

**Article V: Health and Safety**

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## **Section 1. Alcoholic Beverages**

### **1.1 Introduction**

1.1.1 This Bylaw relative to Alcoholic Beverages (“Bylaw”) is promulgated by Framingham Town Meeting to memorialize, enumerate and describe the authority of the Board of Selectmen, serving as the Town of Framingham’s Liquor Licensing Authority (hereinafter, the “Board” or “licensing authority”), to the fullest extent permitted by Chapter 138 (“Chapter 138”) of the Massachusetts General Laws, as amended, and other powers or provisions of the Massachusetts General Laws. This Bylaw and the Town of Framingham’s Rules and Regulations Governing Alcoholic Beverages (“Rules and Regulations”) that may be promulgated by the Board from time to time shall supersede all previous regulations or policies issued by the Town of Framingham.

1.1.2 The Board shall have the full power available under Chapter 138, the Massachusetts General Laws to issue all liquor licenses allowed by law or this Bylaw, and to establish reasonable fees therefore. The Selectmen may from time to time adopt Rules and Regulations relative to the business of persons licensed by them under the General Laws or this Bylaw and to the supervision thereof, including the imposition of lawful penalties for violations of such rules, regulations and restrictions. The rules, regulations and restrictions adopted by the Selectmen shall be provided in writing to all applicants for such licenses. The Board of Selectmen shall have the power to modify the Rules and Regulations from time to time, and shall provide licensees with copies of any future amendments to the Rules and Regulations at least seven (7) days prior to the date such amendments go into effect.

1.1.3 Any license issued for the sale in any manner of any alcoholic beverage shall be issued on the condition that there will be strict compliance with Chapter 138, the Massachusetts General Laws, this Bylaw and the Rules and Regulations as described herein. Failure to comply with Chapter 138, the Massachusetts General Laws, this Bylaw and the Rules and Regulations described herein shall be sufficient grounds for refusing to grant the license, or for suspending, canceling, or revoking an existing license.

### **1.2 Application of Bylaw:**

- a) License transfers involving a change of location, ownership, or business;
- b) New Licenses;
- c) One Day or Special Licenses; and
- d) Current Alcohol Licenses (of any type) within the Town of Framingham.

### **1.3 Applicability of State and Local Laws**

1.3.1 Applicability of State and local laws and regulations, and permit requirements. All Alcoholic beverage licenses shall also be issued contingent upon continued compliance with all appropriate state and local laws and regulations and all permits and licenses which may pertain to the operation of the premises, including, but not limited to, the State Building Code, State or Board of Health

Regulations, common victualer license requirements, entertainment and/or amusement licenses and the Town of Framingham Bylaws.

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1.3.2 Availability of rules and regulations. All licensees shall ensure that a copy of Town's Rules and Regulations and the applicable regulations promulgated by Alcoholic Beverages Control Commission are kept on the premises at all times and are immediately available for inspection upon request by a member of the public or an agent of the Board. Licensees also shall ensure that copies of the Board's Rules and Regulations shall be given to each employee who is responsible for the sale or service of alcoholic beverages.

1.3.3 Responsibility for knowledge of rules and regulations. Licensees must be familiar with Chapter 138, this Bylaw and the corresponding Rules and Regulations, as well as applicable state statutes and regulations promulgated by the Alcoholic Beverages Control Commission. A plea of ignorance will not be considered a justification or defense for a violation.

**1.4 Prohibition of Consumption of Alcoholic Beverages in Public Places**

1.4.1 No person shall drink any alcoholic beverages as defined in Chapter 138, Section 1 of the Massachusetts General Laws while on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground, or private land or place without consent of the owner or person in control thereof. All alcoholic beverages being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.

**Section 2. Water Discharge**

No person shall knowingly permit or suffer any water or other liquid to run or be discharged from any building owned by him, or under his control, so as to flow on any sidewalk, except that a person may wash windows with hose before the hour of 10:00 A.M. when the temperature is above the freezing point.

**Section 3. Erection of Barriers**

The owner of land which has been excavated shall erect barriers or take other suitable measures to avoid hazard to public safety. If within five days after such owner has been notified in writing by the Board of Selectmen that in their opinion the excavation constitutes a hazard to public safety the owner shall fail or refuse to erect barriers or take other suitable measures to avoid such hazard, the owner shall be punishable by a fine of not more than two hundred dollars for such violation.

**Section 4. Framingham Emergency Management Agency**

4.1 There is hereby established the Framingham Emergency Management Agency (FrEMA). It shall be the function of this Agency to have charge of civil defense, the Local Emergency Planning Committee, and the Emergency Operations Center for the Town of Framingham.

**4.1.1 Civil Defense**

It shall be the function of the Framingham Emergency Management Agency to have charge of Civil Defense as defined in Chapter 639, Section 1 of the Acts of 1950 and to perform civil defense functions as authorized or directed by said chapter or by any and all executive orders or general regulations promulgated thereunder, and to exercise any authority delegated to it by the governor under said Chapter 639.

**4.1.2 Local Emergency Planning Committee (LEPC)**

It shall be the function of the Framingham Emergency Management Agency to have charge of the Local Emergency Planning Committee (LEPC) in accordance with the federal Emergency Planning and Community Right-to-Know Act, Public Law 99-499, commonly known as EPCRA or SARA Title III. The mission of Framingham Local Emergency Planning Committee shall be to enhance and create plans directing the response to hazardous materials incidents, increase compliance with hazardous materials reporting requirements and to continue to offer access to information on the storage of such materials, for the benefit of the town's residents and businesses.

**4.1.3 Framingham Emergency Operations Center (EOC)**

It shall be the function of the Framingham Emergency Management Agency to have charge of the Emergency Operations Center (EOC) for the Town of Framingham

**4.2 Director of Framingham Emergency Management Agency**

Framingham Emergency Management Agency shall be under the direction of the Director of Emergency Management (hereinafter called the "Director"), who shall be appointed by the Town Manager. The Director shall have direct responsibility for the organization and for the administration of the Agency, subject to the direction and control of the Town Manager. The Director may, within the limits of the amount appropriated therefore, and subject to the approval of the Town Manager, appoint such experts, clerks and other assistants as the work of the department may require and may remove them, and may make such expenditures as may be necessary to execute effectively the purpose of Chapter 639 of the Acts of 1950 and the Emergency Management Agency.

The Director shall also have authority, subject to the approval of the Town Manager, to appoint district coordinators and may accept and may receive, on behalf of the Town, services, equipment, supplies, materials or funds by way of gifts, grant or loan, for purposes of emergency management, offered by the federal government or any agency or officer thereof or any person, firm or corporation, subject of the terms of the offer and the rules.

**Section 5. Deleted (Article 17 of the 2007 Annual Town Meeting)**

**Section 6. Fire Lanes**

It shall be unlawful to obstruct or park a vehicle in any fire lane, such fire lane to be designated by the Board of Selectmen upon the recommendation of the Chief of the Fire Department and posted as such, said Fire Lane to be a distance of twelve (12) feet from the curbing of a sidewalk in a shopping center, bowling establishment, theater or similar locations. Where no sidewalk with curbing exists, the distance shall be eighteen (18) feet from the building.

**Section 7. Fortune Telling**

No person shall tell fortunes for money unless a license therefore has been issued by the local licensing authority. The fee for each license granted under this section shall be \$50.00 per year, commencing January 1 of each year.

**Section 8. Personal Privacy**

No person other than an officer of the law acting in the performance of his legal duty shall enter upon the premises of any person with the intention of peeping into a dwelling or spying upon any person therein.

**Section 9. Handicapped Parking**

**9.1** Designated parking spaces shall be provided in public and private off street parking areas for vehicles owned and operated by disabled veterans, or by disabled persons, or for any vehicle transporting a person with a disability. Such vehicle shall bear the distinctive number plates or placard authorized by Massachusetts General Law Chapter 90, Section 2.

**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:

<b>Total Spaces</b>	<b>Required Handicapped Spaces</b>
1-25	1 Space
26-50	2 Spaces
51-75	3 Spaces
76-100	4 Spaces
101-150	5 Spaces
151-200	6 Spaces
201-300	7 Spaces
301-400	8 Spaces
401-500	9 Spaces
501-1,000	2% of Total Spaces
1,001 and over	20 plus 1 for each 100 over 1000

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, and be permanently affixed to the ground. Signs shall show the "International Symbol of Access" and may have the words "Handicapped Parking: Special Plate Required, Unauthorized Vehicles May Be Removed At Owners Expense" in white on a blue background. The top of the sign shall not be lower than 5 feet from the ground, nor more than 8 feet from the ground. A smaller sign may be added indicating the fine amount in Section 9.3, third paragraph.

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 a striped access 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. The cross hatch area abutting a handicapped parking space shall, for the purposes of this section, be considered a part of the handicapped parking space.

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, but not limited to, snow, 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:

**9.3.1** Violations of Section 9.1.1 or 9.1.2 shall be fifty (50) 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.

**9.3.2** Violations of Section 9.2 shall be two hundred dollars for each offense, and the vehicle may be removed according to the provisions of Massachusetts 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 Americans with Disabilities Act (ADA) and Mass. Architectural Access Board (AAB) regulations.

- 9.6** One half of all funds received from fines for Handicapped Parking violations shall be deposited by the Town Treasurer into a separate account and shall be solely used for the benefit of persons with disabilities. Said account shall be established by the Town Treasurer and kept separate and apart from all other funds. Expenditures from said account, including all interest, if any, shall be made upon the recommendation of the Disability Commission with approval of the Board of Selectmen and Town Manager. The Town Accountant shall submit annually a report of said account to the Town Manager and Board of Selectmen for review.

**Section 10.      Hunting Bylaws**

**10.1      Definitions**

1.      Amphibious Animal - Animals capable of living either on land or in water.
2.      Archery - Bow and Arrow - to include any type of bow and arrow, such as; long bow, compound bow, cross bow, recurve bow or bows drawn by mechanical means.
3.      Birds - Wild or Undomesticated Birds.
4.      Firearms - Firearm shall mean a pistol, revolver or other weapon of any description loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16" or 18" in the case of a shotgun as originally manufactured, and the term "length of barrel" shall mean that portion of a firearm, rifle, shotgun through which a shot or bullet is driven, guided, or stabilized, and shall include the chamber. A rifle is a weapon having a rifled bore with a barrel length equaled to or greater than 16", capable of discharging a shot or bullet for each pull of the trigger. A shotgun is a weapon having a smooth bore or a rifled bore with a barrel length equaled to or greater than 18" with an overall length to or greater than 26", capable of discharging a shot or bullet with each pull of the trigger.
5.      Game - any wild bird, mammal, amphibian or reptile commonly hunted for food or sport.
6.      Hunt - the verb "to hunt", in all of its moods and tenses, included pursuing, shooting by firearms or archery, killing and capturing mammals, birds, amphibious animals and reptiles and all lesser acts such as disturbing, harrying or worrying, or placing, setting, drawing or using any device commonly used to take mammals, birds, amphibious animals and reptiles whether or not such acts result in taking; and includes every attempt to take and every act of assistance to any other person in taking or attempting to take mammals, birds amphibious animals and reptiles.
7.      Mammals - Wild or Undomesticated mammals.
8.      Primitive Firearms (muzzle loading) - any firearm, rifle or shotgun with matchlock, flintlock, percussion cap or similar type of ignition system, such firearm, rifle or shotgun loads from the muzzle.

- 10.2** No person shall hunt within the limits of any highway, park or other property owned or controlled by the Town of Framingham, except with the consent of the Board of Selectmen and any other appropriate public authority; or on any private property, except with the written consent of the owner or legal occupant thereof, which consent shall be dated not more than one year prior to the act complained of.

- 10.3** No person shall fire or discharge any firearm or explosive of any kind within the limits of the Town of Framingham, except on a range or in an area designated for such purpose and approved by the Chief of police in writing, or with the written consent of the owner or legal occupant thereof, which written consent shall be dated not more than one year prior to the act complained of.
- 10.4** Nothing in this bylaw shall prohibit the protection of one's property or use of firearms by police or other law enforcement officers.
- 10.5** It shall be unlawful for any person to set, trigger, activate, or otherwise use, or cause to be set, triggered, activated or used, any type of steel-jaw or leghold trap including, but not limited to, padded or unpadded leghold traps of conibear or killer-type traps within the limits of any highway, park, or public property or on any private property in the Town of Framingham. Trapping on posted or unposted private property, with any type of trap not already prohibited by this section, shall only be permitted with a box-trap if written permission is obtained from the owner or legal occupant or person having the right of control thereof
- 10.6** A violation of this bylaw shall be punished by a fine not to exceed \$300.

**Section 11. Mechanical Protection Devices**

It shall be unlawful to install a mechanical protection device that is automatically keyed to and/or activates the telephone numbers) lines controlled by and/or listed to the Framingham Fire Department; all such devices installed before the effective date of this section shall be removed within sixty days. Mechanical protection devices shall be devices defined as- An electrically operated instrument composed of sensory apparatus and related hardware which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice alarm upon receipt of a stimulus from the sensory apparatus that has detected a physical force or condition inherently characteristic of a fire or unauthorized intrusion.

**Section 12. Motor Boats**

- 12.1** All motor boats must (except when prevented by a narrow or other boats or passing under bridges or rounding sharp bends) keep one-hundred and fifty (150) feet distant from anchored or moored boats, piers, rafts, floats, a line of floats outlining swimming areas, skin divers flags, or the shore.

In all such cases the speed of such motor boats shall be reduced to headway speed, so as to provide full visibility and control, and prevent their wash from being thrown into, or causing excessive rocking to other boats, barges, aquaplanes, and other devices being towed by power. The operator of the towing boat shall be responsible for compliance therewith.

- 12.2** The use of powered craft generally described as a "JET SKI", "SURF JET", "WET BIKE" or otherwise described as a "PERSONAL WATERCRAFT" is prohibited except when used by Law Enforcement personnel in the course of their duties.

Any violation of Section 12.2 shall be punished by a fine of not more than \$100 Dollars for each offense.

DEFINITIONS: Personal Water Craft - means a small vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by persons

sitting, standing, or kneeling on the vessel. The term includes but is not limited to a jet ski, wet bike, or surfjet, so called.

**Section 13.      Retail Food Sales**

**13.1**      No person shall sell any food at retail between the hours of 1:00 a.m. and 6:00 a.m. The term food as used in this Bylaw shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law or permit or license granted to the seller of such beverages shall otherwise provide.

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

Persons found guilty of violating this section shall pay a fine of \$50.00. For purposes of this Bylaw, each separate sale shall be deemed a separate offense. In the event of a sale of several items or articles at one time to one customer, only one sale shall be deemed to have taken place.

**13.2**      No store or place of business engaged in the retail sale of food shall be open for the transaction of retail business between the hours of 1:00 a.m. and 6:00 a.m.

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

Violators of this section shall be subject to a fine of \$50.00 for each violation. In case of continuing violation, every calendar day upon which a store shall remain open in violation of this Bylaw shall be deemed a separate offense.

**13.3**      The provisions of this Bylaw may be waived by the Board of Selectmen if it determines that it is in the public interest to do so.

**Section 14.      Sale of Indecent Publications**

**14.1**      Whoever disseminates to a minor any matter harmful to minors, knowing it to be harmful to minors, or has in his possession any such matter with the intent to disseminate the same to minors, shall be punished by a fine not exceeding two hundred (\$200.00) dollars for each offense and to a like fine for each day's continuance of such violation. It shall be an affirmative defense in any prosecution under this section that the defendant was in a parental or guardianship relationship with the minor. It shall be an affirmative defense under this section if the evidence proves that the defendant was a bona fide school, museum or library, or was acting in the course of his employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization.

**14.2**      The definitions of the words in this Bylaw shall be the same as those specified in the Massachusetts General Laws, Chapter 272, as amended by Chapter 430 of the Acts of 1974.

**Section 15.      Snow Removal**

**15.1**      Every building owner shall erect or cause to be erected upon any building which he owns or of which he has charge, and which is near the line of a sidewalk or street, a barrier or other suitable provisions sufficient to prevent the falling of snow and ice from the roof of such building upon persons traveling on such sidewalk or street.

**15.2**      The Director of Public Works or other officers having charge of ways of the Town shall have the authority, for the purposes of removing or plowing snow, or removing ice from any way in the Town, to remove or cause to be removed to some convenient place, including in such term a public garage, any vehicle interfering with such work.

**15.3**      The owner of any such vehicle so removed shall be liable for the reasonable cost of such removal and storage, and delivery of the vehicle to said owner may be withheld by the Director of Public Works or other officer having charge of ways in the Town, until such reasonable costs shall be paid.

**15.4**      Whenever any vehicle is so removed, the Police Department of the Town shall be notified and said department shall render all necessary assistance to the Director of Public Works or other officer having charge of ways, in enforcing this Bylaw.

**15.5**

**15.5.1**      No person or entity, regardless of their ownership, tenancy, or other status or relationship to any property, nor any agent, employee, contractor or servant of any person or entity shall place, throw, plow or in any way move any snow or ice onto any portion of the Town's streets, ways, sidewalks, or land, except with the approval of the director of Public Works or his designee. Notwithstanding the foregoing, this bylaw shall not be construed to prohibit owners or lawful occupants of residential premises from place snow and ice on the sidewalk while leaving unobstructed room for pedestrian passage, and from placing snow or ice from pavement edge to no more than one foot (12") out into the street, immediately adjacent to the driveway opening.

**15.5.2**      Anyone violating the prohibitions of this bylaw shall be subject to a specific penalty of a fine in an amount up to three-hundred dollars (\$300) for each offense. The fine structure shall be as follows:

**Residential (Less than 6 dwelling units)**

First violation.....	\$ 25.00
Second violation .....	\$ 50.00
Third or more violations .....	\$100.00

**Commercial and 6 or more residential units**

First violation.....	\$ 50.00
Second violation .....	\$100.00
Third or more violations .....	\$300.00

**15.5.3**      The Director of Public Works, the Assistant Director of Public Works, Superintendent of Highways, all Highway Division Construction Supervisors, all Framingham Police

Officers, and other Town employees from time to time designated by the Board of Public Works are empowered and authorized to enforce this Bylaw.

**Section 16. Vinyl Chloride Bylaw**

- 16.1** No person shall temporarily store rail cars containing liquefied vinyl chloride within the Town of Framingham without first obtaining a license for said purpose from the Board of Selectmen. For purposes of this Bylaw, (i) a rail car will be deemed stored or in storage if it remains within the Town for more than 24 hours prior to being shipped or sent to its next destination, (ii) temporary storage will be deemed to be any storage of a rail car containing liquefied vinyl chloride which has not been delivered to its place of unloading, and (iii) "person" shall include any individual, corporation, partnership, association or other entity. Such a license shall be granted by the Board of Selectmen upon the applicant's fulfillment of the following conditions:
- 16.1.1** The applicant sets aside an area for the storage of such rail cars containing liquefied vinyl chloride;
  - 16.1.2** The area set aside is bounded by an eight-foot high, chain link fence topped by at least three strands of barbed wire, and having a gate with a heavy-duty chain lock;
  - 16.1.3** Lights are installed which are capable of illuminating at night the entire area set aside for storage;
  - 16.1.4** The designated area contains a paved access lane to and around the storage location(s) therein sufficient to permit unimpeded access to all parts of the stored rail cars by fire trucks and related emergency apparatus;
  - 16.1.5** The applicant provides water service to a point neither less than 100 feet nor more than 150 feet from the designated area sufficient to furnish a flow of 1,000 gallons of water per minute;
  - 16.1.6** The applicant provides an additional water supply connected to and servicing two elevated stationary water nozzles capable of delivering water to any point within the area set aside at a minimum flow of 500 gallons of water per minute; and
  - 16.1.7** The applicant installs an emergency signaling system at the area set aside for storage capable of sounding an audible alarm to members of the general public at least 2,500 feet from any point in the storage area.
- 16.2** The license described in subsection 16.1 of this Bylaw may be suspended or revoked by the Board of Selectmen upon the licensee's failure to:
- 16.2.1** Keep all temporarily stored rail cars containing liquefied vinyl chloride under its custody or control inside the area set aside for storage;
  - 16.2.2** Keep fewer than eleven of such rail cars in the storage area;
  - 16.2.3** Keep the fence surrounding the storage area locked at all times, except to permit the movement of such rail cars and the inspection or testing of rail cars and equipment therein;

- 16.2.4** Keep stored in the area set aside (i) no rail cars other than rail cars containing liquefied vinyl chloride, or (ii) no other materials or equipment;
- 16.2.5** Maintain the reasonable security of the storage area, the entrance and lock thereto, the lighting and water supplied thereto, the emergency signal system, and the paved access lane, including keeping this lane free of obstructions and snow and ice;
- 16.2.6** Obtain the consent of the Board of Selectmen prior to making any change to or in the storage area (including the tracks, fence, switches, lighting, water supply and emergency signal system);
- 16.2.7** Cause the storage area to be under on-site observation 24 hours a day;
- 16.2.8** Cause all such rail cars and the storage area to be inspected at least twice daily (for this purpose, two or more inspections within any ten-hour period shall be counted as one inspection) by an individual familiar with the type of rail cars used to store vinyl chloride, and trained in the manner of detecting leaks, spills and excessive or unusual venting therefrom, and cause a log to be kept which shall state therein the date of inspection, the name of the individual making the inspection, the identity by number of each car inspected, and the time of the inspection;
- 16.2.9** Cause a copy of the foregoing log (kept since the previous submission as provided for herein) to be submitted to the Fire Department at least weekly;
- 16.2.10** Notify the Fire Department in writing by noon of each day of any arrivals to or departures from the storage area which occurred on the previous day;
- 16.2.11** Notify the Fire Department immediately of any leak, spill, excessive or unusual venting, explosion or fire involving vinyl chloride; any dents in or other damage to the rail cars; and malfunctioning, defect or need for adjustment or repair in the tracks into or within the storage area and any switches thereon, fence, lock, lighting, water supplies, nozzles or emergency signal system; or any derailment or collision involving any such rail car;
- 16.2.12** Keep the storage area illuminated at night;
- 16.2.13** Notify the next intended delivery or storage point of the time of arrival within the Town of Framingham of any such rail car under the licensee's custody or control within 24 hours after such arrival;
- 16.2.14** Keep combustible and explosive materials out of the storage area;
- 16.2.15** Test the emergency signal system, the water systems and the lighting system at least once every 60 days, and report to the Fire Chief any failure to pass any of such tests;
- 16.2.16** Permit the Fire Chief or his designee to inspect at any time the storage area and the protective systems and any such rail cars therein; and
- 16.2.17** Cause the emergency signal to be employed in accordance with procedures established by the Fire Chief.
- 16.3** In lieu of or in addition to suspending or revoking a license, the Town may assess a fine of \$200 for each violation of subsection 16.2 hereof.
- 16.4** Provisions of this Vinyl Chloride Bylaw requiring a valid, effective license to store temporarily rail cars containing liquefied vinyl chloride after they have been in the Town more than twenty-

four hours, restricting the storage to fewer than eleven cars and instituting local reporting requirements together with such other provisions that may be deemed inconsistent with the Hazardous Materials Transportation Act, 49 U.S.C. ss1801, et seq., will not be implemented or enforced after the effective date of the Bylaw until the United States Secretary of Transportation determines those requirements of the bylaw that are not preempted by the aforesaid Act. 49 U.S.C. s 1811 (b). 49 CFR 107.215-.225

**Section 17. Activities on Town Property**

No person shall engage in golfing on any town-owned property except with the express written consent of the board or commission which has jurisdiction over said property.

The penalty for violation of this Bylaw shall be fifty (\$50.00) dollars.

**Section 18. Framingham Wetlands Protection Bylaw**

***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 Bylaw").

**18.2 Jurisdiction**

Except as permitted by the Conservation Commission or as provided by this bylaw, no person shall remove, fill, dredge, build upon, degrade, discharge into or otherwise alter the following resource areas: freshwater wetland, vernal pool, marsh, wet meadow, bog or swamp; any bank, beach, or flat; any lake, river, pond, or stream: any land under said waters; any 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 Bordering Vegetated Wetland, whichever is further. Erosion and sedimentation controls are to be 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, s. 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, s.40.

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.

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., G.L., Ch. 131 §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 G.L.c.44, §53E ½.

#### **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, s.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 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. 31, s.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 permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land

affected 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, Section 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, s.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 materials, subject to all state and federal laws and regulations governing their use;
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 regrading 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 therefrom, 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 accessways, and operations shall be conducted when the soil is frozen, dry or otherwise stable;
  - c. Where access is determined impracticable without constructing new accessways, said accessways 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 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 unvegetated 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 CRM 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, s.101.

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

Conservation Commission means that body comprised of members lawfully appointed pursuant to M.G.L. c. 40, s. 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, s. 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, s. 101.

#### Determination

- A. Determination of Applicability means a written finding by a 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. 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 as part of the Order, 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 around 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 10.56(2).

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, s.40, para. 10.

Meadow (or wet meadow) is defined in M.G.L. c. 131, s. 40, para. 9.

MEPA means the Massachusetts Environmental Policy Act, M.G.L. c.30, ss. 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 (1) residents of the city or town where the land is located and any ten (10) persons pursuant to M.G.L. c.30A, s.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) years 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, s.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, s.40, para. 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 Wetlands Protection Act, M.G.L. Ch. 131, Section 40.

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 thereunder 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. Upon request of the Conservation Commission, the Chief of Police shall take legal action for enforcement under criminal 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 thereunder, 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, s.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, s.40, and regulations thereunder.

**18.14 Appeals**

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

**Section 19. Use of Ways by Pedestrians**

Pedestrians shall obey the lawful directions of Police Officers. Whenever there is an officer directing traffic, a traffic control signal or a marked crosswalk, no such pedestrian shall cross the following road except within the limits of a marked crosswalk.

Route 126 (Concord St./Hollis St.) ..... From Everitt Ave. to Winthrop St.

Union Ave..... From Walnut St. to Concord St.

Lincoln Street..... From Union Ave. to Concord St.

Waverly Street ..... From Cedar St. to South St.

Irving Street ..... From Arlington St. to Burkis Square

The above area to be referred to as the Downtown Business District. Any person who violates this bylaw shall be punished as follows:

First Offense ..... Written Warning

Second and Subsequent Offense..... Twenty Dollar Fine

Any violator of this bylaw who refuses to give their name to a police officer shall be subject to arrest under M.G.L., Ch. 90, s. 18A.

**Section 20. Brownfields Tax Abatement Agreements**

**20.1 Purpose**

Pursuant to the provisions of M.G.L., Ch. 59, s. 59A, it is the intent of the town to offer tax abatements to encourage the continued environmental cleanup and redevelopment of sites zoned for industrial and commercial use from or at which there has been a release of oil or hazardous material.

**20.2 Subject Properties**

Property which may be the subject of tax abatement agreements pursuant to this bylaw must:

- (a) Be a site or portion of a site from or at which there has been a release of oil or hazardous material;
- (b) Be owned by an eligible person, as that term is defined in M.G.L., Ch 21E, s. 2;
- (c) Be zoned for commercial or industrial use.

**20.3 Abatement Agreements**

**20.3.1** The Chief Financial Officer is hereby authorized to negotiate agreements from the abatement of real estate taxes (hereinafter, "Abatement Agreements") with owners of eligible properties, the terms of which Abatement Agreements shall be subject to approval by the Board of Selectmen for abatements not exceeding \$250,000. Abatements above this amount shall also be subject to approval of Town Meeting.

**20.3.2** Abatement Agreements may allow for reductions in outstanding taxes, interest, and/or penalties.

**20.3.3** Abatement Agreements shall include, but not be limited to:

- (a) The amount of outstanding real estate taxes;
- (b) The percent of interest to accrue if determined applicable by the Chief Financial Officer and the property owner;
- (c) The description of quantifiable monthly payments;
- (d) The inception date of monthly payments;
- (e) The date of the final payment;
- (f) The late penalties to be imposed; and
- (g) Any and all other contractual terms as arranged between the Chief Financial Officer and the property owner.

**20.3.4** All Abatement Agreements shall be signed by the Chairman of the Board of Selectmen and the property owner, whose signatures shall be notarized, and attested to by the Town Clerk.

**20.3.5** Copies of all Abatement Agreements shall be provided to the Massachusetts Department of Environmental Protection, the United States Environmental Protection Agency, the Massachusetts Commissioner of Revenue, the Board of Selectmen, and the property owner.

**Section 21. Demolition Delay Bylaw for Historically or Architecturally Significant Buildings in the Town of Framingham, MA.**

**21.1 Intent and Purpose**

This bylaw is enacted for the purpose of protecting and preserving significant buildings within the Town outside the Framingham Center Common Historic District (Local) and the Jonathan Maynard 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 bylaw.

**21.2 Definitions**

- 21.2.1** "Building" - Any combination of materials forming a shelter for persons, animals, or property.
- 21.2.2** "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.
- 21.2.3** "Building Commissioner" - The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.
- 21.2.4** "Commission" - The Framingham Historical Commission.
- 21.2.5** "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.
- 21.2.6** "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.

**21.2.7** "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.

### **21.3 Procedure**

**21.3.1** 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 bylaw, 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.

**21.3.2** 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.

**21.3.3** 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.

**21.3.4** 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.

**21.3.5** 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.

**21.3.6** 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.

**21.3.7** 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.

- a. For any building on the Cultural Resources Inventory that the Commission has determined should be preferentially preserved, no demolition permit may be issued until twelve (12) months after the date of determination by the Commission.
- b. Provided however, until a building has been listed on the Cultural Resources Inventory for a period of twelve (12) months, a demolition delay may not exceed six (6) months.

**21.3.8** 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 during the demolition delay period 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.

#### **21.4 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.

#### **21.5 Emergency Demolition**

Nothing in this bylaw 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.

#### **21.6 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 bylaw 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 bylaw 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.

### **21.7 Historic District Act**

Nothing in this bylaw 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 bylaw do so conflict, that act shall prevail.

## **Section 22. Nuisance Bylaw**

### **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, 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 by reason of neglect, misuse, or deterioration. The term includes, but is not limited to:

Property having deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or inadequately secured windows or doors;

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.

Personal property that is broken, rusted, worn, partially or wholly dismantled or otherwise due to deterioration is unsuitable for the purpose for which designed.

#### **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 property abutting, and that is within 300 feet of, the property line of the subjected 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 the maintaining decent, safe, and sanitary structures that are not dilapidated, and neighborhoods, 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,
- (c) dangerous or unsafe structures or personal property,
- (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, debris or trash,
- (f) signs as described in Article VII, Section 1.19.2 of the Sign Bylaw,
- (g) personal property that is exposed to the elements without protection against deterioration, rust or dilapidation,
- (h) vehicles, machinery or mechanical equipment or parts thereof that are located on soil, grass or other porous surfaces that may result in the destruction of vegetation or contamination of soil,
- (i) 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.

- (j) personal property that has been placed for the collection as rubbish or refuse in violation of Article VI, Section 4.1 of the Town Bylaws other than as approved by the Director of Public Works, or left in public view for more than seven days.

**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.

**22.2.8 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 mortgage in possession

(e) is a 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.

**22.3 Administration**

**22.3.1 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 and shall immediately cease. 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 of 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 an 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 (\$300.00) 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.

The Building Commissioner may require disclosure to him/her of the identity of the person bringing a complaint of nuisance. The Building Commissioner may require that such complaint be made under oath or subject to the penalties of perjury. If the Building Commissioner determines that a reported 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 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 shall promptly notify the complainant in advance of all conferences or proceedings concerning resolution of the nuisance complaint or of any enforcement action and the complainant shall be allowed to be present and to be heard.

#### **22.3.3 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.

#### **22.3.4 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, or 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 matte

## **Section 23. Motor Scooters Prohibited**

### **23.1 Preamble**

The operation of so called “pocket bikes” and other motorized conveyances on public ways and town property jeopardizes public safety; their operation on public roadways and town-owned property is therefore prohibited.

### **23.2 Definition**

For the purpose of this bylaw, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

23.2.1 As used in this section, “motor scooter” specifically includes so-called “pocket bikes” miniature motorcycles and “go-carts”. The term “motor scooter” shall also mean any two wheeled device that has handlebars, designed to be stood or sat upon by the operator, powered by an electric or gas powered motor that is capable of propelling the device with or without human propulsion except:

(i) any “motorcycle” or “motorized bicycle” as defined in M.G.L. c. 90, §1;

(ii) any vehicle registered as a motor vehicle by the registrar of motor vehicles or lawfully exempt from such registration;

(iii) any wheelchair by a person with physical disabilities or any similar mobility-assisting device used by a person whose ambulatory mobility has been impaired by age, illness or physical ailment; or,

(iv) any vehicle owned or leased by the Town of Framingham.

23.3 This bylaw shall not prohibit the operation, on any paved sidewalk or marked pedestrian crosswalk, of any electric vehicle or personal conveyance which is incapable of speeds in excess of twelve and one-half miles per hour.

23.4 Any person who operates any so called pocket rocket or miniaturized motorcycle on any portion of any public way in the Town of Framingham, including the public sidewalk, or on any other

public property, including schools, parks, or playgrounds, within the Town of Framingham, shall be fined one-hundred dollars per incident.

- 23.5 Any parent who permits his or her minor child to operate a so called pocket rocket or miniaturized motorcycle in violation of this bylaw shall be fined one-hundred dollars per incident.
- 23.6 Any person who rides as a passenger on any so called pocket rocket or miniaturized motorcycle operated in violation of the above shall be fined fifty dollars per incident.
- 23.7 Whenever any police officer observes any person in violation of this bylaw, he or she may detain such person for purposes of the enforcement of this section and may remove such so called pocket rocket or miniaturized motorcycle to a secure area pending a disposition of such property by court order or otherwise by law.

## **Section 24. Bylaw Concerning Lodging Houses**

### **24.1 Purpose**

This Bylaw is intended to supplement the provisions of G.L. c. 140, § 22, et seq., and all other statutes and State regulations pertaining to lodging houses, for the purpose of ensuring the maintenance and protection of the health, safety and welfare of all persons and the health, safety and general welfare of the public.

### **24.2 Definitions**

- 1) **Lodging House:** Every dwelling or part thereof which contains one or more rooming units in which space is let or sublet for compensation by the licensee, owner or operator to four or more persons not within the second degree of kindred to the person compensated. The term Lodging House shall include but not be limited to boarding houses, rooming houses, inns, bed and breakfast establishments, dormitories, fraternity houses, sober houses and other similar dwelling places, but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under section seventy-one of chapter one hundred and eleven or rest homes so licensed, or group residences licensed or regulated by agencies of the commonwealth.
- 2) **Lodger:** A lodger is any person residing in a rooming unit including any person listed as a lodger on any lease agreement for said unit.
- 3) **Rooming Unit:** The room or group of rooms let to an individual or household for use as living and sleeping quarters.
- 4) **Licensee:** That person (s) or entity listed on the lodging house license and the owner (s) of the land and building where the lodging house is operated.

### **24.3 Responsibilities of Licensee**

The licensee shall be responsible for the proper supervision, operation and maintenance of the lodging house in accordance with the requirements of this Bylaw and of all other pertinent State laws, regulations and other Town By-laws. The appointment of an agent shall in no way relieve the licensee from responsibility for full compliance with all the foregoing laws and regulations. This Bylaw and the penalties imposed by them shall apply with equal force to the keeper of any lodging house required to be licensed.

#### **24.4 Agent (s)**

If the licensee, because of health, other employment, non-residence on the premises, frequent or extended absences from the premises or other reasons, is unable to exercise proper supervision of the premises, he/she shall designate one or more agent (s) to carry out all or part of his/her responsibilities. The owner of any lodging house that contains twelve (12) or more units shall be required to have an agent residing on the premises. Upon the recommendation of the Chief of Police for reasons of public safety, the Board may require the owner of a lodging house that contains less than twelve units to have an agent residing on the premises. Based on the qualifications of the agent(s) designated and the extent of their responsibilities, the Board may require that more than one agent be provided. If, for any reason, an agent ceases to exercise his/her responsibilities, the licensee shall at once notify the Board of Selectmen and take immediate steps to provide proper interim supervision and obtain a suitable replacement.

The agent (s) shall be available on a 24-hour basis and must post his/her telephone or beeper number in a conspicuous place inside the Lodging House. The agent must also notify the Selectmen's Office, Police Department, Health Department, Fire Department and Building Department Of his/her beeper or telephone number.

#### **24.5 Registers, Card Files and Rosters**

The licensee of every lodging house shall keep or cause to be kept, in a permanent form, a register. Such register shall contain the true name or name in ordinary use and the last residence of every person engaging or occupying a private room together with a true and accurate record of the room assigned to such person and of the day and hour of check-in and checkout. The entry of the names of the person engaging a room and the lodgers of said room shall be made by said person engaging said room or by any lodger thereto.

Until the entry of such name and the record of the room have been made such person shall not be allowed to occupy privately any room upon licensed premises.

In addition, each licensee shall keep or cause to be kept a card file or database containing current information on each lodger including full name, date and time of registration, room number, former address, registration number, state of registration, and make of automobile, and the name and telephone number of the person to be notified in case of emergency. These cards should be kept for a minimum of one year after departure of the lodger. The register, card file, and roster required in this section shall be available for inspection at all times by the Board of Selectmen, its agent(s), the Building Commissioner and his designee(s), the Director of Public Health and his designee(s), and any officer of the Framingham Police Department.

#### **24.6 Minimum Standards**

This Bylaw sets forth the minimum standards intended for the maintenance and enforcement required for the protection of health, safety and welfare of all persons concerned. If there is any conflict with state or local law the stricter provision shall apply to the extent legally permissible.

All lodging houses shall comply with the requirements of Article II of the State Sanitary Code, Minimum Standards of Fitness for Human Habitation, and to the requirements of this Bylaw, whenever they are in addition to or more stringent than the requirements of Article II of said code.

All lodging houses in which meals are served to lodges shall comply with the requirements of Article X of the State Sanitary Code, Minimum Sanitation Standards for Food Establishments, or to such additional standards as may be approved in writing by the Director of Public Health.

**24.7 Bathroom Facilities**

Bathroom facilities, as required by the Sanitary Code, shall be located on the same floor as the individuals who are to use them.

**24.8 Lighting and Electrical Facilities**

The electrical service to the building shall conform with the rules and regulations issued by the Commonwealth of Massachusetts, Department of Public Safety, Board of Fire Prevention Regulations, known as the Massachusetts Electrical Code, which is incorporated herein by reference. Specific questions regarding the requirements of the Massachusetts Electrical Code may be directed to the Town of Framingham Electrical Inspector.

**24.9 House Rules & Supervision:**

Licensees and their agent (s) must:

1. Exercise due care in the selection of lodgers.
2. Inspect all common areas at least daily and all occupied rooms at every change of lodger to insure that all such areas are in a clean and orderly condition and without violation of regulations pertaining to obstruction of egress, cooking in rooms, and other health and safety hazards. A schedule of inspections must be posted at least forty-eight hours prior to said inspection. Posting of the schedule for inspections shall not apply in the case of an emergency.
3. Institute and enforce such house rules as are necessary to prevent the lodging house from being a cause of nuisance or annoyance to the neighborhood.
4. Ensure that House Rules are in writing and at a minimum contain rules adequate to address the following matters:
  - a. Noise Control including use of audio or other equipment which may disturb the peace ;
  - b. Disorderly behavior;
  - c. Adherence to this Bylaw and the consequences for repeated violations;
  - d. Proper garbage disposal; and
  - e. Cleanliness of rooming units and common areas.
5. File a copy of the House Rules with the Board of Selectmen as part of the Licensee's license application or renewal thereof.
6. Post a copy of the House Rules in a common area of the lodging house.
7. Provide every lodger who intends to remain for thirty (30) days or more with a copy of the house rules.
8. Meet with the lodgers at least annually to discuss house rules.
9. Take whatever steps necessary to stop Lodger(s) from repeatedly violating

house rules or the requirements of this Bylaw, up to and including eviction.

**24.10 Housekeeping**

It shall be the duty of the licensee and/or his/her agent to provide or cause to be provided:

1. Daily cleaning of all common bathroom facilities and of community kitchen or laundry facilities,
2. Cleaning of all occupied rooms and private bathroom facilities at the change of each lodger or as otherwise necessary for sanitary purposes.
3. Cleaning, as necessary, of all other common areas.

**24.11 Storage, Collection & Disposal of Waste**

The Licensee and his/her agent (s) shall comply with the Town of Framingham's Regulations Governing the Handling, Storage Collection and Disposal of Waste and all other state or local laws pertaining to the proper storage, collection and disposal of waste. Responsibilities of the Licensee and Agent (s) include but are not limited to following:

1. Storing waste in watertight, rodent-proof receptacles with tight fitting covers.
2. Providing as many receptacles as are sufficient to contain accumulation of all waste before final collection.
3. Locating waste containers in an area where objectionable odors will not enter any dwellings, preferably in the rear of the building.
4. Informing all lodgers of the rules regarding proper storage, collection and disposal of waste.
5. Placing waste for collection in the designated location no earlier than 6:00 am on the day of the scheduled collection.
6. Removing all empty containers of any kind from the area of collection no later than midnight of the collection day.

**24.12 Egress Facilities**

The egress shall allow every lodger to reach the outside at ground level by a second way of egress if the principal or customary egress is blocked by fire or smoke, or is otherwise obstructed.

**24.13 (Deleted by the Attorney General, November 5, 2007)**

**24.14 Approved Fire Escape**

No obstruction shall be permitted in the path of egress to a fire escape. Fire escapes are to be used for emergency purposes only. Use of fire escapes for general access to rooms is strictly prohibited.

**24.15 (Deleted by the Attorney General, November 5, 2007)**

**24.16 Emergency Lighting**

Approved emergency lighting shall be provided along ways of egress. The number, type and location of emergency lighting units shall be as designated by the Building Commissioner.

**24.17 (Deleted by the Attorney General, November 5, 2007)**

**24.18 Portable Fire Extinguishers**

Portable fire extinguishers of a type and capacity approved by the Chief of the Fire Department, shall be provided for each story and basement, one for each 2500 square feet of the floor area or portion thereof and maintained in a fully charged and operable condition at all times and kept in their designated places when not being used.

Such fire extinguishers shall be inspected and serviced annually and after use in accordance with NFPA 10. Fire extinguishers shall be conspicuously located where they will be readily accessible and immediately available in the event of fire. Preferably they shall be located along normal paths of travel, including exits from areas. Fire extinguishers shall not be obstructed or obscured from view.

Portable fire extinguishers other than wheeled types shall be securely installed on the hanger or in a bracket shall be securely and properly anchored in the bracket supplied, placed in cabinets or wall recesses. The hanger or bracket shall be securely and properly anchored to the mounting surface in accordance with the manufacturer's instructions.

**24.19 (Deleted by the Attorney General, November 5, 2007)**

**24.20 Hazardous Areas and Combustible Storage**

The Building Commissioner or the Fire Chief may require that kitchens, work shops, heater rooms, storerooms containing combustible materials, or other areas constituting a special hazard be protected by additional approved portable fire extinguishing equipment, or other means as directed. Combustible or flammable material shall not be placed, stored or kept in any portion of an exit or elevator car or hoist way or at the bottom of a stairway, fire escape or other means of escape.

**24.21 Cooking in Rooms**

The use of electric hot plates, gas plates, stoves using sterno or other fuel, electric percolators, grills, and toasters, are prohibited in any room other than a kitchen approved by the Building Commissioner.

Lodgers may use microwaves in their rooming units with the approval of the Licensee. The use of appliances for the preparing or serving of food shall not be permitted in rooms used for sleeping.

**24.22 Portable Heaters**

The use of portable heaters is strictly prohibited.

**24.23 Heating Systems**

The owner shall provide and maintain in good operating condition the facilities for heating every habitable room and every room containing a toilet, shower or bathtub to such temperature as required by the State Health code.

Central heating systems shall be provided with all the safety devices required for new installations under all applicable laws, by-laws, and regulations of any authority having jurisdiction thereof. The heater should be located in an area suitably ventilated to ensure the safe operation of the heater or burner.

#### **24.24 Maintenance**

1. The building and all parts thereof shall be kept in good general repair and properly maintained. All exterior surfaces shall be kept painted where necessary for the purposes of preservation of structural elements or appearance. Interior walls and ceilings shall be periodically refinished in order to maintain such surfaces free from stains, marks or visible foreign matter.
2. All outdoor areas not devoted to walks and drives or otherwise paved shall be landscaped and adequately maintained to prevent overgrowth of unsightly conditions.
3. Outdoor walks, drives and exterior ways of egress shall be kept unobstructed, free of litter, and clean. Accumulation of ice and snow shall be removed from such areas, including required ways of egress to provide safe walking surfaces and shall be removed.
4. The exterior front entrance will be provided with adequate illumination and the property address number will be maintained in a clear visible location on or near the front entrance.

#### **24.25 Automatic Fire Alarm System**

Fire protection systems shall not be disconnected or otherwise rendered unserviceable without first notifying the fire department. The design, installation and performance of required fire warning systems, pursuant to M.G.L. c.148, sec. 26C, shall be in accordance with NFPA 72.

#### **24.26 Care and Maintenance of Fire Protection System**

The Licensee shall be responsible for the care and maintenance of all fire protection systems, including equipment and devices, to insure the safety the safety and welfare of the lodgers. If required fire protection systems are temporarily out-of service for maintenance or repair, the licensee or his/her agent (s) shall immediately advise the fire department and shall diligently restore the system to working order. Installation of, or modification to, any automatic fire protection system shall require a permit from the Chief of the Fire Department or his/her designee.

Aisles, floors, halls, stairways, fire escapes, doors and windows shall be kept in good repair and ready for use, and shall be kept properly lighted.

No person shall shut off, disconnect, obstruct, remove or destroy, or cause or permit to be shut off, disconnected, obstructed, removed or destroyed, any part of any sprinkler system, water main, hydrant or other device used for fire protection in any building owned, leased or occupied by such person under his control or supervision, without first procuring a written permit to do so from the Chief of the Fire Department or his/her designee.

#### **24.27 Egress From and Access to a Building**

Any obstacle, which may interfere with the means of egress or escape from any building or other premises, or with the access of any part of said building or premises by the fire department in the case of fire, shall be removed from aisles, floors, halls, stairways and fire escapes. Doors and windows designated as exits shall be kept clear at all times.

No person shall at any time place encumbrance of any kind before or upon any fire escape, balcony or ladder intended as a means of escape from fire. The means of egress from each part of the building, including stairways, egress doors, and any panic hardware installed thereon, aisles, corridors, passageways and similar elements of the means of egress, shall at all times be maintained in a safe condition and shall be available for immediate use and free of all obstructions.

All exterior bridges, steel or wooden stairways, fire escape and egress balconies shall be maintained in accordance with 780 CMR 1028.0 and shall be examined and or tested, and certified for structural adequacy and safety every five years, by a Massachusetts registered professional engineer, or others qualified and acceptable to the Building Commissioner or his/her designee. The engineer or other party shall after inspection submit an affidavit to the building department.

#### **24.28 Conflict With Other Laws or Regulations**

Whenever any provision of this Bylaw is in conflict with another law, by-law or regulation, the more restrictive provision shall apply, unless a contrary intent is clearly stated.

#### **24.29 Certificates of Inspection**

The Board of Selectmen may require certificates of inspection certifying compliance with the various requirements of this Bylaw, in addition to the required minimum yearly inspection pursuant to 780 CMR Table 106.

#### **24.30 Severability of Provisions**

The invalidity of any provision of this Bylaw shall not affect the validity of the remaining sections of this Bylaw, if so declared by a Court of competent jurisdiction.

#### **24.31 Penalty**

The Board of Selectmen and its agents including any police officer of the Town of Framingham shall be charged with the authority to enforce the terms of this Bylaw, in addition to the authority provided to the Board of Selectmen pursuant to the provisions of G.L. c. 140, § 22, et seq. to award, restrict, revoke and otherwise regulate licenses to operate lodging houses.

Any person violating any provision of this Bylaw shall be punished by a fine of three hundred dollars (\$300.00) per violation. Each day that the violation continues shall constitute a separate offense. As an alternative to initiating criminal proceedings, the Board of Selectmen Agent may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, § 21D and Article X of the General Bylaws. For purposes of non-criminal disposition, the penalty shall be three hundred dollars (\$300.00) for each offense.

### **Section 25. Right to Farm**

#### **25.1 Legislative Purpose and Intent**

25.1.1 The purpose and intent of this Bylaw is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under the Constitution and all state statutes and regulations.

25.1.2 This Bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Framingham by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This bylaw shall apply to all jurisdictional areas within the Town.

## **25.2 Definitions**

25.2.1 The word “farm” shall include any parcel or contiguous parcels of land or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

25.2.2 The words “farming” or “agriculture” or their derivatives shall include, but not be limited to the following:

- (a) farming in all its branches and the cultivation and tillage of the soil.
- (b) dairying;
- (c) production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- (d) growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- (e) raising of livestock including horses;
- (f) keeping of horses as a commercial enterprise; and keeping and raising of poultry, swine, cattle, bovine, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes including bees and fur-bearing animals.

25.2.3 “Farming” shall encompass activities including, but not limited to, the following:

- (a) operation and transportation of slow-moving farm equipment over roads within the town;
- (b) control of pests, including, but not limited to, insect, weeds, predators and disease organism of plants and animals;
- (c) application of manure, fertilizers and pesticides;
- (d) conducting agriculture-related educational and farm based recreational activities including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- (e) processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand including signage thereto;
- (f) maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- (g) on-farm relocation of earth and the clearing of ground for farming operations.

## **25.3 Right To Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Framingham. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to

the neighborhood, community, and society in general. The benefits and protections of this bylaw are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

#### **25.4 Disclosure Notification**

25.4.1 Within 30 days after this Bylaw becomes effective, the Board of Selectmen shall prominently post in the Town Hall and make available for distribution the following disclosure:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances.”

25.4.2 In addition to the above, a copy of this disclosure notification shall be available in a public area at Town Hall and periodically provided by the Town to landowners by mail.

#### **25.5 Resolution of Disputes**

25.5.1 Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Board of Selectmen may forward a copy of the grievance to the Agricultural Advisory Committee or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

25.5.2 The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Advisory Committee or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon timeframe.

## **Section 26. Illicit Discharges to Municipal Separate Storm Sewer System**

### **26.1 Purpose**

The purpose of the bylaw is to eliminate non-stormwater discharges to the Town of Framingham's municipal separate storm sewer system. Non-stormwater discharges contain contaminants and supply additional flows to the Town's storm drain system. Both increased and contaminated stormwater runoff are major causes of:

- (1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- (2) contamination of drinking water supplies;
- (3) alteration or destruction of aquatic and wildlife habitat; and
- (4) flooding.

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

The objectives of the bylaw are:

- (1) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
- (2) To prohibit illicit connections and unauthorized discharges to the MS4;
- (3) To require the removal of all such illicit connections;
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of the bylaw through inspection, monitoring, and enforcement.

### **26.2 Definitions**

Unless a different definition is indicated in other sections of this bylaw, the following definitions and provisions shall apply throughout this article, also referred to in this article, as this bylaw.

**Applicable Authority:** The employees and/or agents of the Department of Public Works, Department of Conservation, Department of Building Inspection, and Board of Health designated to enforce this bylaw.

**Best Management Practice (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**Clean Water Act:** The Federal Water Pollution Control Act (33 U.S.C. sec. 1251 et seq.) as hereafter amended.

**Discharge of Pollutants:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the Wetland Resource Areas from any source.

**Discharger:** A person or persons who discharge any pollutant or combination of pollutants into the municipal storm drain system or into the Wetland Resource Areas from any source.

**Groundwater:** Water beneath the surface of the ground.

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

**Illicit Discharge:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater except as exempted herein.

**Illicit Discharge Detection and Elimination (IDDE):** One of six Minimum Control Measures regulated under the Town's NPDES Phase II MS4 Permit. The federal regulation governing implementation of the IDDE program under this permit is Section (b)(3) of CFR 122.34, "Storm Water Phase II Regulations."

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

**Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Framingham.

**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit:** A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes and regulates the discharge of pollutants to waters of the United States.

**Non-Stormwater Discharge:** Discharge to the municipal storm drain system not composed entirely of stormwater.

**Notice of Violation:** A written notice given to a person by the Applicable Authority that states that said person has violated this bylaw on any specified occasion.

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

**Pollutant:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any Wetland Resource Areas. Effluent waters from dewatering operations are adequately regulated under NPDES. Pollutants shall include without limitation:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes;
- (7) sewage, fecal coliform and pathogens;
- (8) dissolved and particulate metals;
- (9) animal wastes;
- (10) rock, sand, salt soils;
- (11) construction wastes and residues; and
- (12) noxious or offensive matter of any kind
- (13) vegetable oil and waste vegetable oil.

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

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

**Stormwater:** Runoff from precipitation or snow melt.

**Toxic or Hazardous Material or Waste:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment as defined under G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under these laws and regulations.

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

**Wetland Resource Areas:** All wetlands and watercourses protected under the Massachusetts Wetlands Protection Act and the Framingham Wetlands Protection Bylaw.

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

### **26.3 Applicability**

This bylaw shall apply to flows entering the municipally owned storm drainage system, a watercourse, and any Wetland Resource Areas located within the boundaries of the Town of Framingham.

### **26.4 Authority**

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

### **26.5 Responsibility for Administration**

The Applicable Authority shall administer, implement and enforce this bylaw.

### **26.6 Regulations**

The Applicable Authority may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Applicable Authority to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

### **26.7 Prohibited Activities**

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

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

Obstruction of Municipal Storm Drain System (MS4). No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior consent from the Applicable Authority. No person shall dump or dispose of yard waste (leaves, grass clippings, etc.) into the open watercourses (swales, brooks and streams) that make up the MS4.

Other Prohibited Activities.

- (1) No person shall discharge, or cause to be discharged, water or any other liquid, on to the streets, sidewalks, or ways of the Town in such a manner as to cause an obstruction of traffic or to endanger travel by freezing or otherwise.
- (2) Drains – No one shall tie any pump, cellar, yard, roof or area drain directly into the storm water drainage system without approval from the Applicable Authority.
- (3) Catch Basins – No person shall directly or indirectly pump, discharge or cause or allow to be discharged into any catchbasin, any solid waste, construction debris, paint or paint product, antifreeze, hazardous waste, oil, gasoline, grease and all other automotive and petroleum products, solvents and degreasers, drain cleaners, commercial and household cleaners, soap, detergent, ammonia, food and food waste, grease or yard waste, animal feces, dirt, sand gravel or other pollutant. Any person determined by the Applicable Authority to be responsible for the discharge of any of the above substances to a catchbasin and any other portions of the storm water system impacted according to Town standards and requirements or paying the cost for such cleaning. In addition, the person shall be responsible for paying any penalties assessed by the Town.
- (4) Septage – No person shall discharge or cause or allow to be discharged any septage, or septage tank or cesspool overflow into the Town’s storm water drainage system.
- (5) Storage & Disposal of Hazardous Material – No one shall dispose of anything other than clear water into the Town’s storm drainage system. The disposal of waste, gasoline or any other hazardous material into the storm drainage system is strictly prohibited and is in violation of state and federal pollution laws.
- (6) Private Drainage Systems – It is prohibited for anyone with a private drainage system from tying into the public storm water disposal system without written approval from the Applicable Authority. The maintenance of any and all private drainage systems shall be the responsibility of the owners.

## **26.8 Exemptions**

Discharges or flows resulting from fire fighting activities or other authorized hydrant use are exempt.

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

- (1) Waterline flushing;
- (2) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (3) Discharge from landscape irrigation or lawn watering;
- (4) Water from individual residential car washing;
- (5) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week following last chlorination prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (6) Discharge from street sweeping;

- (7) Flow from potable water sources;
- (8) Springs;
- (9) Natural flow from riparian habitats and wetlands;
- (10) Diverted stream flow;
- (11) Rising groundwater;
- (12) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump), provided that the operator seeks written approval from the Applicable Authority prior to discharge, and thereafter discharges in accordance with the applicable laws and regulations to be issued by the Applicable Authority;
- (13) Dye testing, provided verbal notification is given to the Applicable Authority prior to the time of the test;
- (14) Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the written approval, waiver, or order and applicable laws and regulations; and
- (15) Discharge for which advanced written approval is received from the Applicable Authority as necessary to protect the public interest.

## **26.9 Emergency Suspension of Storm Drainage System Access**

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

A person commits an offense if the person reinstates water service, sanitary sewer service, and or MS4 access to premises terminated pursuant to this bylaw, without the prior written approval of the Applicable Authority.

## **26.10 Industrial or Construction Activity Discharges**

### **NPDES Stormwater Permit**

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

### **Monitoring of Discharges**

Upon notice of an alleged illicit discharge or connection, the Applicable Authority have the right to investigate any facility that has storm water discharges associated with industrial activity, including construction activity. The exercise of this right does not constitute a replacement or substitution for enforcement by federal or state agencies for facilities that are adequately regulated either under a NPDES permit or, if a violation is determined to have occurred, under 310 CMR 40.00, the Massachusetts Contingency Plan.

### **Watercourse Protection**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Failure by the property owner to maintain the watercourse does not constitute an obligation on the part of the Town to assume this responsibility.

#### **26.11 Notification of Spills**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or Wetland Resource Areas, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments. In the event of a release of non-hazardous materials, the reporting person shall notify the Applicable Authority not later than the next business day. The reporting person shall provide to the Applicable Authority written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

#### **26.12 Enforcement**

The Applicable Authority or an authorized agent of the Applicable Authority shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

#### **26.13 Entry to Perform Duties**

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Applicable Authority may enter upon privately owned property for the purpose of performing their duties under these regulations and may make or cause to be made such examinations, surveys or sampling as the Applicable Authority deems reasonably necessary.

#### **26.14 Civil Relief**

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

#### **26.15 Orders**

The Applicable Authority may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; (d) remediation of contamination in connection therewith; and (e) implementation of source control or treatment BMPs.

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

Within thirty (30) days after completing all measures necessary to abet the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town,

including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Applicable Authority within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Applicable Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall be accruing on any unpaid costs at the statutory rate provided in G.L. Ch. 59, Sec. 57 after the thirty-first day at which the costs first become due.

#### **26.16 Non-Criminal Disposition**

As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, sec. 21D in which case the Applicable Authority shall be the enforcing person. For non-criminal disposition, the penalty for the first violation shall be \$100.00, the penalty for the second violation shall be \$200.00, and the penalty for the third and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

#### **26.17 Criminal Penalty**

Any person who violates any provision of this bylaw, regulation, order or written approval issued thereunder, shall be punished by a fine not to exceed \$300.00 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

#### **26.18 Appeals**

The decisions or orders of the Applicable Authority shall be final. Further relief shall be to a court of competent jurisdiction.

#### **26.19 Remedies Not Exclusive**

The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

#### **26.20 Severability**

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

Residential property owners shall have 90 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

**Section 27. (Intentionally Left Blank)**

### **Section 28. Tax Title Payment Agreements**

#### **28.1 Purpose**

Pursuant to M.G.L. c. 60, §62A and the terms set forth in this Article V, Section 28 of the General Bylaws, the Town is authorized but not required to offer tax title payment agreements to persons entitled to redeem parcels in tax title.

#### **28.2 Subject Properties**

Property which may be the subject of tax title payment agreements pursuant to this section must:

- (a) Be a site or portion of a site from or at which there has been a release of oil or hazardous material;
- (b) Be owned by a person not otherwise eligible to utilize Article V, Section 20 of the General Bylaws related to Brownfields Tax Abatement Agreements;
- (c) Be zoned for commercial or industrial use; and
- (d) Be the subject of a clean-up and remediation plan that at a minimum complies with M.G.L. c. 21E and the Massachusetts Contingency Plan, 310 CMR 40.0000 (the "MCP") and which allows for the continued use of the property for commercial or industrial uses. The compliance of said clean-up and remediation plan shall be ascertained by the Town's Licensed Site Professional or equivalent paid for by the property owner, and shall be confirmed in writing by the Town Manager or his/her designee.

### **28.3 Payment Agreements**

28.3.1 The Treasurer or Chief Financial Officer is hereby authorized to negotiate agreements for the reduction of interest that has accrued on the amount of the tax title account (hereinafter, "Payment Agreements") with owners of eligible properties, the terms of which Payment Agreements shall be subject to approval by the Board of Selectmen for reductions not exceeding \$500,000. Reductions above this amount shall also be subject to approval of Town Meeting.

28.3.2 Payment Agreements may allow for the reduction of not more than thirty-five percent (35%) of the interest that has accrued on the tax title account.

28.3.3 Such Payment Agreements shall be for a maximum term of no more than three (3) years and require a minimum payment at the inception of the agreement of twenty-five percent (25%) of the total amount needed to redeem the parcel.

28.3.4 During the term of the Payment Agreement, the Treasurer or Chief Financial Officer may not bring an action to foreclose the tax title unless payments are not made in accordance with the schedule set out in the Payment Agreement or timely payments are not made on other amounts due to the Town relative to the same parcel.

28.3.5 Payment Agreements shall include, but not be limited to:

- (a) The amount of outstanding real estate taxes;
- (b) The statutory interest to accrue;
- (c) The description of quantifiable monthly payments;
- (d) The inception date of monthly payments;
- (e) The date of the final payment;

- (f) Contractual late fees to be imposed;
- (g) The amount and percentage of the reduction of interest (not to exceed 35%) that will occur provided that the recipient complies with all terms of the Payment Agreement;
- (h) A statement that any reduction in the interest authorized by this subsection shall be contingent upon the recipient's fulfillment of all terms of the Payment Agreement, including making all payments required by such Payment Agreement in a timely manner;
- (i) Such Payment Agreement shall further provide that all interest and penalties will become due in full should the recipient fail to comply with all terms of the Payment Agreement;
- (j) A requirement that the property owner will provide the Town with a copy of all reports submitted to the Massachusetts Department of Environmental Protection within seven (7) days of receipt;
- (k) A requirement that the property owner will pay for the services of a Licensed Site Professional ("LSP") or equivalent, retained by the Town to assist the Town in evaluating whether the clean-up and remediation plan for the property at a minimum complies with M.G.L. c. 21E and the Massachusetts Contingency Plan, 310 CMR 40.0000 (the "MCP") and which allows for the continued use of the entire property for commercial or industrial uses. The amount of such payment shall be agreed upon between the Town and the property owner; and
- (l) Any and all other contractual terms as arranged between the Treasurer or Chief Financial Officer and the property owner, and as approved by the Board of Selectmen and Town Meeting as set forth in Section 28.3.1 herein.

28.4 All Payment Agreements shall be signed by the Chairman of the Board of Selectmen and the property owner, whose signatures shall be notarized.

28.5 Copies of all Payment Agreements shall be provided to the Board of Selectmen and the property owner.