

## Framingham Planning Board

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Lewis Colten, Vice Chair  
Victor Ortiz, Clerk  
Thomas F. Mahoney  
Stephanie Mercandetti

### Planning Board Staff:

Amanda L. Loomis, Planning Board Administrator  
Raphaella Morais-Peroba, Communications Outreach Coordinator

## **Motion**

### **Article 27: Amendments and Modifications to Various sections of Framingham Zoning By-Law for Purposes of Clarification, Consistency related to the recodification process of the Framingham Zoning By-Law**

I move that Town Meeting vote to amend the Framingham Zoning By-Law, with deleted, changed, or amended items in “red-line” format (new text is underlined and deleted text is stricken through) by: (1) adding new language and modifying existing language in Section I.D.8; (2) amending existing sections of Section I.E. Definitions related to consistency and clarification; (3) amending the citations in Section II.D for consistency; (4) renumbering Section II.I.; (5) amending Section IV.B.2, IV.B.3.c, IV.B.4.b, IV.B.5.a for clarification, consistency, and renumbering; (6) adding a new section IV.B.5.b related to parking structures; (7) amending Section IV.E.2 Table of Dimensional Regulations related to clarification, consistency, and Building Height clarification; (8) amending Section V.J.4 for spelling; (9) amending Section V.L.1.e and V.M.1.f for consistency; (10) amending Section V.L.2.b and V.M.2.b for clarification; and (11) amending Appendices 2, 3, 4, 5, 8, 9, 10 and 11 by deleting dated language and replace with a reference directing to the Framingham General By-Laws, as shown in the attached document.

**Sponsor: Planning Board**

## Section I.

### D. Non-Conforming buildings, structure, uses and lots

#### 8. Destruction or Damage or Non-conforming Commercial Buildings

##### a. Destruction or Damage

A lawful, pre-existing, nonconforming single or two family structure, which has been destroyed or damaged by fire or other casualty may be re-established, restored or rebuilt within two years of occurrence of the damage or destruction. Re-establishment, restoration or rebuilding shall be permitted by-right provided that there is no increase in the degree of the non-conformity, and the reconstruction conforms to the current requirements of the By-Law to the maximum extent practicable.

A lawful, pre-existing, non-conforming structure or use other than a single or two family structure, which has been destroyed or damaged by fire or other casualty may be re-established, restored or reconstructed within two years of occurrence of the damage or destruction. Re-establishment or restoration of the pre-existing structure shall be allowed upon determination of the Building Commissioner that the proposed re-establishment or restoration does not increase the non-conforming nature of said structure. Reconstruction<sup>1</sup> of the pre-existing structure shall only proceed if authorized by a Special Permit granted by the Zoning Board of Appeals.

##### b. Change to Non-conforming Buildings or Structures, Other than Single or Two Family Structures

The Zoning Board of Appeals shall allow reconstruction, extension, and/or alteration of a lawful, pre-existing nonconforming commercial structure, other than a single or two family structure, when the Zoning Board of Appeals finds that the reconstruction, extension, and/or alteration does not increase nonconforming nature of the structure.

### E. Definitions

#### 1. Terms Defined

For the purpose of this By-Law, the following terms shall have the meanings given in the following clauses, unless a contrary intention clearly appears:

**Brewery, Distillery, or Winery with Tasting Room:** A business located in a building where the primary use is for the production and distribution of malt, spirituous, or vinous beverages. A tasting room, not to exceed 25 percent of the building's gross square footage, is permitted as an accessory use. Any such facility ~~that only may provide~~s samples at no charge and limited in size as set forth in M.G.L c. 138 shall have a Commonwealth of Massachusetts issued Farmer Series Pouring License. The facility may host marketing events, special events, and/or factory tours. The facility may only sell beverages produced by, and commercial goods branded by, the brewery, distillery, or winery. The facility may sell permitted beverages to consumers for consumption off the brewery premises.

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<sup>1</sup> Reconstruction shall be defined as complete replacement of the existing building, including foundation.

## Section II.

### D. HOME OCCUPATIONS

Home occupations as accessory uses within single family dwellings ~~or buildings accessory thereto~~, are subject to the following conditions:

- (1) The home occupation shall be clearly incidental and secondary to the use of the dwelling as a residence, shall be located within the dwelling unit or a single accessory building, and shall not change the residential character thereof.
- (2) The area utilized for the purpose of the home occupation shall not exceed the smaller of (a) twenty-five per cent of the total floor area of the dwelling unit or (b) four hundred square feet.
- (3) ~~No non-resident employees shall be allowed in in a home occupation.;~~ ~~there shall be no non-resident employees.;~~
- (4) Not more than three customers, clients, pupils, or patients for business or instruction shall be present at any one time. Customers, clients, etc. shall be present only between the hours of 8:00 a.m. and 9:00 p.m., Monday through Saturday.
- (5) There shall be no exterior display or storage of goods or materials, and no exterior indication of the home office or occupation other than one non-illuminated identification sign not to exceed two square feet in area.
- (6) There shall be no noise, vibration, glare, fumes, odors, or electrical interference beyond ~~that~~ which ~~what~~ normally occurs in a residential area.

### I. CENTRAL BUSINESS DISTRICT

#### 54. Central Business Parking Regulations

#### 65. Central Business District Height Requirements near Residential Districts

76. All Projects within the Central Business Zoning District shall comply with Section II.I. Central Business (CB) Zoning District Design Standards. However, the Planning Board may waive the requirements for Section II.I. Central Business (CB) Zoning District by a four-fifth vote where such waivers will allow for better design and/or improved protection of historic resources.

**B. OFF-STREET PARKING**

**2. Dimensional Off-street Parking Facility Regulations**

Off-street parking facilities shall be designed to ensure safe, adequate, and convenient access and circulation for all users. These dimensional off-street parking requirements shall be adhered to except where the Applicant can adequately demonstrate that a lesser standard is necessary or appropriate due to topography, location of existing or proposed structure, lot configuration, and/or the need to preserve existing trees and natural vegetation. When relief is indicated to be necessary, the Planning Board, at its discretion, may grant a special permit. All off-street parking facilities shall comply with the dimensional off-street parking requirements, herein.

a. Minimum Parking Dimensions for Stalls, Aisles, Sidewalks, and Crosswalks

The minimum dimensions of stalls ~~and aisles~~ shall be as follows for standard off-street parking spaces:

Angle of Parking Space	Width of Parking Space (1-way)	Width of Parking Space (2-way)	Length of Parking Space	Width of Angled Parking Space	Length of angled Parking Space	Minimum Back-up Length
Parallel	9'	8'	22'			
45° Angle	12.0'	9'	20+8'	12.9'	20.5'	15'
60° Angle	11.0'	9'	21+9'	10.5'	21.8'	18'
90° Angle	10.9'	9'	18'	9'	20'	24'

The minimum dimensions of drive-aisles, sidewalks, and crosswalks shall be as follows for standard off-street parking facilities:

<u>Traffic Circulation</u>	Total width of drive-aisle	Sidewalk width	Crosswalk width
1-way circulation for drive aisles with no parking spaces	11'	5'	6'
2-way circulation for drive aisles with no parking spaces	22'	5'	8'
1-way circulation with parking spaces	24'	5'	6'
2-way circulation with parking spaces	28'	5'	8'

b. Dead End Aisle

Off-street parking areas should be designed to ~~prevent creating avoid~~ dead ends. A sufficient area must be provided for an unimpeded turnaround if not other design alternative exists. feasible, a sufficient area must be provided for unimpeded turnaround.

c. Parking for Disabled Persons

Off-street parking spaces for persons with ~~disabilities a disability~~ shall comply with current ADA accessibility guidelines and Architectural Access Review Board of the Commonwealth of Massachusetts. Accessible off-street parking spaces shall be a minimum of 9 feet wide with an adjacent access aisle at least 5 feet wide. Accessible parking spaces shall be designated as reserved for the disabled by corresponding signage and appropriate pavement markings for each space.

d. Tandem Parking Spaces

Off-street parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without necessitating the movement of any other motor vehicle. A Special Permit may be granted at At the discretion of the Planning Board ~~be granted~~ for the following circumstances:

- 1) Stacked and/or valet parking where if an attendant is present to move vehicles. A written notarized guarantee must be filed with the Planning Board Administrator if stacked

parking is used for the required number of off-street parking spaces, ~~a written notarized guarantee must be filed with the Planning Board Administrator ensuring to ensure~~ that an attendant will always be present when the lot is in operation. Stacked and/or valet off-street parking may be permitted to reduce the required area of a parking space to 8' x 16'.

- 2) Tandem parking for a two-family, multi-family, mixed-use residential project or dedicated employee only, off-street parking facility may be permitted.

### 3. Location of Driveways and Off-street Parking Spaces

#### c. Residential Front Yard Off-street Parking in Residential Zoning Districts

Required off-street parking spaces in any residential zoning district ~~for Multi-family residential~~ shall not be located within a required front yard setback. Furthermore, nor shall any paved area shall be allowed within a required front yard setback area abutting a public street, except where such paved area abuts abutting an alley and/or access drive. This prohibition of paved off-street parking spaces extends from the edge of the public right-of-way into the required front yard setback for the entire width of the ~~property dwelling unit, unless except in cases of front loading garages with the exception of a single access drive no more than 18' in width. A residential property owner may seek a special permit from the Planning Board to increase the width of a single access drive, if the applicant can demonstrate need for widening.~~ Only during winter parking bans will off-street parking within a front yard setback be allowed.

### 4. Off-street Parking Facility Design Standards

#### b. Off-street Parking Facility Lighting

All off-street parking facility lighting shall comply with the Planning Board's Rules and Regulations, Article 22: Site Lighting. Lighting shall not be directed or focused such as to cause direct light from the luminaire to be cast toward buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways. The luminaire shall be redirected, shielded, or its light output controlled as necessary to eliminate such conditions. There shall be no light trespass by a luminaire beyond the property boundaries of the lot on which it is located. Further, lighting shall be designed to complement the character of the Town or neighborhood.

- 4) Pole Mounted Fixture - Pole mounted fixtures shall conform to the following design standards:

i. be shall be maximum pole height of eighteen feet;

ii. may be installed upon a maximum of a 6" base- above the finished grade; and

iii. -and shall be setback a minimum of three feet from the curb line.

All bases shall be set above the frost line but no higher than six inches above finished grade. The base of the pole shall be capped and exposed bolts are not permitted. Lamp(s) of up to 1200 watts per pole mounted fixture and up to four pole mounted fixtures per luminaire are allowed. Exposed bases shall be of a natural color or tinted to match the color of the light pole.

- 6) Security Lighting - Low-level lighting sufficient for the security of persons or property on the lot is permissible, provided the average illumination on the ground or on any vertical surface is not greater than one half (.5) foot candle.

The Planning Board may impose reasonable requirements or limitations to minimize the impacts on abutting properties or uses. Based upon the nature of the application the based upon the nature of the application -Planning Board may impose reasonable requirements or limitations to minimize the impacts on abutting properties or uses. The Planning Board reserves the right to limit and regulate the amount and timing of illumination on a project site.

**5. Off-street Parking Landscaping and Open Space****a. Requirements for Surface Parking Lots**

- 1) Surface Off-street Parking Lot Landscape Requirements: For new parking lots A minimum of ~~a~~ one 3½" caliper tree shall be planted for every 27' of the total width of all off-street parking spaces required for a project, plus one shade tree shall be planted for every five off-street parking spaces required for the off-street parking facility. For existing parking lots one shade tree shall be planted for every five off-street parking spaces required for the off-street parking facility. These trees shall be located within the off-street parking area and shall not be counted towards the required number of street trees as required in Section VI.F.5.e herein. If the Applicant can successfully demonstrate that the site cannot adequately provide for the required number of off-street parking facility trees, the Applicant may gift to the Department of Public Works the required number of off-street parking facility trees, or the Applicant may contribute the cash equivalent of the trees to the Town, which shall be deposited within the Town's Open Space Maintenance Account. A minimum of three shrubs shall be planted for every two parking spaces, and located within the off-street parking facility area.

**b. Requirements for Structured Parking Lots**

- 1) A minimum of one shade tree shall be provided for every 20-30' of the structure's length.
- 2) A minimum of five shrubs shall be provided between every shaded tree required above.
- 3) Where possible, rooftop runoff shall be infiltrated into rain gardens

**E. DIMENSIONAL REGULATIONS****2. Table of Dimensional Regulations**

Minimum lot area, frontage, lot width, setbacks and open space, and maximum height, lot coverage and floor area shall be as specified in the following Table of Dimensional Regulations, subject to the further provisions of this Section:

District	Principal Building or Use	Lot Minimum		Minimum Setback		Minimum Landscaped Open Space Surface Ratio	Minimum Height	Building Maximums		
		Area (s.f.)	Frontage (ft.)	Front (ft.)	Side (ft.)			Height Story/ft.	Lot Coverage	Floor Area Ratio
Single Residence R-4	One-family detached dwellings	43,560	100	30	30	50%		<del>3</del> /35	15%	-
	Any other principal use	43,560	150	30	30	50%		<del>3</del> /35	15%	-
R-3	One-family detached dwellings	20,000	100	30	15	40%		<del>3</del> /35	25%	-
	Any other principal use	43,560	150	30	30	50%		<del>3</del> /35	15%	-
R-2	One-family detached dwelling	12,000	65	30	12	35%		<del>3</del> /35	30%	-
	Any other principal use	43,560	150	30	30	50%		<del>3</del> /35	15%	-
R-1	One-family detached dwelling	8,000	65	30	10	30%		<del>3</del> /35	35%	-
	Any other principal use	43,560	150	30	30	50%		<del>3</del> /35	15%	-
General Residence G	One-family or two-family detached dwelling	8,000	65	30	10	30%		<del>3</del> /40	35%	-
	Any other principal use	43,560	150	30	30	50%		<del>3</del> /40	15%	-
Neighborhood Bus B-1	Any residential use	8,000	65	30	10	30%		<del>3</del> /40	35%	-
	Any other principal use	4,000	-	<del>30</del> <sup>a</sup>	-	5% <sup>a,***</sup>		<del>3</del> /40	33%	-
Community Bus B-2	Any residential use	8,000	65	30	10	30%		<del>3</del> /40	35%	-
	Any other principal use	8,000	65	25	15	20%		<del>3</del> /40	-	0.3
General Bus B-3	Any residential use	8,000	65	30	10	30%		<del>3</del> /40	35%	-
	Any other principal use	8,000	65	25	15	20%		<del>3</del> /40	-	0.32
General Bus B-4	Any residential use	8,000	65	30	10	30%		<del>3</del> /40	35%	-
	Any other principal use	10,000	65	25	15	20%		<del>6</del> /80	-	0.32
Business B	Any residential use	8,000	65	30	10	30%		<del>3</del> /40	35%	-
	Any non-residential use	6,000	50	25	15	20%		<del>6</del> /80	-	0.32
Central Business CB <sup>c</sup>	Any residential use	5,000	-	10 <sup>b,***</sup>	-	20%	2/25	<del>3</del> /40	60%	2.0
	Any other principal or mixed use	5,000	-	10 <sup>b,***</sup>	-	15%	2/25	<del>3</del> /40	60%	2.0
Central Business CB <sup>e</sup>	Any residential use	20,000	-	10 <sup>b,***</sup>	-	20% <sup>d,****</sup>	2/25	<del>6</del> /70	80%	3.0
	Any other principal or mixed use	20,000	-	10 <sup>b,***</sup>	-	5%		<del>6</del> /70	80%	3.0
Office and Professional P	Residential structure	8,000	65	30	15	30%		<del>3</del> /40	35%	-
	Any other principal use	6,000	50	30	15	20%		<del>3</del> /40	20%	0.32
Planned Re-use PR	One-family or two-family detached dwellings	20,000	100	30	15	40%		<del>3</del> /40	25%	-
	Other uses permissible in Single Res. Districts	43,560	150	30	30	50%		<del>3</del> /40	25%	-
Light Manufacturing M-1	Any residential use	8,000	65	30	10	30%		<del>3</del> /40	35%	-
	Any non-residential use	6,000	50	50	15	20%		<del>6</del> /80	-	0.32
General Manufacturing M	Any non-residential use	6,000	50	50	15	20%		<del>6</del> /80	-	0.32

Comment [ALL1]: 10/ 20/2016 – all pre-existing footnote symbols have been stricken (\*, \*\*, \*\*\*) and replaced with letters (a, b, c, d, e, f) for the purposes of clean-up

<sup>a</sup> ~~\*\*\*~~ A portion of this requirement may be provided in the public right of way (street trees, etc.)

<sup>b</sup> ~~\*\*\*~~ Minimum front setback as regulated, except where building lines have already been established in which case building lines must be maintained; to be used for landscaping, pedestrian and vehicular access. No parking in the front setback.

<sup>c</sup> Projects with a minimum land area of 5,000sf to a maximum land area of 20,000sf

<sup>d</sup> ~~\*\*\*\*~~ Up to 50% of minimum landscaped open space may include private balconies; or be located on the roof of the structure as a garden or sitting area.

<sup>e</sup> Projects with a land area of 20,000sf or greater.

Open Space/ Recreation <b>OSR</b>	Golf course or country club Any other principal use	50 ac. 5 ac.	200 200	100 100	100 100	90% 80%		<del>3/40</del> 3/40	5% 10%	- -
Geriatric/Elderly <b>G/E</b> <sup>f</sup>	Any Principal Use	3.5 ac.	200	20	15	-		3/40		0.32
Technology Park <b>TP</b> <sup>g</sup>	Any Principal Use	43,560	100	30	15	-		<del>6/100</del>	-	-

<sup>f</sup> # See §IV.E.8 for additional Dimensional Regulations for Geriatric Care/Elderly Housing District Uses, including regulations on setback requirements, floor area ratio calculations, and minimum landscape open space requirements within this district.

<sup>g</sup> \*See §II.F.5 and II.F.7 for additional Dimensional Regulations for Technology Park District uses, including floor area ratio regulations and minimum landscaped open space requirements within this District.

## J. ACCESSORY DRIVE-THRU FACILITY REGULATIONS

### 4. Number of Required ~~Accessary~~ Accessory Drive-thru Lane Stacking Spaces

## L. OPEN SPACE CLUSTER DEVELOPMENT

### 1. Purpose and Intent

- e. Promote land use consistent with the Town's Master [Land Use](#) Plan and Open Space & Recreation Plan.

### 2. Open Space Parcels

#### b. Development Requirements

The [following conditions are required for the](#) development of the Open Space Parcel: ~~shall require the following conditions:~~

- i. The Applicant shall file with the Planning Board a Preliminary Plan conforming to the requirements of Section V.C. of the Framingham Subdivision Rules and Regulations, the Massachusetts Wetlands Protection Act (M.G.L. c. 131 §40) and the Town of Framingham Wetlands Protection By-law (article V, section 18). A Professional Land Surveyor or Engineer licensed in the Commonwealth of Massachusetts shall prepare the Preliminary Plan to determine the number of buildable lots that would be created under conventional zoning. The Preliminary Plan shall identify the quality of the land by identifying all wetlands, other resource areas, and slopes over 15 percent. The number of lots shall also be consistent with Section V.F. Land Disturbance by-law and shall be reviewed [for accuracy](#) and approved ~~as to accuracy~~ by the Town Engineer. A copy of the preliminary plan and all [related](#) documents shall be filed with the Conservation Commission for review. The Conservation Commission shall review the delineated wetlands, resource areas and buffer zones and ~~issue an Order of Conditions under state and local regulations and~~ make a recommendation to the Planning Board.

### 3. Open Space Cluster Development Requirements

Areas allowed for residential development on the Open Space Buildable Parcel shall be required to meet the following conditions:

#### a. Dimensional Regulations

The OSCD shall comply with Section V.L.3.a Table of Dimensional Regulations. However, the Planning Board may waive the requirements for Section V.L.3.a Table of Dimensional Regulations by a four-fifth vote where such waivers will allow for a better design and/or improved protection of natural and scenic resources.

**Table of Dimensional Regulations**

Open Space Buildable Parcel	R-3 & R-4
Lot Frontage for the Buildable Parcel	150 Feet
Vegetated Buffer Surrounding the Development Adjacent to the Active Farm	100 Feet
Vegetated Buffer Surrounding the Development Adjacent to other land uses	75 Feet
Front Building Setback	30 Feet
Side Building Separation	50 Feet
Rear Building Separation	75 Feet
Maximum Number of Attached Units	3
Maximum Building Height	3 stories/35'

## M. AGRICULTURAL PRESERVATION DEVELOPMENT

### 1. Purpose and Intent

The Agricultural Preservation Development (APD) By-law shall apply to parcels of land within the Town of Framingham that meet the definition of an Active Farm. The APD provides landowners with an opportunity to sell up to 30 percent of their land for a residential cluster development while protecting a minimum of 70 percent of the property as an Active Farm Parcel.

The intent of the APD is to:

- a. Promote and protect the Active Farm through conservation of those lands for future agricultural use and/or habitat;
- b. Maintain an adequate base of agricultural land and activity in Framingham to help ensure the continued economic viability of local farms and thereby contributing to the continued availability of agricultural supported services;
- c. Preserve land which, by virtue of its soil composition, acreage, location adjacent to and contiguous with other farmland or preserved open space forming discrete blocks of land, and its lack of protection under existing zoning or other laws, comprises the critical unprotected farmland of the Town of Framingham.
- d. Create a unique cluster development neighborhood setting while preserving important farming resources;
- e. Establish non-motorized vehicular connections between open space parcels, water resources, neighborhoods, and/or public amenities; and
- f. Promote land use consistent with the Town's Master [Land Use](#) Plan and Open Space & Recreation Plan.

## 2. Active Farm Parcels

### b. Development Requirements

The [following conditions are required for the](#) development of the Active Farm Parcel: ~~shall require the following conditions:~~

- i. The Applicant shall file with the Planning Board a preliminary plan conforming to the requirements of Section V.C. of the Framingham Subdivision Rules and Regulations, the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40) and the Town of Framingham Wetlands Protection By-law (article V, Section 18). A Professional Land Surveyor or Engineer licensed in the Commonwealth of Massachusetts shall prepare the preliminary plan to determine the number of buildable lots that would be created under conventional zoning. The Preliminary Plan shall identify the quality of the land by identifying all wetlands, other resource areas and slopes over 15 percent. The number of lots shall also be consistent with Section V.F. Land Disturbance by-law and shall be reviewed [for accuracy](#) and approved ~~as to accuracy~~ by the Town Engineer. A copy of the preliminary plan and all [related](#) documents shall be filed with the Conservation Commission for review. The Conservation Commission shall review the delineated wetlands, resource areas and buffer zones and ~~issue an Order of Conditions under state and local regulations and~~ make a recommendation to the Planning Board.

## 3. Agriculture Preservation Development Requirements

Areas allowed for residential development on the Buildable Parcel shall be required to meet the following conditions:

### a. Dimensional Regulations

The APD shall comply with Section V.M.3.a Table of Dimensional Regulations. However, the Planning Board may waive the requirements for Section V.M.3.a Table of Dimensional Regulations by a four-fifth vote where such waivers will allow for better design and/or improved protection of natural and scenic resources.

**Table of Dimensional Regulations**

<b>Active Farm</b>	<b>R-3 &amp; R-4</b>
<b>Lot Frontage for the Buildable Parcel</b>	150 Feet
<b>Vegetated Buffer Surrounding the Development Adjacent to the Active Farm</b>	100 Feet
<b>Vegetated Buffer Surrounding the Development Adjacent to other land uses</b>	75 Feet
<b>Front Building Setback</b>	30 Feet
<b>Side Building Separation</b>	50 Feet
<b>Rear Building Separation</b>	75 Feet
<b>Maximum Number of Attached Units</b>	3
<b>Maximum Building Height</b>	3 stories/35'

## APPENDIX 2 - NUISANCE BY-LAW

### Town of Framingham By-Laws, Article V. “Health and Safety”

#### Section 22 Nuisance Bylaw

~~[Adopted: Article 24, Annual Town Meeting, 2002]~~

~~Approved by the Attorney General on 7/1/02~~

[The Framingham Nuisance By-Law can be found under Article V, Section 22 of the Framingham General By-Laws.](#)

#### ~~22.1 Authority and Purpose~~

~~Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution, and the specific powers granted by M.G.L., Ch. 139, ss. 1 3A, this bylaw is adopted for the prevention of future nuisances and the removal of existing nuisances within the Town, which nuisances constitute a hazard of blight, or adversely affect property values.~~

#### ~~22.2 Definitions~~

##### ~~22.2.1 Blight~~

~~Any condition that seriously impairs the value, condition, strength, durability, or appearance of real property, or is otherwise detrimental to property values or neighboring properties including real property owned or occupied by an Interested Party as defined in Section 22.2.5 below.~~

##### ~~22.2.2 Building~~

~~A structure, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, of a combination of any materials, to form shelter for persons, animals, or property. See “structure” below.~~

##### ~~22.2.3 Dilapidated~~

~~A condition of decay or partial ruin due to neglect, misuse, or deterioration. The term includes, but is not limited to:~~

- ~~a) Property having deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken or inadequately secured windows or doors;~~
- ~~b) Property having defective weather protection (such as paint, stain, siding or tarpaulin) for exterior wall covering; deleterious weathering due to lack of such weather protection or other protective covering.~~
- ~~c) Personal property that is broken, rusted, worn, partially or wholly dismantled or otherwise due to deterioration is unsuitable for the purpose for which designed.~~
- ~~d) Property having a paved parking lot or a parking area in a deteriorated condition causing hazardous conditions to automobiles, bicycles, or pedestrians. Such conditions may include but are not limited to potholes, broken pavement, and/or insufficient drainage so as to cause flooding.~~

##### ~~22.2.4 Hazard~~

~~A condition likely to expose persons to injury, or property to damage, loss or destruction.~~

##### ~~22.2.5 Interested Parties~~

~~In connection with the notification requirements of this bylaw Interested Parties are the Building Commissioner; owner(s) and/or occupants of property which is the subject of a hearing; owners and/or occupants of property directly opposite the subject property on any public or private street or way, owners and/or occupants of property abutting the subject property, and owners and/or occupants of abutting property that is within 300 feet of, the property line of the subject property. Other persons who own or occupy property and who demonstrate to the satisfaction of the Building Commissioner that they are affected by the condition of the property or building that is the subject of a hearing may be regarded as Interested Parties by the Building Commissioner.~~

##### ~~22.2.6 Nuisance~~

~~Any substantial interference with the common interest of the general public in maintaining safe and sanitary structures and neighborhoods that are not dilapidated when such interference results from the hazardous or blighted condition of private property, land or buildings. The fact that a particular structure or use may be permitted under the zoning bylaw does not create an exemption from the application of this bylaw. The term includes but is not limited to:~~

- ~~a) — burned structures not otherwise lawfully habitable or usable,~~
- ~~b) — dilapidated real or personal property including but not limited to real or personal property containing graffiti, tagging or similar markings,~~
- ~~c) — dilapidated real or personal property including parking lots or parking areas, dangerous or unsafe structures or personal property, (Attorney General approval of Article 11 of the October 21, 2014 Special Town Meeting)~~
- ~~d) — overgrown vegetation which may harbor rats and vermin, conceal pools of stagnant water or other nuisances, or which is otherwise detrimental to neighboring properties or property values,~~
- ~~e) — dead, decayed, diseased or hazardous trees,~~
- ~~f) — personal property that is exposed to the elements without protection against deterioration, rust or dilapidation,~~
- ~~g) — vehicles, machinery or mechanical equipment or parts thereof that are located on soil, grass or other porous surfaces that are likely to result in the destruction of vegetation or contamination of soil,~~
- ~~h) — in any Residence District, keeping of more than one commercial vehicle, or of a tractor that exceeds a gross vehicle weight of three quarters (3/4) of a ton for hauling a van or trailer as defined by the Registry of Motor Vehicles,~~
- ~~i) — trash, debris or personal property, including but not limited to personal property marked “free” or “take” that has been placed for collection as rubbish or refuse in violation of Town of Framingham policies as approved by the Director of Public Works.~~

#### ~~22.2.7 — Occupant~~

~~A person who occupies real property with the consent of the owner as a lessee, tenant at will, licensee or otherwise. The singular use of the term includes the plural when the context so indicates.~~

#### ~~22.2.6 — Owner~~

~~Every person who alone or jointly or severally with others:~~

- ~~a) — has legal title to any building, structure or property to this Bylaw~~
- ~~b) — has care, charge, or control of any such building structure or property in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title~~
- ~~c) — is a lessee under a written letter agreement~~
- ~~d) — has a mortgagee in possession~~
- ~~e) — is an agent, trustee or other person appointed by the courts.~~

#### ~~22.2.9 — Responsible Party~~

~~The owner or occupant (in the case of real property) of property that is the subject of proceedings under this bylaw. The singular use of the term includes the plural when the context so indicates.~~

#### ~~22.2.10 — Structure~~

~~A combination of materials, whether wholly or partially level with, above or below the surface of the ground, whether permanent or temporary, assembled at a fixed location to give support, shelter or enclosure such as a building, (see above), framework, retaining wall, stand, platform, bin, fence (having a height at any point of six feet or greater above grade), parking area sign, flagpole, or mast for an antenna or the like.~~

#### ~~• — Enforcement~~

~~This Bylaw shall be enforced by the Building Commissioner. If the Building Commissioner shall be informed or have reason to believe that any provision of this Bylaw has been, is being, or is likely to be~~

~~violated, he shall make or cause to be made an investigation of the facts, including an investigation of the property where the violation may exist. If he finds any violation he shall give immediate notice in writing to the Owner and to the Occupant of the premises to immediately cease such violation. In making such inspection, the Building Commissioner shall have such right of access to premises that may be lawfully exercised by him under the laws and constitution of the Commonwealth or of the United States.~~

~~If, after such notice and order, such violation continued, or if any Owner or Occupant fails to obey any lawful order of the Building Commissioner with respect to any violation of the provisions of the Bylaw, the Building Commissioner may make complaint to the Superior Court or any court of competent jurisdiction for any injunction or order restraining any further use of the premises and the continuation of the violation and shall take such other action as is necessary to enforce the provisions of this Bylaw.~~

~~In addition to the foregoing remedy, whoever violates any provision of this Bylaw or fails to obey any lawful order issued by the Building Commissioner in enforcing this Bylaw shall be liable to a fine of not more than three hundred dollars (\$300) for each violation. Each violation of this Bylaw shall constitute a separate offense. Each day that any such violation continues shall constitute a separate offense. Condition may warrant immediate action, constitute a substantial violation of this Bylaw, or adversely affect protected interests of others than the complainant, the Building Commissioner may commence action under this Bylaw without requiring the disclosure of the identity of the complainant.~~

~~If the Building Commissioner determines that the condition is subject to the jurisdiction of the Board of Health or is a violation of the State Sanitary Code or any health regulation, in addition to enforcing this Bylaw, he shall refer the matter to the Director of Public Health of the town or other appropriate state or town officials for action.~~

~~During his investigation of the matter, the Building Commissioner may consult, but is not required to do so, with any Interested Party in an attempt to obtain voluntary compliance with this Bylaw without the need to issue a notice of violation.~~

#### ~~22.3.2 Notice to Complainant~~

~~In any matter in which a complaint has been made by a person other than the Building Commissioner, the Building Commissioner, if requested, shall promptly notify the~~

#### ~~23.3.3 Removal of Nuisance by Selectmen~~

~~If the Responsible Party fails to remedy the nuisance upon notice from the Building Commissioner to do so, the Board of Selectmen may cause the nuisance to be removed as provided in M.G.L., Ch. 139.~~

#### ~~23.3.4 Review by the Town Manager~~

~~Any Interested Party who has filed a written complaint of a nuisance with the Building Commissioner upon which complaint the Building Commissioner has determined that the condition is not a nuisance, or0 has taken other action that the Interested Party claims is inadequate shall have a right to a review of the matter by the Town Manager. At the request of such an Interested Party, the Town Manager shall confer with the Building Commissioner and shall recommend appropriate action to the Building Commissioner and to the Board of Selectmen.~~

#### ~~22.3.5 Reports by Building Commissioner~~

~~The Building Commissioner shall file with the Town Manager each month a report that shall include all complaints of nuisance made to him during the prior month; all proceedings begun by him under this Bylaw; all pending complaints and all investigations and enforcement actions taken by him or referred to the Commissioner of Public Health. The report shall state the location of the premises, a summary of the nature of the complaint, the name of the Responsible Party(ies), and the disposition or the status of the matter.~~

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## APPENDIX 3 – SIGN BY-LAW

### Town of Framingham By-Laws, Article VII. “Signs and Districts”

#### Section 1 Sign By-Law

[Adopted: Article 16 Annual Town Meeting of April 11, 1996]

Approved by Attorney General

[Effective: September 24, 1996]

[Revised: May 12, 2010]

[Framingham sign regulations can be found under Article VII., Section 1 of the Framingham General By-Laws. Sign regulations regarding to Shoppers World can be found within the Planning Board Rules and Regulations.](#)

#### **~~Revised Sign By-Law~~**

~~\*\*\* Please contact the Framingham Sign Officer for the Sign By Law\*\*\*~~

## APPENDIX 4 -DISABLED PARKING

### Town of Framingham By-Laws, Article V. “Health and Safety” Section 9 Disabled Parking

[Adopted: Article 26, Special Town Meeting of December 9, 1997]

[Effective: April 2, 1998]

Information regarding to the Disabled Parking regulations can be found under Article V, Section 9 of the Framingham General By-Laws

~~9.1~~—Designated parking spaces for vehicles owned and operated by disabled veterans or by disabled persons and bearing the distinctive number plates or placard authorized by Massachusetts General Law Chapter 90, Section 2, shall be provided in public and private off street parking areas.

~~9.1.1~~—Any person or body who has lawful control of a public or private way, or of improved or enclosed property used as off street parking areas for businesses, shopping, malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, or for any other place where the public has the right of access as invitees or licensees, shall reserve parking spaces in said off street parking areas for any vehicle owned and/or operated by a disabled veteran, or disabled person whose vehicle bears the distinguishing license plate or placard authorized by Chapter 90, Section 2 according to the following formula:

~~TOTAL SPACES~~ ——— ~~REQUIRED HANDICAPPED SPACES~~

<del>1 – 25</del>	<del>1 Space</del>
<del>26 – 50</del>	<del>2 Spaces</del>
<del>51 – 75</del>	<del>3 Spaces</del>
<del>76 – 100</del>	<del>4 Spaces</del>
<del>101 – 150</del>	<del>5 Spaces</del>
<del>151 – 200</del>	<del>6 Spaces</del>
<del>201 – 300</del>	<del>7 Spaces</del>
<del>301 – 400</del>	<del>8 Spaces</del>
<del>401 – 500</del>	<del>9 Spaces</del>
<del>501 – 1,000</del>	<del>2% of Total Spaces</del>
<del>1,001 and over</del>	<del>20 plus 1 for each 100 over 1,000</del>

~~Outpatient Medical Facilities:~~ ——— ~~10% of Total Spaces~~

~~Facilities specializing in the treatment or services for people with mobility impairments~~ ——— ~~20% of Total Spaces~~

~~One in eight designated handicapped spaces but not less than one shall be van accessible.~~

~~Multiple dwellings, including residential condominiums, are subject to all provisions of the Architectural Access Board regulations. (521 CMR).~~

~~9.1.2~~—Each parking space designated as reserved under the provisions of subsection 9.1.1. shall be identified by the use of an above grade sign located at the head of each space and no more than ten feet away. Signs shall show the “International Symbol of Access” and the words “Handicapped Parking: Special Plate Required, Unauthorized Vehicles May Be Removed At Owners Expense” in white on a blue background. The bottom of the sign shall not be lower than 5 feet from the ground; the top of the sign shall not be more than 8 feet from the ground.

~~The spaces shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructive methods permitting sidewalk access to a handicapped person, and shall be eight feet wide plus a 5 foot aisle with diagonal striping. Two accessible spaces may share a common access aisle.~~

~~Van accessible spaces shall be 8 feet wide with an aisle 8 feet wide allowing a van to operate a lift. Each such space shall have a sign designating it van accessible. Alternatively, all spaces may be universal spaces, 11 feet wide with an access aisle 5 feet wide.~~

~~9.2 No person shall leave any unauthorized vehicle within parking spaces designated for use by disabled veterans or handicapped persons as authorized by Section 9.1 hereof or in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or public way.~~

~~Furthermore, any person or body who has lawful control of a public or private way or of improved or enclosed property used as off street parking for authorized vehicles bearing HP plates or placards shall be responsible for exercising reasonable care to see that the spaces and access ramps be kept clear of debris, refuse and shopping carts so the spaces are accessible and usable.~~

~~9.3 The penalty for violation of this Bylaw shall be as follows:~~

~~Violations of Section 9.1.1 and 9.1.2 shall be 10 dollars per day per violation after the person or body having lawful control of the ways or property has been given written notice and not less than 30 days to comply.~~

~~Violations of Section 9.2 shall be 50 dollars for each offense, and the vehicle may be removed according to the provisions of General Law Chapter 266, Section 120D.~~

~~9.4 Violations of Section 9.1.1 and 9.1.2 shall be enforced by the Building Commissioner.~~

~~Violations of Section 9.2 shall be enforced by the Police Department.~~

~~9.5 Appeals may be made to the Board of Selectmen or its designees and shall be granted in accordance with the Americans with Disabilities Act (ADA) and Massachusetts Architectural Access Board (AAB) regulations.~~

**NOTE:** Provisions for handicapped parking in the Town of Framingham are also governed by the standards of the “Americans with Disabilities Act” and the Massachusetts Architectural Access Board. Additional information regarding these standards may be obtained from the Framingham Building Commissioner.

## APPENDIX 5 - SIGN AND ZONING BY-LAW VIOLATIONS

### Town of Framingham By-Laws, Article VII. “Signs and Districts”

#### Section 3 Sign and Zoning By-Law Violations

~~[Adopted: Article 40, 1980 Annual Town Meeting, recodified]~~

Regulations regarding Sign and Zoning By-Law Violations can be found within Article VII, Section 3 of the Framingham General By-Laws.

- ~~3.1—The Building Commissioner, upon taking cognizance of a violation of the Zoning or Sign Bylaws, may issue to the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof, not later than twenty one (21) days after the date of such notice. Such notice shall contain the name and address, if known, of the offender, the specific offense charged and the time and place for his required appearance.~~
- ~~3.2—Any person so notified may appear and confess the offense charged, either personally or through an authorized agent or by mailing to the clerk of said district court such notice with such specific sum of money as the Town shall fix as penalty for violation of the Bylaw. The payment to the Clerk shall operate as a final disposition of the case and said proceedings shall be deemed to be non-criminal. If any person so notified to appear and also to avail himself of the procedure established pursuant to this Bylaw, he may, within twenty one (21) days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk or assistant clerk. If the judge, clerk or assistant clerk shall, after hearing, find 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 sum of money fixed as penalty by the Bylaw, or such lesser amount as the judge, clerk or assistant clerk shall order.~~
- ~~3.3—If such judge, clerk or assistant clerk shall, after hearing, find that the violation alleged did not occur or was not committed by the person so notified to appear, that finding shall operate as a final disposition of the case.— Proceedings held pursuant to this subsection shall be deemed to be non-criminal.~~
- ~~3.4—If any person so notified to appear before the clerk of the district court fails to pay the fine provided by the Bylaw within the time specified, or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as penalty after a hearing and finding as provided in the preceding subsection, the clerk shall notify the Building Commissioner, who shall determine whether to apply for the issuance of a criminal complaint for the violation of the appropriate Bylaw.~~

## APPENDIX 8 - FRAMINGHAM WETLANDS PROTECTION BY-LAW

### Town of Framingham By-Laws, Article V. “Health and Safety”

#### Section 18 Framingham Wetlands Protection Bylaw

[Adopted: Article 11, Special Town Meeting of May 20, 1992]

[Amended: Article 13, Annual Town Meeting of April 19, 1995]

[Amended: Article 9, Annual town Meeting of April 25, 2000]

[Amended: Article 5, Special Town Meeting of January 23, 2001]

[Amended: Article 5, Annual Town Meeting of April 26, 2005]

Information regarding the Framingham Wetlands Protection By-Law can be found under Article V, Section 18 of the Framingham General By-Laws

#### *Preamble*

~~NO NET LOSS OF WETLANDS POLICY: There shall be no net loss of wetlands or wetland resource areas in Framingham. It is presumed that non-water dependent projects can always be designed to avoid loss of wetland areas. Projects having no feasible alternative to alteration impacts must be minimized and mitigated.~~

#### **18.1 Purpose**

~~The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas, and provide Open Space for passive recreation and education in the Town of Framingham by prior review and control of the activities deemed by the Conservation Commission likely to have a significant effect upon values and functions including, but not limited to, the following: public or private water supply, groundwater, storm damage prevention, flood control, erosion and sedimentation control, water pollution prevention, fisheries, wildlife, wildlife habitat, passive recreation, aesthetics, agriculture, and aquaculture (collectively, the “interests and values protected by this By law”).~~

#### **18.2 Jurisdiction**

~~Except as permitted by the Conservation Commission or as provided by this by-law, no person shall remove, fill, dredge, build upon, degrade, discharge into or otherwise alter the following resource areas, any: freshwater wetland, vernal pool, marsh, wet meadow, bog, swamp, bank, beach, flat, lake, river, pond, stream, any land under said waters, land subject to flooding; Riverfront Area, or land subject to inundation by surface water during the 100 year event. Said resource areas shall be protected whether or not they border surface waters. The Commission may establish a no work/no alteration zone as appropriate to each application.~~

~~Except as otherwise provided in the bylaw, any activity to be undertaken within the Buffer Zone as defined in Section 18.9 requires the filing of an application.~~

#### **18.3 Exceptions**

~~No provision of this bylaw shall apply to: (1) activities lawfully completed prior to the effective date of this bylaw, or (2) activities subject to a negative Determination of Applicability or an Order of Conditions issued pursuant to the Wetlands Protection Act, M.G.L.Ch. 131, Section 40, prior to July 1, 1992.~~

~~The permit and application required by this bylaw shall not be required for maintaining, repairing, or replacing, but, not substantially enlarging or changing an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunications services, provided that written notice has been given to the Commission prior to the commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by this Commission.~~

~~The permit and application 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 subdivision of, provided that advance written notice has been given to the Commission, prior to the commencement of work or within twenty four (24) hours after commencement, provided that the work is performed only for the time and place agreed to by the Conservation Commission for the limited purposes necessary to abate the emergency, and provided that within 14 days of commencement of an emergency project a permit application (Abbreviated Notice of Intent or Notice of Intent) shall be filed with the Conservation Commission for review under the~~

~~provisions of this bylaw. Failure to meet these and other requirements of the Conservation Commission may, after appropriate process as provided by this bylaw and applicable regulations, result in revocation or modification of the emergency project approval and require restoration and application of mitigating measures.~~

~~The permit and application required by this bylaw shall not apply to certain “minor activities” (as defined below) in the Buffer Zone or Riverfront Area, provided that the activity is not within any other resource area:~~

- ~~— A. Unpaved and pervious pedestrian walkways for private use.~~
- ~~— B. Fencing that does not bar wildlife movement; stone walls; stakes of cordwood.~~
- ~~C. Vista pruning of non landscaped areas (pruning of landscaped area is exempt), provided that the activity is located more than fifty (50) feet from the mean annual high water line within a Riverfront Area or from Bordering Vegetated Wetland, whichever is further.~~
- ~~D. Planting of native trees, shrubs, or groundcover, but no turf lawns.~~
- ~~E. Conversion of lawn to uses accessory to existing single family houses (e.g. decks, sheds and gazebos) if the house existed on August 7, 1996, and provided that the activity is located more than fifty (50) feet from the mean annual high water line within a Riverfront Area or from a Bordering Vegetated Wetland, whichever is further. Erosion and sedimentation controls are used during construction.~~
- ~~F. Conversion of impervious surface to vegetated surfaces provided that erosion and sedimentation controls are used during construction.~~
- ~~G. Activities that are temporary, have negligible impacts and are necessary for planning and design purposes (e.g. installation of monitoring wells, exploratory borings, sediment sampling, and surveying).~~

~~Activities not meeting the requirements for a “minor activity” as listed above in this section will continue to require a filing before the Commission and may be allowed through a Determination of Applicability or an Order of Conditions.~~

~~In the event that any of the above listed activities are proposed within other wetland resource areas, as defined under this bylaw, such activities are NOT exempt from the permit and application requirements of the bylaw.~~

~~Other than as stated in this section the exceptions provided in the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40, will not apply.~~

#### **18.4 Application for Permits and Requests for Determination**

~~Permits: Written application shall be filed with the Conservation Commission to perform activities regulated by this bylaw affecting resource areas protected by this bylaw. The application shall include such information and plans as required by the regulations and as are deemed necessary by the Conservation Commission to describe the proposed activities and their effects on the environment. No activities shall commence without receiving a permit issued pursuant to this bylaw.~~

~~Determinations: Any person desiring to know whether or not a proposed activity and/or an area is subject to this bylaw may submit a Request for Determination to the Conservation Commission on the appropriate form. The request shall contain all necessary information, plans, data calculations, etc., as specified by the regulations.~~

~~The Conservation Commission, as it deems appropriate, may accept as the application and plans under this bylaw the Notice of Intent/Request for Determination and plans filed under the Wetlands Protection Act, M.G.L. Ch.131, §40.~~

~~At the time of the permit application, Request for Determination, or application for Certificate of Compliance, the Applicant shall pay a filing fee according to the schedule in the associated *Framingham Wetlands Bylaw Regulations*.~~

~~This fee is not refundable. The fee is in addition to that required by the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40, and Regulations, 310 CMR 10.00. Town, county, state, and federal projects are exempt from the filing fee. The fee for an application for a modification of a permit will be the fee as calculated in the *Framingham Wetlands Bylaw Regulations*.~~

~~All fees collected pursuant to this Bylaw shall be deposited into the Conservation Commission Revolving Fund, established pursuant to M.G.L. Ch. 44, Sec. 53E ½.~~

~~Applications filed under this bylaw are to be delivered via Certified Mail, Return Receipt or hand delivered to the Commission and shall be accompanied by the filing fee prescribed in 310 CMR 10.03(7) and in accordance with Chapter 287, Act of 1989, Section 54 Revised July 26, 1989.~~

#### **18.5 Notice of Hearings**

~~The applicant filing a request for determination or application for a permit under the provisions of this bylaw shall give written notice by Certified Mail, Return Receipt Request or by hand delivery to all abutters within one hundred (100) feet from the property lines of the property in which the project is to occur according to the current Assessors records five (5) days in advance of the scheduled hearing in accordance with provisions of this bylaw and its regulations. The Conservation Commission is responsible for notifying the applicant and owner, if not the same, of the time and place of the scheduled hearing. Also, the Conservation Commission is responsible, for placing a notification of the subject hearing in a local newspaper at least five (5) days prior to the hearing. The Conservation Commission shall conduct a public hearing within twenty one (21) days of the receipt of a completed application for permit or request for determination unless unusual circumstances prevent this scheduling.~~

~~In this event the hearing will be scheduled at the next regularly scheduled Conservation Commission meeting having time available.~~

~~The Conservation Commission may, at its option, combine the hearing under this bylaw and the hearing conducted under the Wetlands Protection Act, M.G.L. Ch.131, Sec. 40.~~

~~The Conservation Commission shall have the authority to continue the hearing to a specific date, agreeable to the applicant, announced at the hearing without further notification, for reasons stated at the hearing. Those reasons may include, but are not limited to, requests from other boards, officials, or attendees. In the event that the applicant objects to a continuance, the hearing will be closed and the Conservation Commission will take action on available information.~~

#### **18.6 Coordination with other Boards and Departments**

~~The Conservation Commission will notify appropriate Boards and Departments not less than ten (10) days prior to the hearing in order to allow their review of the submittal on file located in the Administrators office. Written comments from these Boards and Departments should be submitted to the Conservation Administrator at least three (3) days before the hearing. The applicant shall have the right to receive any such comments and recommendations, and to respond to them at the hearing.~~

#### **18.7 Permits, Determinations, and Conditions**

~~If the Conservation Commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this bylaw, the Conservation Commission, within twenty one (21) days of the close of the hearing, unless unusual circumstances prevent it, shall issue or deny a permit for the activities requested. Determinations of Applicability will be issued within 21 days of receipt of the request. If the Conservation Commission issues a permit, conditions shall be imposed which are deemed necessary to protect the "interests and values"; and all activities shall be performed in accordance with those conditions. The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Conservation Commission; for failure to submit necessary information and plans requested by the Conservation Commission; for failure to avoid or prevent unacceptable significant or cumulative effects to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this bylaw; and where no conditions are adequate to protect those values.~~

~~A permit shall expire three years from the date of issuance. The Conservation Commission may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Conservation Commission. Any permit may be renewed once for an additional one year period, provided that a request for renewal is received in writing by the Conservation Commission thirty days prior to expiration. The Conservation Commission, for good cause, may revoke or modify a permit issued under this bylaw after notice to the holder of the permit, notice to the public, abutters, and town boards pursuant to the preceding section 5, and a public hearing.~~

~~The Conservation Commission in an appropriate case may combine the permit or other action on an application issued under this bylaw with the Order of Conditions issued under the Massachusetts Wetlands Protection Act, M.G.L. Ch.131, Sec. 40.~~

~~The Commission may deny the request for an extension and require the filing of a new permit request under the following circumstances: no work has begun on the project, except where such failure is due to unavoidable delays, such as appeals, or obtaining other necessary permits; new information has become available and indicates that the Order is not adequate to protect the interests covered by this bylaw.~~

~~No work proposed in any 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 thereby be 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.

### 18.8 Regulations

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

### 18.9 Definitions

~~Except as specifically provided by these Regulations and the bylaw, terms used in the regulations and the bylaw have the meanings defined in the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40, (“The Act”) and in Regulations currently codified at 310 CMR 10.00, issued pursuant to the Act by the Department of Environmental Protection, as amended November 10, 1989.~~

The following definitions shall apply in the interpretation and implementation of this bylaw.

~~Abutter means the same as the owner of land abutting the activity.~~

~~Act means the Wetlands Protection Act, M.G.L. c. 131, Sec. 40.~~

~~Activity means any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; the erection, reconstruction or expansion of any buildings or structures; the driving of pilings; the construction or improvement of roads and other ways; the changing of run-off characteristics; the intercepting or diverging of ground or surface water; the installation of drainage, sewage and water systems; the discharging of pollutants; the destruction of plant life; and any other changing of the physical characteristics of land.~~

~~Aggrieved means the same as persons aggrieved.~~

#### Agriculture

- ~~A. Land in agricultural use means land presently and primarily used in the raising of animals including, but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur bearing animals, or land presently and primarily used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals.~~

~~Additionally, land in agricultural use means land presently and primarily used in the raising of fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products, and ornamental plants and shrubs; or land presently and primarily used in raising forest products under a planned program to improve the quantity and quality of a continuous crop; or land presently and primarily used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products.~~

~~Land in agricultural use may lie fallow for a period of time if it has been used for agriculture at least three (3) of the five (5) immediately preceding years.~~

- ~~————— B. Normal maintenance or improvement of land in agricultural use means the following activities:~~

- ~~1. All tilling and harvesting practices customarily employed to enhance existing growing conditions;~~
- ~~2. The pasturing of animals, including the construction and maintenance of such fences as may be required;~~
- ~~3. The use of fertilizers, pesticides, herbicides, and other maintenance of such fences as may be required;~~
- ~~4. The constructing, grading or restoring of field ditches, subsurface drains, grass waterways, vents, access roads, farm ponds and similar projects to improve drainage, prevent erosion, provide more effective uses of rainfall and improve equipment operation and efficiency, all in order to improve conditions for the growing of existing crops or raising of animals;~~
- ~~5. The cultivation of cranberries, including the following practices:~~
  - ~~a. sanding operations using existing sand pits;~~
  - ~~b. cleaning of cross ditches, canals and natural waterways;~~
  - ~~c. repair and replacement but not enlargement of water control structures, including flumes, pumps, dikes, and piping above and below ground;~~
  - ~~d. repair, replacement and re grading of existing cranberry bogs, and~~
  - ~~e. repair and cleaning of reservoirs, dams and water storage systems within the limits of existing water rights.~~

~~All maintenance and improvement activities shall be undertaken in such a manner as to prevent erosion and siltation of adjacent water bodies and wetlands, as specified by the U.S.D.A. Soil Conservation Service "Guidelines for Soil and Water Conservation".~~

- ~~6. The cutting and removal of trees for the purpose of selling said trees or any products derived there from, when carried out in the following manner:~~
- ~~a. every reasonable effort shall be made to avoid or minimize access through Areas Subject to Protection Under the Act;~~
  - ~~b. where access through Areas Subject to Protection Under the Act is necessary, every reasonable effort shall be made to gain said access without constructing new access ways including, but not limited to, maintaining and improving (but not substantially enlarging) existing access ways, and operations shall be conducted when the soil is frozen, dry or otherwise stable;~~
  - ~~c. where access is determined impracticable without constructing new access ways, said access ways shall be designed, constructed and maintained in accordance with U.S. Forest Service logging road standards, and shall be removed and the site returned to previously existing conditions within one (1) year;~~
  - ~~d. all channel crossings shall be stabilized to prevent erosion, using standard U.S. Forest Service methods. When crossings involve fill or other closed or semi closed structures which will obstruct flow, they shall be designed, constructed and maintained in accordance with U.S Forest Service standards, shall allow unobstructed passage of the existing flows for at least the 10 year storm, and shall be removed and the site returned to existing conditions within one (1) year of construction;~~
  - ~~e. all soils which are exposed during and after work shall be stabilized to prevent said soils from eroding into open water bodies, in accordance with standard U.S. Forest Service methods;~~
  - ~~f. all operations shall be conducted in accordance with a cutting plan approved by the Massachusetts Department of Environmental Management District Forester; and~~
  - ~~g. a written notice describing the proposed cutting and removal of trees shall be submitted to the conservation commission not less than ten (10) days prior to the commencement of operations.~~
- ~~7. The selective cutting of trees by owners for their own use, when carried out in the following manner:~~
- ~~a. no more than 25,000 board feet or 50 cords shall be harvested;~~
  - ~~b. after the cutting, the crown area of the remaining trees shall be evenly distributed throughout the site and shall cover no less than 50 percent of the surface area of the site;~~
  - ~~c. the removal of the selectively cut trees shall occur only during those periods when the ground is sufficiently frozen, dry or otherwise stable to support the equipment used;~~
  - ~~d. the cutting, removal or other destruction of trees and the understory vegetation shall not occur within twenty five (25) feet of the bank of a water body;~~
  - ~~e. the placement of slash, branches and limbs resulting from the cutting and removal operations shall not occur within twenty five (25) feet of the bank of a water body; and~~
  - ~~f. there shall occur no filling, excavation or other change in the existing topography.~~

~~Alter means to change the condition of any Area Subject to Protection Under the Act. Examples of alterations include, but are not limited to, the following:~~

- ~~A. the changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention areas;~~
- ~~B. the lowering of water level or water table;~~
- ~~C. the destruction of vegetation;~~
- ~~D. the changing of water temperature, biochemical oxygen demand (BOD), and other physical, biological or chemical characteristics of the receiving water;~~

~~Provided that when provisions of 310 CMR 10.03(6) and 10.05(3) or 333-CMR 11.03(9) have been met, the application of herbicides in the Buffer Zone in accordance with such plans as are required by the Department of Food and Agriculture pursuant to its rights of way management regulations, 333-CMR 11.00 effective July 10, 1987, is not an alteration of any area Subject to Protection Under the Act.~~

#### Aquaculture

- a. ~~Land in aquacultural use means land presently and primarily used in the growing of aquatic organisms under controlled conditions, including one or more of the following uses: raising, breeding or producing a specified type of animal or vegetable life including, but not limited to, finfish such as carp, catfish, black bass, flatfishes, herring, salmon, shad, smelt, sturgeon, striped bass, sunfishes, trout, whitefish, eel, tilapia; shellfish such as shrimp, crabs, lobster, crayfish, oyster, clams, periwinkles, scallops, mussels, squid; amphibians such as frogs; reptiles such as turtles; seaweeds such as Irish moss and dulse; and edible freshwater plants.~~
- b. ~~Normal maintenance or improvement of land in aquacultural use means the following activities, when done in connection with the production of aquatic organisms as defined above: draining, flooding, heating/cooling, removing, filling, grading, compacting, raking, tilling, fertilizing, seeding, harvesting, filtering, rafting, culverting or applying chemicals in conformance with all state and federal laws; provided, however, that such activities are clearly intended to improve and maintain land in aquacultural use and that best available measures are utilized to ensure that there will be no adverse effect on wetlands outside the area in aquacultural use, and further provided that removing, filling, dredging or altering of a salt marsh is not to be considered normal maintenance or improvement of land in aquacultural use.~~

~~Area Subject to Protection Under the Act means any area specified in 310 CMR 10.02(1). It is used synonymously with Resource Area, each one of which is defined in greater detail in Parts II and III of 310 CMR 10.00.~~

~~Bank (inland) is defined in Part III, 310 CMR 10.54(2).~~

~~Beach (inland): a naturally occurring inland beach means an un-vegetated bank as defined in Part III CMR 10.54(2).~~

~~Best Available Measures means the most up to date technology or the best designs, measures or engineering practices that have been developed and that are commercially available.~~

~~Best Practical Measures means technologies, designs, measure or engineering practices that are in general use to protect similar interests.~~

~~Bordering means touching. An area listed in 310 CMR 10.02(1)(a) is bordering on a water body listed in 310 CMR 10.02(1)(a) if some portion of the area is found in the appropriate section of 310 CMR 10.02(1)(a) some portion of which is in turn touching the water body.~~

~~Bordering Vegetated Wetland is defined in Part III, 310 CMR 10.55(2).~~

~~Boundary means the boundary of an Area Subject to Protection Under the Act. A description of the boundary of each area is found in the appropriate section of 310 CMR 10.00. For inland areas, see Part III of 310 CMR 10.00.~~

~~Breeding Areas means areas used by wildlife for courtship, mating, nesting or other reproductive activity, and rearing of young.~~

~~Buffer Zone means that area of land extending one hundred twenty five (125) feet horizontally outward from the boundary of any resource area specified in this Bylaw (Para. 18.2).~~

~~Certificate of Compliance means a written documentation by the issuing authority that work or a portion thereof has been completed in accordance with an Order. It shall be made on Form 8 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.~~

~~Commissioner means the Commissioner of the Department of Environmental Protection, pursuant to St. 1989, c. 240, §101.~~

~~Conditions means those requirements set forth in a written Order issued by a Conservation Commission for the purpose of permitting, regulating or prohibiting any activity that removes, fills, dredges or alters and Area Subject to Protection Under this Bylaw.~~

~~Conservation Commission means that body comprised of members lawfully appointed pursuant to M.G.L. c. 40, §8C. For the purposes of the Act and 310 CMR 10.00, it shall also mean a mayor or board of selectmen, where no conservation commission has been established under said M.G.L. c. 40, §8C.~~

~~Creek means the same as a stream, as defined in this section.~~

~~Date of Issuance means the date an Order is mailed, as evidenced by a postmark, or the date it is hand delivered.~~

~~Date of Receipt means the date of delivery to an office, home or usual place of business by mail or hand delivery.~~

~~Department means the Department of Environmental Protection, and shall include the Commissioner and any other person employed by said Department, pursuant to St. 1989, c.240, §101.~~

~~Determination~~

- A. ~~Determination of Applicability means a written finding by the Conservation Commission as to whether a site or the work proposed thereon is subject to the jurisdiction of this Bylaw. It shall be made on Form 2 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.~~

~~B.—A Determination of Significance means a written finding by a Conservation Commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more interests identified in this Bylaw. It shall be made as part of the Order, on Form 5 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.~~

~~C.—Notification of Non Significance means a written finding by a conservation commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any interests of this Bylaw. It shall be made on Form 6 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.~~

~~Dredge means to deepen, widen or excavate, either temporarily or permanently.~~

~~Extension Permit means a written extension of time within which the authorized work shall be completed. It shall be made on Form 7 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.~~

~~Fill means to deposit any material so as to raise an elevation, either temporarily or permanently.~~

~~Final Order means the Order issued by the Commissioner after an adjudicatory hearing or, if no request for hearing has been filed, the Superseding Order or, if no request for a Superseding Order has been filed, the Order of Conditions.~~

~~Flood Control means the prevention or reduction of flooding and flood damage.~~

~~Freshwater Wetlands shall mean wet meadows, marshes, swamps, bogs, areas where ground water, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent plant communities in inland waters; that portion of any bank which touches any inland waters.~~

~~General Performance Standards means those requirements established by Regulations promulgated under this Bylaw for activities in or affecting each of the Areas Subject to Protection Under this Bylaw.~~

~~Ground Water Supply means water below the earth's surface in the zone of saturation.~~

~~Important Wildlife Habitat Functions mean important food, shelter, migratory or overwintering area, or breeding areas for wildlife.~~

~~Interests Identified in this Bylaw means public or private water supply, ground water supply, flood control, storm damage prevention, prevention of pollution, erosion control and sedimentation control, protection of wildlife, protection of wildlife habitat, passive recreation, aesthetics, agriculture, and aquaculture, protection of fisheries, and protection of wildlife habitat.~~

~~Issuing Authority means the Framingham Conservation Commission.~~

~~Lake means an open body of fresh water with a surface area of ten (10) acres or more, and shall include great ponds.~~

~~Land subject to flooding is defined in Part III, 310 CMR 10.57(2).~~

~~Land Under Water Bodies and Waterways means the bottom of, or land under, the surface of a creek, river, stream, pond, or lake. Land under inland water bodies is further defined in Part III 310 CMR 10.562).~~

~~Lot means an area of land in one ownership, with definite borders.~~

~~Majority means more than half of the members of the Conservation Commission then in office.~~

~~Marsh is defined in M.G.L. c.131, §40, ¶10.~~

~~Meadow (or wet meadow) is defined in M.G.L. c.131, §40, ¶9.~~

~~MEPA means the Massachusetts Environmental Policy Act, M.G.L. c.30, §§6-62H, and the regulations promulgated pursuant thereto, 301 CMR 11.00 et seq.~~

~~Migratory Areas means those areas used by wildlife moving from one habitat to another, whether seasonally or otherwise.~~

~~Notice of Intent means the written notice filed by any person intending to remove, fill, dredge or alter an area subject to Protection Under this Bylaw. It shall be made on Form 3 or 4 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw~~

~~Order means an Order of Conditions or Amended Order of Conditions.~~

~~Order of Conditions means the document issued by a conservation commission containing conditions which regulate or prohibit an activity. It shall be made on Form 5, 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw~~

~~Owner of Land Abutting the Activity means the owner of land sharing a common boundary or corner with the site of the proposed activity in any direction, including land located directly across the street, way, creek, river, stream, brook or canal.~~

~~Party to any proceeding before the Commission means the applicant, and pursuant to 310 CMR 10.05(7)(a) may include the owner of the site, any abutter, any person aggrieved, any ten (10) residents of the city or town where the land is located and any ten (10) persons pursuant to M.G.L. c.30A, §10A.~~

~~Person Aggrieved means any person who, because of an act or failure to act by the issuing authority, may suffer an injury in fact which is different either in kind or magnitude from that suffered by the general public and which is within the scope of interests identified in the Bylaw.~~

~~Plans mean such data, maps, engineering drawings, calculations, specification, schedules and other materials, if any, deemed necessary by the issuing authority to describe the site and/or the work, to determine the applicability of the Bylaw or to determine the impact of the proposed work upon the interests identified in the Bylaw.~~

~~Pond (inland) means any open body of fresh water, either naturally occurring or man made by impoundment, with surface area observed or recorded within the last ten (10) years of at least 10,000 square feet, and which is never without standing water due to natural causes, except during periods of extended drought. For purposes of this definition, extended drought shall mean any period of four (4) or more months during which the average rainfall for each month is 50 percent or less of the ten (10) year average for that same month. Basins or lagoons which are part of wastewater treatment plants shall not be considered ponds, nor shall swimming pools or other impervious man made retention basins.~~

~~Prevention of Pollution means the prevention or reduction of contamination of surface or ground water.~~

~~Private Water Supply means any source or volume of surface or ground water demonstrated to be in any private use or demonstrated to have a potential for private use.~~

~~Protection of Fisheries means protection of the capacity of an Area Subject to Protection under this Bylaw.~~

~~A. To prevent or reduce contamination or damage to fish; and~~

~~B. To serve as their habitat and nutrient source. Fish includes all species of fresh fish.~~

~~Protection of Land Containing Shellfish means protection of the capacity of an Area Subject to Protection Under the Act:~~

~~A. To prevent or reduce contamination or damage to shellfish; and~~

~~B. To serve as their habitat and nutrient source.~~

~~Public Water Supply means any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to M.G.L. c.111, §160 by the Division of Water Supply of the Department, or demonstrated to have a potential for public use.~~

~~Rare Species means those vertebrate and invertebrate animal species officially listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife under 321 CMR 8.00.~~

~~Remove means to take away any type of material, thereby changing an elevation, either temporarily, or permanently.~~

~~Request for Determination of Applicability means a written request made by any person to a conservation commission or the Department for a determination as to whether a site or work thereon is subject to the Act. It shall be submitted on Form 1 of 310 CMR 10.99, modified to reference this Bylaw or on a form designed under this Bylaw.~~

~~Resource Area means any of the areas specified in this Bylaw. It is used synonymously with Area Subject to Protection Under this Bylaw, each one of which is enumerated in Para. 18.2, Jurisdiction.~~

~~River means a natural flowing body of water that empties to any ocean, lake or other river and which flows throughout the year.~~

~~Riverfront Area is the area of land between a river's mean annual high water line and a parallel line measured horizontally for 200 feet on both sides of the River. The Riverfront area may include or overlap other resource areas or their buffer zones.~~

~~Shelter means protection from the elements or predators.~~

~~Significant means plays a role. A resource area is significant to an interest identified in the Act when it plays a role in the provision or protection, as appropriate, of that interest.~~

~~State listed Species means the same as rare species, as defined in this section.~~

~~Storm Damage Prevention means the prevention of damage caused by water from storms including, but not limited to, erosion and sedimentation, damage to vegetation, property or buildings, or damage caused by flooding, water borne debris or water borne ice.~~

~~Stream means a body of water, including brooks and creeks, which move 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 the Act. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the~~

~~year (i.e., which is intermittent) is a stream except for that portion upgradient of all bogs, swamps, wet meadows and marshes.~~

~~Superseding Order means a document issued by the Department containing conditions which regulate or prohibit an activity. It shall be made on Form 5 of 310 CMR 10.99.~~

~~Swamp is defined in M.G.L. c.131, §40, ¶8.~~

~~Vernal Pool Habitat means confined basin depressions which, at least in most years, hold water for a minimum of two continuous months, and which are free of adult fish populations, as well as the area within 125 feet of the mean annual boundaries of such depressions. These areas are essential breeding habitat, and provide other extremely important wildlife habitat functions during non breeding season as well, for a variety of amphibian species such as wood frog (*Rana sylvatica*) and the spotted salamander (*Ambystoma maculatum*), and are important habitat for other wildlife species.~~

~~Water dependent uses means those uses and facilities which require direct access to, or location in inland waters and which therefore cannot be located away from said waters, including but not limited to: marinas, public recreational uses, navigational and commercial fishing and boating facilities, water based recreational uses, navigation aids, basins, channels, industrial uses dependent on waterborne transportation or requiring large volumes of cooling or process water which cannot reasonably be located or operated at an upland site, crossing over or under water bodies or waterways (but limited to railroad and public roadway bridges, tunnels, culverts, as well as railroad tracks and public roadways connecting thereto which are generally perpendicular to the water body or waterway), and any other uses and facilities as may further hereafter be defined as water dependent in 310 CMR 9.00.~~

~~Wildlife means all mammals, birds, reptiles and amphibians and, for the purposes of 310 CMR 10.37 and 10.59, all vertebrate and invertebrate animal species which are officially listed by the Massachusetts Division of Fisheries and Wildlife under 321 CMR 8.00 as endangered, threatened, or of special concern.~~

~~Wildlife habitat is defined in paragraph 13 of the Act.~~

~~Work means the same as activity.~~

#### **18.10 Security**

~~As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observation of the conditions imposed hereunder 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 other negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Conservation Commission;~~
- ~~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 Framingham whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.~~

#### **18.11 Enforcement**

~~The Conservation Commission, its agents, officers, and employees shall, after proper notification to the owner, have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems necessary.~~

~~The Conservation Commission shall have the authority to enforce this bylaw, its regulation, and permits issued there under by violation notices, administrative order, and civil and criminal court actions. Upon request of the Conservation Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law.~~

~~Municipal board and officers, including any police officer or other officers having police powers, shall have the authority to assist the Conservation Commission in enforcement.~~

~~Any person who violates any provision of this bylaw, or permits issued there under, shall be punished by a fine of not more than \$300.00 each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, or permit violated shall constitute a separate offense. As the alternative to criminal prosecution, the Conservation Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch.40, §21D.~~

#### **18.12 Burden of Proof**

~~The applicant for a permit shall have the burden of proof by a preponderance of credible evidence that the work proposed in the application will not have a significant effect upon the wetland values protected by this bylaw. Failure to provide~~

~~adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Conservation Commission to deny a permit or grant a permit with conditions.~~

**~~18.13 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, §40, and regulations there under.~~

**~~18.14 Appeals~~**

~~A decision of the Conservation Commission is reviewable in Superior Court in accordance with M.G.L. Ch. 249, Sec. 4.~~

## APPENDIX 9 - DEMOLITION DELAY BY-LAW: HISTORIC DISTRICTS

### Town of Framingham By-Laws, Article V. “Health and Safety”

#### Section 17A. Demolition Delay By-Law for Historically or Architecturally Significant Buildings in the Town of Framingham, MA.

{Article 44 voted by Town Meeting: April 10, 1991}

{Approved by Attorney General: August 21, 1991}

[Information regarding the Demolition Delay By-Law can be found under Article V, Section 17A of the Framingham General By-Laws](#)

#### **Section 1. Intent and Purpose**

This by law is enacted for the purpose of protecting and preserving significant buildings within the Town outside the Framingham Center Common Historic District (Local) which constitute or reflect distinctive features of the architectural or historical resources of the Town, and to encourage owners of such buildings to seek out alternative options to preserve, rehabilitate or restore such buildings rather than to demolish them, thereby promoting the public welfare and preserving the cultural heritage of the Town. To achieve these purposes the Framingham Historical Commission is authorized to advise the Building Commissioner with respect to the issuance of permits for the demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided by this by law.

#### **Section 2. Definitions**

**2.1 Building**—Any combination of materials forming a shelter for persons, animals, or property.

**2.2 Demolition**—Any act of pulling down, destroying, removing or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

**2.3 Building Commissioner**—The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

**2.4 Commission**—The Framingham Historical Commission.

**2.5 Demolition Permit**—The permit issued by the Building Commissioner as required by the State Building Code for a demolition, substantial demolition or removal of a building.

**2.6 Historically or Architecturally Significant Building**—Any building, in whole or in part, which is at least 50 years old and:

- (a) which is listed on, or is a contributing building within an area listed on the National Register of Historic places, or which is the subject of a pending application for such listing, or is eligible for such listing; or
- (b) is included in the Cultural Resources Inventory prepared by the Commission; or
- (c) has been determined by vote of the Commission to be a significant building after a finding by the Commission that a building either:
  - i. is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town, or the Commonwealth, or
  - ii. is historically or architecturally significant (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

**2.7 Preferentially Preserved**—Any historically or architecturally significant building which the Commission determines is in the public interest to be preserved or rehabilitated rather than to be demolished.

#### **Section 3. Procedure**

**3.1** No permit for the demolition of a building which is in whole or in part fifty (50) years or more old shall be issued other than in conformity with the provisions of this by law, as well as in conformity with the provisions of other laws and ordinances applicable to the demolition of buildings and the issuance of permits generally.

**3.2** Application contents: Every application for a demolition permit for a building at least 50 years old shall be filled with the Building Commissioner and shall contain the following information: (i) the address of the building to be demolished, (ii) the owner's name, address and telephone number, (iii) a brief description of the type of building and the condition requiring issuance of the permit; (iv) date of building as established by the Board of Assessors, deed or documentation

verifying year of construction and (v) a brief description of the proposed reuse, reconstruction or replacement on the premises upon which the building is located.

- ~~3.3 Within seven (7) working days from receipt of an application for a demolition permit of a building fifty years or older, the Building Commissioner shall forward a copy to the Commission. No demolition permit shall be issued during this time.~~
- ~~3.4 Within ten (10) working days after receipt of the application for demolition permit by the Commission, the Commission shall make a Determination of Architectural and/or Historical Significance. Upon determination by the Commission that the building is not architecturally and/or historically significant, the Commission shall so notify the Building Commissioner in writing. Upon receipt of such notification, or after the expiration of fifteen (15) working days from the date of submission to the Commission, if the Building Commissioner has not received notification from the Commission, the Building Commissioner may issue the demolition permit.~~
- ~~3.5 Upon determination by the Commission that the building is historically and/or architecturally significant, the Building Commissioner and applicant shall be so notified in writing, and a demolition permit shall not be issued. The Commission shall hold a public hearing within fifteen (15) working days of the Determination of Significance to determine whether the building should be preferentially preserved. Public notice of the time, place and purpose of the hearing shall be published by the Building Department at the expense of the applicant in a newspaper of general circulation in the Town not less than seven (7) days before the day of said hearing and shall be posted in a conspicuous place in the Town Hall for a period of not less than seven (7) days before the day of said hearing.~~
- ~~3.6 If after a public hearing the Commission determines that the significant building should not be preferentially preserved, the Commission shall notify the Building Commissioner, in writing within five (5) working days of the hearing and the Building Commissioner may issue a demolition permit upon receipt of the written decision.~~
- ~~3.7 If after a public hearing the Commission determines that the significant building should be preferentially preserved, the Commission shall so notify the Building Commissioner in writing within five (5) working days of the hearing, and no demolition permit may be issued until six (6) months after the date of the determination by the Commission.~~
- ~~3.8 Notwithstanding anything contained in paragraph 3.7, the Building Commissioner may issue a demolition permit for a preferably preserved building at any time after receipt of written advice from the Commission to the effect that either:~~
- ~~(i) the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or~~
  - ~~(ii) the Commission is satisfied that for at least six (6) months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful.~~

#### **Section 4. Responsibility of Owners**

~~It shall be the responsibility of the owner of record or his designee to assist in the facilitation of the above process by providing information, allowing access to the property and securing the premises; for participating in the investigation of preservation options and for actively cooperating in seeking alternatives with the Commission and any interested parties.~~

#### **Section 5. Emergency Demolition**

~~Nothing in this by law shall restrict the Building Commissioner from immediately ordering the demolition of any building in the event of imminent danger to the safety of the public.~~

#### **Section 6. Enforcement and Remedies**

~~The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by law or to prevent a threatened violation thereof. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this by law for a period of two (2) years after the date of the completion of such demolition. As used herein, "premises" refers to the parcel of land upon which the demolished significant building was located and all adjoining parcels of land under common ownership or control.~~

#### **Section 7. Historic District Act**

~~Nothing in this by law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by law do so conflict, that act shall prevail.~~

#### **Section 8. Severability**

~~In case any section, paragraph or part of this by law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.~~

## Town of Framingham By-Laws, Article VII. “Signs and Districts”

### Section 5. Historic Districts

[Article 51, voted by Town Meeting: Town Meeting May 10, 1978]  
 [Approved by Attorney General: August 6, 1978]  
 [Amended: Articles 14 & 15, Annual Town Meeting, April 13, 1994]  
 [Approved by Attorney General: August 23, 1994]  
 [Amended: Articles 23 and 24, Annual Town Meeting, April 12, 1995]  
 [Approved by Attorney General: June 14, 1995]  
 [Amended: Articles 5, 6 and 7, Annual Town Meeting, April 25, 2006]  
 [Approved by Attorney General: September 26, 2006]  
 [Amended: Article 10, Annual Town Meeting, April 29, 2008]

Information related to the Framingham Historic Districts can be found under Article VII., Section 5 of the Framingham General By-Laws

#### 5.1 Historic District Commission

~~There is hereby established under the Historic Districts Act, Massachusetts General Laws, Chapter 40C to be governed by and operated in accordance with the provisions relative thereto of the General Laws or any special act or amendment thereto, a Framingham Historic District Commission, consisting of seven (7) members to be appointed by the Board of Selectmen including one (1) member from two (2) nominees submitted by the Historical Society, one (1) architect from two (2) nominees submitted by the Greater Boston Real Estate Board, one (1) lawyer from two (2) nominees submitted by the South Middlesex Bar Association, one (1) land owner resident in the Historic District and two (2) members at large. There shall be five (5) alternates selected, one from each of the above specific categories. In the event any member shall be absent or unable to act for any reason, the Chairman shall designate an alternate member to act.~~

~~Each member or alternate member of said Commission shall be a resident of the Town of Framingham, and any such member removing his residence from the Town shall be considered thereby to have resigned as a member of the Commission. If within 60 days after submission of a written request for nominees to any of the organizations herein named, no such nominations have been made, the Board of Selectmen may proceed to appoint the Commission without nominations by such organizations.~~

#### 5.2 Boundaries of Historic District

~~There is hereby established under provisions of and in accordance with the Historic District Act, one historic district to be known as the Framingham Center Common Historic District, bounded and described as shown on the map entitled “Framingham Center Common Historic District” available at the Planning Department of the Town; to establish a new Historic District to be known as the Jonathan Maynard Historic District, bounded and described on the map entitled “Jonathan Maynard Historic District” available at the Planning Board Office.~~

#### 5.3 Power and Duties

~~The Commission shall have, in addition, to the powers and duties of an Historic District Commission as described in Chapter 40C, the following further powers and duties, subject to appropriation or receipt of money gifts, and may in exercise of any of its powers or duties accept and expend such gifts and employ clerical and technical assistants or consultants.~~

~~5.3.1 To propose from time to time, as it deems appropriate, the establishment, in accordance with the provisions of the Historic Districts Act, of additional historic districts and changes in historic districts;~~

~~5.3.2 To cooperate with, consult, and advise the Planning Department, the Redevelopment Authority, and other Town agencies and departments in matters involving historic sites, buildings, and districts; and~~

~~5.3.3 To offer assistance and advice to owners of buildings in any historic district on problems of construction, reconstruction, restoration, and preservation.~~

#### 5.4 Rules and Regulations

~~The Commission shall adopt the rules and regulations for the conduct of its business, not inconsistent with the provisions of the Historic Districts Act. A copy of the rules and regulations and any amendment shall be filed with the Town Clerk.~~

**5.5 Certificate of Appropriateness: Time of Decision**

The Commission shall render a decision under the provisions of the Historic Districts Act within 45 days after the filing of an application for a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship, or within such further time as the applicant may, in writing, allow.

**5.6 Exclusions**

The Commission shall have no jurisdiction to review the following categories of exterior architectural features:

- (a) Temporary structures erected for a period of ninety days or less;
- (b) Two dimensional signs of four (4) square feet or less;
- (c) Terraces, walks, driveways, and sidewalks so long as such structure is substantially at grade level;
- (d) Storm doors, storm windows, screens, gutters, antennae, and window air conditioners;
- (e) Color of paint;
- (f) Color of roof materials.

**5.7 Properties Included in the Framingham Centre Common Historic District****5.71**

1. Framingham Center Common
2. Village Hall
3. Memorial Library
- 3a. Civil War Monument
4. Capt. Eliphalet Wheeler House, 18 Vernon Street
5. The Jonathan Maynard School, 14 Vernon Street
6. Framingham Academy, 16 Vernon Street
7. First Parish Church, 24 Vernon Street
8. First Parish House, 24 Vernon Street
9. Plymouth Church, 87 Edgell Road
10. Otis Boynton House, 85 Edgell Road
11. The Crane House, 65 Edgell Road
12. The O'Brien House, 63 Edgell Road
13. The Grossman House, 61 Edgell Road
14. The Shawmut Bank Branch, 39 Edgell Road
15. The Framingham Trust Co. Branch, 35 Edgell Road
16. Plymouth Parsonage, 125 Edgell Road
17. The Williams House, 121 Edgell Road
18. The Johnson House, 151 Edgell Road
19. The Brandolini House, 2 Auburn Street
20. The Dorr House, 4 Auburn Street
22. Newscipping Service, 5 Auburn Street
23. The Maddocks House, 6 Vernon Street
24. The Clark Builders Trust, 8 Vernon Street
25. The Rinaldo House, 31 Grove Street
26. The Mercer House, 33 Grove Street
27. The Tarbox House, 4 Warren Place
28. The White's House, 3 Warren Place
29. The Stalker House, 8 Warren Place
30. The Larson House, 11 Warren Place
31. The George A. Weeks House, 122 Edgell Road
32. The General George Henry Gordon House, 936 Central Street
33. The Whitney Wiggins House, 10 Auburn Street
34. The Train Vernon House, 20 Vernon Street

### **5.8 Properties Included in the Jonathan Maynard Historic District**

#### **5.81**

1. First Baptist Church, built 1826
2. William T. Buckminster House, 48 Pleasant Street, built before 1832
3. Dr. John Osgood House, 64 Pleasant Street, built between 1832 and 1850
4. Goldberg House, 155 Maynard Road, 1894
5. Cyrus Blake House, 79 Pleasant Street, built before 1832
6. Mason House, 153 Maynard Road, 1984
7. Ira Mitchell House, 89 Pleasant Street, built before 1832
8. Marion Adams House, 100 Pleasant Street, built 1890-1905
9. Blanche Partridge House, 111 Pleasant Street, built 1917
10. "Little Maynard", 198 Maynard Road, built 1901
11. Dexter Esty House, 108 Pleasant Street, built between 1832 and 1850
12. Capt. Charles Williams House (Jonathan Maynard House), 113 Pleasant Street, c. 1760
13. Henry Orne Stone House, 120 Pleasant Street, circa 1840's
14. Judge Blodgett House, 129 Pleasant Street, 1915-16
15. Kelly House, 130 Pleasant Street, 1915-16
16. Boudrot House, 139 Pleasant Street, 1974
17. Jesse Belknap House, 138 Pleasant Street, built between 1832 and 1850
18. TO BE BUILT, Spring 1994, Contemporary, 149 Pleasant Street
19. Rev. L. R. Eastman House, 154 Pleasant Street, built between 1850 and 1872
20. Roessler House, 159 Pleasant Street, 1993
21. Rock House, 2 Aspen Circle, 1980
22. Thorup House, 165 Pleasant Street, 1993
23. Obed Winter House, 176 Pleasant Street, circa 1850
24. H. Twombly House, 169 Pleasant Street, built before 1832
25. Lockhart House, 198 Pleasant Street, 1955
26. Wagner House, 179 Pleasant Street, 1993
27. Jacob B Winchester House, 200 Pleasant Street, built between 1832 and 1850
28. Davis House, 187 Pleasant Street, built between 1872 and 1895
29. J. J. Valentine House, 208 Pleasant Street, built between 1840 and 1849
30. George Newell House, 201 Pleasant Street, before 1832
31. G. R. Brown House, 216 Pleasant Street, circa 1851-60
32. The George Phipps House, 41 Pleasant Street, to include the entire presently existing dwelling on a parcel consisting of not less than 25,000 square feet of land and having not less than 65 feet of frontage on Pleasant Street
33. The Mancall House, 45 Pleasant Street
34. The Pearl House, 47 Pleasant Street
35. Now or formerly of McCarthy or Brossi, 49 Pleasant Street
36. The Glickman House, 51 Pleasant Street
37. The Brostrom House, 55 Pleasant Street

### **5.9 Properties Included in the Sarah Clayes Historic District**

#### **— 5.91**

- 1. The Sarah Clayes House, 657 Salem End Road

## APPENDIX 10 - PUBLIC WAY ACCESS PERMITS

### Town of Framingham By-Laws, Article VI. “Roads, Highway, Bridges, Rubbish Disposal, Water and Sewer” Section 8 Public Way Access Permits

~~[Adopted: Article 17, Special Town Meeting of December 11, 1996]~~

~~[APPROVED BY ATTORNEY GENERAL]~~

Information regarding the Public Way Access Permit can be found under Article VI, Section 8 of the Framingham General By-Laws

#### **~~A. Purpose.~~**

~~It is the purpose of this By Law to provide for the review of Public Way Access Permit applications and to establish procedures for the predictable, timely, and uniform review of such applications so as to ensure public safety. These procedures apply to Public Way Access Permit applications for: (1) a new access to a public way; (2) physical modifications to an existing access to a public way; (3) use of a new or an existing access that generates a substantial increase in or impact on traffic on a public way.~~

#### **~~B. Definitions.~~**

~~In this By Law, the following terms shall have the meanings prescribed below:~~

- ~~(a) “Modification” shall mean any alteration of the physical or traffic operational features of the access.~~
- ~~(b) “Substantial” increase in or impact on traffic shall mean that generated by a facility or land use served by an access which meets or exceeds any of the following thresholds; (i) Residential, including hotels, motels, lodging houses and dormitories: any increase to the existing certificate of occupancy of more than 25 persons; (ii) Residential (including subdivisions): 50 vehicular trips per day as defined in the ITE Trip Generation Manual, 5th Ed. In the case of subdivisions of land the estimated trip generation for each lot in the subdivision shall be combined in determining whether or not the thresholds set forth in this paragraph have been met; (iii) Nonresidential: 250 vehicular trips per day as defined in said Manual; (iv) Nonresidential: 25 new parking spaces; (v) Nonresidential: 5,000 new square feet. (c) “Public way” shall mean all roadways other than state numbered highways as defined in MGL Chapter 81 section 21.~~

#### **~~C. Submittal of Permit Application~~**

~~The Director of Public Works or the Planning Board shall be responsible for the review of a Public Way Access Permit application according to the following criteria:~~

- ~~(1) Applicants whose proposed action would not otherwise require statutory notice of a public hearing by the Planning Board under the provisions of any applicable Zoning By Law, General By Laws, or Rules and Regulations shall submit a request for a Public Way Access Permit to the Director of Public Works.~~
- ~~(2) Applicants whose proposed action would otherwise require statutory notice of a public hearing by the Planning Board under the provisions of any applicable Zoning By Law, General By Laws, or Rules and Regulations shall submit a request for a Public Way Access Permit to the Planning Board.~~

~~A permit applicant shall request issuance of a permit on a standard form supplied by the appropriate Board/Department. A permit application shall be deemed complete only after the following items have been submitted: (1) standard application form; (2) evidence of compliance with the Massachusetts Environmental Policy Act by the Executive Office of Environmental Affairs of the Commonwealth, if determined to be necessary; (3) engineering plans acceptable to the Board/Department, where required by the Board or Department. The Board/Department, by regulation, may adopt a schedule of reasonable fees to accompany said application.~~

#### **~~D. Procedures of the Director of Public Works~~**

- ~~(1) Application for a Public Way Access Permit shall be made to the Director of Public Works. Where an application is deemed complete, including certification of notification to immediate abutters, the Director shall review said application with respect to safety or appropriateness of the proposed access and, except when the proposed access would result in generating a substantial increase in or impact on traffic as defined in Subsection B, shall render a decision within 30 working days by filing same with the Town Clerk.~~

~~(2) Where the Director of Public Works denies said application, he/she shall state specific findings for the denial in the decision.~~

~~(3) Any person who is aggrieved by the decision of the Director of Public Works may file an appeal with the Town Clerk within 21 days of the date of decision. The Board of Selectmen shall hold a public hearing on the appeal according to the procedure indicated in Subsection H.~~

~~(4) Where an application for a Public Way Access Permit is for an access that would result in generating a substantial increase in or impact on traffic as defined in Subsection B, the Director shall review said application with respect to the safety or appropriateness of the proposed access and make a recommendation to the Board of Selectmen within 30 working days. The Board of Selectmen shall hold a public hearing according to the procedure indicated in Subsection H.~~

#### **E. Procedures of the Planning Board.**

~~(1) The Planning Board shall advertise and hold a public hearing on an application for a Public Way Access Permit, when deemed complete, concurrent with any public hearing required for the proposed project in accordance with any applicable Zoning By Law, General By Laws, or Rules and Regulations. Review and comment regarding the safety or appropriateness of the proposed access may be made by any department or consultant submitting a report to the Planning Board.~~

~~(2) Following the close of the public hearing, the Planning Board shall make a decision on the Public Way Access Permit application in accordance with the timetable for its decision on the proposed project under any other applicable Zoning By Law, General By Laws, or Rules and Regulations and filing same with the Town Clerk.~~

~~(3) Where the Planning Board denies said application, it shall state specific findings for its denial in its decision.~~

#### **F. Powers of the Director of Public Works, the Planning Board, and the Board of Selectmen**

~~(1) The Director of Public Works or the Planning Board or the Board of Selectmen, in accordance with procedures described herein, may deny the issuance of a Public Way Access Permit due to the failure of the applicant to provide sufficient roadway improvements to facilitate safe and efficient roadway operations, or when the construction and/or use of the access applied for would create a condition that is unsafe or endangers the public safety and welfare.~~

~~(2) The Director of Public Works or the Planning Board or the Board of Selectmen, in accordance with procedures described herein, may, in the alternative, impose conditions upon a Public Works Access Permit to facilitate safe and efficient traffic operations, to mitigate traffic impacts, and to avoid or minimize environmental damage during the construction period and throughout the term of the Permit. Such conditions may include, but not be limited to: (a) necessary limitations on turning movements; (b) restrictions on the number of access points to serve the parcel; (c) vehicle trip reduction techniques; (d) necessary and reasonable efforts to maintain existing levels of service; (e) design and construction of necessary public way improvements by the permittee; (f) reimbursement by the permittee of costs to town inspection of public way improvement work.~~

~~(3) Variance. Where site or access conditions do not allow the proposed access to meet the permit or design standards normally applicable under this By Law, the Director of Public Works or the Planning Board or the Board of Selectmen, in accordance with procedures described herein, may vary application of the design standards on a case by case basis, upon the finding that: (a) for either a private applicant or a governmental entity, there are no reasonable available alternatives which would allow access in compliance with these standards, in which case the applicant must commit to provide measures to mitigate impacts to traffic and operational safety which the Director of Public Works or the Planning Board or the Board of Selectmen determines are necessary, or (b) as an alternative procedure for a governmental entity only, the variance is necessary to accommodate an overriding municipal, regional, or state public interest, including the avoidance or minimization of environmental impacts.~~

#### **G. Access Permit Provisions**

~~(1) Construction under the terms of a Public Way Access Permit shall be completed within two years of the date of issue, unless otherwise stated in the Permit. The Director of Public Works or the Planning Board or the Board of Selectmen may extend the Permit for an additional year, at the written request of the permittee, filed prior to the expiration of the original construction period.~~

~~(2) If the Director of Public Works or the Planning Board or the Board of Selectmen determines that a Public Way Access Permit condition has not been complied with, the Director/Board may suspend or revoke the Permit if, after notice to the permittee of the alleged noncompliance, seventy-two (72) hours have elapsed without compliance.~~

~~(3) The Director of Public Works or the Planning Board or the Board of Selectmen may require a performance bond to be posted by the permittee in an amount not to exceed the estimated cost of the work or \$50,000.00, whichever is lesser. The performance bond shall be posted prior to the issuance of the permit.~~

~~(4) The Director of Public Works or the Planning Board or the Board of Selectmen may issue written orders or regulations to carry out or enforce the provisions of this By Law.~~

#### **~~H. Appeal to the Selectmen~~**

~~The Board of Selectmen shall hold a public hearing on (1) any appeal by an aggrieved party from a decision of the Director of Public Works, within 30 working days of the date the appeal was filed with the Town Clerk, and (2) any recommendation made by the Director of Public Works pertaining to a proposed access that would result in generating a substantial increase in or impact on traffic, within 30 working days of the date the recommendation was made. Notification of the public hearing shall be in accordance with the procedures and timetable set forth in Section V. L. of the Zoning By Law. The decision of the Board of Selectmen shall be rendered within 21 working days of the close of the public hearing. A majority vote of the members of the Board of Selectmen shall be required to render a final decision. In rendering its decision, the Board of Selectmen shall consider, in accordance with this By Law, the safety or appropriateness of the proposed access. The Board of Selectmen may then decide to affirm, modify, or rescind the decision/recommendation of the Director of Public Works by filing same with the Town Clerk.~~

## APPENDIX 11 – ADMINISTRATION OF THE SCENIC ROAD ACT

### Town of Framingham By-Laws, Article VI. “Roads, Highway, Bridges, Rubbish Disposal, Water and Sewer” Section 10 Administration of the Scenic Road Act

[Adopted: Article 20, Special Town Meeting of November 19, 2002]

[APPROVED BY ATTORNEY GENERAL, JANUARY 27, 2003]

Information regarding the Scenic Roadway Modification can be found under Article VI, Section 10 of the Framingham General By-Laws

#### Section 10.—Administration of the Scenic Road Act

##### 10.1—Purpose—

~~The purpose of this Bylaw is to protect the scenic quality and character of Town roads designated as Scenic Roads by establishing rules and regulations governing local administration of the Scenic Road Act, M.G.L. Ch. 40, s. 15C. The local authority and jurisdiction of the Planning Board, herein, shall be consistent with the Scenic Road Act. The Scenic Road Act governs the cutting or removal of trees, or the tearing down or destruction of stone walls during the repair, maintenance, reconstruction, or paving of roads that have been designated as a scenic road by a city or town. The Town has adopted these regulations with the following objectives:~~

- ~~a.—To maintain the natural beauty and scenic qualities along scenic roads in the Town of Framingham.~~
- ~~b.—To enhance the rural character of scenic roads of the Town and encourage compatibility with existing roadside features.~~
- ~~c.—To implement more fully the provisions of the Scenic Road Act, M.G.L. Ch. 40, s. 15C.—~~

##### 10.2—Statutory Provisions of the Scenic Road Act

~~“Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission of any city or town, such city or town may designate any road in said city or town, other than a numbered route or state highway, as a scenic road.~~

~~After a road has been designated as a scenic road, any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with prior written consent of the Planning Board, or if there is no planning board, the Selectmen of the town, or the city council of a city, after a public hearing duly advertised twice in a newspaper of general circulation in the area, as to time, date, place and purpose, the last publication to occur at least seven days prior to such hearing; provided, however, that when a public hearing must be held under the provisions of this section and under section three of Chapter eighty seven prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the Tree Warden and the Planning Board, or if there is no planning board, the selectmen of a town, or the city council of a city, and notice of such consolidated public hearing shall be given by the Tree Warden or his deputy as provided in said section three of Chapter eighty seven.”~~

##### 10.3—Procedure to Designate a Road as a Scenic Road—

~~The Planning Board, the Board of Selectmen, the Conservation Commission, the Historical Commission, the Historic District Commission or the citizens of the Town of Framingham by petition (consistent with petition requirements to place an article on the warrant) may propose “scenic road” status for any road in the Town of Framingham, other than a numbered route or state highway.~~

~~The Planning Board shall hold a Public Hearing on the proposal or petition, notifying the Selectmen, the Tree Warden, the Superintendent of Streets, the Conservation Commission, the Historical Commission and the Historic District Commission and shall advertise the hearing twice in a newspaper of general circulation; the first~~

~~advertisement at least fourteen days prior to the date of the public hearing and the last publication to occur at least seven days prior to the date of such hearing. The Planning Board shall make a recommendation to Town Meeting on the merits of the proposed road as a scenic road.~~

~~A majority vote of Town Meeting is required for designation of a road as a scenic road. Such designation shall be effective as of the date of Town Meeting action. Any work on any portion of the right of way of a scenic road, which was not physically commenced at the time the road was designated by Town Meeting as a scenic road, shall conform to these regulations.~~

~~10.4 Roads Subject to the Provisions of the Scenic Road Act~~

~~A list of Scenic Roads of the Town of Framingham follows. Streets designated by Town Meeting include the streets in their entirety unless designated otherwise. This list may be subject to revisions or additions from time to time via Town Meeting action. Scenic Roads are regulated by M.G.L. Ch. 40, s. 15C, and M.G.L. Ch. 87, s. 3.~~

~~10.4.1 Roads designated by Article 83 of the April 17, 1974 Annual Town Meeting are as follows:~~

- ~~Bellmap Road (Pleasant St. to 300 ft. West of Grove St. and from about 850 ft. East of Grove St. to Edgell Rd)~~
- ~~Bethany Road (Winthrop Street to Ashland Line)~~
- ~~Central Street (Edgell Road to Concord Street)~~
- ~~Dennison Avenue~~                      ~~Edmunds Road~~                      ~~Grove Street~~
- ~~Hemenway Road~~                      ~~Lake Road~~                      ~~Lakeview Road~~
- ~~Mill Street~~                      ~~Millwood Street~~                      ~~Nixon Road~~
- ~~Parker Road~~                      ~~Prindiville Avenue~~
- ~~Salem End Road (Winter Street to Ashland Line)~~
- ~~Singletary Lane~~                      ~~Warren Road~~
- ~~Winter Street (Salem End Road to Fountain Street)~~

~~10.4.2 Roads designated by Article 15 of the November 12, 1974 Special Town Meeting are as follows:~~

- ~~Auburn Street~~                      ~~Auburn Street Extension~~                      ~~Barber Road~~
- ~~Edgell Road~~                      ~~Fenwick Street~~                      ~~Kellogg Street~~
- ~~Main Street~~                      ~~Mansfield Street~~                      ~~Maple Street~~
- ~~Merchant Road~~                      ~~Parmenter Road~~                      ~~Pond Street~~
- ~~Prospect Street~~                      ~~State Street~~                      ~~Wayside Inn Road~~
- ~~Winch Street~~

~~10.5 Definitions~~

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

~~10.5.1 “Cutting or removal of trees” shall mean the removal of one or more trees, trimming of major branches or cutting of roots. “Cutting or removal of trees” shall not be construed to include clearing of nuisance growth, routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks or roots and dead whole trees or thinning out of overcrowded trees as determined by the Tree Warden. “Cutting or removal of trees” shall include such cutting, trimming or removal as a primary activity, as well as such cutting, trimming or removal done in contemplation of, or following, repair, maintenance, reconstruction or paving work for a road or driveway or sidewalk.~~

~~10.5.2 “Repair, maintenance, reconstruction, or paving work” shall mean any work done within the right of way by any person or agency, public or private. Construction of new driveways or alterations of existing ones is~~

also included to the extent such work takes place within the right of way. Roadside clearing of trees to provide for vehicle clearance or for improvement to line of sight shall also be included in this definition.

~~10.5.3 “Road” shall mean the entire right of way including, but not limited to, a vehicular traveled way plus its necessary appurtenances within the right of way including bridge structures, drainage systems, retaining walls, traffic control devices, pedestrian facilities and the air space above them, but not intersecting streets or driveways. When the boundary of the right of way is an issue so that a dispute arises as to whether or not certain trees or stone walls or portions thereof are within or outside of the right of way, the trees and stone walls shall be presumed to be within the right of way until the contrary is shown.~~

~~10.5.4 “Stone walls” shall not be construed to include assemblages of stone involving less than one cubic foot of wall material per linear foot nor totaling less than five feet in length. All stone walls within the entire right of way of a scenic road or on the boundaries thereof shall be subject to these regulations. If for whatever reason, it is uncertain whether the stone wall is within such right of way of the scenic road, it shall be taken to be within the right of way and within the coverage of these rules and regulations until the contrary is shown.~~

~~10.5.5 “Tearing down or destruction of stone walls” shall include both temporary and permanent removal. Temporary removal of limited portions of stone walls, to be followed by replacement of the disturbed portion of the wall within a reasonable period of time, not to exceed 30 days, at the same location with the same materials and according to the original character, shall be subject to informal filing and review procedures, set forth under subsection 10.9.~~

~~10.5.6 “Trees” shall include any living tree (not bushes) whose trunk has a diameter of three inches or larger at one foot above the ground. All trees within the right of way of a scenic road or on the boundaries thereof shall be subject to these regulations. If for whatever reason, it is uncertain whether the tree is within the right of way of the scenic road, it shall be taken to be within the coverage of these rules and regulations until the contrary is shown.~~

## ~~10.6 Design Standards~~

### ~~10.6.1 Consistency with Town Standards~~

~~Street and driveway construction standards shall be consistent with current standards for streets, driveways and curb cuts, as set forth in the Zoning By Law, the Town Bylaw, and the Subdivision Rules and Regulations, all as amended.~~

### ~~10.6.2 Curb Cuts~~

~~Each lot fronting on a scenic road shall generally have one driveway curb cut. The traveled width of a driveway for a single home shall not exceed twelve feet for a single family home or fourteen feet for a common driveway. The use of common driveways is encouraged to preserve and to enhance the visual appearance and rural character of scenic roads in the Town of Framingham.~~

### ~~10.6.3 Stone Wall Removal Limitations~~

- ~~a) The maximum amount of stone wall to be removed shall be the width of the pavement of the driveway or new road at the location of the stone wall plus three feet on either side.~~
- ~~b) Unless otherwise waived, removed stone shall be used to repair other sections of the wall within the scenic road, in accordance with the Planning Board approval.~~
- ~~c) No wall shall be cut without construction of an appropriate terminus.~~
- ~~d) In no case shall stones be disposed of or used for purposes other than to repair the remaining stone wall within the scenic road without the prior consent of the Planning Board.~~
- ~~e) Any construction of a terminus or repair of a stone wall shall match the method of the existing construction.~~

### ~~10.6.4 Tree Removal Limitations~~

- ~~a) No tree with a trunk exceeding 8 inches in diameter, one foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.~~

- b) ~~No cluster of trees located within 6 feet of each other, with individual trunks exceeding 6 inches in diameter, one foot above ground level, shall be cut for a driveway unless the curb cut cannot otherwise be safely located.~~
- c) ~~For each tree with a trunk exceeding 6 inches in diameter, one foot above ground level, that is removed, a tree in a species, size and location, with advice from the Tree Warden and suitable to the Planning Board, shall be planted.~~

#### ~~10.6.5 – Waivers~~

~~The Planning Board may waive the design standards, as set forth under this subsection 10.6 herein, if it finds that the waiver is consistent with the considerations and intent of subsection 10.8. The Planning Board shall consider public safety, sight lines, lot configuration, character of the stone wall and existing vegetation in its deliberation for the granting of a waiver.~~

### ~~10.7 – Procedures~~

#### ~~10.7.1 – Filing~~

~~Any person or organization seeking consent of the Planning Board under MGL c. 40, Section 15C, (the Scenic Road Act) regarding the cutting or removal of trees or the temporary (except as provided for under subsection 10.9 herein) or permanent tearing down or destruction of stone walls, or portions thereof, in connection with the repair, maintenance, reconstruction or paving work (as defined in Section 10.5) on scenic roads, shall submit a written request to the Planning Board together with the following:~~

- a) ~~A plan showing the location and the nature of the proposed action and a description of the proposed changes to trees and stone walls (six copies). At a minimum, such plan shall be to scale (preferred scale is 1" = 40') and shall clearly show existing trees and those to be removed, noting the species and diameter (measured one foot above ground). The plan shall indicate the width, height, character and dimensions of any stone wall, as well as the proposed methods for the repair or reconstruction of any portion of the stone wall.~~
- b) ~~A statement of the purpose(s) for the changes.~~
- c) ~~A certified list of abutters to include the owners of all property within 500 feet of the proposed work on the scenic road whose property have frontage on the affected scenic road. The list is to be obtained from the Assessors Office and should reflect their most current records.~~
- d) ~~Photographs of the existing site showing the area to be affected by work and the surrounding area for a distance of at least 100 feet to either side on the scenic road in question. All photographs must be signed and dated by the applicant.~~
- e) ~~Any further explanatory material useful to adequately inform the Planning Board prior to the public hearing, or as required by the Planning Board.~~
- f) ~~Except in the case of Town agencies, the applicable filing fee shall be paid. The applicant shall also bear the cost of hearing notification.~~

~~Notice of submittal shall be filed with the Town Clerk and a copy of the submittal transmitted to the Tree Warden and other Town Departments, after the submittal is accepted by the Planning Board as a complete application and it is signed as such by the Planning Board or its staff.~~

#### ~~10.7.2 – Tree Warden~~

~~Planning Board hearings shall be held in conjunction with those held by the Tree Warden acting under MGL c. 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden or the reverse, nor shall execution of this chapter in any way lessen the Tree Warden's duties as allowed, under MGL c. 87.~~

#### ~~10.7.3 – Notice~~

- a) ~~The Planning Board shall, as required by statute, give notice of its public hearing by advertising twice in a~~

~~newspaper of general circulation in the area, the last publication at least 7 days prior to the public hearing. This notice shall contain a statement as to the time, date, place and purpose of the hearing, with a description of the action proposed by the applicant. Copies of this notice shall be sent to the applicant, the Selectmen, the Tree Warden, the Town Engineer, the Department of Public Works, the Conservation Commission, the Historical Commission, the Historic District Commission and to the property owners on the certified list of abutters as set forth in subsection 10.7.1.c. Notice shall also be posted with the Town Clerk, and at the Planning Board office.~~

- ~~b) The applicant shall post a Community Notice sign on the property in a conspicuous location at the street frontage at least 7 days prior to the Public Hearing. The sign shall indicate the date, time and location of the Scenic Road Public Hearing before the Planning Board, and the specific nature of the hearing. This sign shall be no less than 2 square feet in size, nor more than 3 square feet in size.~~
- ~~c) In the event that the Planning Board holds a joint hearing with the Tree Warden, acting under MGL c. 87, the advertisement shall be made jointly by the Planning Board and the Tree Warden.~~

#### **10.7.4—Timing**

~~The Planning Board shall hold a public hearing within 45 days from the date on which the Planning Board's notice of submittal is received by the Town Clerk, unless the applicant agrees, in writing, to an extension of time.~~

#### **10.7.5—Decision**

- ~~a) In rendering its decision, the Planning Board shall consider the application based on compliance with the Scenic Road Act and the considerations set forth in Section 10.8.~~
- ~~b) The Planning Board may require sufficient bond to be posted to cover the costs of required work within the road right of way and to protect existing vegetation and stone walls. Such bonding shall be specified in the Board's decision.~~
- ~~c) The decision of the Planning Board shall be filed with the Town Clerk within thirty days of the close of the public hearing, unless the applicant agrees, in writing, to an extension of time; copies of which shall be sent to the applicant, the Selectmen, the Tree Warden, the Building Inspector, the Town Engineer, the Department of Public Works, the Conservation Commission, the Historical Commission, the Historic District Commission and those persons who have requested a copy of the decision.~~
- ~~d) An applicant shall have two years to undertake implementation of a decision of the Planning Board under these regulations, after which time such decision shall be void.~~

#### **10.8—Considerations**

~~The Planning Board shall consider the following items in rendering a decision with regard to a scenic road application:~~

- ~~a.—Preservation of historic features;~~
- ~~b.—Protection of natural resources and environmental features;~~
- ~~c.—Preservation of scenic and aesthetic characteristics;~~
- ~~d.—Public safety;~~
- ~~e.—Compatibility with surrounding neighborhood;~~
- ~~f.—Compensatory actions proposed, such as replacement of trees and replacement or repair of walls.~~

#### **10.9—Informal Filing and Review Procedures**

~~**10.9.1**—Temporary removal of limited portions of a stone wall, to be followed by replacement of the disturbed portion within a reasonable period of time, not to exceed 30 days, at the same location with the same materials and according to the original character, shall be subject to these informal filing and review procedures. Other temporary removal shall not be entitled to these informal filing and review procedures.~~

~~10.9.2~~ The applicant shall submit a cover letter, sketch plan of the work to be done, photographs of the area for a distance of 50 feet on either side of the work site and a statement of the purpose for the temporary removal. Such purposes may include temporary removal for the purposes of utility connections or gaining temporary access, among others.

~~10.9.3~~ Based upon the information submitted, the Planning Board shall determine if the proposed work is of a limited and temporary nature and may vote to approve the work to be completed without further public process. The Planning Board may require sufficient bond to be posted to ensure restoration of the stone walls.

~~10.9.4~~ Following completion of the work and replacement of the stone wall in accordance with the Planning Board approval, the applicant shall submit a cover letter to the Planning Board confirming completion together with dated photographs of the restored wall.

~~10.9.5~~ Violations of an approval under this subsection shall be subject to enforcement under subsection 10.10.

## ~~10.10 – Enforcement~~

### ~~10.10.1 Filing and Restoration Requirement~~

~~Cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, within the layout of a designated scenic road, without prior approval from the Planning Board and in violation of this bylaw will necessitate an immediate filing with the Planning Board, as detailed above, and the area affected shall be subject to restoration of the features, as specified by the Planning Board. This restoration shall consist of replacing/repairing the stone wall as necessary and replacing the trees cut on a square inch per square inch basis at locations specified by the Planning Board. A square inch per square inch replacement means that the combined area of the replacement trees measured 1 foot above ground level must equal the total area of the original tree trunk as measured 1 foot above ground level.~~

### ~~10.10.2 Compliance~~

~~Failure to comply with the duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures the Planning Board deems necessary, including, but not limited to, the enforcement of the bonding and restoration as detailed above.~~

### ~~10.10.3 Penalty~~

~~Cutting or removal of trees or the tearing down or destruction of stone walls within the layout of the scenic road in violation of this Section may be subject to a fine of not more than three hundred dollars (\$300.00), as set forth under the Scenic Road Act, MGL Ch. 40, Sec.15C. Each day that a violation continues shall constitute a separate offense, until a filing in accordance with subsection 10.10.1 has been made, with continued progression toward a good faith effort for restoration.~~

### ~~10.10.4 Enforcement Authority~~

~~The Planning Board, the Building Commissioner and the Tree Warden shall have the authority to enforce the provisions of this section, as applicable.~~