Meeting under Article 9 held on November 18, 2013 and approved by the Attorney General on January 30, 2014.)

## **ARTICLE 10: BUILDING & FACILITIES CONSTRUCTION COMMITTEE**

### **Section 1 – Purpose**

To oversee and direct major public improvements constructed within the Town and provide consistent and professional oversight over public construction projects within the Town of Douglas.

### **Section 2 – Establishment**

A permanent building and facilities construction committee (the “Committee”) shall be established to implement and execute this bylaw.

#### **A. Members**

The Committee shall consist of seven voting members of whom three shall be appointed by the Town Moderator, three shall be appointed by the Board of Selectmen, and one shall be appointed by the school committee. The appointing authorities shall seek to include in the Committee membership an engineer, an architect, an attorney, a financial professional and a person representing the building and construction trades. All seven voting members shall be registered voters of the Town.

#### **B. Terms**

Voting members shall serve for three year terms; provided however, that the Selectmen and the Moderator shall each make initial appointments as follows: one appointment for a three-year term, one appointment for a two-year term; and one appointment for a one-year term; and the School Committee shall make its initial appointment for a three-year term. Vacancies shall be filled by the appropriate appointing authority for the remainder of the unexpired term. Any member of the Committee may be removed for cause by their respective appointing authority after hearing.

#### **C. Non-Voting Members**

The Town Engineer shall be an ex-officio member of the Committee. In addition, the Committee shall appoint at least one project proponent for each project, who need not be a resident of the Town, to serve as a project liaison to the Committee for the duration of each project. The department, board, committee,

or other Town entity proposing the project shall provide a recommendation to the Committee for appointment of the project liaison. The project liaison may participate in Committee discussions on the project with which the liaison is involved, but shall not participate in the vote on said project.

### **Section 3 - Authorities and Responsibilities**

The Committee shall be primarily responsible for all work in connection with projects falling within its jurisdiction, including project manager selection, if necessary, designer selection, site planning, preliminary architectural plans and drawings, detailed architectural plans and drawings, all bid documents as well as construction supervision.

The Committee shall also:

- A. Develop, maintain and implement a municipal building and facilities needs plan;
- B. Assist policy boards and department heads in prioritizing projects and developing construction contract documents;
- C. Make recommendations to Town Meeting, the Board of Selectmen or department, board or committee requesting a project, on projects that fall under its jurisdiction;
- D. Review project status, pay requests, and change orders for projects falling under its jurisdiction.

### **Section 4 – Jurisdiction**

The Committee shall have jurisdiction over any public construction or reconstruction project that exceeds fifty thousand dollars (\$50,000). Additionally, the Board of Selectmen may, in its sole discretion, place under the jurisdiction of the Committee any public construction or reconstruction project under fifty thousand dollars (\$50,000) which the Board of Selectmen deems significant. (Amended under Article 17 at the Annual Town Meeting 5/1/2017, approved by the Attorney General 7/27/2017, posted and effective date is 8/3/2017.)

### **Section 5 – Interrelationships**

The Committee shall serve in an advisory capacity to various Town entities, as follows:

- A. Assist the board of selectmen to establish policies governing the selection of architects and designers, and to assure compliance with public bidding and procurement statutes and other requirements. The Committee shall provide project updates as requested by the Board of Selectmen, and at least annually. The Board of Selectmen shall award and execute all designer services contracts and construction contracts.

B Meet regularly with Executive Administrator to discuss ongoing projects and other tasks and to facilitate an orderly interface with municipal entities. The Executive Administrator shall provide clerical and professional assistance to the Committee. All solicitations for designer services and invitations for bids for construction shall be coordinated by the Executive Administrator as Chief Procurement Officer.

C. Meet regularly with other Town boards, committees, commissions, and officers to ensure that the Committee is fully apprised of the needs and requirements of those entities.

### **Section 6 – Meetings**

The Committee shall meet as warranted by public construction projects.

### **Section 7 – Annual Report**

The Committee shall make a report of its activities to be included in the Annual Town Report. (\*Adopted at an Annual Town Meeting under Article 18 held on May 1, 2006 and approved by the Attorney General on August 28, 2006.)

## **ARTICLE 11: MUNICIPAL STORM DRAIN SYSTEM BYLAW**

### **SECTION 1: PURPOSE**

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- C. The objectives of this by-law 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 the MS4;
  - 3. to require the removal of all such illicit connections;
  - 4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
  - 5. to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

## SECTION 2: DEFINITIONS

- A. For the purposes of this by-law, the following shall mean:
1. **AUTHORIZED ENFORCEMENT AGENCY:** The Douglas Conservation Commission (hereafter The Commission), its employees or agents designated to enforce this by-law.
  2. **BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
  3. **CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.
  4. **DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.
  5. **GROUNDWATER:** Water beneath the surface of the ground.
  6. **ILLICIT CONNECTION:** A surface or subsurface drain or conveyance that allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.
  7. **ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 8. A. of this by-law.
  8. **IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.
  9. **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN 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 man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Douglas, Massachusetts.

10. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.
11. NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.
12. 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.
13. POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:
  - a) paints, varnishes, and solvents;
  - b) oil and other automotive fluids;
  - c) non-hazardous liquid and solid wastes and yard wastes;
  - d) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
  - e) pesticides, herbicides, and fertilizers;
  - f) hazardous materials and wastes; sewage, fecal coliform and pathogens;
  - g) dissolved and particulate metals;
  - h) animal wastes;
  - i) rock, sand, salt, soils;
  - j) construction wastes and residues; and
  - k) noxious or offensive matter of any kind.
14. PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

15. RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
16. STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.
17. SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
18. TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
19. WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.
20. 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.
21. WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### **SECTION 3: APPLICABILITY**

This by-law shall apply to point or non-point flows entering the municipally owned storm drainage system.

### **SECTION 4: AUTHORITY**

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



## **SECTION 5: RESPONSIBILITY FOR ADMINISTRATION**

The Commission shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon The Commission may be delegated in writing by the Commission to employees or agents of The Commission.

## **SECTION 6: REGULATIONS**

The Commission may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

## **SECTION 7: PROHIBITED ACTIVITIES**

- A. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.
- B. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from The Commission.

## **SECTION 8: EXEMPTIONS**

- A. Discharge or flow resulting from fire fighting activities.
- B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
  - 1. Waterline flushing;
  - 2. Flow from potable water sources;
  - 3. Springs;
  - 4. Natural flow from riparian habitats and wetlands;
  - 5. Diverted stream flow;
  - 6. Rising groundwater;

7. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
8. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
9. Discharge from landscape irrigation or lawn watering;
10. Water from individual residential car washing;
11. Discharge from dechlorinated swimming pool water (less than one ppm chlorine) 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;
12. Dye testing for flow analysis, provided verbal notification is given to the the Commission prior to the time of the test;
13. Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
14. Discharge for which advanced written approval is received from the Commission as necessary to protect public health, safety, welfare or the environment.

## **SECTION 9: EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

The Commission may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

## **SECTION 10: NOTIFICATION OF SPILLS**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the

Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## **SECTION 11: ENFORCEMENT**

- A. The Commission or an authorized agent of The Commission shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil Relief. If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Commission may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. The Commission or an authorized agent of The Commission may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:
  - (1) elimination of illicit connections or discharges to the MS4;
  - (2) performance of monitoring, analyses, and reporting;
  - (3) that unlawful discharges, practices, or operations shall cease and desist; and
  - (4) remediation of contamination in connection therewith.
- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- E. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with The Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within

- thirty (30) days following a decision of The Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57 after the thirty-first day at which the costs first become due.
- F. Criminal Penalty. Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- G. Non-Criminal Disposition. "As an alternative to criminal prosecution or civil action, the Commission may elect to utilize the noncriminal disposition procedure set forth in G. L. c. 40, §21D, in which case the Conservation Commission Agent is authorized to be the enforcing person designated to issue non-criminal disposition penalties. The penalty for the first violation shall be \$300.00. The penalty for the second violation shall be \$300.00. The penalty for the third and subsequent violations shall be \$300.00. Each day of part thereof that such violation continues shall constitute a separate offense."
- H. Entry to Perform Duties Under this By-Law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, The Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as The Commission deems reasonably necessary.
- I. Appeals. The decisions or orders of The Commission shall be final. Further relief shall be to a court of competent jurisdiction.
- J. Remedies Not Exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

## **SECTION 12: Severability**

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

## **SECTION 13: Transitional Provisions**

Residential property owners shall have 30 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period. (Adopted at an Annual Town Meeting under Article 20 held on May 5, 2008 and approved by the Attorney General on August 20, 2008.)