

Article V

Health and Safety

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Section 1. Alcoholic Beverages

1.1 Introduction

1.1.1 This Ordinance relative to Alcoholic Beverages (“Bylaw”) is promulgated to memorialize, enumerate and describe the authority of the Board of License Commissioners, serving as the City 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 Ordinance and the City 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 City 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 Ordinance, and to establish reasonable fees therefore. The Board may from time to time adopt Rules and Regulations relative to the business of persons licensed by them under the General Laws or this Ordinance 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 Board shall be provided in writing to all applicants for such licenses. The Board 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 Ordinance and the Rules and Regulations as described herein. Failure to comply with Chapter 138, the Massachusetts General Laws, this Ordinance 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 Ordinance:

- 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 City 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 City of Framingham Ordinances.

1.3.2 Availability of rules and regulations. All licensees shall ensure that a copy of the City’s Rules and Regulations and the applicable regulations promulgated by the 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

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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 Ordinance 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 except that the sampling and sale of wine and beer during an event held on City property is permitted if the vendor is duly licensed for such event by the Board of License and in accordance with the applicable provisions of state law, including General Laws, Chapter 138, Section 15F. 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.

1.5 Prohibition of Consumption or Ingestion of Marijuana or Tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended), Cannabinoids or Products Containing the Same in Public Places

1.5.1 Ingestion of marijuana in public places is prohibited

Smoking, ingesting, or otherwise using or consuming marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, §1, as amended), cannabinoids or products containing the same is hereby prohibited in Framingham in enclosed or outdoor space belonging to, or maintained by, healthcare facilities, public places, public transportation vehicles, retail stores, retail food stores, smoking bars, retail tobacco stores, membership associations also known as private clubs, food establishments licensed and/or permitted by the Board of Health of the City of Framingham, or bar rooms licensed and/or permitted by the Board of Health and/or council of the City of Framingham, in accordance with M.G.L. c. 270, §22, or while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, pond, lake, river, waterway, public building, schoolhouse, school grounds, cemetery, parking lot, parking garage, or parking area or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

1.5.2 Marijuana kept or cultivated for personal use shall be secured by lock

Marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, § 1, as amended), cannabinoids or products containing the same shall be kept in a locked container. Marijuana plants cultivated for personal use shall be kept in an enclosed area that is secured by lock.

1.5.3 Non-criminal Disposition

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This Ordinance may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. c. 40 § 21, or by noncriminal disposition pursuant to M.G.L. c. 40 § 21D, by the mayor, council, or their duly authorized agents, or any police officer. The fine for violation of this bylaw shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under M.G.L. c. 94C, § 32L.

1.5.4 [Reserved]

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 mayor, at the recommendation of the Building Commissioner, 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 (\$200) for such violation.

Section 4. Framingham Emergency Management Agency

4.1 There is hereby established the Framingham Emergency Management Agency (FEMA). 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 City 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)/Regional Emergency Planning Committee (REPC)

It shall be the function of the Framingham Emergency Management Agency to have charge of the Local Emergency Planning Committee (LEPC) or to affiliate with a Regional Emergency Planning Committee (REPC) 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 or Regional 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 city'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 City 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 mayor.

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The Director shall have direct responsibility for the organization and for the administration of the Agency, subject to the direction and control of the mayor. The Director may, within the limits of the amount appropriated therefore, and subject to the approval of the mayor, 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 mayor, to appoint district coordinators and may accept and may receive, on behalf of the City, 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 mayor 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 Board of License Commissioners. The fee for each license granted under this section shall be fifty dollars (\$50) 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. Accessible Parking

9.1 Designated parking spaces shall be provided in public and private off street parking areas for vehicles owned and operated by persons with disabilities, 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 person with a disability whose vehicle bears the distinguishing license plate or placard authorized by Chapter 90, Section 2 according to the following formula:

Total Spaces	Required Accessible Spaces
1-25	1 Space
26-50	2 Spaces
51-75	3 Spaces
76-100	4 Spaces
101-150	5 Spaces

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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

- One in six (6) designated accessible spaces but not less than one shall be van accessible.
- Outpatient Medical Facilities: 10% of Total Spaces
- Facilities specializing in the treatment or services for people with mobility impairments: 20% of Total Spaces
- Parking for multiple dwellings, including residential condominiums, are subject to all provisions of the Architectural Access Board regulations (521 CMR) and this ordinance.

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 or structure. The top of the sign shall not be lower than 5 feet from the ground, nor more than 8 feet from the ground. Signs shall show the "International Symbol of Access" and may have the words "Accessible Parking: Special Plate Required, Unauthorized Vehicles May Be Removed At Owners Expense" in white on a blue background. A smaller sign may be added indicating the fine amount in Section 9.3.2.

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 person with a disability, 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.

Centered at the head of the eight (8) foot striped access aisle an additional sign shall be posted stating "No Parking Anytime". The sign shall not obstruct the accessible route at the head of the access aisle.

Alternatively, all spaces may be universal spaces, 11 feet wide with an access aisle 5 feet wide.

Accessible spaces shall be marked by high contrast painted lines or other high contrast delineation. Access aisles shall be clearly marked by means of diagonal stripes. The signs and pavement marking shall be maintained in a timely manner.

9.2

9.2.1 No person shall leave any unauthorized vehicle within parking spaces designated for use by persons with disabilities as authorized by Section 9. 1 hereof or in such a manner as to obstruct a curb ramp designated for use by persons with disabilities as a means of egress to a street or public way. The cross hatch area abutting an Accessible Parking space shall, for the purposes of this section, be considered a part of the Accessible Parking space.

9.2.2 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 Handicap Parking (HP) plates or placards shall be responsible for exercising reasonable

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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. If snow stops falling after sunrise (during daylight hours), property owners will have until 10 p.m. that same day to clear the HP parking spaces, sidewalks, and curb cuts. If snow stops falling after sunset (overnight), property owners will have until 10 a.m. the next day to clear the HP parking spaces, sidewalks, and curb cuts.

- 9.3** The penalty for violation of this Ordinance shall be as follows:
- 9.3.1** Violations of Section 9.1.1 or 9.1.2 shall be three hundred dollars (\$300.00) 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 9.2.1 shall be three hundred dollars (\$300) for each offense, and the vehicle may be removed according to the provisions of Massachusetts General Law Chapter 266, Section 120D.
- 9.3.3** Violations of Section 9.2.2 shall be three hundred dollars (\$300.00) for each day the violation remains after a written warning has been issued. The written warning shall be good for ninety (90) days.
- 9.4** Violations of Section 9.1.1 and 9.1.2 and 9.2.2 shall be enforced by the Inspectional Services Department. Violations of Section 9.2.1 shall be enforced by the Police Department.
- 9.5** Appeals may be made to the Massachusetts Architectural Access Board (AAB) for Variances from AAB rules and regulations. For relief from the current American with Disabilities Act (ADA), contact the Department of Justice for their Variance process.
- 9.6** All funds received from fines for Accessible Parking violations shall be deposited by the City Treasurer into a separate account and shall be solely used for the benefit of persons with disabilities. Said account shall be established by the City 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 council and mayor. The City Accountant shall submit annually a report of said account to the mayor and council for review.

Section 10. Hunting Ordinances

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

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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 City of Framingham, except with the consent of the mayor 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 City 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 Ordinance 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 City 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 Ordinance shall be punished by a fine not to exceed three hundred dollars (\$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.

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Any violation of Section 12.2 shall be punished by a fine of not more than one hundred dollars (\$100) 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 Ordinance 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 Ordinance 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 fifty dollars (\$50). For purposes of this Ordinance, 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 Ordinance 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 fifty dollars (\$50) for each violation. In case of continuing violation, every calendar day upon which a store shall remain open in violation of this Ordinance shall be deemed a separate offense.

13.3 The provisions of this Ordinance may be waived by the mayor if they determine 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 dollars (\$200) 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 Ordinance 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

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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 City shall have the authority, for the purposes of removing or plowing snow, or removing ice from any way in the City, 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 City, until such reasonable costs shall be paid.

15.4 Whenever any vehicle is so removed, the Framingham Police Department 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 Ordinance.

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 City's streets, ways, sidewalks, or land, except with the approval of the director of Public Works or his designee. Notwithstanding the foregoing, this Ordinance 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 Ordinance 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 Department Construction Supervisors, all Framingham Police Officers, and other City employees from time to time designated by the Director of Public Works are empowered and authorized to enforce this Ordinance.

Section 16. Vinyl Chloride Ordinance

16.1 No person shall temporarily store rail cars containing liquefied vinyl chloride within the City of Framingham without first obtaining a license for said purpose from the Board of License Commissioners. For purposes of this Ordinance, (i) a rail car will be deemed stored or in storage if it remains within the City 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

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shall be granted by the Board of License Commissioners 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 Ordinance may be suspended or revoked by the Board of License Commissioners 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 License Commissioners 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;

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- 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 City 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 City may assess a fine of two hundred dollars (\$200) for each violation of subsection 16.2 hereof.
- 16.4** Provisions of this Vinyl Chloride Ordinance requiring a valid, effective license to store temporarily rail cars containing liquefied vinyl chloride after they have been in the City 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 Ordinance until the United States Secretary of Transportation determines those requirements of the Ordinance that are not preempted by the aforesaid Act. 49 U.S.C. s 1811 (b). 49 CFR 107.215-.225

Section 17. Activities on City Property

No person shall engage in golfing on any City-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 Ordinance shall be fifty dollars (\$50).

Section 18. Framingham Wetlands Protection Ordinance

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 Ordinance is to protect the wetlands, related water resources, and adjoining land areas, and provide Open Space for passive recreation and education in the City 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

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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 Ordinance").

18.2 Jurisdiction

Except as permitted by the Conservation Commission or as provided by this Ordinance, 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 Ordinance, 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 Ordinance shall apply to: (1) activities lawfully completed prior to the effective date of this Ordinance, 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 Ordinance 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, sewer, 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 Ordinance 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 Ordinance. Failure to meet these and other requirements of the Conservation Commission may, after appropriate process as provided by this Ordinance 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 Ordinance 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.

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- (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 Ordinance, such activities are NOT exempt from the permit and application requirements of the Ordinance.

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 Ordinance affecting resource areas protected by this Ordinance. 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 Ordinance.

DETERMINATIONS: Any person desiring to know whether or not a proposed activity and/or an area is subject to this Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance Regulations.

All fees collected pursuant to this Ordinance shall be deposited into the Conservation Commission Revolving Fund, established pursuant to G.L.c.44, §53E ½.

18.5 Notice of Hearings

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The applicant filing a Notice of Intent application for a permit under the provisions of this Ordinance shall give written notice by Certified Mail, Return Receipt Request, Certificate of Mailing, or by hand-delivery to all abutters within one hundred 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 Ordinance 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 Ordinance 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 Ordinance, 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 Ordinance; 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 Ordinance; 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 Ordinance 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.

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The Conservation Commission in an appropriate case may combine the permit or other action on an application issued under this Ordinance 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 Ordinance.

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 Ordinance. 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 Ordinance.

18.9 Definitions

Except as specifically provided by these Regulations and the Ordinance, terms used in the regulations and the Ordinance 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 Ordinance.

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.

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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.

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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

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- 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 Ordinance (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 Ordinance or on a form designed under this Ordinance.

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 Ordinance.

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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, 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 Ordinance. It shall be made on Form 2 of 310 CMR 10.99, modified to reference this Ordinance or on a form designed under this Ordinance.
- 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 Ordinance. It shall be made as part of the Order, on Form 5 of 310 CMR 10.99, modified to reference this Ordinance or on a form designed under this Ordinance.
- 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 Ordinance. It shall be made as part of the Order, on Form 6 of 310 CMR 10.99, modified to reference this Ordinance or on a form designed under this Ordinance.

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 Ordinance or on a form designed under this Ordinance.

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 Ordinance for activities in or affecting each of the Areas Subject to Protection Under this Ordinance.

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.

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Interests Identified in this Ordinance 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 Ordinance. It shall be made on Form 3 or 4 of 310 CMR 10.99, modified to reference this Ordinance or on a form designed under this Ordinance.

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 Ordinance or on a form designed under this Ordinance.

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 Ordinance.

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 Ordinance or to determine the impact of the proposed work upon the interests identified in the Ordinance.

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

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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 Ordinance:

- 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 Ordinance or on a form designed under this Ordinance.

Resource Area means any of the areas specified in this Ordinance. It is used synonymously with Area Subject to Protection Under this Ordinance, 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.

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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 Ordinance, 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 City 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 Ordinance and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems necessary.

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The Conservation Commission shall have the authority to enforce this Ordinance, its regulation, and permits issued thereunder by violation notices, administrative order, and civil and criminal court actions. Upon request of the Conservation Commission, the mayor and the City Solicitor 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 Ordinance, or permits issued thereunder, shall be punished by a fine of not more than three hundred dollars (\$300) each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the Ordinance, 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 Ordinance. 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 Ordinance 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 Ordinance shall be punished as follows:

- First Offense Written Warning
- Second and Subsequent Offense Twenty Dollar (\$20) Fine

Any violator of this Ordinance 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

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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 Ordinance 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 council.

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 mayor and the property owner, whose signatures shall be notarized, and attested to by the City 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 mayor, and the property owner.

Section 21. Demolition Delay Ordinance for Historically or Architecturally Significant Buildings in the City of Framingham, MA.

21.1 Intent and Purpose

This Ordinance is enacted for the purpose of protecting and preserving significant buildings within the City 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 City, 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 City. 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

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of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided by this Ordinance.

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 seventy five (75) 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 City, 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 seventy five (75) years or more old shall be issued other than in conformity with the provisions of this Ordinance, 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 seventy five (75) 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

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- (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 seventy five (75) 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 City not less than seven (7) days before the day of said hearing and shall be posted in a conspicuous place in the City 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

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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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance do so conflict, that act shall prevail.

Section 22. Nuisance Ordinance

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 Ordinance is adopted for the prevention of future nuisances and the removal of existing nuisances within the City, which nuisances constitute a hazard of blight, or adversely affect property values.

22.2 Definitions

22.2.1 Blight

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

22.2.2 Building

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

22.2.3 Dilapidated

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

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

22.2.4 Hazard

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

22.2.5 Interested Parties

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

22.2.6 Nuisance

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

- (a) burned structures not otherwise lawfully habitable or usable,
- (b) dilapidated real or personal property including but not limited to real or personal property containing graffiti, tagging or similar markings,
- (c) dilapidated real or personal property including parking lots or parking areas,
- (d) dangerous or unsafe structures or personal property,
- (e) 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,

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- (f) dead, decayed, diseased or hazardous trees,
- (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 are likely to 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) trash , debris or personal property, including but not limited to personal property marked “free” or “take” that has been placed for collection as rubbish or refuse in violation of Town of Framingham policies as approved by the Director of Public Works.

22.2.7 Occupant

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

22.2.8 Owner

Every person who alone or jointly or severally with others:

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

22.2.9 Responsible Party

The owner or occupant (in the case of real property) of property that is the subject of proceedings under this Ordinance. 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.

22.3.1 Enforcement

This Ordinance shall be enforced by the Building Commissioner. If the Building Commissioner shall be informed or have reason to believe that any provision of this Ordinance has been, is being, or is likely to be violated, he shall make or cause to be made an investigation of the facts, including an investigation of the property where the violation may exist. If he finds any violation he shall give immediate notice in writing to the Owner and to the Occupant of the premises to immediately cease such violation. In making such inspection, the Building Commissioner shall have such right of access to

premises that may be lawfully exercised by him under the laws and constitution of the Commonwealth or of the United States.

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

In addition to the foregoing remedy, whoever violates any provision of this Ordinance or fails to obey any lawful order issued by the Building Commissioner in enforcing this Ordinance shall be liable to a fine of not more than three hundred dollars (\$300) for each violation. Each violation of this Ordinance 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 Ordinance, or adversely affect protected interests of others than the complainant, the Building Commissioner may commence action under this Ordinance 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 Ordinance, he shall refer the matter to the Director of Public Health of the town or other appropriate state or town officials for action.

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

22.3.2 Notice to Complainant

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

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

22.3.4 Review by the Mayor

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 mayor. At the request of such an Interested Party, the mayor shall confer with the Building Commissioner and shall recommend appropriate action to the Building Commissioner and to the council.

22.3.5 Reports by Building Commissioner

The Building Commissioner shall file with the mayor each month a report that shall include all complaints of nuisance made to him during the prior month; all proceedings

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begun by him under this Ordinance; all pending complaints and all investigations and enforcement actions taken by him or referred to the Director of Public Health. The report shall state the location of the premises, a summary of the nature of the complaint, the name of the Responsible Party(ies), and the disposition or the status of the matter.

Section 23. (Deleted – October 21, 2014 Special Town Meeting, Art. 12)

Section 24. Ordinance Concerning Lodging Houses

24.1 Purpose

This Ordinance 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 Ordinance and of all other pertinent State laws, regulations and other City Ordinances. 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 Ordinance 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 of License Commissioners 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 of License Commissioners 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 License Commissioners and take immediate steps to provide proper interim supervision and obtain a suitable replacement.

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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 mayor's Office, Licensing Department, 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 License Commissioners, 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 Ordinance 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 Ordinance, 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 City 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

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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 Ordinance 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 License Commissioners 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 Ordinance, up to and including eviction.

24.10 Housekeeping

It shall be the duty of the licensee and/or his 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 City 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

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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

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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, ordinances, 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

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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 Ordinance is in conflict with another law, ordinance or regulation, the more restrictive provision shall apply, unless a contrary intent is clearly stated.

24.29 Certificates of Inspection

The Board of License Commissioners may require certificates of inspection certifying compliance with the various requirements of this Ordinance, 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 Ordinance shall not affect the validity of the remaining sections of this Ordinance, if so declared by a Court of competent jurisdiction.

24.31 Penalty

The Board of License Commissioners and its agents including any police officer of the City of Framingham shall be charged with the authority to enforce the terms of this Ordinance, in addition to the authority provided to the Board of License Commissioners 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 Ordinance shall be punished by a fine of three hundred dollars (\$300) per violation. Each day that the violation continues shall constitute a separate offense. As an alternative to initiating criminal proceedings, the Board of License Commissioners 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 Ordinances. For purposes of non-criminal disposition, the penalty shall be three hundred dollars (\$300) for each offense.

Section 25. Right to Farm

25.1 Legislative Purpose and Intent

25.1.1 The purpose and intent of this Ordinance 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 Ordinance encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the City of Framingham by

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allowing agricultural uses and related activities to function with minimal conflict with abutters and City agencies. This Ordinance shall apply to all jurisdictional areas within the City.

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 City 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 Ordinance 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 Ordinance shall be deemed as acquiring any interest in

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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 The mayor shall prominently post on the Municipal Bulletin Board 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 City 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 City Hall and periodically provided by the City 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 mayor, 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 mayor 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 City 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 Ordinance is to eliminate non-stormwater discharges to the City of Framingham’s municipal separate storm sewer system. Non-stormwater discharges contain contaminants and supply additional flows to the City’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 City of Framingham’s natural resources, municipal facilities, and to safeguard the public health, safety, welfare and the environment.

The objectives of the Ordinance are:

- (1) To prevent pollutants from entering the City’s municipal separate storm sewer system (MS4);

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- (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 Ordinance through inspection, monitoring, and enforcement.

26.2 Definitions

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

Applicable Authority: The employees and/or agents of the Division of Public Works, Conservation Commission, Division of Inspectional Services, and Board of Health designated to enforce this Ordinance.

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 Ordinance.

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 City'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 City 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 Ordinance on any specified occasion.

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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 Ordinance.

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

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26.4 Authority

This Ordinance 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 Ordinance.

26.6 Regulations

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

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 of 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 City 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 City standards and requirements or paying the cost for such cleaning. In addition, the person shall be responsible for paying any penalties assessed by the City.
- (4) **Septage** – No person shall discharge or cause or allow to be discharged any septage, or septage tank or cesspool overflow into the City’s storm water drainage system.
- (5) **Storage & Disposal of Hazardous Material** – No one shall dispose of anything other than clear water into the City’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

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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 Ordinance 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 Ordinance, without the prior written approval of the Applicable Authority.

26.10 Industrial or Construction Activity Discharges

NPDES Stormwater Permit

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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 City 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 Ordinance, 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 Ordinance, 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

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The Applicable Authority may issue a written order to enforce the provisions of this Ordinance 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 City 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 City, 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 begin to accrue 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 City 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 one hundred dollars (\$100), the penalty for the second violation shall be two hundred dollars (\$200), and the penalty for the third and subsequent violations shall be three hundred dollars (\$300). 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 Ordinance, regulation, order or written approval issued thereunder, shall be punished by a fine not to exceed three hundred dollars (\$300) 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 Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.

26.20 Severability

The provisions of this Ordinance are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this Ordinance 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 Ordinance.

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

Section 27. Prohibition of Floor Drains

27.1 Purpose of Ordinance

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The purpose of this ordinance is to protect groundwater used as the source of a public drinking water supply in conformity with requirements detailed in the Commonwealth's Drinking Water Regulations (310 CMR 22.00).

Whereas:

- floor drains in industrial and commercial facilities are often tied to a system leading to a leaching structure (e.g. dry well, cesspool, leach field) or a septic system; and
- poor management practices and accidental and/or intentional discharges may lead petroleum and other toxic or hazardous materials into these drainage systems in facilities managing these products; and
- improper maintenance or inappropriate use of these systems may allow the passage of contaminants or pollutants entering the drain to discharge from the leaching structure or septic system to the ground; and
- discharges of hazardous wastes and other pollutants to floor drains leading to leaching structures and septic systems have repeatedly threatened surface and ground water quality throughout Massachusetts; and
- surface and ground water resources in the City of Framingham contribute to the City's drinking water supplies;

The City of Framingham adopts this Ordinance, under its authority as specified in Section 27.2, as a preventative measure for the purposes of:

- preserving and protecting the City of Framingham's drinking water resources from discharges of pollutants to the ground via floor drains, and
- minimizing the threat of economic losses to the City due to such discharges.

27.2 Scope of Authority

This Ordinance is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution. This Ordinance shall apply, as specified herein, to all applicable facilities, existing and new, within the Groundwater Protection District defined in the City's Zoning Ordinances Section III (N)(4) – Establishment and Delineation of the Groundwater Protection District.

27.3 Definitions

For the purposes of this Ordinance, the following words and phrases shall have the following meanings:

Applicable Authority: The employees and/or agents of the Division of Public Works designated to enforce this Ordinance.

Commercial and Industrial Facility: A public or private establishment where the principal use is the supply, sale, and/or manufacture of services, products, or information, including but not limited to: manufacturing, processing, or other industrial operations; service or retail establishments; printing or publishing establishments; research and development facilities; small or large quantity generators of hazardous waste; laboratories; hospitals.

Department: The Massachusetts Department of Environmental Protection.

Discharge: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of the Commonwealth. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

Floor Drain: An intended drainage point on a floor constructed to be otherwise impervious which serves as the point of entry into any subsurface drainage, treatment, disposal, containment, or other plumbing system.

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Leaching Structure: Any subsurface structure through which a fluid that is introduced will pass and enter the environment, including, but not limited to, dry wells, leaching catch basins, cesspools, leach fields, and oil/water separators that are not water-tight.

Oil/Water Separator: A device designed and installed so as to separate and retain petroleum based oil or grease, flammable wastes as well as sand and particles from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity. Other common names for such systems include MDC traps, gasoline and sand traps, grit and oil separators, grease traps, and interceptors.

Toxic or Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the City of Framingham. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL) Chapter 21C and 21E or Massachusetts Hazardous Waste regulations (310 CMR 30.000), and also include such products as solvents, thinners, and pesticides in quantities greater than normal household use.

Use of Toxic or Hazardous Material: The handling, generation, treatment, storage, or management of toxic or hazardous materials.

27.4 Prohibitions

With the exception of discharges that have received a Department issued permit prior to the effective date of this Ordinance, no floor drain(s) shall be allowed to discharge, with or without pretreatment (such as an oil/water separator), to the ground, a leaching structure, or septic system in any industrial or commercial facility if such floor drain is located in either:

- A. an industrial or commercial process area,
- B. a toxic or hazardous materials and/or waste storage area, or
- C. a leased facility without either A or B of this section, but in which the potential for a change of use of the property to a use which does have either A or B is, in the opinion of the Applicable Authority or its agent, sufficient to warrant the elimination of the ground discharge at the present.

27.5 Requirements for Existing Facilities

27.5.1 The owner of a facility in operation prior to the effective date of this Ordinance with a prohibited (as defined under Section 27.4) floor drain system shall:

- a. Disconnect and plug all applicable inlets to and outlets from (where possible) applicable leaching structures, oil/water separators, and/or septic systems;
- b. Remove all existing sludge in oil/water separators, septic systems, and where accessible, leaching structures. Any sludge determined to be a hazardous waste shall be disposed of in accordance with state hazardous waste regulations (310 CMR 30.000). Remedial activity involving any excavation and/or soil or groundwater sampling must be performed in accordance with appropriate Department policies;
- c. Alter the floor drain system so that the floor drain shall be either:
 - 1. connected to a holding tank that meets all applicable requirements of Department policies and regulations, with hauling records submitted to the Applicable Authority at the time of hauling;
 - 2. connected to a municipal sanitary sewer line, if available, with all applicable Department and local permits; or
 - 3. permanently sealed. Any facility sealing a drain shall be required to submit for approval to the Applicable Authority a hazardous waste management plan detailing the means of collecting, storing, and disposing of any

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hazardous waste generated by the facility, including any spill or other discharge of hazardous materials or wastes.

- 27.5.2 Any oil/water separator remaining in use shall be monitored weekly, cleaned not less than every 90 days, and restored to proper conditions after cleaning so as to ensure proper functioning. Records of the hauling of the removed contents of the separator shall be submitted to the Applicable Authority at the time of hauling.
- 27.5.3 Compliance with all provisions of this Ordinance must be accomplished in a manner consistent with Massachusetts Plumbing, Building, and Fire code requirements.
- 27.5.4 Upon complying with one of the options listed under Section 27.5.A.3., the owner/operator of the facility shall notify the Department of the closure of said system by filing the Department's UIC Pre-Closure Form BRP WS-06d with the Department, and sending a copy to the Framingham Department of Public Works.

27.6 Effective Dates for All Facilities

27.6.1 Existing Facilities:

- a. Owners/Operators of a facility affected by this Ordinance shall comply with all of its provisions within 120 days of the effective date;
- b. All applicable discharges to the leaching structures and septic systems shall be discontinued immediately through temporary isolation or sealing of the floor drain.

27.6.2 New Facilities:

- a. As of the effective date of this Ordinance, all new construction and/or applicable change of use within the City of Framingham shall comply with the provisions of this Ordinance.
- b. Certification of conformance with the provisions of this Ordinance by the Applicable Authority shall be required prior to issuance of construction and occupancy permits.
- c. The use of any new oil/water separator shall comply with the same requirements as for existing systems, as specified above in Section 27.5.B.

27.7 Penalties

Failure to comply with provisions of this Ordinance will result in a fine not to exceed three hundred dollars (\$300). Each day's failure to comply with the provisions of this Ordinance shall constitute a separate violation.

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

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 Ordinances, the City 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 Ordinances related to Brownfields Tax Abatement Agreements;

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- (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 City's Licensed Site Professional or equivalent paid for by the property owner, and shall be confirmed in writing by the mayor 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 mayor for reductions not exceeding \$500,000. Reductions above this amount shall also be subject to approval of the council.
- 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 City 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 City with a copy of all reports submitted to the Massachusetts Department of Environmental Protection within seven (7) days of receipt;

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- (k) A requirement that the property owner will pay for the services of a Licensed Site Professional (“LSP”) or equivalent, retained by the City to assist the City 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 City 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 mayor, and the council if necessary, as set forth in Section 28.3.1 herein.

28.4 All Payment Agreements shall be signed by the mayor and the property owner, whose signatures shall be notarized.

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

Section 29. (Deleted: April 26, 2016 Town Meeting, Article 43)

Section 30. Registration and Maintenance of Foreclosed Properties

30.1 Purpose; Enforcement Authority

- (1) Unsecured and un-maintained foreclosed properties present a danger to the safety and health of the public, occupants, abutters, neighbors, and public safety officers. It is the purpose and intent of this Ordinance to protect and preserve public safety, health, welfare and security, and the quiet enjoyment of occupants, abutters and neighbors, and to minimize hazards to public safety personnel inspecting or entering such properties by:
 - a. requiring all residential, commercial, and industrial property owners, including lenders, trustees and service companies, to register and maintain foreclosed properties with the City of Framingham; and by
 - b. regulating the maintenance and security of foreclosed properties to help prevent blighted and unsecured properties.
- (2) The Building Commissioner of the City of Framingham is empowered to enforce this Ordinance.

30.2 Definitions

When used in this Ordinance, the following terms shall have the following meanings, unless a contrary intention clearly appears:

- (1) “Vacant” means a residential, commercial or industrial property which has not been actively used or occupied within the preceding sixty days. This definition does not include property that is unoccupied while undergoing renovations, or while undergoing repairs due to fire or other casualty, or to residential property that is temporarily vacant due to seasonal absences.
- (2) “City” means the City of Framingham
- (3) “Commissioner” means the Building Commissioner of the City of Framingham or his/her designee.
- (4) “Days” means consecutive calendar days.
- (5) “Foreclosed” means a residential, commercial or industrial property, placed as security for a real estate loan, as to which all rights of the mortgagor or his grantee in the property have been terminated as a result of a default of the loan.
- (6) “Foreclosing” means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.
- (7) “Local” means within twenty miles of the property in question.

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(8) “Mortgagee” means the creditor, including but not limited to service companies, lenders in a mortgage agreement, or any successor in interest and/or assignee of the mortgagee’s rights, interests or obligations under the mortgage agreement.

(9) “Owner” means every person, entity, service company, property manager or real estate broker who alone or severally with others has legal or equitable title to any property or has care, charge or control of any 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; or mortgagee in possession of any such property; or is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he/she were the owner. However, this Ordinance shall not apply to a condominium association created pursuant to M.G.L. c. 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association. “Owner” also means every person who operates a rooming house or is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.

(10) “Property” means any residential, commercial or industrial property or portion thereof, located in the City of Framingham, including but not limited to buildings and structures situated on the property; excepted from this definition is any and all property owned by the City, the state, or the federal government.

(11) “Residential Property” means any property that contains one or more units used, intended, or designed to be occupied for living purposes.

30.3 Registration

- (1) All owners of foreclosed properties shall register such properties with the Commissioner on forms provided by the Commissioner within seven days of the date of foreclosure. If the owner is an out-of-state corporation, person, or other entity, the owner shall appoint an in-state agent authorized to accept service of process and other documents under this Ordinance.
 - a. Each registration must state the owner’s or agent’s name, telephone number and mailing address located within the Commonwealth of Massachusetts including name of owner, street number, street name, city or town, and zip code; the mailing address shall not be a post office box.
 - b. Each registration must also certify that the property has been inspected by the owner and must identify whether the property is vacant. Each registration must designate a property manager, who shall be a local individual or local property management company responsible for the maintenance and security of the property. This designation must state the individual or company’s name, direct telephone number, and local mailing address; the mailing addresses shall not be a post office box. The property manager shall be available twenty-four hours per day, every day, by telephone and/or electronic mail notification, and shall respond to all notifications from the Commissioner to secure, maintain, inspect or repair the property within 24 hours.
- (2) All property registrations pursuant to this section are valid for one calendar year from the date when the registration is received by the Commissioner. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. Subsequent registrations and fees are due within thirty days after the date of the expiration of the previous registration. Subsequent registrations must certify whether the property remains in foreclosure.
- (3) Any owner that has registered a property under this section must report any change in information contained in the registration within ten days of the change.

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- (4) Once the property is sold, the owner shall provide the Commissioner with written proof of sale.

30.4 Maintenance and Security Requirements

- (1) Properties subject to this Ordinance must be maintained in accordance with the State Building Code, sanitary code, and City Ordinances. The owner or property manager must inspect and maintain the property on at least a monthly basis for as long as the property is vacant.
- (2) The owner shall maintain properties subject to this section, including but not limited to maintaining and keeping in good repair any building(s), structure(s), and improvements, the removal of trash and debris, and the regular mowing of lawns, pruning and/or trimming of trees and shrubbery, and upkeep of other landscape features.
- (3) The owner shall repair or replace broken windows or doors within thirty days of breakage. Boarding up doors and windows is prohibited except as a temporary measure for no longer than thirty days.
- (4) In accordance with state law, including but not limited to Massachusetts General Laws chapter 143 sections 6 through 10 and the State Building Code, property that is vacant must be safe and must be secured from exposure to the elements and so as not to be accessible to unauthorized persons.
- (5) Compliance with this section does not relieve the owner of any applicable obligations set forth in regulations, covenant conditions and restrictions, and/or homeowner's association rules and regulations.

30.5 Inspections

Pursuant to the State Building Code, the Commissioner or his/her designee shall have the authority and the duty to inspect properties subject to this Ordinance for compliance with this Ordinance and to issue citations for any violations. The Commissioner or his/her designee shall have the discretion to determine when and how such inspections are to be made, provided such determination is reasonably calculated to ensure that this Ordinance is enforced.

30.6 Penalties

- (1) In addition to any other means of enforcement available to the Commissioner, the Commissioner may enforce this Ordinance by means of noncriminal enforcement pursuant to Massachusetts General Laws chapter 40 section 21D. The following penalties are established for purposes of said noncriminal disposition:
 - a. A failure to initially register with the Commissioner pursuant to section 30.3: three hundred dollars (\$300.00).
 - b. A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to section 30.3: three hundred dollars (\$300.00) for each violation, and a like penalty for each day's continuation of such violation.
 - c. A failure to maintain and/or to secure the property pursuant to section 30.4: three hundred dollars (\$300.00) for each week during which the property is not maintained and/or not secured in compliance with section 30.4.
- (2) The penalties provided in this section shall not be construed to restrict the City from pursuing other legal remedies available to the City. Violation of this Ordinance shall be subject to a fine not to exceed three hundred dollars for each violation; each day shall be considered a new violation.

30.7 Appeals

Any persons aggrieved by the requirements of this Ordinance or by a decision issued hereunder may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.

30.8 Applicability

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If any provisions of this Ordinance impose greater restrictions or obligations than those imposed by any general law, special law, regulation, rule, ordinance, order or policy, then the provisions of this Ordinance shall control.

30.9 Severability

If any provision of this Ordinance is held to be invalid by a court of competent jurisdiction, then such provisions shall be considered separately and apart from this Ordinance's remaining provisions, which shall remain in full force and effect.

Section 31. Municipal Liens Ordinance: Municipal Charges, Fees and Fines

This Ordinance is adopted pursuant to Chapter 19 of the Acts of 2013 for the purpose of protecting the public health, safety and welfare by providing a more effective means of enforcing the Ordinances to address properties that are a nuisance, blighted, or otherwise in violation of Ordinances in order to encourage the maintenance of properties within the town in a clean and safe condition.

31.1 Municipal Charges, Fees and Fines

The City of Framingham may impose a lien on property located within the City for any local charge, fee or fine that has not been paid by the due date, but only for those local charges, fees, and fines that are enumerated in this Ordinance. This lien shall be known as a municipal charges lien. For purposes of this Ordinance, local charge, fee or fine shall mean any charge, fee or fine imposed by the City under City ordinances, City regulations, statutes or state regulations and any charge, fee or fine imposed by a state court payable to the City as a result of any action initiated by City officials to enforce City ordinances, City regulations, statute or state regulations, but only for those local charges, fees, and fines that are enumerated in this Ordinance.

Municipal charges and fees shall include all costs and fees incurred by the City for remediation of a property that is in violation of any ordinance, regulation, or statute set forth in this Ordinance, including but not limited to:

- (a) Trash & Debris clean up charges (labor)
- (b) Trash & Debris clean up charges (dumpster)
- (c) Securing Structure (boarding up)
- (d) Demolition (labor, materials, and dumpster)
- (e) Power Washing
- (f) Painting Graffiti (labor & materials)
- (g) Overgrown Vegetation (cutting, clearing, & cleaning.
- (h) Recording Fees (Reg. of Deeds)
- (i) Towing Charges (from private property)
- (j) Pest Control & Exterminating Charges

31.2 Eligible charges, fees and fines

Municipal charges liens may be imposed under this Ordinance for unpaid charges, fees and fines only under the following City ordinances, City regulations, statutes or state regulations:

General Ordinances

Article V, Section 18, Framingham Wetlands Protection Ordinance

Article V, Section 22, Nuisance Ordinance

Article V, Section 24, Ordinance Concerning Lodging Houses

Article VI, Section 3, Unregistered Cars

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Article VI, Section 4, Rubbish and Refuse

Zoning Ordinances

State Statutes and Regulations

State Building Code 780 CMR

Fire Code 527 CMR

State Sanitary Code, 105 CMR 410 (Minimum Standards of Fitness for Human Habitation)

General Laws chapter 40, Section 41D (Non-criminal disposition)

General Laws chapter 111, Section 31C (Atmospheric pollution)

General Laws chapter 111, Sections 122-125 (Nuisances)

General Laws chapter 111, Section 127A (State Sanitary Code)

General Laws chapter 111, Section 127B (Dwellings Unfit For Human Habitation)

General Laws chapter 131, Section 40 (Wetlands Protection Ordinance)

General Laws chapter 139, Section 3 (Dilapidated Buildings)

General Laws chapter 143, Sections 6-9 (Dilapidated Buildings)

General Laws chapter 148A (Building and Fire Code)

31.3 Recording of Lien

A lien authorized under this act shall take effect upon recording of the unpaid municipal charge, fee or fine, by parcel of land and by the name of the property owner assessed for the fine in the southern district of the registry of deeds of Middlesex County.

31.4 Commitment of Charge, Fee or Fine

If a charge, fee or fine, which is secured by a municipal charges lien, remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed under General Laws chapter 59, §53, then the board or officer in charge of the collection of the municipal charge, fee or fine shall certify such charge, fee or fine to the assessors, who shall add the charge, fee or fine to the tax on the property to which it relates and commit it with the warrant to the collector of taxes as part of the tax.

31.5 Exempt Properties

If the property to which such charge, fee or fine relates is tax exempt, the charge, fee or fine shall be committed as the tax.

31.6 Discharge of Lien

A lien under this section may be discharged by filing in the southern district of the registry of deeds of Middlesex County, a certificate from the tax collector that all municipal charges, fees or fines constituting the lien, together with any interest and costs thereon, have been paid or legally abated.

31.7 Costs

All costs of recording or discharging a lien under this act shall be borne by the owner of the property.

Section 32. Water & Sewer Pricing System Ordinance

32.1 Purpose

The City of Framingham, for the purposes of water conservation, water resource management, water resource planning and comprehensive financial management, hereby enacts this ordinance to provide a rate structure which includes the costs of the provision of water and sewer services to the residents and industrial and commercial users of Framingham receiving said services.

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32.2 Costs

The definition of “costs” as used in this section shall include, but no be limited to, costs of pipe and related appurtenances, costs of facilities associated with the City’s water and sewer services, including without limitation pumping and storage facilities, replacement stock for water and sewer, costs relating to the replacement and repair thereof, including street work, maintenance of all facilities, equipment and related appurtenances necessary for the provision of water or the removal of wastewater services, all costs relating to MWRA charges to the City for both water and sewer, all costs relating to the metering of water, all related costs of police and fire protection, all administrative costs relating to the collection of said water and sewer financing expenses and related costs associated with capital improvements to said systems, all costs relating to the personnel of the departments, all costs for other City departments and resources assisting or supporting water and sewer activities, as well as any long-term planning costs for the continued provision of said services, and any costs of land acquisition relating to long-range planning and future water supply development or wastewater treatment facilities.

32.3 Adjustments to Rate Structure; Public Hearing

Adjustments or changes to the rate structure may be made from time to time based on the costs incurred or anticipated to be incurred by the City for the provision of water and sewer services. Any such adjustments or changes to the rate structure shall be consistent with applicable state law and regulations, and may be authorized by the mayor only after a public hearing, which shall be held by the mayor, Chief Financial Officer or Public Works Division Head.

Section 33. Nuisance Noise Ordinance

33.1 Purpose

The Massachusetts Association of Health Boards finds that chronic or repeated exposure to excessive noise is recognized by public health experts as a hazard to both physical and mental health. It has been linked to a range of non-auditory health effects including annoyance, sleep disturbance, cardiovascular diseases, and impairment of cognitive performance in children. (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3988259/>)

The purpose of this Noise Ordinance is to allow the City of Framingham, Massachusetts (the City) to establish reasonable guidelines, restrictions and limitations to maintain acceptable noise conditions within the City.

This ordinance defines noise criteria limits and restrictions for the purpose of (1) maintaining acceptable existing conditions, equipment operations, social interactions, and avoidance of disruption of the peace, and (2) managing and controlling potential future noise conditions in the City stemming from development of new properties, equipment operations, and infrastructure.

This ordinance is not intended to define safe noise levels to protect people’s hearing or avoid auditory damages from loud noises either within the workplace or from private activities. As such, this ordinance is not intended to maintain public health and safety with respect to noise.

To enforce this Ordinance, the City may seek civil penalties pursuant to M.G.L. c. 40, § 21D and/or misdemeanor criminal penalties permitted under M.G.L. c. 272, § 53, and may seek injunctions to prohibit current and future noise.

Therefore, it shall be unlawful for a person or persons to knowingly generate, or allow continued generation of noise levels which exceed the criteria limits found in Section 33.3, 33.4, 33.5 or 33.6, except under conditions defined in Section 33.9, when measured at a receiving party’s property line or at any location on the receiving property, as defined by the applicable Noise Determination methods found in Sections 33.7 and 33.8.

33.2A Acoustical Terms Definitions

Community noise is generated by natural and man-made sources such as transportation systems, industrial processes, construction operations, building air handling systems, power generation, agricultural processes, landscaping machinery, human activities, meteorological conditions, etc. In general, noise can be quantified by its magnitudinal (loudness), tonal (frequency) and temporal (time) characteristics. The following are definitions of terms typically used to describe community noise:

SOUND DEFINITIONS

SOUND is a physical parameter which is produced when a vibrating surface transfers energy in the form of air pressure waves which fluctuate above and below barometric pressure to such a degree and within a frequency range that it can be perceived by the human auditory system (i.e. sound can be heard)

SOUND LEVEL METER (SLM) – A sound level meter is a calibrated electrical device used to measure the loudness of noise. For the purposes of the ordinance, a SLM must be capable of measuring and expressing noise levels in A-weighted decibels using an RMS “slow” time constant in accordance with Type 2 or better accuracy requirements of ANSI Standard S1.4. In addition, an “integrating” SLM must be used if any time-averaged noise metrics (such as Leq or Ln percentiles) are to be reported.

AUDIBLE FREQUENCY RANGE (and A-weighting) – Human beings can perceive noise only if the fluctuating air pressure waves are within the so-called “audible frequency range” of about 20 Hz to 20,000 Hz (Hertz, or cycles-per-second). However, people do not hear noise equally well at all frequencies. As such, a frequency weighting adjustment has been standardized in ANSI Standard S1.42 to account for humans responding less sensitively to lower and higher frequency ranges. This frequency weighted adjustment is referred to as “A-weighting”, with results expressed as A-weighted decibels, or dB(A).

DECIBELS (dB) – The magnitude or loudness of noise is expressed in units of decibels (dB). Decibels relate the actual fluctuating air pressure levels against a standardized reference air pressure level of 20 micropascals. Human beings can hear noise over a tremendously large range of air pressure so the use of a decibel scale (from about 0 dB to 140 dB) is used for convenience. Zero decibels represents the “threshold of hearing”, while at the other extreme, pain and hearing damage can occur at noise levels of about 140 decibels.

EQUIVALENT SOUND LEVEL (Leq) – The Leq represents the energy-averaged noise level over some time period of interest. The Leq is expressed in dBA, and the time period over which the Leq value applies should be stated, i.e., Leq (1min) represents a one-minute average; Leq (24h) represents a 24-hour average, etc.

PURE TONE – Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this chapter, a “pure tone” shall exist if an octave-band analysis indicates one octave-band or more over both the band above and below.

TONAL SOUND – Any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

NOISE DEFINITIONS

NOISE is defined as “unwanted sound” which can occur when a source is either too loud, uncontrollable, conveys unwanted information, masks-out other desirable sound, occurs at unacceptable times, or has annoying characteristics.

BACKGROUND NOISE – is the prevailing or pre-existing noise conditions that can be measured at a given location of interest without the contribution of the noise source of concern.

CLEARLY AUDIBLE – means any sound that can be detected by a person using his or her unaided hearing faculties. (As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a clearly audible sound.

NOISE POLLUTION – A condition caused by a noise source that increases noise levels ten (10) dB(A) or more above background noise level except that if the noise source produces a tonal sound an increase at five (5) dB(A) or more above background noise level shall be considered sufficient to cause noise pollution.

NUISANCE NOISE – Nuisance typically exhibits aspects such as pure tone squealing or whining, loud impulsive noises, repetitive thumping, low-frequency airborne vibrations, etc. Nuisance noise is defined qualitatively by listing specific examples, as in Section 33.3 of this ordinance.

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STATIONERY NOISE SOURCE – Sources that emit noise on a continuous or repeatable basis and that are located in fixed positions. Examples stationary noise sources would include, but are not limited to, building mechanical (HVAC) systems, power transformers, commercial processing machinery, etc.

33.2B General Definitions

CONSTRUCTION – Any and all activity necessary or incidental to the erection, assembling, altering, installing, repair or equipping of buildings, roadways, or utilities, including land clearing, grading, excavating and filling and paving.

COMMERCIAL SERVICE DEPARTMENT – All engine- or motor-powered equipment intended for infrequent service work in inhabited areas, typically requiring commercial or skilled operators. Examples: chain saws, log chippers, paving rollers, pavement breakers, pile drivers, etc.

DAYTIME – Weekdays: Monday-Friday, 7:00am to 6:00pm

Weekends: Saturday and Sunday, 8:00am to 6:00pm

DEMOLITION – Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

EVENING - Weekdays: Sunday-Thursday, 6:00pm to 10:00pm

Weekends: Friday and Saturday, 6:00pm to 12:00 midnight

EMERGENCY – An occurrence or set of circumstances requiring immediate action involving the restoration or public utilities or the restoration or property to a safe condition following a public calamity or the protection of persons or property from imminent exposure to danger.

EMERGENCY WORK – Work which must be performed to alleviate an emergency.

HEAVY MOTOR VEHICLE – Shall be defined as all motor vehicles having a gross vehicle weight in excess of 10,000 pounds.

HOMEOWNER'S LIGHT RESIDENTIAL OUTDOOR EQUIPMENT – All engine- or motor-powered garden or maintenance tools intended for repetitive use in residential areas, typically capable of being used by a homeowner. Examples of homeowner's light residential outdoor equipment are lawn mowers, garden tools, power tools, riding tractors, snow blowers, snowplows, etc.

MOTORCYCLE – Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including any bicycle with a motor or driving wheel attached, except a tractor or a motor vehicle designed for carrying golf clubs and not more than four (4) persons, an industrial three-wheel truck, or a motor vehicle on which the operator and passengers ride within an enclosed cab.

MOTOR VEHICLE – Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, buses, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not limited to motorcycles.

NIGHTTIME - Weekdays: Sunday-Thursday, 10:00pm to 7:00am

Weekends: Friday and Saturday, 12:00 midnight to 8:00am

PERSON – Any individual, partnership, association, firm, syndicate, company, trust, corporation, department, bureau or agency, or any other entity recognized by law as the subject of rights and duties, including the City, its agencies and departments and any person, as herein defined, operating under a contractual arrangement or agreement with the city.

PAVEMENT BREAKER- Any hydraulically or pneumatically powered impact device intended to cut or trench pavement, subbase macadam, gravel, concrete, or hard ground.

PILE DRIVER – An impact device designed or used for the driving of piles, columns, and other supports into soil or other material by means of impact, vibrations, pressure or other means.

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REASONABLE PERSON – Acting on behalf of the greater good of the public, a reasonable person is able to judge in an unbiased manner the appropriateness of a given social situation. A reasonable person is appropriately informed, rational, capable, aware of the law, and fair-minded when applications of the law is sought, compatible with planning, working, or getting along with others. For the purpose of the Ordinance, a reasonable person shall be defined as a police officer of the City, as further described in Section 33.7.

RESIDENTIAL AREA – For the purpose of the Ordinance, a Residential Area will be defined as land used in which housing predominates within the boundary from street corner to street corner irrespective of any other Zoning Ordinance or Bylaw. Housing may vary significantly between, and through, residential areas. These include single-family housing, multi-family residential, apartment complexes, mixed use complexes, mobile homes, or any building who use includes human habitation. For the purpose of the Ordinance, an apartment complex will be considered residential, not commercial.

33.3 Nuisance Noise Prohibitions

Noise which has the potential to annoy or disturb can be described as nuisance noise. Nuisance noise typically exhibits aspects such as pure tone squealing or whining, loud impulsive noises, repetitive thumping, low-frequency air-borne vibrations, etc.

Noise criteria limits in this ordinance are based on the type of noise being produced, the time of day during which the noise is generated, and the existing background noise level. For the purpose of this ordinance, nuisance noise shall be qualitatively defined by listing specific examples which are deemed to be annoying.

It is prohibited from persons or equipment to generate the following nuisance noises during the hours of 10:00pm to 7:00am Sunday – Thursday and 11:00pm to 8:00am on Friday and Saturday.

1. The use of loud music, automobile sound systems (i.e. radios), public address systems, shouting, or other noises associated with communications or advertisement, that have the potential to disturb receiving party or parties.
2. The offering for sale or selling of anything by shouting or outcry within a residential area of the city by peddlers, or hawkers.
3. Operating or causing to be operated a public-address loudspeaker, whether mobile or stationary, without a permit granted by the permitting authority.
4. Operating, playing or permitting the operation or playing of any, radio, stereo, compact disc player, phonograph, television, musical instrument, public address system, loudspeaker, or sound amplifier from any source (including but not limited to, smart phones, tablets, computers, musical instruments, etc.) or similar device which produces, reproduces or amplifies sound in a manner that makes it clearly audible across either a residential real property boundary or in the case of multi-unit dwellings, the receiving parties abode.
 - a. Exemption: Activities open to the public, or special occasions, for which a proper permit has been granted.
 - b. Any establishment granted a license for entertainment that is amplified by microphone, amplifier, or the like shall be subject to this provision with the extension of one (1) hour from 11:00pm to 12:00 midnight on Friday and Saturday nights.
5. The use of loud amplified or non-amplified instruments, including, but not limited to, Brass (trumpet, trombone) Percussion (drums, cymbals) or any other instruments that have the potential to disturb nearby residents.
6. The unnecessary (i.e. false) sounding of vehicle security alarm systems.
7. The emptying and/or replacing of waste dumpsters.
8. The use of HOMEOWNER'S LIGHT RESIDENTIAL OUTDOOR EQUIPMENT such as but not limited to lawn mowers and leaf blowers.

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9. The keeping of any animal or bird which frequently and for continued periods of time causes a condition of noise.
10. The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects in a manner that causes a condition of noise pollution across a residential real property boundary.
11. No establishment granted a liquor license shall permit crowd noise to be audible beyond the premises that has the potential to disturb nearby residents.
12. Construction and/or demolition activities. It is understood that construction and demolition are inherently noisy activities which will likely be heard by adjacent residents and business operators. As such, the intent is to balance the needs for the construction contractors to perform the necessary work with the needs of the community for peace and quiet. (See Table #2 – Construction Noise Criteria Limits – for Hours)

33.4 Stationary Noise Sources

Stationary sources of noise may include, but are not limited to, building HVAC systems, power generation facilities, industrial equipment, water or sewage pump stations, railroad and subway lay-over facilities, electric power transformers, commercial factories and plants, truck depots, and recreational events. The noise level emitted by stationary noise sources shall not exceed the limits contained in Table 1 when measured at the property line of the receiving property.

**Table 1
Noise Criteria Limits from Stationary Noise Sources**

Receiver Land-Use	Daytime Noise Limit (7am to 6pm)	Evening Noise Limit (6pm to 10pm)	Nighttime Noise Limit (10pm to 7am)
Residential: Including private residences, multi-family residences, apartment complexes, retirement homes, etc.	55 dBAs Leq (1 minute) or Background Leq (1 min), whichever is greater	50 dBAs Leq (1 minute) or Background Leq (1 min), whichever is greater	45 dBAs Leq (1 minute) or Background Leq (1 min), whichever is greater
Residential within Commercial: Mixed land-use, primarily commercial areas but with some residential development, hotel/motels, hospitals, etc.	60 dBAs Leq (1 minute) or Background Leq (1 min), whichever is greater	60 dBAs Leq (1 minute) or Background Leq (1 min), whichever is greater	55 dBAs Leq (1 minute) or Background Leq (1 min), whichever is greater
Commercial: Including retail stores, business offices, houses of worship, restaurants, libraries, theaters, public parks, etc.	65 dBAs Leq (1 minute) or Background Leq (1 min), whichever is greater	65 dBAs Leq (1 minute) or Background Leq (1 min), whichever is greater	60 dBAs Leq (1 minute) or Background Leq (1 min), whichever is greater

Note: Background Leq (1 min) noise levels should be measured without the noise source in question operating.

Average Noise levels measurements can be estimated if an integrating Leq noise meter is not available.

33.5 Construction Noise Sources

In general, construction and/or demolition activities shall only be permitted to occur within the City during the hours of 7:00am to 6:00pm. However, it is understood that construction and demolition are inherently noise activities which will likely be heard by adjacent residents and business operators during short periods of time.

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As such, the intent of this section is to balance the needs for the construction contractors to perform the necessary work with the needs of the community for peace and quiet.

Therefore, cumulative noise generated by construction and/or demolition activities and operations shall not exceed the limits contained in Table 2 when evaluated at the property line of the receiving property, nor shall the noise emission level of any individual piece of construction equipment exceed the noise emission limits contained in Table 2 when measured at a distance of 50 feet from the loudest side of the piece of equipment.

**Table 2
Construction Noise Criteria Limits**

Receiver Land-Use	Daytime Noise Limit (7am to 6pm)	Evening Noise Limit (6pm to 10pm)	Nighttime Noise Limit (10pm to 7am)
Residential: Including private residences, multi-family residences, apartment complexes, retirement homes, etc.	65 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	60 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	N/A (*) Non-emergency construction and/or demolition activities are prohibited
Residential within Commercial: Mixed land-use, primarily commercial areas but with some residential development, hotel/motels, hospitals, etc.	75 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	70 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	N/A (*) Non-emergency construction and/or demolition activities are prohibited
Commercial: Including retail stores, business offices, houses of worship, restaurants, libraries, theaters, public parks, etc.	80 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	75 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	N/A (*) Non-emergency construction and/or demolition activities are prohibited

Notes: Criteria approach taken from FHWA Roadway Construction Noise Handbook (FHWA, 2006).

1. L10 noise levels shall be measured over a period of 20 minutes
 2. Background (Bkgd) L10 noise levels should be measured prior to construction commencing in the field or without the noise source in questions operating.
 3. L10 noise levels measurements can be estimated if an integrating noise meter is not available by determining the average or Leq noise level plus 3 dBA.
 4. Table 2 noise limits do not apply to roadway construction activities.
- (*) Except when determined necessary by the City Council to protect public safety.

33.6 Motor Vehicle Noise Sources

No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the vehicle exceeds the following limits measured at a distance of 50 feet or 15 meters from the center line of travel.

**Table 3
Motor Vehicle and Motorcycle Noise Criteria Limits**

Vehicle Class	Speed Limit 35 mph or less	Speed Limit over 35 mph
Vehicles in excess of 10,000 pounds engaged in interstate commerce as permitted by 40 CFR 303 (EPA Noise emission standards)	86 dBAs	90 dBAs

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All other vehicles if 10,000 pounds or less	86 dBAs	90 dBAs
Motorcycle	82 dBAs	86 dBAs

33.7 Nuisance Noises Determination

It shall be unlawful to knowingly generate, or allow continued generation of noise as listed in Section 33.3.

To be applicable, the police officer must hear for him/herself the noise source in question. The police officer must take conditional, circumstantial and extenuating factors into account. Time of day is not to be considered an extenuating circumstance. The following are examples of extenuating circumstances:

1. The necessity of the noise source to continue to operate.
2. The quality of the noise, e.g., volume, pitch, and intensity of the noise complained of.
3. The duration of time that the noise is expected to continue.

33.8 Noise Compliance Measurements Determination

If fines do not result in compliance with this ordinance, or it becomes necessary to collect quantitative noise level measurements in order to demonstrate compliance or exceedance of the various noise criteria limits contained in this ordinance, they must be collected in accordance with accepted practices and procedures as recommended in ASTM Standards E1686-03, E1780-04, and E1014-84, using a sound level meter (SLM) capable of meeting or exceeding ANSI Standard S1.4 for Type 2 accuracy.

Noise data shall be collected using a calibrated SLM using a “slow” time constant with results expressed in A-weighted decibels (dBAs). The minimum information necessary to collect and report shall include the following:

1. The make and model of SLM and portable calibrator used for the noise readings.
2. The date which the SLM as last certified by the manufacturer, or other independent calibration laboratory, as meeting ANSI S1.4 Standards for Type 2 or better accuracy requirements (should be within previous two years).
3. The SLM calibration readings obtained prior to, and immediately following, performing the compliance noise measurements.
4. The type of windscreen used to cover the microphone.
5. The height at which the noise readings were collected (should be at least 5 feet above ground), and an estimate of the distance (in feet) from the noise source to the SLM.
6. The time of day, date, and duration of noise data collected by the SLM.
7. An indication of the background noise level collected in the absence of the noise source in question.
8. A brief description of the meteorological conditions during the noise readings including wind speed and direction, air temperature, precipitation, and ground cover conditions.
9. A clear and concise comparison of the measured noise level data (expressed in dBAs) versus the applicable noise criteria limits contained in Tables 1, 2, and 3 of the Ordinance.
10. The findings and conclusions to be drawn from the noise compliance measurements taken.

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33.9 Exceptions

The following cases shall be exceptions to the restrictions and criteria limits contained in this noise ordinance.

1. Grandfathering: All existing residential, commercial, industrial and/or agricultural stationary noise sources as described in Section 32.4, which have been operating on a lawful basis prior to the effective date of this ordinance, shall be allowed. However, this exception does not apply to any new or upgraded sources of noise subsequently brought into operation at an existing location.
2. Noise generated by transportation systems, such as aircraft overflights, commuter trains, public transit systems and buses, are generally not regulated by local ordinances, and as such, shall not be a part of this noise ordinance.
3. Noise emitted by State, utility or City service crews and equipment performing emergency repairs to restore supply of and/or operation of critical public utilities such as natural gas, electrical power, steam, potable water, telecommunications, sewerage removal, etc., or when it is determined that non-emergency utility work at night is the preferred course of action due to vehicular traffic concerns.
4. Any noise emitted by public safety or emergency response vehicles while performing their intended duties. Specific examples of exempt emergency equipment include sirens, horns, generators, pumps, public address systems, created by schools, factory bells or whistles or government alerts, such as noon whistles or siren.
5. Noise generated by sources intended for public entertainment, when said sources are part of a legal activity such as, but not limited to, parades, sporting events, public concerts, fireworks display, etc. and which have been granted a permit from the permitting authority.
 - a. Any establishment granted a license for entertainment that is amplified by microphone, amplifier, or the like will be subject to this Ordinance.
6. All snow clearance activities at any time of day, evening or night performed by the municipality.
7. Noise from snow blowers, snowplows, and other snow removal equipment during or immediately after a snowfall, and the use of power equipment necessary for emergency repairs or debris removal due to severe weather.
8. The performance of City-sponsored street sweeping operations at night on public ways which are otherwise inaccessible during daytime hours.

33.10 Enforcement

1. A noise complaint may be made by a resident or business owner, or, at any time at the discretion of the City in and of their own accord, to request a response and investigation by a representative of the Framingham Police Department, of the circumstances surrounding the noise issue.
2. In the case of a multi-unit dwelling, the front door of the closet unit to the unit being complained against by a properly designated investigating agent of his own accord.
3. The investigating agent shall collect all relevant information and prepare a written report summarizing their findings if the circumstances are determined to be a violation of Sections 33.3, 33.4, 33.5 or 33.6.
4. If the investigating agent's findings indicate a violation of Sections 33.3, 33.4, 33.5 or 33.6 said notice shall be found in violation of the Noise Ordinance and will be cited to a civil penalty consistent with the guidelines in Section 33.11 Penalties.

33.11 Penalties

1. The first violation of this ordinance shall result in the issuance of a written warning indicating the reason(s) for the violation and stating, at the investigating agent's discretion, a time period within which the offender(s), must cease production of the noise, or mitigate (reduce) the noise

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down to acceptable levels which will then comply with the restrictions and noise criteria limits in the ordinance.

2. The second violation of this ordinance stemming from the same noise issue within any 12-month period shall be punished by a fine of one hundred dollars (\$100.00).
3. Further violations of this ordinance within any 12-month period shall be punished by a fine of three hundred dollars (\$300.00).
4. Each such act in violation of this ordinance which either continues or occurs more than one hour after issuance of notice of violation of this ordinance shall be deemed a separate offense and shall be prosecuted as such.
5. If the violation occurs on the premises of rental property which is not owned by the offender, then in the interest of assisting property owners in exercising responsible property management, the City will notify the owner-of-record in writing that the violation has occurred, including the nature and circumstances of the violation.

33.12 Appeals

1. An offender who has been cited and/or fined under the terms and procedures of this noise ordinance can appeal the citation within 30 days after receiving it by presenting to the City appointed Hearing Officer any alternative information, situational evidence, noise measurement data, extenuating circumstances, or explanation to the contrary of the investigating agent's findings.
2. The Hearing Officer will serve in judgement of the appeal, and will have full discretion to reject, request additional details, reduce the severity of the penalties, continue, or enforce as issued the violation under appeal.
3. The Hearing Officer may allow an offender a reasonable amount of time, as determined by the chief of police, to come into compliance with this Ordinance, and may take into account the time and cost of any required remediation efforts.
4. The ruling of the Hearing Officer shall be final and not subject to further appeals within the City's governance system.

33.13 Severability

If any provision of this ordinance shall be determined to be invalid or unenforceable by final judgement or order of a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in effect to the fullest extent permitted by law.