

GENERAL BY-LAWS

TOWN OF MATTAPOISETT

2016

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GENERAL BY-LAWS OF THE TOWN OF MATTAPOISETT MASSACHUSETTS

ARTICLE 1

1.1. The Annual Town Meeting for the transaction of business (other than the election) shall be held on the second Monday of May each year. The election of all necessary officers and other matters to be determined by official ballot shall be held on Tuesday of the next week in May each year. Separate warrants shall be used for calling the meeting.

1.2. Notice of every town meeting shall be given by posting attested copies of the Warrant calling the same: --

one in the town Post Office and one in the Town Hall, at least seven days before the day appointed for the meeting.

1.3. At the Annual Town Meeting the following officers shall be balloted for on one ballot, to wit: -- For One Year Term; Moderator.

For Two Year Term: One Member of the Community Preservation Committee

For Three Year Term: -- One Selectman, Town Clerk, One Assessor, Highway Surveyor, Two Members of Mattapoissett School Committee, One Member of Old Rochester Regional District School Committee, Two Members of the Mattapoissett Library Trustees, One Water/Sewer Commissioner, One Member Board of Health, Two Constables, Tree Warden, Herring Inspector.

For Five Year Term: -- One Member of Mattapoissett Housing Authority, One Member of Planning Board.

1.4. On demand of twenty-five legal voters, the voting list shall be used as a check list in voting on any motion or resolution before a meeting of the town.

1.5. The Moderator shall require all persons to be seated, when there are sufficient seats for the purpose. Hand vote shall be used on all articles calling for the appropriation of money unless checklist is requested.

1.6. The number of voters necessary to constitute a quorum at any Town Meeting shall be Fifty: provided, however, that a number less than a quorum may from time to time adjourn the same. This shall not apply to such parts of meetings as are devoted exclusively to the election of Town Officers.

- 1.7. A motion to reconsider any action taken at an Annual or Special Town Meeting during the same meeting shall require a two thirds (2/3) vote of the Meeting; provided, however, that the Moderator may in his discretion permit the reconsideration by a majority vote if the purpose of such reconsideration is limited to the correction of a technical or legal defect in a vote which has been adopted at such a Meeting.
- 1.8. These By-Laws may be added to, amended, or repealed at an annual meeting, or at a special meeting, but in no case unless the particular By-Law to be acted on is specified in the warrant for the calling of said meeting.
- 1.9. Whenever any Town By-Law, Rule or Regulation provides for a criminal penalty for violation of said By-Law, Rule or Regulation, then the Town officer or employee responsible for the enforcement of said By-Law, Rule or Regulation (hereinafter referred to as the "enforcing person") may, as an alternative to initiating criminal proceedings, elect to proceed in accordance with M.G.L. Chapter 40 Section 21D and:
 - 1.9.1. Give to any person, corporation or association (hereinafter called the "offender") a copy of a notice of the time and place of any alleged violation of said By-Law, Rules or Regulation. Delivery of said notice shall be in accordance with M.G.L. Chapter 40 Section 21D.
 - 1.9.2. Said notice shall direct the offender to appear before the Clerk-magistrate of the Wareham Division of the District Court Department during office hours no later than twenty-one (21) days after the date of the notice. Said notice shall conform to M.G.L. Chapter 40 Section 21D and shall specify a fixed sum of money as a penalty, not to exceed Two Hundred Dollars. Each Town Department, Board or Commission shall fix the amount of said penalties and shall file a copy with the Town Clerk before they become effective.
 - 1.9.3. The payment by the offender to the District Court Clerk shall operate as a final disposition of the case and the disposition shall be treated in accordance with M.G.L. Chapter 40 Section 21D as a non-criminal proceeding.
 - 1.9.4. Any offender who desires to contest the alleged violation may do so by following the procedure set forth in M.G.L. Chapter 40 Section 21D.
 - 1.9.5. Any offender who fails to appear in accordance with the notice issued under this By-Law may be prosecuted criminally for the alleged violation of the Town By-Law, Rule or Regulation.

ARTICLE 2

- 2.1. The financial year shall begin with the first day of July of each year.
- 2.2. A committee consisting of the Moderator of the Annual Town Meeting, the Chairman of the Board of Selectmen, and the Chairman of the School Committee, shall, at the close of the Meeting, appoint a Committee of Finance, as follows:

One member from the center, one from the north, one from the east, and one from the west portions of the Town, and three members-at-large. Appointments shall be for three years. No person who holds an elective office shall be appointed. Said committee shall, after due consideration, prepare recommendations to present to the Town at the next annual town meeting as to appropriations proper to be made for the several departments and accounts, and may report and make recommendations on all Municipal questions for the ensuing year. Should a vacancy occur during the year, it shall be filled by a majority vote of the members of a committee consisting of the Moderator of the Annual Town Meeting, the Chairman of the Board of Selectmen, and the Chairman of the School Committee.

- 2.3. There shall be established a Capital Improvement Program for land purchases, construction and renovation of buildings, major equipment and machinery purchases, road and drainage reconstruction, and the construction and reconstruction of special facilities such as local school projects, sewer and water mains, and water treatment and sewage disposal facilities.

The Selectmen, Moderator, and Chairman of the Mattapoisett School Committee shall appoint a Capital Planning Committee consisting of seven voting members to assist and advise the Town Administrator in preparing a five-year Capital Improvement Plan. Members shall serve terms of three years. Initially two members shall serve for one year, two for two years, and three for three years and may be re-appointed. The committee shall be comprised as follows:

- 1) Three citizens at large;
- 2) A person who is a member of the Mattapoisett local School Committee;
- 3) A person who represents the business, financial, or banking community;
- 4) A person with experience in the management of construction activities;
- 5) A person knowledgeable about the Town's needs in the areas of open space and recreation facilities or activities;
- 6) The Finance Director/Town Accountant and Treasurer/Collector shall serve as ex-officio non-voting members;
- 7) Town Administrator shall serve as an ex-officio non-voting member.

And charge the Committee with:

- a) The committee shall study proposed capital projects, improvements, and equipment purchases that have a useful life of at least five years and cost over \$10,000;
- b) Work with town departments and officers to compile an inventory of the town's facilities, equipment, machinery and other capital assets;
- c) By November 15th of each year, each department, board, committee and commission shall provide to the Committee information concerning all anticipated capital outlays requiring Town Meeting appropriation for the ensuing five year period.
- d) The Committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the Town of Mattapoisett;
- e) The Committee shall prepare an annual report recommending a Capital Improvement Budget for the next fiscal year and a Capital Improvement Program Plan, including capital improvements for the next five years. The report shall be submitted to the Board of Selectmen on or before January 15th of each year for consideration and approval;
- f) After presentation of the plan by the Selectmen at a public hearing, the Committee shall present the Capital Improvement Plan to the Annual Town Meeting for its advisory vote of approval of fiscal year expenditures;
- g) The Committee shall monitor the execution of projects authorized;
- h) The Committee shall explain and defend to all town meetings dealing with capital expenditures any deviations from the capital plan.

- 2.4. It shall be the duty of the Town Clerk immediately after every town meeting to furnish the Selectmen a statement of all monies appropriated at such meeting, and the purposes for which said monies were respectively appropriated.
- 2.5. The compensation of all officers and committees elected or appointed by the Town, when the same is not fixed by law, shall be determined by vote of the Town.
- 2.6. The Selectmen are hereby authorized to employ legal counsel to advise with respect to and to prosecute, defend and/or compromise any and all lawsuits, claims, actions and proceedings in behalf of or against the Town, or in which the interests of the Town are or may be involved, to do general legal work, and to represent the Town at any hearing in which it is or may become interested before a committee or committees of the General Court, and to pay compensation for such services from the appropriation made for the Selectmen's Department, unless otherwise specifically provided for.
- 2.7. Every contract for the procurement of supplies, services or real property and for disposing of supplies or real property by the Town shall be governed by the Uniform Procurement Act, G.L. c. 30B, as it may hereafter be amended from time to time, to the extent such chapter is applicable.

- 2.8. The Board of Selectmen hereby is authorized and empowered to appoint a full time Town Administrator who shall serve for the term of three years, such term to commence in April of each year. The Town Administrator may be removed from office at the discretion of the said Board of Selectmen. The Town Administrator shall be sworn to the faithful performance of his /her duties. The Town Administrator shall hold no elective office, but may be appointed by the Board of Selectmen, or with their approval, by any other town officer, board, committee or commission to any other town office consistent with this office. The Town Administrator shall receive such compensation not exceeding the amount appropriated therefore, as the Selectmen shall determine. The Town Administrator shall act by and for the Selectmen in any matter which they shall assign relating to the administration of the town or of any town office or department under their supervision or control, or, with the approval of the Selectmen may perform such other duties as may be requested of him /her by any other board, officer, committee or commission.
- 2.9. The Treasurer, with the approval of the Selectmen, is authorized to sell at public auction, after giving notice of time and place of sale, by posting such notice of sale in some convenient and public place in the Town fourteen days at least before the sale, all or any of its property acquired by virtue of sale for non-payment of taxes, which sales have been confirmed by the Land Court or the Tax Commissioner, and to give deeds therefore, provided, however, that the Treasurer may reject any bid which he deems inadequate, or the Treasurer may with the permission of the Selectmen convey any such property to any town board, committee, commission or authority.
(This section was originally adopted by Town Meeting as Section 7.)
- 2.10. The Board of Selectmen shall have exclusive control of the use or acquisition of any computer processing services or computers for the Town, exclusive of the School Department, and the Board is hereby authorized to enter into agreements for the acquisition of computers or computer processing services for the Town for those Town functions which the Board of Selectmen may designate, including billing, or storage and retrieval of any information kept by any Town or storage and retrieval of any information kept by any Town Department or Town Board, whether under the control of the Board of Selectmen or not.
- 2.11. Time in Position Repealed 1990
- 2.12. All fees received by the Town Clerk and the Treasurer and Tax Collector by virtue of his or her office shall be paid into the town treasury.
- 2.13. All fees and charges adopted by a town board or officer under G.L. c.40, § 22F, shall be effective on the date of filing an attested copy thereof with the Town Clerk or on such later effective date as may be stated in the filing; provided, however, that such fees and charges adopted by a board or officer under the jurisdiction of the Board of Selectmen shall be approved by the Board prior to the filing.

- 2.14. The Board of Selectmen shall have exclusive control of the acquisition of cellular telephones and cellular telephone service for all departments of the Town, except for the School Department, and is authorized to enter into agreements for the acquisition of such cellular telephones and telephone services; subject, however, to appropriation therefore being made for any department requesting such telephones and telephone services.
- 2.15. The Selectmen are hereby authorized to engage the services of consultants who are experts by knowledge, skill, experience, training or education in scientific, technical, or other specialized fields of knowledge to provide advice and counsel to the town and to conduct studies and prepare reports for the town to assist the town and its boards and officers in the conduct of the affairs of the town, and to pay compensation for such services from the appropriation made for the Selectmen's Department, unless otherwise specifically provided for, or take any other action relating thereto.

2.16 Mattapoisett Community Preservation

Chapter 1: Establishment - There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44B (the "Act"). The composition of the committee, the appointment authority and the term of office or the committee members shall be as follows:

One member of the Mattapoisett Conservation Commission as designated by that Commission, one member of the Mattapoisett Historical Commission as designated by that Commission, one member of the Mattapoisett Planning Board as designated by that Board, one member of the Mattapoisett Recreation Committee as designated by that Committee, one member of the Mattapoisett Housing Authority as designated by the Authority and four members to be elected at large from the registered voters from the Town of Mattapoisett. The members appointed by the Conservation Commission, the Historical Commission, the Planning Board, the Recreation Committee and the Housing Authority shall be appointed annually for a term of one year. Elected members shall be elected for two-year terms, with two members elected each year. After the initial appointment or election of the members of the committee, any vacancy occurring in the committee from any cause may be filled for the remainder of the unexpired term by the commission, board or authority, as the case may be, which made the initial appointment, or the Board of Selectmen, for the remainder of the unexpired term. Such appointment shall be made not less than seven days following notice of intent to fill vacancy.

Should any of the Commissions, Boards, Councils, or Committees who have appointment authority under this Chapter be no longer in existence for what ever reason, the appointment authority for that Commission, Board, Council, or Committee shall become the responsibility of the Board of Selectmen.

The Committee shall elect a Chairman and Vice Chairman from among its members and shall elect a Secretary who need not be a member of the Committee. After having a public hearing and requesting recommendations from Town boards and committees, the Committee shall adopt policies, rules and regulations for conducting its affairs and for carrying out its responsibilities. Any member of the Committee may, after a public hearing before the Commission, Board or Authority, which appointed the said member, is removed for cause by majority vote of such Commission, Board or Authority.

Chapter 2: Duties

(1). The Community Preservation Committee shall study the needs, possibilities, and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Recreation Committee and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.

(2). The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(3). The Community Preservation Committee may include, in its recommendation to the Town Meeting, a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending for general purposes that are consistent with community preservation. The Community Preservation Committee may recommend the issuance of general obligation bonds or notes in anticipation of revenues to be raised pursuant to Section 3 of the Act. In every fiscal year, the Community Preservation Committee shall recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund in each of the following areas for (a) open space (not including land for recreational use), (b) historic resources; and (c) community housing. As provided in the Massachusetts Community Preservation Act, no expenditures shall be made from the Community Preservation Fund without the approval of Town Meeting.

Chapter 3: Requirement for a quorum and cost estimates - The Community Preservation Committee shall comply with the provisions of the Open Meeting Law, G.L. c.39, 23B. The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the Community Preservation Committee's anticipated costs.

Chapter 4: Amendments - This Chapter may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL, Chapter 44B.

Chapter 5: Severability - In case any section, paragraph or part of this chapter is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

Chapter 6: Effective Date – This bylaw shall take effect after all requirements MGL Chapter 40, Section 32 have been met, including approval by the Attorney General of the Commonwealth, and the Town has accepted Chapter 44B, Section 3-7 inclusive. Each appointing authority shall have 30 days after approval by the Attorney General to make its initial appointments.

2.17 Agricultural Commission

Establishment of an Agricultural Commission to represent the Mattapoisett farming community. Said Commission once appointed shall develop a work plan to guide its activities. Such activities shall include, but are not limited, to the following: serve as facilitators for encouraging the pursuit of agriculture in Mattapoisett; promote agricultural-based economic opportunities in Town; act as mediators, advocates, educators, and/or negotiators on farming issues; work for preservation of prime agricultural lands; and pursue all initiatives appropriate to creating a sustainable agricultural community.

The Commission shall consist of seven members appointed by the Board of Selectmen, who shall serve for three years terms, with initial terms as follows: three members for three years, two members for two years, and two members for one year. Of the seven members appointed by the Board of Selectmen, not less than four members shall have background in farming or agricultural-based enterprises in Mattapoisett and the remaining three shall have interest in farming. The Board of Selectmen shall, based upon recommendations by the Commission, fill any vacancy for the remainder of the unexpired term.

ARTICLE 3

WATER/SEWER COMMISSIONERS

- 3.1. The Water/Sewer Commissioners shall insure that all extensions of water mains on private property are installed in accordance with accepted standards adopted by them. The entire expense of such extensions on private property shall be borne by the owner of the private property.
- 3.2. The Water/Sewer Commissioners may levy special assessments to meet the whole or part of the cost incurred in laying water mains in public and private ways, for the conveyance and distribution of water to the inhabitants of the town. Special assessments may be assessed against an owner of land which receives benefit from the laying of water mains in public and private ways upon which the owner's land abuts or which by more remote means receives benefit through the supply of water to the owner's land or buildings. Each such owner shall pay a proportionate part of the cost not already assessed for extending the water supply to the owner's land. Special assessments shall be determined in accordance with G. L. c. 40.

3.3. All town charges and bills for water and sewer usage shall be due and payable sixty days from the date of the mailing of such charges and bills, and charges and bills remaining unpaid after the due date shall bear interest at the same rate then applicable to unpaid real and personal property taxes under G. L. c. 59, § 57.

3.4. **WATER USE RESTRICTION BY-LAW**

3.4.1. **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, and c. 43B, § 13, et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c. 40, §41A, conditional upon a declaration of water supply emergency issued by the Department of Environmental Protection.

3.4.2. **Purpose**

The purpose of the 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.

3.4.3. **Definitions**

Outdoor Watering shall mean use of any faucet, hose or other source connected to the municipal water supply for any outdoor activity other than emergency use, including but not limited to watering lawns, gardens or other vegetation, washing cars, and filling swimming pools.

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 3.4.4. 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.

3.4.4. **Declaration of a State of Water Supply Conservation**

The Town, through its Board of Water/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 3.4.6. of this By-Law before it may be enforced.

3.4.5. **Restricted Water Uses**

The Board of Water/Sewer Commissioners may, after declaration of a State of Water Supply Conservation; impose one or more of the following conservation measures:

3.4.5.1. **Odd/Even Day Outdoor Watering** Outdoor watering by water users with odd numbered addresses are restricted to odd numbered days. Outdoor watering by water users with even numbered addresses are restricted to even numbered days.

3.4.5.2. **Outdoor Watering Ban** Outdoor watering is prohibited.

3.4.5.3. **Outdoor Watering Hours** Outdoor watering is permitted only within hours designated by the Water/Sewer Commissioners.

3.4.5.4. **Filling Swimming Pools** Filling of swimming pools is prohibited.

3.4.5.5. **Automatic Sprinkler Use** The use of automatic sprinkler systems is prohibited.

3.4.6. **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 3.4.5. 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.

3.4.7. **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/Sewer 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 3.4.6.

3.4.8. **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.

3.4.9. **Penalties**

Any person who violates any provisions, restriction, requirement or condition of a conservation measure adopted by the Water/Sewer Commissioners after a Declaration of a State of Water Supply Conservation, after publication thereof, or any other provision of this By-Law, shall be liable to the town in the amount of \$50.00 for the first violation and \$100 for each subsequent violation which shall inure to the town for such uses as the Board of Water Commissioners may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-crimination disposition in accordance with M.G.L. c.40, §21D. Each day of violation shall constitute a separate offense. The Superintendent of the Mattapoisett Water and Sewer Department shall be the enforcing person empowered to enforce section 3.4, for purposes of MGL Chapter 40, section 21D.

3.4.10. **Severability**

The invalidity of any portion or provision of this By-Law shall not invalidate any other portion or provision thereof.

3.5 **SEWER CONNECTIONS**

3.5.1 **Authority**

This By-Law is adopted by the Town under its police powers to protect public health and welfare and its powers under Chapter 220 of the Acts of 1912 as amended by Chapter 73 of the Acts of 2002, and Chapter 142 of the Acts of 2009.

3.5.2 **Lots in Sewer Service Area – Right to Connect to Sewer**

All lots that are located in a Sewer Service Area in the Mattapoisett Neck Road Sewer project as described in Article 2 hereof created with the approval of Town Meeting by two-thirds vote, referred to hereinafter as a “Sewer Service Area,” and that abut a way which has a common sewer therein shall have the right to connect to the common sewer located in the Sewer Service Area at any time, in accordance with rules, regulations and directives of the Board of Water/Sewer Commissioners, and therefore shall be assessed betterments.

3.5.3. **Vacant Land**

The following rules shall apply to lots with no habitable structures located thereon shown as a separate lot on the Assessors’ Map as of January 1, 2010, referred to herein as “Vacant Lots”:

3.5.3.1. **Vacant Lots Inside a Sewer Service Area:** The owner of a Vacant Lot located in a Sewer Service Area at the time of the Sewer Service Area’s creation, which Vacant Lot abuts a way with a common sewer located therein, shall have the right to connect to the common sewer at any time and shall therefore be assessed a betterment unless (i) the Water/Sewer Commissioners determine, based on information provided by the Board of Assessors, that no dwelling can be constructed on said lot; or (ii) the owner of such Vacant Lot (a) provides proof to the Water/Sewer Commissioners that no dwelling can be constructed on said lot and (b) provides a writing suitable for recording at the Plymouth County Registry of Deeds encumbering such lot so that no structure requiring a sewerage disposal system or sewer system shall be constructed thereon.

3.5.3.2. **Vacant Lots Outside a Sewer Service Area:** The owner of a Vacant Lot not located in a Sewer Service Area at the time of the Sewer Service Area's creation, which lot abuts a way with a common sewer located therein, shall have no right to connect to the common sewer but may apply to the Water/Sewer Commissioners for a permit to connect to the common sewer under Section 3.5.4 below.

3.5.3.3. **No Sewer Extensions/Limit on Sewer Connections:** (a) The Water/Sewer Commissioners shall not extend the common sewer solely to serve any vacant land even if such land is located in a Sewer Service Area. (b) The Water/Sewer Commissioners shall not approve any private sewer extension to service only vacant land even if the vacant land is located within a Sewer Service Area. (c) The Water/Sewer Commissioners shall not allow more than one sewer connection to each lot shown as a separate lot on the Assessors' Map as of January 1, 2010.

3.5.4. **Lots Not in Sewer Service Area – Connection Provisions:** Owners of lots located outside of a Sewer Service Area may not connect to the common sewer as a matter of right. Such lots are referred to hereinafter as "Non-Service Area Lots" and shall not be assessed a betterment unless they are granted a connection permit to enter the common sewer upon the following terms.

3.5.4.1. **Application:** An owner of a Non-Service Area Lot who wishes to connect to the common sewer must make an application to the Water/Sewer Commissioners by a date certain to be set by the Commissioners, hereinafter called the "Application End Date." At least Sixty (60) days prior to the Application End Date the Commissioners shall advertise the Application End Date by notice (a) published in The Wanderer or other newspaper with a general circulation within the Town, (b) posted on the Commissioners' web page, and (c) posted at the Town Hall.

The Water/Sewer Commission may allow a Non-Service Area Lot to connect to the common sewer notwithstanding that the owner did not make application by the Application End Date if Town Meeting votes to authorize the Water/Sewer Commission to allow such connection.

3.5.4.2. **Agreement:** An owner of a Non-Service Area Lot whose application to connect is approved by the Water/Sewer Commissioners shall be permitted to connect to the common sewer only upon the owner encumbering the owner's real estate with an agreement in form approved by the Commissioners that the applicant's land shall be (a) encumbered by an easement in favor of the Town to install and service grinder pumps on the land and (b) assessed a proportional betterment as hereinafter described, which agreement and easement shall be recorded with the Registry of Deeds.

3.5.4.3. **Improved Lots Not Abutting a Common Sewer:** Upon application made to the Water/Sewer Commissioners by the Application End Date by an owner of a Non Service Area Lot with a building thereon, which lot does not abut a street with a common sewer therein, the Water/Sewer Commissioners may construct, or permit the owner to construct, an extension from the common sewer to the lot at the discretion of the Commissioners, and in compliance with all other local and state permits that may be required.

3.5.4.4. **Improved Lots Abutting a Common Sewer:** Owners of Non Service Area Lots with buildings thereon, which lots abut a street with a common sewer therein, may be allowed to make a connection from the building to the common sewer at the discretion of the Commissioners, and in compliance with all other local and state permits that may be required, upon application made to the Water/Sewer Commissioners by the Application End Date.

3.5.4.5. **Cost of Sewer Extensions and Connections:** The cost of each and every connection described in this Section 3.5.4. shall be added to the overall cost of the Sewer Service Area project to be assessed as a betterment. The cost of each and every extension shall be paid in full in advance of construction by the applicant.

3.5.4.6. **No Connections allowed after Application End Date:** After the Application End Date, no Non-Service Area Lot shall be allowed to become a part of the project unless the Sewer Commissioners are required to provide a connection by order of the Board of Health of the Town of Mattapoisett. The Sewer Commissioners may only deny such an order if for engineering reasons such a connection is not possible.

3.5.4.7. **No Connections allowed North of Pump Station:** In order to protect the integrity of the sewerage system of the Town of Mattapoisett, no individual or group of individuals shall be allowed to connect their property or properties to any portion of the sewer main that is North of the Pump Station located on Mattapoisett Neck Road as that part of the sewer main is not designed for individual connections.

3.5.5. **Grinder Pump Easements:** All lots connecting to the common sewer in the Mattapoisett Neck Sewer Service Area shall be required to use a sewer grinder pump. All grinder pumps shall be installed, owned and maintained by the Town. As the Town shall own all the grinder pumps, the cost to purchase and install said pumps shall be included in the overall cost of the Mattapoisett Neck Sewer Service Area sewer extension project and such costs shall be included in the betterment to be assessed to recover the costs of said project. As the Town will own grinder pumps on private property, each lot owner must, as a condition of connecting to the common sewer, grant an easement to the Town for the purposes of installing and maintaining said pump, and the Water/Sewer Commission is authorized to accept such easements on behalf of the Town. Any owner of a lot in a Sewer Service Area otherwise entitled to connection who refuses to grant such an easement shall have the right to connect to the common sewer at any time upon granting said easement and shall therefore be assessed a betterment. Use of grinder pumps shall be in accordance with rules, regulations and directives of the Commissioners.

3.5.6. **Betterments:** Except as otherwise may be voted by the Mattapoisett Town Meeting for a particular project, one hundred percent of the total cost of all sewer projects shall be assessed as betterments using the uniform unit method, with the objective that the entire project cost, including principal and interest payable on any borrowing associated with all sewer projects, shall be borne by those who benefit from the project. Except as herein described, betterments shall be assessed to all lots located in a Sewer Service Area which abut streets in which a common sewer is constructed or to be constructed. Betterments shall also be assessed to all Non-Service Area Lots who are allowed a connection to the common sewer as per Section 3.5.4 herein.

3.5.7 **Allocation of Capacity:** Sixty (60) days after the Application End Date for the Mattapoissett Neck Road Extension sewer project, the Water/Sewer Commissioners shall determine the total sewer system capacity that is required to serve all properties inside the Mattapoissett Neck Road Extension Sewer Service Area and those Non-Service Area Lots whose application for sewer connections have been approved by the Commissioners and shall thereupon allocate any remaining sewer system capacity to other sewer projects for which design funds have been allocated. The Commissioners shall not allocate any additional capacity to the Mattapoissett Neck Road Extension after such time, unless such re-allocation shall be approved by a two-thirds majority vote at Town Meeting.

ARTICLE 4 SOIL REMOVAL

4.1. THE SOIL CONSERVATION BOARD

- 4.1.1. A Soil Conservation Board is hereby established in the Town of Mattapoissett for the purpose of exercising the powers and duties hereunder.
- 4.1.2. The members of the Board shall consist of one member of the Board of Selectmen, one member of the Planning Board, one member of the Board of Health, one member of the Finance Committee, the Highway Surveyor, and two members of the Conservation Commission, who shall from time to time hold office in said Town. Each of the Boards having a representative on the Soil Conservation Board shall select their representatives by a majority vote of the Board so represented at any meeting at which a quorum is present.
- 4.1.3. No person engaged in the business of removing soil, loam, sand, gravel, clay, or quarrying of stone from land in said Town shall serve on said Board.
- 4.1.4. In the event that a vacancy shall occur on the Board, the Board from which such a representative comes, shall select a representative to fill such vacancy by a majority vote of the Board at any meeting at which a quorum is present in the same manner as which the original representative was selected.
- 4.1.5. Organization.
 - 4.1.5.1. A quorum for the conduct of any and all business shall be three (3) members.
 - 4.1.5.2. The affirmative vote of at least three (3) members shall be required for the granting, modification, revocation, or removal of any permit authorized hereunder.
 - 4.1.5.3. The members shall elect a chairman and vice-chairman, the latter to serve in the absence of the chairman.
 - 4.1.5.4. The Board may appoint a secretary, who need not be a member of the Board, which secretary shall keep a true record of the proceedings of the Board which shall be a public record. He shall give due notice of each meeting to each member.

- 4.1.5.5. The Board shall file a copy of all its official actions with the Town Clerk as required by law.
- 4.1.5.6. The board may appoint an inspector who need not be a member of the Board. He shall keep a record of all permits so issued and inspections made.

4.2. **DEFINITIONS**

- 4.2.1. For the purposes of this by-law, "earth" shall include soil, loam, sand, gravel, clay, rock, or other allied products.
- 4.2.2. For the purposes of this by-law, the "inspector" shall be the Inspector appointed by the Soil Conservation Board to carry out these duties.
- 4.2.3. For the purposes of this by-law, "Board" shall mean the Soil Conservation Board.
- 4.2.4. For the purpose of this by-law, "petitioner" shall be the persons making application to remove earth from a property in the town.

4.3. **SPECIFIC LIMITATIONS**

- 4.3.1. Except as hereinafter provided, no earth shall be removed from any land within the Town without a written permit from the Board, stating the land to which it applies, and issued after a public hearing, a notice of which, setting forth the time, place, and purpose of said meeting and the land with reference to which application has been made, shall have been published at least ten days prior to the day set for such hearing, and notice of said hearing sent to all abutting property owners, including those across any streets, at least ten days prior to the day set for such hearing.
- 4.3.2. Any person wishing to remove in excess of one cubic yard of earth from a property in the Town shall file a formal application with the Board which application shall include the following specific information and supporting documentation.
 - 4.3.2.1. The location of the proposed excavation.
 - 4.3.2.2. The legal name and address of the owner of the property involved who shall receive copies of all correspondence hereunder.
 - 4.3.2.3. The legal name and address of the petitioner, which address shall be used by the Board for all correspondence hereunder.
 - 4.3.2.4. Names and addresses of all abutting property owners, including those across any street.
 - 4.3.2.5. Assessors plot plans showing the area to be excavated and the area to be restored and finished grade.
 - 4.3.2.6. A proposed form of bond to be issued in an amount not less than \$3,000 per acre by permit.

4.3.3. A permit shall not be required for the removal of earth in the course of excavation incidental to the construction of a building or construction of a driveway having a length not greater than 75 feet. A permit shall also not be required for the removal of earth for use upon the same premises in the ordinary and customary use of land in Mattapoisett for a farm, garden, orchard, or nursery and purposes incidental thereto. No permit shall be required for cemetery operation.

A permit will not be required for the removal of earth in the course of excavation for the construction of a parking area or driveway or other accessory use incidental to an existing or new structure, as long as the parking lot and/or driveway or accessory use is to grade with fill acceptable to the Inspector of Buildings and all work is completed within sixty (60) calendar days.

4.3.4. In issuing a permit the Board shall impose reasonable conditions, which shall be written upon and shall constitute part of the permit.

4.3.5. A permit shall not be issued for the removal of earth except upon condition that a cover of soil suitable for seeding shall be allowed to remain or shall be replaced; provided, however, that a permit may be granted for the removal of earth when necessary for or incidental to the construction of a road, or other permanent facility which changes the character or the use of the land; but in such case the Board shall require sworn evidence of good faith in the intent of the applicant to complete such road or other facility, and shall make such evidence part of its records. The requirements for the replacement of soil shall apply to all operations involving the removal of hills and all stripping operations, but shall not apply to pits.

4.3.6.

4.3.6.1. A permit shall not be issued for the removal of earth within 300 feet of a public way or within 250 feet of a way laid out and accepted by the Planning Board except that a permit may be issued to excavate within 150 feet to 225 feet of such way if a 3 horizontal to a 1 vertical foot slope be provided by the operator.

4.3.6.2. A permit shall not be issued for the removal of earth within 25 feet plus a sufficient distance to provide a 3 horizontal to 1 vertical foot slope from an abutting owner except that a permit may be issued to excavate to within 25 feet of an abutting owner if the operator provides a 3 horizontal to 1 vertical foot slope from said foot limit.

4.3.6.3. A permit shall not be issued for the removal of earth within 150 feet of any dwelling.

4.3.6.4. The Board may issue a permit to remove a bank within the aforementioned distance from the public way to road level unless otherwise stated in permit.

4.3.6.5. With the written permission of the abutters the Board may issue a permit to excavate to the abutting owner.

- 4.3.6.6. A permit shall not be issued for the removal of earth in any location if such removal will endanger the public health or safety.
- 4.3.6.7. There shall be no removal below finish grade unless stated on the permit.
- 4.3.6.8. Finished grade shall be one foot higher than the area immediately abutting the perimeter of an area covered by the permit.
- 4.3.7. A permit issued under this by-law shall expire upon completion of the removal of the earth for which it was issued unless an earlier date of expiration is requested by the applicant. The expiration or revocation of the permit shall not affect the obligation of the holder thereof to comply with the conditions attached to the permit, or release him or the surety on his bond from the obligations thereof or require the return of any deposit made by him until such conditions have been complied with.
- 4.3.8. Whenever the Board shall find that the removal of any earth had previously been undertaken in a particular location and was in continuous operation within one year, at the time when notice of the warrant for the Town Meeting at which this By-Law was adopted was given, a permit for the further continuance of such operation within the same territorial limits shall be issued without a hearing, such operation to be in compliance with Soil Board Rules.
- 4.3.9. When the Board finds that any excavation hitherto made for the purpose of removing earth is maintained in such a way as to endanger the public health or safety or to cause a nuisance, the Board shall request the Board of Health to take such steps as are authorized by law to protect the public health and safety, or to cause such nuisance to be abated.
- 4.3.10. When the Board finds that any excavation is maintained in such a way as to endanger public safety or cause a nuisance, the Board may require the owner of said excavation to erect a fence or barrier around the excavation or finish grading the same.

4.4. **FEES**

- 4.4.1. A fee of \$25.00 shall be charged the petitioner upon application if hearing is required to cover expenses incurred for advertising and notifying abutters.
- 4.4.2. A fee of \$20.00 per year shall be charged for the renewal of such application.
- 4.4.3. Any fees received hereunder shall be transmitted to the Town Collector.

4.5. **GENERAL ADMINISTRATION**

- 4.5.1. The inspector or any member of the Board may enter upon the premises involved from time to time to inspect and ensure proper conduct of the work.
- 4.5.2. Upon petition of the owner, permit-holder, or abutters, or, upon its own initiative, the Board may hold a new hearing and reissue or modify the permit, subject to any regulations not in conflict with the by-laws.

4.5.3. If any removal authorized by these by-laws is carried on in a manner which, in the opinion of the Board shall work substantial injury to the welfare of the Town and the Town is not adequately protected by the conditions imposed by the permit, the Board may, with public hearing, impose additional restrictions or revoke said permit. The Board may, and in the case of the removal of any earth for commercial purposes shall, require a bond with adequate surety or sureties' conditional upon the performance of conditions imposed under the by-laws. The Board may revoke or suspend a permit if the conditions are not complied with.

4.6. **VIOLATIONS**

4.6.1. The Soil Conservation Board Inspector shall enforce this By-Law. The Inspector may issue a Cease and Desist Order to any person or entity violating this By-Law. Any person or entity shall forthwith comply with any such Cease and Desist Order.

4.6.2. Any person or entity may appeal said decision to the Soil Conservation Board. The Board shall hold a hearing on said appeal within ten (10) business days, and render a decision within thirty (30) calendar days after the conclusion of any such hearing.

4.6.3. If the Inspector or the Board shall find that there has been a violation of these By-Laws the Inspector or the Board shall notify the offender in writing by certified mail, return receipt requested or delivering a copy of said Notice to the offender. The penalty for removing earth in violation of the By-Laws shall be a fine of not more than fifty dollars (\$50.00) for the first offense; not more than one hundred dollars (\$100.00) for the second offense; and not more than two hundred (\$200.00) for any subsequent offense as authorized by General Laws Chapter 40, Section 21 (17). Each day on which violation takes place shall constitute a separate offense for the person removing the same. If the offender holds a permit issued under the By-Laws such a permit shall be revoked by the Board. The Board may in any case waive any penalty if in the opinion of the Board it would be in the best interest of the Town.

4.7. **APPLICATION**

These regulations shall apply to all operations involving the removal of earth within the territorial limits of the Town effective upon the adoption of these Soil Conservation By-Laws.

4. 8. **COVERAGE OF SEVERAL LOCATIONS**

In the case of established commercial operators engaged in the removal of earth within the town and having permits covering several locations, the active working of one location shall be considered as also applying to all other locations for which such operator holds permits, and a violation at any location may, in the discretion of the Soil Conservation Board, bring about a suspension of permit in any other location.

4.9. **UNCONSTITUTIONALITY**

If any sections of this proposed Soil Conservation By-Law are declared unconstitutional, the remainder of the Law shall stand.

ARTICLE 5

INSPECTOR OF BUILDINGS

- 5.1. The Board of Selectmen shall appoint an Inspector of Buildings for a term of three years and an Assistant Inspector of Buildings for a term of one year, each of whom shall receive such compensation not exceeding the amount appropriated therefore as the Selectmen shall determine. The Board of Selectmen shall fill vacancies in these offices upon the resignation, termination, disability or death of an incumbent officer prior to expiration of the applicable term of office.
- 5.2. The Inspector of Buildings and Assistant Inspector of Buildings shall enforce all the provisions of the State Building Code, 780 CMR, the Zoning By-Laws of the town, The Zoning Act (G. L. c. 40) and any other applicable law, and shall act on any question relating to the mode or manner of construction and the materials to be used in the construction, reconstruction, alteration, repair, demolition, removal, and installation of equipment, and the location, use, occupancy and maintenance of all buildings and structures located or to be located within the town, including any building or structure owned by any public authority established by state law.
- 5.3. The Inspector of Buildings and Assistant Inspector of Buildings shall be responsible for the inspection of all buildings and structures located within the town during the course of the work described in Section 2 above and upon completion of such work.
- 5.4. It shall be the duty of the Inspector of Buildings to examine all plans and specifications relating to the construction, remodeling or alteration of, or repairs to, town-owned buildings and to report his or her findings to the proper authorities before any building permits are issued for such work.

The Inspector of Buildings shall supervise the construction of all town-owned buildings and all alterations, repairs, moving or demolitions of such buildings and any related work on the grounds of town-owned property except as otherwise provided by law or by-law.

- 5.5. The Inspector of Buildings shall be a member of all building committees of the town.
- 5.6. The Inspector of Buildings shall keep a record of the business of the department that he or she shall report annually to the Board of Selectmen in the month of January and at such other times as the Selectmen may determine. The Inspector of Buildings is further charged with the supervision of the Plumbing, Gas and Wiring Inspectors and their alternates.

ARTICLE 6

HOUSE NUMBERING

- 6.1. The Selectmen shall assign a number to every dwelling house, store, office, factory or other building occupied for residential or business purposes which abuts on or faces a public or private way within the Town. If a dwelling house is occupied by two or more families on the ground floor, or there are two or more entrances to such dwelling house, a number shall be assigned for each front entrance or for each family occupying such dwelling. If a business establishment, hotel, lodging house, theatre, or any building used for business or residential purposes has one or more entrances abutting upon a public or private way, a number shall be assigned for each entrance.
- 6.2. The starting point for the assignment of numbers on any street shall be as far as practicable the point where such street begins or leaves a main or through street, a village or thickly settled district or at a town line or some other well identified point where such street has a starting point. Odd numbers shall be assigned or spaced on the left-hand side of the street proceeding from the starting point of the same, and even numbers shall be assigned or spaced on the right-hand side.
- 6.3. If there are more buildings or entrances to a building to be numbered within a given space than are allowed for in originally spacing or assigning numbers, a letter, beginning with A and proceeding through the alphabet shall be added to the number assigned for such space. (For example, the first building or entrance would be 1A, the next 1B, the next 1C, etc).
- 6.4. In the outskirts of the town, or districts where there are no defined streets either public or private, the Selectmen shall be allowed discretion in omitting the assignment of numbers; and in districts or portions of the town where other methods of assigning numbers are more practicable than heretofore prescribed in this By-Law, the Selectmen shall have authority to prescribe other rules and regulations for the assignment of numbers; but the town may by vote direct the Selectmen as to methods of assigning numbers in a particular district, provided such directions are not inconsistent with the terms of these By-Laws.
- 6.5. Upon assignment of a number to a building or entrance to a building, the Selectmen shall send by mail or deliver to the owner of such building or his authorized agent a written or printed notice informing him of the number or numbers assigned to each building and requiring him within thirty (30) days from the date of such notice to affix numbers of size and materials as the Selectmen may prescribe to said building or buildings at or near the entrance or entrances to which such numbers are assigned. The penalty for failure of an owner of a building to comply with this order shall be a fine of not more than twenty (\$20.00) dollars.
- 6.6. Voted to direct the Board of Selectmen to retain the original system of house numbering on LeBaron Way as it existed prior to November 10, 1969.

ARTICLE 7

PERSONNEL BY-LAW

Deleted and rewritten 1999 - SEE SEPARATE PUBLICATION

ARTICLE 8

ROAD EXCAVATIONS

- 8.1. No person or corporation, including town departments, except in emergency, shall excavate or otherwise disturb the surface of any public way without first obtaining a permit from the Board of Selectmen; and in the case of town departments they shall, prior to any such work in a public way notify the Board of Selectmen, and the Board of Selectmen shall obtain a schedule from the Highway Surveyor of the date or dates that the way shall be surfaced.

ARTICLE 9

JUNK AUTOMOBILES

- 9.1. No person or entity, corporate or otherwise, as owner or as one in control of premises, shall keep in the open in any area of the Town of Mattapoisett any junk automobile as defined in the following section, without being licensed to do so under this By-Law.
- 9.2. For the purpose of the By-Law, a junk automobile shall be one which is worn out, cast off, or discarded and which is ready for dismantling or destruction, or which has been collected or stored for salvage, or for stripping in order to make use of parts thereof. Any parts from such a vehicle shall be considered junk automobile under this By-Law.
- 9.3. A license to keep no more than two (2) junk automobiles shall be requested from the Board of Selectmen, who may issue said license under the terms and standards set forth in Section 5 of the By-Law. The refusal to issue said license may be appealed to the Board of Appeals by filing an appeal with the Town Clerk within 20 days of refusal, and thereafter following the procedure for notice and hearing set forth in Section 4 of this By-Law.
- 9.4. A license to keep more than two (2) junk automobiles may be requested by filing with the Town Clerk an application in writing. The Board of Appeals shall hold a public hearing upon such request, notice of which shall be given by publishing in a newspaper circulated in Mattapoisett, five days at least before the date of the hearing. The cost of publishing shall be paid by the applicant for the license.

- 9.5. The Board of Appeals may grant a one year license upon such conditions as the Board deems proper to keep such junk automobiles in the open after a public hearing has been held, and the Board determines that the keeping of the same will not depreciate property values in the area, will not create a hazard to the public safety or will not become a public nuisance. Renewals of said license shall be granted only after the procedure set forth above is followed.
- 9.6. Any person or entity that violates a By-Law shall be liable to a fine of not more than Three Hundred (\$300.00) Dollars for each day said violation continues.
- 9.7. This By-Law shall not apply to any person or corporation duly licensed as a junk or automobile dealer under the provisions of Massachusetts General Laws Chapter 140.
- 9.8. The following fee shall be paid to the Town upon the filing of any application for a license under Section 3 to 5 of this by-law.

| | |
|-----------|---------|
| Section 3 | \$5.00 |
| Section 5 | \$10.00 |

ARTICLE 10

- 10.1. No person or persons, shall obstruct the free passage of individuals or vehicles by standing or remaining on any sidewalk, on or near any public street, public way, or public place, in any doorway, or upon any stairs, doorsteps, portico or other projection from any house or building, or upon a wall or fence on or near any public way or public place, after having been requested by a police officer, a constable, or the owner or occupant of the premises to move there from. Any person or persons violating this by-law may be arrested by a police officer without a warrant by the arresting officer and shall be punished by a fine of not more than Three Hundred (\$300.00) Dollars for each offense.
- 10.2. No person shall use obscene language in any public place, or any sidewalk, street or other public way of the Town. Any person violating any of the provisions of this by-law may be arrested by a police officer without a warrant by the arresting officer and shall be punished by a fine of not more than Three Hundred (\$300.00) Dollars for each offense.
- 10.3. No person, or persons, shall be allowed to sleep on any beaches within the Town of Mattapoisett between the hours of 10:00 p.m. and 6:00 a.m. This by-law shall not apply to any person, or persons, who sleep on a beach which is not owned by the Town, County or State, with the express permission of the owner or person, or persons, who are lawfully in possession of said beach. Any person violating this by-law may be arrested by a police officer without a warrant by the arresting officer and shall be punished by a fine of not more than Three Hundred (\$300.00) Dollars for each offense.
- 10.4. No person shall cause, permit, or otherwise allow water from a basement or other man-made source, to be pumped, drained or otherwise deposited upon the traveled portion of a public way, during the period beginning November 1 and ending April 1 of the following year. Any person convicted of violating this by-law may be fined not more than Three Hundred (\$300.00) Dollars for each offense. Each day said violation continues, after notification thereof in writing, shall constitute a separate offense.

10.5. No person shall consume any alcoholic beverages as defined in Chapter 138, Section 1 of the Massachusetts General Laws or shall have in his possession any open container or containers whose seal has been broken and recapped of such beverage, while on, in or upon any public way, or upon any way to which the public has a right of access, or any park or playground or public beach in the Town of Mattapoisett; provided, however, that it shall be permissible for any person to lawfully consume beer and wine within the confines of Veteran's Park with the written permission of the Board of Selectmen and further, the Selectmen are instructed to obtain appropriate insurance coverage from the person or persons requesting said permission together with any other agreements that the Selectmen shall deem appropriate. All alcoholic beverages being used in violation of this by-law shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summonsed before the court. Any person convicted of violating this by-law shall be punished by a fine of not more than Three Hundred (\$300.00) Dollars for each offense.

10.6. PARKING AND TOWING OF VEHICLES

10.6.1. General. The Board of Selectmen may promulgate rules and regulations governing parking on Town property and towing of any vehicle parked on Town property to a convenient place. Said Rules and Regulations shall be published by posting in two public places in the Town of Mattapoisett at last seven (7) days before their effective date and said rules and regulations shall be file in the Office of the Town Clerk.

10.6.2. Penalties. Any person convicted of a violation of any rule or regulation made pursuant to this section, shall be punished by a fine not exceeding ten dollars (\$10.00) for each violation. Each day that said violation continues shall constitute a separate violation.

10.6.3. Towing. The Board of Selectmen may impose reasonable towing and storage fees upon the owner or operator of any vehicle towed to a convenient place and stored.

10.6.4. Owner Prima Facie Responsible for Violations. If any vehicle is found upon Town property in violation of any provisions of any rule or regulation made pursuant to this section and the identity of the operator cannot be determined, the registered owner of such vehicle shall be held prima facie responsible for such violation.

10.7. ALCOHOLIC BEVERAGES – VETERAN'S PARK

10.7.1. No person shall consume any alcoholic beverages as defined in Chapter 138, Section 1 of the Massachusetts General Laws or shall have in his possession any open container or containers of such alcoholic beverage whose seal has been broken or which container has been recapped, while in Veteran's Park. Alcoholic beverages may be consumed within the confines of Veteran's Park on Sundays between the hours of 8:00 A.M. and 8:00 P.M. with the written permission of the Board of Selectmen. All alcoholic beverages being used in violation of this By-Law shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summonsed before the court. Any person convicted of violating this By-Law shall be punished by a fine of not more than Three Hundred (\$300.00) Dollars for each offense.

- 10.7.2. Veteran's Park shall be open to the public between the hours of 8:00 A.M. and 10:00 P.M. daily.
- 10.7.3. No person shall remain in Veteran's Park at any time other than those set forth above. Any person convicted of violating this By-Law shall be punished by a fine of not more than Three Hundred (\$300.00) Dollars for each offense.
- 10.8. No person shall place on or cause to be placed in Veteran's Park any filth, rubbish, or other substance, other than in receptacles provided for that purpose. Any person convicted of violating this By-Law shall be punished by a fine of not more than Three Hundred (\$300.00) Dollars for each offense.
- 10.9. No person or entity, corporate or otherwise shall cause any motorized vehicle, except with written authorization of the Board of Selectmen, to be operated on or upon the beaches, parks or private ways and properties of the Town of Mattapoisett. Any person or entity who violates this By-Law shall be liable to a fine of Three Hundred (\$300.00) Dollars for each day said violation occurs. Said fine to be paid to the Town of Mattapoisett.
- 10.10. **NUDE DANCING**
- 10.10.1. No person, corporation, association or place, being licensed under M.G.L. Chapter 138, or being required by M.G.L. Chapter 138 to have a license, or who sells, or dispenses an alcoholic beverage as defined by M.G.L. Chapter 138 shall permit nude or topless dancing on any premises so licensed or where such alcohol is sold or dispensed. The term "premises" shall include the entire building even though the licensing may only pertain to a portion of the building, or the alcoholic beverage is only being sold or dispensed in a portion of the building.
- 10.10.2. Any person, corporation or association violating this By-Law shall be punished by a fine of not more than \$300.00 per violation and suspension or loss of any license issued under M.G.L. Chapter 138 for each offense. Any Hearing on the issue of the suspension or loss of the license shall be conducted in accordance with M.G.L. Chapter 138 by the Board of Selectmen.

ARTICLE 11

- 11.1. The following fee schedule for the storage of inflammables or explosives, as authorized by Section 13 of Chapter 148 of the General Laws of Massachusetts, is hereby adopted:

| | |
|---|---------|
| License | \$50.00 |
| Certificate of Registration | \$25.00 |
| Certificate of Approval of Head of the Fire Department | \$10.00 |

ARTICLE 12

COUNCIL ON AGING

- 12.1. There is hereby established a Council on Aging for the purpose of co-coordinating or carrying out programs designed to meet the problems of the aging and co-ordination with the programs of the Commission on Aging established under Chapter 6, Section 73 of the Massachusetts General Laws.
- 12.2. The Board of Selectmen shall appoint the Council on Aging consisting of eleven (11) members. Upon approval of this By-Law, the Board shall appoint three (3) members for three (3) year terms, three (3) members for two (2) year terms, and five (5) members for one (1) year terms. Thereafter, each member shall be appointed for a three (3) year term. No member shall be eligible to serve more than two successive terms except after a leave of absence of at least one year. The members of the Council shall serve without pay.
- 12.3. Whenever a vacancy shall occur in the membership of the Council by reason of health, resignation, inability to act, or for any other reason, the vacancy shall be filled by appointment by the Selectmen for the remainder of the term.
- 12.4. The Council on Aging, at its first annual meeting and thereafter annually in April of each year shall elect from its membership a Chairman, Secretary and a Treasurer. Each officer shall hold office until the next annual Election. In the event a vacancy occurs in any of these offices, the Council shall hold a special meeting for the purpose of electing one of its members to fill such a vacancy.
- 12.5. The Council shall prepare and submit an annual report of its activities to the Town and shall send a copy thereof to the Commission on Aging of the Commonwealth.

ARTICLE 13

SECOND HAND ARTICLES/ANTIQUES DEALERS

- 13.1 All persons wishing to be collectors or dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or second hand articles, must first obtain a license from the Board of Selectmen in accordance with Section 54 and 54A of Chapter 140, General Laws. The Board of Selectmen is authorized to establish the fee for same.

ARTICLE 14

HAWKERS AND PEDDLERS

- 14.1. No person, firm or organization, or his or its agent, shall without invitation or appointment visit any dwelling in the Town of Mattapoisett for the purpose of selling goods or services or in connection with such activities, or for the purpose of soliciting contributions or money or other property except after authorization by the Chief of Police or his designated assistant. Any person intending to make such solicitations or sales shall first present themselves to the Chief of Police or, in the absence of the Chief, to his designated assistant in charge of the Police Department, and give their full name, age, permanent and local address, if any, employer's name and address, and list all the products or commodities being offered for sale and/or organization for which the contributions are to be solicited. The Chief or his designated assistant, upon receipt of the above information and statement, under the pains and penalties of perjury, shall verify the above information and then shall grant to the person, or persons, written authorization to solicit. Such person shall at all times while soliciting in the Town carry said written permission upon his person. The provisions of this by-law shall not apply to any person engaged in the exercise of his right to freedom of speech and of religion. Any person convicted of violating this by-law may be fined not more than Three Hundred (\$300.00) Dollars.

ARTICLE 15

SWIMMING POOL FENCES

- 15.1. All private swimming pools, excluding above grade pools less than 24 inches deep or having surface area less than 250 square feet, shall be enclosed by an impassible four (4) foot high fence with a self-latching gate and a lock or an equivalent enclosure or means of protection from access to the pool.
- 15.2. Any person or entity who violates this By-Law shall be liable to a fine of not more than Three Hundred (\$300.00) Dollars for each day said offense continues.

ARTICLE 16

TOWN AMBULANCE FEES

- 16.1. The Board of Selectmen is hereby authorized to establish a schedule of fees to be charged persons transported by any town ambulance, in accordance with General Laws, Chapter 40, Section 5 (21A), and the Board of Selectmen may amend said fee schedule from time to time. The Board of Selectmen may also waive any fee if in its opinion the imposition of a fee would be a hardship or otherwise inappropriate. The Board of Selectmen may also enter into a written agreement with any insurer for the payment of said fee or accept a lesser fee pursuant to said agreement. Any fee schedule adopted by the Board of Selectmen

shall become effective no sooner than seven days after the Board of Selectmen adopts and posts the same at the Town Hall. A copy of all such fee schedules shall be filed with the Town Clerk.

ARTICLE 17

DOG LICENSING AND DOG CONTROL

17.1. Annual license fees for dogs shall be as follows:

| | |
|--------------------------------|---------|
| Male or female | \$12.00 |
| Neutered Male or Spayed Female | 9.00 |
| 4 dog kennel | 30.00 |
| 10 dog kennel | 60.00 |
| 25 dog kennel | 150.00 |

No fee shall be charged for a license for a dog owned by a person aged 70 years or over.

17.2. Penalty per dog for failure of any owner or keeper to obtain or renew any license required by Massachusetts General Laws Chapter 140, Section 137 to 138 inclusive shall be as follows:

| | |
|-------------------------|---------|
| Beginning June 1st | \$10.00 |
| Beginning September 1st | \$20.00 |
| Beginning December 1st | \$50.00 |

17.3. No dog owned or kept in the town shall be allowed to be off the premises of its owner or keeper except in the immediate restraint and control of some person by means of a chain or leash. The owner or keeper of any dog that is not so restrained or controlled off the premises of its owner or keeper shall be punishable by a fine of ten dollars for the first offense committed by such person within a calendar year. For subsequent offenses, the schedule of fines provided in G.L. c. 140, § 173A, as amended from time to time, shall apply.

17.4. No person owning or having custody or control of a dog owned or kept in the town shall permit such a dog to soil, defile or commit any nuisance on any public street or sidewalk of the town, including the town wharfs, or on any public park, beach or grounds of a public building, including school grounds, or on any private property in the town of a person or entity other than the owner or person having custody or control of a dog, unless such person picks up the dog waste and disposes of it in a sanitary manner. This section shall not apply to a physically handicapped person in sole custody or control of a dog. Violation of this section shall be punishable by a fine of ten dollars for the first offense committed by such person within a calendar year. For subsequent offenses, the schedule of fines provided in G.L. c. 140, § 173A, as amended from time to time, shall apply.

17.5. No person owning or having custody or control of a dog shall permit such dog within the boundaries of Ship Yard Park, Veterans Park with the exception of the roadway, and town beaches. Violations of this section shall be punishable by a fine of ten dollars for the first offense committed by such person within a calendar year. For subsequent offenses, the schedule of fines provided in G.L. c. 140, § 173A, as amended from time to time, shall apply.

- 17.6. Any matter not covered by the foregoing regulations shall be governed by the applicable provisions of Chapter 140, Sections 136A through 174B, or any other applicable provision of the M.G.L. and/or Special Acts relating to dog control.

ARTICLE 18

ALARM SYSTEMS REGULATION

18.I. DEFINITIONS

- 18.1.1. Alarm Systems", an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police, firemen and/or other emergency personnel are expected to respond. Fire Alarm systems, medical alert system and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or a robbery or attempt at a premises are specifically excluded from the provisions of this By-Law.
- 18.1.2. False Alarm", the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents; or any signal or oral communication transmitted to the Police Department requesting or requiring, or resulting in a response on the part of the Police and/or Fire Department when in fact there has been no unauthorized intrusion, robbery, burglary, attempted threat, fire, carbon monoxide hazard, structural damage, or environmental spill/upset..
- 18.1.3. Permit Holder", all persons, corporations, or entities shall make written application to the Mattapoisett Police Chief:
- 18.1.3.1. For a permit to connect to the Mattapoisett Police Department Alarm System, or
- 18.1.3.2. Prior to installing a private alarm system that is designed to attract urgent attention to which the police, fireman or other emergency personnel are expected to respond, at any residence or building in the Town of Mattapoisett.

18.2. CONTROL AND CURTAILMENT OF SIGNALS EMITTED BY ALARM SYSTEMS

- 18.2.1. Every permit holder shall submit to the Police and Fire Chief the name, address and telephone number of at least three (3) persons, other than the permit holder, who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed.

- 18.2.2. All alarm systems installed after the effective date of this By-Law, that use an audible horn or bell, shall be equipped with a device that will shut off such horn or bell within ten (10) minutes after activation of the alarm system.
- 18.2.3. Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7:00 P.M. and 6:00 A.M., which cannot be shut off or otherwise curtailed, due to the absence or unavailability of the permit holder or those persons designated by him under paragraph of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such continuous and uninterrupted signal, the Police and/or Fire Chief shall endeavor to contact the permit holder, or members of the permit holder's family, or those persons designated by the permit holder under paragraph A of this section, in an effort to abate the nuisance. The Police and/or Fire Chief shall cause to be recorded, the names and addresses of all complaints and the time each complaint was made.
- 18.3. For the purposes of this By-Law, the activation of alarm systems by acts of God, including but not limited to power outages, hurricanes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.
- 18.4. The provisions of this By-Law shall apply to all users of alarm systems in the Town of Mattapoisett.

18.5. **PENALTIES**

- 18.5.1. Upon receipt of three (3) or more false alarms within a calendar year, the Police Chief may:
- 18.5.1.1. Order the user to discontinue the use of the alarm.
- 18.5.1.2. Disconnect any direct connections to the Police Department.
- 18.5.1.3. Order that further connections to the communications console in the Police Department will be contingent upon the user equipping the alarm system with a device that will shut off any audible horn or bell within ten (10) minutes after activation of the alarm system.
- 18.5.1.4. Assess the permit holder \$25.00 as a false alarm service fee for each false alarm in excess of three (3) occurring within a calendar year. All fees assessed hereunder shall be paid to the Town Treasurer for deposit to the general fund.

18.6. **PENALTIES – FIRE DEPARTMENT**

- 18.6.1. Upon receipt of three (3) or more false alarms within a calendar year, the Fire Chief may:

18.6.1.1. Order the user to discontinue the use of the alarm.

18.6.1.2. Assess the permit holder \$250.00 as a false alarm service fee for each false alarm.

ARTICLE 19

LICENSE AND PERMITS

- 19.1. Any board, officer, department may deny any application for, or revoke or suspend any local license or permit including renewals and transfers for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.
- 19.2. 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 to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.
- 19.3. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector; 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 (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.
- 19.4. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

- 19.5. 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 in the business or activity conducted in or on said property.

ARTICLE 20

ENVIRONMENTAL PROVISIONS

- 20.1. **PRIVATE LANDFILLS.** No person, corporation or association shall operate in the Town of Mattapoisett a dump or sanitary landfill, refuse transfer station, refuse incinerator or compacting or treatment station, whether operated for profit or not; without a location assignment issued by the Board of Health pursuant to M.G.L. Chapter 111, and a license from the Board of Selectmen; said license shall not be for a term of more than one year, but may be renewed annually. Any person violating this By-Law shall be punished by a fine of not more than \$300.00 for each offense. Each day of operation shall constitute a separate offense.
- 20.2. **BOARD OF HEALTH PERMITS AND FEES:** By regulations made under G.L. c. 111, s. 31, as it hereafter may be amended from time to time, the Board of Health may require permits and fix and determine fees for use of a sanitary landfill, a refuse transfer station, a resource recovery facility, a refuse composting plant, a dumping ground for refuse or any other works for treating, storing or disposing of refuse maintained by the Town. All such fees and amendments thereto shall be reported at the next annual town meeting or at a special town meeting.

ARTICLE 21

HARBOR MOORING FINES

- 21.1. The following schedule of fines for violations of the "Harbormaster's Mooring and Anchorage Rules and Regulations in Mattapoisett, Massachusetts", as amended from time to time, is herewith made a part of these General By-Laws:

SCHEDULE OF FINES

| | | |
|-------------|---------------------------|---|
| Section 3.1 | Speeding in mooring areas | \$25.00 1 st offense |
| Section 3.2 | Inner Harbor Speed Limit | \$25.00 1 st offense \$50.00 repeat offense |

| | | |
|--------------------|--|--|
| Section 3.3 | Mattapoisett River Speed Limit-5mph | \$25.00 1 st offense \$50.00 repeat offense |
| Section 3.4 | Personal Water Craft | \$25.00 1 st offense \$50.00 repeat offense |
| Section 3.6 | Occupation of a mooring, wharf or skiff space without permission | \$50.00 fine and/or removal of boat at Owner's expense |
| Section 3.7 | Interference with Fisherman | \$10.00 |
| Section 3.9 | Littering – discharge of non-biodegradable liquids or solids | \$25.00 |
| Section 3.10 | Lobster Pots | Failure to comply, removal of pot at Owner's expense |
| Section 3.11 | Windsurfing within 100 ft of wharf or in channel | \$10.00 each offense |
| Section 3.12 | Swimming beyond 30 feet of boat | \$10.00 each offense |
| Section 5.4.9 | Mooring without identification | \$25.00 and/or removal of mooring at owner's expense. |
| Section 5.4.10.2.1 | Not registered by April 1 st | \$10.00 |
| Section 6.2 | Boats without stickers in Mattapoisett Waters for more than two (2) weeks. | \$10.00 a day |
| Section 7.1.8 | Mooring Identification Numbers | \$25.00 and/or loss of mooring. |
| Section 7.4.1 | Winter Mooring Spars/Sticks | \$50.00 within 15 days of notice or mooring forfeited |
| Section 7.5.1 | Anchorage within Mattapoisett waters | \$50.00 and/or removal of vessel at owner's expense |
| Section 7.5.2 | Leaving anchored vessel unattended | \$25.00 |
| Section 8.1.2 | Proof of Boat Ownership | \$50.00 if no compliance within 15 days of notice |
| Section 8.1.3 | Abandonment of Skiff/Wharf Space | 1 st offense, written warning \$50.00 for second offense. Loss of space on third offense. |

| | | |
|---------------------|--|--|
| Section 8.1.6 | Refusal or neglect to remove Boat or material. | \$50.00 |
| Section 8.3. 1&2 | East & West float time limit violations | \$25.00 1 st offense \$50.00 repeat offense tow at owner's expense for 4+ offense. |
| Section 8.3.4 | East & West float overnight violations | \$50.00 1 st offense, \$100.00 repeat offense tow at owner's expense for 4 th + offense. |
| Section 8.3.5-8.3.8 | Loading & unloading fish, etc; Fishing & Swimming; Dinghies on float | \$100.00 for each offense. Each day constitutes a new offense. |
| Section 9.3.2 | 48 Hour Limit violation | \$25.00 or removal at owner's expense. |
| Section 11.8.1 | Failure to display sticker or misuse of Observation Pier | \$25.00 and boat may be removed and stored at owner's expense |
| Section 11.8.2 | Failure to submit application for Registration or renewal fees | \$100.00 plus all mooring and late fees |
| Section 11.8.3 | Failure to remove Winter Spar | \$50.00 fine, with 15 days to comply. Removal of winter stick or chain will be dropped. |
| Section 11.8.4 | Failure to meet regulations of Section 8.1.2 | \$50.00 with 15-day compliance or space will be forfeited |
| Section 11.9.3 | Not restoring submerged Mooring within twenty (20) days | \$10.00 |

21.2 Non-Criminal Disposition of Harbor Rules, Regulations, Violations, and Fines

This Bylaw and any rules and regulations promulgated hereunder or otherwise by the Harbormaster, with the approval of the Board of Selectmen, are hereby specifically authorized to be enforced by all means available in law, or in equity, including the Non-Criminal Disposition Process as provided by Massachusetts General Laws Chapter 40, Section 21D.

ARTICLE 22

CONSERVATION COMMISSION

- 22.1. Notice of Intent or Request for Determination for Applicability
 - 22.1.1. Any person filing a Notice of Intent or Request for Determination for Applicability with the Mattapoisett Conservation Commission under the provisions of the Wetlands Protection Act, G.L. c. 131, §40, shall, at the same time, give written notice of the hearing thereof, by certified mail (return receipt requested) or by hand delivery, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way.
 - 22.1.2. The notice to abutters shall state the date, time and location for any hearing and include a copy of the Notice or Request and shall state where copies of the complete filing may be examined. Copies shall be available to abutters free of charge. An affidavit of the persons providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Conservation Commission at or before the time stated for the hearing.
 - 22.1.3. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Conservation Commission to the owner as well as to the person making the request.

ARTICLE 23

DRAINAGE PIPES AND SWALES

- 23.1 **Protection of Children from Drainage Pipes and Swales**
 - 23.1.1 Landowners utilizing drainage swales or pipes exposed at any point above the surface of the ground, or otherwise posing a risk for children, shall install protective devices to prevent access as follows:
 - 23.1.1.1 Drainage pipes eight (8) inches and larger shall have steel bars longitudinally inserted at spaces not to exceed four (4) inches on center or other approved methods to be determined by the Inspector of Buildings.
 - 23.1.2 Any person violating this By-Law shall be punished by a fine of not more than three hundred dollars. Each day that a violation continues after receipt of notice to correct such violation from the Inspector of Buildings shall constitute a separate offense.

ARTICLE 24

REPAIR OF PRIVATE WAYS

- 24.1 **Repair of Private Ways Open to the Public:** For the purpose of allowing safe and ready passage of police, fire, ambulance and school busses, the Town Highway Surveyor may in consultation with the Mattapoisett Selectmen, Fire Chief, and Police Chief smooth out irregularities on private roads open to the public within the Town on the following conditions in accordance with Massachusetts General Laws Chapter 40, Section 6N.
- 24.1.1 The road repaired by the Town shall now and in the future be open to public access.
- 24.1.2 The smoothing out of irregularities may, at the discretion of the Highway Surveyor, include repair of drainage facilities.
- 24.1.3 The owners of two thirds of the lots abutting the roadway or the authorized trustees of a trust or officers of a corporation acting as a homeowners' association authorized to act on behalf of the lot owners shall sign an Agreement with the Town in a form approved by Town Counsel, which shall include the following:
- (1) That the Highway Surveyor and employees of the Highway Department may enter upon the property to grade the roadway;
 - (2) That the road while remaining private in ownership shall be open for public access;
 - (3) The cost of material to do the work shall be paid by the Petitioners prior to the start of any work, pursuant to the requirements of this bylaw;
 - (4) That the Petitioners shall jointly and severally defend, indemnify and release the Town from any liability, responsibility for damages to personal property, bodily injury or other claims arising out of the work, including those which may arise due to any defects in such road. Claims of damage caused by the Town in the course of Town doing the repair to the road shall be subject to the present statutory claim procedures.
 - (5) That grading work on the road shall to be limited to twice annually under this agreement.

- 24.1.4 Such agreement shall be filed with the Town Clerk's Office prior to any work commencing on the road.
- 24.1.5 The Town Highway Surveyor shall place on file with the Town Clerk a notice that said road worked on by the Mattapoissett Highway Department is open for public passage.
- 24.1.6 The Town Highway Surveyor shall maintain a record of the labor hours contributed each year to this type of work, and a summary of equipment used and operation hours for each piece of equipment. Such tabulation to be reviewed with the Selectman and the Finance Committee in January of each year.
- 24.1.7 Grading of roads shall constitute a temporary repair undertaken as required by public necessity pursuant to the authority set forth herein and shall not constitute "maintenance" of such way, so as to give way the status of a way "maintained and used as a public way" under the Massachusetts Subdivision Control Law. 24.1.8 Cost of Material: Work shall be performed by Highway Department personnel using Town of Mattapoissett equipment. The Petitioners shall be charged only for the cost of any and all material used in the work ("Cost of Material").
- 24.1.9 Method of Payment: Prior to the start of any work, the Highway Surveyor in consultation with the Town Administrator and Town Accountant shall prepare a written Estimated Cost of Material document, including the charge per abutting lot. This estimate shall be provided to the Petitioners and filed with the Town Clerk.
- 24.1.10 Prepayment: Based on the Estimated Cost of Material owners must pay to the Town of Mattapoissett full payment for the material prior to the commencement of work. Upon completion and final cost tabulation, any surplus shall be returned or if cost is over the estimate then the additional sum must be paid to the Town. Any cost that exceeds the estimated cost by ten percent will be noted in writing by the Highway Surveyor immediately upon discovery and filed with the Town Clerk, and shall be paid to the Town forthwith.
- 24.1.11 The Town shall not be liable on account of damages caused by such repair.
- 24.1.12 Betterment charges shall not be assessed. Full payment for materials is required by the Town before work will commence.

ARTICLE 25

RIGHT TO FARM

25.1 Purpose

The purpose of this Bylaw is to restate the so-called “right to farm” accorded to all residents of the Commonwealth under Article 97 of the Constitution and all applicable state statutes and regulations including but not limited to: G.L. c.40A, §3, Paragraph 1; G.L. c. 90, §9; G.L. c.111, §125A, and G.L. c.128, §1A. This bylaw is adopted in accordance with the provisions of G.L. c.40, §21A and Art. 89 of the Amendments to the Massachusetts Constitution, the “Home Rule Amendment”.

This bylaw is intended to enhance awareness of farming in the Town of Mattapoisett, and, in connection therewith, to protect and preserve the character of our small community and its existing agricultural lands and businesses while promoting agricultural ventures. The Town, within the framework established by law, encourages pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands by allowing agricultural uses to function with minimal conflict with abutters and Town agencies, and supports farmers.

25.2 Farms and Farming

25.2.1 The word “farm” shall include any parcel or contiguous parcels of land used for the primary purpose of agriculture as defined by the Commonwealth of Massachusetts Chapter 61A.

The words “farm” or “agriculture” or their derivatives shall include but not be limited to:

- (1) Farming in all its branches and the cultivation and tillage of the soil;
- (2) Dairying;
- (3) The production, cultivation, growing, and harvesting of any and all agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- (4) Growing and harvesting of forest products upon forest land;
- (5) Raising of livestock including horses;
- (6) Keeping of horses as a commercial enterprise;
- (7) Keeping and raising of poultry, swine, cattle, raticities (e.g.emu) and camelids (e.g. llama) and other domesticated animals for food and other agricultural purposes, bees, fur-bearing animals; and
- (8) Other forestry or lumbering operations.

25.2.2 Farming shall encompass activities including, but not limited to:

- (1) Operation and transportation of large, slow-moving equipment over roads within the Town;
- (2) Control of pests, including, but not limited to; insects and weeds, predators and diseases of plants and animals;
- (3) Application of manure, fertilizers and pesticides;
- (4) Agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural output or services of the farm;
- (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand;

- (6) On-farm relocation of earth and the clearing of ground for farming operations, provided that the movement of soils that are rated as “prime” by the Natural Resources Conservation Service shall not adversely affect agriculture in the Commonwealth.

25.2 Right to Farm Declaration

25.3.1 The right to farm is hereby recognized to exist within the Town of Mattapoisett. The foregoing agricultural activities may, to the extent permitted by law, occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted practices. It is hereby determined that, to the extent permitted by law, whatever impact may be caused to others through the normal practice of agriculture is offset by the benefits of farming to the neighborhood, community and society.

25.3.2 The foregoing agricultural activities must be in conformance with applicable Federal, State and local laws, as well as any regulations promulgated thereunder.

25.3.3 The provisions of this bylaw shall not authorize, ratify or validate impacts resulting from willful negligence or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.

25.4 Notice

Following the effective date of this bylaw, the Board of Selectmen shall cause notice to be posted, in a form substantially similar to the below, on the official bulletin board of the Town, and at any other location at the Board’s sole discretion, and make such notice available for distribution upon request in the offices of the Board of Assessors and the Town Clerk:

NOTICE RIGHT TO FARM BYLAW

The Town of Mattapoisett has adopted a bylaw codifying its policy in favor of conserving, protecting and encouraging maintenance and improvement of agricultural land for the production of food and other agricultural products and for its natural and ecological value. This notice is to inform all persons, including those involved in real estate transactions in the Town, that farming activities occur in this Town, including but not limited to activities that cause noise, dust, and odors. Thus, property within the Town may be impacted by commercial agricultural operations.

25.5 Dispute Resolution

The following procedure is hereby established to provide an optional mechanism for resolution of farm-related issues. Any person having a complaint about a farm or farming activity or practice is encouraged to seek an amicable solution through resolution directly with the owner or operator of the farm at issue. Such person may also, notwithstanding the pursuit of other available remedies, file such complaint with the Board of Selectmen. The Board of Selectmen may, at its sole discretion and to the extent the Board believes resolution of the matter may be facilitated by involvement of the Town, forward the complaint to the Agricultural Commission created under Section 2.17 of these bylaws, or other appropriate board or officer, and request that recommendations for resolution be

provided within an agreed upon timeframe. Notwithstanding any other provision of this section, however, recognizing that generally such disputes occur between private property owners, the Board of Selectmen shall not be required to forward a complaint filed under this section or to take any other action whatsoever with regard thereto.