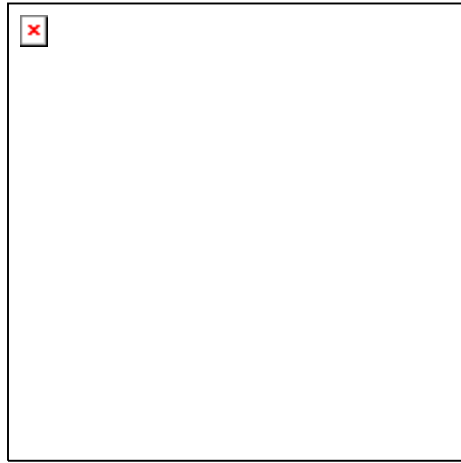


GENERAL BYLAWS

AND RELATED INFORMATION



TOWN OF BURLINGTON

MASSACHUSETTS

A COMPILATION OF THE BYLAWS ADOPTED BY THE TOWN THROUGH MAY 2003.

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

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ARTICLE I GENERAL PROVISIONS

1.0 Annual Review of Bylaws

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

- 1.1 The General Bylaws, and all special Bylaws, shall be reviewed each year prior to the Annual Town Meeting by a Bylaw Review Committee of five (5) members to be appointed by the Moderator within thirty (30) days after each Annual Town Meeting. The Bylaw Review Committee shall report to the next Annual Town Meeting their recommendations for the amendment, adoption or repeal of Bylaws.

2.0 Rules of Construction

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

- 2.1 The repeal of a Bylaw shall not affect any pending legal action or penalty incurred under such Bylaw prior to the effective date of such repeal.
- 2.2 The use of the title of any office shall be considered as a majority of the members of the Board or Committee unless otherwise stated.

3.0 Definitions

In construing these Bylaws, the following definitions shall apply:

- 3.1 The word "street" shall include all public and private ways, roads, bridges, alleys, rights of way, squares, courts and sidewalks.
- 3.2 The words "public place" shall include all public lands belonging to or under the control of the Town or any Department thereof.
- 3.3 The words "public building" shall include all buildings belonging to or under the control of the Town or any Department thereof.
- 3.4 The word "person" shall include corporations, societies, associations and partnerships.
- 3.5 The word "horse" shall include any beast of burden.
- 3.6 The word "driver" shall mean the person having charge or control of a vehicle or horse upon a street.
- 3.7 The word "vehicle" shall include any device on wheels or runners for conveying persons or objects.
- 3.8 The word "officer" shall include all Town officers, agents and all members of boards, committees, commissions or other groups, either elected or appointed.
- 3.9 The word "voter" shall mean a duly registered voter of this Town.
- 3.10 The word "employee" shall mean a person hired by the Town to work for wages or salaries.
- 3.11 Waterways shall include all natural and man-made channels which contain or conduct water.

- 3.12 A building is a structure intended for housing, shelter, enclosure, or support of any persons, animals or property.
- 3.13 The term "Finance Committee" and the term "Ways and Means Committee" shall be synonymous.

Note: Amended Art.17 10/15/1975, App. A.G. 1/26/1976, Pub. BTU 1/29, 2/5, 2/12/1976.

- 3.14 "Adult Bookstore"
An establishment having twenty-five (25) percent or more of its stock in trade and/or floor area, comprised of books, magazines, videos, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31
- 3.15 "Adult Club"
An establishment having twenty-five (25) percent or more of its entertainment and/or floor area comprised of a person or persons working or performing in a state of full or partial nudity, or distinguished or characterized by an emphasis on a matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31
- 3.16 "Adult Paraphernalia Store"
An establishment having twenty-five (25) percent or more of its stock in trade and/or floor area, comprised of devices, objects, tools, or toys, which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31
- 3.17 "Adult Theater"
Any building, structure, or premises used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31
- 3.18 "Adult Video Store"
An establishment having twenty-five (25) percent or more of its stock in trade and/or floor area, comprised of videos, books, magazines, and other matter which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31

Note: Adopted Art. 10 9/30/1996, App. A.G. 11/18/1996, Pub. Burl.Union 12/12/1996 & 12/19/1996.

4.0 Penalties - Non-Criminal Disposition

Any Bylaw of the Town of Burlington, or rule or regulation of its boards and commissions, the violation of which is subject to a specific penalty, may, in the discretion of the Town Official who is the appropriate enforcing person, be enforced by the method provided in Section 21D of Chapter 40 of the General Laws. "Enforcing Person" as used in this section shall mean the Animal Control Officer, Conservation Administrator, Health Agent, Environmental Engineer, Building Inspector, Plumbing and Gas Inspector, Wiring Inspector, any police officer, Fire Chief and/or Fire Inspector, Superintendent of Public Works, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of Bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto. A police officer may enforce any and all of these Bylaws and rules and regulations.

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

Article XIII, Section 2.0; Control of Dogs:	
First offense, within preceding twelve-month period	\$ 15.00
Second offense, within preceding twelve-month period	\$ 25.00
Third offense, within preceding twelve-month period	\$ 35.00
Fourth or subsequent offense within the preceding twelve months	\$ 50.00
For an unlicensed dog as of July 1st of any year	\$ 50.00
Article XIII, Section 1.23.4 Littering	\$100.00
Article XIV, Section 14.2.8 Earth Removal, Earth Moving, and Addition of Fill	
First Offense	\$ 50.00
Second Offense	\$100.00
Subsequent Offense	\$200.00
Article IX, Section 1.1 Retail Sales	\$ 50.00
Article XIII, Section 1.36 Alcoholic Beverages	\$ 50.00
Article XIII, Section 1.37 Nuisance to Health and Safety	\$ 50.00
Article XIII, Section 1.37.4 Trash	\$ 50.00
Article XIII, Section 1.37.6 Conservation Land	\$ 50.00
Article XIV, Section 2.12 Control of Toxic and Hazardous Materials	\$200.00
Article XIV, Section 3.2.3 Signs	\$100.00
Article XIV, Section 2.0 Litter Control	\$ 50.00
Article XIV, Section 2.14 Recycling	\$ 25.00
Article XIV, Section 1.9 Wetlands	\$100.00
Burlington Zoning Bylaws	\$ 50.00
Massachusetts State Building Codes	\$ 50.00
Board of Health Rules and Regulations	\$ 50.00
Conservation Commission Bylaws and Rules and Regulations	\$ 50.00
Board of Fire Prevention Rules and Regulations, MGL c. 148 and CMR 527, State Fire Laws:	
First offense	\$ 25.00
Second offense	\$ 50.00
Subsequent offenses	\$100.00
Park and Recreation Rules and Regulations	\$ 50.00
Adult Entertainment	
First offense	\$100.00
Second offense	\$200.00
Subsequent offenses	\$300.00

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

Amended Art. 67, TM 5/23/1988. App. A.G. 7/28/1988. Adv. Burl. News 8/4, 8/11/1988.
Amended Art. 16, TM 9/18/1989. App. A.G. 12/21/1989. Adv. Burl. News 1/4, 1/11/1990.
Amended Art. 9, TM 9/9/1992. App. A.G. 11/24/1992. Adv. BTU 12/10, 12/17/1992. Amended
Art. 20, TM 5/19/1993. App. A.G. 6/1/1993. Adv. Burl. News 6/9, 6/16/1993. Amended Art. 10,
TM 9/30/1996. App. A.G. 11/18/1996. Adv. Burl. Union 12/12, 12/19/1996.

5.0 Conflict of Interest - Contracts

No officer shall, on behalf of the Town, join in the making of any contract or agreement in which he has any direct or indirect pecuniary interest, except such interest common to all citizens of the Town.

6.0 Conflict of Interest - Compensation

No officer or employee of the Town shall sell materials or supplies to the Town, nor receive any compensation for services rendered within the scope of the normal duties for the Town, except his official salary, wages and fees allowed by law.

7.0 Keeping of Records

All officers of the Town shall cause records of their doings and accounts to be kept in suitable books which shall be kept permanently in their respective Town offices. The original or a copy of all such records shall be kept in a fire-resistive container carrying the Underwriters Laboratory Class "C" or "D" label. The said fire-resistive container may be kept in the respective office or in the custody of the Town Clerk.

7.1 Records Management Program

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

7.1.1 Records Management Commission

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

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

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

The commission shall encourage departmental cooperation with municipal records Rules and Regulations as provided for in this bylaw and shall be the final arbiter

regarding any matters that may arise regarding the Town's Records Management Program.

7.1.2 Archivist/Records Manager

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

7.1.3 Archives

The Archives shall consist of the newly constructed "vault" and the "inactive" storage area adjacent to the vault located in the main Town Hall basement. The Archives shall be used for the security, storage, processing, retrieval, research, and conservation of archival and inactive records that have an enduring historical, legal, or administrative value from departments, agencies, offices, commissions, boards, committees and public corporations, whether existent or defunct, as well as the records of all officials and agents of the Town when those records are no longer necessary for conducting current business.

7.1.4 Definitions

Archival Records	Those records which are to be retained permanently under the provisions of state regulations or law or which have long-term historical or artifactual significance.
Inactive Records	Generally, those records referred to less than one time per month which are to be retained temporarily (2-21 years) under the provisions of state regulations or law.
Records	All documents, books, papers, photographs, microfilm, recordings, and any other material, regardless of physical form or characteristics.

Note: Section 7.1 adopted Art. 4 5/10/1999, App. A.G. 7/28/1999, Pub. Daily Times 8/5/1999 & 8/12/1999.

8.0 Budget Control

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

Note: Adopted Art. 37 Spec. TM 7/2/1969. App. A.G. 1/21/1970. Adv. BTU 2/12, 2/19, 2/26/1970.

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

Note: Adopted Art. 16 TM 9/16/1974. App. A.G. 10/23/1974. Pub. Burl. News 11/7, 11/14, 11/21/1974.

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

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

Note: Adopted Art. 17 TM 9/16/1974. App. A.G. 10/23/1974. Pub. Burl. News 11/7, 11/14, 11/21/1974.

9.0 Oath of Office

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

10.0 Standards for Publication

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

Note: Adopted Art. 11, Spec. TM 12/2/1970; App. A.G. 1/14/1971; Pub. Burl. News 1/21, 1/28 and 2/4/1971.

11.0 Submission of Bylaws to Attorney General

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

Note: Amended Art. 22, Spec. TM 1/8/1966; App. A.G. 3/16/1967; Pub. BTU 1/5, 1/12, 1/19/1967.

ARTICLE II REPRESENTATIVE TOWN MEETING

1.0 Establishment of Representative Town Meeting

In accordance with a vote on March 6, 1971, there is established in the Town of Burlington a Representative Town Meeting form of government, whereby 108 members shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the Town. All powers of the Town shall be vested in the Town Meeting except as provided otherwise by law. The Town Meeting shall provide for the exercise of all the powers of the Town and for the performance of all duties and obligations imposed upon the Town by law.

1.1 Town Meeting

The Town Meeting shall be a continuous body, but it may adjourn for periods not exceeding 150 days. It shall meet at such times and places as the meeting may determine by rule. Special meetings may be held on the call of the Moderator, or ten or more members, and upon written notices no less than seven days in advance delivered to the place of residence of each member and that of the Moderator. Copies of said notice shall also be posted seven or more days in advance on the Town bulletin board.

Note: Amended Art. 18 TM 10/15/1975; App. A.G. 2/10/1976; Pub. BTU 2/19, 2/26, 3/4/1976. Amended Art. 5 TM 5/10/1999; App. A.G. 7/28/1999; Pub. Daily Times 9/16, 9/23/1999.

1.2 Warrants

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

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

Note: Amended TM 9/25/2000, Art. 8 and 9, Approved 1/9/2001; Pub. Daily Times 1/19, 1/26/2001.

1.3 Precincts

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

Note: Amended T.M. 5/19/1993, Art. 21; Approved A.G. 6/1/1993; Adv. Burl. News 6/9, 6/16/1993.

1.4 Reapportionment of Voting Precincts

Every five years, beginning in the year 2000, the registrars of voters shall determine the number of Town Meeting Members to which each precinct shall be entitled at subsequent elections. The number to which each precinct is entitled of the total 108 shall be in the same ratio as the population of each precinct bears to the town population as a whole.

Note: Amended Art.26 TM 9/30/1985; App. A.G. 11/19/1985; Adv. Burl. News 11/18, 12/5/1985. Amended T.M. 5/19/1993, Art. 21; Approved A.G. 6/1/1993; Adv. Burl. News 6/9, 6/16/1993. Amended T.M. 5/13/02, Art. 2; Approved A.G. 6/26/02; Adv. Daily Times 7/3, 7/10/02.

2.0 Town Meeting Members

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

Any incumbent Town Meeting Member may become a candidate for re-election by giving written notice thereof to the Town Clerk not later than twenty-one (21) days prior to the last day and hour for filing nomination papers.

Note: Amended T.M. 5/19/1993, Art. 21; Approved A.G. 6/1/1993; Adv. Burl. News 6/9, 6/16/1993.

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

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

At the annual town election of 1994, eighteen (18) Town Meeting Members shall be elected from each precinct. The six candidates receiving the highest number of votes in each precinct shall be elected to three-year terms. The six candidates receiving the next highest number of votes shall be elected to two-year terms. The remaining six candidates elected in each precinct shall be elected to one-year terms. Thereafter candidates shall be elected for three years to fill expiring terms and to fill the unexpired term of any vacancy.

Note: Amended T.M. 5/13/02, Art. 2; Approved A.G. 6/26/02; Adv. Daily Times 7/3, 7/10/02.

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

Note: Amended T.M. 5/19/1993, Art. 21; Approved A.G. 6/1/1993; Adv. Burl. News 6/9, 6/16/1993.

At elections subsequent to a reapportionment of representative Town Meeting seats, no term of office of an incumbent Town Meeting Member shall be reduced. No new elections to fill expiring terms, however, shall be held until the number of members to which the precinct is entitled would, if no elections were held, fall below the number. At that time, new elections to fill a sufficient number of seats to provide full membership shall be held.

Note: Amended T.M. 5/13/02, Art. 2; Approved A.G. 6/26/02; Adv. Daily Times 7/3, 7/10/02.

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

Note: Adopted T.M. 5/13/02, Art. 2; Approved A.G. 6/26/02; Adv. Daily Times 7/3, 7/10/02.

No Town Meeting Member shall hold any other Town office, elective or appointive, except the following: membership on advisory committees appointed for a special temporary purpose by the Selectmen, School Committee, or any other Town Board; members of Town committees of political parties; officers of elections, or Town employees. For purposes of this section only, "Town Office" shall not be construed to include Police Officers, Special Police Officers or the Animal Control Officer.

Note: Amended TM 9/25/2000, Art. 8 and 9; Approved A.G. 1/9/2001; Pub. Daily Times 1/19, 1/26/2001.

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

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

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

Note: Amended Art. 15 TM 2/20/1974; App. A.G. 3/25/1974; Pub. BTU 4/4, 4/11, 4/18/1974.

3.0 Time and Schedule of Meetings

The first session of the Representative Town Meeting following the annual election of town officers shall begin on the second Monday in May. Adjourned sessions of the Town Meeting shall also be held in January and September, beginning on the second Monday of the month, provided,

however, that when that Monday is a legal holiday Town Meeting shall begin the Wednesday following.

Note: Amended Art. 4 TM 10/1/01; App. A.G. 1/19/01; Pub. Daily Times 12/27/01 & 1/3/02.

- 3.1 Duration of Voting The polls shall be open for such time and in such manner as is determined by the Town Meeting.
- 3.2 Adjourned Town Meeting See Section 1.1, Article II.
- 3.3 Multiple Meeting Places The Town Meeting may be held in one or more places provided, that all meeting places are connected by a public address system so that all voters and taxpayers of the Town may be present and participate.

4.0 Moderator

The Town Moderator shall preside at all sessions of the Representative Town Meeting, but he shall have no vote unless the numbers present and voting are equally divided. He may appoint, subject to Town Meeting approval, from among the elected Town Meeting Members, a Deputy Moderator to serve in the event of his absence or disability. In case of the absence or disability of the Moderator and the Deputy Moderator, the Town Meeting shall elect from among its own membership a temporary Moderator to act during said absence or disability.

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

5.0 Clerk of the Town Meeting

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

Note: Amended Art. 3 Spec. TM 10/27/1971. This amendment shall take effect as of the call of the Annual TM in March, 1972. App. by reason of the failure of the A.G. to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/1972.

6.0 Ethics

Any Town official, including a Town Meeting Representative, shall disclose his or her financial interest, or that of any person related to the official, prior to speaking on any warrant article or budget item. For the purposes of this section, a town official is "related to" another person if that person is his or her spouse, parent, child, brother, sister or in-law. Provided, however, that any Town Meeting Representative who has a financial interest as set forth in this section shall consider a voluntary abstention from voting on the warrant article or budget item in question. Notification of such abstention shall, if possible, be given to the Moderator in writing before the session in which the article is considered, but at least before debate on the article.

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

7.0 Bylaws

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

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

ARTICLE III PROCEDURE OF TOWN MEETING

1.0 Annual Election

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

1.1 Election Officer Qualifications See Article IV, Section 12.0

1.2 Other Elected Officers

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

*Amended Art. 20 TM 9/17/1973. App. A.G. 11/1/1973. Adv. BTU 11/15, 11/22, 11/29/1973.

**Amended Art 24A TM 1/26/1977. App. A.G. 2/18/1977. Adv. Burl. News 2/24, 3/3/1977.

***Amended Art. 14 TM 1/10/1983. App. A.G. 2/17/1983. Adv. Burl. News 2/24, 3/6/1983.

****Amended Art. 12 TM 12/2/1970. App. A.G. 1/14/1971. Adv. Burl. News 1/21, 1/28, 2/4/1971.

2.0 Moderator

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

3.0 Call to Order

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

4.0 Reading of the Warrant and Return of Service

See Article III, Sec. 6.0

5.0 Seating Areas and Attendance Lists

At all Town Meetings, seating areas for Town Meeting Members and nonmembers shall be designated by the Moderator. No person shall be admitted to the area for Town Meeting Members

unless qualified or authorized by the Town. Attendance lists shall be maintained by appointees of the Moderator at the entrances for the duration of the meeting.

6.0 Order of Business

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

7.0 Standing and Special Committees

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

7.1 Board or Committee Reports

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

8.0 Committee Investigations

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

9.0 Required Attendance at Town Meeting

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

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

10.0 Liaison with Town Officials and Employees

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

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

11.0 Rules of Debate

See Article III, Section 6.0

- 11.1 Any registered voter or taxpayer of the Town shall, subject to such rules as may from time to time be established, have a right to speak, but not to vote, at Town Meeting sessions.
- 11.2 Except on procedural matters, voting shall be by standing vote, but if seven or more members shall doubt the vote by raising their hands to so indicate after the vote is announced, then a call of the roll shall be taken and the votes recorded in the journal. The Moderator may, in his discretion, direct that any vote be taken by a call of the roll. A majority of all of the members shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Town Meeting. The Town Meeting shall not for any reason declare itself in executive session or attempt to prohibit the public from attendance at any of its proceedings.
- 11.3 Roberts Rules of Order, Revised, with the following exceptions, shall be the authority in all procedural matters not covered by law.
- 11.4 A motion to reconsider a vote on a warrant article may be made by any Town Meeting member, provided that written notice of intent to move such reconsideration is received by the Town Clerk within fourteen (14) days after that vote was recorded and before all other articles on that warrant have been acted upon.
 - 11.4.1 Any vote which takes effect under Sec. 13.0 of this article, without a fourteen (14) day delay, shall not be reconsidered.
 - 11.4.2 Motions to reconsider shall be in order only after all other business of the warrant has been completed and shall require a two-thirds majority of those members present and voting.
 - 11.4.3 At each adjourned session the Moderator shall advise the Town Meeting of all articles for which notice of intent to reconsider has been filed.
 - 11.4.4 No vote shall become effective while reconsideration is pending.
- 11.5 No person who has spoken on the question may move to terminate debate.
- 11.6 A session of The Town Meeting shall not be adjourned until all articles and motions to reconsider have been acted upon.

12.0 Acts Requiring a Bylaw

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

- (1) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (2) Establish rules governing the granting, renewing, or extension of a franchise or license;

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

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

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

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

13.0 Referendum Petition

No final vote of any Representative Town Meeting session passing or rejecting a measure under any article in the Warrant, except a vote to adjourn, or an authorization to borrow money in anticipation of taxes, an authorization to pay debts and obligations of the Town, an appropriation of funds necessary to implement a written agreement executed under Section 178 I of Chapter 149 of the General Laws, or the budget of the Town as a whole, or a vote declared by preamble to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the Town, and which is passed by a two-thirds vote of the membership, shall be operative until fourteen (14) days after the adoption of such vote.

If, within said fourteen (14) days, a petition signed by not less than five percent of the registered voters of the Town, containing their names and addresses as they appear on the list of registered voters, is filed in the Office of the Selectmen requesting that the question or questions involved in any such vote be submitted to the registered voters of the Town at large, then the operation of such vote shall be further suspended pending its determination as hereinafter provided. Within fourteen (14) days of the filing deadline, and including the time of certification by the Board of Registrars of a referendum petition, the Selectmen shall call a special election which shall be held within thirty-five (35) days but not sooner than twenty-eight (28) days after issuing the call, provided, however, that if a regular or special election is to be held not more than thirty (30) days after, they may provide that the question or questions involved be presented to the voters at the same election.

Note: Amended Art. 26 TM 1/13/1986. App. A.G. 2/20/1986. Adv. Burl. News 2/27, 3/6/1986.

All votes shall be taken by official ballots, and the checklist shall be used in the same manner as is in the election of Town Officers. The questions so submitted shall be determined by a majority vote of the registered voters of the Town voting thereon, but no action of the Representative Town Meeting shall be reversed unless at least twenty (20) percent of the registered voters of the Town shall so vote.

The question so submitted shall be stated on the ballot in substantially the same language and form in which they were stated when presented by the Moderator to the Representative Town Meeting as appears from the records of said meeting.

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

If a petition is not filed within fourteen (14) days of a final vote of the Representative Town Meeting, it shall then become effective.

14.0 Parliamentary Authority

See Article III, Section 6.0

Note: Amended Art. 3 Spec. TM. 10/27/1971. This amendment shall take effect as of the call of the Annual Town Meeting in March, 1972. App. by reason of the failure of the A.G. to act within 90 days of submission. Adv. BTU 3/30, 4/6, 4/13/1972.

15.0 Town Meeting Attendance

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

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

16.0 Report of Town Officials

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

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

ARTICLE IV SELECTMEN

1.0 General Duties

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

- 1.9 Filling of Vacancies on the Board of Selectmen If there is a failure to elect or a vacancy occurs in the Office of Selectmen, the remaining Selectmen or Selectman may call a special election to fill the vacancy and shall call such election upon the request in writing of 200 registered voters of the Town or 20% of the total number of registered voters of the Town, whichever number is lesser; provided that such request is filed with them or him not less than 100 days prior to the date of the next annual election.
- 1.10 Filling of Vacancies, other than Selectmen If there is a failure to elect or if a vacancy occurs in any Town office, other than offices of Selectmen, Town Clerk, Treasurer, Collector of Taxes or Auditor, the Selectmen shall in writing appoint a person to fill the vacancy. If there is a vacancy in a Board consisting of two or more members, except a Board whose members have been elected by a proportional representation under Chapter 54A, the remaining members shall give written notice thereof to the Selectmen who with the remaining members shall, after one week's notice, fill such vacancy by ballot. A majority is necessary. The person elected or appointed shall perform the duties of office until the next Annual Meeting or until another is qualified.
- 1.11 Removal or Reappointment of Superintendent of Department of Public Works The Selectmen may by majority vote adopt a resolution providing that the Superintendent of Public Works shall not be removed from office or fail of reappointment thereto except by at least a four-fifths vote of all Selectmen or successor appointing authority, and such resolution, if adopted, shall have the force of law and shall not be repealed or superseded except by at least four-fifths vote of the Selectmen, as long as this Bylaw remains in effect.

Note: Adopted Art. 14 TM 1/25/1978; App. A.G. 4/13/1978; Adv. Burl. News 4/20, 4/27/1978.

- 1.12 To maintain public lands not under the jurisdiction of other Town officials or agencies and to dispose of any such lands, that are surplus to the needs of the Town, only in accordance with the following sections:
- 1.12.1 A current list of all Tax Possession Land shall be maintained and published annually by the Selectmen.
- 1.12.2 No land shall be sold or disposed of by the Selectmen except after a public hearing and a vote of the Selectmen at a regular meeting.
- 1.12.2.1 Notice of the public hearing shall be advertised in a local newspaper not less than 30 days prior to the scheduled date of the hearing, and shall include the date, time, place and purpose of the hearing and a description of the land to be considered for sale or disposal.
- 1.12.2.2 A description of the land to be sold or disposed of shall be sent to the Town Clerk and to all Town officers, committees and agencies not less than 60 days prior to the scheduled date of the hearing.
- 1.12.2.3 A vote of the Selectmen to sell or dispose of land shall be taken only at a regular meeting of the Selectmen not less than 5 days subsequent to the public hearing, and sale or disposition, if voted, shall take effect 10 days after such vote is recorded and filed with the Town Clerk.

Note: Adopted Art 19 TM 2/20/1974; App. A.G. 3/25/1974; Adv. BTU 4/4, 4/11, 4/18/1974.

- 1.13 On all collective bargaining negotiations between the Town and any authorized collective bargaining unit, the responsible authority shall invite in an advisory capacity to each

negotiating session, representatives of the Personnel Board and Ways and Means Committee. Further, department heads responsible for the employees of the respective bargaining unit shall be appraised in writing of the results of each negotiating session.

Note: Adopted Art. 27 TM 10/15/1975; App. A.G. 2/10/1976; Adv. BTU 2/19, 2/26, 3/4/1976.

2.0 Town Administrator

- 2.1 The Board of Selectmen of the Town of Burlington, by an affirmative vote of at least four (4) members, shall appoint a Town Administrator for an indefinite term and fix the compensation within the amount annually appropriated for that purpose. The position of Town Administrator shall not be subject to the Bylaws of the Town relative to personnel, nor shall it be included in any certification of any collective bargaining unit.
- 2.2 The Town Administrator shall be appointed solely on the basis of executive and administrative qualifications and shall be a person of proven professional ability, especially fitted by education, training, and previous experience in municipal administration helpful for the performance of the duties of the office. The person shall not have served in an elective office in or for the Town of Burlington for at least 24 months prior to his appointment. The person shall devote full time to the office and shall not hold any other public office, elective or appointive, nor shall engage in any other business, occupation or profession during the term of office, unless such action is approved in advance, in writing, by the Board of Selectmen. The Town may, from time to time, by Bylaw, establish such additional qualifications it deems necessary and appropriate.
- 2.3 The Town Administrator shall execute a bond in favor of the Town of Burlington for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed by the Selectmen. The cost of said bond shall be paid by the Town.
- 2.4 The Town Administrator shall be the chief administration officer of the Town of Burlington with the powers and duties as follows:
 - 2.4.1 Said administration shall be responsible to the Board of Selectmen for the efficient administration and coordination of all matters that come under the jurisdiction of the Board of Selectmen, except as they may affect the accounting and legal departments.
 - 2.4.2 Said administration shall be responsible for the implementation of policies, directives and votes of the Board of Selectmen.
 - 2.4.3 Said administration shall appoint and remove, subject to Chapter 31 of the General Laws, all department heads, all officers and employees who come under the jurisdiction of the Board of Selectmen, except the Town Accountant and Town Counsel. Persons appointed by the administration to any statutory Board, Committee, or Commission must be a resident and a registered voter of the Town of Burlington.

Note: Second sentence adopted 1/14/1991 TM. App. A.G. 3/22/1991. Adv. Burl. News 4/11 & 4/18/1991.

Names of persons appointed by the Town Administrator shall be transmitted in writing to the Board of Selectmen at a meeting duly called and shall become effective on the fifteenth (15th) day following the day on which notice of the

appointment is filed with said Board of Selectmen, unless said Board shall, within said period, by a majority, vote to reject any such appointment.

- 2.4.4 Said administrator shall administer the personnel system of said Town, including, but not limited to, personnel policies and practices; rules and regulations, the personnel Bylaws, negotiation of all collective bargaining agreements, and preparing the salary "Classification Plan" Bylaw amendments for consideration of Town Meeting, if necessary.
- 2.4.5 Said administrator shall be responsible for the preparation and format of a uniform budget document, which is acceptable to the Ways and Means Committee; for all departments or agencies under the Selectmen's jurisdiction.
- 2.4.6 Said administrator shall be responsible for the preparation of the annual budget for all town agencies under the jurisdiction of the Board of Selectmen.
- 2.4.7 With the assistance of the Town Accountant, said administrator shall keep the Selectmen informed as to the financial needs of the Town and shall make such recommendations to the Board of Selectmen as he deems necessary or expedient.
- 2.4.8 Said administrator shall be responsible for the review of all current Bylaws, regulations and policies that affect the departments and agencies under the jurisdiction of the Board of Selectmen, and shall make such recommendations for changes as he deems necessary.
- 2.4.9 Said administrator shall see that all provisions of General Laws, Bylaws, and other votes of Town Meeting and votes of the Board of Selectmen which require enforcement, direction and supervision, of the Town Administrator office are faithfully carried out and performed.
- 2.4.10 Said administrator shall be responsible for the approval of the purchase of all supplies, materials, equipment, central and other services, for all departments or agencies under the jurisdiction of the Board of Selectmen.
- 2.4.11 Said administrator shall be responsible for the negotiation of all contracts which the Board of Selectmen are authorized by law to enter into. Such proposed contracts shall be subject to final approval and execution by the Board of Selectmen.
- 2.4.12 Said administrator shall be responsible for the use and maintenance of all Town facilities and equipment under the jurisdiction of the Board of Selectmen and for rentals thereof, when authorized.
- 2.4.13 Said administrator may, without notice, cause the conduct, while in public office or employment, of any officer or employee, or department, board or commission under the control of said administrator to be examined for malfeasance, misfeasance, or nonfeasance.
- 2.4.14 Said administrator shall attend all regular and special meetings of the Board of Selectmen, unless requested and allowed to be excused, and shall have a voice, but not vote, in all its discussions.
- 2.4.15 Said administrator shall attend all sessions of the Town Meeting and shall be available to answer all questions concerning warrant articles which are directed to the office and relate to matters under the person's general supervision.

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

- 2.5 The Board of Selectmen, by an affirmative vote of at least four (4) members, may remove the Town Administrator from office. If the Board of Selectmen affirmatively vote to remove the Town Administrator, said board shall give him at least ninety (90) days' notice as to the effective date of his termination, or provide him with ninety (90) days of severance pay, or a combination of both notice and severance pay equivalent to at least ninety (90) days.
- 2.6 If the office of Town Administrator is vacant, as a result of death, removal, resignation or otherwise, or the Town Administrator is on an extended leave of absence, exceeding two weeks, the Board of Selectmen by an affirmative vote of at least three (3) members, shall appoint a qualified Town Administrative officer or employee to serve as the acting Town Administrator. Said acting Town Administrator shall receive compensation as set by the affirmative vote of at least three (3) Selectmen, but shall not exceed the rate of compensation approved for the administrator being replaced.
- 2.7 Upon the appointment of a Town Administrator, the office of Executive Secretary to the Selectmen shall be abolished.

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

3.0 Board of Public Works

The Selectmen shall serve as the Board of Public Works.

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

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

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

upon; and in case a net surplus should remain after payment for such new construction the water rates shall be reduced proportionately.

The Board of Public Works shall annually, and as often as the Town may require, render a report upon the condition of the works under their charge, and an account of their doings, including all receipts and expenditures. (Sec. 69B, Ch. 41 GL).

The Board of Public Works shall carry out the duties and responsibilities specified in Sections 38 through 42, Chapter 41 of the General Laws, with regard to public water supply.

- 3.2 The Board of Public Works shall have such additional powers with respect to the collection and disposal of garbage and refuse, the maintenance and repair of Town buildings and property, and the performance of such duties of any other Boards, Departments and Offices of the Town as may be reasonable related to the duties and responsibilities of a Board of Public Works, as the Town may from time to time by Bylaw provide, and other provisions of law to the contrary notwithstanding. (Sec. 69D, Ch. 41 GL).
- 3.3 The Selectmen shall appoint and fix the compensation of a Superintendent of Public Works, who shall exercise and perform, under the supervision and direction of the Board, such of the powers, rights and duties specified under Sections 3.1 and 3.2 above, as it may from time to time designate. He shall be responsible for the efficient exercise and performance of such powers, rights and duties and shall hold office subject to the will of the Board (Sec. 69E, Ch 41 GL).
 - 3.3.1 He shall be specially fitted by education, training and experience to perform the duties of the office and may or may not be a resident of the Town. During his tenure, he shall hold no elective or other appointive office, nor shall engage in any other business or occupation (Sec. 69E, Ch. 41 GL).
 - 3.3.2 He shall give to the Town a bond with a surety company authorized to transact business in the Commonwealth as surety, for the faithful performance of his duties, in such sum and upon such conditions as the Board may require (Sec. 69E, Ch. 41 GL).
 - 3.3.3 He shall, subject to the approval of the Board, appoint such assistants, agents and employees as the exercise and performance of his powers, rights and duties may require (Sec. 69E, Ch 41 GL).
 - 3.3.4 He shall keep full and complete records of the doings of his office and render to the Board as often as it may require a full report of all operations under his control during the period reported upon; and annually, and from time to time as required by the Board, he shall make a synopsis of such reports for publication. He shall keep the Board fully informed as to the needs of the Town within the scope of his duties, and shall furnish to the Board each year upon its request a carefully prepared and detailed estimate in writing of the appropriations required during the next succeeding fiscal year for the proper exercise and performance of all his powers, rights and duties (Sec. 69E, Ch. 41 GL).
- 3.4 Department of Public Works - The Superintendent of Public Works shall establish and staff with qualified personnel a Department of Public Works which shall implement the general and specific directions of the Board of Public Works.
 - 3.4.1 The Department of Public Works shall include the following Divisions: Engineering, Highway, Cemetery, Water and Sewer, and Central Maintenance.

- 3.4.2 In addition to the above-listed Divisions, the Superintendent of Public Works shall directly supervise the operation and personnel of the Inspection, Moth, Tree, Building and Property Maintenance Departments.
- 3.4.3 Each Division of the Department of Public Works, with the exception of the Engineering Division, shall be supervised by an Asst. Superintendent who shall implement the general and specific directives of the Superintendent with regard to his specific Division.
- 3.4.4 The Engineering Department shall be supervised by the Town Engineer who shall provide engineering information studies and reports as required by the Superintendent of Public Works.
- 3.4.5 The Inspection Department shall include inspectors qualified to secure proper construction and installation of electric, gas, plumbing, heating, air conditioning, water supply, sewer, street construction and drainage works in compliance with accepted practice and applicable codes and regulations. An inspector may, if qualified, provide services in two or more of these categories.

Note: Section 3.4.1 adopted under Art. 51 TM 6/6/1979. App. A.G. 10/9/1979; Adv. Burl. News 10/18, 10/25/1979. Amended Art. 25 TM 1/12/1987; App. A.G. 4/8/1987; Adv. Burl News 4/16, 4/23/1987.

Section 3.4.3 and 3.4.4 amended Art. 25 TM 1/12/1987. App. A.G. 4/8/1987, Adv. Burl. News 4/16, 4/23/1987.

- 3.4.6 The Superintendent of Public Works shall act as and perform the duties of Moth Superintendent and Tree Warden and shall be responsible for the maintenance and repair of all Town buildings and property other than schools, libraries, housing projects and fire stations.
- 3.4.7 Highway Division The Assistant Superintendent for Highways shall be specially fitted by education and experience to supervise the maintenance of Town streets and related structures and to coordinate construction projects by private contractors. He shall exercise direct control over the personnel, equipment and buildings of the Highway Division, and shall supervise rubbish and garbage collection, snow removal and other services being provided by private contractors on Town streets.
- 3.4.8 Cemetery Division The Asst. Superintendent of Cemeteries shall be specially fitted by education and experience to supervise the maintenance and administration of Town Cemeteries.
- 3.4.9 Water and Sewer Division The Asst. Superintendent shall be specially fitted by education and experience to supervise the maintenance of water and sewer structures and installations and to coordinate water and sewer construction projects by private contractors. He shall exercise direct control over the personnel equipment and buildings of the Water & Sewer Division.
- 3.4.10 Central Maintenance Division The Asst. Superintendent shall be specially fitted by education and experience to supervise repair and maintenance of Town-owned equipment, both gasoline and diesel powered and maintain proper records of the repairs and maintenance performed on all equipment for which he is responsible.

Note: Adopted Art. 51, TM 6/6/1979. App. A.G. 10/9/1979, Pub. Burl News 10/18, 10/25/1979.

4.0 Board of Registrars

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

4.1 Organization

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

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

4.2 Duties

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

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

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

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

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

Note: Adopted Art. 3 at Special TM 11/14/1960.

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

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

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

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

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

5.0 Legal Department

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

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

5.1.1 A law degree from an accredited institution.

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

Note: Adopted Art. 52 TM 6/6/1979. App. A.G. 10/9/1979, Pub. Burl News 10/18, 10/25/1979.

5.1.3 Membership in the Massachusetts Bar.

5.1.4 Other qualifications that the Selectmen may require.

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

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

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

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

Note: The above two sections amended under Art. 51 of Warrant for Annual Town Meeting 3/4/1972. App. by A.G. 9/1/1972. Pub. BTU 9/14, 9/21, 9/28/1972.

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

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

Note: Amend. Art. 23, TM 1/26/1977. App. A.G. 4/21/1977. Pub. Burl. News 5/12, 5/19/1977.

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

Note: Amend. Art. 13, TM 1/10/1983. App. A.G. 3/22/1983. Adv. Burl News 3/31 & 4/7/1983.

5.2.5 Attend the first session of all regular and special Town Meetings and attend subsequent sessions of Town Meeting upon at least 24 hours notice from the Town Clerk that a majority of Town Meeting Members present and voting have requested Counsel's presence at said session. A motion by a Town Meeting Member to request the presence of Town Counsel at any session shall take precedence over any other motion. This motion is a debatable motion.

Note: Amended Art. 22 TM 10/15/1975. App. A.G. 1/26/1976. Pub. BTU 1/29, 2/5, 2/12/1976.

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

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

5.2.6.2 Legal opinions given during the year.

5.2.6.3 Potential legal problems.

5.2.6.4 Any other legal matters of concern to the Town.

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

Note: Adopted Art. 32 TM 10/15/1975; App. A.G. 1/26/1976, Pub. BTU 1/29, 2/5, 2/12/1976.

6.0 Town Accountant

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

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

- 6.2 The Town Accountant shall receive and examine all approved bills and payrolls of Town Officers authorized to expend money and, if in order, draw a warrant upon the Treasury, payment subject to the approval of the Selectmen.
- 6.3 The Town Accountant shall have custody of all contracts of the Town, shall keep a register of the sureties on all bonds of indemnity given to the Town and shall keep a detailed record of Town debt, including purpose, when incurred, when due, rate of interest and provisions for payment.
- 6.4 The Town Accountant shall make an annual report to the Selectmen stating receipts and expenditures of the Town for the past financial year and debt charged, incurred or unpaid at the end of the financial year.
- 6.5 The Town Accountant shall perform the duties and possess the powers of a Town Auditor.
- 6.5.1 He shall annually examine the books and accounts of all officers and trustees charged with the receipt and expenditures of money, all original bills and vouchers on which money has been or may be paid and shall certify in the Annual Town Report the verification of all accounts and cash balances.
- 6.5.2 He shall receive, from any officers of the Commonwealth or of a county, city, town or district, who makes payment of public money to the Town Treasurer, a written statement of the amount of the payment, the date and purpose.
- 6.5.3 He shall annually before February 1st, notify the Assessors of the total receipts of the preceding financial year, from all sources other than taxes, loans and trust funds.

Note: Adopted Art. 2 Spec. TM 6/25/1969. App. A.G. 1/21/1970. Pub. BTU 12/19, 12/26/1970.

7.0 Fire and Police Departments

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

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

Section 42A - Establishment of Certain Fire Departments in Towns

There shall be a fire department established under the direction of the selectmen, who shall appoint a chief of the fire department and such other officers and firemen as they deem necessary, and fix their compensation in an amount not in the aggregate exceeding the annual appropriation therefor. The selectmen may make suitable regulations governing the fire department and the officers and firemen thereof, and in towns which are not subject to Chapter 31 may remove the chief and other officers and firemen at pleasure. The chief of the fire department shall be in immediate control of all town property used by the department, and of the officers and firemen, who shall obey his orders.

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

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

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

Section 100, Chapter 41, GL - Indemnification

Section IIIA, Chapter 41, GL - Vacations. Accepted Article 8 7/31/1950.

Section 6B, Chapter 40, GL - Providing of Uniforms. Accepted Article 19 3/3/1952.

Civil Service Status-Fire Department. Authorizing Act by General Court, 1953.
Referendum Voted 3/1/1954.

Section 89B, Chapter 32, GL - Payment of Death Benefits. Accepted Article 34 4/1/1957.

Section 111D, Chapter 41, GL - Vacations. Referendum Voted 3/3/1958.

Section 58C, Chapter 48, GL - Overtime Remuneration or Compensatory Time Off.
Accepted Article 12 3/24/1958.

Section 57E, Chapter 48, GL - Remuneration for Holidays, Chief. Accepted Article 38
4/6/1966.

Section 57D, Chapter 48, GL - Time off or Remuneration. Accepted Article 39 4/6/1966.

Section 58D, Chapter 48, GL - 42-Hour Week. Referendum Voted 3/1/1969.

Section 42A, Chapter 48, GL - Weak Chief. Accepted Article 45 5/24/1982.

7.2 Police Department

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

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

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

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

Section 97 In towns which accept this section or have accepted corresponding provisions of earlier laws there shall be a police department established under the direction of the Selectmen, who shall appoint a chief of police and such other police officers as they deem necessary, and fix their compensation in an amount not in the aggregate exceeding the

annual appropriation therefor. The selectmen may make suitable regulations governing the police department and the officers thereof, and in towns which are not subject to provisions of Chapter 31 to the contrary may remove the chief and other officers at pleasure.

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

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

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

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

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

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

Section 99A - In any city or town which accepts this section, the members of the regular police department of said city or town who have been members of said department for at

least five years may reside outside said city or town; provided, they reside within the commonwealth and within ten miles of the limits of said city or town.

Section 100 - Upon application by a fire fighter or police officer of a city, town or water district, or in the event of the physical or mental incapacity or death of such fire fighter or police officer, by someone on his behalf, the board or officer of such city, town or district authorized to appoint fire fighters or police officers, as the case may be, shall determine whether it is appropriate under all the circumstances for such city, town or district to indemnify such fire fighter or police officer for his reasonable hospital, medical, surgical, nursing, pharmaceutical, prosthetic and related expenses incurred as the natural and proximate result of an accident occurring, or of undergoing a hazard particular to his employment, while acting in the performance and within the scope of his duty without fault of his own. If such board or officer determines that indemnification is appropriate, such board or officer shall certify for payment, either directly or by way of reimbursement, by such city, town or district, in the same manner as a bill lawfully incurred by such board or officer but out of an appropriation for the purposes of clause (32) of Section 5 of Chapter 40, such of said expenses as may be specified in such certificate. Whenever such board or officer denies an application in whole or in part, such board or officer shall set forth in writing its or his reasons for such denial and cause a copy thereof to be delivered to the applicant. At any time within two years after the filing of an application as aforesaid, an applicant aggrieved by any denial of his application or by the failure of such board or officer to act thereon within six months from the filing thereof may petition the superior court in equity to determine whether such board or officer has without good cause failed to act on such an application or, in denying the application, in whole or in part, has committed error of law or has been arbitrary or capricious or has abused its or his discretion, or otherwise has acted not in accordance with law. After due notice and hearing, such court may order such board or officer to act on such application or to consider, or further consider, and determine the same in conformity with law.

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

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

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

Section 97, Chapter 41, GL - Establishment and Maintenance of Police Department. Accepted 3/3/1941.

Civil Service Status for Chief and all regular or permanent members of Burlington Police Force Authorizing Act by General Court 1948. Referendum Voted 2/7/1949.

Section 111A, Chapter 41, GL - Vacations. Accepted Art. 8 7/31/1950.

Section 6B, Chapter 40, GL - Providing of Uniforms. Accepted Art. 19 3/3/1952.

Section 16C, Chapter 147, GL - Five-day Week Referendum 3/1/1954.

Section 89B, Chapter 32, GL - Payment of Death Benefits. Accepted Art. 34 4/1/1957.

Section 111D, Chapter 41, GL - Vacations Referendum. Accepted 3/3/1958.

Section 17C, Chapter 147, Compensatory Time Off or Remuneration. Accepted Art. 12 6/23/1958.

Section 53C, Chapter 262, Compensatory Time Off or Remuneration. Accepted Art. 13 I am doing some family research and I have family buried at the Chestnut Hill Cemetery in Burlington. I was wondering if you can tell me how to get more information from the cemetery. I know my great grandfather, Authur Wendell Wood and my great great grandfather, Mary Francis (Cate) Wood, are buried there. I am hoping to find more relatives there.

Meredith Leahy 6/23/1958.

Section 17A, Chapter 147, Compensatory Time Off or Remuneration. Accepted Art. 45 4/6/1966.

Section 57F, Chapter 48, GL - Remuneration, Chief. Accepted Art. 46 4/6/1966.

8.0 Animal Control Officer and Pound

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

Note: Amended Art. 2, TM 2/20/1974. App. A.G. 3/25/1974. Adv. BTU 4/4, 4/11, 4/18/1974.

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

8.2 All dogs not licensed ten days after the first day of June of each year are to be caught and confined by the Animal Control Officer, who shall prosecute a complaint against the owners. All such dogs are to be kept in a sanitary place, a licensed kennel or by the SPCA, and may be sold or otherwise disposed of, if not claimed within ten days by the owner.

Note: Adopted Art. 2 Spec. TM 6/26/1969; App. A.G. 1/21/1970; Adv. BTU 2/12, 2/19, 2/26/1970.

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

Note: Adopted Art. 2 TM 6/19/1972; App. A.G. 9/22/1972; Adv. Burl. News 10/26, 11/2, 11/9/1972.

9.0 Fees - Building Department Effective January 1, 1992

9.1 Fees for Building Permits

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

9.2 Building Department Rules and Regulations in Relation to Permit Fees

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

Note: Amended Art. 9 TM 9/16/1991; App. A.G. 11/26/1991; Adv. Burl. News 12/5/1991, 12/12/1991.

10.0 Fee Schedule - Weights and Measures

BALANCES AND SCALES	
With capacity of over 10,000 lbs	\$50.00
With capacity of 5,000 to 10,000 lbs.	30.00
With capacity of 1,000 to 5,000 lbs.	20.00
With capacity of 100 to 1,000 lbs.	10.00
With capacity of more than 10 lbs. and less than 100 lbs.	6.00
With capacity of 10 lbs. or less	5.00
WEIGHTS	
Avoirdupois	.50
Metric	.50
Apothecary	.50
Troy	.50
LIQUID MEASURING METERS	
Gasoline	8.00
Diesel	8.00
Kerosene	8.00
LINEAR MEASURES	
Taxi Meter	8.00
Fabric Measuring	5.00
Wire-Rope-Cordage	5.00
Tapes	1.00
ADJUSTMENT FEES	
Per Device	1.00

Note: Adopted Art. 7, TM 1/11/1993; App. A.G. 3/22/1993. Adv. Burl. News 3/17, 3/24/1993.

11.0 Fees - Automatic Devices Licenses

Annual fee for any automatic amusement device or any renewal thereof	30.00
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Note: Adopted Art. 28, TM 5/18/1994; App. A.G. 7/26/1994; Published Burlington Union 8/4, 8/11/1994.

12.0 Pollworker Appointments

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

Note: Adopted Art. 5 Spec. TM 9/28/1954. App. A.G. 11/19/1954. Pub. 12/1 12/2, 12/3/1954.

ARTICLE V AUTHORITIES, COMMISSIONS, AND COMMITTEES

1.0 Town Administrator Appointments

1.1 Conservation Commission

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

Note: Adopted Art. 19 Spec. TM 11/17/1965. Amended Art. 49 TM 4/3/1967.

1.2 Historical Commission

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

Note: Adopted Art. 20 Spec. TM 6/8/1966.

1.3 Consumer Advisory Commission

A Consumer Advisory Commission is hereby established in the Town of Burlington pursuant to Section 8F of Chapter 40 of the General Laws.

The Commission shall consist of three members appointed by the Board of Selectmen and shall serve without compensation. Initially, one member shall be appointed to serve for one year, one member to serve for two years and one member to serve for three years. Upon the expiration of the initial terms, each person appointed shall serve for a term of three years.

The duties and functions of this Commission shall be those set forth in Section 8F of Chapter 40 of the General Laws.

Note: Adopted Art. 32 Spec. TM 11/10/1971. App. by reason of the A.G.'s failure to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/1972.

1.4 Town Beautification Committee

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

Note: Adopted Art. 54, TM 3/28/1973. App. A.G. 7/30/1973. Pub. BTU 8/16, 8/23, 8/30/1973.

1.5 Bicentennial Commission

A Bicentennial Commission is established for purposes of planning and coordinating activities in conjunction with the celebration of the Town's Bicentennial in 1999. The Commission shall consist of a number of residents, to be determined and appointed by the Board of Selectmen. The term of the Commission shall expire on January 1, 2000.

Note: Adopted Art 11, TM 5/16/1994; App. A.G.7/26/1994; Published Burlington Union 8/4, 8/11/1994.

2.0 Moderator Appointments

2.1 Finance Committee (Ways & Means)

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

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

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

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

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

Note: Amended Art. 11, TM 1/8/1990; App. A.G. 3/26/1990; Adv. Burl. News 4/5 and 4/12/1990.

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

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

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

Note: Adopted Art. 30 TM 12/16/1974. App. A.G. 2/7/1975. Adv. BTU 2/20, 2/27 3/6/1975.

2.1.5 The Committee shall appoint two members to the Personnel Board and shall make any appointment that a vote of Town Meeting requires it to make.

Note: Amended. Art. 19, TM 10/15/1975; App. A.G. 2/10/1976; Adv. BTU 2/19, 2/26, 3/4/1976.

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

Note: Adopted Art. 18 Spec. TM 11/17/1969; App. A.G. 2/9/1970; Adv. 2/19, 2/26, 3/5/1970.

2.2 Capital Budget Committee

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

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

Note: Amended Art. 83 of TM 6/9/1975. App. A.G. 9/30/1975. Pub. BTU 10/9, 10/16, 10/23/1975.

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

2.2.2 The Capital Budget Committee shall consider all matters relating to proposed expenditures of money by the Town for capital terms and projects. A capital item or project shall be an expenditure, financed in whole or in part by Town funds, in excess of \$5,000 and may include (1) the construction, repair, extension, or other improvement of a public building, highway, sidewalk, storm drain, sewerage installation, bridge, playground, park or like public works, or for a facility, structure, or utility appurtenant to any of them, and (2) the purchase of land, equipment or buildings.

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

Note: Amended Art. 32 TM 10/20/1975. App. A.G. 1/26/1976. Pub. BTU 1/29, 2/5, 2/12/1976.

2.3 Bylaw Review Committee

The General Bylaws, and all special Bylaws, shall be reviewed by the Bylaw Review Committee of five members to be appointed by the Moderator within thirty days after each Annual Town Meeting.

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

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

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

Note: Adopted Art. 16 TM 1/21/1981.

2.4 Town Facilities Committee

A Town Facilities Committee consisting of seven members, with at least one member from each of the six voting precincts whenever possible, shall be appointed annually, for the term of two years, by the Moderator within thirty days after the final adjournment of the Town Meeting immediately subsequent to the Annual Town Election. However, the first year of this Committee, four members shall be appointed for two years and three members for one year. Not more than two members shall be appointed from any one voting precinct. The Committee shall choose a chair, vice-chair, and secretary.

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

Note: Adopted Art.7, TM 1/7/1996. App. A.G. 1/30/1996. Pub. Burlington Union 2/8, 2/15/1996. Replacing School Space Committee Adopted Art. 18, Spec. TM 6/23/1969 and repealed Art. 7, TM 1/17/1996.

2.5 Rules Committee

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

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

The Committee shall:

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

Note: Adopted Art. 54 TM 6/10/1974. App. A.G. 7/17/1974. Pub. BTU 8/1, 8/8, 8/15/1974. Amended Art. 10 TM 9/11/1995. App. A.G. 10/17/1995. Pub. Bur. Union 10/26, 11/2/1995.

2.6 Land Use Committee

A Land Use Committee consisting of nine members, including at least 6 Town Meeting members with at least one member from each of the 6 voting precincts but not more than two from any one voting precinct shall be appointed by the Moderator. Appointments shall be made within thirty (30) days after the final adjournment of the Annual Town Meeting. Initially the Moderator shall appoint three members for three years, three members for two years, and three members for one year. Thereafter, all terms shall be three years.

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

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

The Committee shall:

- 2.6.1 Review and make recommendations regarding warrant articles dealing with land use.
 - 2.6.1.1 Whenever practicable, a written report shall be submitted to Town Meeting prior to its consideration of the respective article.
 - 2.6.1.2 The Committee shall review and discuss appropriate maps; surveys of residents and owners of property directly affected; reports of consulting experts; probable impacts on residents and owners of property in the near vicinity of the land in question, the economy of the community, traffic, safety and ecology; potential alternate uses of the land in question; and any other information the Committee considers relevant.
 - 2.6.1.3 If the article requires a recommendation by the Planning Board, the Planning Board shall notify the Land Use Committee of the

public hearing for the land use zoning issue and include the Land Use Committee in the distribution of the legal notices.

- 2.6.2 Review and make recommendations regarding all matters referred to the Committee by Town Meeting.
- 2.6.3 Maintain a cooperative working relationship with the Planning Board, the Board of Appeals, the Selectmen's Office, the Conservation Commission, the Department of Public Works, the Town Engineer's Office and any other Town office, board or commission in regards to issues relevant to Land Use."

Note: Amended Art. 12, TM 1/17/1996. App. A.G. 1/30/1996. Pub. Burlington Union 2/88, 2/15/1996.

2.7 Human Services Advisory Committee

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

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

The Committee shall:

- 2.7.1 Consider all proposed human service programs and make recommendations to the Town Meeting.
- 2.7.2 Gather information on existing human services.
- 2.7.3 Promote coordinated action and cooperation regarding human services among the various town officials and departments.
- 2.7.4 Maintain a current assessment of human service needs and expressed concerns of residents.
- 2.7.5 Gather information of federal and state funding.
- 2.7.6 Develop a list of priorities for expenditures.
- 2.7.7 Consider and report on all matters referred to the committee by the Town Meeting or any Town official or department head.

Note: Adopted Art. 17 TM 1/1978. App. A.G. 4/13/1978. Adv. Burl. News 4/20, 4/27/1978.

3.0 Joint Appointments

3.1 Citizens Advisory Committee

A Citizens Advisory Committee shall be established consisting of thirteen members. There shall be one member each from the following boards: Board of Selectmen, Board of

Health, Planning Board, School Committee, Recreation Commission, Ways & Means, Capital Budget, Land Use Committee and Conservation Commission.

Each of these members shall be appointed for a two-year term, when possible, by the chairperson of said committee. Two Town Meeting Members shall be appointed by the Moderator for a two-year term, and two representatives of business and industry shall be appointed by the Burlington Business Roundtable for a two-year term.

The committee shall meet at least three times per year. The committee shall also meet as necessary at the request of the involved boards. Appointments to the committee shall be made within thirty days after the first session of Town Meeting following the Town Election. The committee shall meet at the call of the outgoing chairperson prior to the September Town Meeting for the purpose of selecting a new chairman, vice chairman and secretary.

The committee shall:

- 3.1.1 Provide a vehicle for communication among boards to deal with major issues impacting the Town.
- 3.1.2 Promote coordinated action and cooperation among various Town departments and officials to accomplish vital tasks in an efficient manner.
- 3.1.3 Review and make recommendations regarding all matters referred to the committee by Town Boards.

Note: Adopted Art. 26, 1/12/1987 TM. App. A.G. 4/8/1987. Adv. Burl. News 4/16, 4/23/1987.

4.0 Appointive Offices - Filling of Vacancies

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

Note: Adopted Art 22 Spec. TM 9/21/1964. App. A.G. 3/16/1967. Pub. BTU 10/5, 10/12, 10/19/1967.

5.0 Meeting Called by Members

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

Note: Adopted Art. 9 TM 1/10/1994; App. A.G. 2/25/1994; Pub. Burlington Union 3/10, 3/17/1994.

ARTICLE VI TOWN CLERK

1.0 Raffle and Bazaar Permits

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

Note: Adopted Art. 24 1/23/1987 TM. App. A.G. 4/8/1987. Adv. Burl. News 4/16, 23/1987.

2.0 Disposition of Receipts

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

Note: Adopted Art. 20, TM 9/16/1974; App. A.G. 10/23/1974; Pub. Burl. News 11/7, 11/14, 11/21/1974.

3.0 Schedule of Fees

Superseded by the acceptance of MGL Chapter 40, Section 22F at the 5/21/97 Town Meeting.
Repealed Article 6, May 14, 2001 Town Meeting

ARTICLE VII TOWN TREASURER/COLLECTOR

1.0 Treasurer

The Town Treasurer shall perform the following duties:

- 1.1 He shall be responsible for the investment of Town funds, and for the borrowing of funds required by the Town, in a manner most beneficial to the Town.
- 1.2 He shall advise Town Officers on fiscal matters delineated in Section 1.1 above.
- 1.3 He shall report to the Town annually on his activities of the preceding financial year in sufficient detail to permit proper evaluation of his performance. Sufficient detail includes as a minimum, a cash analysis sheet and a report of significant financial transactions made during the year.
- 1.4 He shall furnish bond as required under Chapter 41, Section 35, General Laws.
- 1.5 He shall prosecute actions on bonds, notes and other securities in accordance with Chapter 41, Section 36, General Laws.

Note: Adopted Art. 3 Spec. TM 6/26/1969. App. A.G. 1/21/1970. Adv. BTU 2/12, 2/19, 2/26/1970.

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

Note: App. Art. 11, Spec. TM 10/14/1963. App. A.G. 4/12/1965. Adv. BTU 12/3, 12/10, 12/17/1970.

- 1.7 Anything in Article III of the General Bylaws of the Town of Burlington notwithstanding, the Treasurer duly elected on April 2, 1977, or in any subsequent election, shall act as Tax Collector, and the Treasurer, whether elected or appointed, shall perform all the duties of Tax Collector. No separate Tax Collector shall be elected or appointed.

Note: Adopted Art. 24A TM 1/26/1977. App. A.G. 2/18/1977. Adv. Burl. News 2/24, 3/3/1977.

2.0 Tax Collector

- 2.1 The Tax Collector shall carry out the provisions of Chapter 60 of the General Laws, including as a minimum:
 - 2.1.1 Collect all taxes and interest, account for such funds, and deposit same in any bank.
 - 2.1.2 After receipt of a tax list and warrant, insure that each person is notified of the amount of his tax.
 - 2.1.3 Maintain a cash book in accordance with Section 7 of Chapter 60.
 - 2.1.4 Furnish bond as Collector of Taxes.
 - 2.1.5 He may appoint deputies in accordance with Section 92, General Laws.

2.1.6 Make proper disposition of his records in accordance with Section 97, General Laws.

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

Note: Adopted under Art. 4 Spec. TM 6/25/1969. App. A.G. 1/21/1970. Adv. BTU 2/12, 2/19, 2/26/1970.

3.0 Payment of Taxes or Assessments

3.1 The Tax Collector shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfer, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, including where applicable, identification of the real estate which is the subject of such tax, fee, assessment, betterment, or other municipal charge and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

3.2 The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers held by any party whose name appears on said list furnished to the licensing authority by the Tax Collector, or any license or permit with respect to which the licensed or permitted activity, event or other matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list, provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit held by any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension.

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

Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority received a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments, or other municipal charges, payable to the municipality as of the date of issuance of said certificate.

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

3.4 The Licensing Authority may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section One of Chapter 268 of the General Laws, in the business or activity conducted in or on said property.

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

Note: Adopted Art. 23 TM 9/22/1986. App. by A.G. 10/16/1986. Adv. Burl. News 10/23, 10/30/1986.

4.0 Disposition of Receipts

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

5.0 Interest Charges - Past Due Bills

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

Note: Adopted Art. 12, TM 1/8/1990; App. A.G. 3/26/1990; Pub. Burl. News 4/5 and 4/12/1990.

ARTICLE VIII PLANNING BOARD

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

Note: Amended Art. 19 TM 9/17/1973. App. A.G. 11/1/1973. Pub. BTU 11/15, 11/22, 11/29/1973.

ARTICLE IX BOARD OF HEALTH

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

Note: App. A.G. 2/17/1983. Adv. Burl. News 2/24, 3/6/1983.

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

1.0 Control of Retail Sale of Food

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

Note: Amended Art. 16 TM 1/23/1985. App. A.G. 4/12/1985. Pub. Burl. News 4/25, 5/2/1985.

The term food as used in this Bylaw shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law or permit or license granted to the seller of such beverages shall otherwise provide.

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

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

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

Note: Amended Art. 17 TM 1/23/1985. App. A.G. 4/12/1985. Pub. Burl. News 4/25, 5/2/1985.

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

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

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

Note: The preceding two sections adopted TM 1/3/1973. App. A.G. 1/22/1973. Pub. BTU 2/1, 2/8, 2/15/1973.

ARTICLE X HOUSING AUTHORITY

1.0 Housing Authority

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

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

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

Note: Adopted Art. 70 TM 4/11/1966.

ARTICLE XI RECREATION COMMISSION

1.0 Recreation Commission

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

Note: Adopted Art. 33 Spec. TM 6/8/1966.

ARTICLE XII REGIONAL SCHOOL COMMITTEE

1.0 Regional School Committee

Moved and seconded by the Regional School Committee that the Town accept the provisions of Chapter 71, Sections 16 to 16-1, for the establishment of a Regional School District, together with the Towns of Bedford, Billerica, Tewksbury, and Wilmington and the construction, maintenance and operation of a Regional School by the said District in accordance with the provisions of a proposed agreement filed with the Selectmen.

Note: Accepted Art. 1 Spec. TM 11/10/1965.

ARTICLE XIII PUBLIC SAFETY

1.0 Use Of Streets and Public Places

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

Note: Amended Art. 39 Spec. TM 11/15/1971. App. by reason of failure of A.G. to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/1972.

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

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

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

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

- 1.4 No person shall obstruct a street by placing therein any object or structure without public liability insurance and permit from the Selectmen.
- 1.5 No person shall erect or maintain a fence, portico, platform or doorstep extending into or on a street.
- 1.6 A person who owns or is in charge of a building near the line of a sidewalk or street shall provide a barrier or other suitable measure to prevent the fall of snow and ice upon persons and vehicles.
- 1.7 No person shall place, or cause to be placed, in a street or public place ashes, garbage, offal, gravel, stones and dirt, metal, the contents of a sink or septic system, or allow the same to remain thereon for more than one hour after being notified to remove the same by a police officer.

- 1.8 No person shall dispose of snow or ice onto a street.
- 1.9 No person shall permit a liquid to be discharged from a building, vehicle, or other private property, owned by him or under his control, onto a street or public place, except that a person may wash parts of a building or vehicles on private property without danger to the public.
- 1.10 No person shall throw or project stones, snowballs, sticks, arrows or other missiles, or play any game, or fly or hang objects in or across a street.
- 1.11 No person having charge of a vehicle in a street shall neglect or refuse to stop or to park the same, when directed by a police officer.
- 1.12 No person having a vehicle under his care or control shall leave the same parked or unattended upon a street between the hours of 2:00 AM and 8:00 AM from December 1 through April 1 in each year.
- 1.13 The Department of Public Works Superintendent or the Police Chief may remove or cause to be removed to some convenient place, including in such term a public garage, a vehicle interfering with the removal or plowing of ice and snow from a street. The cost of such removal and of any storage charges shall be paid by the owner of said vehicle. The cost of such removal of said vehicle shall be the prevailing rates as set forth by the Department of Public Utilities of the Commonwealth of Mass. at the time and date said vehicle is removed or caused to be removed.

Note: Adopted Art. 60 6/7/1978 TM, App. by A.G. 9/25/1978; Pub. Burl. News 10/12, 10/19/1978.

- 1.14 No person shall coast on or across a street except as designated by the Selectmen.
- 1.15 No person shall conduct or participate in a demonstration, meeting or parade in a street or public place, except a military parade or funeral procession, without first obtaining a permit from the Police Chief.
- 1.16 No person shall solicit, or display, sell, or distribute articles or merchandise upon a street or public place unless licensed by the Selectmen.
- 1.17 No person shall maliciously or negligently damage or injure, or allow an animal or vehicle under his control to damage or injure trees, shrubs, grass, fixtures or ornament on a street or public building.
- 1.18 No unauthorized person shall make a mark of any kind, or place a sign, circular, paper or placard in or on a street or public place.
- 1.19 No person having the care of control of grazing animals shall permit them to be at large on a street or public place.
- 1.20 No person or organization shall conduct an outdoor carnival, side show or circus on a street or public place.

Note: Adopted Art. 6 Spec. TM 6/26/1969. App. A.G. 1/21/1970; Pub. BTU 2/12, 2/19, 2/26/1970.

- 1.21 Jay Walking - Voted that the Town accept provisions of Section 18A, Chapter 90 of the General Laws relating to the use of Town Ways by pedestrians, authorizing the Selectmen to adopt regulations, with the approval of the Mass. Department of Public Works,

governing the use of ways by pedestrians; providing also for fines for violations of said regulations.

Note: Adopted Art. 25 TM 3/24/1969.

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

Note: Adopted Art. 67, Adj. TM 6/17/1974; App. A.G. 7/17/1974; Pub. BTU 8/1,8,15/1974.

1.23 Use of Parks, Playgrounds and School Grounds

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

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

1.23.3 Vehicle Use

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

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

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

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

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

1.23.4 Littering

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

Note: Adopted Art. 17, TM 9/28/1977; App. A.G. 12/8/1977 Pub. Burl. News 12/15, 12/22/1977.

1.24 Handicapped Parking/Snow Removal

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

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

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

Note: Adopted Art. 26, TM 5/18/1994; App. A.G. 7/26/1994; Published Burlington Union 8/4, 8/11/1994.

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

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

1.24.6 Penalty for violation of this Bylaw shall be \$100.00. Each day shall constitute a separate violation. This Bylaw may be enforced by any Burlington Police Officer. This is in addition to any other penalty or cost allowed by law including, but not limited to, removal of the vehicle pursuant to M.G.L. C.40, Section 22D.

Note: Amended Art. 31, TM 5/20/1992. App. A.G. 7/23/1992. Pub. BTU 7/30, 8/6/1992.

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

requirements for their use. Permits shall be valid for one year and may be revoked at any time by the Police Chief.

- 1.26 No person shall bathe in any of the waters of the Town in a state of nudity when such waters are exposed to public view or are in immediate sight of the occupants of any dwelling.
- 1.27 The Board of Selectmen may, upon petition, license such persons as they deem suitable to be dealers in junk, precious and/or old metals or secondhand articles and keepers of shops for the purchase, sale or barter of such articles, pursuant to law within the town. Such licenses shall not be valid to protect the holders thereof in a building or place other than that designated in the license, unless consent to removal is granted by the Board of Selectmen, nor shall any license authorize the licensee to bring or allow to remain upon the licensed premises any rags, old paper, or other refuse material gathered or recovered from any source. All licenses thus granted shall contain a clause that the person thus licensed agrees to abide by and be subject to all the provisions of any Bylaw which may be adopted by the Town of Burlington relating to dealers in or keepers of shops licensed for the above purposes. Such licenses shall be granted only upon payment of an annual fee, the amount of which shall be designated by vote of the Board of Selectmen.

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

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

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

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

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

- 1.28 Every such shopkeeper, licensed in accordance with Article XIII, Section 1.27, shall keep a book in which shall be written, at the time of every purchase of any such article, a particular description thereof and the name, date of birth, and residence of the person from whom such purchase was made and the day and hour of such purchase. Such book shall be of a size and style to be approved by the Burlington Chief of Police and shall be legibly

written in the English language, and shall show the amount paid for each article and the number attached to each article in accordance with the above requirements. No entry in such book shall be erased, obliterated or defaced. The shop of such shopkeeper, and all articles of merchandise therein, and such book shall at all times during business hours be open to inspection of the Burlington Chief of Police, his designees or any persons authorized by the Board of Selectmen.

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

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

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

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

Every such shopkeeper (except those business enterprises which deal exclusively in junk as defined under Chapter 140B, Section 1 of the Massachusetts General Laws, as amended) shall make out and deliver to the commanding officer of the Bureau of Criminal Investigation, Burlington Police Department, every business day before the hour of 10 o'clock A.M. a legible and correct list containing an accurate and detailed description of all articles purchased during the preceding business day, the respective numbers of such articles as required above, the prices paid therefor, and the time when such articles were purchased, and with regards to the purchase of items containing precious metal, and/or gems, either the original photocopy or a copy thereof which shows the positive identification legibly, the items purchased and the transaction sheet, as described above. The above exemption of junk dealers/shopkeepers shall not relieve the need for such dealers/shopkeepers to comply with the requirements of Chapter 140, Section 60 through 69, of the Massachusetts General Laws.

The Bureau of Criminal Investigation will review each police report received listing lost/stolen property and also ensure that a report is received from all junk, precious and/or old metals and secondhand articles shopkeepers/dealers for the purpose of identifying any

article that is like or similar to one which has been reported lost or stolen. Should this situation occur, a "stop order" shall be issued by the Chief of Police or his designee, to the shopkeeper/dealer prohibiting the resale of the particular article(s) until it can be determined whether the particular piece(s) is in fact that which has been reported lost/stolen. If it is determined that the particular article is not reported lost/stolen, the "stop order" shall be lifted forthwith.

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

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

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

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

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

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

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

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

Note: Amended Art.10, TM 1/23/1996. App. AG 2/19/1996. Pub. BU 2/29, 3/7/1996.

1.29 No person shall kindle or maintain a bonfire, rubbish fire or other outdoor fire, or authorize any such fire to be kindled or maintained on private land within 25 feet of a structure and shall make provision to prevent the spread of fire within 25 feet of a structure. If the fire is contained in a waste burner or other appliance approved by the Fire Chief, it may be located not less than 15 feet from a structure or property line.

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

Note: Adopted Art. 32 TM 3/2/1953. App. A.G. 6/19/1953.

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

Note: Adopted Art. 17 TM 11/17/1965.

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

Note: Adopted Art. 40 Spec. TM 11/15/1971. App. by reason of failure of the A.G. to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/1972.

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

Note: Adopted Art. 13 TM 1/11/1999. App. A.G. 2/24/1999. Pub. Daily Times 3/4/99, 3/11/1999.

1.33 Offensive Operation of Motor Vehicles

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

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

Note: Adopted Art. 38 TM 11/15/1971. App. by reason of failure of the A.G. to act within 90 days of submission. Pub. BTU 3/30, 4/6, 4/13/1972.

1.33.2.1 No person shall operate a motor vehicle for purpose of emptying, moving, placing, replacing, or removing commercial solid waste

containers between the hours of 9:00 PM (2100 hours) and 7:00 AM (0700 hours) except with the approval of the Board of Selectmen. Anyone who violates this bylaw shall be subject to a fine of \$300.00 for each solid waste container emptied, moved, placed, replaced, or removed during the restricted hours and each day to constitute a separate occurrence. This bylaw may be enforced through non-criminal disposition by any police officer or fire officer of the Town of Burlington. Failure of payment of fine by the owner or operator of the vehicle shall constitute a violation against the permittee of the commercial solid waste container issued by the Fire Department.

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

1.33.3 Off Road Vehicle Operation

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

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

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

- (a) On private property of another person or entity without written permission of the owner of said property. Said written permission must be in the possession of the person operating the off-road vehicle and must be presented upon demand to any Burlington Police officer so demanding.
- (b) Any property owned, leased or controlled by the Town of Burlington, except on streets or highways or any trails duly designated by the Town for the use of such vehicles at the times and in the manner designated.
- (c) On property owned by the Town of Burlington and on privately-owned property as follows:
 - . In such manner as to create loud noises so as to disturb or interfere with the peace and quiet of other persons.
 - . In a careless, reckless or negligent manner so as to endanger or be likely to endanger the safety or property of any person, including the operator of said vehicle.

- . At a rate of speed greater than reasonable or proper under the surrounding circumstances.
- . While under the influence of intoxicating liquor, fermented malt beverages or controlled substances or drugs.
- . Between sunset and sunrise or when lights are required for safety without displaying at least one (1) lighted headlight and taillight.

1.33.4 Operating on Streets

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

1.33.5 Penalty

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

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

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

Note: Adopted Art. 15 TM 9/19/1988; App. A.G. 10/20/1988; Pub. Burl. News 10/27, 11/4/1988.

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

Note: Adopted Art. 19 TM 12/3/1973. App. A.G. 12/28/1973. Pub. BTU 1/10, 1/17, 1/24/1974.

1.35 Alcoholic Beverages

1.35.1 No person shall consume any alcoholic beverage while in or upon any street, public place, public building, or any place to which the public has right of access as invitees or licensees. No person shall possess or consume alcoholic beverages upon any land or within any building under the control of the School Committee or Recreation Commission.

Note: Amended Art. 17 TM 9/28/1977. App. A.G. 12/8/1977. Pub. Burl. News 12/15, 12/22/1977.

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

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

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

*Note: Amended Art 17, TM 9/28/1977. App. A.G. 12/8/1977. Pub. Burl. News 12/15, 12/22/1977.

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

Note: Adopted Art. 20, TM 6/11/1973. App. A.G. 7/30/1973. Pub. BTU 8/9, 8/16, 8/23/1973.

1.36 Nuisances to Health and Safety

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

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

Note: Adopted Art. 7, Sp. TM 6/25/1969; App. A.G. 1/21/1970; Pub. BTU 2/12, 2/19, 2/26/1970.

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

Note: Adopted Art. 53, TM 3/28/1973; App. A.G. 7/30/1973; Pub. BTU 8/16, 8/23, 8/30/1973.

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

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

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

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

Note: Adopted Art. 18 TM 9/16/1974; App. A.G. 10/23/1974, Pub. Burl. News 11/7, 11/14, 11/21/1974.

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

Note: Adopted Art. 42 TM 5/24/1982. App. A.G. 8/12/1982 Pub. Burl. News 8/26, 9/2/1982.

1.37 Adult Entertainment Uses

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

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

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

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

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

Note: Adopted Art. 10 9/30/1996. App. A.G. 11/18/1996, pub. Burl. Union 12/12, 12/19/1996.

1.38 Automatic Amusement Devices

In accordance with Massachusetts General Laws, Chapter 140, Section 177A, as amended from time to time, any individual or business desiring to keep and operate an automatic amusement device for hire, gain or reward, shall secure an annual license from the Board of Selectmen. The Board of Selectmen shall not grant a license for any automatic amusement device which presents a risk of misuse as game devices. Automatic amusement devices which present a risk of misuse as gaming devices are those devices which have one or more of the following features:

- (1) the device involves matching random number, patterns or cards
- (2) the device may not accumulate more than twenty-six (26) plays
- (3) the device may not be equipped with a “knock off” switch, button or similar device
- (4) the device shall have no mechanism for adjusting the odds
- (5) the device shall not have a remote control feature that can reset the device from another location
- (6) the device shall not be capable of returning money to the player, other than the change for the excess amount put in
- (7) the device shall not permit a player to pay for more than one game at a time
- (8) each game on the device shall cost exactly the same amount for each player and no player may change any aspect of the game by paying a different amount than any other player before or during the game
- (9) there shall be no metering device that accounts for both money/points in and money/points out.

The maximum number of automatic amusement devices allowed on any single business premises shall be four (4), except in the case of duly licensed arcades and amusement parks. Any individual or business desiring more than four (4) automatic amusement devices on a single business premises shall require a special permit from the Board of Appeals. All licenses for automatic amusement devices granted by the Board of Selectmen shall be subject to inspection by the Burlington Police Department to insure conformance with submitted application information and local ordinance requirements. Any unlicensed automatic amusement device shall be subject to immediate seizure by the Burlington Police Department.

Note: Adopted Art. 6 5/8/2000, App. A.G. 7/27/2000. Pub. Daily Times 8/10, 8/17/2000.

2.0 Control of Dogs

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

Note: Amended Art. 27 Spec. TM 12/7/1970. App. A.G. 2/16/1971. Pub. BTU 4/8, 4/15, 4/22/1971.

2.2 Penalties

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

2.2.1 Enforcement Procedure and Schedule of Fines

The Dog Officer of the Town shall send a written notice to the owner or keeper stating that such person is in violation of Section 2.0 of this article. If it is the first offense within the preceding twelve (12) month period, the fine shall be \$15; if it is the second offense within

the preceding twelve (12) month period, the fine shall be \$25; if it is the third offense within the preceding twelve (12) month period, the fine shall be \$35; and if it is the fourth or subsequent offense within the preceding twelve (12) month period, the fine shall be \$50.

Note: Amended Art. 63 TM 5/26/1976. App. A.G. 9/14/1976. Pub. Burl. News 9/23, 9/30, 10/7/1976.

2.2.2 The fine for an unlicensed dog as of July 1st of any year shall be \$50.

Note: Adopted Art. 15, TM 9/18/1989. App. A.G. 12/21/1989. Pub. Burl. News 1/4. 1/11/1990.

2.2.3 An owner or keeper of a dog kept in the Town of Burlington who has not licensed said dog by the first day of June shall be required to pay a fine of Ten Dollars (\$10.00), a dollar of which shall be paid to the Animal Control Officer, and the remainder to be paid to the Town Treasury.

2.2.4 A notice shall be sent by the Animal Control Officer to each owner/keeper of a dog in the Town of Burlington no later than May 1st each year informing said resident of the deadline for licensing dogs and of the \$10.00 fine for late licensing.

Note: Section 2.2.3 amended and 2.2.4 adopted Art. 24 TM 9/30/1985. App. A.G. 10/19/1985. Pub. Burl. News 11/28, 12/5/1985.

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

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

2.4 Kennels

Any owner/keeper of four dogs or more, three months old or over, shall apply for a kennel license.

Kennel licenses shall not be issued unless the Animal Control Officer has made a favorable recommendation to the Town Clerk and unless a license has been obtained from the Board of Health. The recommendation of the Animal Control Officer shall be based on the annual inspection of the premises as provided in Chapter 140 Section 137C of the Mass. General Laws in addition to complaints registered and violations committed in the previous 12 month period against the owner/keeper.

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

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

2.5 Property Damage

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

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

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

Note: Adopted Art. 20 TM 9/22/1986. App. A.G. 10/16/1986. Pub. Burl News 10/23, 10/30/1986.

2.6 Regulation and Licensing of Vicious Dogs

2.6.1 Declaration of Purpose

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

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

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

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

2.6.2 Definitions

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

2.6.2.1 "Vicious Dog" means:

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

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

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

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

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

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

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

2.6.3 Requirements for Licensing

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

Amended Art. 15, TM 9/18/1989. App. A.G. 12/21/1989. Pub. Burl. News 1/4, 1/11/1990.

- (a) The owner or keeper shall present to the Licensing Authority proof that the owner/keeper has procured liability insurance in the amount of at least One Hundred Thousand Dollars, (\$100,000.00) covering any damage or injury which may be caused by such vicious dog during the twelve (12) month period for which licensing is sought. The policy shall contain a provision requiring the Town to be named as additional insured for the sole purpose of the Licensing Authority to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.
- (b) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve (12) month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to expiration of such license.
- (c) The owner or keeper shall have a licensing number assigned to any vicious dog, or such other identification number as the Licensing Authority shall determine. That number shall be noted on the city or town licensing files of such vicious dog.
- (d) The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public highway or roadway.
- (e) The owner or keeper shall, on or prior to the effective date of such license for which application is being made, have a fenced enclosure for the vicious dog on the property where the vicious dog will be kept or maintained.
- (f) The owner or keeper shall notify the Licensing Authority if said dog is unconfined, has attacked another animal or has attacked a human, or has died or has been sold or given away. If the vicious dog has been sold or given away, the owner or keeper shall also provide the Licensing Authority with the name, address and telephone number of the new owner of the vicious dog.

- (g) The Animal Control Officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this Bylaw, and such Animal Control Officer is empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof.

2.6.4 Control of Vicious Dogs

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

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

2.6.5 Purpose or Intent - Harboring

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

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

2.6.6 Vicious Dog - Seizure

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

2.6.7 Revocation of Licenses and Review

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

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

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

2.6.8 Parallel Procedure

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

2.6.9 Severability

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

Note: Adopted under Art. 27 TM 1/12/1987. App. A.G. 4/8/1987. Pub. Burl. News 4/16, 4/23/1987. Amended Art. 1 Spec. TM 5/20/1987. App. A.G. 9/16/1987. Pub. Burl. News 9/24, 10/1/1987.

2.7 Pooper Scooper

(a) Duty to Dispose

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

(b) Method of Disposal

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

(c) Enforcement

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

First offense and each subsequent occurrence: \$50.00

Note: Adopted Art. 10 9/30/1996, app. A.G. 11/18/1996, pub. Burl. Union 12/12, 12/19/1996.

3.0 Civil Defense

3.1 Department of Civil Defense

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

3.2 Director of Civil Defense

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

make such expenditures as may be necessary to execute effectively the purposes of Chapter 639, Acts of 1950.

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

3.3 Civil Defense Advisory Council

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

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

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

3.5 Termination of Bylaw

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

3.6 Definition

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

Note: Adopted Art 9, Spec. TM 12/27/1950. App. A.G. 6/13/1951. Posted 4 places 6/17/1951.

4.0 Fire Alarm Systems

4.1 Definitions

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

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

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

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

- 4.1.4 "Direct dialer" - Shall constitute any automatic or programmed device used to report a fire to the Town of Burlington over telephone lines without the supervision of an individual or individuals.
- 4.1.5 "Fire alarm system owner" - Any individual or entity who owns the title to and/or has on his business or residential premises a fire alarm system equipped to send a fire alarm signal to a central station operating company or directly to the BFD by way of a master box.
- 4.1.6 "Fire Chief" - The Chief of the Burlington Fire Department.
- 4.1.7 "Master Box Owner" - Any individual or entity who has on his business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the BFD by way of a master box.
- 4.1.8 "Annual Fee" - Fee charged to maintain Burlington Fire Department Fire Alarm System, records and its operation. Such fees as initially established in Section 4.2.1 of this Bylaw may be amended and revised by the Board of Selectmen, as necessary, to defray the Town's cost of maintaining the fire alarm system.

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

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

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

Permit Fee	\$20.00
Connection Fee	\$100.00
Annual Fee	\$200.00

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

- 4.2.3.1 The name, address, and home and work telephone number of the master box owner.
- 4.2.3.2 The street address where the master box is located.
- 4.2.3.3 The names, addresses, and telephone numbers of the persons or businesses protected by the fire alarm system connected to the master box.
- 4.2.3.4 The names, addresses, and home and work telephone numbers of at least two persons other than the owner who can be contacted 24 hours a day, who are authorized by the master box owner to respond to an alarm signal, and who have access to the premises in which the master box is located.
- 4.2.3.5 The name or names, addresses and telephone numbers of insurance agents and insurance company.
- 4.2.3.6 The name or names of an approved fire alarm service company contracted by the individual or entity to service the fire alarm system connected to the master box.

4.2.3.7 Such other information as the Fire Chief may require.

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

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

4.3 Connection of Central Station Operating Companies to the BFD

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

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

Permit Fee	\$20.00
Connection Fee	\$100.00
Annual Fee	\$200.00

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

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

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

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

4.3.3.4 Such other information as the Fire Chief may require.

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

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

4.4 Central Station Operating Companies Not Tied to BFD

4.4.1 Every approved central station operating company which does business within the Town of Burlington and does not have a direct or dedicated connection to the

Burlington Fire Department may be assessed a fine by the Fire Chief for the first malfunction of not less than \$100.00 nor more than \$250.00, and subject to fines of Sections 4.7.2.2 through 4.7.2.4 thereafter.

- 4.4.2 Before any central station operating company conducts business within the Town of Burlington, they shall seek the approval of and provide the Fire Chief with the information requested in Section 4.3.3, subsections 4.3.3.1 through 4.3.3.4.
- 4.4.3 Every non-approved central station operating company which does business within the Town of Burlington may be assessed a fine by the Fire Chief of not less than \$200.00 nor more than \$300 for each malfunction, as described in Sections 4.7.3 and 4.7.4.

Amended Art. 47 TM 5/30/1990. App. A.G. 9/5/1990. Pub. Burl. News 9/20, 9/27/1990.

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

4.5 Other Fire Alarm Systems

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

Adopted Art. 47 TM 5/30/1990. App. A.G. 9/5/1990. Pub. Burl. News 9/20, 9/27/1990.

4.6 Updating Information

- 4.6.1 Every master box owner and every central station operating company shall be responsible for updating the information herein required. The master box owner and the central station operating company shall provide the Fire Chief with the updated information and shall pay the fee, if any, required by this Bylaw. If a master box owner of a central station operating company fails to comply with this section, the Fire Chief may assess a fine of Fifty Dollars (\$50.00) for each day of noncompliance.
- 4.6.2 Any company who wishes to do business in the Town of Burlington working on or supplying services for fire alarm systems to the general population must first register with the Burlington Fire Department and receive approval from the Burlington Fire Department before conducting business within the Town.
- 4.6.3 Any company who has not received approval from the Burlington Fire Department shall cease operations upon notification. Any company violating Section 4.6.2 shall be subject to a fine of not less than \$100.00 nor more than \$300.00 for each day of noncompliance.

Note: Sections 4.6.2 and 4.6.3 Adopted Art. 47 TM 5/30/1990. App. A.G. 9/5/1990. Pub. Burl. News 9/20, 9/27/1990.

4.7 Fire Alarm System Malfunctions - Fines

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

- 4.7.1.1 First through Third Malfunction No Charge

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

4.7.1.2 Fourth through Sixth Malfunction \$100.00

4.7.1.3 Seventh through Eleventh Malfunction \$200.00

4.7.1.4 Each Malfunction after the Eleventh \$300.00

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

4.7.2.1 First Malfunction No Charge

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

4.7.2.2 Second through Third each Malfunction \$100.00

4.7.2.3 Fourth through Sixth each Malfunction \$200.00

4.7.2.4 Each malfunction after the Sixth \$300.00

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

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

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

4.7.4.2 Faulty control panel or associated equipment.

4.7.4.3 A water pressure surge in automatic sprinkler equipment.

4.7.4.4 Accidental operation of an automatic sprinkler system.

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

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

4.7.6 If the bill is not paid within 30 days, a second notice will be sent. If the bill remains unpaid after another 30-day period, a final notice will be sent informing the owner and/or occupant that the master will be disconnected and the insurance company notified.

4.8 Direct Dialers

- 4.8.1 No fire alarm system shall be equipped with a tape dialer or similar automatic telephone device which will transmit an alarm message to any telephone lines of the Burlington Fire Department. If at the passage of this Bylaw, a fire alarm system is equipped with such a tape dialer or similar automatic telephone device, the fire alarm system owner shall have sixty (60) days from the passage of this Bylaw to disconnect such tape dialer or similar automatic telephone device. If a fire alarm system owner fails to comply with this section, the Fire Chief may assess a fine of Fifty Dollars (\$50.00).
- 4.8.2 Direct dialers connected to central station operating companies shall be subject to the same fine schedules as the central operating companies.
- 4.8.3 The owner of a direct dialer who is in noncompliance of Section 4.8.1 may also be subject to fines under Section 4.7.2.2 through 4.7.2.4 and be charged per false alarms as described in Section 4.12.
- 4.9 Appeal Procedure
 - 4.9.1 Any fire alarm system owner aggrieved by any action taken by the Fire Chief under this Bylaw may, within ten (10) days of such action, file an appeal, in writing, to the Fire Alarm Systems Appeal Board, a three (3) member panel appointed by the Town Administrator. After notice, the Board shall hold a meeting, after which it shall issue a decision affirming, annulling or modifying the action taken by the Fire Chief and giving its reasons therefor. The Board shall send its decision to the owner by first class mail within ten (10) days after the hearing. The decision of the Board shall be a final administrative decision.
- 4.10 Regulations and Enforcement

The Fire Chief may promulgate such regulations as may be necessary to implement this Bylaw. The Fire Chief is authorized to pursue such legal action as may be necessary to enforce this Bylaw.
- 4.11 Deposit in the General Fund

All fines assessed herein shall be payable to the Town of Burlington for deposit in the General Fund.
- 4.12 False Alarms
 - 4.12.1 The Fire Chief may charge a malfunction fine after the three false alarms, when in his determination there is no action being taken by the property owner, occupant or their agent to remedy the problem.
 - 4.12.2 A false alarm for the purpose of this regulation is defined as: an action by an employee, occupant, tenant, patron, guest, or any other individual causing intentional activation of the internal fire alarm system in which there is no fire present, emergency, or any reason for activation of the system.
- 4.13 Revisions to Fees and Fines
 - 4.13.1 The Board of Selectmen may, from time to time, act to raise or amend any or all of the fees and fines authorized and established in the various sections of this Bylaw upon the recommendation of the Fire Chief.
- 4.14 Severability

The provisions of the Bylaw shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

ARTICLE XIV ENVIRONMENT

1.0 Wetlands

1.1 Procedure

No person shall remove, fill, dredge, build upon or alter any bank, freshwater wetland, marsh, bog, wet meadow, swamp, creek, river, stream, pond or lake or any land under said waters, or any land bordering thereon as hereinafter defined, or any land subject to flooding or inundation, or riverfront area other than 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 first filing either a determination of applicability or a written notice of his/her intention to so remove, fill, dredge, alter or build upon, including such plans as may be necessary to fully describe such proposed activity and its effect on the environment and without receiving and complying with a permit issued by the Conservation Commission. Said notice shall be sent by certified mail to the Conservation Commission. Each such notice or determination shall be accompanied by a filing fee to be determined in accordance with a fee schedule adopted by the Conservation Commission payable to the Town of Burlington.

Note: Amended Art. 7 TM 5/8/2000. App. AG 7/27/2000. Pub. Daily Times 8/10, 8/17/2000.

Copies of such notice shall be sent at the same time, by certified mail, to the Board of Selectmen, Town Engineer, Planning Board and the Board of Health. Such notice may be sent before any or all permits, variances and approvals required by the Zoning Bylaw or by the Subdivision Control Law and the Regulations of the Planning Board thereunder have been obtained. Upon written request of any person, the Conservation Commission shall within 21 days make a written determination as to whether this bylaw is applicable to any land or work thereon. Where such person is other than the owner, notice of any such determination shall be sent to the owner and to the person making such request.

1.2 Public Hearing

The Conservation Commission shall hold a public hearing on the proposed activity within 30 days of the receipt of said notice. Notice of the time and place of said hearing shall be given by the Conservation Commission at the expense of the applicant, not less than five (5) days prior to such hearing by publication in a newspaper of general circulation in Burlington, and by delivering or mailing a notice thereof to the applicant, to the Board of Selectmen, Board of Health, the Town Engineer and the Planning Board, to abutters of the land (as determined by the most recent assessor's records) on which the proposed activity is to take place and to such other persons as the Conservation Commission may determine. The Conservation Commission, the Town Administrator, the Town Engineer, the Planning Board, their agents, officers and employees may enter upon privately owned land without liability of any kind for the purpose of performing duties under this section.

1.2.1 If, after said hearing, the Conservation Commission determines that the land on which the proposed work is to be done is probably significant to public or private water supply, to the groundwater supply, to flood control, to storm damage prevention, to other water damage prevention, to the prevention of pollution, to the protection of surrounding land and other homes or buildings, to aquatic life or wildlife, or to the protection of streams, ponds or other bodies of water, the Commission shall, by written order, within 21 days or such time as the Commission and the applicant agree on, impose such conditions as are reasonably necessary for the protection of the interests described herein, and all work shall be done in accordance therewith. The conditions may include a condition that certain

land or portions thereof not be built upon or altered, filled or dredged; that streams not be diverted, dammed or otherwise disturbed.

- 1.2.2 If the Conservation Commission makes a determination that the proposed activity does not require the imposition of such conditions, the applicant and all others who have received notice of such hearing by mail shall be notified of such determination within 21 days after said hearing.
- 1.2.3 The Conservation Commission shall not impose additional or more stringent conditions as a result of any hearing conducted by it pursuant to General Laws, Chapter 131, Section 40 than it has imposed pursuant to the provisions of this Bylaw nor shall it require from an applicant who filed a notice of intention pursuant to General Laws, Chapter 131, Section 40 additional materials or data than is required of him/her pursuant to the application filed under this Bylaw.
- 1.2.4 Permits shall expire three (3) years from the date of issuance. An applicant may apply for an extension at least thirty (30) calendar days prior to the expiration of the permit or extension and the Commission may grant extensions for one (1) or more periods of up to three (3) years each. Notice of any extensions of time granted an applicant shall be filed with the Town Clerk.

Note: Adopted Art. 7 TM 5/8/2000. App. AG 7/27/2000. Pub. Daily Times 8/10, 8/17/2000.

1.3 Exemption

This Bylaw shall not apply to any emergency project as defined in General Laws, Chapter 131, Section 40 or to any work performed for normal maintenance or improvement of land actively devoted to agricultural use at the time of application.

1.4 Responsibility

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

The Board of Selectmen shall, upon request of the Conservation Commission, instruct the Town Counsel to take such legal action as may be necessary to restrain a violation of this Bylaw and enforce the orders of the Conservation Commission hereunder, and the Town Counsel shall forthwith comply with such instructions.

1.5 Rules and Regulations

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

1.6 Burden of Proof

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed by him in his notice of intention will not cause significant harm to the interest sought to be protected by this Bylaw.

Failure to provide to the Conservation Commission adequate evidence for it to determine that the proposed work does not cause significant harm to the interest sought to be protected by this Bylaw shall be sufficient cause for the Conservation Commission to deny such permit or to grant such permit with such conditions as it deems reasonably necessary or desirable to carry out the purposes of this Bylaw or to postpone or continue the hearing to another date certain to enable the applicant and others to present additional evidence, upon such terms and conditions as seems to the Commission to be just.

1.7 Definitions

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

- 1.7.1 The term "applicant" as used in this Bylaw shall mean a person giving notice of intention or filing a determination of applicability to build, remove, fill, dredge or alter.
- 1.7.2 The term "person" as used in this Bylaw shall include any individual, group of individuals, associations, partnerships, corporations, business organizations, trust, estate, Commonwealth of Massachusetts when subject to town Bylaws; any public or quasi-public corporation or body when subject to town Bylaw; any other legal entity, including the Town of Burlington or its legal representatives, agents or assigns.
- 1.7.3 The terms marsh, freshwater wetland, swamp, wet meadow, bog, as used in this Bylaw shall be defined as defined in General Laws Chapter 131 Section 40.
- 1.7.4 The word "alter" shall be defined as including, but not limited to, one or more of the following actions upon areas described in this Bylaw:
 - 1.7.4.1 The removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
 - 1.7.4.2 The changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood storage retention areas;
 - 1.7.4.3 The drainage or disturbance of the water level or water table, the dumping, discharging or filling with any material which could degrade the water quality;
 - 1.7.4.4 The driving or piling, erection of buildings or structures of any kind;
 - 1.7.4.5 The placing of obstructions, whether or not they interfere with the flow of water;
 - 1.7.4.6 The destruction of plant life, including the cutting of trees, which might result in environmental damage to the land or a part thereof rendered by this Bylaw;
 - 1.7.4.7 The changing of water temperature, biochemical oxygen demand and other natural characteristics of the receiving water;

1.7.4.8 Any activities, changes or work which pollutes any stream or body of water, whether located in or out of the Town of Burlington.

1.7.5 "Banks" shall be defined as land adjoining any body of water which serves to confine said water.

1.7.6 "Bordering" shall be defined including any land within either of the following:

1.7.6.1 100 feet horizontally lateral from the edge of any bog, marsh, meadow or swamp bordering on a creek, river, stream, pond lake or wetland.

1.7.6.2 100 feet horizontally lateral from the water elevation of the 100-year storm, or whichever is the greater distance of (a) or (b).

1.7.7 Land subject to flooding or inundation shall mean:

An area of depression in topography, isolated depression, low lying land, or closed basin which floods and/or serves as a ponding area of water. This area may also border a freshwater vegetated wetlands that results from a hydrologic connection as a result of a rise in water level on a freshwater wetlands, marsh, bog, wet meadow, swamp, creek, river, stream, pond, or lake or water body during any storm event up to and including the 100 year storm event.

Said area may also receive water from runoff, snowmelt, heavy precipitation, and high ground water sources.

The areas subject to jurisdiction under this Bylaw shall be 500 square feet or greater in surface area.

This area may be characterized by evidence of standing or ponding water during any storm event (up to and including the 100 year storm event based upon a 24 hour 7 inch rainfall), hydrophilic vegetation (wetland indicator plants), and/or hydric soils. The lateral extent of flooding may be determined by the elevation that is reached by the amount of water from a 100 year storm event determined either by visual observation or by calculation using the TR-20 computer program for a 24 hour 7 inch rainfall event.

The term "Stream" shall mean a body of running water, and the land under the water, including brooks, creeks, and man-made water courses which moves in a definite channel in the ground due to hydraulic gradient in a definable path. A portion of a stream may flow through a culvert, pipe, or beneath a bridge. A stream may be intermittent (i.e. does not flow throughout the year).

Note: Adopted Art. 18 TM 6/5/1996. App. AG 9/16/1996. Pub. BU 12/12,12/19/1996.

1.7.8 The Conservation Commission may in its rules and regulations provide such other definitions or terms used in this Bylaw as it deems useful in order to carry out its obligations under this Bylaw.

1.7.9 "Riverfront area" shall mean: that area of land situated between a perennial stream's mean annual high-water line and a parallel line located a maximum of 200 feet away, measured outward horizontally from the stream's mean annual high-water line. The Commission may, after a public hearing, designate a riverfront area of less than 200 feet for a densely developed area. This definition shall not create a buffer zone, so-called, beyond such

riverfront area. The riverfront area shall not apply to any mosquito control work done under the provisions of clause (36) of MGL Chap. 40, Sec. 5, of MGL Chapters 200 and 52 or of any special act.

Note: Adopted Art. 7 TM 5/8/2000. App. AG 7/27/2000. Pub. Daily Times 8/10, 8/17/2000.

1.8 Security

The Conservation Commission may, as part of its order of conditions, require, in addition to any security required by any other town or state Board, Commission, agency or officer, that the performance and observance of the conditions imposed hereunder be secured by one, or in part by one and in part by the other, of the methods described in the following clauses (1) and (2):

- (1) By a proper bond or a deposit of money or negotiable securities, sufficient in the opinion of the Conservation Commission to secure performance of the conditions and observance of the safeguards of such order of conditions.
- (2) By a covenant, executed and duly recorded by the owner of record, running with the land, whereby the conditions and safeguards included in such order of conditions shall be performed before any lot may be conveyed, other than by mortgage deed.

1.9 Penalties

Whoever violates any provision of this Bylaw shall be punished by a fine of not more than \$300. Each day or portion thereof of continuing violation shall constitute a separate offense. This Bylaw may be enforced by any Town police officer or other officer having police powers.

1.10 Applicability

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any order of conditions which has previously become final.

Note: Adopted Art. 66 T.M. 5/23/1988. App. A.G. 7/28/1988. Pub. Burl. News 8/4, 8/11/1988.

2.0 Litter Control

2.1 Definitions

- 2.1.1 Litter is any quantity of uncontainerized paper, metal, plastic, glass or miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage or junk.
- 2.1.2 Public property includes, but is not limited to, the following exterior locations: streets, street medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights-of-way, public parking lots, school grounds, municipal housing project grounds, municipal vacant lots, parks, beaches, playgrounds, other publicly-owned recreation facilities, and municipal waterways and bodies of water.
- 2.1.3 Private property includes, but is not limited to, the following exterior locations owned by private individuals, firms, corporations, institutions, churches or organizations: yards, grounds, tops of buildings, driveways, entranceways,

passageways, parking areas, working areas, storage areas, vacant lots and recreation facilities.

2.1.4 Containers are metal, heavy duty paper or plastic receptacles used for the disposal and storage of solid waste.

2.2 Pedestrians and Motorists

2.2.1 It shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount on any public or private property, except in containers lawfully provided therefor.

2.2.2 It shall be the duty of every person distributing commercial handbills, leaflets, flyers or any other advertising and information material to take whatever measures necessary to keep such materials from littering public or private property.

2.2.2.1 Yard sale signs, open house signs and any other signs or notices posted to advertise a specific event cannot be posted sooner than two (2) days prior to the event, and such signs and/or notices must be removed from all places of posting no later than 24 hours after the conclusion of the event. Failure to comply with these guidelines will make the person(s) or organization responsible for holding the event subject to fines as stated under Section 2.10, Enforcement Authorization and Fines.

Note: Adopted Art. 8 TM 9/13/1993. App. A.G. 11/23/1993.
Pub. Burlington Union 12/9, 12/16/1993.

2.2.3 Every person, including a corporation, operating a store or business wherein food or beverage in any form are sold at retail, shall maintain in good condition adequate containers for the disposal of litter. The Town Administrator shall prescribe by regulation the size and location of the containers to be maintained by each person to whom this section is applicable.

2.3 Vehicles Transporting Loose Materials

2.3.1 No person shall drive or move a vehicle on any land nor shall the owner or bailee of any vehicle require or permit the same to be driven or moved on any such land, unless such vehicle is constructed or loaded so as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, and if it is loaded with sand or gravel, unless it is fully and adequately covered.

This section shall not prohibit the dropping of sand for the purpose of securing traction or the sprinkling of water or other substance on such land in cleaning or maintaining the same. This section shall not be applicable to the operation of any vehicle in any area subject to the provisions of Section 36 of Chapter 85 of the General Laws or any successor statute.

2.4 Loading and Unloading Operations

2.4.1 No person shall, at any exterior location, pack or unpack or load or unload any materials where the entire material to be loaded or unloaded or to be packed or unpacked is not to be placed in a vehicle or in a building as the case might be, unless suitable containers for litter are maintained at the place of the loading or unloading or packing or unpacking.

2.5 Construction/Demolition Projects

- 2.5.1 It shall be the responsibility of the owner to have on the construction or demolition site adequate containers for the collection of waste material and for transport thereof by himself, his servant, agent or employee to an authorized facility for final disposition. For purposes of this section, owner shall include, but not be limited to, contractor or subcontractor.
 - 2.5.2 No permit shall be issued by any officer, board or agency of the Town of Burlington permitting construction or demolition unless the person requesting the permit provides proof in writing that waste materials resulting from construction or demolition can be disposed of at a location where such disposal is permitted by law.
 - 2.5.3 It shall be unlawful to dispose of such waste materials at any location except that proved to said officer, board or agency without the written consent thereof.
- 2.6 Household Solid Waste Containerization and Removal
- 2.6.1 All residences located in any area in which collection is by the Town or an approved contractor shall have sufficient container capacity to accommodate their normal volume of solid waste between collections.
 - 2.6.2 All items too large to fit into containers such as, but not limited to, appliances, furniture and mattresses, shall be disposed of only in accordance with regulations to be promulgated by the Town Administrator.
 - 2.6.3 All loose material which normally fits into containers but which are excess as a result of special circumstances such as holidays, shall be bundled and tied securely to prevent them from blowing or scattering and shall be placed by the containers.
 - 2.6.4 Containers shall be kept closed at all times.
 - 2.6.5 It shall be unlawful for any person to deposit household solid waste in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians or in any commercial solid waste receptacle.
 - 2.6.6 The duties imposed by Sections 2.6.1 through 2.6.4 of this article shall be carried out by the occupant of any dwelling unit in the Town above the age of 17, and any such occupant shall be liable for any penalty that may be imposed for violation of such sections.
- 2.7 Commercial Solid Waste Containerization and Removal
- 2.7.1 Every person, including an artificial person such as a corporation, partnership, religious society, trust or similar entity, shall deposit solid waste in a suitable container, which container shall be maintained by such persons in good condition at such location and shall be of such size as the Town Administrator by regulation shall determine, and shall arrange for its collection or disposition at his own expense in a lawful manner.
 - 2.7.2 Containers shall be kept closed at all times, and the area around the containers shall be kept free of litter at all times.
 - 2.7.3 Sections 2.7.1 and 2.7.2 of this article shall not apply in situations or circumstances in which Section 2.6.0 through 2.6.6 apply nor shall it apply to pedestrians or other persons disposing of litter not in the course of business.

- 2.7.4 It shall be unlawful for any person to whom Sections 2.7.1 and 2.7.2 of this article apply to deposit solid waste required by Section 2.7.1 to be disposed of in accordance therewith in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians or in any other commercial solid waste receptacle.
- 2.8 Provision for Solid Waste Disposal at New Buildings
- 2.8.1 No permit shall be issued for the construction of any building, except a single-family dwelling, unless the plans for said building show storage facilities adequate in the opinion of the Building Inspector to contain solid waste after said building is in use.
- 2.8.2 No building shall be occupied unless constructed in accordance with plans approved by the Building Inspector pursuant to Section 2.8.1 of this article, but this section shall not apply to buildings constructed pursuant to permits issued prior to the effective date of this article.
- 2.8.3 Any person aggrieved by a decision of the Building Inspector under Section 2.8.1 may, within twenty (20) days of the date of that decision seek review by the Board of Selectmen, which shall after a hearing within thirty (30) days of the filing of said appeal, affirm or reverse the Building Inspector's decision.
- 2.9 Keeping Property Clean
- 2.9.1 All exterior property shall be kept free of litter. This requirement shall apply to the removal not only of loose litter but also of materials that become trapped at such locations as fences and wall bases, grassy and planted areas, borders, embankments and other places of accumulation.
- 2.9.2 It shall be unlawful to sweep or push litter from sidewalks and strips into streets. Sidewalk and strip sweepings must be picked up and put into household or commercial solid waste containers.
- 2.9.3 No owner or occupant of land above the age of 17 and no artificial occupant of land such as a corporation, partnership, religious society, trustee or similar entity owning or occupying land or officer, partner, director or trustee thereof or a person in charge of its business or employee customarily responsible for maintaining the cleanliness of its land shall permit land to be maintained in violation of Section 2.9.1 and 2.9.2 of this article. The duties imposed by said sections shall be borne by each and every person aforementioned, and it shall be no defense to a person charged violating these sections that any other person may also be charged with the same violation.
- 2.9.4 Land maintained in violation of Section 2.9.1 and 2.9.2 is hereby declared to be a nuisance and source of filth, for the removal of which the Board of Health may invoke all remedies provided by Section 111 of the General Laws of the Commonwealth. Such remedies shall be in addition to the penalties provided by Section 2.13 of this article.
- 2.10 Enforcement Authorization and Fines
- 2.10.1 Any person found to have violated any provision of this article shall be fined not less than \$20 and not more than \$200. In the case of a continuing violation, each and every day on which the violation continues shall be deemed a separate offense.

2.10.2 A copy of this Bylaw shall be distributed by the Town Clerk after the approval by the Attorney General to every employee of the Police Department, Recreation Department, Board of Health, and Department of Public Works of the Town and to the Building Inspector and Town Administrator. It shall be the duty of the Town Administration to see that this article is enforced by the calling of any such violations to the attention of the Police Department and by the prosecution of persons charged with such violations.

2.10.3 If any provision of this Bylaw, or any section thereof, in any circumstances is held invalid, the validity of the remainder of this Bylaw and of the application of any of the other provisions or sections shall not be affected.

2.11 Recycling

2.11.1 Effective January 1, 1993, in order to implement a program of recycling in conjunction with regular waste collections, residents of every household serviced by the Town's solid waste collection program are required to separate the following waste materials from their household solid waste (trash) before depositing same for collection:

- Glass and cans
- Paper (includes newspaper, office paper, and corrugated cardboard)
- White goods (refrigerators, stoves, washers, dryers, etc.)
- Leaves
- Other yard wastes (grass clippings)
- Single polymer plastics (Nos. 1 and 2)

If no separation of materials takes place, the Town's Trash Collection Contractor will be instructed not to pick up the materials, and the household will be granted a 24-hour period to remove the material from the curb or suffer a fine of \$25.00

Note: Adopted Art. 23 TM 5/20/1992. App. A.G. 7/23/1992. Pub. BTU 7/30, 8/6/1992.

2.12 No person shall store rubbish, junk or salvage materials except in a covered container or in a structure or in an enclosure enclosed by a wall or fence without apertures except a door, and not less than six (6) feet in height.

Note: Adopted Art. 23 TM 12/20/1972. App. A.G. 1/22/1973. Pub. BTU 2/1, 2/8, 2/15/1973.

2.13 Open Storage Control

2.13.1 No person shall store materials, merchandise, equipment or vehicles outside of a building on a nonresidential premises, except in compliance with a permit issued by the Board of Selectmen.

2.13.2 After a public hearing the Board of Selectmen may deny such a permit or grant a permit subject to such limitations as they shall specify.

2.13.3 The public hearing shall be held within thirty (30) days of the receipt of an application for such permit and shall be advertised in a newspaper of local circulation not less than seven (7) days prior to the scheduled date of the hearing. Application shall be made in such form as the Selectmen shall specify.

2.13.4 Notwithstanding the provisions of this section, no permit shall be issued when such storage would create a nuisance.

2.13.5 Any premises in use at the time of the adoption of this Bylaw that does not conform to the provisions of this Bylaw shall be made to so conform within two (2) years of the effective date of this Bylaw.

Note: Adopted Art. 60, TM 6/12/1974; App. AG 7/17/1974; Pub. BTU 8/1, 8/8, 8/15/1974.

2.14 Control of Toxic and Hazardous Material

2.14.1 Authority

This Bylaw is adopted by the Town under its home rule powers, its police powers to protect the public health and welfare, and its authorization under Mass. General Laws Chapter 40, S 21.

2.14.2 Purpose

The purpose of this Bylaw is to protect, preserve and maintain the existing and potential groundwater recharge areas and surface water within the Town from contamination with toxic and hazardous materials. In addition, the intent of this Bylaw is to minimize community exposure to toxic and hazardous materials and provide easily accessible information to the public, emergency response personnel, fire department and Town officials concerning such materials which are being used, stored or managed by the local business community.

2.14.3 Definitions

"Abnormal gain of water" inside any underground storage tank shall be a gain in the water level of more than one inch in a 24 hour period.

"Abnormal loss of product or waste" from any underground storage tank or combination of tanks, not explainable by spillage, temperature variations or other causes, shall mean either:

- (a) A loss in excess of 0.5% of the volume of product dispensed over a period of a calendar month; or
- (b) A difference in the measured height of the stored liquid, product or waste of greater than one-half inch when using a dipstick and allowing a minimum time interval of 24 hours between measurements while the tank has been removed from service.

"Container" means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a toxic or hazardous material.

"CAS" shall mean the identification number assigned by the Chemical Abstract Service to chemical substances.

"Chemical" means any element, chemical compound or mixture of elements and/or compounds.

"Chemical name" means the scientific designation of a substance in accordance with the nomenclature system by the International Union of Pure and Applied Chemistry, or the system developed by the Chemical Abstract Service.

"Common name" means any designation or identification such as a code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

"De minimus amount" shall mean a container size equal to or less than either one liter (33.8 fl. oz.) or one kilogram (2.20 lb.).

"Double-walled tank" means a container with two complete shells which provide both primary and secondary containment. The container shall have continuous 360 degrees interstitial space between the primary and secondary shells. The interstitial space shall be designed so that an approved interstitial space monitor is able to continuously monitor this space. All double-walled tanks shall be UL-listed.

"Fuel oil" means oil of grades 1, 2, 4, 5 and 6 in accordance with M.G.L. C.94, S.249H.

"Hazard warning" means any words, pictures, symbols or combination thereof appearing on a label or other appropriate form or warning which convey the hazard(s) of the chemical(s) or waste(s) in the container.

"Health hazard" means any chemical for which there is a statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur to exposed employees. The term "health hazard" includes chemicals which are carcinogens, mutagens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepato-toxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

"Identity" means any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical.

"Label" means any written, printed, or graphic material displayed or affixed to containers of toxic or hazardous material.

"MSDS" means written or printed material concerning a hazardous chemical which is prepared in accordance with 29 CFR 1910.1200(g).

"Maximum daily amount" shall mean the greatest amount of a toxic or hazardous material at a given commercial or industrial establishment on any single day during the reporting period.

"Owner" shall mean any person who has effective control or legal ownership of a site, facility, or activity; owner does not include persons who hold bare legal title for the purpose of providing security for a financing agreement.

"Operator" shall mean the lessee or person(s) in control of and having responsibility for the daily operation of a facility for the storage and dispensing of toxic and hazardous materials.

"Physical hazard" means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive,

flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any toxic or hazardous material into the environment.

"Substance" means any element, chemical, compound, combination, or any mixture thereof, whether organic or inorganic.

"Toxic and hazardous material" means any substance, including but not limited to, any material, in whatever form, which because of its quantity, concentration, chemical, corrosive, fire, reactive, toxic, infectious, and radioactive characteristics either separately or in combination with any substance or substances, constitutes a potential threat to human health, safety, welfare or to the environment, when improperly stored, handled, treated, transported, disposed of, used or otherwise managed. This definition includes any substance which is designated by its manufacturer, distributor or importer as possessing any health or physical hazard(s) pursuant to 29 CFR 1910.1200 as well as any substance which is determined to be a hazardous waste according to 310 CMR 30.100.

"Underground storage tank" means a storage tank where 10% or more of the tank volume and piping is buried below the ground surface, but which shall not include storage in a free standing container within a building.

"Underground storage tank leakage or leak" means any uncontrolled movement, measurable by a precision test which can accurately detect a leak of 0.10 gallons per hour with a probability of detection of 0.99, and the probability of false alarm of 0.01.

"Work area" means any area within a workplace, whether outdoors or inside a structure, where substances are stored, used, or manufactured, (and includes, but is not limited to, areas where substances are handled, mixed, processed, packaged, or repackaged); and where employees, licensees, invitees, or other persons may be present.

"Workplace" means an establishment, job site, or project, at one geographical location containing one or more work areas.

"Service Company" - any individual, company, firm or other enterprises which supplies, delivers, services, maintain or repairs any hazardous material or toxic waste containers of the substances stored therein.

2.14.4 Report of Leaks or Spills

2.14.4.1 Any person with knowledge of a release or abnormal loss or gain of a toxic or hazardous material shall forthwith report the spill, loss or gain, to the Chief of the Fire Department and the Board of Health. Notification is not required for any release which is legally permitted and does not exceed allowable or acceptable discharge limits.

2.14.4.2 The owner or operator of a leaking tank system shall immediately:

- (a) Remove the system from service and, if testing has confirmed that the source of the leak is a tank(s), the owner or operator shall within 24 hours cause the tank(s) to be emptied of all product or waste;
- (b) Notify the Chief of the Fire Department, the Office of Incident Response of the Department of Environmental Protection, and the Board of Health.

2.14.4.3 Service companies shall report to tank owners and the Board of Health any significant increase in heating fuel consumption which may indicate a leak.

2.14.4.4 All spills and releases which trigger the reporting requirements of the Commonwealth of Massachusetts as defined in the Massachusetts Contingency Plan 310 CMR 40.0000 must be reported to the Board of Health. In addition, a copy of all documentation including but not limited to environmental assessments including Phase I and Phase II assessments, tier classifications, remedial action plans including Immediate Response Action Plans and Release Abatement Plans, risk assessments, and closure documentation prepared in accordance to the Massachusetts Contingency Plan during the investigation of these releases must be submitted to the Board of Health concurrent with its submittal to the Massachusetts Department of Environmental Protection.

Note: Amended Art. 14 TM 1/11/1999. App. A.G. 2/24/1999. Pub. Daily Times 3/4/1999, 3/11/1999.

2.14.5 Registration and Inventory Requirements

2.14.5.1 Every owner or operator of a commercial or industrial establishment, (including home occupations and agricultural and horticultural operations) storing toxic or hazardous materials in quantities totaling 100 kilograms, or 220 pounds or more, shall register and submit toxic and hazardous material inventory information with the Board of Health. All products or wastes in container sizes greater than either one liter (33.8 fl. oz.) or one kilogram (2.20 lb.) should be added in combination to determine if the 100 kilogram threshold is met.

The inventory information requirements for toxic and hazardous materials shall include, but not be limited to, the material's common or product name, chemical name, C.A.S. (if applicable), storage location and maximum daily amount, for substances which are classified as hazardous wastes, the hazardous waste number and waste identification will substitute for the product and chemical names.

Those materials stored in containers not exceeding the de minimus amount need not be reported.

2.14.5.2 Retail commercial enterprises selling hazardous and toxic materials in containers of less than 30 gallons liquid weight and

25 pounds dry weight are exempt from the registration and inventory requirements of Section 2.14.5.1.

2.14.5.3 In addition to the registration requirements listed in Section 2.14.5.1, all underground storage systems and tanks maintained on commercial property which contain hazardous materials or wastes must be registered with the Board of Health and the Fire Department. The following information must be provided: the size, type, age and location of each tank, and the name of the material stored in each tank.

Note: Amended Art. 14 TM 1/11/1999. App. A.G. 2/24/1999. Pub. Daily Times 3/4/1999, 3/11/1999.

Evidence of date of purchase and installation, including Fire Department permit, if any, shall be included along with a sketch map showing the location of such tanks on the property. Owners of tanks for which evidence of installation date is not available shall, at the order of the Board of Health, have such tanks system tested. If either the Board of Health or the Fire Chief determines that the tank is not product tight it shall be neutralized or disposed of under the direction of the Fire Chief and the Board of Health.

2.14.5.4 The Board of Health shall create a standard form which will be known as an "Hazardous Material Registration Form" (HMRF) to be used by local commercial and industrial establishments for the purpose of registering and reporting inventory information of toxic and hazardous materials.

The board shall maintain and update annually each HMRF which has been submitted and make this information readily available to the public, emergency response personnel, Fire Department and Town officials.

Every commercial and industrial establishment which submits an HMRF as required by section 2.14.5.1 will retain a copy which will be made readily available upon request, by the Board of Health or Fire Department. MSDSs for substances used in the workplace will be maintained and organized so that they are readily available upon request by the Board of Health and Fire Department.

2.14.6 Spill Control and Countermeasure Plans

Every owner or operator of a commercial or industrial establishment (including home occupations and agricultural and horticultural operations) using, manufacturing, storing, transporting, disposing or discharging toxic and hazardous materials must develop a spill control and countermeasure plan. Plans must be readily available for inspection by the Board of Health and Fire Department and accessible during an emergency incident. These plans shall be periodically reviewed and updated as needed.

The written plan shall include, but not be limited to, the following information:

- (a) The names and telephone number(s) of the emergency coordinator(s) and a waste disposal and cleanup contractor;

- (b) The telephone numbers of the following agencies; Fire Department, Office of Incident Response of DEP, CHEMTREC, National Response Centers, local hospitals, and Board of Health;
- (c) A floor plan indicating locations of the fire extinguishers and spill control materials, and if present, the fire alarms. Evacuation routes shall be clearly shown when applicable.
- (d) Description of potential spill pathways unique to the facility, spill control measures for preventing releases and cleanup procedures. Reportable quantities (RQs) should also be noted and the agencies to be notified should an RQ release occur and enter the environment.

2.14.7 Above Ground Storage Requirements

- 2.14.7.1 All toxic or hazardous materials shall be stored according to practices and procedures which prevent the contamination of air, groundwater and surface water and which will minimize the possibility of an accidental release.

These materials will be stored in product tight containers on an impervious, chemical resistant surface compatible with the material being stored.

Outdoor storage areas shall be enclosed with a permanent dike of impermeable construction and roofed, or other equally secure secondary containment.

Any enclosed area containing free liquids shall have the capacity to contain either 10% of the total possible contained volume of the containers or 110% of the volume of the largest container of free liquid, whichever is greater. Drainage shall be separately collected for safe disposal.

Similar secondary containment for inside storage areas of free liquids shall be provided when a release could follow a potential pathway and enter the environment (i.e., floor drains and doorways).

Storage areas with containers of toxic or hazardous materials that are incompatible with other materials stored nearby in other containers shall be separated from these materials or wastes by means of a dike, berm, wall or other suitable containment method.

- 2.14.7.2 Wastes containing toxic or hazardous materials shall be held on the premises in product-tight containers for removal by a licensed carrier and for disposal in accordance with the Massachusetts Hazardous Waste Management Act, Chapter 21C, General Laws. Waste storage areas shall also meet the requirements of 2.14.7.1.

- 2.14.7.3 All existing gasoline, fuel and diesel oil above ground storage containers shall be upgraded to meet the requirements of Section 2.14.7.1 by January 1, 2000. All other existing toxic and hazardous materials above ground storage containers shall be

upgraded to meet the requirements of Section 2.14.7.1 by January 1, 1985.

- 2.14.7.4 All containers holding toxic or hazardous materials must be labeled in a legible and prominent manner as follows:
- (a) Containers holding materials which have been determined to possess health or physical hazard(s) according to 29CFR 1910.1200(d) shall be labeled, tagged, or marked to identify the material(s) contained therein and the appropriate hazard warning(s) or as allowed by 29CFR 1910.1200(f)(6) and (7).
 - (b) Containers holding hazardous wastes as identified by 310 CMR 30.100 shall be labeled and marked in a manner which identifies, in words, the hazardous waste(s) being stored in the container, the hazard(s) associated with the waste and the accumulation date, if applicable. Each container of hazardous waste shall also be marked with the words "HAZARDOUS WASTE."

2.14.8 Transfer of Pumping Areas

2.14.8.1 All areas where hazardous and toxic materials are pumped or transferred must have provisions for spill containment.

2.14.8.2 Areas where hazardous and toxic materials are pumped or transferred must be constructed of a product tight impervious material. Closed drainage shall be provided from this area to a sump or trap. A roof should be constructed to prevent rainwater flow from entering the containment sump.

For petroleum products which are lighter than water and float on top of water, an appropriately sized separation trap, connected to the sanitary sewer may be employed. Spilled petroleum products must be removed from the top of the trap immediately after a spill occurs.

2.14.8.3 All underground piping from tanks to pumps must be placed in secondary containers constructed of product tight impervious materials with provisions for leak detection.

2.14.8.4 Domestic oil fills are exempt from this Bylaw. All existing gasoline fuel and diesel oil transfer and pumping areas shall be upgraded to meet the requirements of Section 2.14.8.2 and 2.14.8.3 by January 1, 2000. All other existing toxic and hazardous materials transfer and pumping areas shall be upgraded to meet the requirements of Section 2.14.8.2 and 2.14.8.3 by January 1, 1985.

2.14.9 Underground Storage Requirements

2.14.9.1 New or replacement underground storage tanks shall be designed and constructed to minimize the risk of corrosion and leakage. The following construction shall be utilized for all tanks:

- (a) UL-listed double walled steel tanks with cathodic protection, having electrical isolation, UL-listed double

walled fiberglass tanks, or UL-listed double walled composite tanks having electrical isolation. These tanks should be equipped with an approved standpipe, vacuum, or electrical monitoring system or an approved equivalent for the purpose of continuously monitoring the interstitial space. The material used in the construction of the UST vessel and associated piping shall be compatible with the product being stored in the tank.

- (b) Any other "state-of-the-art" type of tank construction with an approved continuous interstitial space monitor and providing equal or better protection against leakage than the above mentioned tanks and approved by the State Fire Marshall.
- (c) In addition, tanks shall be equipped with a spill containment manhole with a minimum capacity of three gallons capable of returning product or waste to the tank. An overflow prevention device shall be installed and designed so as not to preclude the ability to perform any required tightness test on the tank and piping.

All existing underground storage systems shall be upgraded to meet the requirements of this section by December 22, 1998, or sooner where required by 527 CMR 9.00, except, for fuel oil tanks used exclusively for consumptive use and waste oil and used fuel oil tanks which shall be upgraded by January 1, 2000.

- 2.14.9.2 All underground storage systems containing fuel oil used exclusively for consumptive use and having a capacity greater than 1,000 gallons shall have the tank and its piping leak tested 20 years after installation, and annually thereafter, using a leak testing method approved by the State Fire Marshall.

2.14.10 Air Emissions of Solvents

Volatile chlorinated hydrocarbons emitted to the air from dry cleaner and degreaser systems must, by January 1, 1985, either install a totally enclosed degreaser or dry cleaning system with a condenser which will return the solvent to the solvent pump, replace volatile chlorinated solvents with non-volatile cleaning solvents or take action which provides equivalent protection, subject to the approval of the Board of Health.

2.14.11 Proximity to Water Supplies

- 2.14.11.1 The installation of underground toxic or hazardous materials storage systems within 2,000 feet of a public water supply well is prohibited.

- 2.14.11.2 The Board of health may require the collection of soil samples or the installation of one or more groundwater monitoring wells at any site where toxic and hazardous materials or waste have been or are stored and used, or at any property where environmental contamination may exist. The Board of Health by a majority vote may order the collection and analysis of soil and/or groundwater samples for the purpose of reviewing and investigating the

condition of the local aquifer and environment. Soil and water samples may be required by the Board of Health at any reasonable time, and shall be collected and analyzed at the expense of the property owner, by the order of the Board of Health.

Note: Amended Art. 14 TM 1/11/1999. App. A.G. 2/24/1999. Pub. Daily Times 3/4/1999, 3/11/1999.

2.14.12 Variance and Waiver

The Board of Health may vary the application of any provisions of this Bylaw or regulations adopted hereunder when in its opinion, the enforcement thereof would do manifest injustice and the applicant has demonstrated that the same degree of environmental protection required under this Bylaw will still be achieved. Requests for such variance shall be in writing. The applicant must notify all abutters by certified mail at his own expense at least 10 days before the Board of Health meeting at which the variance request will be considered. Notice of such variance granted shall be published in a local newspaper. All abutters and property owners within 300 feet shall be notified by registered mail at the expense of the applicant.

In granting a variance, the Board will consider the direction of groundwater flow, soil conditions, depth to groundwater, size, shape and slope of the lot, existing and known future water supplies. Said information to be supplied by the applicant in the form of a groundwater impact study.

A variance will require a 4/5 vote of a 5 member board.

2.14.13 Enforcement

- 2.14.13.1 Certification of conformance with the requirements of this Bylaw by the Board of Health shall be required prior to issuance of construction and occupancy permits for all uses.
- 2.14.13.2 The provisions of this Bylaw shall be enforced by the Board of Health. Any agent of the Board of Health may, according to the law, enter upon any premises at any reasonable time to inspect for compliance.
- 2.14.13.3 Upon request of an agent of the Board of Health, owner or operator shall furnish all information required to enforce and monitor compliance with this Bylaw, including a complete inventory of all chemicals, pesticides, fuels and other toxic or hazardous materials used or stored on the premises, a description of measures taken to protect storage containers from vandalism, corrosion and spillage, the spill control and countermeasure plan, the means of disposal of all toxic or hazardous wastes produced on the site, a sample of waste water disposed to on-site septic systems, dry wells or sewage treatment systems.
- 2.14.13.4 All records pertaining to storage, removal and disposal of toxic or hazardous materials shall be retained by the owner or operator for no less than three years, and shall be made available for review upon the request of an agent of the Board of Health.
- 2.14.13.5 This Bylaw may also be enforced pursuant to MGL Chapter 40:S21D by a Town police officer or other officer having police

powers. Upon request of the Board of Health, the Board of Selectmen and Town Counsel shall take such legal action as may be required to enforce this Bylaw.

2.14.14 Violation

Written notice of any violation of this Bylaw shall be given to the Owner and Operator by an agent of the Board of Health, specifying the nature of the violation; any corrective measures that must be undertaken, including containment and cleanup of discharged materials; any preventive measure required to avoid future violations, and a schedule of compliance.

The cost of containment and cleanup shall be borne by the Owner and Operator of the involved premises.

The Board of Health may charge for expenses incurred in the enforcement or maintenance of this Bylaw.

2.14.15 Penalty

Any person who violates any provision of this Bylaw shall be punished by a fine of not more than \$200. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This penalty is in addition to any costs or charges under Section 2.14.5 above and regulations adopted hereunder.

2.14.16 Fees

Any person registering storage of hazardous and toxic materials pursuant to this Bylaw shall pay to the Board of Health an annual Registration Fee for every gallon or pound or fraction thereof of storage capacity. Such fee shall be due on the same date as the annual registration. Failure to pay shall constitute a violation and shall subject the violator to the penalties of Section 2.14.15 of the Bylaw. The Board of Health shall adopt and publish a schedule of fees to be charged.

2.14.17 Exemptions

The provisions of this Bylaw shall not apply to tanks of 330 gallon capacity or less located on residential properties or to domestic fills or to other uses and activities exempted by Board of Health Regulations.

2.14.18 Regulations

The Board of Health shall adopt and enforce, and may from time to time amend regulations consistent with the intent and general provisions of this bylaw, including a schedule of registration fees and expenses charges.

2.14.19 Severability

Each provision of this Bylaw shall be construed as separate to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

Note: Amended (in whole) Art. 17, Jan. 14, 1991 T.M. App. A.G. 3/22/1991.
Pub. Burl. News 4/11 & 4/18/1991.

3.0 Sign and Advertising Devices

3.1 Definitions

3.1.1 For the purposes of this Section, "SIGN" shall include any letter, word, symbol, drawing, picture, design, device, article or object that advertises, calls attention to

or indicates any premises, person or activity, whatever the nature of material and manner of composition or construction.

- 3.1.2 Display Surface is the area of the sign available for the advertising message.
- 3.1.3 Sign Structure means the support, uprights, braces and framework of the sign.
- 3.1.4 Erect shall include the words: attach, build, paint, construct, reconstruct, alter, enlarge, and move.
- 3.1.5 A Wall Sign means any sign erected against the wall of a building or structure, or a sign that is a part of the building or structure with the exposed face of the sign in a plane parallel to the plane of said wall, building or structure and shall not project more than one (1) foot from the side of the structure, or above the highest line of the roof or extend beyond a corner of the structure.
- 3.1.6 A Free Standing Sign means any sign that is supported independently from any building.
- 3.1.7 A Roof Sign means any sign attached to the roof surface of a building on which the display surface is above the roof level.
- 3.1.8 An Individual Letter Sign means a sign made of separate letters. The dimensions of such sign shall be the height of the tallest letter and the width of the combined letters as displayed.
- 3.1.9 A Projecting Sign means any sign other than a wall sign extending from and supported by a building and shall include signs painted or attached to wiring.
- 3.1.10 A Marquee Sign means any sign attached to a roof like structure or awning which projects over the entrance to a building.
- 3.1.11 A Temporary Sign means any sign erected for a limited period of time.
- 3.1.12 An Electric Sign means any sign containing electric wiring which is illuminated by incandescent or fluorescent lamps of luminous tubes or provides a beacon or searchlight.
- 3.1.13 A Moving Sign means any sign that is animated by mechanical or natural means.
- 3.1.14 Districts referred to in this article shall be as set forth in the Zoning Bylaws of the Town of Burlington.

Note: Adopted Art. 15 TM 12/3/1973. App. A.G. 12/28/1973. Pub. BTU 1/10, 1/17, 1/24/1974.

3.2 Administration

3.2.1 Permits Required:

3.2.1.1 A permit is required for the erection of all signs except those specifically exempt from this Bylaw.

3.2.1.2 Application for a sign permit shall be made in writing to the Building Inspector stating the proposed sign location by street and number, the names and addresses of the owner and the sign contractor or erector. The

Building Inspector may require the submission of plans and other information pertinent to construction and installation.

3.2.1.3 A permit shall not be issued to any person until a proper certificate of public liability insurance satisfactory to the Building Inspector is in force.

3.2.1.4 A fee shall be paid to the Town for each sign permit and collected by the Building Inspector in accordance with a schedule established by the Selectmen.

3.2.1.5 The permit number shall be clearly indicated on the sign.

3.2.1.6 No permit shall be required to refinish an existing sign or change the display on a changeable letter sign.

3.2.1.7 No permit is required for signs conforming to the Zoning laws in a residential zone.

3.2.2 Appeal

3.2.2.1 A person aggrieved by any decision of the Building Inspector may appeal to the Board of Appeals.

3.2.3 Enforcement

3.2.3.1 The Building Inspector is charged with the enforcement of this Bylaw.

3.2.3.2 Whoever violates any provision of this Bylaw shall be punished by a fine not exceeding One Hundred Dollars (\$100.00) for each offense. (Ch. 93, Sec.33)

3.2.3.3 The Building Inspector shall require the proper erection and maintenance of all signs. The Building Inspector may order the removal of any sign that is not properly maintained.

3.2.3.4 Signs erected before the adoption of this Bylaw shall not be rebuilt or relocated except in conformance with this Bylaw.

3.2.3.5 Signs erected before the adoption of this Bylaw that do not conform to the provisions of this Bylaw shall be made to so conform within five (5) years of the effective date of this Bylaw, except that all signs must be made to conform with the provisions of Section 3.2.4.2, 3.2.4.3, 3.2.4.6, and 3.2.4.7 within 90 days of the effective date of this Bylaw.

3.2.4 Installation

3.2.4.1 No sign shall be erected which obstructs any fire escape, door, ventilator, or other opening, or prevents free access to all parts of a roof.

3.2.4.2 Electric Signs:

(a) Flashing signs are prohibited.

(b) Red or green lights that would create a traffic hazard are prohibited.

(c) No sign may be illuminated between 12 midnight and 6:00 a.m.

(d) No exposed, uninsulated parts of an electrical sign shall be closer than nine (9) feet to the ground.

3.2.4.3 No sign is permitted that in any way creates a traffic hazard.

- 3.2.4.4 All parts of a sign shall be secured to the display surface or supporting structure.
- 3.2.4.5 No sign shall be painted on the exterior surface of any wall, window, door or roof.
- 3.2.4.6 No moving signs are permitted.
- 3.2.4.7 No sign shall be placed in or upon any street, public building or place without permission of the Selectmen.

3.3 Permitted Signs

3.3.1 One Family Dwelling Districts (RO)

3.3.1.1 A temporary sign advertising rental, lease or sale of the premises which shall be 6 sq. ft. or less.

3.3.1.2 A sign stating the home occupation or profession of a resident which shall be one sq. ft. or less.

3.3.2 General Business District (BG) Neighborhood Business Districts (BN), Limited Business Districts (BL), and Continuous Traffic Business Districts (BT)

3.3.2.1 Same as 3.3.1.1 above.

3.3.2.2 Wall Signs

- (a) One wall sign shall be permitted for each business side of a building and direct entrance into a store.
- (b) At gasoline stations and garages the front wall sign may be divided into separate signs indicating operations or departments, provided the total width of the separate signs does not exceed the maximum permitted for a wall sign.
- (c) A wall sign shall be 4 ft. or less in height.
Note: Section titles adopted Art 47, TM 1/31/1977.
- (d) At the first floor level, a sign may extend across the full width of the wall. At other than the first floor level, a sign shall be 6 ft. or less in length.
- (e) One building directory shall be permitted on the exterior wall of the building at each entrance. A building directory shall be one sq. ft. or less for each occupant or tenant of the building.

3.3.2.3 Projecting Signs

- (a) One sign shall be permitted for each business.
- (b) The sign shall be 4 ft. or less in height and shall not project more than 6 ft. from the face of the building, nor closer than 15 ft. from the property line.

3.3.2.4 Marquee Signs

- (a) Signs shall only be attached to the sides or front of a marquee and shall be 7 ft. or more above the ground.
- (b) The sign shall be 6 sq. ft. or less. An individual letter sign shall be 2 ft. or less in height.

3.3.2.5 Free Standing Signs

- (a) No free standing signs shall be permitted except temporary signs which shall be 10 ft. or more from any property line.
- (b) A temporary sign erected during construction of a building shall be 48 sq. ft. or less and 10 ft. or less in any dimension.

3.3.3 Retail Industrial (IR), General Industrial Districts (IG) and High-rise Industrial Districts (IH) *

3.3.3.1 A temporary sign advertising rental, sale or lease of the premises not exceeding 24 sq. ft.

3.3.3.2 Wall Signs

- (a) Wall signs shall be the same as for business zones except that signs shall be 6 ft. or less in height.

3.3.3.3 Roof Signs

- (a) One roof sign shall be permitted for each building, but no roof sign shall be permitted for a building exceeding eighty (80) feet in height.

Note: Adopted Art. 15 TM 12/3/1973. App. A.G. 12/28/1973. Pub. BTU 1/10, 1/17, 1/24/1974.

- (b) A roof sign shall be 10 ft. or less in height and shall not exceed 100 sq. ft. An individual letter roof sign shall be six (6) ft. or less in height.

3.3.3.4 Projecting Signs - Same as for Business Districts.

3.3.3.5 Marquee Signs - Same as for Business Districts.

3.3.3.6 Free Standing Signs

- (a) No free standing signs shall be permitted except temporary or directory signs which shall be 10 ft. or more from any property line.
- (b) A temporary sign erected during construction of a building shall be 48 sq. ft. or less and 10 ft. or less in any dimension.
- (c) A free standing sign may be permitted for purposes of a business directory provided that no more than 20 sq. ft. shall be permitted for each business.

Note: Section Titles Adopted Art. 47 TM 1/31/1977.

3.4 Severability

The invalidity of any part or provision of this Article shall not invalidate any other Section or provision therein.

Note: Adopted Art.7 TM 4/11/1966. App. A.G. 6/23/1966. Pub. BTU 7/14, 7/21, 7/28/1966.

4.0 General

4.1 No person shall in any way injure, pollute or obstruct any drinking fountain, waterway or water supply of the Town.

4.1.1 No person shall dispose of used or unused waste oil, or any other toxic or hazardous material, by abandoning it on any public or private property or by discarding it for disposal on the ground, in a sewer or storm drain, or in any commercial or residential rubbish or garbage, provided, however, that nothing in this section shall prohibit the disposal of empty containers in commercial or residential rubbish or garbage.

Note: Adopted Art. 16 1/14/1991 TM. App. A.G. 3/22/1991. Pub. Burl. News 4/4, 4/11 & 4/18/1991.

4.2 Earth Removal, Earth Moving, and Addition of Fill.
No person shall remove "earth" from or add "fill" to any land within the Town of Burlington, except in conformance with this section.

4.2.1 Definitions:

4.2.1.1 For the purpose of this Bylaw, "earth" shall include soil, loam, sand, gravel, clay, peat, rock or other earth product.

4.2.1.2 For the purpose of this Bylaw, "fill" shall include "earth" and all nonorganic solid materials.

4.2.1.3 For the purpose of this Bylaw, "Board" shall mean Board of Selectmen.

4.2.2 Administration Procedure

4.2.2.1 No earth shall be removed from nor fill added to land in the Town without a written permit from the Board. Notwithstanding this section, no permit is required for landscaping, gardening, and planting in the usual use of land.

4.2.2.2 Any person wishing to obtain or renew a permit shall file an application in such form as the Board may require, together with a topographical plan showing existing and finished grades. A filing fee of Two Hundred Dollars (\$200.00) shall accompany the application form when a hearing is required.

4.2.2.3 No permit shall be issued, except as provided in Section 9.2.6 below, until a public hearing has been held by the Board, notice of which shall be given at least fourteen (14) days in advance in a newspaper of local circulation and the posting of copies thereof on municipal bulletin boards. Abutters and other parties in interest as determined by the Board shall be notified by certified mail.

4.2.2.4 No permit is transferable.

4.2.2.5 Each permit shall automatically expire upon the completion of the project for which it was issued or at such other time as may be specified by the Board. In no case shall a permit be issued for a period longer than eighteen (18) months.

4.2.2.6 The Board may waive the issuance of a permit for the moving of earth entirely within an individual parcel if not in violation of any Bylaw of the Town, provided that all minimum standards and limitations of this section are complied with, under the following circumstances: in the construction of a building, of a road (public or private); as part of a farm, garden, nursery, or cemetery; and when incidental to landscaping, construction of a swimming pool, or similar activities in connection with an existing building.

4.2.2.7 The Board may waive the public hearing when application for permit is submitted for the following purposes:

- (a) In connection with those activities listed under 4.2.2.6 when an excess of earth has been created which is unnecessary and unusable at the site.
- (b) When such earth excess is created in connection with the construction of a building, the amount to be removed shall be limited to the volume of the foundation and basement excavation for the building.
- (c) When such earth excess is created in connection with the construction of a road, the amount to be removed shall be limited to the excess of cut and fill required to satisfy Planning Board standards with respect to construction of ways.

4.2.2.8 No permit or waiver of permit for earth moving, removal or fill shall be issued within the 100-Year Flood Plain District, as defined in the Zoning Bylaw, unless the Board of Selectmen determine that all requirements of the 100-Year Flood Plain District will be fulfilled for the proposed work.

Note: Adopted Art. 18 TM 1/23/1985. App. A.G. 4/12/1985. Pub. Burl. News 4/25, 5/2/1985.

4.2.3 General Limitations

No permit shall be issued, remain in force or be renewed for a project that will endanger the public safety or health, or constitute a nuisance.

4.2.2 Standards

The following requirements shall be the minimum operating standards for all earth moving or addition of fill.

4.2.4.1 No excavation or filling shall take place within 200 feet of existing public ways unless specifically permitted by the Board; and no excavation or filling shall take place within 50 feet of any adjoining lot where excavation or filling is not permitted. Natural vegetation shall be left and maintained on the undisturbed land.

- 4.2.4.2 Operations shall take place only between 7:30 a.m. and 5:00 p.m. Monday thru Friday.
- 4.2.4.3 All loaded vehicles shall be covered to prevent dust and spilling of contents.
- 4.2.4.4 All trucking routes shall be subject to approval by the Chief of Police.
- 4.2.4.5 All unpaved access ways shall be treated with oil, stone, or other suitable material to reduce dust and mud.
- 4.2.4.6 During operations, when an excavation is located closer than 200 feet from a residential area or public way and where the excavation will have a depth of more than 15 feet with a slope in excess of 1:1, a nonclimbable fence at least 6 feet high shall be erected to limit access to this area.
- 4.2.4.7 No area shall be excavated or filled so as to cause or permit the accumulation of freestanding water. Permanent drainage shall be provided as required by the Board.
- 4.2.4.8 All topsoil and subsoil shall be stripped from the operation area and stockpiled for use in restoring the area. No loam shall be removed from the Town.
- 4.2.4.9 Any temporary shelters or buildings erected on the premises shall be removed within 30 days after the expiration of the permit.
- 4.2.4.10 No excavation or filling shall be allowed within 50 ft. of a waterway unless specifically permitted by the Board.
- 4.2.4.11 No material shall be used for filling except "fill" as defined in this section.
- 4.2.4.12 No excavation or filling shall be allowed within four (4) feet above the high water table.
- 4.2.4.13 Within the Aquifer and Water Resource Districts as defined by the Zoning Bylaw, only clean fill shall be allowed. Clean fill is of granular material, well graded from fine to coarse with a maximum size of 6 inches, obtained from natural deposits. It shall not contain vegetation, masses of roots, or individual roots more than 18 inches long or more than 1/2 inch in diameter. It shall be substantially free from loam and other organic matter and clay.

It shall be free from chemical contaminants and other fine or harmful substances.

Note: Amended Art. 15 TM 1/12/1983. App. A.G.3/22/1983. Pub. Burl. News 3/31, 4/7/1983.

4.2.5 Restoration Standards

- 4.2.5.1 No slope shall be left steeper than one (1) foot vertical to two (2) feet horizontal.

- 4.2.5.2 All debris, organic material, and boulders shall be removed from the site or disposed of as required by the Board.
- 4.2.5.3 Prior to the expiration date of the permit, ground levels and grades shall be established as shown on the completed Topographical plan.
- 4.2.5.4 Topsoil shall be spread over the disturbed area to a minimum depth of four (4) inches. This soil shall be treated with fertilizer and seeded as required. Trees or shrubs shall be planted as required. The planted area shall be protected from erosion during the establishment period.
- 4.2.5.5 "As built" drawings shall be prepared by a Registered Engineer or Land Surveyor at a scale of 1" equals 40' or a scale acceptable to the Board showing final grades; location of monuments and their elevation; location and size of underground drainage and other utilities installed, the location boundaries, and depth of organic fill areas; the location of access roads; and similar permanent improvements when the site is completed. Such "as built" drawings shall be prepared and submitted to the Board before any release of performance guarantee.

4.2.6 Performance Guarantee

A cash deposit, a bank deposit, or certified check will be required in an amount sufficient to comply with the terms of the permit and this section. In the event that the permit holder does not complete all work covered by the terms of the permit, the Town may use all or part of the security deposit to complete such work. The security deposit or the balance thereof will be released only after the land has been restored as outlined above and sufficient time has elapsed to indicate that the seeding and planting are established and the drainage is satisfactory.

4.2.7 General Administration

- 4.2.7.1 The Board and its agents shall be permitted access to inspect the premises at all times.
- 4.2.7.2 Upon petition of the permit holder, the Board, after public hearing, may reissue and/or modify the permit.
- 4.2.7.3 The Board, after notice to permit holder and a hearing, if requested, may order the revocation or suspension of a permit if the conditions established thereunder are not complied with; but the permit holder in such situation shall not be relieved of his obligations thereunder.
- 4.2.7.4 Any earth moving, earth removal, or filling project in progress, or authorized by a permit under any other Bylaw at the time this section becomes effective, shall forthwith be subject to the provisions of this section, and the owner of the involved land shall, within 30 days after the effective date of this section, submit an application for a permit as prescribed. The effective date of such permit shall be the effective date of this section.

4.2.8 Violations

- 4.2.8.1 The Board, if it concludes that there has been a violation of this Bylaw, shall send to the offender by certified mail, a notice ordering immediate compliance with the terms of the permit and this section.

4.2.8.2 The penalty for violation of this Bylaw shall be a fine of not more than Fifty Dollars for the first offense, not more than One Hundred Dollars (\$100.00) for the second offense; and not more than Two Hundred Dollars (\$200.00) for any subsequent offense. Each day a violation continues, after notification, shall be a separate offense, except that each truckload of earth or portion thereof removed from the premises shall be considered a separate offense.

Note: Amended Art. 17 TM 2/24/1975. App. A.G. 5/20/1975. Pub. BTU 6/12, 6/19, 6/26/1975.

4.3 Storage of Chlorides by DPW Near Vine Brook

The storage of chlorides or chlorides mixed with sand, or the mixing of chlorides with sand, or placing of any chloride solution upon the ground surface on the property known as the Town Highway Barn, located on Great Meadow Road adjacent to the Vine Brook, or any other parcels adjacent to the Vine Brook, is prohibited.

Note: Adopted Art. 6 Spec. TM 6/24/1968. App. A.G. 8/20/1968. Pub. BTU 9/5, 9/12, 9/19/1968.

4.4 Use of Chlorides Within the Town

The use of sodium chloride is prohibited on private or public ways or parking lots in the Town of Burlington, with the exception of public ways outside of the Aquifer and Water Resource Districts, where a mixture of sodium chloride to sand not to exceed 1:4 may be used. The use of calcium chloride is allowed throughout the Town.

Note: Adopted Art. 35 TM 12/18/1972. App. A.G. 1/29/1973. Pub. BTU 2/8, 2/15, 2/22/1973. Amended Art. 5 TM 1/13/1993. App. A.G. 3/2/1993. Pub. Burl. News 3/17, 3/24/1993.

4.5 Construction Hours

No commercial construction, demolition, repair, paving or alteration of buildings or streets or excavation shall be conducted between the hours of 7:00 PM and 7:00 AM, except with the approval of the Board of Selectmen. Anyone who violates this bylaw shall be subject to a fine of \$300, each day to constitute a separate occurrence. This bylaw may be enforced through non-criminal disposition by the Building Inspector or any Police Officer of the Town of Burlington.

This bylaw shall not apply to emergency activities of Town, County, State or Federal agencies or to emergency activities conducted by public utilities.

Note: Adopted Art. 12 TM 1/12/1998. App. A.G. 3/13/1998. Pub. BTU 3/26/98, 4/2/1998.

5.0 Water Supply Conservation

5.1 Authority

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

5.2 Purpose

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

5.3 Definitions

Person shall mean any individual, corporation trust, partnership or association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c21G, §15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 5.4 of this bylaw.

Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

5.4 Declaration of a State of Water Supply Conservation

The Town, through its Board of Selectmen, may declare a State of Water Supply Conservation, upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 5.6 of this bylaw before it may be enforced.

5.5 Restricted Water Uses

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 5.6.

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

Outdoor Watering Ban. Outdoor watering is prohibited.

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

Filling Swimming Pools. Filling of swimming pools is prohibited.

Automatic Sprinkler Use. The use of automatic sprinkler systems is prohibited.

5.6 Public Notification of a State of Water Supply Conservation: Notification of DEP
Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section 5.5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

- 5.7 Termination of a State of Water Supply Conservation: Notice
A State of Water Supply Conservation may be terminated by a majority vote of the Board of Selectmen upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by section 5.6.
- 5.8 State of Water Supply Emergency: Compliance with DEP Orders
Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.
- 5.9 Penalties
Any person violating this bylaw shall be issued a warning for the first violation, and shall be liable to the Town in the amount of \$50.00 for the second violation, and \$100.00 for each subsequent violation which shall go to the General Fund. Fines shall be recovered by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

Note: Adopted Art. 7 TM 10/01/01. App. A.G. 12/18/01. Pub. Daily Times 12/27/01 & 1/3/02.

APPENDIX A: LOCAL OPTION STATUTES ACCEPTED/SPECIAL ACTS OF THE LEGISLATURE

TOWN OF BURLINGTON

M.G.L.	Amended by Chapter	Of the Acts	Date of Action	Result of Action Accepted, Rejected, Etc.	Topic
	235	1901	4/2/1901	Not Required	Railway to Serve as Common Carrier
	87	1902	2/18/1902	Not Required	Establish the Francis Wyman Association
Revised Law	11		3/20/1905	Referendum	Town Clerk Elected/Official Ballots
Revised Law	28 S1-14		3/12/1906	Referendum	Public Parks
	209	1908	3/1/1909	Referendum	Forest Land
	503	1912	11/5/1912	Referendum	Pensioning Laborers
	807	1913	11/4/1913 3/2/1914	Referendum	Workmen's Compensation
	494	1911	3/2/1914	Referendum	Eight Hour Day
	153		4/12/1917	Not Required	Slaughter House Fees
	311	1919	11/4/1919	Referendum	Continuation School
C143 S3, 13, 14			3/27/1922	Accepted Town Meeting	Building Regulations
C41 S73			3/27/1922	Accepted Town Meeting	Board of Survey
	163 S.1	1931		Not Required	Borrowing Money for Schools
	172	1931	2/15/1932	Not Required	Water Supply
C48 S42, 43, 44			3/7/1932	Accepted Town Meeting	Fire Department
	469	1935	8/6/1935	Not Required	Construction of State Highway. Middlesex Highway
	137	1935	3/2/1936	Accepted Town Meeting	Authorization Selectmen to sell Marshall Simonds Park Land
	216	1936	4/13/1936	Not Required	Ext. of Time for Borrowing Money for Schools
C54 103A	77	1937	2/21/1938	Accepted Town Meeting	Absentee Voting
C41 S81 (A-J)			7/25/1939	Accepted Town Meeting	Establish Planning Board (Planning Board First Elected 2/5/1940)
C41			3/3/1941	Accepted Town Meeting	Establish Police Dept.

S97					
			11/3/1942- 11/3/1970	Referendum	Sale of Alcohol in Packages in Off-Premise Consumption
C40 S13A			2/18/1946	Referendum	Workmen's Compensation
C32 S1-28			11/5/1946	Referendum	Establish Retirement System
	46	1948	2/7/1949	Referendum	Civil Service – Police Force
	635	1949	9/12/1949	Water District Accepted	Establish Water District
C41 S111-A			7/31/1950	Accepted Town Meeting	Vacations – Fire and Police Dept.
C40 S6B			3/3/1952	Accepted Town Meeting	Providing Uniforms – Fire and Police Dept.
	165	1953	3/1/1954	Referendum	Civil Service – Police Dept.
C147 S16C			3/1/1954	Referendum	Five-Day Week – Police Dept.
	485	1954	7/12/1954	Water District Accepted	Increase Amount Money Town May Borrow for Water/Sewer District
	511	1955	7/11/1955	Not Required	Authorizing Lexington to Sell Water to Burlington
C31 S47			3/4/1957	Referendum	Civil Service Officials and Laborers (Note: s/b S48)
C32 S89B			4/1/1957	Accepted Town Meeting	Payment of Death Benefits
	727	1957	9/18/1957	Not Required	Validating March and April 1957 Town Meeting Action
C41 S111D			3/3/1958	Referendum	Vacations – Fire and Police
C48 S58C			3/24/1958	Accepted Town Meeting	Overtime Remuneration or Compensatory Time-off – Fire Dept.
C147 S17C			6/23/1958	Accepted Town Meeting	Overtime Remuneration or Compensatory Time-off – Police Dept.
C262 S53C			6/23/1958	Accepted Town Meeting	Overtime Remuneration or Compensatory Time-off – Police Dept.
	563	1958	8/29/1958	Not Required	Validate Action of Selectmen re: Public Ways 1/1/1930-7/9/1958
C40 S6C			3/2/1958	Referendum	Snow and Ice Removal
C32B			3/2/1959 3/3/1973	Referendum	Group Hospital and Life Insurance
	32	1961	3/1/1961	Referendum Defeated	Tenure – Highway Superintendent
	162	1961	3/27/1961	Water District Accepted	Civil Service – Water District
	718	1962	3/26/1963	Water District Accepted	Authorization to Construct and Operate Reservoir

	726	1962	3/26/1963	Water District Accepted	Construction of Sewers
	243	1964	3/31/1964	Water District Accepted	Amending C635, Acts of 1949 Water District Boundaries
	565	1964	6/22/1964	Not Required	Validating Action of Annual Town Meeting, 1964
C40A S8, S20			3/24/1965	Accepted Town Meeting	Zoning Enabling Act – Two Year Wait on Unfavorable Decisions
C71 S16-161			11/10/1965	Accepted Town Meeting	Regional School
C41 S99A			11/17/1965	Accepted Town Meeting	Police May Reside out of Town
C40 S8C			11/17/1965	Accepted Town Meeting	Establishing Conservation Commission
	298 38	1965 1966	3/28/1966 7/7/1966	Dismissed Accepted Town Meeting	Increase Amount Money Town Borrow Water/Sewer District
C41 S69C- 69F			3/7/1966	Referendum	Establish Board of Public Works
C41 S100D	Repealed by General Court 1978		4/6/1966	Accepted Town Meeting	Indemnification
C48 S57E			4/6/1966	Accepted Town Meeting	Remuneration for Holidays – Fire Chief
C48 S57D			4/6/1966	Accepted Town Meeting	Remuneration – Fire
C147 S17A			4/6/1966	Accepted Town Meeting	Remuneration – Police
C48 S57F			4/6/1966	Accepted Town Meeting	Remuneration – Police Chief
C121 S26K			4/11/1966	Accepted Town Meeting	Establish Housing Authority
C40 S8D			6/8/1966	Accepted Town Meeting	Establish Historical Commission
C40 S8-C			6/8/1966	Accepted Town Meeting	Establish Conservation Commission
	682	1966	7/7/1966	Water District Accepted	Establish Ipswich River Watershed District
C32 S9A			3/4/1967	Referendum	Insurance for Retired Employees
C40 S8B	495 376, 66	1956 1959, 1965	9/20/1967	Accepted Town Meeting	Establish Council on Aging
	237	1967	3/2/1968	Referendum	Dissolving Burlington Water and Sewer District
	310	1967	3/2/1968- 11/7/1972	Referendum	Sale of Alcoholic Beverages – Clubs/Veteran Organizations
	755	1968	7/25/1968	Not Required	Authorizing Assessors to Establish Tax Rate

					for Water and Sewer Services
C48 S58D			3/1/1969	Referendum	42 hour week – Fire Dept.
C90 S18A			3/24/1969	Accepted Town Meeting	Jay Walking
	593	1969	7/31/1969	Not Required	Abatement of Sewer Betterment Charges
	672	1970	8/14/1970	Not Required	Boundary Lines Between Burlington- Wilmington
	686	1970	3/6/1971	Referendum	Establish Representative Town Meeting
	552	1971	7/22/1971	Not Required	Appoint Robert Richard Fire Dept.
	486	1971	(3/1/1975) 3/4/1972	Referendum	Beano
	291	1972	5/18/1972	Not Required	Appoint of Harry Harris Police Dept.
	733	1972	7/17/1972	Not Required	Establishing the Aberjona River Commission
			11/7/1972 11/5/1974	Referendum	Sale of Alcohol – Restaurants
C53 S9A			12/16/1974 (5/22/1989)	Accepted Town Meeting	Final Date for Obtaining Nomination Papers
C32B 7A, 8A			3/1/1975	Referendum Defeated	Group Insurance Greater Than 50% or Proportional Share
	231	1975	5/19/1975	Not Required	Amendment to Chapter 686 Acts of 1970 Town Meeting (120 Days)
	44	1976	4/2/1976	Not Required	Boundary Line Change between Burlington/Woburn
	808	1975	1/24/1977	Accepted Town Meeting	Zoning Enabling Act
	248 761	1977 1977	6/1/1977 11/22/1977 Repealed	Not Required C248	Authorize Selectmen to Adopt Bylaw re: Removal of Appointed Officials
	310	1977	6/16/1977	Not Required	Civil Service – Police Dept.
	712	1977	11/3/1977	Not Required	Withdrawal from Ipswich Watershed
C32B S9F			4/1/1978	Referendum	Insurance from Retired Employees
C32B S11A			4/1/1978	Accepted Town Meeting	Additional Insurance – Town Employees
	549	1978	7/20/1978	Not Required	Town Administrator Act
C40 S22D			6/7/1978	Accepted Town Meeting	Towing of Cars
	186	1979	5/18/1979	Not Required	Flood Water Diversion Shawsheen River – C635 of 1979
C32 S99			5/29/1979	Accepted Town Meeting	Retirement Allowance
C44 S53D			6/11/1979	Accepted Town Meeting	Recreation Revolving Fund
	606	1979	10/4/1979	Not Required	Appoint William Boudreau

	416, S2	1980	9/29/1980	Accepted (Selectmen)	Qualification of Certain Assessors
C90 20C and 20D			10/6/1980	Accepted Town Meeting	Parking Violations
C71 S71E			5/13/1981	Accepted Town Meeting	School Committee Expenditure
C148 S26C, E, F			5/13/1981	Accepted Town Meeting	Smoke Detectors
C90 S20A ½			10/14/1981	Accepted Town Meeting	Parking Regulations
C40 S4G			5/24/1982	Accepted Town Meeting	Bids from \$2000-\$4000
	743	1981	5/24/1982	Accepted Town Meeting	Real Estate Tax Exemption
C48 S42A			5/24/1982	Accepted Town Meeting	Weak Fire Chief
C59, S5 (17C, 37A, 41B)	653 S6, 8	1982	5/23/1983	Accepted Town Meeting	Real Estate Tax Exemption
C148 S26G		1982	5/25/1983	Accepted Town Meeting	Sprinkler System Regulation
	500	1983	11/17/1983	Not Required	Police Dept. – Appoint Steven Howard
C64G S3A	145	1985	9/30/1985	Accepted Town Meeting	Local Hotel Tax
C140 S147A	308	1985	1/15/1986	Accepted Town Meeting	Withdraw County Dog System
C188 S13		1985	1/15/1986	Accepted Town Meeting	Professional Development Grant – Schools
C40 S57	640	1985	5/28/1986	Accepted Town Meeting	Granting or Renewing Certain Licenses
C59 S5	73	1986	9/22/1986	Accepted Town Meeting	Real Estate Tax Exemption
	405	1986	10/1/1986	Accepted Town Meeting	Payment to Tri-Town Consortium to North Suburban Chamber of Commerce
	469	1986	10/22/1986	Not Required	Amendment to Chapter 686 Acts of 1970 Town Meeting Redistricting
C40 S39K	306	1986	6/3/1987	Accepted Town Meeting	Water and Sewer Enterprise Fund
	194	1986	1/25/1988	Accepted Town Meeting	Tax Check-off Scholarship Foundation Trust
C41 S100G1/4			5/23/1988	Accepted Town Meeting	Burial Expenses Police and Fire Dept.
	236	1987	9/19/1988	Accepted Town Meeting	Subdivision Default Funds

	245	1988	1/9/1989	Accepted Town Meeting	Subdivision Default Funds
	360	1985	5/22/1989	Accepted Town Meeting	Allowing Protective Personnel Buy Back Retirement Credits
	288 S6	1989	7/12/1989	Not Required	Tennessee Gas Pipeline Easement
C148 S26I, S34			1/8/1990	Accepted Town Meeting	Installation of Automatic Sprinkler System
C40 S58			1/8/1990	Rejected Town Meeting	Municipal Charge Liens
	653	1989	5/23/1990	Accepted Town Meeting	Quarterly Tax Billing
C40 S39K			6/27/1990	Accepted Town Meeting	Enterprise Fund for Ice Palace
	291	1990	5/22/1991	Accepted Town Meeting	Enhanced 911 Emergency Service
C40 S8J			9/16/1991	Accepted Town Meeting	Establish the Disability Access Commission
C71 S40	Budget	FY1992	9/16/1991	Accepted Town Meeting	Motion to Reject the Teachers' Summer Payroll Deferral
	494	1991	4/13/1992	Selectmen	Ineligible Employees Deferred Compensation Program
C40 S39K	306	1986	5/18/1992	Accepted Town Meeting	Enterprise Fund for Sewer Utilities
C133 S48		1992	9/9/1992	Accepted Town Meeting	Early Retirement Program
C148 S26H			9/9/1992	Accepted Town Meeting	Automatic Sprinklers in Boarding Houses
C148 S56			9/9/1992	Rejected Town Meeting	Parking Space Business
C399 S48			2/8/1993	Accepted Town Meeting	Early Retirement Program
	160	1993	9/27/1993	Not Required	Amendment to Chapter 686 Acts of 1970 Town Meeting – Districts to Precincts
C59 S5 (22E)	110, S110	1993	5/18/1994	Accepted Town Meeting	Abatement of Property Taxes
C40 S57	408	1993	9/12/1994	Accepted Town Meeting	Granting/Renewal of Certain Licenses
C40 S8G			9/11/1995	Accepted Town Meeting	Mutual Aid for Police
C40 S22F			5/21/1997	Accepted Town Meeting	Setting Municipal Fees and Charges
	10	1998	1/12/1998	Not Required	Conservation Commission – Imposition of Fees
	89	1998	4/23/1998	Not Required	Voter Information on Ballot Questions – Town Elections
	70	1999	9/2/1999	Not Required	Amendment to Chapter 686 Acts of 1970 Town Meeting (150 Days)
	170	1999	5/8/2000	Accepted Town Meeting	Compensation for Certified Clerk and

					Treasurer/Collector
C41 S108L			5/23/01	Accepted TM *	Quinn Bill *(as part of Police Contracts FY00-02)
	92	2001	9/27/01	Not Required	Amendment to Ch. 686 - "Town Office" definition – 14 day notice
	146	2001	11/25/01	Not Required	Lease of Conservation Land for Wireless Communication Facility
	8	2002	1/14/02	Not Required	Amendment to Ch. 686 – Elections after a Revision of Precincts
	48	2002	3/6/02	Not Required	Exemptions from Civil Service Law
	116	2002	9/9/02	Accepted TM	Early Retirement Incentive
	170	1999	1/13/03	Accepted TM	Lien for Delinquent Water Charges
C59 S5K			5/12/03	Accepted TM	Sr. Tax Work-off Abatement Program