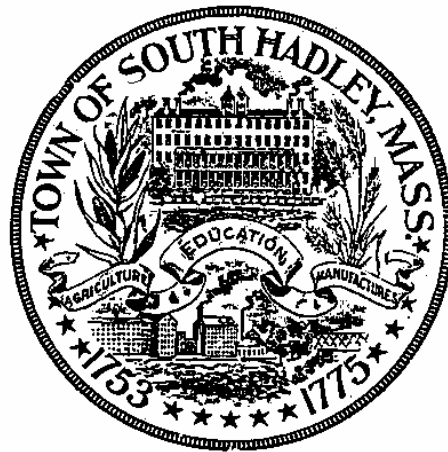


GENERAL BYLAWS
of the
TOWN OF SOUTH HADLEY
MASSACHUSETTS



MAY 2005

Attorney General approval 10-4-05

General Bylaws of the Town of South Hadley 2005

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ARTICLE I
GENERAL PROVISIONS

SECTION 100 TITLE, AUTHORITY, AMENDMENTS

100.1 Title

These bylaws shall constitute the Bylaws of the Town of South Hadley, Commonwealth of Massachusetts.

100.2 Citation form

These bylaws may be cited in the following form: (e.g., SH Bylaws, Article I, Section 100.2).

100.1 Authority

These bylaws have been approved by the Town of South Hadley, Massachusetts, under authority granted by the Attorney General of the Commonwealth of Massachusetts.

100.2 Amendments

These bylaws may be amended from time to time as authorized by the General Laws of the Commonwealth of Massachusetts and adopted by the Town Meeting of the Town of South Hadley.

SECTION 101 DEFINITIONS

For the purpose of these bylaws, the following words and phrases shall have the following meaning(s):

101.1 Commonwealth

The Commonwealth of Massachusetts.

101.2 Department

A Board, Committee and Commission and any office thereof.

101.3 Driver

The person having the charge or control of a vehicle upon a public or private street, way, off-road, sidewalk or path.

101.4 Head of department

The person who has responsibility for supervision of the day-to-day activities of the department.

101.5 Owner

As applied to a building or to land, a part-owner, joint owner, tenant in common, joint tenant, and tenant by the entirety of the whole or of a part of the building or land.

101.6 Person

Individuals, corporations, trusts, societies, associations, partnerships and individual business proprietorships.

101.7 Public place

All commons, parks, playgrounds, buildings, and public lands belonging to or in the charge of the Town of South Hadley, or any of its departments, and those portions of public squares, parking lots and places which do not form traveled parts of public ways.

101.8 Public building

All buildings belonging to or under the control of the Town of South Hadley or any of its departments.

101.9 Selectboard

Including the term “Board of Selectmen” whenever so used in the laws of the Commonwealth.

101.10 Sidewalk

Any sidewalk, footpath, bicycle path or other path commonly used by pedestrians, situated outside that portion of a street commonly used by vehicles for travel whether or not the sidewalk has been wrought and constructed by or under the authority of the Town of South Hadley.

101.11 Solicitation

Seeking to raise funds or sell or obtain orders for goods or services from persons in residences within the Town, not including the weekly or daily house delivery or newspapers. The term “commercial soliciting” shall mean soliciting in connection with a business or profit making venture.

101.12 Street

A public way, highway, Town way, alley, square, lane, court, crossroad, sidewalk, and a part of a public place that forms a traveled part of a highway or public way.

101.13 Town

The Town of South Hadley.

101.14 Town Officer

Any individual, either elected or appointed, serving as a member of any committee, board, authority, or trusteeship.

101.15 Voter

A duly registered voter of the Town of South Hadley.

SECTION 102 RULES FOR INTERPRETATION

102.1 Singular and Plural

A word in the singular includes the plural and a word in the plural includes the singular.

102.2 Gender

A word in either the masculine or feminine gender shall include the other.

102.3 Severability

If any of the provisions of these bylaws or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of the bylaws, or the application of such other provisions which can be given effect without the invalid provision or application thereof, and for this purpose the provisions of these bylaws are severable.

SECTION 103 PROVISIONS OF GENERAL APPLICABILITY

103.1 Powers

A Town Officer has the powers that are given to the officer by these bylaws and that are given to an officer of that kind by the General Laws of the Commonwealth of Massachusetts. Notwithstanding the definition of Town Officer in Article I, Section 101.14, no individual member of a committee, board, authority or trusteeship shall have the power to bind the Town of South Hadley or any committee to any official action unless duly authorized.

103.2 Deputy

If a power has been given to a Town Officer, the officer has authority, with the consent of the Selectboard, to designate a specific person to exercise the power as a deputy of the officer.

103.3 Acting officer

If a power has been given to a Town Officer, and if that office is vacant, the person, if any, who has been granted authority to act as that officer by consent of the Selectboard shall also have authority to exercise that power.

103.4 Relation to Massachusetts General Laws

If a conflict exists between a provision in these bylaws and the laws of the Commonwealth, the laws of the Commonwealth shall control.

SECTION 104 SAVINGS PROVISIONS

These bylaws shall not retroactively affect any act that has been done, any right that has accrued, any penalty that has been incurred, any suit, prosecution or proceeding that is pending, or the tenure of office of a person who holds office upon the effective date of these bylaws.

SECTION 105 PENALTIES

Any person who violates a provision of any bylaw or rule and regulation of the Town, whereby any act or thing is enjoined or prohibited or required, shall, unless other provision is expressly made, be liable to a penalty not exceeding (\$50) fifty dollars for each offense after notice by the Town to cease or perform, as applicable. Each day any such violation of these bylaws shall continue after such notice shall constitute a separate offense.

ARTICLE II
TOWN ELECTIONS

SECTION 200 ANNUAL ELECTION

The annual election of Town Officers shall be held on the second Tuesday of April of each year.
(amended November 19, 2013)

SECTION 201 VOTING HOURS AND LOCATIONS

The location of the polls and the hours of opening and closing shall be set by order of the Selectboard.

SECTION 202 VOTING PRECINCTS

There shall be five (5) voting precincts containing the metes and bounds description set forth below:

Precinct A

SOUTHERN BOUND:	Connecticut River and Chicopee City line.
EASTERN BOUND:	Memorial Drive, Willimansett Street, Granby Road, Lyman Street.
NORTHERN BOUND:	McKinley Avenue, Newton Street, Purple Heart Drive.
WESTERN BOUND:	Bardwell Street, Canal Street, Route 202 and Purple Heart Drive.

Precinct B

SOUTHERN BOUND:	Route 202-Purple Heart Drive, Canal Street.
EASTERN BOUND:	Bardwell Street, Purple Heart Drive, North Main Street, Brainerd Street, College Street.
NORTHERN BOUND:	Hadley Street, Ferry Street.
WESTERN BOUND:	Connecticut River.

Precinct C

SOUTHERN BOUND: North Main Street, Rte 202- Purple Heart Drive, Newton Street, McKinley Avenue, Lyman Street.

EASTERN BOUND: Granby Road, Sunset Avenue, Dale Street, Lloyd Street, Richview Avenue, Belmont Avenue, Newton Street.

NORTHERN BOUND: Brainerd Street.

WESTERN BOUND: North Main Street.

Precinct D

SOUTHERN BOUND: Ferry Street, Hadley Street, College Street, Morgan Street.

EASTERN BOUND: Granby Town Line.

NORTHERN BOUND: Amherst Town Line, Hadley Town Line.

WESTERN BOUND: Connecticut River.

Precinct E

SOUTHERN BOUND: Chicopee City Line.

EASTERN BOUND: Granby Town Line.

NORTHERN BOUND: Morgan Street.

WESTERN BOUND: College Street, Newton Street, Belmont Avenue, Richview Avenue, Lloyd Street, Dale Street, Sunset Avenue, Granby Road, Willimansett Street, Memorial Drive.

SECTION 203 DUTIES OF ELECTED OFFICIALS

The duties of elected officials shall be those set forth in the Massachusetts General Laws, except to the extent otherwise provided in these bylaws.

SECTION 204 ELECTED OFFICERS

The officers of the Town elected by the voters shall be:

- A. a Moderator, elected for one (1) year;
- B. five (5) members of the Selectboard, each elected for three (3) years, who shall also serve as the Road Commissioners, the Sewer Commissioners and the Police Commissioners;
- C. a Clerk/Treasurer, elected for three (3) years;
- D. five (5) members of the School Committee, each elected for three (3) years;
- E. three (3) members of the Board of Health, each elected for three (3) years;
- F. a Collector, elected for three (3) years;
- G. three (3) members of the Board of Assessors, each elected for three (3) years;
- H. five (5) members, of the Planning Board, each elected for five (5) years;
- I. three (3) members of the Municipal Light Board, each elected for three (3) years;
- J. four (4) members of the Housing Authority (exclusive of the member selected by the Commonwealth of Massachusetts), each elected for five (5) years;
- K. nine (9) Library Trustees, each elected for three (3) years;
- L. one hundred and twenty (120) Town Meeting members, each elected for three (3) years, comprised of twenty four (24) from each Precinct.

In each case where three or more members are to be elected for any office, as close to one-third as is possible shall be elected annually.

SECTION 205 OFFICE OF TOWN AUDITOR

The office of Town Auditor is abolished. (M.G. L. Chapter 41, Section 55)

SECTION 206 TERM OF OFFICE

The term of office of an elected Town Officer shall commence following his or her election immediately upon administration by the Clerk/Treasurer of the oath of office (excepting only the Clerk/Treasurer whose oath shall be administered by any person authorized by law and whose term shall commence as soon after the election as possible), and shall continue until the commencement of the term of his or her successor.

SECTION 207 VACANCY

Vacancies in any Town office shall be filled according to those requirements set forth in M.G.L. Chapter 41, Sections 10 and 11.

ARTICLE III TOWN MEETING

SECTION 300 ANNUAL TOWN MEETING

The Annual Town Meeting shall be held on the second Saturday in May of each year at the hour and location designated by the Selectboard, and continue the business of same on any subsequent day or days thereafter until the business of the meeting is completed.

SECTION 301 SPECIAL TOWN MEETING

The Selectboard may call a Special Town Meeting at the date, hour and location designated by them. The Selectboard shall call a Special Town Meeting upon the written petition of no fewer than two hundred (200) registered voters or twenty (20) per cent of the total number of registered voters of the Town, whichever is the lesser, and such meeting must be held not later than forty-five (45) days after receipt of the request.

SECTION 302 WARRANTS FOR TOWN MEETING

302.1 Preparation of warrants

The Selectboard shall be responsible for preparing all Town meeting warrants and for the insertion of articles therein, except that the School Committee shall be responsible for the preparation of all articles which relate to the public schools. The warrants shall state the time and place of holding the meeting and the subjects to be acted upon. The Selectboard shall also insert in the warrant for the Annual Town Meeting articles requested by petition of no fewer than ten (10) registered voters submitted to the Selectboard no later than sixty (60) days prior to the Annual Town Meeting; and in the warrant for Special Town Meetings, articles requested by petition of no fewer than one hundred (100) registered voters or by ten per cent of the total number of registered voters of the Town, whichever number is the lesser, and submitted to the Selectboard no later than twenty eight (28) days prior to the Special Town Meeting. Petitions for insertion of an article shall include the name and residence (street and number) of each petitioner. Upon receipt of any such petition, the Selectboard shall forward the petition to the Town Clerk, who shall forthwith check the names and certify which are registered voters. Only the names of certified voters shall be counted.

302.2 Delivery of warrants

Attested copies of warrants for all Town Meetings shall, at least seven (7) days before the Annual Town Meeting and fourteen (14) days before a Special Town Meeting, be (i) mailed by first class mail, postage prepaid, to each Voting Member (as hereafter defined) at his or her residence as set forth in the office of the Town Clerk, and (ii) directed to a constable or a police officer of the Town for posting in at least one public location in each precinct. The Town Clerk shall also request any provider of local cable television access to provide notice of any Annual or

Special Town Meeting. Nothing herein shall preclude the Selectboard from employing any additional methods of communicating the contents of the warrant.

302.3 Articles for appropriations

The warrant for any Town Meeting shall contain separate articles asking for appropriations for each specific department, or use, for which the appropriation is intended. No appropriations shall be made in any Town meeting except under an article setting forth briefly, but specifically, the general purpose, use, and the department of the Town in which such appropriations are to be expended.

SECTION 303 APPROPRIATIONS COMMITTEE

At Town Meeting, the Moderator shall appoint persons to fill any vacancies in the Appropriations Committee, whose duties are set forth in Article V, Section 502.1 of these Bylaws.

SECTION 304 CONDUCT OF TOWN MEETING

304.1 Duties of Town Moderator

All Town Meetings shall be called to order and presided over by the Town Moderator. However, in the absence of the Town Moderator, the Town Clerk shall preside until the election of a temporary moderator by the members in attendance at that meeting. The Moderator is authorized to speak on points of order and to decide each question of order and has the duty to preserve order, decorum and civility in Town Meeting. Except where otherwise specifically provided by law or these Bylaws, the Moderator shall be guided by the principles and rules of practice contained in the work entitled “Town Meeting Time, a Handbook of Parliamentary Law, Third Edition,” by Johnson Trustman and Wadsworth, published by Little Brown, as further revised from time to time.

304.2 Voting Members

Those entitled to vote at an Annual or Special Town Meeting on any article in a warrant are only the elected Town meetings members and such ex-officio members as are set forth in the Town’s Charter (hereinafter the “Voting Members”).

304.3 Quorum

The minimum number of Voting Members necessary to constitute a quorum for the transaction of business at any duly called Annual or Special Town Meeting or any adjournments thereof shall be a majority of the Voting Members.

304.4 Materials distributed at Town Meetings

At any Annual or Special Meeting, the Town Clerk shall provide to Voting Members additional copies of the warrant and any supplementary materials, including the report and recommendations of the Appropriations Committee, and shall ensure a reasonable amount of additional copies of such written materials for non-voting members of the public in attendance.

304.5 Order of consideration of articles

All articles shall be acted on in the order of their arrangement in the warrant, except that when an Annual Town Meeting and a Special Town Meeting are set for the same date, the articles of the Special Town Meeting shall take precedence. Town meeting members may vote to take articles out of order. Voting Members may, by a majority, determine to defer action on any article of an Annual or Special Town until after action on a specific subsequent article of an Annual or Special Town Meeting scheduled for the same date.

304.6 Motions on articles relating to finances

All motions on Articles having to do with the expenditure of money or incurring of debt shall be made as set forth in the warrant by the affected board, committee or elected officer or, if applicable, or a representative of the petitioners who requested insertion of the article. After the motion is made and, if seconded, the maker of the motion shall be granted an opportunity to offer an amendment thereto, prior to any further discussion, and to speak in favor of the amendment. Upon completion of such presentation, if any, and before the commencement of any general discussion on the motion by all Voting Members, the Appropriations Committee shall advise Town Meeting of its recommendation(s) with respect to the motion and amendment and the reasons therefor, and whether its recommendation is unanimous or by majority vote.

304.7 Speaking at Town Meeting

Only Voting Members are entitled to address any Annual or Special Town Meeting, except that others may speak to articles at the discretion of the Town Moderator or upon a majority vote of the Voting Members. All persons desiring to speak shall signify their interest by a show of hands and, upon obtaining recognition from the Town Moderator, each speaker shall state his or her name and stand while speaking, unless the Town Moderator otherwise directs. The extent and frequency of any comments or debate shall be at the discretion of the Moderator or by a majority vote of the Voting Members present and voting.

304.8 Motions in writing

All motions shall be reduced to writing and submitted to Town Clerk.

304.9 Determination of voting

All votes, including those requiring two-thirds approval or more, shall be taken in the first instance by a "yes" and "no" voice vote. If the Moderator is in doubt as to the vote s/he shall call for a show of hands or for a standing vote, or, if seven (7) or more voters immediately question the vote, the Moderator shall call for a standing vote.

304.10 Division of a motion

At the discretion of the Town Moderator or at the request of at least seven (7) Voting Members, any motion susceptible of division shall be divided.

304.11 Precedence of motions

When a question is under debate, motions shall be received to adjourn, to lay on the table, to call the previous question, to postpone to a certain time, to commit, or to amend; which several motions shall have precedence in the order stated. The first three shall be decided without debate.

304.12 Reconsideration of motions

A motion to reconsider any vote must be made before the final adjournment of the meeting. There can be no reconsideration of a vote once reconsidered, or after a vote not to reconsider.

304.13 Dissolution of meetings

No Annual or Special Town Meeting shall be dissolved until all of the articles contained in the warrant for such meeting shall have been acted upon. No Town Meeting may be adjourned, unless the date, time and location of the adjourned meeting are publicly stated at the time of postponement.

ARTICLE IV
COMMITTEES AND BOARDS APPOINTED BY
THE SELECTBOARD

SECTION 400 PROVISIONS OF GENERAL APPLICABILITY

400.1 In addition to those committees appointed by the Selectboard as required by Massachusetts General Laws, the Selectboard may from time to time appoint such other committees as it may believe prudent for the governance of the Town.

400.2 Appointees shall serve until the later of a specified term determined by the Selectboard or until a successor is appointed unless otherwise provided by statute or these bylaws. Unless otherwise provided below, if the term of any Committee or Board is for more than one year and has not been previously staggered or is to be reformed, the Selectboard shall appoint in the first year as close as is possible to one-third of the members for 1 year, one-third of the members for 2 years and one-third of the members for 3 years, and thereafter appoint members to three year terms. In the event of a vacancy by removal, resignation or otherwise, the Selectboard may appoint a member to complete that term, subject to reappointment thereafter.

400.3 Members of Committees or Boards of the Town must be voters in Town, unless otherwise provided for by Massachusetts General Laws or by these bylaws.

400.4 The Selectboard may, at any time, by majority vote, remove any Committee or Board member appointed under this Article, for cause, including on account of a conflict of interest or failure to attend Committee or Board meetings or attend to Committee or Board business. No member shall be removed absent an opportunity for the member to resign or appear at a hearing before the Selectboard, provided that a written statement setting forth specific reasons for such removal is filed with the Town Clerk and a copy thereof is delivered to or sent by certified mail to said Committee or Board member at least five (5) days before the date of said proposed hearing. The actions of the Selectboard shall be final.

SECTION 401 WHITING STREET FUND COMMISSIONERS

401.1 Duties

The Whiting Street Fund Commissioners shall distribute annual fund income to any residents who are indigent and void of any form of financial aid or assistance.

401.2 Membership and term

The Whiting Street Fund Commissioners shall consist of five (5) members, each of whom shall serve for a term of one (1) year.

SECTION 402 BOARD OF REGISTRARS

402.1 Duties

The Board of Registrars shall perform duties enumerated in M.G.L. Chapter 51, Section 15.

402.2 Membership and term

The Board of Registrars shall consist of three members, each of whom shall serve for a term of three (3) years, pursuant to M.G.L. Chapter 51, Section 15. The Town Clerk shall also serve as an ex-officio member.

SECTION 403 COUNCIL ON AGING

403.1 Duties

The Council on Aging shall perform the duties enumerated in M.G.L. Chapter 40, Section 8b. In addition, it shall (i) identify the total needs of the community's elderly population; (ii) act as a provider of information, referral, counseling nutrition and health needs that will encourage independence, participation and community involvement; (iii) design, advocate and/or implement programs for the elderly of the community including providing meaningful education, cultural, social, recreational, and volunteer activities which will foster individual growth and serve the life of the community; (iv) educate the community and enlist support and participation of all citizens about elder needs; and (v) be responsive to the changing needs of the elderly in the community, in cooperative communication with community organizations, agencies and individuals.

403.2 Membership and term

The Council on Aging shall consist of eleven (11) members, a majority of whom shall be at least age 60. The term of appointment shall be three (3) years. Members shall not serve more than two consecutive 3 year terms, or more than seven consecutive years. Previous members shall become eligible for reappointment after one year of absence. Honorary members may be appointed by the Council in recognition of meritorious service to the Council.

SECTION 404 CONSERVATION COMMISSION

404.1 Duties

The Conservation Commission will perform duties as enumerated in M.G.L Chapter 40, Sec 8c and Chapter 131, Section 40.

404.2 Membership and term

The Conservation Commission shall consist of not fewer than three (3) and not more than seven (7) members, each of whom shall be appointed for a term of three (3) years.

404.3 Associate members

The Selectboard shall also appoint two (2) associate non-voting members to the Conservation Commission for a term not to exceed three (3) years. Failure to have served as an Associate Member shall not constitute a disqualification for appointment to fill a vacancy in the Conservation Commission.

SECTION 405 RECREATION COMMISSION

405.1 Duties

The Recreation Commission shall perform duties as enumerated in M.G.L. Chapter 45, Section 14.

405.2 Membership and term

The Recreation Commission shall consist of seven (7) members, each of whom shall be appointed for a term of three (3) years.

SECTION 406 FORESTRY COMMITTEE

406.1 Duties

The Forestry Committee shall perform duties as enumerated in M.G.L. Chapter 45, Section 21. The Committee shall also perform services on other forested Town lands at the request of or with the permission of the agency/department having jurisdiction over said land, including clearing and blazing trails, cleanup, filing Notices of Intent for control of invasive exotic plant species and planting no-invasive plant material.

406.1 Membership and term

The Forestry Committee shall consist of three (3) members, each of whom shall be appointed for a term of three (3) years.

SECTION 407 CABLE TELEVISION AND INFORMATION TECHNOLOGY ADVISORY COMMITTEE

407.1 Duties

The Cable Television and Information Technology Advisory Committee shall serve as a liaison between the Town's cable provider(s) and the Selectboard; review proposed and existing cable contracts; advocate with the Town's cable provider(s) on behalf of the Town and its citizens; network with municipal peer groups, and anticipate future cable needs.

407.2 Membership and term

The Cable Advisory Committee shall consist of not fewer than five (5) and not more than nine (9) members, each of whom shall be appointed for a term of one (1) year.

SECTION 408 CHANNEL MARKING COMMITTEE

408.1 Duties

The Channel Marking Committee shall work with other nearby riverfront communities to mark safe boating channels in the Connecticut River.

408.2 Membership and term

The Channel Marking Committee shall consist of three (3) members, each of whom shall be appointed for a term of three years.

SECTION 409 TRUSTEES OF THE OLD FIREHOUSE MUSEUM

409.1 Duties

The Trustees of the Old Firehouse Museum shall ensure that the building and its contents are maintained in good condition, and shall make provisions for reasonable public access.

409.2 Membership and term

The Trustees of the Old Firehouse Museum shall consist of nine (9) members (five from the South Hadley Historical Society and four from the general public), each of whom shall be appointed for a term of three (3) years.

SECTION 410 HISTORICAL COMMISSION

410.1 Duties

The Historical Commission shall perform duties as enumerated in M.G.L. Chapter 40, Section 8D.

410.2 Membership and term

The Historical Commission shall consist of seven (7) members, each of whom shall be appointed for a term of three (3) years.

SECTION 411 RESERVED FOR FUTURE USE

SECTION 412 CANAL PARK COMMITTEE

412.1 Duties

The Canal Park Committee shall ensure the maintenance and safety of the Bicentennial Canal Park as well as report to the Selectboard on the maintenance and safety of the Gatehouse and Riverfront Parks. The Committee shall also document and publicize the historical importance of the South Hadley Canal and shall advocate for the protection of the entire remains of the old canal and gatehouses and develop the site's potential to attract residents and tourists to these areas.

412.2 Membership and term

The Canal Park Committee shall consist of seven (7) members with staggered terms, three of whom shall initially be appointed for a three (3) year term, two (2) for a two (2) year term and two (2) for a one (1) year term. All future appointments shall be for three (3) years.

SECTION 413 TRAFFIC SIGN COMMITTEE

413.1 Duties

The Traffic Sign Committee shall review requests from Town departments and citizens regarding traffic signs, speeding, traffic control and hazardous situations and make non-binding recommendations to the Selectboard relative to same for its approval.

413.2 Membership and term

The Traffic Sign Committee shall consist of seven (7) members, each of whom shall be appointed for a term of one year. The members of the Committee shall consist of a member of the Selectboard, Chief of Police, safety officer, Superintendent of Public Works, and two members at large.

SECTION 414 SOUTH HADLEY CULTURAL COUNCIL

414.1 Duties

The Council has the responsibility to promote and encourage the arts and to receive, obligate and disburse funds from the State Arts Lottery Fund, as enumerated in M.G.L. Chapter 10, Section 58. The Council shall abide by the regulations of the Massachusetts Cultural Council.

414.2 Membership and term

The Council shall consist of not fewer than five (5) and not more than nine (9) members, each of whom shall be appointed for a term of three (3) years. A person is not eligible to be appointed to more than two consecutive terms, but may be reappointed after a one (1) year interval.

SECTION 415 BOARD OF APPEALS

415.1 Duties

The Board of Appeals shall perform duties as enumerated in the laws of the Commonwealth and the Town Charter.

415.2 Membership and term

The Board of Appeals shall consist of three (3) members plus two (2) non-voting associates, each of whom shall be appointed for a term of three (3) years.

SECTION 416 GOLF COMMISSION

416.1 Duties

The South Hadley Golf Commission shall advise the Selectboard on the operation of golf, policies and fees, capital purchases, finances, staffing and general management within the Town of South Hadley and shall promote and operate golfing programs and other recreational activities as may be deemed in the best interest of the Town. The South Hadley Golf Commission shall prepare and submit an annual report of its activities to the Selectboard.

416.2 Membership and term

The South Hadley Golf Commission shall consist of seven (7) members, each of whom shall be appointed for three (3) year terms. Where possible, the Selectboard shall endeavor to appoint members to the Commission who represent a cross-section of the community, course neighbors, and/or users of the golf course.

Section 416.3

The Selectboard may appoint alternates as they deem necessary who shall serve for two terms each.

Section 416.4

Any member of the Commission may be removed by the Selectboard after a public vote. A vacancy occurring otherwise than that by the expiration of a term shall be filled for the unexpired term in the manner of original appointment.

SECTION 417 ASSOCIATE PLANNING BOARD MEMBERS

The Selectboard and the members of the Planning Board shall appoint an associate voting member in accordance with the provisions of M.G.L. Chapter 41, Section 81A for filling a vacancy occurring in the Board by other than the expiration of a term by appointment.

SECTION 418 BYLAW REVIEW COMMITTEE

418.1 Duties

The Bylaw Review Committee shall meet as needed to review and recommend new bylaws or amendments to these bylaws.

418.2 Membership and term

The Bylaw Review Committee shall consist of not more than seven (7) members, each of whom shall be appointed for a term of three (3) years. (5-13-06)

ARTICLE V
COMMITTEES AND BOARDS APPOINTED BY OTHERS

SECTION 501 THE PERSONNEL BOARD

501.1 Membership and term

The Personnel Board shall consist of five (5) members, each of whom shall be appointed for a term of three (3) years. No member shall be a member of another board, or an officer, official or paid employee of the Town, except that a Town meeting member may be a member of the Board. Appointment to the Personnel Board shall be made by a committee comprised of the Town Moderator and the Chairs of the following committees or boards: the Selectboard; the School Committee; the Planning Board; and the Appropriations Committee.

501.2 Duties

The Personnel Board reviews and makes recommendations to the Selectboard on requests for changes in classification of Town personnel and on such other matters of personnel policy or administration as requested by the Selectboard or other appointing authorities.

501.3 Removal

The Appointing Committee may, at any time, by majority vote, remove any member of the Personnel Board, for cause, after a hearing or an opportunity therefore, provided that a written statement setting forth specific reasons for such removal is filed with the Town Clerk and a copy thereof is delivered to or sent by certified mail to said member at least five (5) days before the date of said proposed hearing. The actions of the Appointing Committee shall be final.

SECTION 502 THE APPROPRIATIONS COMMITTEE

502.1 Duties

The Appropriations Committee shall conduct a public hearing and consider all articles involving the expenditure, appropriation, raising or borrowing of money in any warrant for any Town meeting held during their term of office, and make report thereon, in writing, together with their recommendations to the meeting held to consider such article or articles. This public hearing shall be held not less than twenty-one (21) days prior to an annual meeting and five (5) days prior to a special meeting. It shall be the duty of the Committee to investigate the cost of maintenance and expenditures of the different Town officers in matters pertaining to the appropriations for their departments and to recommend, in detail, the amounts to be appropriated for the ensuing year. No action shall be taken on the expenditure, appropriation, raising or borrowing of money, until such proposition has been submitted to the committee and report made by the committee to the meeting at which action is to be taken.

502.2 Appointment; Membership; Term; Organization

The Town Moderator shall appoint the Appropriations Committee. The Appropriations Committee shall consist of nine (9) members, all of whom shall be voters in the Town, but none of whom shall hold an elective Town office other than Town Meeting member. Each member shall be appointed for a term of three (3) years, with one-third of the Committee appointed annually. In the event of a vacancy by removal, resignation or otherwise, the remaining Committee members may fill the vacancy for the balance of that term. The Committee shall elect a Chair and Secretary at the first committee meeting after the annual town meeting.

502.3 Removal

The Moderator may, at any time, remove any member of the Appropriations Committee after a meeting or an opportunity therefore, provided that a written statement setting forth specific reasons for such removal is filed with the Town Clerk and a copy thereof is delivered to or sent by certified mail to said official at least five (5) days before the date of said proposed hearing. The action of the Moderator shall be final.

SECTION 503 THE CAPITAL PLANNING COMMITTEE

503.1 Membership and term

The Capital Planning Committee will consist of nine (9) members, each of whom shall be appointed for a three year term, and shall consist of three (3) individuals recommended by the Selectboard, two (2) members recommended by the School Committee, three (3) individuals recommended by the Appropriations Committee, and one (1) member recommended by the Planning Board. No member of the above named boards or committees shall be disqualified from serving as a recommended member of the Capital Planning Committee. The Committee shall choose its own officers, and in the event of a vacancy by removal, resignation or otherwise, the remaining Committee members shall have the power to fill the vacancy for the balance of that term

503.2 Duties

The Committee shall study and make recommendations with respect to proposed capital projects and improvements involving major non-recurring tangible assets and projects which:

- (a) are purchased or undertaken at intervals of not less than five years;
- (b) have a useful life of at least five years; and
- (c) cost over \$10,000.

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. All officers, board and committees, including the Selectboard and School Committee, shall, by January 1 of each year, give to the Committee, on forms prepared by it, information concerning all anticipated projects requiring Town Meeting action during the ensuing five years.

503.3 Report to Selectboard

The Committee shall prepare a report recommending a capital planning budget for the next fiscal year and a capital planning program including recommended capital improvements for the following five fiscal years. The report shall be submitted to the Selectboard for its consideration and approval. The Board shall submit its approved capital budget to the Annual Town Meeting for adoption by the Town. No appropriation shall be voted for a capital improvement requested by a department, board or commission unless the proposed capital improvement is considered in the Committee's report or the Committee shall have submitted a report to the Selectboard explaining the omission.

503.4 Approval and implementation of report

Such capital planning report, after its adoption, shall permit the expenditure on projects including therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisals; but no such expenditure shall be incurred on projects which have not been so approved by the Town through the appropriation of sums in the current year or in prior years or for preliminary planning for projects to be undertaken more than five years in the future. Nothing herein shall restrict the School Committee from approving an expenditure for a capital project out of a previously approved annual appropriation by Town Meeting.

503.5 Report of recommendation to Town Meeting and residents

The Committee's report and the Selectboard's recommended capital budget shall be published and made available in a manner consistent with the distribution of the Town budget.

ARTICLE VI
INDIVIDUALS APPOINTED BY THE SELECTBOARD

SECTION 600 TOWN ADMINISTRATOR

A Town Administrator may be appointed pursuant to M.G.L. Chapter 41, Section 108N, for a term not to exceed five (5) years. The Town Administrator shall serve as the chief administrative officer under the direction of the Selectboard, shall perform the duties that are assigned to the Town Administrator by the Selectboard, and shall not perform any function that has not been approved for the Town Administrator by the Selectboard.

SECTION 601 CHIEF OF POLICE

A Chief of Police shall be appointed for a term determined by the Selectboard, subject to the provisions of M.G.L. Chapter 41, Section 97(a) and Special Act of the Legislature, Chapter 511 of the Acts of 1972.

SECTION 602 TOWN COUNSEL

A Town Counsel may be appointed for a term not to exceed one (1) year. The Town Counsel shall draft all legal instruments and do every act of professional legal service that is required of him or her by the Selectboard or by a vote of the Town. The Town Counsel shall represent the Town or an officer, board, committee, or commission of the Town in any proceeding to which it is a party before any court, government agency or body, arbitration, or mediation panel or board of referees.

SECTION 603 TOWN ACCOUNTANT

A Town Accountant shall be appointed for a term not to exceed five (5) years. The Town Accountant shall perform the duties and possess the powers of Town Auditor as defined in Section 50 through 53 inclusive of Chapter 41 of the General Laws of the Commonwealth. S/he shall cooperate with the independent auditor in the annual audit of the financial records and accounts of the Town. The Town Accountant shall, in addition, have all of the powers and duties as set out in Sections 55 through 61 of Chapter 41 of the General Laws of the Commonwealth.

SECTION 604 SUPERINTENDENT OF PUBLIC WORKS

A Superintendent of Public Works shall be appointed for a term not to exceed three (3) years. Said Superintendent of Public Works shall also serve as Town Engineer and Superintendent of Streets. The Superintendent shall have full authority to carry out the policies of the Selectboard, and shall be responsible for the efficient exercise and performance of the powers, rights and duties vested in said Board.

SECTION 605 MANAGEMENT INFORMATION SYSTEMS DIRECTOR

A Director of Management Information Systems (MIS) may be appointed for a term not to exceed one (1) year.

SECTION 606 AMBULANCE DIRECTOR

An Ambulance Director shall be appointed for a term not to exceed five (5) years.

SECTION 607 FOREST WARDEN

A Forest Warden shall be appointed for a term not to exceed one (1) year.

SECTION 608 BUILDING COMMISSIONER

A Building Commissioner shall be appointed for a term not to exceed three (3) years.

SECTION 609 WIRING INSPECTOR

A Wiring Inspector shall be appointed for a term not to exceed three (3) years.

SECTION 610 ANIMAL CONTROL OFFICER

An Animal Control Officer shall be appointed for a term not to exceed (1) year.

SECTION 611 CONSTABLES

Three (3) Constables shall be appointed for terms not to exceed one (1) year.

SECTION 612 FENCE VIEWER

A Fence Viewer shall be appointed for a term not to exceed one (1) year.

SECTION 613 VETERANS BURIAL AGENT

A Veterans Burial Agent shall be appointed for a term not to exceed one (1) year.

SECTION 614 SEALER OF WEIGHTS AND MEASURES

A Sealer of Weights and Measures shall be appointed for a term not to exceed three (3) years.

SECTION 615 SURVEYOR OF WOOD, LUMBER

A Surveyor of Wood, Lumber shall be appointed for a term not to exceed one (1) year.

SECTION 616 CONSERVATION ADMINISTRATOR

A Conservation Administrator may be appointed for a term not to exceed one (1) year.

SECTION 617 RECREATION DIRECTOR

A Recreation Director may be appointed for a term not to exceed one (1) year.

SECTION 618 COUNCIL ON AGING DIRECTOR

A Council on Aging Director may be appointed for a term not to exceed one (1) year.

SECTION 619 TREE WARDEN

A Tree Warden shall be appointed for a term not to exceed one (1) year.

SECTION 620 EMERGENCY MANAGEMENT DIRECTOR

An Emergency Management Director shall be appointed for a term not to exceed one (1) year.

ARTICLE VII
INDIVIDUALS APPOINTED BY OTHERS

SECTION 701 DIRECTOR OF PUBLIC HEALTH

A Director of Public Health may be appointed by the Board of Health for a term not to exceed one (1) year.

SECTION 702 ASSOCIATE ASSESSORS

An Associate Assessor may be appointed by the Board of Assessors for a term not to exceed one (1) year, subject to renewal, pursuant to M.G.L. Ch. 41, Section 25A.

SECTION 703 TOWN PLANNER

A Town Planner may be appointed by the Planning Board for a term of no more than one (1) year.

SECTION 704 DIRECTOR OF VETERAN SERVICES

A Director of Veteran Services shall be appointed by the Veteran's Service Board for a term not to exceed one (1) year.

SECTION 705 DIRECTOR OF THE PUBLIC LIBRARY

A Director of the Public Library shall be appointed by the Board of Library Trustees for a term to be determined by the Trustees.

ARTICLE VIII
REGULATION OF PUBLIC CONDUCT

**SECTION 800 NON-CRIMINAL DISPOSITION OF VIOLATIONS
 OF ANY BY-LAW**

800.1 General provisions; schedule of fines

Pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D, the Town hereby adopts the following procedure for the non-criminal disposition of violations of any bylaw adopted by the Town or any rules or regulation of any board, commission or department which contains therein a specific financial penalty, excluding the enforcement of traffic rules and regulations. In addition to those penalties specifically set forth in various sections of these bylaws, a copy of any such schedule of financial penalties to which this bylaw applies shall be retained on file with the Town Clerk.

800.2 Enforcing persons; procedure

The Selectboard shall file with the Town Clerk a list of the Town's enforcing persons who shall be entitled to issue tickets under this bylaw. An enforcing person shall be deemed to mean any person taking cognizance of a violation of a specific bylaw, rule or regulation which s/he is empowered to enforce.

As an alternative to initiating criminal proceedings, an enforcing person may issue to the offender a written notice to appear before the Clerk Magistrate of the Hadley District Court at any time during office hours, not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his or her required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received.

The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver to the offender a copy of said notice at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person or the department head or their designee to the offender's last known address, within fifteen days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give his or her commanding officer or department head those copies of each notice of such violation s/he has issued. The department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery

or mailing, deliver the other copy to the clerk magistrate of the court before which the offender has been notified to appear.

Any person notified to appear before the clerk magistrate as hereinbefore provided may so appear and confess the offense charged or by mailing to the Town Clerk together with the notice such sum of money not exceeding three hundred dollars as the Town shall fix as penalty for violation of the bylaw, rule or regulation. Such payment shall if mailed be made only by postal note, money order or check. Upon receipt of such notice, the Town Clerk shall forthwith notify the district court clerk magistrate of such payment and the receipt by the district court clerk magistrate of such notification shall operate as a final disposition of the case. An appearance under this paragraph shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk magistrate of district court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.

If any person so notified to appear desires to contest the violation alleged in the notice to appear and also avail himself of the procedure established pursuant to this section, s/he may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court magistrate or assistant magistrate, as the court shall direct, and if the magistrate or assistant magistrate, after hearing, finds that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the magistrate or assistant magistrate shall order, which payment shall operate as a final disposition of the case. If the magistrate or assistant magistrate, after hearing, finds that the violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this paragraph shall not be deemed to be criminal proceedings. No person disposing of a case by payments of such a penalty shall be required to report to any probation office as a result of such violation, not shall any record of the case be entered in the probation records.

If any person so notified to appear before the clerk magistrate fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the magistrate or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding paragraph, the magistrate shall notify the court officer or department head, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate bylaw, rule or regulation.

Each such day that a violation continues shall constitute a separate offense. No penalty enforceable under Massachusetts General Laws, Chapter 40, Section 21D, as it may be amended from time to time, shall exceed the maximum set forth in that statute.

All fines and penalties for the violation of any bylaw shall be paid into the Town treasury for deposit in the Town General Fund.

SECTION 801 OFF-ROAD VEHICLE RESTRICTIONS

“No person shall use or operate a motorized off-road vehicle, including, but not limited to, motorcycle, all terrain vehicle, snowmobile, or similar motorized vehicle which is eligible for registration or any vehicle as described in Chapter 90B, Section 20 on town owned property, except vehicles used for agriculture, forestry, lumbering, golf, construction, police and fire protection, without prior written consent of the Selectboard and the Conservation Commission with respect to property under its jurisdiction. Further, no person shall use or operate such a vehicle on private property without the consent of the landowner having the responsibility for the management of such property.”

Any such consent shall be temporary in nature, shall specify the authorizing person’s name, telephone number, period of time during which it is in force, and shall be subject to the prohibitions, restrictions, and requirements of Town of South Hadley Bylaws, and Massachusetts General Law, including, without limitation Chapter 90B, Section 26. (5-13-06)

SECTION 802 DISCHARGE OF FIREARMS; ARCHERY

802.1 Town Owned Land

No person shall discharge a firearm or arrow on any land owned by the Town, except on land designated by the Selectboard and on file with the office of the Town Clerk.

802.2 Private Property

No person shall hunt or discharge a firearm on posted private property without the permission of the owner, pursuant to Massachusetts General Laws Chapter 131.

802.3 Exceptions

This Section shall not apply to the lawful defense of life or property, or to any discharge of firearms in accordance with law enforcement, at any military exercise, for the purpose of construction or sport shooting at an established gun-sporting club.

SECTION 803 DISCHARGE OF AIR, PELLET, PAINT-BALL GUNS

No person shall discharge an air, pellet, paint-ball or other weapon used to shoot projectiles on Town-owned land, public ways, or on private property other than said person’s own property or the property of the person’s parents, children, grandchildren or their respective spouses without permission of the owner of the land upon which discharge of such weapons will take place.

SECTION 804 FALSE ALARM

804.1 Definitions

For the purpose of this Article, the following words and phrases shall have the following meaning(s):

Alarm system

Any assembly of equipment and/or devices that are designed to be activated either manually or automatically for the purpose of drawing attention to the presence of a hazard, intruder, or situation, criminal or otherwise, to which the police are expected to respond.

Alarm user

Any person or business on whose premises an alarm system is installed and maintained within the Town of South Hadley, except for alarm systems that are installed in motor vehicles. Municipal buildings are hereby excluded from the provisions of this bylaw.

False alarm

The activation of an alarm system or any signal or communication transmitted to the police department requesting, requiring, or resulting in a response from the police when, in fact, there has been no unauthorized entry or intrusion into the premises, and there has been no attempted robbery or burglary at the premises. Excluded from this definition shall be the activation of an alarm system by power outages, utility companies, motor vehicle accidents, severe storms and general maintenance and/or repairs to the alarm systems when the police department has been notified in advance of potential alarm activation.

Audible alarms

All alarm systems that emit an audible signal shall be equipped with a device for limiting the length of the audible signal to fifteen (15) minutes.

804.2 Penalty

After the police department has recorded three (3) separate false alarms, be they audible or otherwise, within a calendar year, the alarm user shall be assessed the following fees:

Twenty-five dollars (\$25.00) for the fourth false alarm; and
Fifty dollars (\$50.00) for the fifth and subsequent false alarm(s)

SECTION 805 NON-MOTORIZED VEHICLES

805.1 Bicycles

Any person operating a bicycle shall obey the instructions of official traffic signals, signs, and other control devices applicable to motor vehicles, unless otherwise directed by a police officer. The bicycle operator shall, by hand, signal his or her intention to stop or turn. The operator shall not carry another person on said bicycle, except on a baby seat attached to the bicycle, provided that such seat is equipped with a harness to hold said person secured in the seat and protection is provided against the feet of said person hitting the spokes of the wheel of the bicycle.

During the period from one-half hour after sunset to one-half hour before sunrise, the operator shall display at the front of his or her bicycle a lamp emitting a white light visible from a distance of at least five-hundred feet, and at the rear of said bicycle either a lamp emitting a red light or a red reflector visible for not less than six-hundred feet when directly in front of lawful lower beams of headlamps on a motor vehicle. The operator shall display on each pedal of his or her bicycle a reflector, or around each ankle reflective materials, visible for a distance of six hundred feet. This clause shall not prohibit a bicycle or its operator to be equipped with lights or reflectors in addition to those required herein. A generator-powered lamp which emits light only when the bicycle is moving shall meet the requirements of this clause.

805.2 Other non-motorized vehicles

No person shall ride, drive, propel or wheel any sled, roller blades (included but not limited to in-line skates), sidewalk surfboard or skateboard within one hundred (100) feet of Town Hall, Police Station, Council on Aging, and Libraries, or on any portion of state numbered highways for which there is no sidewalk. Persons using such devices on sidewalks shall yield the right-of-way to pedestrians; persons traveling upon streets shall keep as near to the righthand side of the roadway as practicable and shall yield the right-of-way when entering an intersection.

805.3 Penalties

Whoever violates any provision of this chapter shall be punished by a fine as referenced in Section 800.1. Copies of said violations notices will be forwarded to the parents or legal guardians of violators under the age of 18.

SECTION 806 **MOTORIZED SCOOTERS**

806.1 Definition

For the purposes of this section a "motorized scooter" shall mean any wheeled device, including but not limited to, the so called mini-bikes, mini-choppers, pocket rockets, or motorized skateboard, that has handlebars, and is powered by a gas or electric motor that is capable of propelling the device with or without human propulsion at any speed; but shall not include any motor vehicle, motorcycle, or motorized bicycle as defined in M.G.L. Chapter 90, Section 1, or personal mobility assistance vehicles in use by disabled persons, landscaping and similar

equipment, and scooters owned and operated by the Commonwealth of Massachusetts or any subdivision thereof.

806.2 Prohibited operation of motorized scooters:

Motorized scooters shall not be operated upon any way, as defined in M.G.L. Chapter 90, Section 1; shall not be operated upon any sidewalk; and shall not be operated on any designated bicycle path.

SECTION 807 ALCOHOL

807.1 Possession

A person on a public way or in a public place to which the public has access shall not have in his or her possession an opened container of an alcoholic beverage. A person who violates this section is subject to a fine of not less than twenty-five dollars (\$25.00) and not more than fifty dollars (\$50.00).

807.2 Consumption

A person shall not consume an alcoholic beverage in a public building or on public property, including a park, cemetery, or school or on a public way to which the public has access or on a parking area regulated under the provisions of M.G.L. Chapter 90, Section 18. A person who violates this section is subject to a fine of not less than twenty-five dollars (\$25.00) and not more than fifty dollars (\$50.00).

807.3 Exception

The two preceding sections shall not apply to an activity which has been duly authorized by the Selectboard under the applicable provisions of the General Laws of the Commonwealth of Massachusetts.

SECTION 808 SOLICITING

808.1 Certificate of registration for commercial solicitation

Every person desiring to engage in commercial soliciting, as defined in Section 101.11, excepting fundraising by children on behalf of local schools or organizations for children, shall make a written application to the police department for a certificate of registration. Such certificate shall be carried by the solicitor while engaging in soliciting and must be presented

upon request by a police officer or persons being solicited. Application for a certificate of registration shall be made upon a form provided by the Town of South Hadley and filed with the police department at least ten (10) days prior to soliciting. The certificate of registration will require the following information with respect to each solicitor:

- (a) Name and home and business address of applicant(s);
- (b) Name, description and home and present business address of solicitor(s);
- (c) Registration number and description of the vehicles of all solicitors;
- (d) The name and address of the employers of all solicitors and the length of employment;
and
- (e) Description of the purpose for the solicitation.

The police department shall maintain an accurate record of every application received and acted upon together with all other information and dates pertaining thereto and copies of all certificates of registration issued under the provisions of this bylaw.

808.2 Fees

Each application for a certificate of registration shall be accompanied by a fee of the lesser of \$50 for each solicitor or \$150 for the soliciting organization.

808.3 Revocation

The Chief of Police may revoke any certificate of registration for cause, including violation of this Section or the discovery of misleading or fraudulent information on the application for the certificate of registration. Immediately upon revocation, written notice thereof shall be sent by the Chief of Police to the holder of the certificate by certified U.S. Mail, addressed to the holder's residence address as shown on the application. A record of the date of the revocation will be made upon the original application.

808.4 Hours of solicitation

Soliciting will be permitted only between the hours of 9:00 a.m. and 8:00 p.m.

808.5 Laws of Commonwealth to be paramount

Nothing in this bylaw shall be construed as conflicting with any license issued under the authority of the Commonwealth.

808.6 Soliciting prohibited

All commercial and non-commercial soliciting shall be prohibited for any purpose at a residence upon which a sign is conspicuously placed requesting no solicitation.

808.7 Penalty

Any person violating any of the provisions of this bylaw shall be subject to a fine of not more than two hundred (\$200) dollars for each offense.

ARTICLE IX
MOTOR VEHICLES AND TRAFFIC

SECTION 900 DEFINITIONS

For the purpose of this Article, the following words and phrases shall have the following meaning(s):

900.1 Bus stop

An area in the roadway set aside for the boarding of or alighting from and the parking of buses.

900.2 Crosswalk

That portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections or at any portion of a roadway clearly indicated for pedestrian crossings by lines on the road surface or by other markings or signs.

900.3 Emergency vehicle

Vehicles of the Fire Department, police vehicles, ambulances and emergency vehicles of federal, state and municipal departments or public service corporations when responding to an emergency.

900.4 Funeral.

Any procession of mourners properly identified as such accompanying the remains of a human body.

900.5 Lane.

A longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

900.6 Officer

An officer shall mean any police officer, any investigator, examiner or inspector of the registry of motor vehicles, any constable or special officer.

900.7 Official curb marking

That portion of a curbing, the painting of which has been authorized by the Selectboard and which has the written approval of the Massachusetts Highway Department.

900.8 Official Street Marking

Any painted line, legend, marking or marker of any description painted or placed upon any way which purports to direct or regulate traffic and which has been authorized by the Selectboard and which has the written approval of the Massachusetts Highway Department.

900.9 Official traffic signs

All signs, markings and devices approved by the Massachusetts Highway Department and placed or erected by the authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.

900.10 Parking

A vehicle being stationary, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to an officer or traffic signs or signals, or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

900.11 Pedestrians

Any person afoot or riding on a conveyance moved by human power, except bicycles or tricycles.

900.12 Railroad crossing

Any intersection of ways with railroad right of way.

900.13 Roadway

That portion of a street or highway between the regularly established curb lines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

900.14 Sidewalk

That portion of a street or highway set aside for pedestrian travel.

900.15 Street or highway

The entire width between property lines of every way open to the use of the public for purposes of travel.

900.16 Taxicab

A motor vehicle used for the conveyance of persons for hire, but not including motor vehicles operated in the manner and for the purpose stated in General Laws, Chapter 159A, nor motor vehicles hired for livery purposes.

900.17 Taxicab stands

An area in the roadway in which certain taxicabs are required to park while waiting to be engaged.

900.18 Traffic

Pedestrians, ridden or herded animals, vehicles, streetcars or other conveyances either single or together while using any street or highway for the purpose of travel.

900.19 Traffic-control signal

Any device using colored lights, conforming to the standards as prescribed by the Department of Public Works of the Commonwealth of Massachusetts whether manually, electrically or mechanically operated, by which traffic may be alternately directed to stop and proceed.

900.20 Vehicle

Every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

SECTION 901 OPERATION OF MOTOR VEHICLES

901.1 Obedience to traffic signal and signals

No driver of any vehicle shall disobey the instructions of any official traffic-control signal, sign, marking, marker or legend, unless otherwise directed by a police officer. Obedience to traffic control signals shall conform to applicable sections of Massachusetts General Laws and the Manual of Uniform Traffic Control Devices as adopted by the Massachusetts Highway Department.

901.2 Passing

The driver of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safe operation of any vehicle ahead.

901.3 Operator of passed vehicle to give way

The driver of a vehicle when about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle, on suitable and audible signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

901.4 Obstructing traffic prohibited; when vehicles to pull to side of road

No person shall drive in such a manner as to obstruct unnecessarily the normal movement of traffic upon any street or highway. Officers are hereby authorized to require any driver who fails to comply with this section to drive to the side of the roadway and wait until such traffic as has been delayed has passed.

901.5 Obstructing intersections and crosswalks

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to accommodate the vehicle s/he is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic-control signal indication to proceed.

901.6 Following too closely

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway.

901.7 Slow vehicles to stay two hundred (200) feet apart; exception

When traveling outside of a business or residential district, upon roadways less than twenty-seven (27) feet wide and upon which vehicular traffic is permitted to operate in both directions, the driver of any slow moving vehicle shall not follow another slow moving vehicle within two hundred (200) feet, but this shall not be construed to prevent a slow moving vehicle from overtaking and passing another slow moving vehicle. This section shall not apply to funerals or other lawful processions.

901.8 Stopping and turning signals

Any stopping or turning signal shall be given in sufficient time in advance of the movement indicated to give ample warning to any person who may be affected by such movement, and

shall be given either by means of the hand and arm in the manner specified below, or by a suitable mechanical or electrical device, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being made or from being visible both to the front and rear, the signal shall be given by a suitable mechanical or electrical device.

Hand and arm signals, as required herein, shall be made as follows:

- (a) An intention to stop shall be indicated by extending the arm horizontally to the left of and beyond the side of the vehicle.
- (b) An intention to turn to the left shall be indicated by extending the arm horizontally to the left of and beyond the side of the vehicle, and by pointing to the left with the index finger.
- (c) An intention to turn to the right shall be indicated by extending the arm horizontally to the left of and beyond the side of the vehicle, and by moving the hand in a circle.

901.9 Driving on divided roads

Upon such roadways as are divided by a parkway, grass plot, reservation, viaduct, subway or by any structure or area, drivers shall keep to the right of such a division except when otherwise directed by an officer, signs, signals or markings and shall conform to Massachusetts General Laws and the Manual Uniform Traffic Control Devices as adopted by the Massachusetts Highway Department.

901.10 Driving on roads under construction

No operator shall enter upon the road surface of any street or highway or section thereof, when, by reasons of construction, surface treatment, maintenance or the like, or because of some unprotected hazard, such road surface is closed to travel, and one or more signs, lights or signals have been erected to indicate that all or part of the road surface of the street or highway is not to be used, or when so advised by an officer, watchman, member of a street or highway crew or employee of the Town, either audibly or by signals conforming to the Manual Uniform Traffic Control Devices as adopted by the Massachusetts Highway Department.

901.11 Driving on sidewalks prohibited

The driver of a vehicle shall not drive upon any sidewalk except at a permanent or temporary driveway.

901.12 Funerals and other processions

It shall be the duty of each driver in a funeral or other procession to keep as near to the right edge of the roadway as is feasible and to follow the vehicle ahead as closely as is practicable and safe. At an intersection where a traffic-control signal is operating, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop for a red or red and yellow

indication. At an intersection where a lawful stop sign exists, the driver of the first vehicle in a funeral or other procession, shall be the only one required to stop before proceeding through the intersection. A funeral composed entirely or partly of a procession of vehicles shall be identified as such and each vehicle operator shall keep the vehicle headlights turned on.

901.13 Dropping or leaking loads

No vehicle shall be driven or moved on any street or highway nor shall any owner of any vehicle knowingly permit such vehicle to be driven or moved on any street or highway unless such vehicle is so constructed or so loaded as to prevent its contents from spilling, dropping, sifting, leaking or otherwise escaping there from. Vehicles loaded with any material which may be blown about by the wind shall be suitably covered to prevent the contents from being blown upon the streets or highways. All vehicles shall conform to applicable standards of Massachusetts General Laws and the current regulations on solid waste disposal and collection as approved by the Selectboard.

901.14 Bridge load limits

The Town Engineer shall determine the appropriate load limit in conformance with the Massachusetts Highway Standards. The Town Clerk and Department of Public Works shall maintain on file a current list of Town bridges and their ratings and restrictions as established by the Massachusetts Highway Department.

901.15 Impeding traffic

No person shall obstruct or impede pedestrian traffic upon any sidewalk or public pedestrian easement, or obstruct or impede vehicular traffic upon any street in the Town, absent prior permission from the Selectboard or the Department of Public Works.

Whoever violates this section shall pay a fine of not more than \$50.00 for each violation.

901.16 Officers to direct traffic

Officers designated by the Chief of Police are hereby authorized to direct all traffic either in person or by means of visible or audible signals in conformance with the provisions of this chapter; provided, that, in the event of a fire or other emergency, officers of the Police or Fire Departments may direct traffic, as conditions may require to expedite traffic or safeguard pedestrians.

901.17 Police may close streets temporarily

The Chief of Police may order the temporary closure of any street or highway in an impending or existing emergency or for any lawful assemblage, demonstration or procession, provided that there is reasonable justification for the closing of such street.

901.18 Experimental or emergency regulations authorized; term valid

For purposes of trial, the Selectboard may make temporary or emergency rules regulating traffic or test, under actual conditions, traffic signs, markings or devices other than signals. No such experimental or emergency rule regulating traffic shall remain in effect for a period of time longer than thirty (30) days.

901.19 Exemptions from obedience to section

The provisions of this chapter shall not apply to operators actually engaged in work upon a street or highway closed to travel or under construction or repair, to officers when engaged in the performance of public duties nor to drivers of emergency vehicles while operating in an emergency and in performance of public duties when the nature of the work of any of these necessitates a departure from any part of this chapter. These exemptions shall not, however, protect the driver of any vehicle from the consequences of a reckless disregard of the safety of others.

SECTION 902 TRAFFIC SIGNS, SIGNALS, MARKING AND ZONES

902.1 Speed limit zones

The Town Clerk and Department of Public Works shall maintain on file a current list of speed limits and restrictions on Town ways as approved by the Selectboard.

The provisions of this regulation shall not, however, abrogate in any sense Chapter 90, Section 14, of the General Laws

902.2 Stop Signs

The Town Clerk and Department of Public Works shall maintain on file a current list of stop sign locations on Town ways as approved by the Selectboard. Every driver of a vehicle, railway car or other conveyance approaching an intersection of ways where there exists facing him or her an official sign bearing the word "STOP" or a flashing red signal indication, such sign or signal having apart from these rules and orders, the written approval of the Massachusetts Highway Department and the provisions of the Manual of Uniform Traffic Control Devices, and such approval being in effect, shall, before proceeding through the intersection, bring such vehicle, or other conveyance to a complete stop at such point as may be clearly marked by a sign or line, or if a point is not so marked, then at the nearer line of crosswalk of the intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device, or as provided in Section 901.16

902.3 Procedure at underpasses, overpasses and intersections with islands

At any junction or crossing of ways where the roadway grades have been separated and where the ways are connected by ramps and at any intersection of ways in which there are traffic islands, drivers of vehicles shall proceed only as indicated by official signs, signals or markings,

and the Manual Uniform Traffic Control Devices as adopted by the Massachusetts Highway Department.

902.4 One-way streets

This list is available and on file at the Town Clerk's Office.

902.5 Signs and signals to be erected; when parking restrictions effective

(a) The Town engineer is hereby authorized, and as to those signs and signals required hereunder it shall be his or her duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the Department of Public Works of the Commonwealth of Massachusetts.

(b) Parking restrictions shall be effective only during such time as a sufficient number of official signs are erected and maintained in each block and located so as to be easily visible to approaching drivers.

902.6 Authority to designate prohibited right turns on red traffic signals

The Selectboard shall be authorized, except as otherwise determined by state or federal law, to designate those intersections in Town where right turns on red traffic signals are prohibited.

902.7 Display of unauthorized signs, signals and markings prohibited; removal

It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic sign, signal, marking or device or which attempts to direct the movement of traffic or which hides from view any official sign or signal. The Chief of Police is hereby empowered to remove every such prohibited sign, signal, marking or device or cause it to be removed, without notice.

902.8 Interference with signs, signals and markings prohibited; penalty.

Any person who willfully defaces, injures, moves, obstructs or interferes with any official traffic sign, signal or marking shall be liable to a penalty not exceeding one hundred (\$100) dollars for each and every offense.

902.9 Designation and use of bus stops and taxicab stands.

The location of all bus stops and taxicab stands shall be specified by the Selectboard and in the case of taxicab stands the Selectboard shall designate who may use them as such.

SECTION 903 INTENTIONALLY OMITTED

SECTION 904 PARKING

904.1 General Prohibitions

The Town Clerk and Police Department shall maintain on file a current list of parking restrictions on Town ways as approved by the Selectboard. In addition to the foregoing, no person shall park a vehicle in any of the following places and vehicles found parked in violation of the provisions of this section may be moved by or under the direction of an officer and at the expense of the owner:

- (a) within an intersection;
- (b) upon any sidewalk;
- (c) upon any crosswalk;
- (d) upon the roadway in a rural or sparsely settled district;
- (e) upon a roadway where parking is permitted unless both wheels on the right side of the vehicle are within twelve inches of the curb or edge of the roadway, except streets or parts of streets where angle parking is required;
- (f) on one-way streets, unless parked in the same direction in which vehicles are required to move and with both wheels within twelve inches of the curb.
- (g) upon any roadway where the parking of a vehicle will not leave a clear and unobstructed lane at least ten feet wide for passing traffic;
- (h) upon any street or highway within ten feet of a fire hydrant; and
- (i) upon any street or highway within twenty feet of an intersecting way, except alleys.

904.2 Handicapped parking

It shall be unlawful for any person to leave any vehicle within parking spaces on public or private property which are required, under any provision of federal, state or local laws or regulations, to be designated and are clearly marked as reserved for vehicles owned and operated by disabled veterans or handicapped persons, except a vehicle transporting a handicapped person and displaying the special identification plate issued by any state or any Canadian province, or to park in such a manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way.

The penalty for a violation of this bylaw shall be one hundred dollars (\$100); provided, however, that nothing herein shall be construed as prohibiting the removal, in accordance with the provisions of section one hundred and twenty D of Chapter two hundred and sixty-six, of any vehicle which is in violation of this bylaw.

904.3 Parking time limitations

Parking time limitations are provided on the list on file and available at the Town Clerk's Office.

904.4 Intentionally omitted

904.5 Time limit for parking to load and unload commercial vehicles

Operators of commercial vehicles may park in a prohibited zone on the roadway or at the edge or curb of a street for the purpose of loading or unloading of trucks or delivery wagons for a period of time not to exceed fifteen (15) minutes.

904.6 Parking on town property

Town boards charged by law with custody and control of Town property, other than public ways, may, from time to time, after a public hearing, adopt or amend rules and regulations governing the parking of motor vehicles on said property. Said rules and regulations may include a specified fine for violation thereof not to exceed twenty-five dollars (\$25). Any regulation so adopted shall be effective ten (10) days following posting in the Town Hall and publication in a newspaper with general circulation in the Town. This section and any rules or regulations adopted pursuant hereto may be enforced by the Police Department pursuant to M.G.L.A. C. 40, § 21D.

904.7 Police may prohibit parking temporarily; removal of vehicles

The Chief of Police may prohibit, temporarily, parking on any street or highway or part thereof in an impending or existing emergency or for a lawful assemblage, demonstration or procession, provided that there is reasonable justification for such prohibition. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of an officer.

904.8 Intentionally omitted

904.9 Intentionally omitted

904.10 Taxicab Stands

- (a) No person shall park a vehicle other than a taxicab upon any street within a business district in any taxicab stand for a period of time longer than fifteen (15) minutes except while actually engaged in loading or unloading provided that such loading and unloading does not exceed a period of time longer than one-half (1/2) hour.
- (b) No person shall park a taxicab upon any street within a business district at any place other than the taxicab stand or stands designated for the use of his or her taxicab or taxicabs except while engaged or while waiting for an opportunity to use a taxicab stand designated for him or her use.

904.11 Owner of vehicle prima facie responsible for violations.

If any vehicle is found upon any street or highway in violation of any provisions of this Section and the identity of the driver cannot be determined, the owner or the person in whose name such vehicle is registered shall be held prima facie responsible for such violations.

904.12 Penalties

Any person violating any provision of this Section shall be subject to Section 20C of chapter 90 of the General Laws, and any person violating any of the rules and regulations applicable to state highways made by the Department of Public Works of the commonwealth, under authority of chapter 85, section 2 of the General Laws, shall be subject to the penalty provided in such rules and regulations. Parking violation procedures shall conform to Massachusetts General Laws, Chapter 90, Section 20A½ and any other applicable sections. The Town Clerk, Department of Public Works and Police Department maintain a current list of restrictions and prohibitions on parking on town ways as approved by the Selectboard.

SECTION 905 SNOW REMOVAL

905.1 Removal of vehicles which impedes snow plowing, etc.

The Town hereby adopts the terms and provisions of M.G.L. Chapter 40, §22D, providing for the removal of motor vehicles which impede snowplowing or snow removal operations from municipal ways. For the purpose of removing or piling snow or removing ice from a public way or a private way to which the public has access, the DPW Superintendent has authority, after providing reasonable notice, to remove to a convenient place, including a public garage, any vehicle that interferes with the snow or ice removal process. If the DPW Superintendent removes a vehicle for this purpose, s/he shall:

- (a) Keep a record of the registration number of each vehicle and the place to which it is removed;
- (b) Immediately inform the Police Department that the vehicle has been towed; and
- (c) Within forty-eight (48) hours after the removal of the vehicle, send notice by mail to the owner of the vehicle at his or her address as recorded at the Registry of Motor Vehicles of the place to which the vehicle has been removed. If the owner of the vehicle is not known or is not on the record of the Registry of Motor Vehicles for this Commonwealth, the DPW Superintendent shall, within forty-eight (48) hours after removal of the vehicle, publish in a newspaper of general circulation in the Town notice of the removal, the registration number, if any, the type of vehicle, and the place to which the vehicle was removed.

A person is not entitled to recover a vehicle that has been removed under this section until s/he has:

- (a) furnished to the Police Department satisfactory evidence of his or her identity and of his or her ownership or right to possession of this vehicle; and
- (a) (b) Paid the reasonable costs, not exceeding the maximum charges allowed by the Massachusetts Department of Public Utilities for this area, of removing the vehicle to the place of storage and all reasonable charges, if any, for storage, together with the costs of publication or the sending of any notice required under this section.

905.2 Removal of snow from sidewalks

Within twenty-four (24) hours after a snowfall, a tenant or occupant (and if no tenant or occupant, the owner) of property abutting a public way shall remove the snow from the sidewalk(s) abutting such property.

SECTION 906 TAXICABS

906.1 Operator licenses

No person shall operate a taxicab upon any public way in the Town unless s/he has first been licensed by the Selectboard pursuant hereto; provided, however, that no license shall be required during thirty calendar days from the initial date of employment as a taxicab operator. Any person seeking to be licensed pursuant to this Section for operation of a taxicab shall apply to the Selectboard upon such form or in such manner as the Selectboard may determine and shall simultaneously file with the Chief of Police his or her name, address and descriptive data from his or her license to operate motor vehicles, including any restrictions thereon, together with a photograph comparable to any photograph on his or her license to operate motor vehicles.

906.2 Vehicle licenses

No taxicab shall be operated upon any public way in the Town unless the taxicab has been licensed by the Selectboard pursuant hereto. The owner of a taxicab shall apply to the Selectboard for licenses upon such form or in such manner as the Board may determine but shall present, together with such application, the following:

- (a) Certificate of registration issued by Registrar of Motor Vehicles;
- (b) evidence of liability insurance upon the taxicab, together with a statement of the insurance carrier that such insurance shall not be cancelled or revoked without first giving fifteen (15) days notice thereof to the Selectboard; and
- (c) evidence that the taxicab is equipped with a taximeter by which the charge for hire is mechanically calculated for distance and which has been tested and certified by the Sealer of Weights and Measures pursuant to General Laws, Chapter 98, Section 45.

All licenses issued pursuant hereto shall be signed by a majority of the Selectboard, shall set forth the name, residence and place of business of the licensee, and in the case of taxicab licenses shall further set forth the identification number, current registration number and the number of persons, exclusive of the operator, which the vehicle may carry, and shall be prominently displayed within the taxicab.

Each taxicab license shall expire simultaneously with the registration of the vehicle and shall be annually renewed. Each operator's license shall expire on December 31 of the year issued and shall be annually renewed.

No license shall be issued until the fee allowed by General Laws, Chapter 40, Section 22 therefore has been paid to the Town Clerk.

906.3 Nontransferability

No license issued pursuant hereto shall be transferable or used for any person or vehicle other than the one described on its face.

906.4 Revocation and suspension

The Selectboard may, after reasonable notice and hearing, revoke or suspend any license issued pursuant hereto.

906.5 Holders subject to rules and regulations

All licensees hereunder shall be subject to such rules, orders or regulations as may from time to time be promulgated by the Selectboard.

906.6 Inspection of taximeters

The Sealer of Weights and Measures shall, from time to time, inspect taximeters in licensed taxicabs. In the event that his or her inspection reveals any defect in a taximeter it shall be forthwith removed from the taxicab and such taxicab shall not be used until the defective taximeter is repaired or replaced, such repaired or replacement taximeter to be inspected and sealed as aforesaid before such taxicab is used.

906.7 Operation of taxicabs

No operator of a taxicab shall operate more than twelve hours during any consecutive twenty-four hour period, nor carry more passengers than the number allowed by the taxicab license of the vehicle.

906.7 Rates

Rate authority and approval are vested in the licensing board.

906.8 Penalties

Whoever violates any provision of this chapter shall be punished by a fine as referenced in Section 800.1.

ARTICLE X
MISCELLANEOUS BYLAWS

SECTION 1000 ANNUAL REPORT

1000.1 Contents

The Selectboard shall compile and publish an annual town report for each fiscal year, which shall include:

- a) an annual report of each Town officer, board, committee and commission (except that the Selectboard may omit from the printing of the annual report of an officer, board, committee or commission such financial data relating to the activities of that officer, board, committee or commission as is reflected in the report of the Town Treasurer);
- b) a complete list of the elected Town officers;
- c) a clear and concise account of the activities of the Selectboard, together with a statement of the expenditures of the Board in as much detail as is practicable;
- (d) a list of all elected officers and/or appointees to each board, committee or commission and the expiration of the term of office of each member;
- (e) a copy of each town meeting warrant;
- (f) a statement, in detail, of the votes cast by the Town at town elections and at the town meetings; and
- (g) such other matters as are determined by the Selectboard or required by law.

SECTION 1001 FINANCE

1001.1 Municipal charges lien; landfill (transfer station/recycling area only) tipping fees

If a landfill (transfer station/recycling area only) tipping fee remains unpaid after six (6) months from the due date, it shall become a municipal charge lien pursuant to the provisions of M.G.L. Chapter 40, Section 58. If the bill(s) remains unpaid when the Assessors are preparing a real estate tax list and warrant to be committee under Chapter 59, Section 53, the Board or officer in charge of the collection of the municipal fee or charge shall certify such charge or fee to the Assessors, who shall add such to the tax bill on the property to which it relates and commit it with their warrant to the Tax Collector as part of such tax bill.

1001.2 Municipal charges lien; trash collection fees

If a trash collection fee remains unpaid after six (6) months from the due date, it shall become a municipal charge lien pursuant to the provisions of M.G.L. Chapter 40, Section 58. If the bill(s) remains unpaid when the Assessors are preparing a real estate tax list and warrant to be committed under Chapter 59, Section 53, the Board or officer in charge of the collection of the municipal fee or charge shall certify such charge or fee to the Assessors, who shall add such to the tax bill on the property to which it relates and commit it with their warrant to the Tax Collection as part of such tax bill.

1001.3 Municipal charge lien; street excavation permits

If a street excavation permit charge remains unpaid after six (6) months from the due date, it shall become a municipal charge lien pursuant to the provisions of M.G.L. Chapter 40, Section 58. If the bill(s) remains unpaid when the Assessors are preparing a real estate tax list and warrant to be committed under Chapter 59, Section 53, the Board or officer in charge of the collection of the municipal fee or charge shall certify such charge or fee to the assessors, who shall add such to the tax bill on the property to which it relates and commit it with their warrant to the Tax Collector as part of such tax bill.

1001.4 Municipal charges lien; sewer connection and application fees

If a sewer use fee remains unpaid after six months from the due date, it shall become a municipal charge lien pursuant to the provisions of M.G.L. Chapter 40, Section 58. If the bill(s) remains unpaid when the Assessors are preparing a real estate tax list and warrant to be committed under Chapter 59, Section 53, the Board or officer in charge of the collection of the municipal fee or charge shall certify such charge or fee to the Assessors, who shall add such to the tax bill on the property to which it relates and commit it with their warrant to the Tax Collector as part of such tax bill.

SECTION 1002 JUNK AND SECONDHAND DEALERS

1002.1 License required

No person shall be a dealer in or keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles or go about collection the same in the Town unless s/he is duly licensed therefore by the Selectboard.

1002.2 Record of purchases

Every keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall keep paper or electronic records in which shall be entered, at the time of every purchase of any such articles, a description thereof, the name, age and residence of the person from whom, and the date and hour when such purchase was made. Such records shall at all times be open to inspection by the Selectboard and by any person by them authorized to make such inspection.

1002.3 Inspection by police

Any police officer may enter the shop of any dealer in junk or secondhand articles and examine the books and property in the shop.

1002.4 Purchases from minors prohibited

No keeper of a shop licensed as provided in subsection 1002.1 and no junk collector, directly or indirectly, shall either purchase or receive by way of barter or exchange junk or secondhand articles from a minor, knowing or having reason to believe him or her to be such.

1002.5 Display of license and badges

Every keeper of the shop licensed as provided in subsection 1002.1 shall put in some suitable and conspicuous place in his or her shop a copy of the said license and a sign having his or her name and occupation legibly inscribed thereon in large letters, and every collector so licensed shall have placed upon some conspicuous part of this clothing, and upon each side of all vehicles used for such collection, a badge or sign giving the number of the license in plain legible figures of not less than one inch in length.

1002.6 Hours of operation

The keeper of the shop licensed pursuant to subsection 1002.1 shall not have the same open for transaction of business except during the time between 7:00 A.M. and 9:00 P.M. of each weekday, and no keeper of such junk or no junk collector shall purchase any of the articles aforesaid except during such hours.

1002.7 Purchased articles not to be sold within fifteen days

No article purchased or received by a keeper of a shop licensed pursuant to this section for the purchase, sale or barter of junk, old metal or secondhand articles shall be sold until at least fifteen (15) days from the date of its purchase or its receipt have elapsed.

SECTION 1003 LICENSES

1003.1 When Required

The Selectboard shall have the power to require licenses for all businesses, trades and occupations which towns may license under the provisions of the General Laws and may make such rules and regulations pertaining thereto as to them seem pertinent. The fees for such licenses shall be as prescribed by the General Laws.

Section 1003.2 (ATTORNEY GENERAL APPROVAL 4-14-06)

Denial, revocation or suspension of licenses and permits for failure to pay municipal taxes or charges.

(a) The Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the "Collector," shall annually furnish each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal

charges for not less than a twelve-month period and that such party has not filed in good faith a pending application for an abatement for such taxes or a pending petition before the Appellate Tax Board.

(b) Notice; hearing; reissuance or renewal.

(1) 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 Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Collector; provided, however, that written notice is given to 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 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 purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from license denial, revocation or suspension.

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

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

This section shall not apply to the following licenses and permits pursuant to Massachusetts General Laws: open burning; Section 13 of Chapter 48; bicycle permits, Section 11A of Chapter 85, sales of articles for charitable purposes, Section 33 of Chapter 101, Children work permits; Section 69 of Chapter 149, clubs, associations dispensing food or beverage licenses, Section 21E of Chapter 140; dog licenses, Section 137 of Chapter 140; fishing hunting, trapping licenses, Section 12 of Chapter 131; marriage licenses, Section 28 of Chapter 207; and theatrical events, public exhibition permits, Section 181 of Chapter 140 of the Massachusetts General Laws. (5-13-06)

SECTION 1004 HAWKERS AND PEDDLERS

No transient vendor, hawker or peddler as defined in Massachusetts General Laws Chapter 101, shall sell or barter, or carry for sale or barter, any goods, wares, or merchandise in the Town of South Hadley on any day of special town celebration so proclaimed by the Selectboard unless a permit has been issued by said Board or its delegate under such terms and conditions and for such a fee as said Board or its delegate shall determine.

SECTION 1005 TAG SALES

1005.1 Definition

For purposes of this Section, a “tag sale” shall be defined as the sale of new/or used items offered for sale, barter or trade to the general public when conducted in whole or in part within a residential or agricultural zone.

1005.2 Licenses

No person shall conduct a tag sale in the Town unless s/he shall have obtained a license therefore from the Selectboard. The license shall be exhibited in a conspicuous place during the sale. All tag sale licenses shall be for not more than a seventy-two (72) hour period and the sale shall be limited to hours of operation from 8:00 a.m. to 8:00 p.m. Fees for such tag sale licenses shall be ten dollars (\$10.00) per license.

1005.3 Frequency of tag sales

A tag sale may be conducted only from the owner’s primary residence, and no more than four (4) tag sales may be conducted from a residence per calendar year.

1005.4 Signs for tag sales on utility poles prohibited

No notices, advertising signs or directional signs are to be attached to utility poles.

1005.5 Violations and penalties

Whoever violates any provision of this chapter shall be punished by a fine as referenced in Section 800.1. Each day any violation of this Section shall continue shall constitute a separate offense.

SECTION 1006 AUTOMATIC AMUSEMENT DEVICES

1006.1 License and inspections

In accordance with M.G.L. C 140, s. 177A, as amended from time to time, any individual or business desiring to keep and operate an automatic amusement device for hire, gain or reward

shall secure an annual license from the Selectboard. The term “automatic amusement device” as used in this bylaw shall refer to mechanical and electrical devices. No license shall be granted for any automatic amusement device which presents a risk of misuse as a gaming device, and no person shall operate or allow the operation of an automatic amusement device which presents a risk of misuse as a gaming device. Automatic amusement devices which present a risk of misuse as gaming devices are those devices which simulate actual gaming or actual gaming devices and games which involve matching of random numbers, patterns or color combinations. Any change of automatic amusement devices shall be subject to inspection, as well as relicensing if the new devices are materially different from the devices originally licensed. All premises designated on a license for automatic gaming devices granted by the Selectboard shall be subject to inspection by the South Hadley Police Department to ensure conformance with the submitted application information and the provisions of this Section.

1006.2 Number

The maximum number of automatic amusement devices allowed on any single business premises shall be six (6), with no such device able to accept a bill larger than five dollars (\$5.00). Notwithstanding anything contained herein to the contrary, the limitation upon the maximum number of automatic amusement devices allowed on any single business premises of six (6) shall not be applicable to the operation of a business that constitutes public recreation operated as a business, including facilities for assembly, billiards, bowling, soccer, roller skating and similar activities, provided that the following conditions are satisfied as determined by the Planning Board:

1. The operation of automatic amusement devices is accessory to the principal use of public recreation operated as a business; and
2. More than six (6) amusement devices shall only be operated within the business premises that have as their principal use public recreation operated as a business in conjunction with and as accessory to the public recreation activities carried out within any such business premises.

Upon receipt by the Selectboard of a certification from the Planning Board that an establishment satisfies both of the foregoing conditions, the Selectboard may issue a license permitting the operation of more than six automatic amusement devices at the business premises where public recreation operated as a business constitutes the principal use, with no limitation imposed upon the number of automatic amusement devices that may be permitted by the Selectboard pursuant to any such license. Nothing contained in this subsection 1006.2 shall modify or otherwise affect the prohibition set forth in subsection 1006.1 that no license shall be granted for any automatic amusement device which presents a risk of misuse as a gaming device and no person shall operate or allow the operation of an automatic amusement device which presents a risk of misuse as a gaming device.

1006.3 Penalties

Whoever violates any provision of this chapter shall be punished by a fine as referenced in Section 800.1. Any unlicensed automatic amusement device (or automatic amusement device which presents a risk of misuse as gaming device) shall be subject to immediate seizure by the South Hadley Police Department. Any expense incurred by the South Hadley Police related to the seizure of such devices shall become the responsibility of the person that controls the premises where the devices were located. This Section may be enforced by all state and local law enforcement officials and may be administered under the provisions of M.G.L. C 40 s21D or any of the laws of the Commonwealth or any Town bylaw implementing enforcement of its bylaws. Nothing in this Section shall be construed to change any provision of the Town zoning bylaw.

SECTION 1007 NUISANCES

1007.1 Dead animals and offensive substances

Dead animals will be removed by the Board of Health and/or the Town Department of Public Works. No person shall place or cause to be placed or left in or upon any public or private street or way, enclosure or grounds, or in any body of stream of water within the limits of this town, the body of any dead animal, fowl, or any substance or material that is or may become offensive or cause a nuisance, or may tend to obstruct the flow of any stream.

1007.2 Unreasonable noise

It shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any excessive, unnecessary or unusually loud noise which either annoys, disturbs, injures or endangers the reasonable quiet, comfort, repose, or the health and safety of others within the Town, including, without limitation:

- a. the playing of any radio, phonograph, television set, amplified or musical instruments, loudspeakers, tape record, or other electronic sound producing devices, in such a manner or with volume at any time or place so as to annoy or disturb the reasonable quiet, comfort or repose of any person;
- b. the keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the reasonable quiet, comfort or repose of any person;
- c. the use of any drum or other instrument or device of any kind for the purpose of attracting by the creation of noise, unless the person is a participant in a school band activity or duly authorized parade or who has been otherwise authorized to engage in such activity by the Selectboard;
- d. the operation of vehicles, equipment, tools or machines used as a means of construction, maintenance, repair or demolition of a building site, building, bridge, tower or road between the hours of 8:00 p.m. and 7:00 a.m.; and
- e. engine noise during or incidental to the repair of motor vehicles between 9:00 p.m. and 7:00 am on commercial premises or at any time on residential premises;

EXCEPT that the foregoing restrictions shall not apply or be enforced against:

- a. emergency vehicles;

- b. highway and utility maintenance and construction, necessary excavation in or repairs of bridges, streets or highway, or any public utility installation by or on behalf of the Town, any public utility or any agency of the Commonwealth of Massachusetts;
- c. snow removal or street cleaning or maintenance of commercial parking lots;
- d. the reasonable use of amplifiers or loud speakers for public addresses, which are non-commercial in nature;
- e. noise caused by agricultural, farm-related activities as defined by M.G.L. Chapter 128, Section 1A as amended from time to time, including but not limited to the operation of farm equipment, harvesting equipment, noises from farm animals and the like;
- f. noise caused by lawful hunting or other lawful discharge of firearms;
- g. noise from activities that have been duly authorized by the Selectboard; and
- h. organized sporting events on designated fields as sanctioned by the Town or sports organizations.

SECTION 1008 TRAILERS

1008.1 Use of trailers

No person shall occupy a trailer or other structure designed to be mobile, whether or not permanent additions are planned or constructed, for dwelling or business purposes within the Town of South Hadley, with the following exception: the Selectboard may issue, subject to applicable zoning bylaws, a permit for the use of a trailer or mobile structure as a temporary office incidental to construction on or development of the land on which the trailer or mobile structure is to be located, such permit to be valid for a period of six (6) months and renewable for additional six (6) month periods at the discretion of the Selectboard.

1008.2 Existing structures

No structure existing in the Town on the date of passage of this bylaw shall be in any way affected by the provisions thereof.

1008.3 Penalties

Whoever violates any provision of this chapter shall be punished by a fine as referenced in Section 800.1. Each twenty-four (24) hours of illegal occupancy shall be regarded as a separate violation.

SECTION 1009 TREES

1009.1 Protection of trees

A person shall not trim, cut down or remove a tree or shrub from land that is owned or controlled by the Town unless s/he has first obtained written authorization from the Tree Warden or his or her deputy and from the Conservation Commission if under its jurisdiction.

1009.2 Tree belt

The owner of any real estate in the Town which abuts on any public or private way within the Town where there is a tree belt shall keep said tree belt mowed and free and clean of all litter, debris, noxious woods and brush, and encroaching bushes, and shall maintain the same in a clean and sanitary manner.

SECTION 1010 HOUSE NUMBERS

1010.1 Designation of numbers

The Building Commissioner, in cooperation with the Board of Assessors, shall determine and designate numbers for all buildings abutting upon or adjacent to a street as s/he may deem appropriate for the public convenience using the criteria set forth in this Section.

1010.2 Affixing of numbers required

No owner of any building set forth in subsection 1010.1 shall neglect or refuse to affix to such building any street number designated by the Inspector of Buildings.

1010.3 Visibility of numbers from street

In cases where a building set forth in subsection 1010.1 is not clearly visible from the street, the Inspector of Buildings shall require that said numbers be placed such that they are clearly visible from the street at the point of entry to the property.

1010.4 Numbering system

Buildings set forth in subsection 1010.1 on streets off a main artery shall be numbered from low to high, with even numbers on one side and odd numbers on the other. The main artery shall be the street closest to the center of town. All numbers shall be in whole Arabic numerals, a minimum of five inches in height, contrasting in color to the structure, and shall be placed on the knob side of the door of the structure. (5-13-06)

1010.5 Violations and penalties; enforcement

Whoever violates any provision of this chapter shall be punished by a fine as referenced in Section 800.1. This Section shall be enforced by the Inspector of Buildings or agent under the direction of the Inspector of Buildings.

SECTION 1011 DOGS

1011.1 Removal of dog waste

- a. The owner of a dog shall be responsible for the removal of any fecal matter deposited by his/her dog(s) on public walks, recreation areas, private property and trails on property under the jurisdiction of the Conservation Commission. The term “owner” as used in this Section shall include the person(s) who control(s) the dog.
- b. The owner accompanying a dog in a public walk, street, recreation area or private property shall possess the means of removal of any fecal matter deposited by the dog. For purposes of this Section, the means of removal shall include any tool, implement or other device carried for the purpose of picking up and containing such fecal matter. Disposal shall be accomplished by transporting such fecal matter to a place suitable for the disposal of dog fecal matter or otherwise as designated as appropriate by the Director of the Board of Health.

1011.2 Dog leash law

No owner of a dog shall allow the dog to roam at large upon a public walk or street or upon the private property of another, except on the premises of another person with the actual knowledge and permission of such other person. All dogs not on the premises of its owner or the private property of another person with the knowledge and permission of such person, shall be restrained by a chain or leash not exceeding twelve (12) feet in length.

1011.3 Town playground areas and athletic fields

No owner of a dog shall allow the dog to enter upon any Town playground area and athletic field. The foregoing shall not apply to guide or service dogs.

Section 1012 Facility Closings

In the event of necessitated closings of town facilities declared by the Town Administrator or his or her designee, on behalf of the Selectboard, the Town Administrator or his or her designee may order the closing of one or more Town facilities (including the Senior Center, but excluding the public schools) or the stoppage or relocation of any non-school Town operations for a full or part of any day or for more than one day. For the purposes hereof, closing of town facilities may be declared in the event of any foreseen or unforeseen occurrence which disrupts or threatens to disrupt Town operations and/or threatens the well-being of Town employees, including, without limitation, snowstorms or other inclement weather (e.g., hurricanes or floods), earthquakes, fires, power failures, acts of terrorism or bomb threats. Any such closing order will be made by the Town Administrator or his or her designee after consultation, as may be feasible under the circumstances, with the Police Department and/or Department of Public Works and shall be broadcast on Channel 22 and 40.

SECTION 1013

REGULATION OF VENDING MACHINES IN PUBLIC SPACES (5-12-07)

No vending machines, including but not limited to, newspaper vending machines, shall be placed in any outdoor areas (including, but not limited to, public rights of ways) under the care and control of the Town except where permitted at parks and athletic facilities. This restriction shall be applicable to all vending machines regardless of whether or not the contents thereof are offered for a fee.

SECTION 1014 REGULATION OF OUTDOOR LIGHTING (5-12-07)

1014.1 Purposes

To protect public health, safety, and the environment by

- (a) providing for adequate and appropriate outdoor lighting;
- (b) providing for lighting that will complement the character of the town;
- (c) reducing glare;
- (d) minimizing light trespass;
- (e) reducing the cost and waste of unnecessary energy consumption; and,
- (f) requiring proper management and disposal of lighting fixtures, lamps, and associated elements.

1014.2 Applicability; Exceptions

The requirements of this Section shall apply to all outdoor lighting in the Town, except that the permitting (Section 1014.4 and Section 1014.5) and review (Section 1014.6) requirements of this Section shall not apply to the following:

- (a) lighting on individual lots used principally for residential occupancy as one, two, or three-family dwellings; or

- (b) lighting for parking areas of less than ten (10) parking spaces if the lighting fixtures are less than fourteen (14) feet in height and the project lighting is approved by the Planning Board with input from the South Hadley Electric Light Department as a provision of a Special Permit; or,
- (c) street lighting, traffic control lighting and other lighting for public safety along streets or ways if approved by the Town's Traffic and Sign Committee and the streets or ways are on plans approved by the Planning Board; or,
- (d) signs or illumination of any signs which are subject to the Zoning Bylaw.

1014.3 Waiver of Provisions

The Selectboard may waive the requirements of this Section upon application of the property owner. Any such application for waiver of said requirements shall contain a detailed description of the proposed lighting and how the lighting will achieve the purposes of this Section if the waiver is granted.

The Selectboard may grant a waiver for projects for which the Planning Board has granted a Special Permit or Site Plan Review only if:

- (a) the conditions of the Special Permit or Site Plan Review Decision expressly support waiving portions of this Section; and,
- (b) the Planning Board has imposed alternative standards on Outdoor Lighting which the Selectboard determine achieve the purposes of this Section.

1014.4 Permit Required

Prior to installation of any outdoor lighting subject to this Section, the applicant must obtain a Permit from the Selectboard, unless accepted pursuant to Section 1014.2 or waived pursuant to Section 1014.3. To obtain such a permit, the applicant must submit an application on forms set forth by the Selectboard along with any required application fee and plan(s) containing at least the information required by Section 1014.5. The number of plans and the scale of plans to be submitted shall be as set forth by the Selectboard.

In the event that the Selectboard determines that a third party review by a qualified lighting engineer or lighting specialist is necessary or advisable to better inform its determination, the Selectboard may require the applicant to pay into the Special Municipal Account a sum necessary to pay for that review.

1014.5 Details of Plans Required

Plans submitted with the application for approval under Section 1014.4 shall include at a minimum:

- (a) the location and type of any outdoor lighting luminaries;
 - (b) the proposed height of all proposed luminaries;
 - (c) the proposed height of all poles;
 - (d) the elevation of the base of all proposed poles and proposed luminaries;
 - (e) identification of any existing vegetation proposed to be removed which may alter the view of and glare from the proposed luminaries;
 - (f) the luminaire manufacturer's specification data, including, but not limited to, lumen output and photometric data showing cutoff angles;
 - (g) the type of lamps proposed such as metal halide, compact fluorescent, high-pressure sodium, etc.;
 - (h) a photometric plan showing the intensity of illumination at ground level, expressed in foot-candles;
 - (i) identification of surface area intended to be illuminated;
 - (j) details of the hours of operation for the lighting; and,
 - (k) description of how the lighting will be regulated for turning on and turning off; and,
- (l) plan for disposal of expended lighting fixtures and lamps.

1014.6 Review Process

Prior to acting on any application for a permit or a waiver thereof, the Selectboard shall have the application reviewed by the Planning Board and such other Boards and departments deemed appropriate by the Town Administrator and shall hold a public hearing on said application. However, the Selectboard may waive the public hearing requirement if it determines that prior public hearings held by other Town Boards have provided a satisfactory forum for public review of the lighting plans and the minutes of the other public hearings have been provided to the Selectboard for review.

1014.7 Standards for Approval

Approval by the Selectboard of any application for a permit under Section 1013.4 or a waiver under Section 1014.3 shall be based on the following:

- (a) Conformity with purposes. The application must conform to the purposes of this Section.

- (b) Glare into community or surrounding neighborhood. The proposed lighting must not create glare which is adverse to the community or surrounding neighborhood.
- (c) Light trespass. The proposed lighting must not create any light trespass onto any abutting street or abutting lot or parcel.
- (d) Downcast of illumination. All illumination must be downcast and not emit any direct light above a horizontal plane passing through the lowest part of the light-emitting luminaire.
- (e) Conformity with Lighting Requirements and Restrictions. The proposed lighting fixtures and luminaire must conform to the lighting requirements and restrictions set forth in subsection 1014.8 herein.

1014.8 Lighting Requirements/Restrictions

Any lighting subject to this Section shall conform to the following requirements and restrictions:

- (a) Control of glare and light trespass. The luminaries must be fully shielded so as to control glare and light trespass.
- (b) Directed to surface intended to be illuminated. The luminaries must be designed, placed, and maintained so as to only illuminate the area identified in the project plans as intended to be illuminated. The area to be illuminated must be restricted to the property on which the luminaries are located or other properties also owned by the parties having said illumination installed.
- (c) Prohibited Fixtures. Mercury vapor fixtures must not be used in new installations. Where existing mercury vapor fixtures are being replaced with new such fixtures, the owner must provide a plan for the safe disposal of the existing and replacement fixtures.
- (d) Hours of operation. Outdoor lighting shall not be illuminated between the 11:00 p.m. and 6:00 a.m. with the following exceptions:
 - 1) If the facility for which the lighting is being utilized is legally and properly open and being used, such as (but not limited to) a business open to customers or an athletic facility being used for an event, normal illumination shall be allowed during the activity, but for not more than ½ hour after the activity or use ceases;
 - 2) Low-level lighting sufficient for the security of persons or property on the lot or parcel may be in operation between 11:00 p.m. and 6:00 a.m., provided the level of illumination on the ground or on any vertical surface is not greater than 0.5 foot-candle.
 - 3) Any other variation as determined by the Selectboard if it finds that proposed illumination will not adversely impact any nearby residences

on account of longer periods of operation and the applicant provides an appropriate technology for ensuring that the fixtures are not operated 24-hours per day.

- (e) *Height of luminaries.* Luminaries must not exceed 35 feet in height unless the Selectboard expressly finds that a greater height will further the purposes of this Section when applied to the particular property, facility, and surrounding neighborhood.”
- (f) *Minimum Lumens.* Any outdoor lighting fixture or lamp must have a sustained rating of 50 lumens per watt.

1014.9 Enforcement

The provisions of this Section shall be enforced by the Building Commissioner. Penalties for violation of any portion of Section 1014 shall be as provided in Section 105 of the General Bylaws.”

***ARTICLE XI
PERSONNEL***

The Town Bylaws and regulations relative to personnel matters are set forth separately in a document available in the office of the Town Clerk.

ARTICLE XII
DEPARTMENT OF PUBLIC WORKS

The Town Bylaws and regulations relative to the Department of Public Works are set forth separately in a document available in the office of the Town Clerk.

ARTICLE XIII
TELECOMMUNICATION RIGHTS OF WAY

The Town Bylaws and regulations relative to Telecommunication Rights of Way are set forth separately in a document available in the office of the Town Clerk.

ARTICLE XIV
BOARD OF HEALTH

The Town Bylaws and regulations relative to Board of Health are set forth separately in a document available in the office of the Town Clerk.

ARTICLE XV (attorney general approval 1-12-06)

NON-ZONING WETLANDS BYLAW

Section 1: Purpose

The purpose of this Bylaw is to maintain the quality of the surface water, the quality and level of the groundwater table and water recharge areas for existing, or potential water supplies; to protect the public health and safety; to protect persons and property against the hazards of flood water inundation, and to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities for the benefit and welfare of the present and future inhabitants of the Town of South Hadley.

Accordingly, this Bylaw protects the wetlands, water resources, and adjoining land areas in the Town of South Hadley by providing prior review and control of activities deemed by the Conservation Commission (hereinafter the "Commission") to have significant or cumulative detrimental effect upon the following resource area values. These values (collectively, the "resource area values protected by this Bylaw") include, but are not limited to:

- protection of public or private water supply,
- protection of groundwater,
- flood control,
- erosion and sedimentation control,
- storm damage prevention,
- prevention of water pollution,
- protection of fisheries and wildlife habitat, and rare species habitat including rare plant species,
- recreation and agriculture values.

This Bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, with additional standards and procedures to augment those of the Wetlands Protection Act, (G.L. Ch. 131, Sec. 40) and Regulations hereunder (310 CMR 10.00).

Section 2: Jurisdiction

In accordance with this purpose, no person shall commence to remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter, the following resource areas: any freshwater wetlands (including marshes, wet meadows, bogs and swamps); vernal pools; banks; the water column of and the land under lakes, ponds, reservoirs, creeks, rivers, and streams; lands within 100 feet of any of the aforesaid resource areas (the Buffer Zone); isolated and bordering lands subject to flooding or inundation by groundwater or surface water; and the 200-foot Riverfront Areas, without a permit from the Commission, or as provided in this Bylaw. Said resource areas shall be protected whether or not they border surface water.

Any activity proposed or undertaken within the aforesaid one-hundred (100) foot Buffer Zone is subject to regulation under this Bylaw. Buffer Zones are vital in protecting the resource area values of the Bylaw in many ways, including but not limited to:

- a) Slowing water flow, thereby decreasing water velocities, allowing infiltration, providing flood control and reducing the erosion potential of storm water runoff;
- b) Trapping sediment and other insoluble pollutants, thereby decreasing or preventing pollution of the wetlands and water bodies;
- c) Reducing nutrient overloading by filtering nutrients bound to sediment in the surface flow, and removing nutrients from groundwater through uptake in vegetation;
- d) Providing permeable soils that contribute to groundwater recharge;
- e) Producing leaf litter and biomass which increases the humus content of the soil and increase in absorption and infiltration;
- f) Scattering sunlight and providing shade thereby lowering water temperature within wetlands and water bodies;
- g) Providing essential habitat for wetland-associated species; and
- h) Providing a visual separation between wetlands and developed environments.

Lands within 100 feet of specific resource areas are presumed to be important to the protection of these resources because activities undertaken in close proximity to wetlands and other resources have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater, degraded, poor water quality, and loss of wildlife habitat.

Intermittent streams are important for storm damage prevention, flood control, ground water protection, wildlife habitat, and recreation values. During the spring, summer and fall these streams disperse snow melt and storm runoff across the landscape, thereby preventing dangerous volumes and flows from spilling over roadways and property. This broad dispersal also allows for larger volumes of water to infiltrate into the ground, recharging groundwater supplies. Intermittent streams are an essential source of food and water for wildlife and are often the only source of water in higher elevations in town. During all seasons, but especially in winter and spring, intermittent streams act as essential corridors for animal movement, especially when food is scarce. Accordingly, this Bylaw protects intermittent streams and their associated bordering vegetated wetlands.

The Commission shall presume that all areas meeting the definition of “vernal pools” under Section 12 of this Bylaw, and the adjacent upland area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential vernal pool habitat functions. Any formal evaluation should be performed by an individual meeting the qualifications under the wildlife habitat section of the Wetlands Protection Act Regulations.

Section 3: Conservation Zone

The Commission shall require that a fifty (50) foot wide strip of undisturbed vegetation, called the Conservation Zone, be maintained adjacent to any freshwater wetland, bank, or water body, but not including lands subject to flooding or inundation by groundwater or surface water, and the 200-foot Riverfront Area. No work, structures or alterations will be allowed within the Conservation Zone, except for minor activities, such as mowing, gardening, and pruning within

existing lawn, garden or landscaped areas, as described in the Regulations adopted by the Commission. The Conservation Zone shall not apply to artificially created storm water management structures such as detention and retention basins, artificially lined ponds, and constructed wastewater treatment lagoons.

The Conservation Zone for vernal pools will be based on the size of the basin; with a twenty-five (25) foot setback of undisturbed vegetation for vernal pools less than 10,000 square feet, and a fifty (50) foot setback of undisturbed vegetation for vernal pools 10,000 square feet or greater in size.

Where the Conservation Zone is already altered in such a manner that the presumed protection offered by the Buffer Zone is not being met, the Commission may issue an Order of Conditions for a project, provided that it finds that the proposed alterations will not increase adverse impacts on that specific portion of the Conservation Zone or associated wetland resource areas, and that there is no technically feasible construction alternative. In such cases the Commission may modify the scope and detail of the proposed project to minimize impact on or improve protection of the values protected by the Bylaw.

Section 4: Exemptions and Exceptions

The application and permit required by this Bylaw shall not be required for maintaining, repairing, remodeling, but not substantially changing or enlarging an existing and lawfully located single family residential structure or customary appurtenance thereto, as long as the footprint of any proposed addition is not any closer to the wetland or other resource areas than the existing structure, and there is no reasonable alternate location on the owner's property for the new structure that is further from the resource areas, as determined by the Commission.

The Commission may issue a generic or on-going permit for maintaining, repairing, or replacing an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, steam, water, telephone, telegraph or other telecommunication services, storm drainage, and sewer, provided that the structure or facility is not substantially changed or enlarged, as determined by the Commission, and provided that written application has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in Regulations adopted by the Commission. These standards and specifications shall conform to the best management practices in the Commonwealth of Massachusetts. This on-going permit may apply to other institutions in town with facilities and structures, for normal maintenance activities within the buffer zone, as determined by the Commission. Examples include but are not limited to educational institutions, fire districts, golf courses, and residential retirement communities.

The application and permit required by this Bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth, or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement of the emergency project, and provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and

public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

The application and permit required by this Bylaw shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use, as defined in the Wetlands Protection Act Regulations 310 CMR 10.04, at the time the work takes place.

The Commission, at its sole and reasonable discretion, may issue a permit for the Limited Projects identified in 310 CMR 10.53(3), with the same or additional performance standards, such as limits on road width or location or multiple driveway crossings. Proposed activities that qualify as Limited Projects per 310 CMR 10.53 (e.g. maintenance of public roadways, water dependent uses, public water supply exploration and access driveways) must be reviewed by the Conservation Commission, which has the discretion to permit with conditions to ensure that the interests of the Wetlands Protection Bylaw are protected.

The application and permit required by this Bylaw shall not be required for Minor Activities within the 100-foot buffer zone and 200-foot Riverfront Area, as defined in the Wetlands Protection Act Regulations 310 CMR 10.02(2)(b), including the “Simplified Review” process. Such Minor Activities include but are not limited to, unpaved pedestrian walkways, fencing, (provided it does not constitute a barrier to wildlife), vista pruning, and planting of native plant species of trees, shrubs or groundcover. Under this Bylaw they will also include maintaining and repairing existing roads and driveways (excluding bridges and culverts) provided there is no additional alteration of resource areas, maintaining and repairing existing buildings and structures provided the footprint remains the same and there is no additional alteration of resource areas, mowing of existing lawns, and normal maintenance of trees and shrubs.

Section 5: Application for Permits and Requests for Determination

Where this Bylaw and the Wetlands Protection Act, G.L. Ch. 131, Sec. 40, and Regulations 310 CMR 10.00 have concurrent jurisdiction the Commission may accept the Notice of Intent, Abbreviated Notice of Intent, Request for Determination of Applicability, Abbreviated Notice of Resource Area Delineation and other forms and plans filed under the Wetlands Protection Act as the permit application and plans under this Bylaw. The Commission may amend what forms it accepts and issues in their Bylaw Regulations.

The Commission shall develop a set of pre-submission requirements for the assistance of persons making application to the Commission, a current copy of which shall be on file with the Commission. Any person filing an RFD or other permit application with the Commission shall complete the filing in accordance with such of those requirements which are reasonable and necessary as determined by the Commission or its staff. The Commission reserves the right to ask for any additional information it deems reasonable and necessary to evaluate the project.

Written application in the form of a Notice of Intent or Abbreviated Notice of Intent shall be filed with the Commission to perform activities affecting resource areas and the inner fifty (50) feet of the Buffer Zone protected by this Bylaw. The permit application shall include such information and plans as are deemed reasonable and necessary by the Commission and as specified in the Bylaw and its Regulations to describe proposed activities and their effects on the

resource areas protected by this Bylaw. No activity shall commence without receiving and complying with a permit issued pursuant to this Bylaw.

Any person desiring to know whether proposed work or an area is subject to this Bylaw, or proposing work in the outer fifty (50) feet of the Buffer Zone, may in writing request a determination of applicability from the Commission. Such a Request for Determination of Applicability (RFD) shall include information and plans as are deemed reasonable and necessary by the Commission.

Any person desiring to certify, for purposes of this Bylaw, the limits of resource areas on a site may submit as application an Abbreviated Notice of Resource Area Delineation (ANRAD) for Commission confirmation. Such an ANRAD shall include such information and plans as deemed reasonable and necessary by the Commission to describe and define the wetland resources areas. The Commission will also accept the ANRAD as an application for a Simplified Review as defined in the Wetlands Protection Act Regulations 310 CMR 10.02(2)(b)2.

At the time of the permit application or RFD, the applicant shall pay a filing fee according to the schedule in the associated regulations adopted by the Commission. This fee is not refundable and is only for applications where a filing fee is not already required by the Wetlands Protection Act, G.L. Ch. 131 Sec. 40, and Regulations 310 CMR 10.00. The Commission may waive the filing fee for an application or request filed by a government agency, or if the applicant can prove financial hardship, or other extenuating circumstances.

Section 6: Notice and Hearings

A permit application or RFD shall be hand delivered or sent by certified mail to the Commission. Any person requesting a determination or making written application to perform work or certify resource boundaries regulated by this Bylaw shall at the same time give written notice thereof, by mailing by certified mail, return receipt requested, or by hand delivery, to all abutters according to the most recent records of the Board of Assessors, including those across a traveled way or across a body of water (excluding the Connecticut River) from the parcel which is the subject of this application. The notice shall include a copy of the application or request, with plans, or shall state where copies may be examined. If the person filing an RFD or other application is not the owner of the area subject to the request or application, the applicant shall also give written notice of the request or application and hearing to the owner of the parcel. The person providing such notices to abutters or other property owners shall file an affidavit affirming that notification was done, with a copy of the notice, with the Commission.

The Commission shall conduct a public hearing on any permit application or RFD after written legal notice, given at the expense of the applicant, has been published at least five working days (not including Saturdays or Sundays) prior to the hearing, in a newspaper of general circulation in South Hadley. The Commission shall commence the public hearing on any permit application or RFD within 21 days from receipt of the properly completed application, unless an extension is authorized in writing by the applicant.

Whenever possible the Commission shall combine its hearing under this Bylaw with the hearing conducted under the Wetlands Protection Act, M.G.L. Ch. 131, Sec 40, and Regulations 310 CMR 10.00, and may combine the public notices thereof.

The Commission shall have the authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include the receipt of additional information from the applicant or others deemed reasonable and necessary by the Commission in its discretion, or comments and recommendations of the Department of Public Works, Planning Board, Board of Health, and Building Inspector. In the event that the Commission determines that snow cover, ice, or other weather conditions prevent the verification of the wetland boundary line, the Commission shall continue the hearing to a date certain when the determination can be made.

Section 7: Coordination with Other Boards

At the time of filing the permit application with the Commission, the applicant shall be required to submit six (6) complete copies of the application and all of its accompanying data. Upon receipt of the application, the Conservation Commission or their staff will distribute copies to the following departments: Board of Health, Planning Board, Building Inspector, and Department of Public Works. Town boards and officials shall be entitled to file written comments and recommendations with the Commission at or before the hearing. The Commission shall take any such comments and recommendations into account but shall not be bound by them. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

Section 8: Burden of Proof

The applicant for a permit shall have the burden of proving, by a preponderance of credible evidence, that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this Bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 9: Permits, Determinations and Conditions

If the Commission, after a public hearing, determines that the activities which are the subject of the RFD or permit application are likely to have a significant individual or cumulative effect upon the resource area values protected by this Bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems reasonable and necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.

Where no conditions are adequate to protect those resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw. It may also deny

a permit for failure to 1) submit necessary information and plans requested by the Commission; 2) meet the design specifications, performance standards and other requirements in the regulations of the Commission; or 3) avoid or prevent unacceptable significant or cumulative adverse effects upon the resource area values protected by this Bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

The Commission shall have the right to deny or delay a permit if a previous permit on the same property or on contiguous properties under the same or affiliated ownership has not been complied with or has not received a Certificate of Compliance.

When the applicant requesting a determination, permit, certification, amendment or extension is not the owner of the area subject to the request or application, the Commission shall send the Determination, Orders or other action to the owner as well as to the person making the request.

Permits and determinations shall expire three years from the date of issuance. At the discretion of the Commission, any permit may be renewed for up to three additional years, provided that the Commission receives a request for an extension in writing prior to expiration of the permit, with sufficient time for the Commission to issue an extension prior to the permit expiration. Applicants are advised to submit requests for extensions at least 30 days prior to the permit expiration date. Said request shall include the expected completion date and the reasons for the requested extension.

Violations to this bylaw, submission of false or erroneous information, new information that substantially alters the likely impact of the project on wetland resources or values, or clear evidence that an error has been made may cause the commission to revoke or modify any permit, determination or resource area boundary confirmation issued under this bylaw, after notice to the permittee and holding a public meeting.

The Commission in an appropriate case, may combine the permit orders or determination issued under this Bylaw with the Determination of Applicability, Order of Conditions, Order of Resource Area Delineation, Certificate of Compliance, or other forms issued under the Wetlands Protection Act, G.L. Ch. 131 Sec. 40, and Regulations 310 CMR 10.00.

No work in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds, or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded. Such certification shall include the book and page or instrument number and date. Recording is not necessary for RFDs.

To prevent wetland loss, the Commission shall require applicants to avoid all wetlands alteration wherever feasible; shall minimize wetlands alteration; and where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, or professional design, a 2:1 replacement ratio, and monitoring to insure success, because of the high likelihood of failure of replication.

Section 10: Waivers

Strict compliance with the Bylaw may be waived when, in the judgment of the Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing and presented at the time of filing along with a written justification stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Bylaw. The waiver is intended to be employed only in rare and unusual cases.

Waivers may be granted on a case-by-case basis by the Commission allowing work within the Conservation Zone when it can be demonstrated by the applicant to the satisfaction of the Commission that work or alterations within the Conservation Zone

- (1) will not have a significant detrimental impact to the resource area values specified under this Bylaw, or
- (2) that any impact is offset by the need to accommodate a public benefit such as public health and safety, handicapped accessibility, or community enhancement relative to its cultural, environmental, educational, or recreational interests, or
- (3) that the project will result in a long-term improvement to the natural capacity of a resource area to protect the resource area values of the Bylaw, while minimizing any adverse impacts with a carefully considered and environmentally sensitive design, or
- (4) avoid a decision that so restricts the use of property that it constitutes an unconstitutional taking without compensation.

In such cases the Commission may modify the scope and detail of the proposed project to minimize impact on the values protected by the Bylaw. Nothing herein shall preclude the maintenance of an existing structure located within the Conservation Zone.

Section 11: Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw. Public notice shall be given at least three (3) weeks prior to such hearing by publication in a newspaper of general circulation in South Hadley and by posting with the Town Clerk. At a minimum these regulations shall define key terms in this Bylaw not inconsistent with this Bylaw.

Section 12: Definitions

Except as otherwise provided in this Bylaw or Regulations of the Commission, the definitions of terms in this Bylaw shall be as set forth in the Wetlands Protection Act, which terms, as used herein, shall include the provisions of MGL Ch. 131, Sec. 40, and in the Regulations hereunder, 310 CMR 10.00 et seq. The following terms shall apply in the interpretation and implementation of this Bylaw.

Alter - *The following actions, without limitation, when undertaken in resource areas subject to this bylaw:*

- a. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- b. Changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- c. Drainage or other disturbance of water level or water table;

- d. Dumping, discharging or filling with any material which may degrade water quality;
- e. Placing of fill or removal of material which would change elevation;
- f. Driving of piles, erection, or expansion of buildings, or structures of any kind;
- g. Placing of obstructions or objects in water or waterways;
- h. Destruction of plant life including cutting of trees;
- i. Changing water temperature, biochemical oxygen demand or other physical, biological, or chemical characteristics of any waters;
- j. Any activities, changes or other work which may cause or tend to contribute to pollution of any body of water or groundwater;
- k. Incremental activities that have or may have a cumulative adverse impact on the resource areas protected by this bylaw.

Appurtenance – Any structural adjunct or incidental construct to a single family residential structure or on any parcel of land, such as a septic system, garage, shed, deck, dock, porch, patio, or swimming pool.

Buffer Zone – Lands within 100 feet of any wetland resource area or water body, except bordering land subject to flooding, isolated land subject to flooding that is not vernal pool habitat, and Riverfront Area.

Cumulative Effect – An effect that is significant when considered in combination with other activities that have occurred, are going on simultaneously, or that are likely to occur, whether such other activities have occurred or are contemplated as a separate phase of the same project, such as the build-out of a subdivision or an industrial park, or unrelated but reasonably foreseeable actions, including other development projects that are currently under construction, under review, or that may be expected to come forward.

Isolated Land Subject to Flooding - An isolated depression or closed basin at least 500 square feet in size, which serves as a ponding area for run-off or high ground water which has risen above the ground surface. These may include vernal pools. Not included are swimming pools, artificially lined ponds or pools, or wastewater lagoons, the construction of which may be regulated, but do not themselves constitute resource areas protected under this Bylaw.

Maintenance – Routine and/or periodic activity undertaken to prevent, stop, or to correct deterioration of an existing condition, facility or structure so that, after completion, the condition, facility, or structure is as near as possible to that which originally existed.

Permit Application – Any application for a permit of action under the Massachusetts Wetlands Protection Act, MGL Ch. 131 Sec 40, or the South Hadley Non-Zoning Wetlands Bylaw. Examples include, but are not limited to, a Notice of Intent, Abbreviated Notice of Intent, Abbreviated Notice of Resource Area Delineation, or request for an Amendment to a Notice of Intent or Extension to an Order of Conditions.

Person - Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agencies, public or quasi-public corporations or bodies, Town of South Hadley, and any other legal entity, its legal representatives, agents, or assigns.

Pond – Any open body of fresh water, either naturally occurring or manmade, which is never without standing water due to natural causes except during periods of extended drought. Notwithstanding the above, the following are not protected as Ponds under this Bylaw: swimming pools or other basins lined with impervious material, wastewater treatment lagoons, and water bodies excavated from upland within active gravel pits or quarries.

Rare Species – All vertebrate and invertebrate animal and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

Recreation – Any passive leisure activity that does not conflict with or diminish other wetland functions and values. Examples include, but are not limited to, the following: legally licensed fishing or hunting, boating, swimming, walking and hiking, canoeing, and bird watching.

River or Perennial Stream – A naturally flowing body of water that empties into any ocean, lake, pond, or other river and which normally flows throughout the year. The Commission may by Regulations set criteria for determining whether a particular stream or section of stream flows throughout the year.

Riverfront Area – The area of land between a river's mean annual high water line and a parallel line measured horizontally 200 feet away. The Riverfront Area may include or overlap other resource areas or their buffer zones. Further definition of Riverfront is in 310 CMR 10.58.

Stream – Any body of running water, including brooks and creeks, which moves in a definite channel in the ground, due to hydraulic gradient, and which flows within, into or out of an area subject to protection under MGL Ch. 131, Sec. 40. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of water which does not flow throughout the year is intermittent. Streams may be perennial (see River) or intermittent. For the purposes of this Bylaw, only those streams shown on a map created for the Regulations associated with this Bylaw, shall be protected under this Bylaw.

Substantially changing or enlarging – As pertaining to Section 4 of this Bylaw, limited to no more than a one thousand (1000) square foot footprint addition in the Conservation Zone.

Vernal Pool - In addition to that already defined under the Wetlands Protection Act, G.L. Ch. 131, Sec. 40, and Regulations there under, 310 CMR 10.00, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, in at least most years, holds water for a minimum of two continuous months during the spring and/or summer, is at least 500 square feet in size at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool community species, regardless whether the site has been certified by the Massachusetts Natural Heritage & Endangered Species Program. The buffer zone for vernal pools shall extend 100 feet from the mean annual high water line defining the depression, but shall not extend over existing lawns, gardens, landscaped or developed areas. For the purposes of this Bylaw, only certified vernal pools, and potentially certifiable vernal pools as shown on a map created for the Regulations associated with this Bylaw, shall be protected, if they meet the certification standards.

Section 13: Security

The intent of this section is to secure against the potential of significant environmental damage. As part of a permit issued under this Bylaw, in addition to any security required by any other town or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

- a. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.
- b. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of South Hadley and members of the public, whereby the permit conditions shall be performed and observed before any lot may be conveyed, other than by mortgage deed. This method shall be used only with the consent of the applicant.

The bond or covenant shall, in the case of the bond, be given to the Town, and in the case of a covenant, be recorded in the Registry of Deeds at least 10 business days before the start of any work under the permit.

Section 14: Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this Bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this Bylaw.

The filing of a permit application or RFD shall constitute the consent of the owner and grant the authority for the Commission and its agents, officers and employees, with proper identification, to enter upon privately owned land for the purpose of performing their duties under this Bylaw. The Commission may make or cause to be made such examinations, surveys or sampling as the Commission deems reasonable and necessary, subject to the laws of the United States and the Commonwealth.

The Commission shall have the authority to enforce this Bylaw, its regulations, and permits issued there under by violation notices, non-criminal citations under MGL Ch. 40, Sec. 21D, administrative orders, and civil and criminal court actions. Any person who violates provisions of this Bylaw may be ordered to restore the property to its original condition and/or take other action deemed reasonable and necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Board of Selectmen shall direct the Town Counsel to take legal action for enforcement under civil law. Upon request of the Commission the Chief of Police shall take legal action for enforcement under criminal law.

Town boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this Bylaw, regulations, permits or administrative orders issued there under, shall be served with a Notice of Violation enumerating the alleged violations. If after ten business days the Commission has not received what it deems to be either (a) sufficient evidence demonstrating that no violations have occurred, or (b) a filing that will

remove the violations along with evidence that sufficient progress is being made to correct the violation, then the violator shall be punished by a fine of \$100.00 per offense. Beginning ten business days after the date of the Notice of Violation each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

In addition to any fine, the Town shall be entitled to reimbursement for all expenses, including legal fees, incurred in prosecuting said violation, either civilly or criminally.

Section 15: Appeals

A decision of the Conservation Commission may be appealed by the following persons: the applicant, the owner if not the applicant, any person aggrieved by a Determination or Order, any owner of land abutting the land on which the work is to be done, or any ten residents of the town, in the following manner(s):

A) Local Administrative Appeal: Any Commission decision shall become final ten (10) days after the Commission mails notice thereof to the applicant unless the applicant, or other persons listed above, after mailing and before the expiration of ten (10) days requests in writing an appeal through a local administrative review. The appeal shall be heard by a committee appointed by the Selectboard, and consisting of: two members of the Planning Board, a Selectboard member, a representative from the Board of Health, and a representative from the Department of Public Works. This committee shall be appointed annually in advance of any appeal request. The request for a local administrative appeal shall state with reasonable specificity the issues the applicant requests the committee to consider.

Within ten (10) days of receipt of the request for a local administrative appeal, the Chair of the Selectboard shall call a meeting of the committee, and written notice shall be made to the applicant, the Conservation Commission, and to all committee members. The scope of review shall be to determine if there was an error of law or abuse of discretion as measured by the arbitrary and capricious standard. After hearing all the evidence provided by the appellant and the Conservation Commission, said committee shall, by majority vote, render a written opinion within fourteen (14) days of the close of the presentations by both sides.

The Commission shall hold a public meeting to review the opinion of the local administrative appeal committee. Within twenty-one (21) days of delivery of the opinion of the committee to the appellant and the Commission, the Commission shall issue a further decision, which decision shall be final upon issuance and mailing to the appellant.

No request for local administrative appeal under this Bylaw shall affect the finality of or appeal deadlines applicable to any decision making of the Commission under the Wetlands Protection Act, G.L. Ch. 131, Sec. 40, and Regulations, 310 CMR 10.00.

B) Legal Appeal: A decision of the Commission shall be reviewable in the Superior Court in an action filed within sixty (60) days thereof, in accordance with M.G.L., Ch. 249, Sec. 4.

Section 16: Relation to the Wetlands Protection Act

This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40, and the Regulations, 310 CMR 10.00, there under.

Section 17: Severability

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision or phrase thereof, nor shall it invalidate any permit, which previously has been issued.

Section 18: Effective date

The Effective Date of this Bylaw is the date after the Bylaw has been approved by the Attorney General and published by the Town Clerk as set forth in MGL Ch 40 Sec. 32. The Bylaw shall not, however, apply to:

- a) Any structure or activity lawfully in existence or lawfully begun prior to the Effective Date;
- b) Any structure or activity which is the subject of a pending Notice of Intent, ANRAD, or Request for Determination of Applicability filed under the Massachusetts Wetlands Protection Act (MGL Ch. 131, Sec. 40) prior to the Effective Date;
- c) Any structure or activity which has an Order of Conditions, Order of Resource Area Delineation, or Determination of Applicability or other Commission decision filed under the Massachusetts Wetlands Protection Act (MGL Ch. 131, Sec. 40) and that is still in effect prior to the Effective Date. These Orders or Determinations shall expire at the end of their legally regulated term, which is usually three years from date of issuance, after which any new work will be subject to the provisions of this Bylaw;
- d) Any structure or activity for which any extensions of or modifications or amendments to a current Order of Conditions or Notice of Intent were approved prior to the Effective Date. These extensions, modifications and amendments shall remain in effect until the end of their legally regulated term, which is usually three years from date of issuance, after which any new work will be subject to the provisions of this Bylaw;
- e) Any lot or other areas included within a Definitive Subdivision Plan, Special Permit Plan, Site Plan, or Form H Subdivision Plan which has been submitted to the South Hadley Planning Board and/or has been approved by the South Hadley Planning Board prior to the Effective Date pursuant Section 5.00 of the Subdivision Regulations in regard to a Definitive Subdivision Plan, Section 6.00 of the Subdivision Regulations in regard to a Form H Subdivision Plan, Section 9 of the Zoning Bylaw in regard to a Special Permit Plan, and Section 12 of the Zoning Bylaw in regard to a Site Plan. In the event the Planning Board fails to endorse the Definitive Subdivision Plan or Form Subdivision Plan before November 8, 2006, the provisions of this Bylaw shall be deemed to apply to the subject property. If the Planning Board approval of any such Definitive Subdivision Plan, Special Permit Plan, Site Plan, or Form H Subdivision Plan expires or lapses and is not renewed or extended by the Planning Board, the provisions of this Bylaw shall be deemed to apply to the subject property. Any new work beyond that shown on the above referenced plans that is within a resource area regulated by the Wetlands Bylaw shall be subject to the Bylaw.

**APPENDIX A:
MASSACHUSETTS GENERAL LAWS ACCEPTED BY THE TOWN**

Massachusetts General Laws accepted by the Town are set forth separately in a document available in the office of the Town Clerk.

***Appendix A:
Massachusetts General Laws Accepted by the Town***

MGL Chapter 11 Section 335: Election of Town Clerks & their duties. 3/7/1902

MGL Chapter 30B Procurement Act: Contract for purchases without formal bids. 6/2/90

MGL Chapter 31 Section 48 & 49: Civil Service Police. See Acts of 1979 (rescind) 6/18/33

MGL Chapter 32B Section 7A: Health Insurance Blue Cross-Blue Shield more than 50%.
3/17/73

MGL Chapter 32B Section 9E: Health Insurance-60% (Greater than 50%). 10/6/87 & adjourned
10/13/87

MGL Chapter 32B Section 18: Medicare extension plans; Mandatory transfer of retirees. 6/13/92

MGL Chapter 40 Section 4G: May contract up to \$4000 without bids. 5/30/81

MGL Chapter 40 Section 6B: Uniform purchase & clothing allowance for police officers.
3/18/67

MGL, Chapter 40 Section 6J: Authorizing purchases of “stormy weather clothes”. 8/6/63

MGL Chapter 40 Section 8A: Industrial Development Commission. 3/19/55

MGL Chapter 40 Section 8B: Establishing COA. 3/14/70

MGL Chapter 40 Section 8C: Conservation Commission. 3/8/61

MGL Chapter 40 Section 8G: Cities & Towns enter in Mutual Aid Agreements. 9/8/75

General Bylaws of the Town of South Hadley 2005

MGL Chapter 40 Section 13: Municipal Buildings insurance fund management & use. 6/13/92

MGL Chapter 40 Sections 13A & 13C: Workman's Comp. Insurance. 10/15/91

MGL Chapter 40 Section 22: Removal of unlawfully parked cars which impede snow removal. 4/17/76

MGL Chapter 40 Section 22C: Towing of vehicles from City & Town ways where such vehicles are parked or standing in violation of the law. 3/17/62

MGL Chapter 40 Section 21D: non criminal enforcement/ticketing. 5/6/89

MGL Chapter 40 Section 57: Local License Suspension. 5/4/91

MGL Chapter 40 Section 57: Amends Section 7-2 of the Town By-Laws. Deny, suspend or revoke licenses/ permits to anyone owing municipal taxes or charges. 5/7/94 and updates 5/3/97

MGL Chapter 41: Acts of 1936...Chapter 211 (as amended by) Formation of Planning Board. 3/13/37

MGL Chapter 41 Section 25: Board of Assessors as an appointed body. 4/18/81

MGL Chapter 41 Section 38A: Town Collector. 5/3/97

MGL Chapter 41 Section 73: Board of Survey. 3/31/34

MGL Chapter 41 Section 81U: As amended by Chapter 236 of the Acts of 1987. 10/25/88

MGL Chapter 41 Section 100B: Benefits to retired Policemen. 5/7/83

MGL Chapter 41 Section 108L: Quinn Bill – Police officers salary by education. 5/7/94

MGL Chapter 41 Section 110A: Closing of public offices on Saturdays. 12/3/55

MGL Chapter 41 Section 111A: Vacation pay for police. 3/16/35

MGL Chapter 44 Section 53C: Deposit & Expenditures of money received for off-duty work details of police. 3/17/73

MGL Chapter 44 Section 53D: Recreation Revolving Fund. 10/6/87 & 10/13/87

MGL Chapter 44 Section 53F-1/2: Enterprise fund for A. WWTP & Collection System. B. Sanitary Landfill. 6/13/92

MGL Chapter 48 Section 57F: Holiday pay for Police Chief.

MGL Chapter 49 Section 15: (Amended by Acts of 1907 Chapter 177) Sewer assessments & charges.

MGL Chapter 59 Section 5 Clauses 17D & 41C: Abatement of Real Estate Tax on Property of Elders. 2/10/87

MGL Chapter 59 Section 41 (B) & 17 (C): Real Estate Exemptions. 5/5/84

MGL Chapter 59 Section 57C: Effective 7/1/92. Quarterly Tax Bills. 5/4/91

MGL Chapter 59 Section 5 Clause 50: Exemption improvements elderly housing. 6/2/90

MGL Chapter 60 Section 77C: Alternative Tax takings & foreclosures. Accept deed in lieu of taxes owed.

MGL Chapter 71 Section 40: (as amended by Chapter 188 of acts of 1985) Minimum Teachers Salaries \$18,000.00/yr. 5/3/86

MGL Chapter 71 Section 40 (as amended by Chapter 188 of the Acts of 1986) Equal Education Opportunity Grant. 9/30/86

MGL Chapter 71 Section 40: Pay teachers no less than \$20,000.00/yr. 3/29/88

MGL Chapter 71 Section 71E: Revolving fund for funds received in conjunction w/Adult Education & Continuing Ed Program. 4/15/78

MGL Chapter 83 Sections 16, 16A, 16B, 16C, 16D, 16E and 16F: Sewer Assessments & Fees & Collection of. 4/26/80

MGL Chapter 90 Section 20A-1/2: Parking Violation Procedures. 9/22/81

MGL Chapter 90 Section 20C: Disposition of Parking Violations. 3/18/72

MGL Chapter 91 Section 29: (amended by Chapter 516, 524 Acts of 1950) Town liable for all damages incurred by work performed by DPW. 5/14/60

MGL Chapter 140 Section 132-136: Smoke nuisance sections. 3/13/48

MGL Chapter 140: Dog Law Violators Fines. Petitioned General Court to be exempt from Chapter 140. South Hadley exempt from 9/12/78

MGL Chapter 148 Section 13: (as amended by Chapter 351 Section 90 of the Acts of 1981) Annual licensing & fees for storage of explosives and/or inflammable materials. 5/5/84

MGL Chapter 164A: New England Power Pool. 3/16/74

MGL Chapter 481 Acts of 1993: Amending MGL Chapter 138 Section 2. 5/7/94

**APPENDIX B:
ACTS OF THE LEGISLATURE ACCEPTED BY THE TOWN**

Acts of the Legislature accepted by the Town are set forth separately in a document available in the office of the Town Clerk.

***APPENDIX B:
Acts of the Legislature Accepted by the Town***

Acts of 1902 Chapter 205: Removal of snow & ice from sidewalks. 4/26/1902

Acts of 1902 Chapter 424: Use of land for a Free Public Library. 6/7/1902

Acts of 1907 Chapter 191 Section 1-9: Board of Survey (street construction) 5/20/1918

Acts of 1913 Chapter 655 Sections 1, 2, 3: Regulation of buildings. 5/20/1918

Acts of 1913 Chapter 835 Section 421: Precinct voting for Town Officers & granting licenses for intoxicating liquors. 2/28/1916

Acts of 1915 Chapter 284 (amended by Chapter 59 Section 1 of Acts of 1916): Liquor Licenses. 3/18/1918

Acts of 1916 Chapter 153: Annual licensing for slaughtering meat, cattle, sheep or swine. 3/5/1920

Acts of 1917 Chapter 23: Licensing of Coffee Houses. 3/18/1918

Acts of 1920 Chapter 240: Permit certain sports & games on Sunday. 3/21/1921

Acts of 1921 Chapter 14 Section 25A: Assessors can appoint Asst. Assessor. 3/21/1921

Acts of 1945 Chapter 723: Establishment of Veterans' Service. 12/11/1945

Acts of 1946 Chapter 75: Permit the use of Beach Playground for athletic field purposes. 3/16/1946

Acts of 1946 Chapter 559: 20% increase in pensions under \$1000.00. 9/18/1946

Acts of 1948 Chapter 588: Equalizing of retirement benefits. 11/22/1948 Effective as of 9/10/1948.

Acts of 1950 Chapter 820: Increasing pensions, annuities for former employees payable by Commonwealth. 3/15/1952

Acts of 1951 Chapter 781: Pensions, Annuities etc. former employees. 3/15/1952

Acts of 1952 Chapter 624: Increasing pensions, retirements, allowances & annuities for former public employees. 7/21/1953

Acts of 1953 Chapter 434: Rent Control. 3/13/1954

Acts of 1955 Chapter 225: Rent Controls. 4/18/1955

Acts of 1955 Chapter 670: Retirement Benefits. 3/17/1956

Acts of 1958 Chapter 17: Board of Health Director- Civil Service (act passed 1/28/58) Effective 3/3/1958

Acts of 1963 Chapter 478: Increasing amounts of pensions & retirement allowances to certain former public employees. 3/14/1964

Acts of 1964 Chapter 11: Park & Playground Comm. of South Hadley under Civil Service Laws. 3/18/1967

Acts of 1967 Chapter 772 (also known as Chapter 40D): Industrial Development Financing Authority. 10/24/1972

Acts of 1978 Chapter 576 which amends Chapter 59 Section 38: Assessment exemptions for repairs. 2/12/1980

Acts of 1979 Chapter 151 (Rescind MGL Chapter 31): Civil Service. 4/18/1981 Reconvened 5/30/81.

Acts of 1980 Chapter 85: Office of Building Inspector. 9/9/1980

Acts of 1982 Chapter 597: 9/20/1987

Acts of 1983 Chapter 527 & Chapter 183A: Conversion of Residential Property to Condos. 2/10/1987

Acts of 1985 Chapter 188 Section 12: Direct Service expanded for pupils in South Hadley Public Schools. 6/2/90, 5/6/89

Acts of 1986 Section 40 of Chapter 71 amended by Chapter 188: Equal Education Opportunity Grant. 3/30/86

Acts of 1987 Chapter 236 Accepted MGL Chapter 41 Section 81U as amended by Chapter 236 of Act of 1987: Disposition of performance bonds or deposits on subdivision in default. 10/25/1988

Acts of 1987 Chapter 661: Election of Town Meeting Members. Amends Acts of 1933 Chapter 45 section 2