TOWN OF WILMINGTON INHABITANT BY-LAWS
TABLE OF CONTENTS

		Page
CHAPTER 1.	**GENERAL PROVISIONS** (Section 1 through 11)	
	Title of By-law	4
	By-laws – Not Retroactive.	4
	Power to License or Permit.	4
	Definitions	4
	Fines	5
	Fines – Enforcement	5
	Review of By-laws.	5
	Fee Schedule	5
CHAPTER 2.	**TOWN MEETINGS** (Section 1 through 24)	
	Town Meeting – Date - Posting.	6
	Polling Hours	6
	Adjourned Town Meeting.	6
	Warrant.	6
	Order of Articles	7
	Random Selection	7
	Special Town Meetings	7
	Motions – Pages	8
	Yes and No Ballots	8
	Determination of Vote	8
	Reconsideration.	9
	Quorum	9
	Committee Reports.	9
	Parliamentary Authority.	9
CHAPTER 3.	**DUTIES OF TOWN** (Section 1 through 27)	
	Regular Meetings.	10
	Public Records.	10
	Annual Reports	10
	Town Counsel	11
	Town Collector	11
	Deeds	11
	Easements.	12
	Sale of Town-owned Land.	12
	Trust Funds	13
	Elderly Services Commission	13
	Official Map	14
	Connection – Water, Sewer, Drain.	14
CHAPTER 4.	**FINANCE COMMITTEE** (Sections 1 through 5)	14
CHAPTER 5.	**PUBLIC REGULATIONS** (Sections 1 through 54)	15

Alcoholic Beverages – Possession and Consumption 17
Public Consumption of Marijuana…….. 18
Articles on Public Ways or Sidewalks 15
Amusement Devices 51
Littering. 15
Solid Waste Disposal. 15
Political Signs. 16
Penalties 16
Permit to Open Streets 16
Moving Buildings. 17
Coasting Public Way. 17
Bathing. 17
Boating. 18
Graffiti.. 19
Clearing Ice and Snow 20
Winter Parking Ban. 20
Unregistered Motor Vehicles 21
House Numbers 21
Junk Dealers – Rules 22
Regulation of Pawnbrokers…….. 25
Discharge of Firearms. 28
Dogs – Restraint and Control. 28
Erecting Barriers on Excavation. 36
Earth Removal 36
Liens on Property for Tree Removal…….. 39
Fire Lanes. 40
Underground Storage. 40
Suspension of Local Licenses and Permits. 45
Solicitors or Canvassers 46
Regulation of Utility Poles 49
Water Fowl. 49
Municipal Water Supply Use Restriction. 49
Smoking Prohibited 51
Contaminated Soil…….. 51
Alarms……. 52
Wetlands Enforcement. 55
Illicit discharge to storm drain system. 57
Excavation and trench safety. 65
Comprehensive Stormwater Management 67
Curfew in Public Parks, Playgrounds and Fields. 71
Enforcement and Penalties (curfew by-law). 72
Criminal History Check Authorization…….. 72
Rules and Regulation Enforcement 74
Prohibition of Marijuana Establishments ……. 75
Ban on Plastic Bags …….. 76

CHAPTER 6. INVALIDITY

How to Amend these By-Laws 77
Adoption & Amendment Index. 77

CHAPTER 592 TOWN MANAGER ACT

An Act Establishing a Town Manager Form of

Government for the Town of Wilmington 77

The following Town of Wilmington Inhabitant By-Laws are revised up to and inclusive of the Annual Town Meeting of May 5, 2018.

THE BY-LAWS
Of the
INHABITANTS
Of the
TOWN OF WILMINGTON
REVISED 5/2/2015

CHAPTER I
GENERAL PROVISIONS

TITLE OF BY-LAWS

SECTION 1. The adoption of these by-laws by the Town shall have the force and effect of repealing all presently existing by-laws and regulations heretofore adopted by the Town, except Board of Health rules and regulations, Zoning By-Laws, Massachusetts Building Code 780 CMR 1-22 inclusive, and traffic regulations duly adopted as most recently amended or as may be amended in the future; provided that the repeal shall not apply to or affect any by-law, order or article heretofore adopted accepting or adopting the provisions of any statute of the Commonwealth. These by-laws shall be known and referred to as "The Revised By-Laws of the Inhabitants of Wilmington."

BY-LAWS ARE NOT RETROACTIVE

SECTION 2. These by-laws and the repeal of all by-laws or regulations heretofore in force shall not affect any act done, any right accrued, any penalty or liability incurred or any suit, prosecution or proceeding pending at the time when these by-laws take effect, nor shall the repeal of any by-law or regulation thereby have the effect of revising any by-law or regulation previously repealed or suspended.

POWER TO LICENSE OR PERMIT

SECTION 3. When in a by-law anything is prohibited from being done without license or permission from a certain officer, board or commission, such officer, board or commission shall have the power to license or permit such thing to be done unless otherwise provided by law or by some by-law. Each municipal department, board or office shall, pursuant to chapter 40, section 22F of the general laws of the Commonwealth, from time to time fix or set reasonable fees for the issuance of all licenses, permits or certificates issued pursuant to statutes, regulations or bylaws by any municipal board, commission, or officer empowered to issue a license, permit, or certificate, within any limitations that may be imposed by statute, provided however that such fees shall take effect upon approval by the Town Manager and the Board of Selectmen.

WORDS DEFINED

SECTION 4. In all these by-laws, the following words and expressions shall unless inconsistent with the manifest intent be severally construed as follows:

a) public way shall include any highway, town way, private way open for public use, road, bridge, street, avenue, boulevard, roadway, lane, sidewalk or square;
(b) public building shall include all buildings belonging to or under control of the town or any of its departments;
(c) public place shall include all commons, parks, playgrounds, beaches, and public lands belonging to or in charge of the town, or any of its departments; and those places to which the public is invited;

(d) the words "owner or occupant" of a building or land shall include any sole owner or occupant, any joint tenant in common of the whole or any part of a building or lot of land;
(e) the words purporting to give joint authority to three or more officers or other persons shall give such authority to a majority of such officers or persons;
(f) the word "person" shall include corporations, societies, associations and partnerships;
(g) words importing the singular number may apply to the plural number, and words importing the masculine gender may apply to the feminine or neuter gender;
(h) "appointing authority" as used in these by-laws, shall mean the Board of Selectmen, except that during the period that Chapter 592 of the Acts of 1950 is in effect it shall mean the Town Manager

VIOLATION OF BY-LAWS: FINE NOT TO EXCEED $300

SECTION 5. Whoever violates any of the provisions of these by-laws whereby any act or thing is enjoined or prohibited, shall , except as otherwise provided in these by-laws, forfeit and pay a fine of $300 for each offense.

REFUSAL TO OBEY: FINE NOT TO EXCEED $300

SECTION 6. Whoever shall refuse or neglect to obey any lawful order of any town officer or board of town officers, issued under any of these by-laws, directed to him and properly served upon him, shall in cases not otherwise provided for, forfeit and pay for every offense a fine not exceeding $300 for each offense. Each day of a continuing refusal or neglect to obey such a lawful order shall constitute a separate offense,

FINES, ETC. PAID TO TOWN TREASURER

SECTION 7. All fees collected pursuant to Section 3 of this Chapter; and all fines, penalties and forfeitures for the violation of any by-law shall be paid into the Town Treasury except in accordance with other provisions of law or by-law.

BY-LAWS RELATE TO WHOM

SECTION 8. These revised by-laws relate only to persons, property and acts done within the limits of the Town of Wilmington and any prosecutions for the breach of any provisions of any of these by-laws shall be commenced within one year from such breach.

REVIEW OF BY-LAWS

SECTION 9. The Revised By-Laws of the Inhabitants of the Town of Wilmington shall be reviewed by a committee appointed for that purpose every ten years.

FEE SCHEDULE FOR VARIOUS SERVICES, LICENSES AND PERMITS

SECTION 10. The fees for sealing of weights and measuring services shall be fixed in accordance with Chapter 1, Section 3.

SECTION 11. In addition to all other authority contained in Massachusetts General Laws Chapter 164, Section 58B through 58F inclusive, the Town shall charge an additional fee for the recordation of municipal gas and/or electric liens placed on real estate, and to be collected by the Town as reimbursements of the costs; such fees to be determined by the Town Manager after consultation with the Board of Selectmen. The fee shall take effect after having been published in a newspaper of local circulation not less than two weeks before the effective date.

CHAPTER 2

TOWN MEETINGS

ANNUAL MEETING FOURTH SATURDAY IN APRIL

SECTION 1. The Annual Town Meeting for the election of Town Officers shall be held on the 4th Saturday in April of each year. (Amended 4/22/2006)

ELECTION AND TERM OF OFFICE FOR TOWN MODERATOR

SECTION 2. At the first town election following the adoption of this by-law, the moderator shall be elected for a term of three years, and each third year thereafter, the moderator shall be elected for a term of *three years. If a vacancy in the office of moderator occurs during any term, it shall be filled by the electing of a moderator for the unexpired term at the next town election following said vacancy. If the moderator is absent at a town meeting, or if a town meeting is called after a vacancy occurs, in the office of the moderator, but before the next town election following said vacancy, a temporary moderator shall be elected for said town meeting by the voters as the first order of business of said town meeting. The town clerk shall preside over the meeting until the election of a temporary moderator. *4/87

ADJOURNMENT OF ANNUAL TOWN MEETING TO FIRST SATURDAY FOLLOWING FIRST SATURDAY FOR BUSINESS SESSION

SECTION 3. All matters to be considered under the warrant for the Annual Town Meeting, except the election and determination of such matters as are required by law to be elected or determined by ballot, shall be considered at the adjournment of such meeting, to be held at ten-thirty a.m. on the Saturday following the Election of Town Officers in the year for which the warrant is drawn. The warrant for every Annual Town Meeting shall contain a statement by which the meeting is adjourned to such time for such purpose. (Amended 4/91, Amended 4/22/2006)

POLLING HOURS

SECTION 4. The polls for the Annual Town Meeting shall be opened at eight o'clock in the forenoon and shall remain open until eight o'clock in the evening. (Amended 5/5/2007)

TOWN MEETING NOTICES: POSTING AND DISTRIBUTION OF ANNUAL AND SPECIAL TOWN MEETINGS

SECTION 5. Notice of every Town Meeting shall be given by posting copies of the warrant for such meeting in various conspicuous public places at least one in each precinct in the Town, not less than fourteen days before the time named in the warrant for holding said meeting.

ADJOURNED TOWN MEETING: POST IN EACH PRECINCT

SECTION 6. Notice of every adjourned Town Meeting shall be posted by the Town Clerk in various conspicuous public places in Town. At least one in each precinct and in addition thereto, he shall if practicable publish the same in one or more newspapers published or circulated in Town, at least twenty-four hours, before the time of said adjourned meeting.

SELECTMEN TO DELIVER WARRANT TO FINANCE COMMITTEE

SECTION 7. The Selectmen, after closing a warrant for a Town Meeting, shall immediately deliver a copy of the same to each member of the Finance Committee.

TOWN MEETINGS

SECTION 8. The Selectmen for any meeting shall forthwith transmit the original warrant to the Constable or to some other person for service; immediately after making service thereof and endorsing thereon the manner in which he served the same, the original of such warrant shall be transmitted to the Town Clerk.

TWENTY (20) DAYS PRIOR SELECTMEN TO PUBLISH NOTICE OF INTENTION TO CALL SPECIAL MEETING

SECTION 9. The Selectmen shall publish in one or more newspapers published or circulated in the Town a notice of their intention to call a special meeting at least twenty days prior to the date of the meeting.

ORDER OF ARTICLES FOR TOWN MEETINGS

SECTION 10A. ANNUAL TOWN MEETING

The Annual Town Meeting shall act upon the following matters as warrant articles in such order as shall be prescribed by the Board of Selectmen:

1. Conduct of Town elections.
2. Committee reports and any action thereon.
3. For purpose of paying unpaid bills.
4 To authorize the Town Treasurer, with the approval of the Board of Selectmen, to enter into compensating balance agreements, under the provisions of M.G.L. Chapter 44, Section 53F.
5. To appropriate monies for expenses of the Town and salaries of Town officers and Departments and determine how same shall be raised.
6. To appropriate monies for capital expenditures.

SECTION 10B. RANDOM SELECTION

All other articles in said warrant shall be enumerated by the Board of Selectmen, provided however, that at the Annual Town Meeting, the number of each such article shall be placed in a container and Town Moderator shall draw a number and as each number is drawn, that article shall be presented to the Town Meeting for action, and further provided, however, that certain articles which are in sequence and related to each other whereby the passage of the first article is dependent upon action of the next article may be taken as one drawing for action. Except as herein provided no article shall be acted upon out of the order as drawn by the Town Moderator.

SECTION 10C SPECIAL TOWN MEETING

All warrant articles for a Special Town Meeting shall be enumerated by the Board of Selectmen. The number of each article shall be placed in a container and the Town Moderator shall draw a number and as each number is drawn, that article shall be presented to the Special Town Meeting for action as provided in Section 10B of Chapter II above.

MOTIONS DEALING WITH EXPENDITURE OF MONEY AND AMENDMENTS TO THE BY-LAWS IN WRITING AND SIGNED.

SECTION 11. Every motion having to do with expenditure of money or the amendment of any by-law shall be presented in writing and signed by the person presenting it; other motions shall be in writing if so directed by the Moderator.

FINANCE COMMITTEE TO REPORT ON EXPENDITURES

SECTION 12. Before any action is taken on any motion carrying an expenditure or appropriation of money the Moderator shall call upon the Finance Committee for its report and recommendation thereon.

MOTION SUSCEPTIBLE OF DIVISION MAY BE DIVIDED

SECTION 13. When a motion is readily susceptible of division it shall be divided and the vote upon each part taken separately, provided the Moderator deems this action best, or by majority vote of the Town Meeting.

PRECEDENCE OF MOTIONS

SECTION 14. When a question is before the meeting, the following motions, if seconded, shall be received and shall have precedence according to the foregoing order and provisions for debate, namely:

A. Shall be decided without debate:
   1. To adjourn
   2. To lay on the table
   3. To move the previous question

B. No person shall speak more than three (3) minutes and no person shall speak more than once. Debate shall be limited to ten (10) minutes:
   1. To close debate at a specific time
   2. To postpone to a certain time
   3. To commit, recommit or refer

C. No person shall speak more than five (5) minutes; nor more than once. Debate shall be limited to twenty (20) minutes:
   1. To amend or substitute

D. No person shall speak more than three (3) minutes and no person shall speak more than once. Debate shall be limited to ten (10) minutes:
   1. To postpone indefinitely

E. When debate is closed by ordering the previous question or by vote to close debate at a specified time, the maker of the main motion under consideration shall be allowed to speak ten (10) minutes and may grant to any other voter a part or whole of his time, or give his time to the meeting.

F. On proposed amendments involving amounts or dates, the largest amount and longest time shall be put first.

SECTION 15. Except for the maker of the main motion, who shall be permitted to speak for no more than ten (10) minutes on the question, no person shall speak for more than five (5) minutes on any question prior to the closing of debate without first obtaining leave of the meeting, nor more than twice except to correct a mistake or make an explanation. The maker of the main motion may grant to any other person a part or whole of his time or give his time to the meeting. These limits include time used for showing charts, movies, slides, maps, etc. which may enhance a presentation.

USE OF YES AND NO BALLOTS

SECTION 16. A motion that the vote upon any question be taken by the use of "Yes" and "No" ballots with the use of the check lists, shall be in order at any time, except on an immediate repetition of the same motion or pending verification of a vote, and such motions shall be decided without a debate.

DETERMINATION OF VOTE

SECTION 17. When a motion is put, (applicable to a majority or two-thirds vote); the sense of the meeting shall be determined by the voices of the voters, and the Moderator shall declare the vote as it appears to him. If the Moderator is unable to decide the vote by the sound of voices or if his decision is immediately questioned

by seven or more voters rising in their places for that purpose, the Moderator shall without debate determine the vote by appointing tellers to make and return the count.

RECONSIDERATION

SECTION 18. When a motion for reconsideration is decided, that decision shall be reconsidered, and no question shall be reconsidered more than once; nor shall any vote be reconsidered on a motion to adjourn, to lie on the table, or to move the previous question. No vote passed at any meeting shall be reconsidered at an adjournment thereof unless notice be given to the voters at the same session of the meeting that a motion to reconsider will be made at the adjournment.

QUORUM

SECTION 19. One hundred and fifty voters at a Town Meeting shall be required to start the business of the Town including each adjourned session thereof and then no other quorum shall be required to conduct business.

MEETING NOT TO DISSOLVE UNTIL EVERY ARTICLE IS ACTED UPON

SECTION 20. No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant therefore, has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.

COMMITTEES REPORT AS DIRECTED; MUST BE WITHIN ONE YEAR UNLESS EXTENDED

SECTION 21. All committees shall report as directed by the Town. If no report is made within one year from the date of the meeting creating the committee, it shall be deemed discharged unless, in the meantime, the Town shall have granted an extension of time. If a vacancy occurs in any existing committee created by Town Meeting, such vacancy shall be filled by a vote of the remaining members of that committee and they shall give notice in writing forthwith to the Town Clerk of such action, the notice to state the name and address of the new member or members elected. A vote to accept a report of a committee shall not operate as an adoption of the recommendations of such report without an express vote duly passed to that effect.

WARRANT AND FINANCE COMMITTEE REPORTS AVAILABLE AT OFFICE OF TOWN CLERK 7 DAYS PRIOR

SECTION 22. Copies of the warrant for any Town Meeting and copies of the report and recommendations of the Finance Committee on the articles contained therein shall be made available at the office of the Town Clerk of the Town at least seven days prior to the meeting.

FAILURE TO COMPLY

SECTION 23. Failure to comply to any requirements contained in Section 6, Section 7, Section 8, Section 9, Section 11, Section 12 or Section 22 of this Chapter shall not invalidate any vote or action of the Town.

PARLIAMENTARY AUTHORITY

SECTION 24. The rules contained in "Robert's Rules of Order, Revised" shall govern the Annual Town Meeting and all other Town meetings in all cases where applicable and not inconsistent with these by-laws.

CHAPTER 3
DUTIES OF TOWN OFFICERS
CONTRACTS, FINANCE AND PROPERTY

BOARDS, ETC., SHALL HOLD REGULAR MEETING AT LEAST ONCE A MONTH

SECTION 1. All boards, committees, commissions or trustees, the members of which are elected by ballot or appointed under the provisions of "The Town Manager Act" Chapter 592, Section 2, Acts of 1950, whether the board, commission or authority is a state body politic or otherwise, shall hold a regular meeting at least once each month unless an approved request for a waiver from this schedule has been approved by the Appointing Authority and shall keep records exactly and in detail of all motions made, votes passed and business transacted at each such meeting. All such records shall be kept in a bound book or a loose-leaf book, suitable for permanent binding of standard form. One copy shall be forwarded monthly to the appointing authority. Said books shall, unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under supervision of the officer, board, committee, commission or trustee having custody thereof. The minutes of meetings for the calendar year just completed shall be turned over to the Town Clerk on or before January 15, for safe keeping and permanent record.

PUBLIC RECORDS OF THE TOWN AVAILABLE FOR INSPECTION

SECTION 2. All public records, as defined in G.L. Chapter 4, Section 7, shall be available for inspection at reasonable times and under the supervision of the person having custody, who shall furnish copies thereof on payment of a reasonable fee.

REPORTS FILED WITH SELECTMEN PRIOR TO JANUARY 16; COPY WITH TOWN CLERK

SECTION 3. On or before the 15th day of January in each year all elected or appointed officers of the Town and the boards, committees, commissions and trustees referred to in Section 1 shall make a report to the Town of work done and business transacted in their respective departments during the fiscal year of the Town last preceding. Such reports shall be made by filing the original thereof with the Appointing Authority prior to January 16th, except the Town Accountant and Town Manager who shall report on date designated by the Board of Selectmen in the year in which it is made and at the same time copies thereof, one with the Town Manager and one with the Town Clerk for a permanent record.

ANNUAL REPORTS

SECTION 4. The annual printed reports of the officers of the Town shall be made and published by the Selectmen. These shall include reports of all town officers and others, commissions, boards, and trustees, and the report of the Town Clerk shall contain a copy of his record of all Town meetings held during the fiscal year last preceding, and the Town Accountant report shall show in detail all monies received into and paid out of the Town treasury in the fiscal year last preceding and such matters as are required by law to be contained therein, or as may be inserted by the Selectmen under the discretion granted them by law. Such reports shall be completed and copies ready for distribution at the office of the Town Clerk and such other places as may be designated by the Selectmen, not later than the third Saturday in April.

In order to provide the maximum information necessary and useful to town voters in disposing of the warrants for town meetings, and except as otherwise prohibited by law, the Selectmen shall also publish in their annual report a reasonable summary of the findings and conclusions of all reports prepared during the prior year for or on behalf of town officers, boards, commissions, and committees, by experts or consultants for the preparation of which public funds were expended, and in addition, the Selectmen shall provide a listing of all currently uncompleted contracts with experts and other consultants, specifying the name of the consultant, the contract scope of services, the consideration to be paid therefore by the Town, and the completion date specified in each such contract.

It is the intention of this section that whenever in the judgment of the Selectmen, any such report of a consultant or expert, has general significance as to the conduct and management of town business or the future planning, development or improvement of the town, said report shall be reproduced in its entirety in the aforesaid annual report. Except as otherwise prohibited by law, at least seven copies of every such report prepared by an expert or other consultant shall be filed in the town public library, of which five copies shall be available for borrowing by town residents in accordance with the procedures established by the Board of Library Trustees for the borrowing of books available for a general circulation; and provided that at least two copies of any such report shall be retained and preserved for examination by residents on the premises of the Town public library.

SELECTMEN TO APPEAR AND DEFEND SUITS

SECTION 5. The Selectmen shall have full authority as agents of the Town to institute and prosecute suits in the name of the Town or its officers in their official capacity and to appear and defend suits brought against it or its officers in their official capacity unless otherwise ordered by a vote of the Town or provided by law.

TOWN COUNSEL APPOINTED BY SELECTMEN

SECTION 6. The Selectmen shall appoint annually, a Town Counsel who shall be a member in good standing of the Massachusetts Bar and whose duty it shall be to counsel and advise all Town officers, boards, and committees of the Town in all matters affecting the interest of the town whenever requested so to do and to represent the Town in all legal proceedings by or against it whenever so directed by the Selectmen. All opinions given by him on question of law to any Town officer, board or committee of the town must be in writing and signed by him. Whenever such opinion is given, he shall forthwith file a copy thereof with the Town Clerk for a permanent record.

TOWN COLLECTOR

SECTION 7. The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town, and all bills for accounts due the Town shall state that all checks, drafts or money orders shall be payable to the order of the Town and not to the order of any officer, board or any officer, board or commission.

TOWN OFFICERS, BOARDS, COMMISSIONS AND DEPARTMENTS TO PAY FEES COLLECTED TO TOWN TREASURER

SECTION 8. All town officers, boards, commissions and departments shall pay all fees received by virtue of office to the Town Treasurer except those expressly exempt by law.

DEEDS EXECUTED BY SELECTMEN UNLESS OTHERWISE VOTED

SECTION 9. Whenever it is necessary to execute any deed conveying land or other instrument required to carry into effect any vote of the Town the same shall be executed by the Selectmen, or a majority thereof, on behalf of the Town, unless otherwise ordered by a vote of the Town.

SALE OF PERSONAL PROPERTY OF THE TOWN NOT OVER $50,000

SECTION 10. Any board or officer in charge of a department may, through the Town Manager acting as chief procurement officer, sell any personal property or material which is no longer useful to said department. The aggregate amount of all such sales by the Town shall not exceed $50,000 in value in any one fiscal year, except as provided by Chapter 592, Acts of 1950. All such sales shall be subject to the prior approval of the Town Manager, acting as chief procurement officer. Insofar as applicable, the provisions of M.G.L. Chapter 30B, Section 15, shall govern all such sales.

CONTRACTS IN EXCESS OF $500 MUST BE IN WRITING

SECTION 11. No contract involving an obligation of the Town in excess of $500 shall be binding upon the

Town unless it is in writing and is signed by at least a majority of the board or committee duly authorized or having control of the appropriation against which such obligation is incurred; and such board or committee shall file a record copy of every such contract with the Town Clerk and Town Accountant for permanent record.

CONTRACTS OF $5,000 TO BE ACCOMPANIED BY BOND

SECTION 12. Every contract for construction work whether for alteration, repairs or original construction, the estimated cost of which amounts to $5,000 or more, shall be accompanied by a suitable bond for the performance of the same, or by deposit of money or security to the amount of the estimated cost.

SUM TO BE DEPOSITED IF PRIVATE CITIZEN IS TO CONTRIBUTE

SECTION 13. No board, committee or officer having charge of any work, the payment for which is in any part to be contributed by private citizens, shall perform such work until a sum has been deposited with the Town Treasurer, upon estimates made by such board, committee or officer, sufficient to cover the payment of the portion of said work chargeable to such private citizen.

ACCEPTANCE OF LAND FOR ROUNDING STREET CORNERS

SECTION 14. The Selectmen may accept from time to time in behalf of the Town, gifts of land at the intersection of public ways with public or private ways, to be used for the purpose of rounding street corners provided such gift is made by a good and sufficient deed executed by the donor in proper form to be recorded in the Registry of Deeds.

EASEMENTS

SECTION 15. The Selectmen may accept from time to time on behalf of the Town the right of easement for the purposes of storm drains, pedestrian walkways, streets, water and sewer systems and retaining walls, provided such right of easement is made by a good and sufficient instrument executed by the donor in proper form to be recorded in the Registry of Deeds.

In addition thereto, the Planning Board may accept conveyances of street easements and utilities and other appurtenances relative to sub-divisions.

SALE OF TOWN OWNED LAND

SECTION 16. The Town may sell, transfer and convey parcels of Town-owned land, or any interest therein, with the approval of Town Meeting in accordance with General Laws Chapter 30B, known as the Uniform Procurement Act, and all other laws pertaining; for the purpose of effectuating compliance with General Laws 30B, the Town hereby authorizes the Town Manager to declare property surplus and available for disposition subject to specific restrictions, if any as shall be placed on the subsequent use of the property. (Amended 4/91 Article 21)

TOWN OFFICER TO HAVE NO PECUNIARY INTEREST IN ANY CONTRACT

SECTION 18. No Town officer or member of any board or committee chosen by the Town, or any agent of any such officer, board or committee, or any town employee, shall have any pecuniary interest in any contract, agreement, sale or bargain made or approved on behalf of the Town by himself or any board or committee of which he is a member or for which he may act as agent.

REGULATIONS OF BOARDS, ETC. TO BE FILED WITH TOWN CLERK, TOWN MANAGER AND TOWN PUBLIC LIBRARY

SECTION 19. All boards, officers, commission, committees, boards of trustees or departments shall adopt or promulgate administrative rules or regulations and shall forthwith file a copy thereof with the Town Clerk,

Town Manager and Town Public Library for a permanent record. Whenever there are additions to or amendments of any such rules and regulations, the board, officer, commissioner, committee, board of trustees or department responsible therefore shall file with the Town Clerk, Town Manager and Town Public Library a new and complete copy of such rules and regulations in substitution for the copy already on file.

SECTION 20A. The Selectmen or the Board of Health may, after an appropriation is made, therefore make rules and regulations and establish regular periods for the collection of garbage, ashes, paper, refuse and waste from all dwellings and buildings in the Town free of charge to the owners or occupants thereof except that a charge established by the Selectmen per barrel or its equivalent may be made and established by the Selectmen or the Board of Health against the owner or occupant of any building used as a store, warehouse, restaurant, theatre, or as a factory or manufacturing establishment for the collection of any garbage, ashes, paper, refuse and waste from such premises or produce thereon.

ACCUMULATION OF VEGETABLE MATTER, RUBBISH, ETC.

SECTION 20B. No person shall place or suffer to accumulate on his premises any refuse, animal or vegetable matter, rubbish or filth, whereby any offensive or noxious stench or effluvia shall be created so as to endanger the health or comfort of the neighborhood.

TRUST FUNDS

SECTION 21. All funds left to the Town in trust for various purposes shall be deposited with the Town Treasurer. He shall give a receipt to the depositor for any sum so received, and shall then notify the Trustees or Trust Funds of the receipt of such funds, and hand to them the deed of trust. The Treasurer shall be the custodian of all funds and securities of such trust funds, and shall invest and reinvest them at the direction of the Trustees, and shall expend therefrom money as directed by the Trustees. Said Trustees of Trust Fund shall report in every annual Town report the names of all persons whose deposits the Treasurer has received, and the income therefor, and the balance then standing to the credit of all funds.

ADDITIONAL DUTIES OF ALL OFFICERS, ETC.

SECTION 22. In addition to the duties fixed in these by-laws, all officers, boards, committees and commissions shall have the duties imposed upon them by law by virtue of their office.

ELDERLY SERVICES COMMISSION

SECTION 23. There is hereby established, in accordance with Chapter 40, Section 8B of the M.G.L.,an Elderly Services Commission for the purpose of coordinating and carrying out programs designed to meet the problems of the aging, in coordination with programs of the Department of Elder Affairs, consisting of seven (7) citizens of the town, appointed by the Town Manager for terms not to exceed three years for any member. Said terms shall be staggered so that not more than three appointments shall be made in any calendar year.

(1) Effective July 1, 1991 two commission members shall be appointed for a term of three years, two commission members shall be appointed for a term of two years and three commission members shall be appointed for a term of one year.

(2) The Town Manager shall appoint an Elderly Services administrator who shall serve as a full-time employee of the Town and shall be responsible for the daily administration of all elderly services programming. The administrator shall be responsible for such activities as supervision of elderly services personnel, budget recommendations, maintenance and preparation of payroll, review and payment of bills, preparation of an annual report and other responsibilities as may be assigned by the Town Manger.

(3) The Elderly Services Commission shall establish policy recommendations for the conduct of Elderly Services programming. Such policy recommendations, with the consent of the Town Manager, shall be implemented by the Elderly Services administrator.

AIR POLLUTION CONTROL

SECTION 24. It shall be the duty of the Board of Health to develop Rules and Regulations in conformity with the State Air Pollution Regulations for the purpose of comparing the level of pollution in Wilmington with standards of air quality as established by the Commonwealth, Department of Public Health, Division of Environmental Health and/or Federal air quality control programs and Public Law.

OFFICIAL MAP

SECTION 25. The Selectmen shall appoint the present Board of Appeals to be the Board of Appeals under the provision of Chapter 41, Section 81Z of the General Laws for the purpose of hearing and acting upon appeals under the provisions of Chapter 41, Section 31E through 81H, inclusive, Official Map.

FEE SCHEDULE-TOWN CLERK

SECTION 26. The fees of the Town Clerk shall be fixed in accordance with Chapter 1, Section 3.

CONNECTION - WATER, SEWER, DRAIN

SECTION 27. Any person connecting a sewer, drain or water connection laid in any land or way, public or private, opened or proposed to be opened for public travel, with the prior approval of the Water and Sewer Commissioners or their delegated agent, acknowledges and assents that said connection to be a common sewer, main drain and/or common water connection and shall become a part of said system without further action or payment by the Town.

MEMORIALIZE PUBLIC PROPERTY

SECTION 28. The authority to name any town owned property, field, park, stadium, playground or building after any person, living or deceased, or organization shall be exercised solely by Town Meeting vote. Notwithstanding the foregoing, the Town, acting through the Yentile Farm Development Committee and subject to the approval of the Town Manager, shall have the authority to determine the names of fields, play areas and structures at the 9 Cross Street property. Such authority shall not extend to naming the entire property, which shall remain with Town Meeting.

DEPARTMENTAL REVOLVING FUNDS

SECTION 29. Departmental Revolving Funds

A. Purpose. This Section 29 establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs and activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under, and governed by, General Laws Chapter 44, §53E½.

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

   i. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund [except for those employed as school bus drivers].

   ii. No liability shall be incurred in excess of the available balance of the fund.

iii. The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Board of Selectmen and the Finance Committee.

C. Interest. Interest earned on monies credited to a revolving fund established by this Section 29 shall be credited to the general fund.

D. Procedures and Reports. Except as provided in General Laws Chapter 44, §53E½ and this Section 29, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this Section 29. The town accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the town accountant provides the department, board, committee, agency or officer on appropriations made for its use.

E. Table. The following table identifies the specific funds, limitations and restrictions thereon, and requirements thereof, as established by this Section 29:

Revolving Account	**Spending Authority**	**Revenue Source**	**Allowed Expenses**	**Fiscal Years**
Compost Bin Revolving Fund	Town Manager, up to $4,500	Sale of Composting Bins	Purchase of Composting Bins	Fiscal Year 2018 and Subsequent Fiscal Years
Subsurface Sewage Disposal Upgrade Revolving Fund	Board of Health with Town Manager Approval, up to $200,000	Betterment receipts and loan repayment from participants	Repair and upgrade of subsurface sewage disposal system and repayment to MWPAT	Fiscal Year 2018 and Subsequent Fiscal Years

CHAPTER 4

FINANCE COMMITTEE

APPOINTING COMMITTEE

SECTION 1. There shall be a committee called the Finance Committee, as provided by Section 16 of Chapter 39 of the General Laws, and such committee shall be chosen not later than thirty days subsequent to the selection of the chairman of the Board of Selectmen, by an appointing committee composed of the Moderator, the chairman of the Board of Selectmen and the chairman of the last Finance Committee.

Such committee shall consist of nine registered voters, who shall serve without pay, none of whom during the term for which they were appointed shall hold any other regular, elective or appointive town office, and appointments shall be made so that the terms of three members shall expire annually on the final adjournment of each annual town meeting. Whenever a vacancy occurs in the membership of such committee, notice

thereof shall at once be given by the Town Clerk to the appointing committee, who shall forthwith fill such vacancy.

For purposes of the preceding sentence the appointing committee shall consist of the Moderator, the person serving as chairman of the Board of Selectmen at the time such notice is received and the person serving as chairman of the Finance Committee at the time such notice is received.

ORGANIZATION

SECTION 2. The Committee shall organize annually by the election from their membership of a chairman and secretary and they shall make such administrative rules and regulations, not inconsistent with law, for the conduct of their work. For purposes of the preceding sentence the appointing committee shall consist of the Moderator, the person serving as chairman of the Board of Selectmen at the time such notice is received and the person serving as chairman of the Finance Committee at the time such notice is received.

PUBLIC MEETING

SECTION 3. The Committee shall, prior to each Town meeting for the transaction of business, hold at least one public hearing. The notice of said public hearing must be published in a newspaper of general circulation in Town at least seven (7) days prior to the public hearing. Said public hearing shall be held not less than ten (10) days before the Town meeting. If there is no such newspaper in the Town, such notice shall be posted in the Town Hall for a period of not less than seven (7) days before the day of such hearing.

REPORT AND RECOMMENDATIONS

SECTION 4. The committee shall, seven days prior to any Town Meeting at which Articles contained in the Warrant are to be acted upon, prepare, publish and distribute by leaving copies thereof in the Office of the Town Clerk, their report and recommendations on such Articles which involve the transfer, raising and appropriation of monies. For each Annual Town Meeting for the transaction of business, such reports and recommendations shall show in detail the anticipated income and expenditures of the Town for the then current year and copies thereof shall at least seven days prior to such meeting be mailed to the registered voters of the Town.

This report shall also contain recommendations of the Planning Board pertinent to Planning Board matters.

FAILURE TO COMPLY

SECTION 5. Failure to comply with any requirement contained in either Section 3 or Section 4 of this chapter shall not invalidate any vote or action of the Town.

CHAPTER 5

PUBLIC REGULATIONS

PLACING OF ARTICLES UPON PUBLIC WAYS OR SIDEWALKS

SECTION 1. No person shall cause to be placed upon any public way or sidewalk any coal, lumber, wood, iron, truck, bale, box, crate, barrel, cask, package or any other article or thing, and allow the same to remain for more than thirty minutes at one time or for more than ten minutes at one time after being notified by a police officer; provided that the provisions of this section shall not apply to the placing of ashes, refuse or garbage in proper receptacles for collections under public authority and the same shall not be placed on the street or sidewalk for collection until the day or the day preceding the day specified by the Selectmen or the Board of Health for the regular collection of same.

TRANSPORTATION OF REFUSE

SECTION 2. Every vehicle and/or receptacle used to transport solid waste disposal shall be securely covered.

SECTION 2A. Solid Waste Disposal (Recycling). In order to implement a program of recycling in conjunction with the regular solid waste collection, residents of every household are required to separate recyclable material from the solid waste stream and to deposit the material for collection as prescribed by rules and regulations as may be established by the Board of Selectmen. The Selectmen may establish regulations governing the location and method for collection of recycling material. Failure to separate recyclable material from the solid waste stream may result in failure of the solid waste collection contractor to collect solid waste from the residence which violates this by-law.

LITTERING

SECTION 3. Except on land or in receptacles designated by the Town for the dumping or placing of trash, no person shall in any manner, whether from on foot or from any vehicle, throw or drop or discard upon any property, public or private (except that owned or leased by him), any trash or litter of any kind whatsoever.

SIGNS

SECTION 4. Except as in accordance with the provisions of the Zoning By-Laws of the Town of Wilmington, no person shall in any manner affix posters or signs or advertisements, whether for political purposes or for other purposes, upon town property, real or personal, or upon the poles and other equipment of utilities located within the limits of Town ways.

Temporary political signs may be placed on private property, the size and location of which shall not serve to obstruct the sight of motorists and pedestrians using or occupying the public ways and/or the right of access thereto. Temporary signs may be mounted only upon properly registered and insured motor vehicles. Signs may NOT be exhibited more than 45 days prior to election and MUST be removed within 3 days after the election.

PENALTY FOR SECTIONS 3 AND 4

SECTION 5. In addition to imposing such fines as may be permitted by law, the Town may through the Town Manager or his designee require persons in violations of Sections 3 and 4 to remove such trash or litter or such posters or signs or advertisements. Each day that the violation remains shall constitute a separate offense.

PERMITS TO OPEN, OCCUPY, OBSTRUCT AND USE STREETS; PROTECTION REQUIRED WHEN DIRT, GRAVEL AND OTHER MATERIAL DISTURBED.

SECTION 6. Except as authorized in accordance with this section, no public street shall be excavated, opened, occupied, blocked, obstructed or used in such a manner as to deny full and unobstructed use and access without first obtaining a permit from the Town Manager or from a town officer or department head formally designated by the Town Manager to act in his behalf as granting authority. Such a permit shall specify the time, place, size and use of such opening, occupation, or obstruction and the time within which the street must be restored to good and safe condition and full and unobstructed use, and shall be issued only upon the following conditions:

(a) the recipient of the permit shall maintain from the beginning of twilight, through the whole of every night, over or near the place so excavated, occupied, opened, obstructed or used, and over or near any dirt, gravel or other material taken therefrom or to be used by him, a light or lights sufficient to protect travelers from injury of a number and type to be specified in said permit by the granting authority;

(b) the recipient of the permit shall place and maintain a safe and convenient way for the use of foot-travelers, and a safe and convenient passage for public and vehicular travel around or over such place and as may be further specified in said permit by the granting authority;

(c) the recipient of the permit shall procure at his expense, a sufficient police detail furnished by the Police Department as the granting authority may require in order to insure the reasonably unimpeded flow of pedestrian and vehicular traffic;

(d) the recipient of the permit shall deliver up and surrender the permit to the granting authority on or before the expiration time specified in the permit for completion of the aforesaid restoration;

(e) the granting authority shall specify in the permit, or, after the issuance thereof, in writing the kind of rail or fence reasonably required to enclose the place or area so excavated, opened, occupied, obstructed or used, and also the kind of way over or around such place or area and the manner that said way shall be constructed and maintained;

(f) the permit shall require that the restored opening or excavation shall be repaved with a pavement of the same specifications as the original pavement by a contractor or paver approved by the granting authority, and that the work of repaving shall be done in a thoroughly workmanlike manner and shall be subject to the approval of the superintendent of streets;

(g) the recipient of the permit shall pay to the town treasurer whatever sum the superintendent of streets shall expend for labor, materials, equipment, time and other contractual services to restore the street to good and safe condition and full and unobstructed use to the satisfaction of said superintendent, if the recipient fails to complete said restoration to the satisfaction of said superintendent within the time specified therefore in said permit.

In order to insure compliance with the aforesaid conditions the granting authority shall require a bond with sureties satisfactory to him as sufficient to secure the performance of these conditions.

The invalidity of any sub-section or provision of this section shall not invalidate any other sub-section or provision of this section.

USE OF WAY TO PLACE BUILDING MATERIALS THEREON

SECTION 7. Any person who intends to erect, repair, take down or do any work on or in connection with any building or structure on land abutting on any way which this Town is obliged to keep in repair, and desires to make use of any portion of said way, for the purpose of placing thereon building materials, equipment or rubbish shall give notice thereof to the Selectmen or the Town Manager. And thereupon the Selectmen or Town Manager shall grant a permit in writing to occupy such portion of said way to be used for such purpose as in their judgment the necessity of the case demands and the security of the public allows; such permit in no case to be in force longer than ninety days, and to be on such conditions as the Selectmen or Town Manager may require; and especially in every case, upon condition that during the whole of every night, from twilight in the evening until sunrise in the morning, lights shall be placed effectually to secure all travelers from liability to come in contact with such building materials or rubbish. If any person fails to comply with the conditions of this section, in addition to any penalty that he may be ordered to forfeit under these by-laws, he shall reimburse the Town for any and all expenses and damages which the Town may be compelled to pay by reason of such unauthorized use.

PERMIT REQUIRED FOR MOVING BUILDING, ETC.

SECTION 8. No person shall move or assist in moving any building over any way, which the Town is obliged to keep in repair, without the written permit of the Selectmen or Town Manager being first obtained. Such permit shall state clearly the restrictions and provisions with which to be complied.

COASTING ON PUBLIC WAY

SECTION 9. No person shall coast upon ice or snow upon any public way except one on which the Selectmen or Town Manager shall by public notice permit such coasting.

SHALL NOT THROW ICE OR SNOW UPON PUBLIC WAY

SECTION 10. No person shall throw or place snow or cause to be thrown or placed any ice or snow into or upon any public way in such a manner as to obstruct traffic or endanger travel upon the way.

BATHING

SECTION 11. No person shall bathe between the hours of 12:00 midnight and 6:00 a.m. in any waters of this town, or at any time in a state of nudity, in places exposed to public view, or in immediate sight of the occupants of any dwelling. A police officer shall have the right of arrest.

POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES

SECTION 12.

1. Definitions - the following definitions shall apply in the interpretation and enforcement of this by-law.

   (1) PUBLIC WAY shall mean the entire width between the lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and shall include the entire width of any sidewalk within the lines of such way. In the case of ways established by prescription or concerning which no official layouts exist, the edges of the surface of the traveled way shall be deemed to be the lines of such public ways.

   (2) ALCOHOLIC BEVERAGES shall mean any beverage defined as an alcoholic beverage in Section 1 of Chapter 138 of the General Laws.

   (3) PUBLIC PROPERTY shall mean and include all Town land, school grounds, municipal parking lots, municipal parks, municipal playgrounds and all real property, buildings, or offices owned by or leased to the Town or occupied or used by any board, department, committee, commission or office of the Town.

   (4) PRIVATE PROPERTY shall mean any real property within the Town of Wilmington, which is not owned by the Town.

2. No person shall consume any alcoholic beverages on any public way or on any way to which the public has a right of access.

3. No person shall bring any alcoholic beverages onto any public property or onto any private property or possess or consume any alcoholic beverages in or upon any public property or private property without the permission of the owner or person lawfully in charge or control of such public or private property.

4. All alcoholic beverages possessed or consumed in violation of this by-law shall be seized and held until final adjudication of the charge against the person or persons arrested or summoned before the court. After final adjudication all alcoholic beverages seized shall be returned to the person or persons entitled to the lawful possession of them.

5. Violations of this by-law are punishable by a fine of fifty ($50.00) dollars for each offense.

6. This by-law shall be enforced on behalf of the Town by its Police Department, which shall have the right to arrest any and all persons in violation of said by-law.

7. If any part, section or provision of this by-law is found to be invalid, the remainder of this by-law shall not be affected thereby.

Section 12A PUBLIC CONSUMPTION OF MARIJUANA OR TETRAHYDROCANNABINOL (New section approved May 2, 2009)

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

Section 2. This By-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. C. 40, S. 21, or by noncriminal disposition pursuant to M.G.L. C. 40, S. 21D, by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer. The fine for violation of this Section 12A shall be three hundred dollars ($300) for each offense. Any penalty imposed under this By-law shall be in addition to any civil penalty imposed under M.G.L. C. 94C, S. 32L.

RENTING BOATS

SECTION 13. No person shall engage in the business of renting boats or bathing suits in any waters of the town without first obtaining a license from the Board of Selectmen.

BOATING

SECTION 13A. No person shall operate any motorboat on Silver Lake at a speed in excess of (6) miles per hour when within 150 feet of the shore, or any pier or float.

No person shall operate any motorboat within 150 feet of the shore of any public or private bathing beach on Silver Lake except in case of an emergency or when within the public launching area.

Whoever violates any of the provisions of this Boating by-law shall be punished by a fine of not more than twenty ($20.00) dollars for each violation.

ABATEMENT OF GRAFFITI AND THE SALE OF SPRAY PAINT TO MINORS

SECTION 14.

a. Graffiti Abatement

1. Definition of "Graffiti". Any word, figure or painted design that is marked, etched, scratched, drawn, painted, pasted or otherwise affixed to or on any surface, regardless of the nature of the material of that structural component, to the extent the same was not authorized in advance by the owner thereof.

2. Public Nuisance. The existence of graffiti on any real property or structure within the town is expressly declared to be a public nuisance affecting public health, safety and welfare.

3. Graffiti Prohibited. No owner of any real property within the town shall allow any graffiti to remain upon any structure located on the owner's property when the graffiti is visible from the street or from other public or private property.

4. Notification of Violation. Whenever the Health Department determines that graffiti on any building or structure within the town is visible from the street or from other public or private property, the Health Department shall issue an order to the owner of the property to abate the graffiti in a timely manner, as determined by the Health Department. Such order shall be issued in compliance with the requirements of this by-law.

5 Compliance. A property owner shall be deemed to have complied with an order to abate graffiti if it is obliterated by a primary paint and matching building paint or by such other means as shall obliterate the graffiti and remove the nuisance.

6. Failure to Comply. If the property owner knowingly fails to comply with the order to abate the graffiti, that property owner shall be fined three hundred dollars ($300.00) for every day during which he knowingly violates such order.

7. Applicable General Laws. Nothing in this by-law shall be construed to limit in any way the Town's authority to order the abatement of a nuisance as set forth in M.G.L. c. 111, §123, or any other general laws.

b. Sale of Spray Paint to Minors

1. No person shall knowingly sell to any child under eighteen (18) years of age any aerosol container of paint capable of defacing property.

2. For purposes herein, bona fide evidence of majority identity and identity of person is a document issued by a federal, state, county or municipal government or subdivision or agency thereof, including, but not limited to, a motor vehicle operators license, a registration certificate issued under the Federal Selective Service Act (50 App. U.S.C. *451 et seq.), identification card issued to a member of the Armed Forces or a birth certificate. Proof that the defendant, or his employee or agent, demanded, was shown and acted in reliance upon such bona fide evidence in any sale transaction forbidden hereby, shall be a defense to any criminal prosecution therefore.

3. Any person who owns, manages or operates a place of business wherein aerosol containers of paint capable of defacing property are sold shall conspicuously post notice of this law in such place of business in letters of at least one inch (1") high.

c. Possession and Manufacture of Spray Paint by Minors

1. It shall be illegal for any person under eighteen (18) years of age to possess and/or manufacture any aerosol container of paint capable of defacing property, unless otherwise accompanied by a parent or legal guardian.

2. Any person under the age of eighteen (18) found violating the provisions of this by-law shall be fined three hundred dollars ($300.00) for each offense.

3. Possession shall be defined as having on or about a person, spray propellant type paint unless otherwise accompanied by a parent or legal guardian.

4. Exemption-Nothing contained in this by-law shall prohibit the employment of a person under age eighteen (18) in or by a commercial business involving the manufacture, distribution, or sale of said spray paint devices.

INJURY TO TREES AND SHRUBS PROHIBITED

SECTION 15. No person without proper authority to do so, shall climb any trees or injure any tree or shrubbery standing in any public way or public place, and no person shall permit or suffer any animal under his care to in any way injure any such tree or shrubbery. Whoever violates any provisions of this section shall forfeit and pay for each offense a fine of three hundred ($300.00) dollars plus the cost of the destruction to the property for each offense.

DOORS, ETC., NOT TO OBSTRUCT WAY

SECTION 16. No owner, tenant or other person having control of any building or premises shall permit a gate, door, blind or shutter thereof to swing open across any part of a street or sidewalk so as to obstruct or interfere with the use thereof.

CLEARING OF ICE AND SNOW; BUSINESS PREMISES

SECTION 17. The owner or occupant of any place of business shall keep the sidewalk adjoining his premises clear of snow and protected when icy conditions prevail. Whoever fails to comply with this section within 24 hours following a snow or ice storm shall forfeit and pay for each offense a fine not exceeding fifty ($50.00) dollars.

WATER DISCHARGE

.

SECTION 18. No owner of a building abutting upon or adjacent to the line of any street shall cause, permit or suffer the water from such building to discharge of forcibly discharge upon or flow across the surface of the sidewalk or street adjacent to such building, or abutting properties.

VEHICLES OBSTRUCTING SNOW & ICE REMOVAL/WINTER PARKING BAN

SECTION 19. No persons shall leave any vehicle parked upon a public way or a way to which the public has a right of access in such manner that will interfere with the plowing or removal of snow or the removal of ice therefrom.

No person having a vehicle under his care or control shall leave the same parked or unattended upon a public way or a way to which the public has a right of access between the hours of 1:00 a.m. and 6:00 a.m. from December 1st through April 1st in each year. Whoever violates any provision of this section shall forfeit and pay for each offense a fine not exceeding fifty ($50.00) dollars. Each day shall be considered a separate offense.

The Department of Public Works Superintendent or the Police Chief is authorized to remove or cause to be removed, to some convenient place, including in such term a public garage any vehicle interfering with removing or plowing snow or removing ice, from any public way and the owner of such vehicle shall be liable for the cost of such removal and for the storage charges, if any, resulting therefrom.

UNREGISTERED MOTOR VEHICLES

SECTION 20. No person shall, except as otherwise provided by law, store, park or place or cause to be stored, parked or placed, any unregistered motor vehicles which are unfit for use, permanently disabled or have been dismantled or are otherwise inoperative upon any land in the Town unless the same shall be within a building or in an area unexposed to the view of the public or abutters or upon premises maintained by license dealers. Whoever violates any provision of this section shall be fined three hundred ($300.00) dollars.

SOLICITATION OF RIDES ON A PUBLIC WAY

SECTION 21. It shall be unlawful for any person to stand in a public roadway for the purpose of soliciting a ride from the operator of any private vehicle. Penalty: a fine of not more than five ($5.00) dollars for each offense.

HOUSE NUMBERS

SECTION 22. The Board of Assessors shall assign and order numbers to be displayed on buildings on all ways as herein provided. In all cases, odd numbers shall be on the right and even numbers shall be on the left, beginning from the point of origin. Upon being notified in writing by the Board of Assessors of the assignment of a house number, the owner of the property shall affix this number to the property within thirty (30) days of the date of said notice. Said number shall be affixed to a position, which is in close proximity to the entrance, but must be clearly visible from the curb. If the house or building is set back fifty (50) feet or more from the curb, said number shall be affixed to a substantial support at the entrance of the property, (such that the number

is clearly visible from the curb at all times). Failure to comply shall be subject to a maximum fine of fifty ($50.00) dollars.

SECTION 23 – REGULATION OF DEALERS IN JUNK, OLD METALS OR SECOND HAND ARTICLES

23.1 License and Application Procedure

The Board of Selectmen, acting in its capacity as the Licensing Authority for the Town of Wilmington may, upon petition, license such persons as it deems suitable to be dealers of junk, old metals, and/or second hand articles and to be keepers of shops for the purchase, sale or barter of such articles pursuant to law within the Town of Wilmington. Such licenses shall not be valid to protect the holders thereon in a building or place other than that designated in the license. All licenses shall contain a provision that the licensee agrees to abide by and be subject to all the provisions of this by-law, including all amendments thereof;

23.1.1 – Definitions

(a) "Second hand articles" means all previously-owned personal property, including but not limited to electronic equipment, televisions and monitors, radios, disc players, cellular telephones, computers, compact discs, video discs, computer games, electronic media, precious and semi-precious metals, stones and gems, jewelry, watches, cameras, video and audio recorders, tools, sporting goods, and athletic equipment.

(b) "Dealer" means any person or entity conducting the business of buying, obtaining, acquiring, receiving, selling, exchanging, dealing in or dealing with items which are the subject of this By-law.

© Notwithstanding the foregoing sub-section (b), the term "Dealer" shall not include an entity whose regular business involves the operation of retail thrift stores which fund charitable activities. Examples of such entities include, but not limited to, Savers, Inc., Goodwill Industries International, Inc. and The Salvation Army.

(d) Notwithstanding the foregoing sub-section (b), the term "Dealer" shall not include an entity which operates as a consignment shop. An entity shall satisfy this exemption only if it accepts goods from another person for the sale pursuant to a written agreement which provides that the entity act as the agent of the person transferring the goods and that such person retains ownership of and title to the goods until they are sold, at which time the proceeds of the sale are distributed between the parties as agreed.

23.1.2 – Applications

Applications for such licenses shall be examined and reported upon by the Chief of Police or his designee(s). The Chief of Police shall be informed as to whether or not the applicant wishes to engage in business as a second-hand dealer of any of the above stated articles and, if so, shall specify the types of articles to be dealt with. The applicant will be required to provide information as to whether or not the licensee has previously held a similar license in another jurisdiction, whether any such license was ever revoked, suspended or surrendered, and if so the reason therefore.

23.1.3 – Filing and Expiration

Applications for new licenses under this by-law may be filed at any time with the Licensing Authority. Applications for the re-issuance of licenses already existing should be filed at least thirty (30) days before the expiration of such license. All licenses issued under this rule shall expire annually on the first day of May. Persons whose licenses

have expired and have not been re-issued will be liable to prosecution for engaging in any business for which the license is required.

23.1.4 – Abandonment

Whenever a licensee has failed to use the license for a continuous period of 30 days in the business at the place for which the license was issued, the Chief of Police, through his designee, will report such to the Licensing Authority, who may then deem the license abandoned and expired. Written notice of such shall be provided to the licensee who shall be given reasonable opportunity to present evidence that business under the license was in fact conducted during the 30-day period or evidence of mitigating factors which the Licensing Authority may in its discretion deem sufficient to revoke the finding of abandonment.

23.2 – Records, Inspections, Signs, Hours of Operation

23.2.1 – Every such licensee shall keep a solid bound book, such book shall be legibly written in the English language. No entry in such book shall be erased, obliterated or defaced; the following information shall be recorded, at the time of every acquisition of any second hand article:

date and time of the transaction;

name, street address, city or town of residence, and date of birth of the person or entity from whom the article is acquired;

the dollar amount transacted;

a particular description of the article, including inscriptions and dates, brand name, model and serial numbers, type of stone, type of gem, type of metal or style of particular design (i.e.: filigree, serpentine);

a photograph of the article.

23.2.2 – Photo Identification and Transaction Form

The licensee shall require at the time of the transaction a government-issued form of photographic identification of the person from whom the article is acquired to confirm that the name, address and date of birth are correct. The licensee shall also require such person to sign his name on a transaction form approved by the Chief of Police or his designee. A copy of the transaction form shall be retained permanently by the licensee and kept in alphabetical order as to the name of the person from whom the article was acquired. Where the article is a precious or semi-precious metal, stone or gem the form of identification and the transaction form shall be photocopied and such photocopy shall be kept with the required books.

23.2.3 – Inspections

The shop of every licensee, all second hand articles, junk or old metals therein, and the book required by sub-section 23.2.1, above, shall at all times, during business hours be open to inspection by officers of the Wilmington Police Department or by any other person authorized by the Licensing Authority. Any such officer or person may during business hours enter upon any premises listed by a licensee under the by-law as the location at which such licensed business is conducted. Such officer or person may examine any and all second hand articles, junk and old metals kept or stored in or upon said property and all books and inventories relating thereto, and all such property, books and inventories shall be exhibited to any such officer or person upon demand. Refusal to permit inspection shall constitute a violation of this by-law. Such officer's or person's actions shall at all times conform to the established policies and procedures of the Wilmington Police Department.

23.2.4 – Signs

Every licensee shall post in a conspicuous place in the licensed premises a copy of this by-law to which the licensee shall affix his printed name and signature. Every licensee shall post in a conspicuous place the license issued under this by-law. No licensee shall place or maintain any signs upon or in connection with the licensed premises which indicate that any form of business is being conducted therein that is not specifically authorized by the license or that is contrary to any law, by-law or regulation.

23.2.5 – Hours of Operation

Any licensee may conduct the licensed business pursuant to this by-law only between the hours of 7:00 a.m. and 9:00 p.m.

23.2.6 – Report of Stolen Property

It shall be a condition of every license issued pursuant to this by-law that the licensee promptly report to the Wilmington Police Department the receipt of any property as to which there is a reasonable basis for believing that the property may have been stolen from its rightful owner. Such reasonable basis shall be presumed to exist where the property contains a serial number or other identifying information which has been removed, erased, deleted or defaced.

23.3 – Transactions with Minors, Retention of Property

23.3.1 – Transactions with Minors

No licensee shall, directly or indirectly, purchase, acquire or receive any property covered by this by-law, from any person who has not attained the age of eighteen (18) years old.

23.3.2 – Holding Period

No licensee shall permit any property purchased, acquired or received by him to be sold, modified or removed from the licensed premises until a period of thirty (30) days has elapsed from the date of purchase, acquisition or receipt unless the licensee has obtained written permission from the Wilmington Police Department. No such permission shall be granted until the expiration of at least two full days from the date of acquisition, purchase, or receipt. All property covered by this sub-section shall remain on the licensed premises and shall not be made available for purchase, acquisition or other transfer until the applicable holding period has expired. This sub-section shall not apply to auction purchases or estate purchases from an administrator/administratrix/executor/executrix, provided, however, that in the case of such estate purchases the purchase is accompanied by adequate written evidence of the transferor's authority.

23.3.3 – Lost and Stolen Property

If the Wilmington Police Department determines that there is probable cause to conclude that a particular item of property in the possession of a licensee has been stolen or if the Wilmington Police Department determines that a particular item of property in the possession of a licensee has been reported as lost or stolen, a stop order shall be issued to the licensee which shall bar any transfer of the subject property pending conclusion of an investigation or of any necessary legal proceedings commenced by the person claiming that the property is lost or stolen is positively identified by the person claiming to be the rightful owner, the property shall be held by the Wilmington Police Department in custody, according to existing policies and procedures of the Wilmington Police Department and pending the ultimate outcome of any legal proceedings regarding rightful ownership. If the Wilmington Police Department's investigation establishes that the property is in fact not lost or stolen, the stop order shall be immediately revoked.

23.4 – Fees, Revocation, Violations, Rules and Regulations

23.4.1 – License Fee

For every license granted under the by-law and every re-issuance thereof, there shall be a reasonable fee paid to the Licensing Authority. Such fee shall be established by the Licensing Authority and shall apply uniformly to all licensees.

23.4.2 – Revocation

Any license issued pursuant to this by-law may be revoked at any time by the Licensing Authority, after notice to the licensee and a hearing if requested by the licensee, for violation of any provision of this by-law or of any rules or regulations issued hereunder, or for other cause.

23.4.3 – Penalty for Violations

The penalty for violations of this by-law shall be enforced in accordance with the provisions of the By-Laws of the Inhabitants of the Town of Wilmington, Revised as well as Massachusetts General Laws, Chapter 40, Section 21D. The penalty for a first violation of this by-law shall be one hundred ($100.00) dollars, and for any second or subsequent offense violation shall be two hundred ($200.00) dollars. For any second or subsequent violation, the penalty shall apply to each individual item of property or incident that was not properly documented or permitted.

23.5 – Severability

If any provision of this by-law shall, in whole or in part, be held invalid for any reason, all other provisions shall continue in full force and effect. (Amended TM 4/30/2011, AG approval 5/31/2011, Amended 05/02/2015, AG approval 08/13/2015)

SECTION 24 – REGULATION OF PAWNBROKERS

24.1 License and Application Procedure

The Board of Selectmen, acting in its capacity as the Licensing Authority for the Town of Wilmington may, upon petition, license such persons as it deems suitable to be pawnbrokers pursuant to law within the Town of Wilmington. Such licenses shall not be valid to protect the holder thereon in a building or place other than that designated in the license. All licenses shall contain a provision that the licensee agrees to abide by and be subject to all the provisions of this by-law, including all amendments thereof;

24.1.1 – Applications

Applications for such licenses shall be examined and reported upon by the Chief of Police or his designee(s). The applicant will be required to provide information as to whether or not the licensee has previously held a similar license in another jurisdiction, whether any such license was ever revoked, suspended or surrendered, and if so the reason therefore.

24.1.2 – Filing and Expiration

Applications for new licenses under this by-law may be filed at any time with the Licensing Authority. Applications for the re-issuance of licenses already existing should be filed at least thirty (30) days before the expiration of such license. All licenses issued under this rule shall expire annually on the first day of May. Persons whose licenses have expired and have not been re-issued will be liable to prosecution for engaging in any business for which the license is required.

24.1.3 – Abandonment

Whenever a licensee has failed to use the license for a continuous period of 30 days in the business at the place for which the license was issued, the Chief of Police, through his designee, will report such to the Licensing Authority, who may then deem the license abandoned and expired. Written notice of such shall be provided to the licensee who shall be given reasonable opportunity to present evidence that business under the license

was in fact conducted during the 30-day period or evidence of mitigating factors which the Licensing Authority may in its discretion deem sufficient to revoke the finding of abandonment. (Renumbered by vote of ATM 5/3/2014, Approved by AG, 5/19/2014)

24.2 – Records, Inspections, Signs, Hours of Operation

24.2.1 – Records

Every such licensee shall keep a solid bound book. Such book shall be legibly written in the English language. No entry in such book shall be erased, obliterated or defaced; the following information shall be recorded, at the time of every acquisition of any article taken in pawn:

date and time of the transaction;
name, street address, city or town of residence, and date of birth of the person or entity from whom the article is acquired;
the dollar amount transacted;
a particular description of the article, including inscriptions and dates, brand name, model and serial numbers, and other identifying information;
a photograph of the article taken in pawn;
a photograph of the person pawning the article.

24.2.2 – Photo Identification and Transaction Form

The licensee shall require at the time of the transaction a government-issued form of photographic identification of the person from whom the article is taken in pawn to confirm that the name, address and date of birth are correct. The licensee shall also require such person to sign his name on a transaction form approved by the Chief of Police or his designee. A copy of the transaction form shall be retained permanently by the licensee and kept in alphabetical order as to the name of the person from whom the article was taken in pawn.

24.2.3 – Inspections

The shop of every licensee, all articles taken in pawn, and the book required by sub-section 24.2.1, above, shall at all times, during business hours be open to inspection by officers of the Wilmington Police Department or by any other person authorized by the Licensing Authority. Any such officer or person may during business hours enter upon any premises listed by a licensee under the by-law as the location at which such licensed business is conducted. Such officer or person may examine any and all articles taken in pawn kept or stored in or upon said property and all books and inventories relating thereto, and all such property, books and inventories shall be exhibited to any such officer or person upon demand. Refusal to permit inspection shall constitute a violation of this by-law. Such officer's or person's actions shall at all times conform to the established policies and procedures of the Wilmington Police Department.

24.2.4 – Signs

Every licensee shall post in a conspicuous place in the licensed premises a copy of this by-law to which the licensee shall affix his printed name and signature. Every licensee shall post in a conspicuous place the license issued under this by-law. No licensee shall place or maintain any signs upon or in connection with the licensed premises which indicate that any form of business is being conducted therein that is not specifically authorized by the license or that is contrary to any law, by-law or regulation.

24.2.5 – Hours of Operation

Any licensee may conduct the licensed business pursuant to this by-law only between the hours of 7:00 a.m. and 9:00 p.m.

24.2.6 – Report of Stolen Property

It shall be a condition of every license issued pursuant to this by-law that the licensee promptly report to the Wilmington Police Department the receipt of any property as to which there is a reasonable basis for believing that the property may have been stolen from its rightful owner. Such reasonable basis shall be presumed to exist where the property contains a serial number or other identifying information which has been removed, erased, deleted or defaced.

24.3 – Transactions with Minors, Retention of Property

24.3.1 – Transactions with Minors

No licensee shall, directly or indirectly, take in pawn any property covered by this by-law, from any person who has not attained the age of eighteen (18) years old.

24.3.2 – Holding Period

No licensee shall permit any property taken by him in pawn to be sold, modified or removed from the licensed premises until a period of thirty (30) days has elapsed from the date of receipt unless the licensee has obtained written permission from the Wilmington Police Department. No such permission shall be granted until the expiration of at least two full days from the date of acquisition, purchase or receipt. All property covered by this sub-section shall remain on the licensed premises and shall not be made available for purchase, acquisition or other transfer until the applicable holding period has expired.

24.3.3 – Lost and Stolen Property

If the Wilmington Police Department determines that there is probable cause to conclude that a particular item of property in the possession of a licensee has been stolen or if the Wilmington Police Department determines that a particular item of property in the possession of a licensee has been reported as lost or stolen, a stop order shall be issued to the licensee which shall bar any transfer of the subject property pending conclusion of an investigation or of any necessary legal proceedings commenced by the person claiming that the property is lost or stolen is positively identified by the person claiming to be the rightful owner, the property shall be held by the Wilmington Police Department in custody, according to existing policies and procedures of the Wilmington Police Department and pending the ultimate outcome of any legal proceedings regarding rightful ownership. If the Wilmington Police Department's investigation establishes that the property is in fact not lost or stolen, the stop order shall be immediately revoked.

24.4 – Fees, Revocation, Violations, Rules and Regulations

24.4.1 – License Fee

For every license granted under the by-law and every re-issuance thereof, the licensee shall pay to the Licensing Authority a fee of one hundred ($100.00) dollars. In addition for every such license and every re-issuance thereof, the licensee shall furnish the bond required by Massachusetts General Laws, Chapter 140, Section 77.

24.4.2 – Revocation

Any license issued pursuant to this by-law may be revoked at any time by the Licensing Authority, after notice to the licensee and a hearing if requested by the licensee, for violation of any provision of this by-law or of any rules or regulations issued hereunder, or for other cause.

24.4.3 – Penalty for Violations

The penalty for violations of this by-law shall be enforced in accordance with the provisions of the By-Laws of the Inhabitants of the Town of Wilmington, Revised as well as Massachusetts General Laws, Chapter 40, Section 21D. The penalty for a first violation of this By-Law shall be one hundred ($100.00) dollars, and for any second or subsequent offense violation shall be two hundred ($200.00) dollars. For any second or subsequent violation, the penalty shall apply to each individual item of property or incident that was not properly documented or permitted.

24.5 – Severability

If any provision of this by-law shall, in whole or in part, be held invalid for any reason, all other provisions shall continue in full force and effect. (Amended TM 4/30/2011, AG approval 5/31/11)

DISCHARGE OF FIREARMS

SECTION 25. Within the Town limits of Wilmington, Massachusetts no person or persons shall discharge any firearm, air or gas operated gun of any kind except members of the Police Department and other authorized law enforcement officers whether Federal, State or Municipal in performance of their lawful duties; also with the exception of a person protecting his life or property, also excepting the discharge of firearms using blank ammunition in fulfilling but not limited to the needs of historical, ceremonial, construction, competitive and sporting activities, and 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. The permit shall be valid for one year and may be revoked for cause at any time by the Police Chief.

Responsible organizations observing historical events or traditional services by gravesides, using firearms with blank cartridges and contractors' powder-fired charge tools are specifically exempted from this by-law.

Section 25.1. Hunting on public lands of the Town of Wilmington is prohibited per M.G.L. 131, Section 59. When Town Clerk issues a hunting license in Wilmington, a copy of this by-law will be presented to the hunting licensee. The Town Manager shall have the authority to authorize Public Safety Officials to hunt on town owned property in order to address a nuisance situation.

.

DEFACING PUBLIC PLAYGROUNDS

SECTION 26. No person shall willfully deface or injure any public playground, planting space, flower bed, tree, shrub, grass border or drinking fountain.

DOGS – RESTRAINT AND CONTROL

Sections 27, 28 and 29 were deleted at the Annual Town Meeting of April 30, 2016 and replaced with a New Complete Dog Bylaw.

Sections 28 and 29 open

SECTION 27: Dogs – Restraint and Control

27.1 Purpose and Definitions

The purpose of this by-law is to regulate the ownership and possession of dogs in the Town, in compliance with the provisions of the General Laws, Chapter 140. It is intended that the provisions of this by-law be construed in accordance with Chapter 140. The definitions set forth in Section 136A of Chapter 140, shall apply to this by-law.

27.2 Authority

The Animal Control Officer, Sworn Police Officers, Board of Health Director, Town Clerk, and/or other persons designated by the Town Manager shall have authority to enforce this by-law.

27.3 Keeping of Dogs

(a) No more than four (4) dogs shall be owned or kept per household.

(b) No person owning or keeping a dog shall subject the dog to cruel conditions or inhumane chaining or tethering at any time. For the purposes of this subsection, "cruel conditions and inhumane chaining or tethering" shall include, but not be limited to, the following conditions:

(i) filthy and dirty confinement conditions including, but not limited to, exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill a dog upon contact or other circumstances that could cause harm to a dog's physical or emotional health;

(ii) taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog; and

(iii) subjecting a dog to dangerous conditions, including attacks by other animals.

27.4 Leashing of Dogs

(a) No person owning or keeping a dog shall permit such dog to be at large in the Town elsewhere than on the premises of the owner or keeper, except if it be on the premises of another person with the knowledge and permission of such other person.

(b) Such owner or keeper of a dog, which is not on the premises of the owner or upon the premises of another person with the knowledge and permission of such person shall restrain such dog by a chain or leash no greater than six (6) feet in length, excepting a certified or registered service dog.

(c) This provision shall not apply in any area expressly designated by the Board of Selectmen as a "Dog Park", "Dog Run" or "Dog Exercise Area".

27.5 Dogs on Public Beaches

No dog shall be allowed on a public beach or Town property adjacent to the water from May 1 to October 1 each year.

27.6 No Fouling on Public Spaces

(a) 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, and to possess the means of removal of feces when the dog is on a sidewalk, street, or other public area in 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 neither owned nor occupied by said person.

(b) This provision shall not apply to a dog accompanying any handicapped person who, by reason of his-her handicap, is physically unable to comply with the requirements of this by-law, or to any individual who utilizes a guide dog.

27.7 Licensing

(a) The owner or keeper of any dog over the age of six (6) months kept in the Town shall obtain a license for the dog from the Town Clerk. All licenses issued under this section shall be renewed on an annual basis, in accordance with procedures to be determined by the Town Clerk. In addition to the license, the Town Clerk shall issue a durable tag inscribed with the license number, designation of the Town of Wilmington, and the year of issue.

(b) Within 30 days of moving into the Town within a licensing period, the owner or keeper of a dog must apply to the Town Clerk to transfer the dog's license. The Town Clerk shall issue a transfer license for a fee and in accordance with procedures that the Town Clerk shall determine.

(c) The Town Clerk shall not grant a license under the foregoing provisions unless (i) the license applicant provides a veterinarian's certification or notarized letter that the dog has been vaccinated against rabies; or (ii) the dog is exempted from the vaccination requirement by the Town of Wilmington Board of Health in accordance with Section 145B of Chapter 140 of the General Laws.

(d) Any license granted under this section is granted on the condition that the licensed dog shall be kept in a manner consistent with this Section 27 of the by-laws.

(e) The Town Clerk shall not grant a license, to an applicant who has been convicted of one or more of the offenses set forth in Section 137D of Chapter 140 of the General Laws within the preceding five (5) years.

(f) The owner or keeper of the licensed dog shall keep a collar or harness of suitable material affixed around the dog's neck or body to which the tag shall be securely attached. If the tag is lost or destroyed, the owner or keeper shall immediately secure a substitute tag from the Town Clerk for a fee established in accordance with Chapter 1 Section 3 of these by-laws.

(g) The annual license fee shall be established in accordance with Chapter 1 Section 3 of the by-laws and shall be designated (i) Spayed or Neutered or (ii) Unspayed or Unneutered.

To be charged the fee for a spayed or neutered dog, the license applicant must provide proof of spay or neuter in the form of either: (i) a certificate from the veterinarian who spayed or neutered the dog; (ii) a veterinary bill for performing the procedure; or (iii) a statement signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that the veterinarian has examined the dog and that the dog appears to be spayed or neutered and therefore incapable of propagation.

(h) No license fee paid under this section shall be refunded, in whole or in part, due to mistake or due to the subsequent death, loss, spay or neuter, removal from the Town or the Commonwealth, or other disposal of the licensed dog.

(i) No license fee shall be increased without a majority vote of the voters present at a Town Meeting.

(j) The license fee for a spayed or neutered dog shall be less than the license fee for an intact dog.

(k) An owner or keeper of a dog kept in the Town of Wilmington who has not licensed said dog by the first day of April in each year shall be required to a pay an additional fee which shall be established in accordance with Chapter 1 Section 3 of the by-laws.

27.8 Kennels

(a) Kennels are permitted only where in compliance with the Town's Zoning By-laws.

(b) Kennels must be operated and maintained in a sanitary and humane manner.

(c) The name and address of the owner of each dog kept in a kennel, other than dogs belonging to the person maintaining the kennel, shall be kept at the kennel and available for inspection at any time.

(d) Town authorities may inspect any kennel at any time for compliance with the above requirements.

(e) If it is determined that the kennel is not being maintained in a sanitary or humane manner or if records are not properly kept, the kennel license may be revoked or suspended.

(f) A citizen of the Town may file a petition with the Animal Control Officer stating that they are aggrieved or annoyed to an unreasonable extent due to excessive barking or other conditions associated with a kennel.

The Animal Control Officer or other authorized agent of the Town shall investigate the complaint. Based on credible evidence the Animal Control Officer shall take the following action:

(i) deem the complaint valid and refer it to the Board of Health; or

(ii) dismiss the complaint.

The Animal Control Officer shall file the record of the investigation including witness statements, photographs, and other documentation with the Board of Health and Town Clerk.

(g) If the Animal Control Officer deems the complaint to be valid, the Board of Health shall conduct a public hearing, hear evidence, and conduct examination of the complainant, owner, and/or witnesses under oath at the public hearing.

Based on credible evidence and testimony presented at the public hearing, the Board of Health shall take the following action:

(i) deem the kennel in violation of the Massachusetts General Laws, the Town by-laws, and/or Board of Health Regulations; or

(ii) dismiss the complaint.

(h) If the Board of Health has deemed the kennel in violation, the Board of Health may order one or more of the following remedies:

(i) The kennel to take such action as to remedy the violations;

(ii) Suspend the kennel license for a period of three (3) months; or

(iii) Revoke the kennel license and prohibit relicensing for up to one year.

Within ten (10) days of the issuance of any order of the Board of Health or Animal Control Officer, the holder of the affected license may bring a petition for judicial review in the district court for the judicial district in which the kennel is located, which shall consider the petition in accordance with Section 137C of Chapter 140 of the General Laws.

(i) A person maintaining a kennel shall obtain a kennel license. In the case of an applicant for initial licensure and in the case of an applicant for license renewal, the Town Clerk shall not issue a kennel license until a kennel has passed inspection by the Animal Control Officer.

(j) A kennel licensee shall cause each dog kept in its kennel to wear, while it is at large, a collar or harness to which a tag shall be securely attached. The tag shall have inscribed upon it the number of the kennel license, the name of the Town, and the year of issue. Tags shall be furnished to the owner or keeper by the Town Clerk in quantities not fewer than the number of dogs kept in the kennel. A kennel license shall be valid for one year, including the date of issuance of the license through the date on which the license expires, inclusive. The fee for the issuance and for renewal of the license shall be established in accordance with Chapter 1 Section 3 of these by-laws, provided, however, that in determining the amount of the license fee a dog under the age of 6 months shall not be counted in the number of dogs kept in a kennel and provided that the fees shall not be increased without a majority vote of the voters present at a Town Meeting.

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

27.9 Nuisance Dogs and Dangerous Dogs

(a) A nuisance dog is a dog that:

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

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

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

(b) A dangerous dog is a dog that either:

(i) without justification, attacks a person or domestic animal causing injury or death; or

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

(c) Any person may file a written complaint with the Animal Control Officer that a dog kept in the Town is a nuisance dog or a dangerous dog.

The Animal Control Officer or other authorized agent of the Town shall investigate the complaint. Based on credible evidence the Animal Control Officer shall take the following action:

(i) deem the dog a nuisance dog; or

(ii) refer the dog to a dangerousness hearing; or

(iii) dismiss the complaint.

(d) No dog shall be deemed dangerous:

(i) solely based upon growling, barking, or both;

(ii) based upon the breed of the dog;

(iii) if, at the time of the incident in question, the dog was reacting to another animal or person in a manner not grossly disproportionate to any of the following circumstances;

(a) the dog was protecting or defending itself, its offspring, another domestic animal, or a person from attack or assault;

(b) the person attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog;

(c) the person attacked or threatened was engaged in teasing, tormenting, battering, assaulting, injuring, or otherwise provoking the dog; or

(d) at the time of the attack or threat, the person or animal that was attacked or threatened by the dog had breached an enclosure or structure in which the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure including, but

not limited to, a gated, fenced-in area if the gate was closed, whether locked or unlocked; provided, however, that if a person is under the age of 7, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing.

(e) The Board of Selectmen or its designee ("the Hearing Authority") shall investigate and conduct a public hearing, hear evidence, and conduct examination of the complainant, owner, and witnesses under oath at the public hearing. Based on credible evidence and testimony presented at the public hearing, the Hearing Authority shall take the following action:

(i) deem the dog a dangerous dog; or

(ii) deem the dog a nuisance dog; or

(iii) dismiss the complaint.

(f) The Hearing Authority shall report its findings and decision to the Town Clerk.

If the Animal Control Officer or Hearing Authority has deemed the dog a nuisance dog, it may order the owner or keeper of the dog to take remedial action to ameliorate the cause of the nuisance behavior.

(g) If the Hearing Authority has deemed the dog a dangerous dog, it shall order one or more of the following remedies:

(i) that the dog be humanely restrained;

(ii) that the dog be confined to the premises of the keeper of the dog;

(iii) that when removed from the premises of the owner or the premises of the person keeping the dog, the dog shall be securely and humanely muzzled and restrained;

(iv) that the owner or keeper of the dog provide proof of insurance in an amount not less than $100,000 insuring the owner or keeper against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts, whether intentional or unintentional, of the dog or proof that reasonable efforts were made to obtain such insurance if a policy has not been issued; provided, however, that if a policy of insurance has been issued, the owner or keeper shall produce such policy upon request of the hearing authority or a justice of the district court; and provided further, that if a policy has not been issued the owner or keeper shall produce proof of efforts to obtain such insurance;

(v) that the owner or keeper of the dog provide to the licensing authority or Animal Control Officer or other entity identified in the order, information by which a dog may be identified, throughout its lifetime including, but not limited to, photographs, videos, veterinary examination, tattooing or microchip implantations or a combination of any such methods of identification;

(vi) that unless an owner or keeper of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the

owner or keeper of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact; or

(vii) that the dog be humanely euthanized.

(h) No person over the age of seventeen (17) who has actual knowledge that a dog has been deemed a dangerous dog under Section 27 of the by-laws shall permit a child under the age of seventeen (17) to own, possess, or have care or custody of that dog. No person shall transfer ownership or possession of a dog that has been deemed a dangerous dog under Section 27 of the by-laws or offer such dog for sale or breeding without informing the recipient of the dog of the finding of dangerousness.

(i) If, subsequent to a determination by a Hearing Authority or reviewing court that a dog is dangerous, such dog wounds a person or worries, wounds, or kills any livestock or fowl, the owner or keeper of the dog shall be liable in tort for treble damages.

(j) Within ten (10) days of the issuance of any order under this section, the owner or keeper of the affected dog may bring a petition for judicial review in the district court for the judicial district in which the owner or keeper resides, which shall consider the petition in accordance with Section 157 of Chapter 140 of the General Laws.

27.10 Quarantine

A domestic animal that has bitten, or is suspected of biting, a person or other domestic animals shall be quarantined for ten (10) days. During quarantine, the dog shall be securely confined indoors and kept from contact with any other animal. At the discretion of the Animal Control Officer or other authorized agent, the quarantine may be on the premises of the owner. If other confinement is required, the owner or keeper shall surrender the animal for the quarantine period to an animal shelter or veterinarian, at the owner's expense.

27.11 Enforcement

(a) A dog found at-large in the Town may be impounded at a registered shelter or veterinary facility of the Town's choosing.

(b) If an owner or a keeper of a dog is found in violation of an order issued under Section 27 of the by-laws, the dog shall be subject to seizure and impoundment by the Animal Control Officer, a sworn police officer, the Health Director, or other authorized agent.

(c) Enforcement of Section 27 of these by-laws may be pursued through criminal complaint against the owner or keeper of any dog through the provisions of Chapter 140 Section 157.

(d) Section 27 of the by-laws may be enforced by noncriminal disposition through the provisions of General Laws Chapter 140, Section 173A as an alternative to criminal prosecution. The penalty for each violation of any provision of this Section 27 shall be $50.00 for the first offense, $100 for the second offense and $300.00 for a third and each subsequent offense for the purposes of such enforcement by noncriminal disposition.

(e) Any dog impounded by the Town may be vaccinated and/or treated for fleas, ticks, and other infestations, and receive other medical treatment that may be deemed necessary at the time of impounding and for the duration of the impound, at the Town's discretion. The owner shall be responsible for all charges reasonably incurred while the dog is impounded, including routine and emergency medical care and boarding fees. Any charges shall be itemized on an invoice to the owner detailing the purpose of the fees. The owner of an impounded dog must pay the Town a processing fee of $20 per day for the duration of the impoundment. Payment of all amounts owed shall be made prior to release of the dog. If after seven (7) days the owner does not claim the dog, the Animal Control Officer may release the dog for adoption or authorize its humane euthanasia at such official's discretion. Return of the dog to the licensed owner or keeper shall be conditioned on admission of ownership or the keeping of the dog and the assumption of responsibility by the licensed owner or keeper.

27.12 Severability and Conformance with Massachusetts General Laws

The provisions of this section are severable; and if any of the provisions of this section shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. No provision or interpretation of a provision of Section 27 is intended to be either in conflict with, or an attempt to change, any statutory provision in Chapter 140 of the General Laws pertaining to dogs except as authorized by said Chapter 140

ERECTING BARRIERS ON EXCAVATION

SECTION 30. The owners of land which has been excavated are hereby required to erect barriers or take other suitable measures within five (5) days after such owners have been notified in writing by the Selectmen that in their opinion such excavation constitutes a hazard to public safety. Any person violating the provisions of this Chapter 5, Section 30 shall be fined three hundred dollars $300.)) for each offense. Each day of such violation shall constitute a separate offense.

TRAFFIC VISIBILITY ACROSS CORNERS

SECTION 31. In any district where a front yard is required, no structure, fence, planting or other structure shall be maintained at a height greater than two and one-half feet so as to interfere with traffic visibility across the corner within that part of the required front, side or rear yard which is within a triangle bounded by the street lot lines.

EARTH REMOVAL

SECTION 32. DEFINITIONS

SECTION 32.1.A. For the purpose of this By-law "earth" shall include soil, loam, sand, gravel, stone, rock, ledge or other earth products however described.

SECTION 32.1.B. For the purpose of this By-law, "Board" shall mean the Board of Selectmen.

EARTH REMOVAL PROCEDURE

SECTION 32.2.A. Within 30 days after this Earth Removal by-law becomes effective, all active pits must be registered with the Board of Selectmen and Board of Assessors designating:

1. Their location.
2. Identification by Assessor's Map and lot number.
3. Perimeter plot plan indicating area being excavated in relation to boundary lines.

SECTION 32.2.B. No earth shall be removed from any parcel of land in the town without a written permit from the Board, except as hereinafter provided.

SECTION 32.2.C. The removal for sale, gift or delivery beyond the town limits of earth shall be allowed only under special permission of the Board, and under such conditions as the Board shall impose.

SECTION 32.2.D. Any person wishing to remove earth from property in the town shall file a written application with the Board, which application shall include the following specific information and supporting documentation:

1. The location of the proposed excavation.
2. The legal name and address of the owner of the property involved.
3. The legal name and address of the petitioner.
4. Names and addresses of all abutting property owners, including those across any abutting streets, as appearing on the records of the Board of Assessors.
5. A plan of the land prepared by a registered professional engineer, showing general topography within 100 feet of the proposed excavation or to the property line.
6. A plan of the land, prepared by a registered professional engineer, showing contours of the site indicating existing and proposed completion elevations at five (5) foot intervals.
7. A proposed form of bond to be submitted to the Board.

SECTION 32.2.E. No permit for the removal of earth shall be issued by the Board until a public hearing has been held by the Board, notice of which shall have been given, at the applicant's expense, by publishing in a newspaper of general circulation in the town once in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing and mailing a notice thereof, postage prepaid, to the owners of all property deemed by the Board to be affected thereby as they appear on the most recent local tax list.

SECTION 32.2.F Any permit issued hereunder shall automatically expire upon the completion of the earth removal project for which it was issued or at such other time as may be specified in said permit, but in no case for a period more than one year.

SECTION 32.2.G. Any modification or any renewal of a permit shall be considered by the Board, if the Board finds that all conditions have been complied with and that the work has been carried on continuously and in good faith, only after compliance with the provisions of Section 32.2.D. and 32.2.E. of this Chapter 5.

SECTION 32.2.H. A change of ownership of land (in entirety or in part) for which a valid permit is outstanding shall call for the registration and application for a new permit.

EXEMPTIONS

SECTION 32.3.A. No permit shall be required for the removal of earth from an individual parcel where necessary in the construction of a building being built in accordance with a building permit issued by the proper Town authority and where the earth removal does not exceed 450 cubic yards.

SPECIFIC LIMITATIONS

SECTION 32.4.A. No permit for the removal of earth shall be approved by the Board except upon condition that a cover of top soil of not less than six (6) inches in depth shall be replaced or allowed to remain, except where, due to construction of roads, buildings or other permanent physical features, such provision is impractical.

SECTION 32.4.B. No permit shall be issued for the removal of earth in any location if such removal; (1) will endanger the public health or safety or constitute a nuisance; (2) will produce noise, dust or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property; (3) will result in the transportation of materials in such a manner as to cause traffic congestion or hazards, particularly on residential streets; (4) will result in the transportation over ways which will be unduly injured thereby; (5) will result in a change in topography and cover which will be disadvantageous to the most appropriate use of the land; and (6) will result in the violation of any zoning by-law, town by-law, rule or regulation adopted by the Town of Wilmington.

GENERAL LIMITATIONS

SECTION 32.5.A. No permit for the removal of earth shall be approved by the Board if the work extends within three hundred (300) feet of a way open to public use, whether public or private, or within two hundred fifty (250) feet of a building or structure unless the Board is satisfied that such removal will not undermine the way or structure.

SECTION 32.5.B. In approving the issuance of a permit, the Board shall impose reasonable conditions which shall accompany and shall constitute part of the permit, including but not limited to:

1. The finished leveling and grading.
   a. Leveling and grading must be done annually.

2. The placing of top soil and planting necessary to restore the area to usable condition.
   a. Seeding must be done annually no later than September 15th, of the operating year.

3. The duration of the removal operation.

4. The construction of necessary fencing and other protection against nuisances.

5. Method of removal.

6. Temporary structures.

7. Hours of operation.

8. Routes of transportation of material.

9. Control of temporary and permanent drainage.
   a. All existing brooks, ponds and water ways shall remain free and clear from pollution and obstructions.

10. Disposition of boulders, tree stumps and felled trees.

11. Trees or other vegetation within one hundred (100) feet of the property line shall not be removed.

SECTION 32.5.C. The Board shall require a bond or other security to enforce performance of conditions imposed by this by-law.

GENERAL ADMINISTRATION

SECTION 32.6.A. The Board or its duly authorized persons may enter upon the premises involved from time to time to inspect and ensure conduct of the work.

SECTION 32.6.B. Upon petition of the owner, permit holder or abutters, the Board may now hold a new hearing and reissue or modify the permit, subject to any regulations not in conflict with this by-law.

SECTION 32.6.C. The Board may order the revocation of or suspension of a permit if the conditions established hereunder are not complied with; but the permit holder in such situation shall not be relieved of his obligations hereunder.

SECTION 32.6.D. The Board or its duly authorized persons shall make periodic inspections of all pits regulated by this By-law.

VIOLATIONS

SECTION 32.7.A. The Board, if it concludes that there has been a violation of this by-law shall so notify the alleged offender, at the address stated on the initial application, and if applicable shall include a notice ordering cessation of the improper activities.

SECTION 32.7.B. Notwithstanding other available remedies, the Board reserves the power to revoke, without hearing, any permit issued by it in accordance with this by-law.

SECTION 32.7.C. The penalties for violations of this by-law shall be as follows:

For the first offense, fifty ($50.00) dollars;
For the second offense, one hundred ($100.00) dollars;
For each subsequent offense, two hundred ($200.00) dollars.

In addition, for each offense they shall replace any and all material removed in violation of the provisions of this by-law.

FEES

SECTION 32.8.A. The Board may establish such fees for permits.

SECTION 32.8.B. Any fees received hereunder shall be transmitted to the Town Treasurer.

PROSECUTIONS FOR VIOLATIONS OF BY-LAWS

SECTION 33. Except when otherwise provided by law, prosecutions for offenses under the by-laws of the Town may be made by any police officer of the Town.

CERTAIN INVASION OF PRIVACY PROHIBITED

SECTION 34. No person, except an officer of the law in the performance of his duties, shall enter upon the premises of another with the intention of peeping into the windows of a house or spying upon any manner any person or persons therein. Anyone found violating this by-law may be arrested without a warrant.

SECTION 35 LIEN FOR CERTAIN TREE REMOVAL COSTS

The Town Manager and Town Counsel may (A) impose and record a lien against private real property for municipal charges that arise or have arisen from the trimming, cutting and/or removal of trees or bushes at such property by the Town's Tree Warden and his or her deputies, where (i)

such action is deemed necessary because the affected trees or bushes have been found to obstruct, endanger, or hinder pedestrians or others traveling on public ways, and (ii) such personnel have been duly authorized to take such action by recorded vote of the Wilmington Board of Selectmen pursuant to M.G.L. Chapter 87, Section 5, and (iii) the owner of such property has failed or refused to perform such trimming, cutting or removal following notice given to him or her by the Town of Wilmington, and (iv) the owner has failed or refused to pay the amount of such charges when an invoice, presented to the owner, becomes due; such municipal charges may include the cost of performing the work by or for the Town of Wilmington, and any safety and/or security measures related to the performance of such work; and (B) add the remaining unpaid amount of such municipal charges to the property owner's next tax bill. (New section STM 12/10/2011)

PROHIBITED PARKING - FIRE LANES

SECTION 36.

A. Fire Regulations: It shall be unlawful to obstruct or block any traveled private way with a vehicle or other means so as to prevent access by fire apparatus or equipment; and further

B It shall be unlawful to obstruct or park a vehicle in any fire lane, such fire lanes to be designated by the head of the Fire Department and posted as such. Said fire lanes to be a distance of twelve (12) feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk with curbing exists, the distance shall be twenty (20) feet from the front wall of the building or any other distance that the Fire Chief determines necessary for public safety.

C. Any object or vehicle obstructing or blocking any fire lane or traveled private way in violation of this section may be removed or towed by a towing service under the direction of a police officer at the expense of the owner of said vehicle or object without liability to the Town of Wilmington. (Amended 5/1/2010 approved by Attorney General 9/1/10.

1. Towing and/or storage fees are not to exceed that which is provided in or as authorized by Statute Law.

2. Any person called to tow a vehicle, may at his discretion, if the owner appears before the towing is complete, charge the owner one-half the usual fee for towing.

D. The owner of record of any building affected by these sections shall provide and install signs and road marking as provided in Paragraph B of this section. Said signs shall be no less than 12" x 18" and shall read "Fire Lane - No Parking - Tow Zone".

E. Any person violating any of the foregoing sections shall for the first offense be punished by a fine of up to fifty ($50.00) dollars. Each day that such violation continues, shall constitute a separate offense.

F. Exceptions: Certain delivery vehicles may park in a fire lane for a reasonable length of time, if the nature of their business prohibits or restricts the use of other access points of the building, also emergency vehicles may park in the fire lane while responding to calls for service.

UNDERGROUND STORAGE

SECTION 37.1.: Authority

This by-law is adopted by the Town of Wilmington under its home rule powers, its police powers to protect the public health, safety and welfare, and under powers authorized by Mass. Gen. Laws Ch. 40, Sec. 21-21D and Ch. 148, Sec. 9.

SECTION 37.2.: Purpose

The purposes of this by-law are, through regulations to specify the design, construction, installation, testing and maintenance of underground petroleum storage/hazardous substance facilities, to protect public health from the contamination of public and private water supplies due to leakage from such facilities, to protect the public safety from the dangers of fire and explosion associated with such leakage, and to protect the general welfare by preserving water supplies for present and future use.

SECTION 37.3. Definitions

37.3.1. - Underground tank shall mean any storage containment system (including pipes and fittings) in which any portion of the tank is below the ground but shall not include a freestanding container located within a building.

37.3.2. - Fire Chief shall mean the Chief, or his designee, of the Fire Department in Wilmington.

37.3.3. - Noncorrosive soil is soil that, when tested by a qualified Professional, is shown to have a resistivity greater than 10,000 ohm-cm, and that does not exhibit corrosive characteristics in a soil-chemistry analysis.

37.3.4. - 100 year flood plain shall mean those areas as shown in the Flood Insurance Rate Maps for Wilmington under the Federal Emergency Management Agency's National Flood Insurance Program, or as defined in Section 6.2.1 of the zoning by-law.

37.3.5. – Observation well: a dug or drilled cased well which can be used for detecting the presence of flammable or combustible liquids and which is drilled to a depth of approximately twenty-four (24) inches below the tank bottom and intercepting the water table.

37.3.6. - Monitoring System – a full time system installed for the purpose of early detection of leaks, such as observation wells, visual or audible alarms, statistical inventory reconciliation (SIR) process conducted in connection with an in-tank monitoring system, or their equivalent as approved by the Fire Chief, minimum standards of monitoring systems shall detect a leak at a minimum rate of 0.20 gallons per hour or more with the probability of detection of 0.95, and the probability of false alarm of 0.05.

37.3.7. - Operator/Owner: means the lessee of a storage facility or the person or persons responsible for the daily operation of a storage facility.

37.3.8. - Abnormal gain of water: means a gain in the water level inside any tank of more than one (1) inch in a twenty-four hour period during which no product has been added.

37.3.9. - Inventory verification: includes procedures listed under section 37.6.1 of this by-law and 527 CMR (Code of Massachusetts Regulations) 5.06.

37.3.10. - Abandoned: means being out of service for a continuous period in excess of six months, in the case of a storage facility for which a license from the local licensing authority is required under the provisions of Mass. Gen. Laws Ch. 148, Sec. 13, as amended.

37.3.11. - Cathodic protection: means a system that inhibits the corrosion of a tank or components through either the sacrificial anode or the impressed current method of creating a corrosion-inhibiting electrical current.

37.3.12. - MSDS - Material Safety Data Sheet: a document identifying a toxic or hazardous substance and its manufacturer, and containing certain information relating to the risks associated with the substance and procedures for eliminating or minimizing those risks; the basic information document required by the Law.

37.3.13 - Leakage or leak: means any uncontrolled movement, measurable by the tank monitoring system that can accurately detect a leak of 0.02 gallons per hour or more with probability of detection 0.95, and the probability of false alarm of .05.

SECTION 37.4: Registration of tanks

37.4.1. - Tank Registration: Every operator/owner of an underground tank must file a permit application with the Town Clerk within 90 days of the enactment of this by-law.

37.4.2. - Notification of Fire Department: The Town Clerk must forthwith, give the Fire Chief a copy of the information filed for each tank that is registered according to section 37.4.1 of this by-law. The Fire Chief or his designee shall check this information against Fire Department records. He may require evidence of the date of purchase and installation of a tank if he determines in his sole discretion that there is any question concerning the age of a tank.

37.4.3. - Tank Testing: Operators that are known to have underground storage tanks that did not register their tanks as required by section 37.4.1. of the by-law shall have such tanks tested in accordance with section 6.2 of this by-law or removed from the ground as directed by the Fire Chief.

37.4.4. - Any change in the information on the permit application must be reported to the Town Clerk and the Fire Chief within 30 days of the change.

37.4.5. - If no substantial evidence of the date of installation is supplied, than the tank shall be presumed to have been installed twenty years prior to the effective date of this by-law.

SECTION 5: Standards Applicable to the Installation of New Tanks

37.5.1. - Tank Design

a. All tanks shall be constructed of double wall fiberglass reinforced plastic (FRP) or an acceptable engineered approved equivalent as approved by the Fire Chief.

b. All piping shall be constructed of double wall non-corrodible materials such as FRP or its equivalent in accordance with 527 CMR 9.00.

c. All tanks and piping shall be equipped with a monitoring system in compliance with 527 CMR 9.05 and approved by the Fire Chief.

d. All newly installed tanks shall be tested pursuant to the criteria for final or precision tank test described in NFPA 30 as amended published by the National Fire Protection Association.

e. All tanks must be equipped with striker plates below openings used for product measurement or filling.

f. When more than one (1) tank is installed, observation wells a minimum of two (2) inches in diameter shall be installed at two corners within tank hole excavation. If only one tank is installed, an observation well shall be installed at each end of the tank.

37.5.2. - Tank Installation

a. The Fire Chief shall inspect and approve underground tanks prior to their burial, in accordance with 527 CMR 9.05 (C).

b.. Tanks shall be installed in accordance with the manufacturer's installation techniques. Tanks that have reached the limit of the manufacturers' warranty shall be re-certified annually by the

manufacturer. If re-certification is not received by the fire chief, the tanks shall be taken out of service immediately and removed from the ground within 90 days.

c. New underground tanks shall be tested for tightness, hydrostatically, or with air pressure at not less than three (3) pounds per square inch and not more than five (5) pounds per square inch, after installation, and backfill in accordance with 527 CMR 9.05 C (5) .

d. Piping shall be tested in accordance with 527 CMR 9. before being covered, enclosed or placed in use.

e. Backfill material used to cover all new tank installations and repairs, shall be of the type and quality specified by the tank manufacturer's installation procedures, accepted engineering practices and the provisions of 527 CMR 9.05 (C) (3) as amended; provided that the backfill material for FRP tanks shall be pea gravel or crushed stone and that the backfill material under all other tanks shall be either pea gravel or clean, non-corrosive sand, free of cinders, stones and any other foreign material, the material under the tank to be compacted and contoured to the shape of the tank before the tank is installed, the balance to be thoroughly compacted.

f.. Underground tanks that are to be located in areas subject to flooding or below the maximum water table elevation shall be anchored according to manufacturer's instructions.

37.5.3. - Tank Location

Underground tanks that are to be installed within 1,000 feet of a public water supply well shall submit, for review by the Fire Chief, Board of Health or its agent, and the local Water Commissioners or their agent, a plan outlining the procedures or devices, such as product sensors and/or area monitoring devices, to be used to prevent water supply contamination. The plan shall be endorsed by representatives of the three departments noted above prior to tank installation. Tanks currently within 1,000 feet of a public water supply well shall be upgraded to meet the provisions of Section 37.5.1 and 37.5.2 of this by-law within 5 years of the effective date of this Underground Storage Tank By-law as amended.

SECTION 37.6.: Leak Detection for Existing and New Tanks

37.6.1. - Inventory Verification

a. All underground tanks, except fuel-oil tanks solely connected with heating equipment, shall be installed and monitored for the prevention and detection of leakage of flammable and combustible liquids in accordance with the provisions of 527 CMR 5.05 (6).

b. The daily-inventory records shall be shown to the Fire Chief prior to issuance of a permit or license renewal. (Refer to section (a) above).

c. The owner and operator shall participate in a program of regularly scheduled inventory verification, at least once every two years, in accordance with 527 CMR 5.05 (6) . The operator of tanks 20 years of age or older shall submit to the Fire Chief annually a report certifying that the inventory verification has been performed, stating the calculate gain/loss over the verification periods.

d. The Fire Chief shall require the operator of an underground tank storage system to test the system for tightness, at the operator's expense, when accurate daily inventory records have not been maintained as specified in 37.6.1.

e. If daily inventory records indicate a loss of product in excess of 0.5 percent of the volume of product used or sold, or an abnormal increase in the amount of water contained in the tank, steps shall be taken immediately in accordance with 527 CMR 5.05 (6) to detect and stop the leak. The discrepancy shall be reported to the Fire Chief.

37.6.2. - Tank Testing

a. Unless the tank operator demonstrates to the Fire Chief and the Board of Health that his tank(s) are constructed of a material that will not corrode, has product sensors, or has been repaired or tested within the last year, underground tanks and piping shall be required, at the expense of the owner, to undergo a tightness test within 60 days and annually thereafter: The type of test shall be as determined by the Fire Chief. The Fire Chief shall be given at least 48 hours notice of time, date, and place of testing. Test results shall be submitted to the local Fire Chief. All tanks except those containing heating oil for consumptive use on the premises shall within two years of acceptance of this by-law meet the requirements for new installation.

b. The waiver from Section 37.6.2(a) of this by-law may not be granted for a tank that is located within any of the areas specified in Section 37.5.3 of this by-law.

c. If flammable fluids or their vapors have been detected in neighboring structures, sewers, or wells on or off the property locations, the Fire Chief may require that any nearby tank, including underground residential tanks less than 1,000 gallons, be tested at the expense of each tank's owner.

d. Any tank abandoned shall be removed from the premises and disposed of in an appropriate manner.

e. Annual tank testing will not be required of tanks connected solely to heating systems unless deemed necessary by the Fire Chief. However, all tanks must be tested at the owner's expense during the 20th year after installation.

f. Effective July 1, 1986 all tanks owned and operated by the Town of Wilmington must be tested annually in accordance with this by-law.

SECTION 37.7.: Procedure in Case of Spill or Leak (also, see Appendix A)

37.7.1. - Leak Reporting
Any owner/operator who is aware of a spill, abnormal loss of product stored underground, or abnormal gains of water in a tank, shall report such spill, loss or gain immediately to the Fire Chief. The Fire Chief shall be responsible for other notification, except as required by law and outlined in Appendix A.

37.7.2. - Equipment Replacement/Removal

a. After a leak is confirmed, underground tanks (fittings and piping) shall be emptied immediately, and removed or repaired forthwith, under the direction of the Fire Chief.

b. Any leaking tank shall be removed forthwith. Product shall be removed immediately after notification by the Fire Department.

37.7.3. - If it is necessary to replace an underground steel tank that has developed a corrosion-induced leak, all other steel tanks at the facility of the same age or older, must be tested in accordance with section 37.6.2. of this by-law within 30 days of leak verification.

SECTION 37.8: Administration

37.8.1. – Board of Selectmen is chief licensing authority.
37.8.2. – The provisions of this by-law shall be administered by the Fire Chief.
37.8.3. – Variances from the specific requirements of this by-law may be authorized by the chief licensing authority after notice and a public hearing.

37.8.4 – Licenses issued in accordance with M.G.L. Ch. 148 s. 13 for underground tanks shall be renewed annually. Tank owners shall submit to the Fire Chief and the licensing authority (Board of Selectmen) a statement certifying satisfactory leak-detection results over the period of the permit (in accordance with Section 37.6.2 of this by-law) and inventory verification, at least 30 days before the issuance of a permit renewal for the time periods specified herein. Test results shall accompany the permit renewal application.

37.8.5. - Fees necessary for the issuance and renewal of permits or licenses shall be set by the Board of Selectmen.

37.8.6. - The Fire Chief may, at all reasonable times, and upon reasonable notice to the occupant of the premises, enter any premises, public or private, for the purpose of investigating, sampling or inspecting any record, condition, equipment, practice, or property relating to activities subject to this by-law, and may at any time and upon reasonable notice to the occupant of the premises enter such premises for the purpose of protecting the public health or safety, or to prevent damage to the environment.

37.8.7. - Any operator who violates any provision of this by-law shall be subject to a fine of three hundred dollars for each offense. Each day during which such violation continues shall constitute a separate offense. This By-law may be enforced pursuant to Mass. Gen. Laws Ch. 40, Sec. 21D, as amended, by a local police officer or any other officer having police powers. Upon request of the Board of Health and the Board of Selectmen, Town Counsel shall take such legal action as may be necessary to enforce this by-law.

SECTION 37.9: Prohibited Uses

All materials, which require a Material Safety Data Sheet, with the exception of gasoline, diesel fuel and fuel oil, will be prohibited from underground storage in the Town of Wilmington except as otherwise approved by the Fire Chief.

SECTION 37.10: Validity and Severability
The invalidity of one or more sections, subsections, sentences, clauses or provisions of this by-law shall not invalidate or impair this by-law as a whole or any other part or parts hereof.

ENFORCING PERSON:

SECTION 38: Any by-law of the Town of Wilmington, or rule or regulation of its departments, boards, commissions and committees, 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 in the method provided in Section 21D of Chapter 40 of the Massachusetts General Laws "Non Criminal Disposition of Certain Violations". "Enforcing Person" as used in this by-law shall mean the Animal Control Officer, Conservation Administrator, Director of Public Health, Building Inspector, Plumbing and Gas Inspector, Electrical Inspector or any Police Officer, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of by-laws 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.

SUSPENSION OF LOCAL LICENSES AND PERMITS

SECTION 39:

a. The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish each department, board, commission or division, hereinafter referred to as the Licensing Authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the Party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less

than a twelve month period, and that such Party has not filed in good faith a pending application for an abatement of such tax or has a pending petition before the appellate tax board.

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

Any license or permit denied, suspended or revoked under this section shall not be issued or renewed until the Licensing Authority receives a certificate issued by the Tax Collector that the Party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as of the date of issuance of said certificate.

c. Any Party shall be given an opportunity to enter into a payment agreement with the Tax Collector, 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 rounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

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

This section shall not apply to the following licenses and permits granted under the General Laws of the Commonwealth of Massachusetts: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of Chapter eight-five; sales of articles for charitable purposes; section thirty-three of chapter one hundred and one; children work permits; section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage license; section twenty-one E of chapter one hundred and forty; dog licenses; section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping licenses; section twelve of chapter one hundred and thirty-one; marriage licenses; section twelve of chapter one hundred and thirty-one; marriage licenses; section twenty-eight of chapter two hundred and seven; and theatrical events, public exhibition permits; section one hundred and eighty-one of chapter one hundred and forty. This section adopted by the Annual Town Meeting of April 22, 1989.

SOLICITORS OR CANVASSERS

SECTION 40:

Section 1: License required. It shall be unlawful for any solicitor or canvasser, as defined in Section 2 of this by-law to engage in such business in the Town of Wilmington without first obtaining a license in compliance with the provisions of this by-law. Any person who is not properly licensed under this by-law shall be ordered to immediately cease and desist all solicitation in the town until they attain a proper license. Whoever continues to solicit without a proper license after being notified to cease and desist by a police officer, may be summoned for court prosecution and fined up to $300.00 for each violation.

Section 2: Definition. A canvasser or solicitor is defined as any individual, whether resident of the Town or not, traveling either by foot, motor vehicle, or any other type of conveyance, from place to place, house to house, taking or attempting to take orders for sale of goods, wares, merchandise, personal property of any nature for immediate or future delivery or for services to be furnished or performed immediately or in the future and whether or not he or she collects advance payments on such sales.

This definition shall include any person who, for him or herself, or for another person or firm or corporation hires, leases, uses, or occupies any building, structure, tent, rail car, boat, hotel room, lodging house, apartment, shop or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery.

Section 3: Application. An applicant for a license under this by-law shall file with the Chief of Police, or his designee, a sworn application in writing at least 10 working days prior to the requested starting date for solicitation, on a form provided by the Police Department. Said form shall include, but not be limited to the following information:

a. Name and physical description, date of birth, social security number of the applicant;
b. Permanent home address, and full local address of the applicant;
c. A brief description of the nature of the business and/or goods to be sold;
d. If employed, name and address of employer, including credentials which establish the exact relationship;
e. The length of time for which the permit is desired;
f. Names of manufacturer, of source of merchandise, proposed method of delivery;
g. Two photographs of the applicant, taken within the past 60 days prior to filing of the application, showing only the head and shoulders of the applicant in a clear and distinguishing manner;
h. Provide evidence of business responsibility or good character of the applicant;
i. A statement as to whether or not the applicant has been convicted of any crime, or violation of any municipal by-law, rule or regulation, the nature of the offense and the punishment or penalty assessed therefore.

At the time of filing the application, a fee of $25.00 per individual applicant payable to the Town of Wilmington shall be submitted to the Police Department to cover the cost of investigation of the facts stated therein. This fee may be waived for individuals representing non-profit organizations.

Section 4: Investigation and Issuance

A. The Chief of Police shall direct an investigation of the facts contained in the license application to determine the following.

1. Whether of not fraud, misrepresentation, or false statements have been made on the application.

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

B. If after investigation the Chief or his designee determines either of the above paragraphs (A1-A2) were answered in the affirmative the application shall be denied, and the applicant so notified.

C. If after investigation, the character and business responsibility of the applicant has been found to be satisfactory the application shall be approved. The applicant will then be issued a Solicitation Identification Card.

Section 5: Solicitation Identification Card

The Police Department shall issue to each successful applicant an identification card which shall contain the words "Licensed Solicitor", the individual's picture, identification and expiration date of the license. Such

Identification Card shall be worn in a conspicuous manner on the outer garment of the licensee during any and all times the licensee is engaged in soliciting. The above requirements may be waived by the Chief of Police for solicitors of non-profit organizations based in the Town of Wilmington.

Section 6: Solicitors and Canvassers are required to exhibit their licenses at the request of any resident.

Section 7: Duty of the Police to Enforce. It shall be the duty of any police officer of the Town to require any person seen soliciting or canvassing and who is not known by such officer to be duly licensed, to produce his or her solicitor's or canvasser's license and to enforce the provisions of this by-law against any person found to be violating the same.

Section 8: Trespass after notice, M.G.L. Chapter 266, Section 120. Notwithstanding the above licensing procedures, no licensee may enter private property after being forbidden to do so either directly by the person in charge of the property, or by a conspicuously posted notice of No Trespassing. Punishment for violations of this section are controlled by M.G.L. Chapter 266, Section 120. A person found committing such a trespass in the presence of a police officer may be arrested without a warrant.

Section 9: Solicitation hours. A properly licensed solicitor or canvasser may solicit between the following hours:

Monday through Friday	8 a.m. through 7 p.m.
Saturday	10 a.m. through 5 p.m.
Sunday	12 noon through 5 p.m.

Section 10: The Chief of Police shall maintain all pertinent records of licenses issued, and violations recorded.

Section 11: Revocation of license.

A. Licenses issued under the provisions of this by-law may be revoked by the Chief of Police or his designee after notice and hearing for any of the following causes:

1. Fraud, misrepresentation, or false statement contained in the license application;

2. Fraud, misrepresentation or false statements made in the course of carrying on the business of solicitation;

3. Any violation of this by-law;

4. Conviction of any crime or misdemeanor involving moral turpitude;

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

6. High-pressure tactics, harassment, or a refusal to accept a refusal as an answer, when verified in writing.

.

B. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and a time and place of the hearing. Such notice shall be forwarded by certified mail to the licensee at his or her last known address at least five days prior to the hearing date.

Section 12: Expiration of License. All licenses for soliciting in the town shall expire on December 31, each year, regardless of when the license is obtained.

Section 13: Severance Clause. The provisions of this by-law are declared to be severable, and if any section, sentence, clause or phrase of this by-law shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this by-law and they shall remain in effect, it being the legislative intent that this by-law shall stand, notwithstanding the invalidity of any part.

Section 14: This by-law shall take effect 90 days after its passage.

REGULATION OF UTILITY POLES

SECTION 41. No public or private organization or utility company shall place or allow more than one utility pole to exist within five feet of another utility pole on any public or private way within the Town of Wilmington, without the prior written permission of the Selectmen, which permission may contain conditions.

Following a public hearing, the Selectmen may issue an order for the removal, relocation or alteration of any utility pole or poles in excess of one at any given location, upon the determination that more than one utility pole at any given location presents a nuisance, hazard or threat to the public safety, welfare or convenience to the inhabitants of the Town.

Any organization or utility company which owns or is responsible for a utility pole or poles subject to any order issued by the Selectmen shall fully comply with the terms and conditions of any such order within one hundred and eighty (180) days of the date of its issuance unless such period is extended by the Selectmen in its sole and absolute discretion. In the event of noncompliance with the terms of any order issued by the Selectmen, the Selectmen may take whatever enforcement action it deems appropriate, including, without limitation; the imposition of a fine of up to three hundred ($300.00) dollars per day for each day of noncompliance; the application for an injunction restraining the continued existence of any such pole or poles subject to such order; and any other penalties, impositions or relief as the Selectmen may deem necessary.

SECTION 42. WATER FOWL No person shall feed any water fowl on public land in the Town of Wilmington. No person shall distribute any food or scatter any foodstuffs upon or around any park, recreation area, playing field, beach, or any public land. The fine for any violation of this section shall be $10.00. The provisions of Chapter 40, Section 21-D of the General Laws of the Commonwealth shall apply and shall authorize the issuance of a citation for any such violation of this section by any police officer, animal control officer, health officer or agent.

SECTION 43.
Municipal Water Supply Use Restriction

Section 1 Authority
This by-law 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 by-law 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.

Section 2 Purpose
The purpose of this by-law 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.

Section 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. C. 21G, §15-17.

State of Water Supply Conservation
Shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 4 of this By-law.

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.

Section 4 Declaration of State of Water Supply Conservation
The Town, or its agent, through its Board of Water and Sewer Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 5 of this by-law before it may be enforced.

Section 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 6.

a) 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.
b) Outdoor Watering Ban: Outdoor watering is prohibited.
c) Outdoor Water Hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
d) Filling Swimming Pools: Filling of swimming pools is prohibited.
e) Automatic Sprinkler Use: The use of automatic sprinkler systems is prohibited.

Section 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 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.

Section 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 Water Commissioners, 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 6.

Section 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.

Section 9 Penalties

Any person violating this by-law shall be liable to the Town in the amount of $50.00 for the first violation and $100.00 for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of Chapter 40 of the general laws. Each day of violation shall constitute a separate offense.

Section 10 Severability

The invalidity of any portion of provision of this by-law shall not invalidate any other portion or provision thereof.

REGULATION OF AUTOMATIC AMUSEMENT DEVICES
Section 44:

Selectmen shall not grant a license for any automatic amusement device that presents a risk of misuse as a gaming device. An automatic amusement device that presents a risk of misuse as a gaming device is one that has one or more of the following features: 1) the device involves matching random numbers, patterns or cards; 2) the device accumulates more than twenty-six (26) plays; 3) the device is equipped with a "knock off" switch, button or similar device; 4) the device has a mechanism for adjusting the odds; 5) the device has a remote control feature that can reset the device from another location; 6) the device is capable of returning money to the player other than the change for the excess amount deposited; 7) the device permits a player to pay for more than one game at a time; 8) each game on the device does not cost exactly the same amount for each player, and a player may change any aspect of the game by paying a different amount than any other player before or during the game; and 9) there is a metering device that accounts for both money/points in and money/points out.

All licenses for automatic amusement devices granted by the Board of Selectmen shall be subject to inspection by the Wilmington Police Department to insure conformance with submitted application information and local by-law requirements. Any unlicensed automatic amusement device shall be subject to immediate seizure by the Wilmington Police Department.

Any person found in violation of this by-law shall be punished by a fine of $200.00 for each offense. If any sentence, clause or phrase of this by-law, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions.

SECTION 45:
NO SMOKING RESTAURANTS AND FOOD ESTABLISHMENTS

Effective September 5, 2000, smoking shall be prohibited in any restaurant or other such establishment open to the general public that sells food products. The operator of any food establishment shall conspicuously post such notice or signs indicating that smoking is prohibited therein. Any person who smokes in a food establishment shall be subject to a fine of $50.00. Any operator of any food establishment who does not comply with this provision shall be subject to a fine of $50.00.

CONTAMINATED SOIL
SECTION 46:

Section 46.1 Purpose

The purpose of this Section 46 is to protect the health, safety and welfare of the citizens of the Town of Wilmington, including without limitation to protect the Town's drinking water supply.

Section 46.2 Authority

This by-law is adopted by the Town of Wilmington pursuant to its police powers to protect the public health, safety and welfare, and the Home Rule Amendment of the Massachusetts Constitution, Article 89 of

the Articles of Amendment, independent of the provisions of Section 150A of Chapter 111 of the General Laws and regulations promulgated thereto.

Section 46.3 Definitions

The following terms as used in this Section 46 shall have the following meanings:

A. Contaminated soil: soil containing oil and/or hazardous material as a result of a release to the environment in which levels of contamination exceed the background levels of contamination.

B. Background levels of contamination: those levels of oil and/or hazardous material that would exist in the absence of the disposal site of concern and which do not exceed the levels of concentration in natural soil stated in the Department of Environmental Protection technical update entitled "Background Levels of Polycylic Aromatic Hydrocarbons And Metals In Soil" dated May 2002 and which are:

(1) ubiquitous and consistently present in the environment at and in the vicinity of the disposal site of concern; and attributable to geologic or ecological conditions, or atmospheric deposition of industrial process or engine emissions;

(2) attributable to coal ash or wood ash associated with fill material;

(3) releases to groundwater from a public water supply system; or

(4) petroleum residues that are incidental to the normal operation of motor vehicles.

C. Environment: waters, land, surface or subsurface strata, or ambient air.

D. Release: any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, but excludes: (1) emissions from the exhaust of an engine, (2) release of source, by product, or special nuclear material from a nuclear incident, as those terms are defined in 42 USC Sec. 2014, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under 42 USC Sec. 2210, (3) the normal application of fertilizer, and (4) the application of pesticides consistent with their labeling.

E. Zone II: an area designated and approved by the Massachusetts Department of Environmental Protection to be the zone of contribution for a public water supply well. For the purposes of this Section 46, the term shall also include any Interim Wellhead Protection Area (IWPA) for any public water supply well. Both Zone II and IWPA as further defined in 310 CMR: 22.02.

Section 46.4 Zone II Prohibition

Contaminated soil which results from a release to the environment is prohibited from being brought into the Town of Wilmington to be disposed of, stored, stockpiled, spread onto the ground surface for any purpose, used for shaping, grading, or closure of a landfill or former landfill area, or used as fill material for any and all purposes within any Zone II acquifer protection area which has been approved by the Department of Environmental Protection.

Section 46.5 Enforcement

Failure to comply with any provision of this Section 46 is a violation of this Section 46. Each separate day of failure to comply constitutes a separate violation. Additionally, each individual instance of violation within each day constitutes a separate violation. In addition to and without limitation of any other available remedies, any person or entity who violates any provision of this Section 46 shall be subject to civil and/or criminal prosecution in a court of competent jurisdiction, including without limitation a civil action for injunctive relief to enjoin any such violation. Any violation of this Section 46 shall be punishable by a fine of $300.00. In addition to and without limitation of any other available remedies, this Section 46 may be enforced by use of the non-criminal disposition procedure set forth in M.G.L. c.40 §21D."

ALARM SYSTEMS
Section 47
47.1 Definitions

For the purpose of these regulations, the following definitions shall apply:

(a) Alarm Device: Any device which when activated by a criminal act, fire or other emergency calling for police/fire department response:

(1) Transmits a signal to police/fire headquarters: (2) transmits a signal to a person who relays the information to police/fire headquarters; or (3) produces an audible or visible signal to which the police/fire department is expected to respond. Excluded from this definition and the scope of these regulations are devices which are designed to alert or signal only persons within the premises in which the device is installed.

(b) Alarm User: The owner of any premises on which an alarm device is used: provided that an occupant who expressly accepts responsibility for an alarm device by registration pursuant to Section 47.4 shall be deemed the alarm user.

(c) Automatic Dial Alarm: A telephone device or attachment that mechanically or electronically selects a telephone line to police/fire headquarters and reproduces a pre-recorded voice message to report a criminal act, or other emergency calling for police department assistance.

(d) Contractor: Any firm or corporation in the business of supplying and/or installing alarm devices or servicing the same.

(e) False Alarm: Any activation of an alarm to which the police/fire department responds and which is not caused by a criminal act, fire or other emergency, except an activation caused by (1) malfunction of telephone company equipment or lines off premises as verified by monitoring facilities at police/fire headquarters, or (2) power failure as verified by the administrator. A series of such activations attributable to the same cause and occurring under circumstances beyond the control of the responsible alarm user shall not be deemed a false alarm.

47.2 Administration:

(a) There shall be in the town, an administrator for alarm devices who shall have the powers and duties granted under this by-law.

(b) The Chief of Police/Fire Chief or his designee shall be the administrator of these regulations as to their respective department's involvement.

47.3 Registration Required:

(a) Each alarm user shall register his alarm device or devices with the administrator prior to use; provided that the alarm devices in use as of the effective date of these regulations may be registered no later than sixty (60) days from such date.

47.4 Registration Procedure:

(a) Alarm device registration shall be accomplished by filling out a form provided by the administrator to include such information concerning the identity of the prospective alarm user, the identity of the alarm user's contractor, if any, and the nature of the proposed communication method, as the administrator may require.

(b) It shall be the responsibility of each alarm user to notify the administrator in writing of changes in registration information.

47.5 Confidential Information:

All information in the possession of the administrator, for alarm devices concerning particular alarm users and particular communication method shall be confidential and shall not be divulged without the written consent of the alarm user or users concerned.

47.6 Exterior Audible Devices:

Unless required by law, no alarm device which produces an exterior audible signal shall be installed unless its operation is automatically restricted to a maximum of twenty (20) minutes. Any alarm device in use as of the effective date of these regulations, must comply with this section within one hundred eighty (180) days of such date.

47.7 Reporting False Alarms:

Police/Fire personnel shall report false alarms to the administrator.

47.8 False Alarm Charges:

(a) When the administrator determines that the police/fire department has responded to a false alarm, the administrator shall impose a charge on the responsible alarm user according to the following schedule:

- for the first three (3) false alarm responses within the calendar year - No Charge.
- for the fourth and subsequent such false alarm response - $25.00 each alarm.

(b) In addition to the provision of Section 47.8(a) there shall be no charge for the first false alarm occurring within one month after installation of an alarm device and such false alarm shall not be considered for determining charges in accordance with the schedule set forth in Section 47.8(a).

47.9 Notification and Appeal:

(a) False Alarm Charges:

1. The administrator shall notify the responsible alarm user of any false alarm charge by mail. Within thirty (30) days after the mailing of such notice the alarm user may file with the administrator, information to show that the alarm was not a false alarm within the meaning of these regulations.
2. The administrator shall consider such information, affirm or rescind the false alarm charge, and notify the alarm user of his decision by mail, within thirty (30) days after the mailing of such notice.

47.10 Charges and Fees Paid into General Fund:

Charges for false alarms will be collected by the administrator and placed in the general fund.

47.11 Penalty for Certain Violations:

Any person who performs or causes to be performed any of the following acts shall be subject to a fine of up to one hundred ($100.00) dollars for each such act:

(a) Intentional causing of a false alarm.

(b) Failure to register an alarm device or give notice of changes in registration information as required by this by-law.

(c) Use of automatic dial alarm or an exterior audible alarm device in violation of the provisions of this by-law.

47.12 Town Assumes No Responsibility:

Notwithstanding the provisions of these regulations, the town, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy or maintenance of any alarm device or of the alarm monitoring facilities at police/fire headquarters. No liability whatsoever is assumed for the failure of such alarm devices or monitoring facilities, or for failure to respond to alarms for any other act or omission in connection with such alarm devices. Each alarm user shall be deemed to hold harmless the town, its departments, officers, agents and employees for liability in connection with the alarm user's alarm device.

47.13 Exceptions:

The provisions of these regulations shall not apply to alarm devices on premises owned or controlled by the town, nor to alarm devices installed in a motor vehicle or trailer:

Section 48 Wetlands Enforcement

1. PURPOSE

The purpose of this By-law is to provide additional enforcement for the protection of jurisdictional wetlands resource areas and adjoining land areas in the Town of Wilmington, which are subject to the performance standards and procedures of the Wetlands Protection Act (M.G.L. Chapter 131 § 40).

This enforcement By-law is intended to utilize the Home Rule authority of the municipality to authorize additional enforcement actions.

2. JURISDICTION

The enforcement By-law overlays those resource areas currently protected by the Wetlands Protection Act (M.G.L. Chapter 131 § 40) and the 100-foot Buffer Zone.

3. ENFORCEMENT

1. No person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter resource areas protected by the Wetlands Protection Act, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with an Enforcement Order issued pursuant to the Wetlands Protection Act (M.G.L. Chapter 131 § 40).
2. The Commission shall have authority to enforce the Wetlands Protection Act (M.G.L. Chapter 131 § 40), and permits and orders issued thereunder, by violation notices, non-criminal citations under M.G.L. Chapter 40 § 21D, and civil and criminal court actions. Any person who violates provisions of this By-law may be ordered to restore the property to its

original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

3. When a violation is believed to have occurred, the following Procedures for Violations shall be followed:

   A. The Commission or its agent shall conduct a site visit to determine if a violation has occurred and the extent of the violation.

   B. Upon notification of a violation, the Commission shall issue a notice of violation to each party whom it believes is responsible and may, at its discretion, require any of the following remedies:

      a. work shall stop and erosion and sediment control measures shall be implemented forthwith; and/or

      b. responsible party shall attend a scheduled Commission meeting to present a "mitigation plan"; and/or

      c. responsible party shall file a Request for Determination of Applicability; and/or

      d. responsible party shall file a Notice of Intent.

   C. If the responsible party does not timely comply with the required remedies as specified in the notice of violation, the Commission shall issue an Enforcement Order pursuant to M.G.L. Chapter 131 § 40.

   D. If the responsible party fails to comply with the Enforcement Order by the dates specified in the Enforcement Order, a fine may be levied as specified in Section IV of this By-law. The responsible party shall be notified of the fine by certified mail and first class mail.

4. Upon request of the Commission, the Board of Selectmen and Town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law. These remedies are cumulative and not mutually exclusive.

4. FINES

1. Any person who violates any provision of this By-law, wetland permits, or administrative orders issued thereunder, shall be subject to a fine pursuant to Section IV 2 herein, but in any event a fine of no more than $300.00 for each offense. From the first day of the occurrence, a violation shall be considered a single, continuing violation for the purpose of fine assessment. However, upon notice of an Enforcement Order specifying remediation required of the offending party by the Commission, the party shall comply fully with that Order by a date certain, as specified within the Order to complete remediation. Upon the first day following the expiration date of the Order for remediation, the offense shall then be considered a subsequent offense and subject to enhanced fines pursuant Section IV 2 herein. The Commission may, in its sole discretion, and upon written application by the offending party, extend the time for compliance.

2. Fines may be assessed according to the schedule below. First offense fines may be waived at the discretion of the Commission or its agent,

provided the offender presents the Commission or agent with an acceptable remediation plan and implementation timeline.

	Unauthorized Activity in Buffer Zone	Unauthorized Activity in Wetlands Resource Area	Non-Compliance with an Order of Conditions or Enforcement Order or Violation Notice
First Offense	$ 25.00	$ 50.00	$ 50.00
Second Offense	$ 50.00	$ 150.00	$ 200.00
Third Offense (and any subsequent offense)	$ 300.00	$ 300.00	$ 300.00

3. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in M.G.L. Chapter 40 § 21D, which has been adopted by the Town in Section 38 of the By-Laws of the Inhabitants of the Town of Wilmington Revised.

5. BY-LAW CHANGES

Changes to the By-Law shall be accomplished by vote of Town Meeting. This Wilmington Wetlands Enforcement By-Law does not give the Conservation Commission authority to promulgate regulations.

6. SEVERABILITY

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof, which other provisions shall remain in effect, nor shall it invalidate any order, permit, approval or determination which previously has been issued.

7. EFFECTIVE DATE

The effective date of this by-law will be the date on which this By-law is approved by vote at the 2006 Wilmington Annual Town Meeting. (New section adopted (4/28/2006)

SECTION 49 PROHIBITION OF ILLICIT DISCHARGE TO STORM DRAIN SYSTEM

49.1 PURPOSE

The purpose of this section is to eliminate non-stormwater discharges to the Town of Wilmington's Municipal Storm Drain System. Non-stormwater discharges contain contaminants and supply additional flows to the Town's storm drain system. Increased and contaminated stormwater runoff is a major cause of:

(1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;

(2) contamination of drinking water supplies;

(3) contamination of clam flats and other coastal areas;

(4) alteration or destruction of aquatic and wildlife habitat; and

(5) flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Wilmington's natural resources, municipal facilities, and to safeguard the public health, safety, welfare and the environment.

49.2 OBJECTIVES

The objectives of this section are:

(1) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);

(2) To prohibit illicit connections and unauthorized discharges to the MS4;

(3) To require the removal of all such existing illicit connections, regardless of whether such connections were permitted or otherwise acknowledged prior to the implementation of this by-law;

(4) To comply with state and federal statutes and regulations relating to stormwater discharges; and

(5) To establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

49.3 DEFINITIONS

Unless a different definition is indicated in other sections of this Section 49, the following definitions and provisions shall apply throughout this Section 49, also referred to as this by-law or Section.

AUTHORIZED ENFORCEMENT AGENCY: The Wilmington Board of Health (hereafter "the BOH"), its employees or agents designated to enforce this by-law.

AUTHORIZED ADMINISTERING AGENCY: The Wilmington Department of Public Works (hereafter "the Department" or "DPW"), its employees or agents designated to administer and implement this by-law.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER: Water beneath the surface of the ground.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 6. The term does not include a discharge in compliance with an NPDES Storm Water Discharge

Permit or resulting from fire fighting activities exempted pursuant to Part G (4)(B), of this by-law.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Wilmington.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

(1) paints, varnishes, and solvents;

(2) oil and other automotive fluids;

(3) non-hazardous liquid and solid wastes and yard wastes;

(4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;

(5) pesticides, herbicides, and fertilizers;

(6) hazardous materials and wastes; sewage, fecal coliform and pathogens;

(7) dissolved and particulate metals;

(8) animal wastes;

(9) rock; sand; salt, soils;

(10) construction wastes and residues;

(11) and noxious or offensive matter of any kind.

PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER: Runoff from precipitation or snow melt.

TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or

radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WASTEWATER: any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

49.4 APPLICABILITY

This section shall apply to flows entering the municipally owned storm drainage system.

49.5 AUTHORITY

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

49.6 RESPONSIBILITY FOR ADMINISTRATION

The BOH shall enforce this by-law. The BOH will work with the Department of Public Works ("DPW") to administer and implement this by-law. Any powers granted to or duties imposed upon the BOH may be delegated in writing by the BOH to employees or agents of the BOH and/or the DPW. References to the BOH, Department or DPW within this by-law are understood to denote either or both of these agencies.

49.7 REGULATIONS

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

49.8 PROHIBITED ACTIVITIES

(1) Illicit Discharges
No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

(2) Illicit Connections
No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

(3) Obstruction of Municipal Storm Drain System
No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior consent from the Department. No person shall dump or dispose of yard waste (leaves, grass clippings, etc.) into the open watercourses (swales, brooks and streams) that make up the stormwater system.

(4) Exemptions

A. Discharge or flow resulting from fire fighting activities;

B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

(1) Waterline flushing;

(2) Flow from potable water sources;

(3) Springs;

(4) Natural flow from riparian habitats and wetlands;

(5) Diverted stream flow;

(6) Rising groundwater;

(7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the Department prior to discharge, and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the Department;

(8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;

(9) Discharge from landscape irrigation or lawn watering;

(10) Water from individual residential car washing;

(11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;

(12) Discharge from street sweeping;

(13) Dye testing, provided verbal notification is given to the Department prior to the time of the test;

(14) Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

(15) Discharge for which advanced written approval is received from the Department as necessary to protect public health, safety, welfare or the environment.

(5) Other Prohibited Activities

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

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

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

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

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

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

49.9 EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

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

49.10 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

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

49.11 MONITORING OF DISCHARGES

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

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

2) Facility operators shall allow the BOH and DPW ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge

storm water, and the performance of any additional duties as defined by state and federal laws.

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

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

5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the BOH and DPW and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6) Unreasonable delay in allowing the BOH or DPW access to a permitted facility constitutes a violation of a storm water discharge permit and of this by-law. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity violates this Section 49 if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this by-law.

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

49.12 WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. Compliance with this by-law does not waive the responsibility of the property owner or lessee for applying for and receiving any other required Town, State or Federal permits associated with activities or uses otherwise regulated under other regulatory jurisdiction (e.g. Wetlands Protection Act).

49.13 NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written

confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

49.14 ENFORCEMENT

The BOH or an authorized agent of the BOH shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

49.14.1. Civil Relief

If a person violates the provisions of this Section 49, regulations, permit, notice, or order issued thereunder, the BOH may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

49.14.2. Orders

The BOH or an authorized agent of the BOH may issue a written order to enforce the provisions of this section or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

A. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

B. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Department within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Department affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs pursuant to M.G.L. Ch. 40, §58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57 after the thirty-first day at which the costs first become due.

49.14.3. Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and in which case the Health Director and DPW Director of the Town shall be the enforcing person. The penalty for the 1st and

all subsequent violations shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

49.14.4. Criminal Penalty
Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

49.14.5. Entry to Perform Duties Under this Section
To the extent permitted by applicable law, or if authorized by the owner or other party in control of the property, the BOH and DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the BOH and DPW deems reasonably necessary.

49.14.6. Appeals
The decisions or orders of the BOH and DPW shall be final. Further relief shall be to a court of competent jurisdiction.

49.14.7. Remedies Not Exclusive
The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

49.15 SEVERABILITY

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

SECTION 50 EXCAVATION AND TRENCH SAFETY

Section 50.1 PURPOSE

The purpose of this chapter is to establish reasonable standards to protect the safety of the citizens of the Town of Wilmington from the hazards inherent in trenches and to provide for penalties for individuals who violate any provision of this chapter.

50.2 DEFINITIONS

The following terms shall have the same meanings as those set forth in 520 CMR 14.02: Competent Person, Emergency, Excavator, General Public, Permit Holder, Trench and Unattended Trench.

50.3 AUTHORITY, FEE

This chapter is enacted pursuant to the provisions of M.G.L. Ch. 82A, the regulations of the Department of Public Safety in conjunction with the Division of Occupational Safety as promulgated under 520 CMR 14.00. A reasonable fee to defray the cost of administration incurred in the review and processing of permits under this By-law shall be established pursuant to M.G.L. Ch. 40, S. 22F and Ch. 82A, S. 2.

50.4 PERMITTING REQUIREMENTS

No person shall, except in an emergency, make a trench excavation in any public way, public property or privately owned land until a permit is obtained from the Permitting Authority. The Permit Holder shall be responsible for obtaining the

appropriate permit for the excavation of trenches for each project from the Permitting Authority.

50.5 PERMITTING AUTHORITY

The Town Manager or his designee shall serve as the "Permitting Authority" for excavations to take place on both property that is owned or controlled by a public agency or that a public agency otherwise has a property interest in, including, but not limited to, an easement and for excavations to take place on privately owned land. Designees of the Town Manager may include the Director of the Department of Public Works, the Building Inspector, the Health Director and the Fire Chief or their respective designees.

50.6 POSTING

All permits issued pursuant to this chapter shall be posted in plain view on the site of the trench. All permits shall be made available to the Permitting Authority, any investigator from the Division of Occupational Safety, any inspector of the Department of Public Safety or any other lawfully authorized authority.

50.7 PROTECTIONS

The protections for the general public shall be those set forth in 520 CMR 14.04 which are expressly incorporated into this By-law.

50.8 FIRE DEPARTMENT DETAIL

In the event that the Permitting Authority becomes aware or is notified of an unattended trench during a time when the permit holder is unavailable, it may require a fire department detail to attend such unattended trench to protect the general public, the cost of which shall be assessed to the permit holder.

50.9 IMMEDIATE SHUTDOWN, RE-INSPECTION

Whenever the Permitting Authority or an inspector from either the Department of Public Safety or the Division of Occupational Safety deems a condition at a trench site to be a threat to public safety, he may order that the area around the trench be made safe for the general public and may further order the immediate shutdown of the site until such time as the condition has been corrected to the satisfaction of the authority responsible for the immediate shutdown. Conditions which warrant immediate shutdown of a trench site by the Permitting Authority, an inspector from the Department of Public Safety or the Division of Occupational Safety may include those conditions set forth in 520 CMR 14.05(5). The trench site shall remain closed until all necessary repairs and corrections have been made to the satisfaction of the authority responsible for the immediate shutdown, provided however, that the Department of Public Safety and Division of Occupational Safety shall have concurrent jurisdiction to authorize the reopening of a trench shut down by either agency. Reopening of the site may not occur until the site has been inspected by the authority ordering the immediate shutdown and found to be safe for reopening and operation.

50.10 APPLICATION

The provisions of this chapter shall apply to any excavator in the Town of Wilmington.

50.11 VIOLATIONS

Any person violating this chapter shall be fined three hundred dollars ($300.00) for each offense, each day constituting a separate offense. The enforcing persons for this By-law shall be the Permitting Authority or his designees and any one fire shift commander of the Town of Wilmington. Non-criminal disposition of violations shall be available to apply to violations pursuant to Chapter 5, Section 38 of the By-

laws of the Inhabitants of the Town of Wilmington Revised.or take any other action related thereto. (Adopted 5/2/2009)

COMPREHENSIVE STORMWATER MANAGEMENT BYLAW

SECTION 51.1 AUTHORITY, PURPOSE AND DEFINITIONS

51.1.1 AUTHORITY

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Wilmington at Town Meeting, dated May 2, 2009.

51.1.2 PURPOSE

The purpose of this Bylaw is to regulate discharges to the Municipal Separate Storm Sewer System (MS4) to protect the Town of Wilmington's water bodies and groundwater and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with construction sites, developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater. This is accomplished through the following:

1.2.1 Institute water resource protection measures identified in the Supplemental Final Comprehensive Water Resource Management Plan / Environmental Impact Report - Commonwealth of Massachusetts EOEA File Number 8844 (CWRMP);
1.2.2 Protect groundwater and surface water from degradation
1.2.3 Promote groundwater recharge
1.2.4 Require practices to control the flow of stormwater from new and redeveloped sites into the Town storm drainage system in order to prevent flooding and erosion
1.2.5 Require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities
1.2.6 Prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and minimize discharge of pollutants from the MS4
1.2.7 Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
1.2.8 Ensure adequate long-term operation and maintenance of structural stormwater best management practices so that they work as designed
1.2.9 Comply with state and federal statutes and regulations relating to stormwater discharges; and
1.2.10 Establish the Town's legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.

Nothing in this Bylaw is intended to replace the requirements of either, the Town of Wilmington Zoning Bylaw, General Bylaw, or any other Bylaw that may be adopted by the Town of Wilmington. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

51.1.3 DEFINITIONS

Definitions that apply in the interpretation and implementation of this Bylaw shall be included as part of any Stormwater Regulations promulgated as permitted under Section 3.2 of this Bylaw.

SECTION 51.2 APPLICABILITY

51.2.1 No person undertaking construction activity that requires a Planning Board review (including new residential subdivisions and multi-family development, new

commercial/industrial development or commercial/industrial redevelopment), a Building Permit (such as new single family residential development or redevelopment), utility line work, or any other threshold set forth in sections 2.2, 2.3, or 2.4 of this Bylaw may proceed without obtaining a Stormwater Management Permit (SMP) or a Simple Stormwater Management Permit (SSMP) from the Planning Board.

51.2.2 Stormwater Management (SMP)

A Stormwater Management Permit (SMP) is required for the following:

2.2.1 Any activity that will disturb or alter 20,000 square feet or more of land, or which is part of a common plan for development that will disturb or alter 20,000 square feet or more of land, except that: .

a. Single-family construction on residential lots on existing roadways with no required roadway improvements (Existing Lots or Approval Not Required Lots) that disturbs more than 20,000 square feet of land in aggregate (Maximum 4 Lots or less) shall be required to obtain a Simple Stormwater Management Permit (SSMP) for each lot instead of a SMP.

2.2.2 Any activity that must undergo Site Plan Review per the Wilmington Planning Board Site Plan Review Rules and Regulations, except that:

a. A Site Plan change of use that does not alter the site and does not trigger Standard 5 of the Massachusetts Stormwater Management Standards (uses with a higher pollutant load) shall be exempt.

b. A Site Plan Amendment that does not include changes to the site that impact the function of the stormwater management system on the site shall not require a SMP.

51.2.3 Simple Stormwater Management Permit (SSMP**)**

A Simple Stormwater Management Permit (SSMP) is required for the following:

2.3.1 Any activity, except as exempted under Section 2.4, that will disturb or alter less than 20,000 square feet of land, or which is part of a common plan for development that will disturb or alter less than 20,000 square feet of land.

2.3.2 Construction or maintenance and repair of utility lines or systems (gas, water, electric, telephone, fire alarms, drainage, etc.) that will disturb or alter less than 20,000 square feet of land and that will temporarily or permanently alter terrain, ground cover, or drainage patterns.

2.3.3 Activities identified in 2.2.1.a above.

51.2.4 Exemptions

No person shall disturb or alter land within the Town of Wilmington without having obtained a Stormwater Management Permit (SMP) or Simple Stormwater Management Permit (SSMP) for the property with the following exceptions:

2.4.1 Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulation 310 CMR 10.04 and MGL Chapter 40A Section 3.

2.4.2 Maintenance of existing landscaping, gardens or lawn areas associated with single-family residential lots, or creating new landscaping, gardens or lawn areas on single-family residential lots that will result in a net decrease in impervious area and will not alter drainage patterns

2.4.3 Creating impervious area consisting of a previously existing unpaved driveway for a single family dwelling, or expansion of an existing paved driveway for a single family dwelling.

2.4.4 The construction of fencing that will not alter existing terrain or drainage patterns.

2.4.5 Construction or maintenance and repair of utility service lines (gas, water, electric, telephone, fire alarms, etc.) other than drainage lines or systems, which will not alter terrain, ground cover, or drainage patterns.

2.4.6 Emergency repairs to any stormwater management facility or situation that poses a threat to public health or safety, or as deemed necessary by the Planning Board.

2.4.7 Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this Bylaw.

2.4.8 Construction of decks, patios, walkways, driveways, sheds, swimming pools, tennis or basketball courts, or replacement of septic systems on lots having an existing dwelling.

2.4.9 An increase in the footprint of a house by less than 600 square feet.

2.4.10 Repair or upgrade of septic systems when required by the Board of Health for the protection of public health.

SECTION 51.3 ADMINISTRATION

51.3.1 The Planning Board, shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to its employees or agents.

51.3.2 RULES AND REGULATIONS - The Planning Board may adopt, and periodically amend, Rules and Regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Comprehensive Stormwater Management Bylaw by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date. After public notice and public hearing, the Planning Board may promulgate Rules and Regulations to effectuate the purposes of this Bylaw. The Planning Board by such Rules and Regulations may delegate to the Director of Planning and Conservation the authority to administer, implement and enforce this Bylaw and such Rules and Regulations. Failure by the Planning Board to promulgate such Rules and Regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

51.3.3 STORMWATER MANAGEMENT HANDBOOK - The Planning Board will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Standards and Handbook for execution of the provisions of this Bylaw. This Handbook includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The standards and handbook may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Town of Wilmington Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

51.3.4 SIMPLE STORMWATER MANAGEMENT PERMIT (SSMP**)** - The Planning Board shall have the authority to develop a Simple Stormwater Management Permit (SSMP) for specific types of projects and thresholds as defined in Section 2.3 of this Bylaw. Requirements of the SSMP shall be defined and included as part of any Stormwater Regulations promulgated as a result of this Bylaw.

51.3.5 ACTIONS - The Planning Board may take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of Stormwater Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, or Disapproval.

51.3.6 APPEALS OF ACTIONS - A decision of the Planning Board shall be final. Further relief of a decision by the Planning Board made under this Bylaw shall be reviewable in the Superior Court in and action filed within 60 days thereof, in accordance with M.G.L. Ch 249 § 4.

51.3.7 PERMITS AND PROCEDURES - Permit Procedures and Requirements shall be defined and included as part of any Rules and Regulations promulgated as permitted under Section 3.2 of this Bylaw.

51.3.8 WATER RESOURCES MITIGATION FUND - The Planning Board may allow the applicant to contribute to the Town of Wilmington Water Resources Mitigation Fund in lieu of an onsite stormwater facility where it has been demonstrated that there are not sufficient conditions for onsite stormwater best management practices in order to meet the Performance Standards as described in the Regulations promulgated under this Bylaw. Funds may be used to design and construct storm water projects that will improve the quality and quantity of surface waters in Wilmington by treating and recharging storm water from existing impervious surfaces that is now discharged to said waters with inadequate treatment or recharge. The fee for contribution to the fund shall be determined by the Planning Board.

SECTION 51.4 ENFORCEMENT

51.4.1 Any person who violates any provision of this By-law shall be punished by a fine of $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

51.4.2 The Planning Board or an authorized agent of the Planning Board, shall enforce this Bylaw and Regulation promulgated hereunder by means including without limitation, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further

defined and included as part of any Stormwater Regulations promulgated as permitted under Section 3.2 of this Bylaw.

51.4.3 As an alternative to criminal prosecution or civil action, the Planning Board may elect to use the non-criminal disposition procedure set forth in M.G.L. C. 40, S. 21D, in which case the authorized agent of the Planning Board shall be the enforcing person. The penalty for violation shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

SECTION 51.5 SEVERABILITY

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

SECTION 52 – CURFEW IN PUBLIC PARKS, PLAYGROUNDS AND FIELDS

52.1 – Definitions

(a) "Public parks" shall mean Town-owned property which is made available to the public for outdoor activities, recreational use, and similar activities;

(b) "Playgrounds" and "fields" shall mean Town-owned property which is made available to the public for games, sports activities, and similar activities.

(c) "Juvenile" – any person under the age of seventeen (17).

(d) "Town-owned property" shall mean all property owned by the Town or by any of its departments, including but not limited to the Wilmington Public Schools.

52.2 – Curfew

52.2.1 – Hours

It shall be unlawful for any person to remain idle, wander, stroll, play or be present within the boundaries of any public park, playground, or field, whether on foot, bicycle, or vehicle or conveyance of any kind, between the hours of one (1) hour after sunset and one (1) hour before sunrise.

52.2.2 – Exception

Notwithstanding the foregoing prohibition:

(a) a person may lawfully be present in a public park, playground or field during the hours prohibited by this section 52 only if such person has obtained a permit from the Town's Recreation Department or Public School Department, as applicable, which specifies the date and the hours of permitted use and a specific description of the permitted use. It shall be a violation of section 52.2.1 if any person covered by the permit is present on such property beyond the specified hours of use or engages in activity other than that specifically authorized by the permit;

(b) a person may lawfully be present during the hours prohibited by this section 52 in those portions of a public park, playground or field which are illuminated by lighting which is controlled by the Town. Such person may be present in such portions of such property only during such hours as the Town controlled lighting is in active operation. It shall be a violation of section 52.2.1 if any such person is present in such portions of such property beyond the time at which such Town controlled lighting is shut off.

52.2.3 – Signage

The Town shall conspicuously post signage at the entrance(s) to public parks, playgrounds, and fields stating the hours of curfew and stating that violations will be subject to enforcement as set forth in this section 52.

52.3 – Juveniles

52.3.1 – Parental Responsibility

It shall be unlawful for the parent or the legal guardian of a juvenile to suffer to permit, or by insufficient control, to allow the juvenile to be in violation of section 52.2.1, above, unless such parent or legal guardian has made a missing person notification to the Town Police Department.

52.3.2 – Procedure for Juveniles

(a) Any police officer of the Town, upon observing a juvenile in violation of section 52.2.1, above, shall ascertain the true name and address of such juvenile; shall warn such juvenile that he or she is in violation of this by-law; and shall direct such juvenile to immediately proceed to his or her residence. The officer shall make an official report to the Town's Chief of Police, who shall cause his designee to notify the parent or legal guardian. The first violation within a calendar year shall constitute a "warning" and shall be so noted in the records of the Town's Police Department.

(b) If there is a second, and any subsequent, violation by a juvenile; a refusal by the juvenile to obey the direction of the officer; or a refusal by the juvenile to provide his or her true name and address or the provision by the juvenile of a false name or address, the juvenile shall be taken by the officer to the Town's Police Department and the parent or legal guardian shall be promptly notified to appear and to take charge of the juvenile.

52.4 – ENFORCEMENT AND PENALTIES

As an alternative to criminal prosecution under applicable provisions of the General Laws, including, but not limited to, General Laws Chapter 266, Section 120, the Town, acting through its Police Department, may elect to use the non-criminal disposition procedure set forth in General Laws Chapter 40, Section 21D. The penalty for violation of this section 52 shall be $100.00 for the first offense and $150.00 for each offense thereafter. (Adopted 5/5/12 at Town Meeting, approved by AG on 8/7/12)

53. Criminal History Check Authorization

53.1 Fingerprint Based Criminal History Checks. The Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172 B 1/2, conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for the following licenses:

- Hawking and Peddling or other Door-to- Door Salespeople, (Police Chief)
- Manager of Alcoholic Beverage License (Board of Selectmen)
- Owner or Operator of Public Conveyance (Board of Selectmen)
- Dealer of Second-hand Articles (Board of Selectmen)
- Hackney Drivers, (Board of Selectmen)
- Ice Cream Truck Vendors (Board of Health)

53.1.1 Notification. At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records. The Police Chief shall periodically check with the Executive Office of Public Safety and Security ("EOPSS") which has issued an Informational Bulletin which explains the requirements for town by-laws and the procedures for obtaining criminal history information, to see if there have been any updates to be sure the Town remains in compliance.

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

53.1.3 Authorization to Conduct Fingerprint-Based State and National Criminal Record Background Checks. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS) and the Federal Bureau of Investigation (FBI), and their successors as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this by-law. The State and FBI criminal history will not be disseminated to unauthorized entities. Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of his/her criminal history record from the Police Department. Should the record subject seek to amend or correct his/her record, he/she must take appropriate action to correct said record, which action currently includes contacting the Massachusetts Department of Criminal Justice Information Services (DCJIS) for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wants to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct or update the record are set forth in Title 28 CFR 16.34. The Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this by-law until it has taken the steps detailed in this paragraph.

53.1.4 Municipal officials should not deny an applicant the license based on information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so. The Police Department shall communicate the results of fingerprint-based criminal record background checks to the appropriate governmental licensing authority within the Town as listed. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his or her suitability or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

53.1.5 Regulations. The Board of Selectmen is authorized to promulgate regulations for the implementation of the proposed by-law, but in doing so it is recommended that they consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database and other applicable state laws.

53.2 Use of Criminal Record by Licensing Authorities. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background

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

The Town or any of its officers, departments, boards, committees or other licensing authorities is hereby authorized to deny any application, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this by-law.

53.3 Fees. The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be determined by the Board of Selectmen and shall not exceed one hundred dollars ($100.00). The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services regarding the proper municipal accounting of those fees. A portion of the fee, as specified in Mass. Gen. Laws Chapter 6, Section 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

53.4 Effective Date. This by-law shall take effect May 4, 2013, so long as the requirements of G.L. Chapter 40 Section 32 are satisfied. (Adopted 5/4/13, approved by AG 8/20/2013)

SECTION 54: ENFORCEMENT OF BOARD OF SELECTMEN RULES AND REGULATIONS

Section 54.1 Scope

This section shall apply to all rules and regulations duly adopted and promulgated by the Board of Selectmen acting as the Board of Park Commissioners, pursuant to its authority under General Laws, Chapter 45, Section 5. (Please see Silver Lake Beach Rules and Regulations)

Section 54.2 Enforcement of Rules and Regulations

As an alternative to criminal prosecution for violations of the rules and regulations referred to in Section 54.1 of these By-laws under applicable provisions of the General Laws, including but not limited to General Laws, Chapter 45, Section 24, the Town, acting through its Police Department, may elect to use the non-criminal disposition procedure set forth in General Laws, Chapter 40, Section 21D. The penalty under this Section 54.2 for violation of such rules and regulations shall be $50.00 for each offense. (Adopted ATM 5/3/2014, Approved by AG 5/19/2014)

Section 55. Prohibition of Marijuana Establishments

Pursuant to Section 3 of Chapter 94G of Massachusetts General Laws, all types of marijuana establishments, as defined by Section 1 of Chapter 94G of Massachusetts General Laws and as may otherwise be defined by Massachusetts law or regulation, including without limitation all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, on-site consumption at a business location, all other

types of licensed marijuana-related businesses, and the conducting of any such activity for commercial purposes by whichever name used, shall be prohibited within the Town of Wilmington. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000; or to take any other action related thereto. (Adopted 12/16/17, AG approval 04/04/18

Section 56 Ban on Plastic Bags

This action shall ban town stores from the use of disposable, single use plastic bags at retail establishment, food establishments, grocery stores, and other establishments at which goods are purchased. This excludes paper bags and bags intended for produce/meat, newspaper, and laundry/dry cleaning articles. Residents will be encouraged to bring their own reusable shopping bags. If shoppers would like to use a paper bag, stores can determine a fee to offset the cost.

Section 1. Purpose and Intent:

The purpose of this bylaw is to limit the amount of plastic that enters and impacts the environment of Wilmington, and reduce the amount of trash that ends up on the streets and in landfills by using recyclable, reusable, or compostable bags instead of thin-film single-use plastic checkout bags.

Section 2. Definitions:

"Disposable, single use, plastic bags" – Any checkout bag made predominately of plastic derived from either petroleum, natural gas, or a biologically based source, such as corn or other plant sources, which is provided to a customer at the point of sale. Typically with plastic handles, these are bags with a thickness of 2.5 mils or less and are intended for single-use transport of purchased products. This includes bags that are not commercially compostable.

"Paper Bags": A paper bag that is 100 percent recyclable and contains at least 40 percent post-consumer recycled content, and displays the words "Recyclable" and "made from at least 40% post-consumer recyclable content" in a visible manner on the outside of the bag.

"Retail Establishment": Any commercial enterprise, whether for or not-for-profit, including, but not limited to the following: pharmacies, convenience stores, liquor stores, seasonal and temporary business, jewelry stores, clothing stores, household goods stores and any other business that offers the sale and display of merchandise.

"Food Establishment": Any establishment whose purpose is to prepare and vend food and drink items.

"Grocery Store": Any establishment where more than fifty percent of the gross floor area is devoted to the sale of food products for home preparations and consumption, and home are and personal care products.

The term "disposable, single-use, plastic shopping bag" shall not include: (1) Reusable bags; (2) Produce/meat bags; (3) Newspaper bags; or (4) bags for laundry/dry cleaning articles.

Section 3. Enforcement and effective date:

Enforcement:

a. The Town of Wilmington Board of Health and its Director/Agent or their designee shall have the authority to administer and enforce this bylaw.

b. The following penalties shall apply:

1. First offense: Written warning, each day of violation after written notice, is a separate violation.

2. Second offense: $100.00

3. Third offense: $300.00 and appearance in front of the Board of Health, any subsequent offenses: $300.00.

Effective date: This Bylaw shall take effect one year after acceptance on May 5, 2019, following approval of the Bylaw by the Attorney General; or take any other action related thereto.

CHAPTER 6
INVALIDITY

The invalidity of any section or provision of these by-laws shall not invalidate any other section or provision. The repeal of said existing by-laws and the adoption of the aforesaid by-laws not to take effect until approved by the Attorney General and posted.

HOW TO AMEND THESE BY-LAWS

These by-laws may be amended or other by-laws may be adopted at any town meeting. One or more articles for such purposes may be inserted in the warrant for a town meeting by the Selectmen or by the procedures described in the following excerpts from the General Laws, Chapter 39, Section 10: "The Selectmen shall insert in the warrant for the annual meeting all subjects the insertion of which shall be requested of them in writing by ten or more registered voters of the town and in the warrant for every special town meeting all subjects the insertion of which shall be requested of them in writing by one hundred registered voters or by ten percent of the total number of registered voters of the town whichever number is the lesser.

The written request of registered voters for the insertion of subjects in town meeting warrants shall not be valid unless the required number of registered voters not only sign their names but also state their residence with street and number, if any the board of registrars of voters shall check and forthwith certify the number of signatures so checked.

CHAPTER 592

AN ACT ESTABLISHING A TOWN MANAGER FORM OF GOVERNMENT FOR THE TOWN OF WILMINGTON

BE IT ENACTED, ETC., AS FOLLOWS:

SECTION 1. Scope of the Act. Whenever any board, commission, committee or office is provided for or referred to in this act, the term of office of the members or incumbents thereof, the number of members and the powers, duties and obligations appertaining thereto, shall be the same as may now or hereafter be fixed by general provisions of law with respect to town boards, commissions, committees or offices having corresponding powers or duties, or by the by-laws of the town, now or hereafter in force, except as expressly otherwise provided herein.

Nothing in this act shall be construed to affect in any manner any by-law of the town now in effect or which may be adopted hereafter, or the power of the town to amend, alter or adopt any by-law, or the operation or applicability to the Town of Wilmington of any general or special law now or hereafter in effect, except so far as may be expressly provided herein.

SECTION 2. Elective Officers. Beginning with the first town election following acceptance of this act, the only board, officers or committees to be elected by the voters shall be the Selectmen, the School Committee, the Moderator, and members of the Wilmington Housing Authority. Every other elective office, board or commission shall be terminated as herein provided, any other provision of law to the contrary notwithstanding. The term of office of any person elected to any office, board or commission existing at the time of such acceptance and terminated hereunder shall continue until such first town election and until the appointment and qualification of his successor, if any, and thereafter the said offices, boards or commissions shall be abolished, and all powers, duties and obligations conferred or imposed thereon by law shall be conferred and imposed upon the town manager, with the exception herein provided.

SECTION 2A. Recall of Elected Officers. Any person who holds an elected town office with more than six months remaining of the term of office may be recalled from the office by the voters in the manner as herein provided.

(a) One hundred and fifty or more voters may file with the Town Clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The signatures on such petition shall contain the names of at least ten voters in each of the precincts into which the town is divided for the purpose of electing town officers. If the said petition is found to be valid the Town Clerk shall thereupon deliver to the ten persons first named on such petition, petition blanks demanding said recall, printed forms of which he shall keep available. The blanks may be completed by printing or typewriting; they shall be addressed to the Board of Selectmen; they shall contain the names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; they shall be dated and signed by the Town Clerk. The recall petition shall be returned to the Town Clerk within twenty days following the date they are issued, signed by at least ten percent of the total number of persons registered to vote as of the date of the most recent town election. The Town Clerk shall within four (4) working days, commencing the day after submission with him/her submit the petitions to the Board of Registrars which shall within seven (7) working days, certify thereon the number of signatures which are names of voters.

(b) If the petitions shall be certified by the Registrars of Voters to be sufficient, the Town Clerk shall within five (5) working days, or at the next meeting of the Board of Selectmen submit the same with his/her certification. Upon its receipt of the certified petition the Board of Selectmen shall within two (2) working days, give notice, in writing, of said petition to the officer whose recall is sought. If said officer does not resign his office within five (5) working days following delivery of said notice, the Board of Selectmen shall order a special election to be held not less than sixty-five nor more than ninety days after the date of the certification of the Town Clerk that the petition is sufficient.

(c) The nomination of candidates, the publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with the charter and General Laws regulating elections.

d) Ballots used at the recall election shall state the proposition in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Adjacent to each proposition shall be a place to vote for either of said propositions. After the said proposition shall appear the word "candidates" and the name of the candidates arranged as determined by a drawing by lot conducted by the Town Clerk which shall be open to the public, unless another arrangement is required by a general law. If a majority of the votes cast on the proposition is against the recall, the votes for candidates need not be counted. If the majority of the vote's cast is in favor of recall, the votes for candidates shall be counted and the candidates receiving the highest number of votes shall be declared elected.

(e) The incumbent shall continue to hold his office and to perform his duties until the recall election. If he is not then recalled, he shall continue in office for the remainder of his unexpired term. If the officer is recalled, he shall be deemed removed upon the certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

(f) No recall shall be filed against an officer within six months after he takes office, or in the case of an officer subjected to recall and not recalled thereby, during the remainder of his unexpired term.

(g) The validation and the call for election certifies only compliance with the procedural requirements of this Act.

SECTION 3. Election of Selectmen. At the first town election following acceptance of this act, there shall be elected two selectmen for three years, two selectmen for two years, and one selectman for one year. Upon the qualification of the selectmen so elected, the term of office of the Board of Selectmen then existing shall terminate. At each annual town election thereafter, the voters shall elect selectmen for the three-year terms to replace those whose terms are about to expire. When a vacancy occurs among the selectmen by reason of death, resignation, change of residence from the town, or other disability, the remaining selectmen shall order a special election to be held not less than 65 days and not more than 90 days following the notification of the vacancy at which the voters shall elect a selectmen for the remainder of the unexpired term.

SECTION 4. Appointments by Selectmen. In addition to the Town Manager, whose appointment and removal is hereinafter provided for, the selectmen shall appoint, and may remove, a Board of Appeals under the provisions of Section Eighty-one R of Chapter Forty-one of the General Laws, which board shall also act as the Board of Appeals under the by-laws, election officers, Registrars of Voters except the Town Clerk, constables, Town Counsel and Town Accountant.

SECTION 5. Multiple Officers. A member of the Board of Selectmen, or of the School Committee, or of the Finance Committee, shall, during the term for which he was elected or appointed, be ineligible either by election or appointment to hold any other town office. Any person elected or appointed to any other office, board, commission, or committee under the provisions of this act or of any general or special law shall be eligible during the term of such office to election or appointment to any other town office, board, commission or committee, except that the Town Accountant shall not be eligible to hold the position of Town Treasurer or Town Collector. The Town Manager, subject to any applicable provision of law relating thereto, may assume the duties of any office which he is authorized to fill by appointment, except that he shall not appoint himself as a member of any board or committee.

SECTION 6. Investigations or Surveys. For the purpose of making investigations or surveys, the Town Manager, with the approval of the Selectmen, may expend such sums for the employment of experts, counsel and other assistants, and for the other expenses in connection therewith, as the town may appropriate for such purposes.

SECTION 7. Appointment of Town Manager. The selectmen elected as provided herein shall appoint, as soon as practicable, for a term of three years, a Town Manager who shall be a person especially fitted by education, training and by previous full time paid experience as a town or city manager or assistant manager, to perform the duties of the office. The Town Manager shall be appointed without regard to his political beliefs. The town manager need not be a resident of the town or of this commonwealth when appointed, and shall not, during the twelve months prior to his appointment have held any elective office in the Town of Wilmington. The town

manager may be appointed for successive terms of office. Before entering upon the duties of his office, the Town Manager shall be sworn to the faithful and impartial performance thereof by the Town Clerk, or a Justice of the Peace. The town manager .shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed or approved by the selectmen.

SECTION 8. Appointment of a Temporary Manager. Any vacancy in the office of Town Manager shall be filled as soon as possible by the selectmen. Pending the appointment of Town Manager or the filling of any vacancy, the selectmen may appoint a suitable person to perform the duties of the office.

SECTION 9. Acting Manager. The Town Manager may designate, by letter filed with the Town Clerk, a qualified officer of the town to perform his duties during his temporary absence or disability. In the event of failure of the manager to make such designation, the selectmen may, by resolution, designate an officer of the town to perform the duties of the manager until he shall return or his disability shall cease.

SECTION 10. Removal of Manager. The selectmen, by a majority vote of the full membership of the board, may remove the Town Manager. At least thirty days before such proposed removal shall become effective, the selectmen shall file a preliminary written resolution with the Town Clerk setting forth in detail the specific reasons for his proposed removal, a copy of which resolution shall be delivered to the Town Manager.

The Manager may reply in writing to the resolution and may request a public hearing. If the manager so requests, the Board of Selectmen shall hold a public hearing not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution, and after full consideration, the selectmen by a majority vote of the full membership of the board may adopt a final resolution of removal. In the preliminary resolution, the selectmen may suspend the Manager from duty, but in any case his salary shall continue to be paid until the expiration of one month from the date of adoption of the final resolution of removal.

SECTION 11. Compensation of Manager. The Town Manager shall receive such compensation for his services as the selectmen shall determine, but it shall not exceed the amount appropriated therefor by the town.

SECTION 12. Powers and Duties of Manager. In addition to any other powers and duties expressly provided for in this act, the Town Manager shall have the following powers and duties:

(a) He shall supervise and direct the administration of all departments, commissions, boards and offices except those mentioned in section two, three and four, and shall appoint and may, subject to the provisions of Chapter thirty-one of the General Laws where applicable, remove the Cemetery Commissioners, Water Commissioners, Board of Health, Board of Public Welfare, Planning Board, Library Trustees, Trustees of Trust Funds, a Town Collector, a Town Clerk, a Town Treasurer who may also act as Town Collector, a Board of Assessors of three members as here-in-after provided, a Superintendent of Streets, the Chief of Police and police officers, the Chief and members of the Fire Department, and such other officers and employees including school janitors, as may be necessary to carry out the powers and duties imposed upon him or upon the town either by this act, or by other provisions of law. Officers and employees not subject to Chapter Thirty-one of the General Laws shall not be removed by the Town Manager except on ten days' notice in writing, setting forth the cause of such removal.

(b) Subject to any applicable provisions of Chapter Thirty-one and of Section One Hundred and Eight A of Chapter Forty-one of the General Laws, the Town Manager shall fix the compensation of all town officers and employees appointed by him, within the limits of the amounts appropriated therefor by the town.

(c) The Town Manager shall attend all regular meetings of the Board of Selectmen except meetings at which his removal is being considered.

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

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

(f) The Town Manager shall have jurisdiction over the rental and use of all town property, except schools. He shall be responsible for the maintenance and repair of all town property, including school buildings and grounds. Except as otherwise voted by the town he shall be responsible for the preparation of plans and the supervision of work on all construction, reconstruction, alterations, improvements and other undertakings authorized by the town, subject however, to the approval of the School Committee with respect to plans for the construction or improvement of school buildings or property.

(g) The Town Manager shall purchase all supplies, materials and equipment, and shall award all contracts for all departments and activities of the town under his super-vision; and he shall make all purchases for departments or activities not under his supervision but only upon and in accordance with a requisition duly signed by the head of any such department.

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

(i) The Town Manager shall, with the approval of the selectmen, have authority to prosecute, defend or compromise all litigation to which the town is a party.

(j) The Town Manager shall perform such other duties, consistent with his office, as may be required of him by the by-laws or vote of the town or by vote of the selectmen.

(k) The Town Manager shall have access to all town books and papers for information necessary for the proper performance of his duties, and may without notice cause the affairs of any department or activity under his control or the conduct of any officer or employee thereof to be examined.

(l) The Town Manager may, with the approval of the Selectmen, and with the written approval of the Finance Committee, transfer the appropriation of one department, commission, board or office, in whole or in part, to any other.

SECTION 13. Appointment of Assessors. The Town Manager shall appoint a Principal Assessor, who shall devote his full time and attention to the duties of his office and shall serve as chairman of the board, and two additional assessors.

SECTION 14. Approval of Warrants. The Town Manager shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the Town Accountant in accordance with applicable provisions of law shall be submitted to the Town Manager. The approval of any such warrant by the Town Manager when countersigned by a majority of the selectmen, shall be sufficient authority to authorize payment by the Town Treasurer, but the selectmen alone shall approve all warrants in the event of the absence of the Town Manager or a vacancy in the office of Town Manager.

SECTION 15. Investigations of Claims. Whenever any payroll, bill or other claim against the town is presented to the Town Manager, he shall, if the same seems to him to be of doubtful validity, excessive in amount, or otherwise contrary to the interests of the town, refer it to the selectmen, who shall immediately investigate the facts and determine what, if any, payment should be made. Pending such investigation and determination by the selectmen, payment shall be withheld.

SECTION 16. Certain Officers not to make Contracts with the Town. It shall be unlawful for any selectman, the Town Manager, or any other elective or appointive official of the town, directly or indirectly, to make a contract with the town, or to receive any commission, discount, bonus, gift, contribution or reward from, or any

share in the profits of, any person or corporation making or performing such a contract, unless the official concerned immediately upon learning of the existence of such contract, or that such a contract is proposed, shall notify the selectmen in writing of the contract and of the nature of his interest therein and shall abstain from doing any official act on behalf of the town in reference thereto. In case such interest exists on the part of an officer whose duty it is to make such a contract on behalf of the town, the contract may be made by another officer of the town duly authorized thereto by vote of the selectmen. Violation of any provision of this section shall render the contract in respect to which such violation occurs voidable at the option of the town. Any person violating any provision of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or by both such fine and imprisonment.

SECTION 17. Estimates of Expenditures. All boards, officers and committees of the town shall annually, at the request of the Town Manager, submit to him in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments and offices during the next fiscal year. On or before 90 days prior to the Annual Town Meeting of each year, the Town Manager shall submit to each member of the Finance Committee and of the Board of Selectmen a copy of his annual budget, which shall contain a careful, detailed estimate of the probable expenditures of the town for the ensuing fiscal year, including a statement of the amounts required to meet the interest and maturing bonds and notes or other indebtedness of the town, and showing specifically the amount necessary to be provided for each office, department and activity, together with a statement of the expenditures for the same purposes in the two preceding years and an estimate of the expenditures for the current year. He shall also submit a statement showing all revenues received by the town in the two preceding years, together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. He shall also report to said committee and to the selectmen the probable amount required to be raised by taxation to defray all of the proposed expenditures of the town, together with an estimate of the tax rate necessary therefor.

SECTION 18. No contract existing and no action at law or suit in equity or other proceeding pending at the time this act is accepted or at the time of revocation of such acceptance shall be affected by such acceptance or revocation.

SECTION 19. This act shall be submitted for acceptance to the qualified voters of the Town of Wilmington at the first state election after the date of approval of this act. The vote shall be taken by ballot in accordance with the provisions of the General Laws, so far as the same shall be applicable, in answer to the question, which shall be placed upon the official ballot to be used at said election: - "Shall an act passed by the General Court in the year nineteen hundred and fifty, entitled 'An Act establishing a Town Manager form of government for the Town of Wilmington', be accepted by this town?" If a majority of the voters voting on this question shall vote in the affirmative, said act shall take effect immediately for the purposes of the next following town election, and for all things pertaining thereto, and shall take full effect upon the qualification of a majority of the selectmen first elected as provided in Section three. If this act is rejected by the qualified voters of the town when first submitted under this section, it shall be further submitted to the said voters at the second next following annual town election, and if accepted by a majority of the voters voting thereon it shall take effect as herein before provided. If a majority of the voters voting on this question when so further submitted shall vote in the negative, this act shall thereupon become void.

SECTION 20. Duties of Certain Town Officials relative to Election. It shall be the duty of the selectmen and Town Clerk in office and any other town official upon whom by reason of his office a duty devolves under the provisions of this act, when this act is accepted by the registered voters as herein provided, to comply with all the requirements of law relating to elections, to the end that all things may be done necessary for the nomination and election of the officers first to be elected under this act.

SECTION 21. At any time after the expiration of three years from the date of acceptance of this act, and not less than sixty days before the date of an annual meeting, a petition signed by not less than ten percent of the registered voters of the town may be filed with the selectmen, requesting that the question of revoking the acceptance of this act be submitted to the voters. The selectmen shall thereupon direct the Town Clerk to cause the said question to be printed on the official ballot to be used at the next annual town election in the following form: "Shall the acceptance by the Town of Wilmington of an act passed by the General Court in the year

nineteen hundred and fifty, entitled 'An Act establishing a Town Manager form of government for the Town of Wilmington' be revoked?" If such revocation is favored by a majority of the voters voting thereon, this act shall cease to be operative on and after the annual meeting next following such vote. All general laws respecting town administration and town officers, and any special laws relative to said town, the operation of which has been suspended or superseded by acceptance of this act, shall be revived by such revocation and shall continue to be in full force and effect. By-laws in force when such revocation takes effect, so far as they are consistent with general laws respecting town administration and town officers and with special laws relating to said town, shall not be affected thereby, but any other by-laws inconsistent with such general or special laws shall be annulled. If such revocation is not favored by a majority of the voters voting thereon, no further petition therefore shall be filed under this section oftener than once in every three years thereafter.

APPROVED JULY 5, 1950