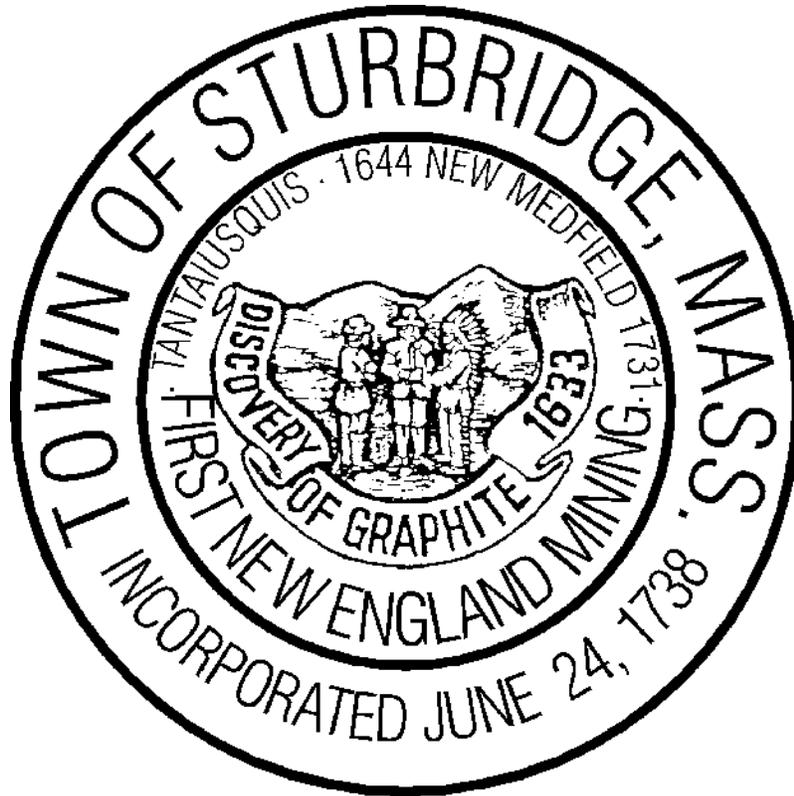


GENERAL BYLAWS



2012

AS AMENDED

July 30, 2012

**GENERAL BYLAWS
TABLE OF CONTENTS**

Chapter One – Town Government	2
Chapter Two – Permits	16
Chapter Three – Environmental	25
Chapter Four – Public Health	47
Chapter Five – Animal Control	52
Chapter Six – Public Works	56
Chapter Seven – Public Protection	77
Chapter Eight – Miscellaneous	87
Chapter Nine – Enforcement	95
Acceptance of MGL	98

**CHAPTER ONE
TOWN GOVERNMENT**

1.00 TOWN MEETING

- 1.01 The Annual Town Meeting for the election of Town Officers shall be held on the second Monday in April. The Annual Town Meeting for the transaction of business shall be held on the first Monday in June. **{Amended ATM 4-27-09, Article 37}**
- 1.02 Notice of every Town Meeting shall be given by posting up three attested copies of the Warrant therefore: one at the Post Office in the center of Town, one at the Post Office in Fiskdale, and one in the lobby of the Town Hall, fourteen (14) days at least before the time for holding the meeting.
- 1.03 The Annual Town Meeting for the election of Town Officers shall be called to order at 7:00 A.M. and the polls shall be opened immediately thereafter, and shall be kept open until 8:00 P.M. The Board of Selectmen shall designate a suitable place therefor.
- 1.04 All Town Meetings for the transaction of business shall be called to order at 7:00 PM and shall be held at a suitable place designated by the Board of Selectmen. Any Special Town Meeting held on the same day as the Annual Town Meeting shall start immediately following the adjournment of the Annual Town Meeting.
- 1.05 There shall be a designated place for people not registered as voters at each Town Meeting, and a check of all registered voters shall be made under the supervision of the Town Clerk at the entrance to each Town Meeting. Persons not registered as voters shall be required to sit in the place designated and set apart from the registered voters.
- 1.06 Whenever a two-thirds vote is required on any matter, the Moderator may declare a motion passed by voice vote of at least two-thirds in favor and a count need not be taken unless otherwise required by law or these bylaws. The Town Clerk shall record the Moderator's declaration that the motion passed by a two-thirds vote in favor.
- (A) That the Town use Town Meeting Time as its reference for parliamentary procedure.

- 1.07 Town Meeting Requirements – All town officers, boards, committees, commissions, employees and all other parties submitting warrant articles for consideration at Town Meeting shall be required to comply with the following:
- (a) The Planning Board shall prepare all Zoning Bylaw articles, hold a public hearing and forward the Planning Board’s recommendations on said amendments to the Town Administrator no later than April 15 of the year in which the Annual Town Meeting that will consider the proposed articles.
 - (b) All other warrant articles to be considered by the Annual Town Meeting shall be submitted to the Town Administrator no later than March 1 of the year in which the Annual Town Meeting will consider said articles.
 - (c) The Town Administrator shall draft and prepare the warrant for the Board of Selectmen’s consideration no later than March 15 of the year in which the Annual Town Meeting will consider said warrant.
 - (d) The Board of Selectmen shall close the warrant at their first meeting in the April of the year in which the Annual Town Meeting will consider said articles. Petitioned warrant articles will be accepted until the Board of Selectmen closes said warrant.
 - (e) Articles to be submitted for a Special Town Meeting held on the same date as the Annual Town Meeting shall be submitted to the Town Administrator no later than March 15th of the year in which the Special Town Meeting will consider said articles. The Town Administrator shall prepare a Special Town Meeting warrant and forward it to the Board of Selectmen no later than the last day of March of the year in which the Special Town Meeting will consider the said warrant. The Selectmen shall close said Special Town Meeting warrant at their first meeting in April preceding said Special Town Meeting.
 - (f) The Board of Selectmen shall conclude their deliberations and include their recommendations to the Annual Town Meeting on both the Annual and Special Town Meeting warrants no later than the last Friday of April of the year in which the Annual Town Meeting will consider said warrant.
 - (g) The Finance Committee shall conclude their deliberations and include their recommendations to the Annual Town Meeting on both the Annual and any Special Town Meeting (if one is scheduled the same night as the Annual Town Meeting) warrants no later than the first Monday of May of the year in which the Annual Town Meeting will consider said warrant.

- (h) The Board of Selectmen may, by majority vote, re-open the Town Meeting warrant at any time to add or remove articles until such time that the warrant is posted. **{Amended ATM 4-7-09, Article 37}**

1.08 Appointments to Town Committees, Boards and Commissions by Single Appointing Authorities

1. All appointed openings on Town Committees, Boards and Commissions must be posted in the Town Hall, on the cable access channel and on the official Town Website for a minimum of a 15 day open application period or such lesser period as may be specified in the town charter to solicit applications. The last day for which applications will be accepted must be clearly posted. The open application period may be repeated until the position is filled.
2. Candidates for openings must submit a written or electronic application on the Town of Sturbridge Committee Application form to the Town Administrator's office prior to the closing of the open application period or must have submitted a Town of Sturbridge Committee Application form prior to the open application period for the town to retain on file as an indication of ongoing interest in an appointment. All applications placed on file will expire and become inactive two years after they are submitted. Copies of all active applications shall become matters of public record held available for review in the Town Administrator's office.
3. Copies of all active applications will be promptly referred to the appropriate appointing authority and confirming authority (when confirmation by the Board of Selectmen is required). Applicants seeking confirmation of receipt of their applications may send the application by certified mail, deliver it by hand, or verify that their application has been placed in the application file in the Town Administrator's office.
4. For each opening the appointing authority must prepare a report listing the three candidates judged most qualified for the opening (or fewer if there are not at least three applicants) and present the rationale for selecting the candidate that is chosen. If no one is chosen, the open application period may be repeated until the position is filled. When confirmation by the Board of Selectmen is required this material shall be submitted to the Board of Selectmen. Within 10 business days after the appointment is made this report shall become a matter of public record held for review at the Town Administrator's office. When the appointing authority is the Board of Selectmen the records of the meeting(s) at which the appointment is discussed and made shall serve as the report. The candidate chosen for the position will receive written or electronic notification of his appointment by the appointing authority.

5. All candidates who are not appointed to the open position will receive written or electronic notification of such by the appointing authority within 10 business days after the appointment is made.

1.10 TOWN OFFICERS

- 1.11 In addition to the officers required by law to be chosen at the Annual Town Meeting, the Town shall elect by ballot a Moderator for a term of three years and Library Trustees consisting of nine persons, one third of whom shall be chosen annually and continue in office for three years without compensation.

1.20 FINANCE COMMITTEE

- 1.21 There shall be a Finance Committee consisting of nine legal voters of the Town, who shall be appointed by the Moderator as hereinafter provided. No Town employee or special employee may serve on the Finance Committee during the term of such employment. At its initiative, the Finance Committee may nominate one or more of its members for appointment(s) to a specific committee, without such appointment(s) jeopardizing the status of nominee(s') membership on the Finance Committee, if so appointed.
- 1.22 The Moderator of the next Annual Town Meeting after this Bylaw is approved shall, within thirty days after such Bylaw becomes effective, appoint three members of said Committee for a term of one year, three members for a term of two years and three members for a term of three years. At each Annual Town Meeting thereafter, the Moderator thereof shall appoint three members of said Committee for the term of three years. The terms of office of said members shall commence immediately upon qualification and shall expire at the end of the fiscal year in the year their respective term ends. Said Committee shall choose its own officers and shall serve without pay, and it shall cause to be kept a true record of its proceedings.
- 1.23 The Finance Committee shall meet as often as needed to complete its assigned responsibilities. At a minimum, the Finance Committee shall meet at least once prior to any Special Town Meeting to consider the warrant for the Special Town Meeting. The Finance Committee shall also meet as needed to deliberate the budgets and warrant articles prior to the Annual Town Meeting. If any member is absent from six consecutive regular meetings of said Committee, his position may, on vote of said Committee, be deemed vacant and filled as hereinafter provided.

The chairman of said Committee shall notify the Town Clerk in writing of any vacancy in its membership, and the Moderator shall appoint a successor to fill the un-expired term.

- 1.24 All department budgets, transfer requests, warrant articles, zoning articles and bylaw articles shall be referred to the Finance Committee for its recommendations. The Selectmen, after drawing any such warrant, shall transmit immediately a copy thereof to each member of said Committee. Said Committee shall, after due consideration of the subject matter of such articles, report thereon to the Town Meeting, in writing, such recommendations as it deems best for the interests of the Town and its citizens. The Finance Committee's recommendation shall be the main motion before any Town Meeting on all articles and budgets.
- 1.25 It shall be the duty of the Finance Committee annually to consider the expenditures in previous years and the estimated requirements for the ensuing year of the several boards, officers, and committees of the Town as prepared by them (or by the Finance Department) in such form and detail as may be prescribed by said Committee. The said Committee shall add to such statements of expenditure and estimates another column, giving the amount which in its opinion should be appropriated for the ensuing year, and shall further and thereto add suggestions relating to the proposed appropriations as it may deem expedient, and report thereon as provided in section 1.24.
- 1.26 In the discharge of its duty, said Committee shall have access to all books of records and accounts, bills and vouchers on which money has been or may be paid from the town treasury. Officers, boards and committees of the town shall, upon request, attend meetings of the Finance Committee and furnish said Committee with facts, figures and any other information pertaining to their several activities. The Town Accountant, when requested by the Chairman of the Finance Committee, shall attend meetings of the Finance Committee with his/her books and accounts, to furnish information as is desired by the committee.

1.30 DESIGN REVIEW COMMITTEE

1.31 PURPOSES

The purpose of this Bylaw is for the regulation of the architectural, signage, and landscaping design in all non-residential Zoning Districts to preserve for the citizens of Sturbridge the natural and architectural qualities and historical assets that the town has developed throughout the years. The Design Review Committee

shall serve as an advisor to the Building Inspector and in the cases of projects requiring Special Permits and/or Site Plan Approval shall serve as an advisor to the Planning Board and/or the Zoning Board of Appeals as may be appropriate.

1.32 AUTHORITY AND INTERPRETATION

This bylaw is hereby declared to be remedial and protective and is to be so construed as to secure the beneficial interest and purpose thereof.

1.33 ADMINISTRATION

The Town Administrator shall appoint a Design Review Committee consisting of five members; such appointments shall be subject to confirmation by a majority vote of the Board of Selectmen. The Board members shall be appointed for a three (3) year term, with one member's term to expire in each of the three (3) years.

1.34 FUNCTION

The Board shall meet when plans have been submitted for its review. The Board shall determine the acceptability or unacceptability of the plans and notify the Applicant, Building Inspector, Planning Board and/or Zoning Board of Appeals as may be appropriate of its decision within thirty (30) days of receipt of the plans.
{Replaced section STM 11-7-11, Article 53}

1.35 STANDARDS FOR JUDGING PLANS

The Design Review Committee shall apply the following standards in considering plans. That the:

- (A) Proposed project is consistent with the Design Review Committee Handbook and Design Guidelines (adopted March 8, 2011 as may from time to time be amended).
- (B) Specific site is appropriate for the proposed design.
- (C) Design will not create a hazard for traffic or pedestrians.
- (D) Proposed design is in keeping with the character of the Town in general, and with the specific neighborhood in particular. (As a general guide, considering the historical nature of the central portion of the Town, buildings should be of style which would have been used in the middle of the nineteenth century.)
- (E) Proposed project and landscaping will provide buffers, if required, from the surrounding properties.

- (F) Planned parking is adequate.
- (G) Proposed lighting is satisfactory.
- (H) Plans are in accord with other bylaws of the Town.

1.36 PERMITS

- (A) All new construction of non-residential buildings and/or landscaping in the Commercial, General Industrial and Industrial Park Districts shall be reviewed by the Design Review Committee prior to the issuance of a building permit.
- (B) All non-residential alterations affecting ten (10) percent of the street facade or twenty-five (25) percent of the exterior of an existing building in a Commercial District will require that the plans be submitted to the Committee for review prior to the issuance of a building permit by the Building Inspector.
- (C) Changes in exterior Plans will require re-submission to the Design Review Committee for review. Design changes without this review shall result in the cancellation of the building permit by the Building Inspector.
- (D) Each Plan shall be judged on its own merits and shall not be considered a precedent.

1.37 APPEALS

A person aggrieved by the refusal of the Building Inspector to approve a submitted plan may appeal to the Zoning Board of Appeals.

1.38 SEVERABILITY

If any section, subsection, sentence, clause, or portion of this Bylaw is held, for any reason, to be illegal, invalid, or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of any remaining portions hereof.

1.40 COUNCIL ON AGING

1.41 COMPOSITION

There shall be a Council on Aging consisting of nine (9) registered voters of the Town appointed by the Selectmen for the following terms: three (3) for the term of three (3) years, three (3) for a term of two (2) years, and three (3) for the term of one (1) year, and upon expiration of said initial terms, subsequent appointments

to be for a term of three (3) years. The term of office of any member shall expire on the day of the Annual Town Meeting in the last year of his/her term. The Selectmen shall fill any vacancies that may occur.

1.42 ORGANIZATION AND QUORUM

The Council shall annually elect a Chairperson and other such officers as it deems appropriate. The quorum for the transaction of business shall be a majority of the Council, but a number less than the majority may adjourn.

1.43 POWERS AND DUTIES

The Council shall have all the powers and duties conferred and imposed upon councils on aging in MGL Ch. 40 § 8B of the General Laws and any amendments thereof now or hereafter enacted. The Council shall identify the total needs of the elderly community, enlist the support and participation of all interested citizens concerning those needs, design promote and participation of all interested citizens concerning those needs, and support any other programs designed to assist the elderly in the community. The Council shall cooperate with the Aging Bureau of the State Department of Community Affairs and shall endeavor to be cognizant of all federal and state legislation concerning funding, information exchange and program planning for better community programming for the elderly.

1.44 REPORTS

The Council shall submit an annual report to the Town and shall send copies thereof to the State Commission on Aging and the Aging Bureau of the State Department of Community Affairs.

1.50 LOCAL CULTURAL COUNCIL

By the adoption of this bylaw the Town of Sturbridge has established a local cultural council to be known as “Sturbridge Cultural Council”. The Council shall consist of at least five (5) and not more than nine (9) members, to be appointed by the Board of Selectmen for staggered terms of three (3) years, with no member to be appointed more than two (2) consecutive terms.

The composition, operations, powers and duties of which shall be determined by and shall conform with the requirements of MGL Ch. 10 § 58 , as most recently amended and as that statute may be amended from time to time, as well as with all applicable regulations of the Massachusetts Cultural Council.

1.60 FEES COLLECTED

All Town officers are required to pay all fees received by them, by virtue of their office, into the Town treasury. This by-law is authorized by MGL Ch. 40 § 21 (13) and is intended to include all those fees otherwise to be kept under any section of the General laws of Commonwealth of Massachusetts.

1.70 COMMUNITY PRESERVATION COMMITTEE

1.71 ESTABLISHMENT

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44B. The Town Administrator shall appoint all members whose appointment is not otherwise provided for, of the Committee, subject to the confirmation by the **majority vote** of the Board of Selectmen. The composition shall be as follows:

- (A) One member from the Conservation Commission as designated by the Commission, for a term of three years.
- (B) One member from the Historical Commission as designated by the Commission, for a term of three years.
- (C) One member from the Planning Board as designated by the Board, for a term of three years.
- (D) One member from the Recreation Committee as designated by the Committee, for a term of three years.
- (E) One member from the Open Space Committee as designated by the Committee, for an initial term of one year and thereafter for terms of three years.
- (F) One member of the Housing Partnership Committee as designated by the Committee, for an initial term of one year and thereafter for a term of three years.
- (G) Three additional at-large members to be appointed by the Town Administrator, with the confirmation of the Board of Selectmen. One of which will be appointed for an initial term of one year and thereafter for three years and two members to be appointed for an initial term of two years and thereafter for terms of three years.

Should any of the Commissions, Boards or Committees listed above, no longer exist for whatever reason, the appointment shall become an at-large appointment in addition to the three listed above.

1.72 DUTIES

- (A) The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Board of Selectmen, Conservation Commission, the Historical Commission, the Planning Board, Recreation Committee and the Housing Partnership Committee. As part of its study, the Committee shall hold one or more public informational meetings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published at least two weeks before the public meeting in the official newspaper.
- (B) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of affordable housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and affordable housing that is acquired or created as provided by this section. With respect to affordable housing, the Community Preservation Committee shall recommend wherever possible, the reuse of existing buildings or construction of new buildings on previously developed lots.
- (C) The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside, for later spending, funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending, funds for general purposes that are consistent with community preservation.

1.80 AGRICULTURAL COMMISSION

1.81 PURPOSE

The purpose of the Agricultural Commission sometimes hereinafter referred to as “the Commission” is to support commercial agriculture and other farming activities in the Town of Sturbridge. The Commission’s duties shall include, but are not limited to serving as facilitators for encouraging the pursuits of agriculture in Sturbridge; promoting agricultural-based economic opportunities in Town; acting as mediators, advocates, educators and/or negotiators on farming issues; working for preservation of prime agricultural lands; advising the Board of

Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Historical Commission, Board of Assessors and Open Space Committee or any other appropriate Town Boards, on issues involving agriculture and pursuing all initiatives appropriate to creating a sustainable agricultural community.

1.82 MEMBERSHIP

- (A) The Agricultural Commission shall consist of five (5) members appointed by the Town Administrator, subject to the confirmation by the **majority vote** of the Board of Selectmen. The majority of which Commission's membership shall be substantially engaged in pursuit of agriculture or have previously been engaged in the pursuit of agriculture, or those that have a combination of education and/or experience that qualifies them to serve in this capacity. All members of the Commission must either be residents of the Town or owners and farmers of agricultural property within the Town.
- (B) There may be up to three (3) alternates appointed to the Commission by the Town Administrator, subject to the confirmation of the Board of Selectmen. Said alternates shall be designated by the Chair of the Commission to fill any vacancies at meetings of the Commission, regardless of the reason for vacancy.
- (C) In making appointments, the Town Administrator shall consider the intent of the Commission to represent the agricultural interests of the Town.
- (D) The members shall serve overlapping terms of three years. For the first Agricultural Commission, the Town Administrator shall appoint two members for a term of three years, two members for a term of two years and one member for a term of one year. Thereafter, appointments shall be made for three-year terms.
- (E) The Town Administrator shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments, based upon the recommendations of the Commission.

1.83 TREE WARDEN ADVISORY COMMITTEE

1.84 PURPOSE

The Town of Sturbridge establishes the following Bylaws for the protection and preservation of Town Trees (trees on public land and town parks, including Shade Trees as defined in By-Law, trees protected by the Scenic Roads By-Law and Chapter 87 of the General Laws):

1.85 CREATION AND ESTABLISHMENT OF TREE COMMITTEE

There is hereby created and established a Tree Committee which shall consist of a minimum of five (5) voting members appointed by the Town Administrator for three year terms.

1.86 PURPOSE AND MISSION OF TREE COMMITTEE

It is the purpose of this Committee to:

- (A) Protect and maintain Town Trees in order to promote environmental, aesthetic, historical and community values.
- (B) To continue renewing Town Trees by replanting for the benefit of future generations in Sturbridge.
- (C) To execute projects suggested by the Tree Warden and/or the Tree Committee consistent with protecting and maintaining Town Trees for the purposes described in (B) above.
- (D) Work towards sound policy formulation, administration, management, representation and advocacy regarding Town Trees and all matters related thereto.
- (E) Assist the Tree Warden in the completion of a yearly inventory of Town Trees; Identifying all "Heritage Trees" - A public shade tree specifically designated by the Department of Environmental Management, Urban Forestry Program, upon recommendation by the Town Tree Warden to be a heritage tree. Heritage trees may qualify for state funds for maintenance under this program. A tree may qualify as a heritage tree if it meets one or more of the following criteria:
 - (a) Old Age - 100 years or greater; Size - 32 inches diameter or greater;
 - (b) Species rarity;
 - (c) Association with specific historical event or person;
 - (d) Healthy abnormality; e.g., shape, etc.;
 - (e) Scenic enhancement; e.g., trees around Sturbridge Common;
 - (f) Wildlife value.

1.87 DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Committee to aid the Tree Warden to study, investigate, counsel and develop and/or update and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.

The Committee, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

1.88 OPERATION

The Committee shall choose its own officers, make its own rules and regulations and keep minutes of its meetings. The Committee shall meet at least four times a year. A majority of the Voting Members shall be a quorum for the transaction of business.

1.89 INTERFERENCE WITH THE TREE COMMITTEE

It shall be unlawful for any person to prevent, delay or interfere with the Tree Committee or any of its agents, while engaging in and about the gathering of information, planting, cultivating mulching, pruning, spraying, or removing of any trees on public grounds, as authorized in this Bylaw. **{New section ATM 4-28-08, Article 16}**

1.90 STURBRIDGE TOURIST ASSOCIATION

1.91 PURPOSE

- (A) To have creative and budgetary oversight of the Hotel/Motel tax percentage that is placed in the Sturbridge Tourist Association Revolving Fund for the promotion of tourism. These funds are to be used for the marketing and implementation of tourism for the benefit of Sturbridge.
- (B) Maintain fiscal control by accepting and distributing, as necessary, the monies appropriated by the Annual Town Meeting for the purpose of planning, promoting and implementing tourism in Sturbridge. An amount approved by the Town Meeting shall be designated as broadly as possible to be dispersed by the Committee as outlined below.
- (C) The Sturbridge Tourist Association shall propose a budget that provides the following:
 - Funding for the promotion of tourism with a portion directly for the marketing of all Sturbridge businesses involved in tourism.

- Funding for multiple tourist related events and activities in Sturbridge
- Funding for the Route 20 Public Restrooms and the grounds maintenance of the Tourist Information Center.
- Funding for the operating expenses of the Tourist Information Center, such as the Customer Service Desk staff, telephone and internet.

(D) Goals

- (1) Aid and support Sturbridge businesses directly involved in the Sturbridge tourism industry.
- (2) Promote, expand and facilitate tourism in Sturbridge keeping in mind the general character of the Town and its natural resources.
- (3) In order to fulfill its obligations to the tourism industry and businesses in Sturbridge, it may, as necessary, request and conduct studies to understand the tourist climate, request/submit articles for review and inclusion in the Town Meeting Warrant with relation to its mandated purpose, and approach Town Boards for permits necessary to implement its events/promotions and products.
- (4) Develop goals and a vision for tourism in Sturbridge keeping in mind the general character of the Town and its natural resources, the Commercial Tourist and Historical Commercial Zones and the best interest of Sturbridge tourist-related businesses.

- (E) Shall meet quarterly at a minimum to review projects, budget and requests from Sturbridge Townships and other groups.

1.92 CREATION AND ESTABLISHMENT

There is hereby created and established a Sturbridge Tourist Association (STA) which shall consist of seven (7) voting members. Upon the effective date of this Bylaw, said seven (7) members shall replace the current members. After the initial terms of the new members, each member, except for the Board of Selectmen representative, and the Finance Committee, Planning Board, or Recreation Committee representative, shall be appointed for a three-year term. Except as noted below, the Town Administrator shall appoint all members, subject to the confirmation by the **majority vote** of the Board of Selectmen, as follows:

- One (1) member from the Board of Selectmen to be appointed by the Board of Selectmen annually.
- One (1) member from one of the following: Finance Committee, Planning Board, or Recreation Committee, to be appointed annually.
- Two (2) members, owners or their representatives, of a Hotel/Motel/Inn/B&B located within the geographic boundary of Sturbridge, one to be appointed for an initial term of one year, and one to be appointed for an initial term of two years.
- One (1) member, an owner or representative of a tourist related business (retail, restaurant or similar tourist related activity) located within the geographic boundary of Sturbridge, to be appointed for an initial term of three years.

In the event this seat remains open due to a lack of qualified applicants from the retail, restaurant, or similar tourist activity, the Town Administrator may choose to fill the seat with a member from among the owners of Hotel/Motel/Inn/B&Bs who operate a business located within the geographic boundary of Sturbridge.

- Two (2) Sturbridge residents at large, one to be appointed for an initial term of three years, and one to be appointed for an initial term of two years.
{New section added ATM 4-27-09, Article 29}

1.95 STURBRIDGE LAKES ADVISORY COMMITTEE

1.96 PURPOSE

To advise the Board of Selectmen on matters regarding the six Great Ponds (Big Alum Pond, Cedar Pond, Lead Mine Pond, Long Pond, South Pond and Walker Pond) in regard to protection, improvements or enhancements, to study and maintain records regarding the lakes and to serve as a mechanism to coordinate between the affiliated lake associations.

The Committee will:

- Serve as a coordinating Committee between various town departments, boards and the lake associations.
- Seek to improve public access to the Great Ponds
- Develop consistent policies throughout each of the Great Ponds in matters of common interest (i.e. boating regulations or “rules of the road”)

- Make recommendations regarding weed control through chemical and non-chemical treatment and prevent spread between lakes through boater education.
- Identify funding opportunities and grants to improve lake and watershed quality.
- Prepare educational packages for town residents on the lakes and watersheds.

1.97 MEMBERSHIP

The Committee shall consist of two members from each of the Lake Associations to be designated by the Lake Association to serve a three year term; one member of the Conservation Commission designated by the Conservation Commission; and one member of the Board of Selectmen designated by the Board of Selectmen and one member that is a representative of either the East Brimfield Dam or abutter to Long Pond {**New section STM 4-27-09, Article 74, Amended ATM 4-26-10, Article 12**}

CHAPTER TWO PERMITS

2.00 NEWSPAPER DISPENSING DEVICES, PERMIT AND APPLICATION

2.01 Applications may be made to, and on forms approved by, the Building Inspector or rental permits allowing the maintenance or installation of newspaper dispensing devices on public property along the streets and thoroughfares within the Town.

2.02 The Building Inspector shall approve or deny the application. Denial shall only be for reasons of public safety, stating the reasons for such denial. Approval shall be subject to the following terms:

(A) The term “newspaper dispensing device” as used in this Bylaw shall mean a mechanical, coin-operated container constructed of metal or other material of substantially equivalent strength and durability, not more than fifty (50) inches in height and not more than twenty six (26) inches in length and width.

(B) Newspaper dispensing devices shall be placed at such locations as applied for and determined by the Building Inspector neither to (1) cause an undue safety hazard, nor (2) interfere with the right of the public to safe use of the streets and thoroughfares, nor (3) constitute a nuisance as a dangerous structure as described in MGL Ch. 139 § 1, provided further, however, that no newspaper dispensing devices shall be placed, installed, used, or maintained:

- (1) Within ten (10) feet of any fire hydrant or other emergency facility;
- (2) Within ten (10) feet of any intersecting driveway, alley or street;
- (3) Within three (3) feet of any marked crosswalk;
- (4) At any location where the width of the clear space in any direction for the passage of pedestrians is reduced to less than four (4) feet;
- (5) Within two hundred and fifty (250) feet of another newspaper dispensing device containing the same newspaper or periodicals except that (subject to subparagraph 2. of this paragraph B., above) the Building Inspector may permit two such dispensing devices near an intersection where such placement would not impair traffic or otherwise create a hazardous condition; or
- (6) In any location where three (3) newspaper dispensing devices are already located.
- (7) Anchored or secured to any tree.

- (C) Any rental permit granted shall be upon the following conditions:
- (1) The permittee shall pay a rental fee of ten dollars (\$10) per year or any part thereof, for each of its devices at each location where a newspaper dispensing device is installed.
 - (2) The permittee, upon the removal of a newspaper dispensing device, shall restore the public property to the same condition as when the device was initially installed, ordinary wear and tear excepted;
 - (3) The permittee shall maintain the device in good working order and in a safe and clean condition, and shall keep the immediate area surrounding such device free from litter and debris resulting from the device or its intended or foreseeable use;
 - (4) The permittee shall not use a newspaper dispensing device for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper sold thereby;
 - (5) The permittee shall save and hold the Town harmless from any and all liability and expense, including attorneys' fees, for any reason whatsoever occasioned by the installation, maintenance or use of each newspaper dispensing device and shall furnish, at the permittee's expense, such general comprehensive liability insurance as will protect permittee and the Town from all claims for damage to property of bodily injury, including death, which may arise from the operation under the permit or in connection therewith. Such policy shall name the Town as an additional insured and shall be in the amount of not less than one hundred thousand dollars (\$100,000) combined single limit for injury to persons and/or for damage to property and shall provide that the insurance coverage shall not be canceled or reduced by the insurance carrier without thirty (30) days prior written notice to the Town. A certificate of such insurance shall be provided to the Town prior to the issuance of the permit and shall be maintained before and at all times during the installation of such devices;
 - (6) Rental permits shall be for a term of one (1) year and shall not be assignable.
- (D) A person aggrieved by a decision by the Building Inspector in refusing to grant or revoking a rental permit shall have a right to appeal to the Board of Selectmen. Such appeal shall be taken by filing a notice of appeal, including a statement of the grounds for appeal, with the Board of Selectmen within ten (10) calendar days after notice of the decision by the Building Inspector has been given. The Board of Selectmen shall set the time and the place for hearing such appeal and notice of such time and

place shall be given. The Selectmen shall have the power to reverse, affirm or modify the decision of the Building Inspector, and any decision made by the Selectmen shall be final.

2.03 TENTS

The following sections (2.04-2.09) are meant to regulate the commercial use of tents only.

2.04 Tents authorized by a tent permit issued by the Building Inspector may be erected for a period of no longer than 14 days, with one 14 day extension period.

2.05 An application for a tent permit must be made to the Building Inspector. The party erecting the tent must provide proof of permission from the property owner to erect the tent.

2.06 The fee for a tent permit is \$30.00.

2.07 The Building Inspector shall confer with the Fire Chief, prior to issuing a tent permit, to ensure that the proposed tent conforms with the requirements of 527 CMR 19 of the State Fire Code, or any successor thereof.

2.08 All tents shall be erected in conformance with the setback and other requirements of all applicable Sturbridge Bylaws. Tents shall not occupy and/or hinder active parking or traffic circulation areas.

2.09 The Building Inspector shall inspect the installation of all tents to ensure the safety of occupants in and around the tent.

2.10 TEMPORARY STORAGE CONTAINERS

2.11 A storage container for the purpose of this bylaw shall mean any unit which is erected separately from the main structure on the premises for the purpose of providing storage space for permitted uses on the site. A storage container should be a commercial storage unit or other such structure clearly intended for use as storage space. Each unit may be a maximum of 20'X10'X10'. The unit may not be maintained on wheels. Tractor trailer backs shall not be considered acceptable storage container units.

2.12 Storage containers, authorized via a storage container permit issued by the Building Inspector, may be erected for a period of no longer than 6 months with

one 3 month extension. No more than 3 storage units may be located on a lot at one time.

- 2.13 An application for a storage container permit must be made to the Building Inspector. The party erecting the storage container must provide proof of permission from the property owner to erect the unit.
- 2.14 The fee for a storage container permit is \$30.00 per unit.
- 2.15 All storage containers shall be erected in conformance with the setback and other requirements as stated in all applicable Sturbridge Bylaws. Storage containers shall not occupy and/or hinder active parking or traffic circulation areas. The units shall be located in areas which are not visible from roadways and shall be properly maintained so as not to create an eyesore.
- 2.16 The Building Inspector shall inspect the installation and maintenance of all storage containers to protect the safety of occupants in and around the unit(s), and may revoke a permit for maintenance of any unsafe, disordered or unsanitary condition in or about the units.
- 2.17 Should a property owner have a compelling need, which may not be satisfied through other reasonable means, to keep the unit on site for a period longer than nine(9) months, this may be allowed provided the owner undergoes full Site Plan Review process, as set forth in the Zoning Bylaws and incorporated herein, to locate the unit on the site.
- 2.20 SEASONAL/TEMPORARY USE DEFINITION – Shall be defined as a temporary use or occupancy on an intermittent or short-term basis, primarily during the summer months and/or weekends, the total time of which use shall not exceed thirty (30) days during any one (1) calendar year.
- 2.21 SEASONAL/TEMPORARY USE

Temporary Uses are allowed in all commercial or industrial zones, but they do require a permit from the Board of Selectmen. Such uses shall not require site plan review.

DEMOLITION DELAY BYLAW

2.30 INTENT AND PURPOSE

This bylaw is enacted for the purpose of preserving and protecting significant buildings and structures within the Town of Sturbridge which constitute or reflect distinctive features of the architectural, historical or cultural history of the Town and to limit the detrimental effect of demolition on the character of the Town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the Town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this bylaw.

2.31 DEFINITIONS

Applicant - Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

Application - An application for the demolition of a building.

Building - Any combination of materials forming a shelter for persons, animals, or property.

Building Inspector - The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

Commission – The Town of Sturbridge Historical Commission or its designee.

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

Demolition Permit - The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

Preferably Preserved - Any significant building which the Commission determines, following a Public Hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the six month demolition delay period of this bylaw.

Significant Building - Any building within the town which is in whole or in part 100 years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The Building has been found eligible for the National Register of Historic Places; or
- The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

2.32 PROCEDURE

No demolition permit for a building which is found to be a “Significant Building” shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over 100 years old for the purposes of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Building Inspector an application containing the following information:

- The address of the building to be demolished.
- The owner's name, address and telephone number.
- A description of the building.
- The reason for requesting a demolition permit.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph or photograph(s) of the building.

The Building Inspector shall within seven days forward a copy of the application to the Commission. The Commission shall within thirty days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Inspector and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Commissioner within thirty days of receipt of the application, the Building Inspector may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a Public Hearing within thirty days of the written notification to the Building Inspector. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the close of the public hearing or within fourteen days after the close of the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Inspector and applicant in writing. No demolition permit may then be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Inspector in writing within twenty one days after the close of the public hearing, the Building Inspector may issue the demolition permit.

Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site

have been filed with the Building Inspector and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances, special permits or other relief, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Inspector may issue a demolition permit or a building permit for a preferably preserved building within the six months if the Commission notifies the Building Inspector in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.

Following the six month delay period, the Building Inspector may issue the demolition permit.

2.33 ADMINISTRATION

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw. The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee. The Commission may proactively develop a list of significant buildings that will be subject to this bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

2.34 EMERGENCY DEMOLITION

If after an inspection, the Building Inspector finds that a building subject to this bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Inspector may issue an emergency demolition permit to the owner of the building or structure. The Building Inspector shall then prepare a report explaining the condition of the building and the basis for his decision which shall be forwarded to the Commission.

2.35 ENFORCEMENT AND REMEDIES

The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof.

Any owner of a building subject to this bylaw that demolished the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than three hundred dollars (\$300). Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

If a building subject to this bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

2.36 HISTORIC DISTRICT ACT

Following a determination that the building is significant and preferably preserved, the Commission may recommend to Town Meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a Local Historic District. Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this bylaw do so conflict, that act shall prevail.

2.37 SEVERABILITY

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

CHAPTER THREE ENVIRONMENTAL

3.00 ABANDONED MOTOR VEHICLES

3.01 No person shall accumulate, keep, store, park, place, deposit or permit to remain upon exterior premises owned by him or under his control, any dismantled, unserviceable, junked or abandoned motor vehicle or parts thereof, unless he has a valid license to do so under the General Laws.

3.02 Whoever violates or continues to violate this bylaw after having been notified by registered mail of such violation shall be punished by a fine as follows:

1st Offense - Verbal or Written Warning

2nd Offense - \$25.00

Each Successive Offense - \$50.00

3.03 Each day during which such violation is permitted to continue shall be deemed a separate offense.

3.04 WAKES

No person shall operate any boat or other vehicle in such a manner as to create a wake during periods of high water on Quamquasit Lake (South Pond). High water is defined as water that is at or above 601' above sea level.

3.05 LITTER

3.06 No person shall place or cause to be placed upon public or private land not owned by the responsible party, litter, trash, earth, construction or other materials without the land owner's consent.

3.07 Whoever violates this bylaw shall be punished by a fine of \$200.00, according to MGL Ch. 40 § 21D.

3.08 Each day during such violation is permitted to continue shall be deemed a separate offense.

3.09 EARTH REMOVAL

The removal of sand, gravel, sub-soil, top-soil or earth and the processing and treating of said materials shall be conducted only by a permit issued by the Board

of Selectmen. This bylaw is being applied in conjunction with Chapter Nine of the Zoning Bylaws.

This chapter shall not apply to the following:

- (A) The excavation of a foundation or site preparation for a new structure, for which a valid Building Permit is in force.
- (B) The grading and/or landscaping in connection with the construction of a new structure.
- (C) The construction or reconstruction of a residential driveway if otherwise permitted.
- (D) The excavation and grading in connection with construction of a subdivision as approved by the Planning Board.
- (E) The removal of less than fifty (50) cubic yards in a twelve (12) month period.
- (F) The grading in connection with a bona-fide agriculture operation.
- (G) The Board of Selectmen may approve the removal of sand, gravel or earth in excess of fifty (50) cubic yards but not to exceed two thousand (2000) cubic yards on a one-time basis under the following conditions:
 - (1) The application must be accompanied by a plan or plans showing:
 - (a) The property lines
 - (b) The area to be excavated
 - (c) The distance from the property lines to the area to be excavated
 - (d) The approximate contours before and after excavating
 - (2) The excavation is to be at least twenty (20) feet from the lot lines unless the Board of Selectmen deems otherwise.

3.10 The Board of Selectmen may, after public hearing for which notice has been given by publication and posting as provided in MGL Ch. 40A, grant a permit for the removal of more than fifty (50) cubic yards in a twelve (12) month period.

3.11 Removal of sand, earth or gravel and the processing and treating of said materials shall be conducted only by a permit from the Board of Selectmen. This chapter shall not apply to such operations which are incidental to and in connection with the construction of a building on a lot.

3.12 Any application for a permit for the removal of sand, earth or gravel or for the processing and treating of said materials shall be accompanied by a Site Plan

depicting the land to be affected by such operation. In addition to complying with the Minimum Site Plan Requirements of Section 3.09, the Site Plan shall indicate the following:

- (A) Contours at intervals of not more than ten (10) feet.
- (B) A placement of at least four (4) inches of compacted topsoil over all excavated, filled or otherwise disturbed surfaces and seeding with a perennial cover crop, re-seeded as necessary to ensure uniform growth and soil surface stabilization.
- (C) Finished grades are not to exceed a slope of one (1) foot vertical to two (2) feet horizontal; and
- (D) Existing removal area(s) and the proposed area(s) for removal in the immediate future.

3.13 Any permit granted for the removal of sand, earth or gravel or for the processing and treating of said materials shall contain the following mandatory conditions.

- (A) Removal and processing operations shall not be conducted closer than fifty (50) feet to a public street or to any property line.
- (B) All equipment, except mobile equipment, for sorting, washing, crushing, grading, drying, processing, and treating or other operation machinery, shall not be used closer than one hundred (100) feet from any public street or from any adjoining property lines.
- (C) Any access to excavated area or areas in the process of excavation shall be adequately posted with KEEP OUT - DANGER signs.
- (D) Any work or bank that slopes more than thirty (30) degrees downward adjacent to a public street shall be adequately fenced at the top.
- (E) A substantial fence shall be provided enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of ten (10) feet or more and create a slope of more than one (1) foot vertical to two (2) feet horizontal. Such fence shall be located ten (10) feet or more from the edge of the excavation or quarry, and shall be at least six (6) feet in height.
- (F) Adequate provision is to be made for drainage during and after the completion of operations.
- (G) Adequate lateral support shall be maintained for all adjacent properties.
- (H) The use of explosives shall be done in accordance with the regulations for storage and handling of explosives as published by the Massachusetts Department of Public Safety and the Sturbridge Fire Department.
- (I) Provision shall be made for the adequate control of dust during operation.
- (J) There shall be replacement of at least four (4) inches of compacted topsoil over all excavated, filled or otherwise disturbed surfaces. There shall also

be seeding with a perennial crop, re-seeded as necessary to ensure uniform growth and soil surface stabilization.

- (K) Finished grades shall not exceed a slope of one (1) foot vertical to two (2) feet horizontal.
- (L) It is recognized that the land reuse of a removal site is in the public interest. Therefore, land reuse plan(s) must be submitted to the Board of Selectmen for approval subject to the regulations set forth in the following paragraphs:
 - (1) The Board of Selectmen may require that up to three (3) approved alternative future land reuse plans be submitted for such land as is used for the extraction of earth, sand, gravel and rock.
 - (2) Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse, including landscaping and erosion control. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future zero (0) to five (5) years, and be revised as necessary as to the existing physical character of the removal area changes.
 - (3) The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one (1) year of the abandonment of said operation.
 - (4) A bond in an amount stated by the Board of Selectmen shall be posted to ensure the satisfactory implementation of the reuse plan.

3.14 Excavation and grading shall be executed in such manner as not to result in holes, depressions, stagnant water, soil erosion, drainage or sewerage problems or other conditions which would depress the land values or impair the property for use for which it has been zoned.

3.15 Finished slopes in excavated areas shall not exceed one (1) foot vertical to two (2) feet horizontal.

3.16 Except in the case of dams, swimming pools, or where retaining walls are to be constructed, no removal or excavation shall be within fifty (50) feet of any street or property line.

3.17 Unless the property to be graded is located in an industrial district, no earth excavating machinery or trucks shall be stored within 300 feet of any property line or street line, and no machinery for sorting, grading, crushing or for other processing of the excavated material shall be erected, except a temporary shelter for machinery or office.

3.18 After excavation or removal, the premises shall be cleared of debris, a top layer of topsoil of at least four (4) inches in depth shall be spread over the finished subgrade, and the final surface shall conform to the proposed finished contours and grades. No areas shall be excavated in such manner that the finished grade is below the water table.

3.19 PERFORMANCE BOND

A Performance Bond, in form and amount specified by the Board of Selectmen, shall be filed with the Treasurer of the Town of Sturbridge, and said bond shall specify the time within which the work under the permit is to be completed and shall guarantee satisfactory performance of the work.

3.20 EXPIRATION AND REVOCATION OF PERMITS

Expiration - Any permit issued by the Board of Selectmen as herein described shall expire within two (2) years of the date of the permit, but may be renewed by the Board of Selectmen for an additional period of time if the Board deems such action satisfactory.

Revocation - The Board of Selectmen may revoke the permit and may take other action as shall be necessary either against the permittee or surety in the bond, to cause completion of the work forthwith in accordance with the terms of the application and permit, if the work or excavating, removal, grading or re-grading is not being performed in accordance with said forms.

3.30 FOREST HARVESTING

It is strongly recommended that the harvester follow the practices in the latest edition of the Massachusetts Best Management Practices of Timber Harvesting Water Quality Handbook.

3.31 NOTIFICATION REQUIRED

The Town shall be notified for selective harvesting of forest products on more than four acres of land in any twelve month period and for clear cutting on more than two acres of land.

3.32 PROCEDURE

(A) The applicant must submit the following materials to the Office of the Town Administrator:

- (1) Copy of State Certified Cutting Plan signed by State Forester and copy of overall plot plan.
 - (2) Proof of notification to the Sturbridge Conservation Commission.
 - (3) Correspondence from DPW Director regarding driveway permit as required by Sturbridge General Bylaws, Section 6.60 and proposed bonding for road repairs and/or erosion control.
 - (4) Certified list of abutters within 200 feet of the cutting area.
 - (5) Proof of land ownership and/or a notarized letter from land owner giving permission harvest or to gain access to harvesting operations if the operation requires access from property other than that being harvested.
 - (6) Copy of State harvester's license.
 - (7) Reforestation plan for clear cutting projects.
 - (8) Filing fee of \$10.00.
- (B) The Office of the Town Administrator shall arrange for a public hearing on said notification and publication of the hearing notice. The cost of such notice is to be borne by the applicant.
- (C) The applicant must mail notice of said public hearing certified mail, return receipt requested, to all parties on the Certified Abutters List. The form of said notice shall be provided by the Office of the Town Administrator.

3.33 HEARING

The applicant shall appear at the time and date of the scheduled hearing and shall furnish proof of notification to abutters by certified mail. At this time, the applicant may bring dated photographs showing the condition of all access roadways prior to the operation in order to document the condition of said roadways and avoid repair claims post operation. The Board of Selectmen shall hear comments from any and all interested parties.

3.34 RESTRICTIONS

The Board of Selectmen may place limitations on the hours of operation relative to school bus schedules. The Board of Selectmen may also reasonably regulate noise levels and require dust and debris protection on the site of the wood harvesting.

3.35 PERFORMANCE BOND

The Town shall require a performance bond to ensure that repairs are made to any Town roads damaged as a result of the subject forestry harvest project and may

additionally require a performance bond to ensure erosion control measures before, during and, for a reasonable period of time, after the proposed operation. Said bond shall be released by the Treasurer upon inspection and a satisfactory finding by the DPW Director.

3.50 WETLAND PROTECTION

3.51 PURPOSE

The purpose of this bylaw is to protect the wetlands, related water resources and adjoining land areas in Sturbridge by controlling, via prior review and approval, activities deemed by the Sturbridge Conservation Commission (hereinafter referred to as "Conservation Commission") as likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, rare species habitat including rare plant species, recreation values, agriculture and aquaculture, deemed important by the community (collectively, the "resource area values protected by this bylaw").

This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Massachusetts Wetlands Protection Act (MGL Ch. 131, § 40) and its associated regulations (310 CMR 10).

3.52 JURISDICTION

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps; seasonal wetlands; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; land under water bodies; land subject to flooding or inundation by surface water or ground water; and lands within 200 feet of any of the aforesaid resource areas (collectively the "resource areas protected by this bylaw"). Said resources shall be protected whether or not they border surface waters.

3.53 EXCEPTIONS

The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health and 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 the Town of Sturbridge, provided that notice, oral or written, is provided to the Conservation Commission prior to commencement of work or within 24 hours after commencement, provided that the Conservation Commission certifies the work as an emergency project, and provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency, and provided that protective measures required by the Conservation Commission are complied with, and provided that within 21 days of the commencement of an emergency project, a permit application shall be filed with the commission for review as provided by this bylaw.

Other than stated in this section the exceptions provided in the Massachusetts Wetlands Protection Act shall not apply.

3.54 APPLICATIONS FOR PERMITS AND REQUESTS FOR DETERMINATION

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Conservation Commission to describe the proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw. The Conservation Commission will accept applications with a level of detail consistent with that required by the Massachusetts Wetland Protection Act, but reserves the right to require additional information as required to adequately review the proposed activity and determine its effect on the protected areas.

When the Conservation Commission deems it appropriate, it will accept a combined application under this bylaw and the Massachusetts Wetlands Protect Act. If a combined application is accepted the additional filing fee will be waived.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Conservation Commission. Such a Request for Determination of Applicability (RDA) shall contain data and plans as are deemed necessary by the Conservation Commission.

At the time of a permit application or RDA the applicant shall pay a filing fee specified in the regulations adopted by the Conservation Commission. This fee is in addition to any fee required by the Massachusetts Wetlands Protection Act.

Upon receipt of a permit application or RDA, or at any time during the hearing process, the Conservation Commission is authorized to require the applicant to pay for the reasonable costs and expenses of any consultant(s) deemed necessary by the Conservation Commission to review the application or RDA. These costs and expenses shall be paid directly to the consultant by the applicant. The exercise of discretion by the Conservation Commission in making a determination that outside consultant expertise is required shall be based on its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. The specific consultant services may include, but are not limited to, performing area survey and delineation; analyzing wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.

The Conservation Commission may waive the filing fee for an application or request filed by a government agency and shall waive the filing fee for a request for determination of applicability filed by a person with no financial connection with property which is the subject of the request.

3.55 NOTICE AND HEARINGS

Any person filing a permit application or a RDA with the Conservation Commission shall, at the same time, give written notice thereof, by certified mail (with return receipt, to all abutters according to the most recent records of the Assessors, including those across a traveled way or body of water. The notice to abutters shall include a copy of the application or request, with plans, or shall state where plans can be examined and obtained by abutters free of charge. When a person requesting a determination of applicability is other than the owner, the request, the notice of hearing and the determination of applicability itself shall be sent by the Conservation Commission to the owner as well as the person making the request.

The Conservation Commission shall conduct a public hearing on any permit application or RDA. Written notice of the date and time shall be published in a newspaper of general circulation in the municipality at least five working days prior to the hearing. The cost of the publication shall be paid by the applicant.

The Conservation Commission shall conduct a hearing within 21 days of receiving a complete permit application or request for determination of applicability unless an extension is authorized by the applicant.

The Conservation Commission, in an appropriate case, may combine the hearing under this bylaw and the Massachusetts Wetlands Protection Act.

The Conservation Commission shall have the authority, with the consent of the applicant, to continue the hearing to a date and time certain announced at the hearing, for reasons stated at the hearing, such as conducting a site visit or obtaining additional information. If the applicant does not consent to a continuation of the hearing the hearing shall be closed and a decision rendered based on the information available to the Conservation Commission.

3.56 COORDINATION WITH OTHER BOARDS

Any person filing a permit application or RDA with the Conservation Commission shall provide, at the same time, a copy to the Board of Selectmen, Planning Board, Board of Health, Building Inspector, and Town Engineer. The Conservation Commission shall not take final action for at least 14 days to allow the above to submit written comments and recommendations with the Conservation Commission, which the Conservation Commission shall take into account but shall not be binding on the Conservation Commission. The applicant shall have the right to receive any such comments and recommendations, and respond to them at a hearing of the Conservation Commission, prior to final action.

3.57 PERMITS, DETERMINATIONS AND CONDITIONS

The Conservation Commission, within 21 days of closing a public hearing, shall issue or deny a permit for the activities requested. If it issues a permit the Conservation Commission shall impose conditions it deems necessary or desirable to protect the wetlands values protected by this bylaw. The applicant shall conduct all permitted activities in accordance with those conditions. The Conservation Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

Lands within 200 feet of rivers, ponds, lakes, and other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time as a consequence of daily operation or existence of activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Conservation Commission therefor may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within the 200 foot area unless the applicant convinces the Conservation Commission

that the area or part of it may be disturbed without harm to the values protected by the bylaw.

In the review of areas within 200 feet of rivers and streams, no permit issued hereunder shall permit activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects (2) such activities, including mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw.

The Conservation Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g. residential, institutional, commercial, or industrial purpose) logistics, existing technology, costs of the alternatives and overall project costs.

To prevent wetlands loss, the Conservation Commission shall require applicants to avoid wetlands alterations wherever feasible; shall minimize wetlands alteration; and where alteration is unavoidable, shall require full mitigation. The Conservation Commission may authorize or require replication of wetlands as a form of mitigation.

The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Conservation Commission; for failure to meet the performance standards of the bylaw; or when the Conservation Commission determines that it is not possible to conduct the requested activity without unacceptable wetlands alterations, or for any other grounds consistent with this Bylaw and the Massachusetts Wetlands Protection Act, and within the Conservation Commission's authority under MGL Ch. 40 §8C.

A permit shall expire three years from the date of issuance. The Conservation Commission, at its discretion, may renew a permit for a period of time deemed appropriate by the Conservation Commission, providing written request for renewal is received by the Conservation Commission at least one month prior to the date of expiration.

The Conservation Commission may, for good cause, revoke or modify a permit issued under this bylaw after public notice and public hearing, and notice to the permit holder.

The Conservation Commission, in an appropriate case, may, combine the permit or other action on the permit application issued under this bylaw with the Order of Conditions or denial issued under the Massachusetts Wetlands Protection Act.

No work proposed in any permit application shall be undertaken until the permit issued by the Conservation Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Conservation Commission that the permit has been recorded.

3.58 REGULATIONS

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

Until such rules and regulations are issued by the Conservation Commission the rules and regulations of the Massachusetts Wetlands Protection Act (310 CMR 10) shall be considered to apply to any permit applications or requests for determination filed under this bylaw.

3.59 DEFINITIONS

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

Bank - Shall include the land area which normally abuts and confines a water body.

Seasonal wetland - Shall define areas subject to flooding which form temporary confined bodies of water during periods of high water table and high input from spring runoff or snow melt or heavy precipitation, and support populations of non-transient macro-organisms or serve as breeding habitat for select species of amphibians.

Vernal pool - Shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife

Select species of amphibians - Shall define species of amphibians which depend on seasonal wetlands for breeding habitat, including: mole salamanders (*Ambystoma maculatum*, *A. jeffersonianum*, *A. laterale*, and *A. opacum*); four-toed salamanders (*Hemidactylium scutatum*); eastern spadefoot toads (*Scaphiopus holbrooki*); American and Fowler's toads (*Bufo a. americanus* and *B. woodhousii fowleri*), spring peepers (*Hyla c. crucifer*); gray treefrogs (*Hyla versicolor*), and wood frogs (*Rana sylvatica*).

Rare species - Shall include, without limitation, all vertebrate and invertebrate animals and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

Person - Shall include any individual, group of individuals, business or social organization, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth of Massachusetts or political subdivision thereof, administrative agency, public or quasi-public corporation or body and any other legal entity, its legal representatives, agents or assigns.

Alter - Shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- (A) Removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
- (B) Changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns or flood retention characteristics;
- (C) Drainage or other disturbance of water level or water table,
- (D) Dumping, discharging or filling with any material which may degrade water quality;
- (E) Placing of fill, or removal of material, which would alter elevation;
- (F) Driving of piles, or construction or repair of buildings, or structures of any kind;
- (G) Placing of obstructions or objects in water;
- (H) Destruction of plant life, including cutting of trees. Compliance with the Massachusetts Forest Cutting Practices Act (MGL Ch.132 §§ 40-46) does not relieve any person from compliance with this bylaw. For purposes of this bylaw, "destruction" shall mean uprooting, or cutting down below the leaf or needle region of the plant. It shall not be interpreted to mean periodic mowing or pruning. This provision of the bylaw shall apply to plant life greater than two inches in diameter at a distance of 4 feet above the ground;

- (I) Changing water temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of water;
- (J) Any activities that may cause or contribute to pollution of any body of water or groundwater;
- (K) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

3.60 SECURITY

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or estate board, agency or official, the Conservation Commission may require that the performance and observance of the conditions impose 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 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 Sturbridge whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

3.61 ENFORCEMENT

The Conservation Commission shall have the authority to enforce this bylaw, its rules and regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

Upon request of the Conservation Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law.

Any person who violates any provisions of this bylaw, rules and regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, rules and regulations, and permit violated shall constitute a separate offense.

In the alternate to criminal prosecution the Conservation Commission may elect to utilize the non-criminal disposition procedure set forth in MGL Ch. 40 § 21D.

3.62 BURDEN OF PROOF

The applicant for a permit shall have the burden of proof by a preponderance of the credible evidence that the work proposed in the application will not unacceptably alter the wetland values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Conservation Commission to deny a permit or grant a permit with conditions.

3.63 RELATION TO THE MASSACHUSETTS WETLANDS PROTECTION ACT

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, independent of the Massachusetts Wetland Protection Act, MGL Ch. 131 § 40, and regulations thereunder.

3.64 GRANDFATHERING

Any projects possessing a valid Order of Conditions issued under the Massachusetts Wetlands Protection Act at the time of adoption of this bylaw shall not be subject to re-review under this bylaw. Any revisions to the projects after adoption of this bylaw that require an amended Order of Conditions will be subject to review under this bylaw.

3.65 SEVERABILITY

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

SCENIC ROADS

3.70 PURPOSE

To protect the scenic quality and character of certain roads within the Town of Sturbridge by establishing regulations that control physical alterations within public rights of way.

3.71 DEFINITIONS

In the absence of contrary meanings established through legislative or judicial action, pursuant to MGL Ch. 40, § 15C, the following terms contained in this bylaw shall be defined as follows:

Cutting or Removing Trees – Shall mean the removal of one or more trees.

Repair, Maintenance, Reconstruction or Paving Work – Shall mean any work done within the right-of-way by any person or agency, public or private. Within this definition is included any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways or alteration of existing driveways is included, insofar as it takes place within the right-of-way.

Roads – Shall mean a right-of-way of any way used and maintained as a public way including the vehicular traveled way plus necessary appurtenances within the right-of-way such as bridge structures, drainage systems, retaining walls, traffic control devices and sidewalks, but not intersecting streets or driveways. When the boundary of the right-of-way is an issue so that a dispute arises as to whether or not certain trees or stone walls or portions thereof are within or without of the way, the trees and stone walls shall be presumed to be within the way until the contrary is shown.

Tearing Down or Destruction of Stone Walls – Shall mean the destruction of more than fifteen (15) linear feet of stone wall involving more than one cubic foot of wall material per linear foot above the existing grade, but shall not be construed to include temporary removal and replacement at the same location with the same material.

Trees – Shall include any living tree whose trunk has a diameter of four inches or more as measured one (1) foot above the ground.

3.72 DESIGNATION OF SCENIC ROADS

The Planning Board, Conservation Commission and Historical Commission may petition the Board of Selectmen for additions or deletions to the list of scenic roads for consideration at Town Meeting. Any petition for “scenic road” designation must be accompanied by a written description of the characteristics of the road as a justification for the protection afforded by this bylaw.

3.73 CONTROL

Within the public right-of-way of designated scenic roads, the following activities shall require written approval of the Planning Board in accordance with the provisions of this bylaw:

- (A) The tearing down, painting or destruction of stone walls.

- (B) The cutting or removal of trees the scope of which is outside the responsibility of the Tree Warden as defined in Massachusetts General Laws or the Town of Sturbridge General Bylaws.
- (C) Repair, maintenance, reconstruction or paving work, including the construction of new driveways or alteration of existing driveways, insofar as they affect stone walls or trees within the public right-of-way, as defined above.

In cases where a threat to public safety does not allow sufficient time to obtain approvals from the Planning Board, the Planning Board must be notified within five (5) business days of any action which, had the threat not existed, would be a violation of this bylaw.

3.74 HEARINGS

The Planning Board shall, as required by statute, give notice of its public hearings by advertising twice in a newspaper of general circulation in the area. This notice shall contain a statement as to the time, date, place and purpose of the hearing with a reasonable description of the action and its location proposed by the applicant. Copies of this notice shall also be sent to the Town Clerk, Conservation Commission, the Historical Commission, the Tree Warden, the Director of Public Works and the owners of property within one-hundred (100) feet of the proposed action.

The Planning Board shall hold a public hearing within thirty (30) days of receipt of an application and shall approve, conditionally approve or deny an application within sixty (60) days of receipt. In making its decision, the Planning Board shall consider the following criteria and shall not grant approval if the proposed action will be in violation of one or more of the following:

- (A) Preservation of historic values
- (B) Preservation of scenic and aesthetic quality of the area
- (C) Protection of natural resource and environmental systems
- (D) Public Safety
- (E) Compatibility with the surrounding neighborhood

COMPENSATORY ACTIONS

In making its decision, the Planning Board may grant an approval that otherwise would be denied if the overall effect of the proposed alteration, including compensatory action, such as the planting of new trees or the reconstruction of

stone walls, is to maintain or improve the scenic quality or historical character of the road.

3.75 PUBLIC SHADE TREE ACT

Whenever feasible, notice shall be given and Planning Board hearings shall be held in conjunction with those held by the Tree Warden acting under MGL Ch. 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by the Tree Warden or vice versa. The Planning Board decision shall contain a condition that no work may be undertaken until all applicable provisions of the Public Shade Tree Law, MGL Ch. 87 and the Town's General Bylaws, Chapter Six, Section 6.80 through 6.89, Removal of Non-Hazardous Shade Trees, have been complied with.

3.76 ENFORCEMENT

The Building Inspector, Tree Warden or other designated by the Town Administrator may issue a citation for violation of these regulations. A failure to respond to properly issued citations, or the issuance of three (3) or more citations in a twelve (12) month period or failure to take responsible compensatory action shall be construed as a violation of this bylaw, to be enforced via non-criminal disposition, subject to a fine of not more than one-hundred dollars (\$100.00). Each day that such a violation continues shall constitute a separate offense.

3.77 ADDITIONAL REGULATIONS

The Planning Board may adopt additional regulations for carrying out provisions of this bylaw.

RIGHT TO FARM BYLAW

3.80 LEGISLATIVE PURPOSE AND INTENT

The purpose and intent of this bylaw is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder including but not limited to MGL Ch. 40A, § 3(1); MGL Ch. 90, § 9 and MGL Ch. 3, § 125A and MGL Ch. 128, § 1A. We the citizens of the Town of Sturbridge restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment").

This General Bylaw encourages the pursuit of agriculture, promotes agriculture based economic opportunities and protects farmlands within the Town of

Sturbridge by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This Bylaw shall apply to all jurisdictional areas with the Town.

3.81 DEFINITIONS

The following words and terms shall have the meaning stated below:

Farm – 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 provided that the lot is not less than five (5) acres. Small scale specialty operations that do not meet the 5 acre requirement will be reviewed on a case-by-case basis by the Agricultural Commission.

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

- Farming in all its branches and the cultivation and tillage of the soil
- Dairying
- Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural or horticultural commodities
- Growing and harvesting of forest products upon forest land and by any other forestry or lumbering operations in accordance with the Town of Sturbridge Forestry Bylaw
- Raising of livestock, including horses
- Keeping of horses as a commercial enterprise; and
- Keeping and raising of poultry, cattle, 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

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

- Operation and transportation of slow-moving farm equipment over roads within the Town
- Control of pests, including but not limited to insects, weeds, predators and disease organism of plants and animals
- Application of manure, fertilizers and pesticides; organic farming is encouraged
- 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

- Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto
- 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
- On-farm relocation of earth and the clearing of ground for farming operations

3.82 RIGHT TO FARM DECLARATION

The right to farm is hereby recognized to exist within the Town of Sturbridge. The above described agricultural or farming activities may occur on holidays, weekdays and weekends by day or night and shall include attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that the impact that may be caused to others through the normal and lawful practice of agriculture is offset by the benefits of farming to the neighborhood, community and society in general. The benefits and protections of this bylaw are intended to apply to those commercial agricultural and farming operations and other noncommercial farming activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm Bylaw shall be deemed to effectuate an acquisition of any interest in land or as the imposition of any land use regulation which is properly the subject of state statute, regulations or local zoning law.

3.83 DISCLOSURE NOTIFICATION

Within 30 days after this bylaw becomes effective, the Selectmen shall prominently post within the Town limits 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 may cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations."

3.84 RESOLUTION OF DISPUTES

Any person who seeks to complain about the operation of a farm, or its effects may, notwithstanding any other available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer, Zoning Board of Appeals, Conservation Commission or Board of Health, depending on 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 Town authority so notified shall forward a copy of the grievance to the Agricultural Commission or its agent, which may review and facilitate the resolution of the grievance and report its recommendations to the referring Town authority within an agreed upon timeframe.

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

3.85 SEVERABILITY

If any part of this Bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Bylaw. The Town of Sturbridge hereby declares the provisions of this Bylaw to be severable.

3.90 PURPOSE

It is the intent of the Town to offer tax abatements to encourage the continued environmental cleanup and redevelopment of sites that are zoned for industrial and/or commercial use that are contaminated with oil and/or other hazardous materials.

3.91 AUTHORITY

The Town Administrator is hereby authorized to work to negotiate agreements regarding the payment of outstanding real estate taxes, interest and penalties, including abatement of those amounts needed to make a cleanup and redevelopment project economically feasible. Said agreement may also contain additional incentives, financial and otherwise as may be deemed appropriate.

3.92 SCOPE OF AUTHORITY

Agreements may cover property contaminated with oil or other hazardous materials and must be zoned for commercial or industrial use.

Agreements may be entered into only with new, innocent purchasers who did not own the site at the time the oil or hazardous material was released and did not cause or contribute to its release.

Agreements must specify the details agreed to regarding payment of any outstanding obligations, including the amount owed, rate of interest to accrue, if any, amount of monthly payments, payment schedule, late penalties and other terms. These obligations may consist of outstanding real estate taxes or other financing packages negotiated with the Town.

Agreements must be signed by the Board of Selectmen and property owner and must be notarized and attested to by the Town Clerk. Copies must be provided to the Massachusetts Commissioner of Revenue, Massachusetts department of Environmental Protection, United States Environmental Protection Agency, Board of Assessors and the property owner.

3.93 APPROVAL OF AGREEMENTS

All agreements must be approved by a majority vote of the Board of Selectmen.

CHAPTER FOUR PUBLIC HEALTH

4.00 RESIDENTIAL SWIMMING POOLS

- 4.01 The installation of any in-ground or above ground swimming pools must be in accordance with the requirements for structures in the district in which the pool is located as set forth in Part C (Zoning) of these Bylaws.
- 4.02 Every outdoor residential swimming pool contained in an artificial or semi-artificial receptacle hereafter referred to as a pool, shall be completely surrounded by a fence or wall not less than four (4) feet in height, which shall be so constructed as to not have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates. If a picket fence is erected or maintained, the horizontal position shall not exceed four (4) inches. A dwelling house or accessory building may be used as part of such an enclosure.
- 4.03 All gate or door openings through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
- 4.04 This bylaw shall be applicable to all new pools hereinafter constructed, other than indoor pools and shall apply to all existing pools which have a minimum depth of 18 inches of water.
- 4.05 The Board of Selectmen may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefore provided the protection as sought hereunder is not reduced thereby.
- 4.06 The Board of Selectmen may provide other protection devices or structures to be used as long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence gate and latch described herein.
- 4.07 The Board of Selectmen shall allow a period of one year after the adoption date of this ordinance within which to comply with the requirements.
- 4.08 The Board of Selectmen shall be responsible to the community for the enforcement of this ordinance.

4.10 TRAILER COACH PARKS

- 4.11 Be it enacted by the Town of Sturbridge that commencing on the tenth day of March, 1964, it shall be unlawful for any person, partnership or corporation to operate a trailer coach park in the Town of Sturbridge without having first obtained a trailer coach park license for the same.
- 4.12 Every person, firm or corporation desiring to operate a trailer coach park in the Town of Sturbridge shall make application to the Sturbridge Board of Health for a license to operate said trailer coach park. The Sturbridge Board of Health, after a public hearing, reasonable notice of which shall be published once in the local newspaper, may grant a trailer coach license for said trailer coach park located in the Town of Sturbridge.
- 4.13 The license, unless suspended or revoked, shall expire on the 31st day of December in the year of first issue, but may be renewed annually upon application without such notice and hearings. Upon the granting of a license of renewal for the operation of a trailer coach park, the Sturbridge Board of Health will forward a copy of said license or renewal to the Sturbridge Town Clerk.
- 4.14 The fee for the original license shall be \$3.00 and for each renewal license shall be \$.50. In addition to the above license fee, each trailer coach park owner or operator shall pay an additional fee of \$4.00 per month or major fraction thereof, on account of each trailer coach occupying space within the said trailer coach park. Said license fee shall be collected by the trailer park operator from the owner or occupant of each trailer so occupying space in such trailer coach park at the end of each said month or major fraction thereof, and shall be deposited with the Collector of Taxes in the Town of Sturbridge no later than the tenth (10th) day of the month next following. The trailer park operator shall, no later than the fifth (5th) day of each month, file with the Sturbridge Board of Health, a list containing the amount collected along with the name and address of each owner or occupant of a trailer coach occupying space during the preceding month. The Sturbridge Board of Health shall forthwith commit the list to the Collector of Taxes in the Town of Sturbridge for collection. The Collector of Taxes shall, once in each week or oftener, pay over to the Treasurer all money received by him in the preceding week or lesser period on account of such license fees. Each trailer coach subject to the license fee provided for in this section shall be exempt from any property tax as provided in MGL, Ch. 59 § 5 ¶ 36.
- 4.15 The Collector of Taxes shall report to the Sturbridge Board of Health any failure to deposit with him/her any license fee so collected, and any failure by a trailer coach operator to collect any license fee provided for under this section or to

deposit with the Collector of Taxes any license fee so collected shall be deemed cause for the revocation of any license granted under 4.02.

In addition, any willful failure to deposit with the Collector of Taxes a license fee which has been so collected shall be punishable by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) for each fee so collected and not deposited.

4.16 DEFINITIONS

A “trailer coach” for the purpose of these regulations, is defined as any vehicle or object on wheels and having no motive power of its own, but which is drawn by or used in connection with, a motor vehicle, and which is so designed and constructed or reconstructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks or other foundation, and shall include the type of vehicle commonly known as a mobile home. A “trailer coach park” for the purpose of these regulations, is defined as any lot or tract of land upon which three (3) or more trailer coaches occupied for dwelling purposes are located, including any buildings, structures, fixtures and equipment used in connection with trailer coaches.

- 4.17 Any person, firm or corporation in order to obtain a license for the operation of a trailer coach park shall comply with the following regulations:
- 4.18 The applicant for a trailer coach park license shall furnish a plan showing buildings, structures, fixtures and facilities, and in general the proposed set-up which he plans to have said premises if and when the license may issue, together with an itemized estimate of the cost of same, and thereupon the Board, with the approval of the State Department of Public Health, shall grant a trailer coach park license upon the condition that such license issue upon the completion of the premises according to the trailer coach park will be in compliance with all applicable laws, ordinances, rules and regulations.
- 4.19 The trailer coach park owner or operator will provide that lots for the use of any individual trailer coach shall not be less than seventy five (75) feet wide or less than one hundred (100) feet deep. Only one trailer will be allowed on a lot.
- 4.20 No additions will be allowed to any trailer except with the written permission of the Sturbridge Board of Health.
- 4.21 Said trailer coach park shall be equipped with suitable electric lights and suitable electrical service.

- 4.22 Said trailer coach park shall provide an adequate supply of potable water with suitable connections at each lot. The water supply shall be approved by the Sturbridge Board of Health.
- 4.23 Suitable arrangements for the disposal of human and other wastes shall be provided and shall comply with the reasonable rules and regulations of the Sturbridge Board of Health. Specifically, said trailer coach Park shall be equipped with septic tanks and satisfactory evidence shall be furnished the Sturbridge Board of Health that soil on which the trailer coach park is located has adequate drainage.
- 4.24 The approaches to the highway on which the trailer coach park is located shall be provided at the expense of the trailer coach park owner or operator and shall be so constructed as to afford the maximum convenience and safety on said highway.
- 4.25 All trailer coach parks shall be served by a hard surfaced road, not less than twenty (20) feet in width and with a radius at all turns of not less than fifty (50) feet, measuring at the center line of the roadway.
- 4.26 The trailer coach owner or operator will provide for the parking of vehicles entirely off the paved roadway.
- 4.27 No person shall conduct, control, manage or operate, directly or indirectly, a trailer coach park unless he is the holder of a license for the same and said license shall be posted in a conspicuous place within confines of the trailer coach park.
- 4.28 Every person who shall conduct, control, manage or operate directly or indirectly, a trailer coach park, shall keep in a permanent form, a register in which shall be recorded the true name or name in ordinary use, address and registration of each owner and occupant of a trailer coach or motor vehicle renting space at such trailer coach park, the date of entering and the date of leaving of said trailer coach or motor vehicle. The register shall be retained by the holder of the license for a period of at least one (1) year after the date of last entry, and shall be open to the inspection of the Sturbridge Board of Health, its agents and the police.
- 4.29 Every person who shall conduct, control, manage or operate, directly or indirectly, any licensed trailer coach park shall post in a conspicuous place near the entrance to the trailer coach park a copy of the Rules and Regulations adopted under M.G.L., Ch. 40 § 32B , as most recently altered and amended.

- 4.30 Any trailer coach park containing a minimum of 50 trailers must have a recreational building of no less than 1000 square feet with an additional 500 square feet for each additional 50 trailers or fraction thereof. The recreational facility must provide heat, electricity, kitchen and sanitary facilities at a minimum.
- 4.31 The Sturbridge Board of Health shall notify the State Department of Public Health of the granting or renewal of the trailer coach park license and said department shall have jurisdiction to inspect the premises so licensed to determine that the sources of water supply and the works for the disposition of the sewage of such premises are sanitary. If upon inspection of such premises said department finds the sources of water supply to be polluted or the works for the disposition of the sewage to be unsanitary, or both of such conditions, said department shall forthwith notify the Sturbridge Board of Health and such licensee that is effected by registered mail, and the Sturbridge Board of Health shall forthwith prohibit the use of any water supply found by said department to be polluted.
- 4.32 Unless such licenses shall within thirty (30) days following the giving of such notice, correct the conditions at such premises to the satisfaction of both the State Department of Public Health and the Sturbridge Board of Health, the license so granted shall be suspended or revoked by the Sturbridge Board of Health. Any license so suspended may be reinstated by such board when the conditions at such premises, as to sources of water supply and works for the disposition of sewage, are satisfactory to the State Department of Health and the Sturbridge Board of Health. The Sturbridge Board of Health may adopt, and from time to time alter or amend, rules and regulations to enforce this section.
- 4.33 The Sturbridge Board of Health shall from time to time examine all trailer coach parks licensed by it, and if, upon such examination, such trailer coach park is found to be in an unsanitary condition, said Board of Health may, after notice and a hearing, suspend or revoke the license.
- 4.34 PENALTIES
Whoever conducts, controls, manages or operates a trailer coach park in the Town of Sturbridge, Massachusetts, which is not licensed by the Sturbridge Board of Health, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00).
- 4.35 Any person aggrieved by any act, rule, order or decision of the Sturbridge Board of Health, may appeal to the Superior Court. After suspension or revocation the license may be reinstated or reissued if the conditions leading to the suspension have been remedied and the park is being maintained and operated in full compliance with the law.

**CHAPTER FIVE
ANIMAL CONTROL BYLAW**

5.00 DEFINITIONS

The following words and phrases are used in this Bylaw, unless the context otherwise requires, shall have the following meanings:

Domestic Animals- For the purpose of this bylaw the following animals will be considered domestic animals:

Cats, dogs, rabbits, guinea pigs, mice, hamsters, ferrets, gerbils, fish, reptiles, horses, llamas, birds (not to include chickens, turkeys and birds of prey)

Farm Animals - All non-domestic animals shall be considered Farm Animals.

Field Trial - The use of a dog for hunting or gaming purposes.

Keeper - A person other than the owner, harboring or having in his possession any animal.

Person - Includes: Corporations, Societies, Associations, Individuals and Partnerships.

Public Nuisance - An animal, whether licensed or unlicensed, owned or kept in the Town of Sturbridge, which:

- (1) Is elsewhere than on the premises of its owner or keeper or on the premises of another person with the knowledge and express permission of such person, unless such animal is:
 - (A) Attached to and restrained by a suitable restraining device and is under the care and custody of a person competent to restrain it so that it shall not be a threat to public safety.
 - (B) Engaged in hunting, or training therefore, and is supervised by a person competent to restrain it so that it shall not be a threat to public safety.
- (2) Persistently and prolongedly barks or howls or makes other noises between the hours of 10 P.M. and 7 A.M. for more than two consecutive days.

The mere muzzling of an animal shall not prevent it from being a public nuisance.

5.01 PROHIBITION

- (1) No owner or keeper of an animal shall permit such animal to be a public nuisance in the Town of Sturbridge.
- (2) No owner or keeper of an animal shall place or store animal wastes adjacent to property lines or in such a manner as to create an odor and/or health problem for adjoining property owners.

5.02 ENFORCEMENT

The animal control officer shall enforce the provisions of the bylaw and to that end he shall have authority to seek complaints in the District Court for violations thereof. He shall investigate complaints of alleged violations of this bylaw. He shall also apprehend any animal found by him to be a public nuisance and impound such animal in a suitable place or order the owner or keeper thereof to restrain it.

5.03 PROCEDURE FOLLOWING IMPOUNDMENT

(1) NOTICE TO OWNER OR KEEPER

The animal control officer shall immediately notify the owner or keeper of any animal impounded by him under the provisions of this Bylaw if such owner or keeper is known by him. If such owner or keeper is not known by him, no notice shall be necessary.

(2) REDEMPTION OF IMPOUNDED ANIMALS

The owner or keeper of any animal impounded under the provisions of this Bylaw may redeem such dog provided he first:

- (A) Reimburses the Animal Control Officer for his expenses at the rate of thirty five dollars (\$35.00) for his handling and care of the animal.
- (B) Procures from the Town Clerk a license and tag for any such animal that requires a license and is not licensed.

(3) DISPOSITION OF UNREDEEMED ANIMALS

Any animal which has been impounded under the provisions of this Bylaw and has not been redeemed by its owner or keeper within ten (10) days shall

be disposed of. Dogs shall be disposed of in accordance with the provisions of M.G.L., Ch. 151A § , as amended.

5.04 FIELD TRIALS

No person shall conduct a field trial involving dogs in the Town of Sturbridge without first procuring a permit therefor from the Animal Control Officer. Any such permit shall contain such limitations as the Animal Control Officer shall deem reasonably necessary to prevent such dogs from being a threat to public safety or a public nuisance.

5.05 HANDLING OF RECEIPTS

The Animal Control Officer shall keep an account of all money received by him under the provisions of this Bylaw and shall forthwith pay over such moneys to the Town Treasurer. He shall file with the Town Accountant a monthly statement of all fees/fines collected during the preceding month.

5.06 PENALTY

Each day in which a violation of this bylaw is permitted to continue shall be deemed a separate offense.

(1) VIOLATIONS OF SECTION 5.01

Any person violating the provisions of Section 5.01 of this Bylaw shall be liable to a fine in accordance with the following schedule of fines: If it is the first offense committed by such person within a calendar year, there shall be verbal warning; if it is the second offense (written warning) so committed in the Town in the calendar year, the fine shall be twenty-five dollars (\$25.00); if it is the third offense so committed in the Town in the calendar year, the fine shall be fifty dollars (\$50.00); and if it is the fourth or subsequent offense so committed in the Town in the calendar year, the fine shall be one hundred dollars (\$100.00).

(2) VIOLATIONS OF SECTION 5.04

Any person violating the provisions of Section 5.04 of this Bylaw shall be liable to a fine not exceeding twenty five dollars (\$25.00) for the second offense and fifty dollars (\$50.00) for each offense thereafter.

5.10 LICENSING OF DOGS

Every owner of a dog that is six (6) months or older must license the dog and ensure that its rabies vaccination is up to date.

An owner must secure a license each year and provide proof of vaccination at the time of licensing.

The licensing year will run from January 1 to December 31 of each year.

Licenses must be obtained by March 31st of each year or the owner will be assessed a late fee.

Fees for licensing and late fees shall be set by the Town Clerk and may be amended from time to time, consistent with state law.

A dog license may be obtained by mail by providing a copy of the dog's rabies vaccination, the fee and owner and address information. As per the instruction on the Annual Town Census which is mailed out to every household in January of each year.

UNLICENSED DOGS

The owner of any dog found without a current license shall be subject to a fine of \$25.

**CHAPTER SIX
PUBLIC WORKS**

6.00 OBSTRUCTING THE PUBLIC WAYS BY SNOW

6.01 Whoever plows or otherwise removes snow in such manner as to obstruct any public way within the Town shall be liable to a penalty not exceeding fifty dollars (\$50.00) for each offense.

6.05 SURFACE WATER DRAINAGE CONTROL

6.06 DEFINITIONS

The following words used in this bylaw shall have the following meanings:

- (A) Improvement - Shall include a driveway, a building, or other structure.
- (B) Person - Shall include a corporation, society, association and partnership.
- (C) Way - A public way.

6.07 PROHIBITION

6.07.1 No person shall construct an improvement on any land abutting a way which may increase the volume of surface water draining from the land onto the way unless the owner of the land has first obtained a drainage permit from the DPW Director.

6.07.2 No person shall construct on any land abutting a way, the surface of an abutting portion of which land is lower than the surface of the way, unless the owner of the land shall first have:

- (A) Obtained a drainage permit from the DPW Director .
- (B) Delivered to the DPW Director an executed release on a form approved by the Town Counsel suitable for recording in the Worcester District Registry of Deeds releasing the Town from all claims for damage to the land or improvement thereon resulting from surface water drainage from the way onto the land.

6.08 APPLICATION AND FEES

6.08.1 Applications for drainage permits shall be made by the owner of the land to the DPW Director .

6.08.2 Each application shall include and be accompanied by the following information and supporting documentation:

- (A) The complete name and residential address of the owner of the land.
- (B) A plot plan of the land showing, among other features, each proposed improvement and the abutting way.
- (C) The complete address of the land.
- (D) Such other relevant information as may be required by the DPW Director .

6.08.3 Each application shall be accompanied by the sum of \$5.00 for the permit fee which the DPW Director shall pay over on receipt to the Town Treasurer.

6.09 PERMITS

Each permit issued by the DPW Director shall be subject to the following conditions:

6.09.1 That the owner of the land shall install such drainage facilities as the DPW Director deems reasonably necessary to prevent an undue volume of surface water draining from the land onto the way or from the way onto the land, as the case may be. The permit shall contain a description of the drainage facilities to be installed.

6.09.2 That the owner shall give notice to the DPW Director prior to commencing the construction of an improvement.

6.10 RULES AND REGULATIONS

The DPW Director may adopt reasonable rules and regulations, subject to the approval of the Selectmen, to carry out the purpose of this Bylaw. Such regulations shall take effect upon being filed in the office of the Town Clerk.

6.11 ENFORCEMENT AND PENALTY

6.11.1 The DPW Director shall enforce the provisions of this Bylaw.

6.11.2 Any person who continues to violate any provisions of this Bylaw or of any permit issued hereunder after the expiration of thirty (30) days after written notice of such violation by the DPW Director to such person shall be liable to a penalty not exceeding \$20.00. Each day that such violation continues shall constitute a separate violation.

6.15 ROAD REPAIRS TO PRIVATE WAYS

6.16 The Town may, subject to the appropriation therefor at the Annual Town Meeting, make temporary repairs on private ways which have been opened to public use for six (6) years or more. Such repairs shall consist only of the filling in of holes or depressions in the surface of such ways with suitable materials and shall not include reconstruction or repair of drainage facilities. No such repairs shall be made unless: (a) all the abutters sign agreements to release the Town from any claims for damage caused by such repairs and covenanting not to sue the Town for any such damages and (b) the Selectmen have declared such repairs to be a required public necessity.

6.17 The Selectmen shall schedule such repairs based upon the annual appropriation therefor. No betterment charges shall be assessed, and no cash deposit shall be required for such repairs.

6.18 The liability limit of the Town on account of damages sustained by any person, other than an abutting owner, caused by such repairs shall be one thousand dollars (\$1,000).

6.20 STREET LIGHTS

6.21 Articles relating to requests for new street lights shall be inserted only in the Annual Town Meeting warrant except as provided for by MGL Ch. 39 § 10.

6.25 POSTING OF BRIDGES

The Board of Selectmen may establish maximum weight load limitations for Town owned bridges those vehicles exceeding such weight limitations are prohibited from using such bridges and may direct the Director of Public Works to post and maintain signs indicating its capacity.

6.30 SNOWPLOWING OF PRIVATE WAYS

6.31 The Town may plow certain private roads under the conditions and exclusions outlined below.

6.32 That main Lake Roads be plowed; said roads to be accessible to the Town Highway equipment and in suitable conditions for plowing and on which year-round residents reside.

6.33 That the Board of Selectmen determine the roads to be plowed under section 6.32, and post a list of said roads on the town bulletin board.

6.34 In determining the roads to be plowed under this article, the Board of Selectmen shall specifically exclude any private roads which may be classified as a driveway of other similar access to private property and in addition shall exclude any private road in current subdivision or development except that any private road in a current subdivision may be plowed provide the road has been prepared under the DPW Director and is awaiting the formality of Town acceptance.

6.40 PLACING OF RUBBISH ON STREETS AND SIDEWALKS

6.41 No person shall sweep, rake, or throw or otherwise place any rubbish or like substance on any public sidewalk or street in the Town except in a container used for the sole purpose of being collected by the Town, its employees, or agents during designated collection periods.

6.42 The penalty for violation of the provisions of this Bylaw shall be \$20.00 for each violation thereof.

6.50 CLEARING OF SNOW AND ICE FROM SIDEWALKS

6.51 Any tenant or owner occupying any building or any lot of land abutting on a sidewalk, which is situated within the limits of the highways or town ways, and in case such building or lands are unoccupied, the owner or owners thereof shall cause all snow and ice to be removed from such walk as soon as practicable but no later than forty-eight (48) hours after the same shall have accumulated thereon.

6.52 Any person violating the provisions of this Bylaw shall be punished by a fine of not more than ten dollars (\$10.00) to be recovered by complaint before any trial justice, police or District Court having jurisdiction within the County and forfeited and paid to the Treasury of the Town unless when different provisions are made by the laws of the Commonwealth.

6.53 Waiver of Enforcement

- (a) The Board of Selectmen, or the Town Administrator, following consultation with the Director of Public Works, may waive enforcement of this bylaw for sidewalks located within a state highway layout in the event of extraordinary conditions.

- (b) Any waiver hereunder shall be promptly communicated through: (1) conspicuous placement of a notice on the homepage of the Town's official Web site, (2) posting on the Town Clerk's bulletin board in Town Hall, (3) distribution to local media outlets, (4) posting a notice on the cable television message board, and (5) posting on the emergency management sign board if available.

6.60 DRIVEWAY CONSTRUCTION PERMITS

6.61 DEFINITIONS (for the purpose of this and following sections having to do with driveway permits only)

Abutting property owner - A person or entity owning property bordering on a way.

Driveway - Privately owned access to and from a way.

Public Way - A way laid out by a public agency, or dedicated to public use or laid out for public use or used and maintained as a public way.

Way - Any public way which is not subject to MGL Ch. 91 § 21 (state curb cut permit).

6.62 PURPOSE

- (1) To provide maximum protection to the public through the orderly control of traffic moving onto and from a way.
- (2) To provide a uniform practice in the design and construction of entrances and exits.
- (3) To provide necessary drainage.
- (4) To protect public shade trees

6.63 APPLICATIONS

A Driveway permit shall be required for any regularly used access to a public way. Any abutting property owner desiring to gain access to a way shall do so only in accordance with the provisions of a permit issued by the municipal Department of Public Works. Additionally, the Director of Inspections shall require a Driveway Permit as a condition for issuing an occupancy permit.

- (1) Procedures: Before beginning construction, the abutting property owner shall make written application to the Department of Public Works, including a sketch or engineered (if necessary) plan:
 - (A) For any driveway that is to be created, substantially altered or closed.
 - (B) With details on drainage as necessary to prevent runoff from entering the public ways.
 - (C) With locations of public shade trees within 10 feet from all areas to be disturbed in the process of constructing the driveway.
 - (D) A fee to be established from time to time by the Director of Public Works.
- (2) All work shall be inspected during and after construction. The Public Works Department may halt any work not done in accordance with the permit.
- (3) Any public shade tree which is damaged or is to be removed for construction shall have a public hearing as required under MGL Ch. 87, referring to public shade tree laws as well as Section 6.80 of this bylaw.

6.64 DESIGN REQUIREMENTS

- (1) The municipal Department of Public Works shall consider the requirements of the state DPW Manual on Uniform Traffic Control Devices, but shall modify these to accord with:
 - (A) local conditions
 - (B) compatibility with local road design
 - (C) size of the proposed project
- (2) Driveways shall be at least twelve (12) feet in width and should be located to the best advantage with regard to alignment with the way, profile, sight distance conditions, public shade trees and the like. Unless conditions require it, a driveway should not be located at the extreme edge of a property (side setbacks), or within 10 feet of an existing structure or utility. In no instance shall the driveway intersect the way at less than a sixty (60) degree angle. In no instance shall a driveway exceed twelve (12) percent grade or be less than 0.5% grade, except with the written approval of the DPW Director and the Fire Chief.
- (3) No more than two (2) driveways shall normally be allowed for any one property unless there is clear necessity for more. Leasing of a portion of

the property does not affect this requirement. If a number of establishments will be constructed on one parcel, a service road may be required, to connect with allowable exit and entrance.

- (4) A channelizing island may be required for an entrance to a high-volume traffic generator such as a shopping center. Acceleration and deceleration lanes may also be required for driveways to such projects. (The Department of Public Works may require a bond to guarantee the satisfactory construction of such driveways, in an amount not to exceed the estimated cost.)
- (5) Driveways shall not normally be approved within fifty (50) feet of intersections, particularly signalized intersections, because of the potential safety hazard which arises when a driver enters a road from a corner driveway and is not faced with a direct signal indication. Access directly into a rotary is also discouraged.
- (6) In no instance shall a driveway have a pitch towards the roadway of greater than one inch per foot, unless adequate provisions have been made and approved by the DPW for the diversion of driveway surface runoff away from the roadway.

The DPW may require methods of diversion for driveways having a pitch of greater than one inch per foot if the proposed driveway construction will result in an excess accumulation of surface water in the way. The driveway apron shall match the street centerline grade at the property line.

- (7) All driveways shall access on the way on which legal frontage for that lot is established. Common driveways serving more than one lot shall not be permitted for residential purposes.

6.65 EXCEPTIONS

No permit shall be required for:

- (1) Driveways already in existence, except for significant alterations.

6.66 CONSTRUCTION METHODS

- (1) When exiting curbing and/or sidewalk has to be removed to construct a driveway, such sidewalk or curbing shall be removed for its full depth and to formed joints. The breaking and removal of parts of sidewalk slabs or

parts of curbing other than at existing joints will not be permitted. Existing granite curbing and inlets shall be carefully removed and not damaged and shall remain the property of the Town and disposed of in accordance with the instructions from the Public Works Director. The applicant is responsible for the proper disposal of other excavated materials. When public shade trees need to be removed, or are damaged during construction, the applicant shall comply with section 6.80 of this bylaw. Remaining public shade trees shall be protected during construction through a plan approved by the Tree Warden.

- (2) The subgrade for driveways in the Town right-of-way shall be shaped parallel to the proposed surface and thoroughly compacted. After the subgrade has been prepared, a foundation of gravel shall be placed upon it. After thorough compacting, the foundation shall be at least 12 inches in thickness and parallel to the proposed surface of the walk, applied in layers of 6 inches, each layer compacted before the application of the subsequent layer.
- (3) Driveways within the Town right-of-way shall be surface treated as to existing material unless otherwise approved. For existing concrete surfaces, the new concrete shall be placed in such quantity that after being thoroughly consolidated in place it shall have a depth of six (6) inches. Cement concrete shall be Class D, 3000 lb. test. At the time of pouring, a welded mesh, 10" X 10", No. 12 gauge shall be imbedded in the concrete. The final surface shall have a broom finish.

For new and existing bituminous surfaces, a minimum thickness of 2 inches, after compacting, of Bituminous Concrete, Type I-1 shall be required, applied in two 1 inch layers.

Adequate provisions by petitioners are to be made to prevent water and silt from entering existing public ways during and after construction.

- (4) Driveway drainage design shall be determined by the Director of Public Works or his agent upon review of the driveway plan and a site inspection.
- (5) For residential properties in steep areas, the Department of Public Works may require that driveways have a minimum 20 foot long area with maximum grades of 2% for the parking of at least two passenger vehicles.
- (6) Upon completion of the work, the applicant shall be required to have final inspection of the driveway by the Director of Public Works or his agent.

6.67 ENFORCEMENT

- (1) A driveway permit shall be found to be abandoned and invalid unless all of the construction authorized by it shall have been completed within two (2) years after its issuance.
- (2) Any person who continues to violate any provision of this bylaw or of any permit issued hereunder after the expiration of ten (10) days following receipt by him of a written notice of violation shall be liable to a penalty not exceeding fifty dollars (\$50.00) for each offense. Each day that such violation continues after said ten (10) day period shall constitute a separate offense.
- (3) The Department of Public Works Director and/or the Building Inspector shall enforce the provisions of this bylaw.

6.70 PARKING BAN

6.71 The Town of Sturbridge, acting through its Board of Selectmen or Town Administrator, shall have the authority to implement and enforce a community wide parking ban on public ways located within the Town as said Board or Town Administrator may deem necessary, for the purpose of facilitating travel on or over said public ways and the removal of snow and ice thereon, subject to the following provision.

6.72 The Board of Selectmen and/or Town Administrator may implement such a parking ban on a per storm or seasonal basis, provided, however, that the implementing of such a parking ban shall be limited to the period between the dates of November 15 through April 1 of the ensuing year.

6.80 REMOVAL OF NON-HAZARDOUS SHADE TREES

Trees are recognized as an asset to the community, providing a more healthful and beautiful environment in which to live. Trees and other vegetation provide oxygen, shade, protection from wind, glare, and noise, view barriers, wildlife habitat, aesthetics and a priceless psychological counterpoint to the man-made urban setting. Preserving trees is economically beneficial in attracting new residents, visitors and industry. When grown in the right place and proper varieties, trees enhance the value and marketability of property and promote the stability of desirable neighborhoods and commercial areas.

This bylaw is to be used for the removal of any non-hazardous public shade tree by any individual, utility, organization, corporation, or agency other than the Town of Sturbridge. Actual removal shall only be performed by those permitted by the Tree Warden. Public shade trees shall, for the purpose of this bylaw, only include those trees which are within a public way or on the boundaries of any public way, as defined under MGL, Ch. 87 .

Public shade trees shall not be removed other than by or on behalf of the Town, without suitable compensation to the Town by the applicant, for replacements.

The value of existing shade trees for compensation purposes, is to be calculated on an inch by inch basis, measured at D.B.H. (Diameter at Breast Height). All replacements shall be at least two (2) inch diameter, nursery grown stock. Cost of replacement trees is to be obtained from the latest edition of the McMahan Heavy Construction Guide, or any successor thereto or any equivalent cost guide approved by the Tree Warden.

At the discretion of the Tree Warden, the applicant shall either:

- (a) Arrange to plant suitable replacements using his own contractor, working to the Town's specifications or;
- (b) Make a cash contribution to the Town based upon the replacement cost estimate described above to be used exclusively for the purchase and planting of replacement trees to the satisfaction of the Tree Warden.

6.81 THIS BYLAW IS TO BE FOLLOWED FOR ALL PUBLIC SHADE TREES EXCEPT

- (a) Trees that are determined by the Tree Warden to be dead, diseased, or dangerous. A dangerous tree is one that is likely to fall, or significant portions are likely to fall under mild environmental conditions.
- (b) Deciduous trees that are less than five(5) inches in diameter that are, in the opinion of the Tree Warden, of no significant value. Diameter is measured at breast height (D.B.H.)
- (c) Conifer trees less than eight(8) inches D.B.H.
- (d) Any size tree of the following species: Poplar, Cherry, Locust, Gray Birch and Black Birch.

6.82 ANY APPLICANT WHO WISHES TO REMOVE A NON-HAZARDOUS PUBLIC SHADE TREE RESPONSIBLE FOR THE FOLLOWING EXPENSES:

- (a) Legal advertising
- (b) Cost of removal of tree stump, including the hauling away of all debris, and filling the stump hole.

- (c) Planting of sufficient replacement trees to fulfill the requirements of this bylaw.
- (d) Cost of police traffic details, repair of street surface and road shoulder, protection and restoration of utility service.
- (e) All other costs related to removal and replanting.

6.83 TRIMMING AND PRUNING, OR WORKING IN THE PROTECTED ROOT ZONE OF PUBLIC SHADE TREES

If an applicant proposes to trim, prune, dig, trench, or alter the existing ground line by filling or excavating within the Protected Root Zone of a public shade tree, and if, in the opinion of the Tree Warden, the proposed work will adversely effect the health, beauty, structural integrity or safety of the tree, the Tree Warden may consider the proposed work to have the same effect as removal of the tree. In those cases, the Tree Warden may either order the removal of the tree, or allow the tree to remain, provided that it does not present an immediate hazard. In either case, the appropriate replacement plantings must be provided by the applicant in accordance with Section 6.80 hereof. The protected Root Zones for all trees subject to this bylaw are as shown on the table below.

Protected Root Zones

Tree Diameter at 4.5''	Radius of P.R.Z.
2.0'' - 4.1''	2.0 feet
4.1'' - 9.0''	5.0 feet
9.1'' - 14.0''	10.0 feet
14.1'' - 20.0''	12.0 feet
20.1'' or greater	15.0 feet

6.84 APPROVAL OF TREE REMOVAL CONTRACTORS

The tree removal contractor to be paid for by the applicant, must be approved by the Tree Warden as to equipment, qualifications and experience. The tree removal contractor shall provide certificates of insurance, satisfactory to the Town in the following amounts:

- \$100,000 Workmen's Compensation
- \$300,000 Bodily Injury
- \$300,000 Property Damage
- \$1,000,000 Excess Liability

6.85 BONDING

If at the sole discretion of the Tree Warden, it is determined that the applicant shall submit a bond to secure performance of the tree removal services, the applicant shall submit such a performance bond, in a form and amount approved by the Tree Warden, issued by a bonding company authorized to do business within the Commonwealth of Massachusetts, prior to the commencement of any work pursuant to this bylaw. Said bond shall specifically secure the following costs and services:

- (a) Cost of removal of tree and stump, including the hauling away of debris, and the proper filling of the stump hole
- (b) Cost of police traffic details, repair of streets surface and the road shoulder, protection and restoration of utility services.
- (c) All other costs related to the removal and planting

6.86 MINIMAL STANDARDS

All tree work shall be performed in compliance with ANSI Z-133 and National Arborist Association standards. Applicant must guarantee the health of the replacement tree for three (3) years from the date of planting.

6.87 RIGHT-OF-WAYS

Replacement trees shall be of such size and species as specified by the Tree Warden, and will be planted on public property, along right-of-way and on setbacks as allowed by MGL Ch. 87, §7. All planting locations shall be determined by the Tree Warden.

6.88 REFUSAL TO GRANT PERMIT

Nothing in this bylaw shall be deemed to compel the Tree Warden to permit the removal of any non-hazardous tree. The Tree Warden may refuse to grant the permit for the removal of a non-hazardous tree if, in his opinion, the tree is of historical or scenic value, is of a size or species not commonly found along the roadways of Sturbridge, has significant wildlife value, or is an unusually healthy or significant specimen.

6.89 APPEAL

All decisions of the Tree Warden may be appealed to the Board of Selectmen.

6.90 STREET EXCAVATIONS

6.90.01 DEFINITIONS

- (A) Word usage. As used in this Article and when not inconsistent with the context, words in the present tense include the future, words in the plural include the singular, words in the singular include the plural, and the masculine shall include the feminine and the neuter. The word "shall" is always mandatory and not merely directory.
- (B) Definitions. As used in this Article the following terms shall have the meanings indicated:

Applicant - Any person who makes application for a permit.

Emergency - Any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to persons or property.

Permittee - Any person who has been issued a permit and has agreed to fulfill all the terms of this Article.

Person - Any natural person, partnership, firm, association, utility or corporation. Whenever used in any section prescribing and imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Street - A public street, public easement, public right-of-way, public highway, public alley, public way, public road or public sidewalk accepted or maintained by the Town.

DPW Director - The person in charge of the Department of Public Works operations for the Town of Sturbridge or his authorized representative.

6.90.02 PERMIT REQUIRED FOR EXCAVATION, EMERGENCY OPENINGS

It shall be unlawful for any person to make any tunnel, opening or excavation of any kind in or under the surface or any street without first securing a permit from the Town for each separate undertaking; provided, however, that any person maintaining pipes, lines or other underground

facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided the permit could not reasonably and practically have been obtained beforehand. Such person shall thereafter apply for a permit on the first regular business day on which the office of the DPW is open for business, and said permit shall be retroactive to the date when the work was begun.

6.90.03 SIZE OF OPENING LIMITED

No person to whom a permit has been granted shall perform any of the work authorized by such permit in any amount or quantity greater than that specified in the permit, except that upon the prior approval of the DPW Director, additional work may be done under the provisions of the permit, except that upon the prior approval of the DPW Director, additional work may be done under the provisions of the permit in any amount not greater than ten percent (10%) of the amount specified in the permit. Any deposit and bond posted in connection with the original permit shall be deemed to cover any such additional work as may be approved pursuant to this section within the limit mentioned herein.

6.90.04 COMMENCEMENT OF WORK

Work for which a permit has been issued shall commence within fourteen (14) days after the issuance of the permit therefor. If not so commenced, the permit shall be automatically terminated. Permits thus terminated may be renewed upon the payment of an additional permit fee as originally required.

6.90.05 NON-TRANSFERABILITY OF PERMIT

Permits are not transferable from one person to another, and the opening shall not be made in any place other than the locations specifically designated in the permit.

6.90.06 EXPIRATION OF PERMIT: EXTENSION

Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to the expiration of the permit, present in writing to the DPW Director a request for an extension of time, setting forth therein the reasons for the requested extension. If, in the

opinion of the DPW Director, such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work.

6.90.07 MUNICIPAL UTILITY EXEMPTIONS

All street openings required by utilities owned or operated by the town shall be made and restored under the direction and supervision of the DPW Director. The permit, fee, deposit, insurance and bond requirements of this Article shall not be applicable to any openings made by such municipally owned or operated utilities.

6.90.08 STATE EXEMPTIONS

The provisions of this Article shall not be applicable in those instances where the highway is maintained by the Commonwealth of Massachusetts.

6.90.09 RIGHTS OF THE TOWN

Every permit granted shall be subject to the right of the Town and of any other person entitled thereto to use the street for any purpose for which such street may lawfully be used, not inconsistent with the permit.

6.90.10 REVOCAION OF PERMIT

- (A) Any permit may be revoked by the DPW Director after notice to the permittee, for:
 - (1) Violation of any condition of the permit or of any provision of this Article.
 - (2) Violation of any provision of any other applicable ordinance or law relating to the work.
 - (3) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.

- (B) Written notice of any such violation or condition shall be served upon the permittee or his agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit, and a permittee may be granted a period of three (3) days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by

the permit before said permit is revoked. Notice may be given either by personal delivery thereof to the person to be notified or by certified or registered United States mail addressed to the person to be notified.

- (C) When any permit has been revoked and the work authorized by the permit has not been completed, the DPW Director shall do such work as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the Town shall be recovered from the deposit or bond the permittee has made with the Town.

6.90.11 DUTIES AND RESPONSIBILITIES OF APPLICANTS

It shall be the duty and responsibility of any applicant to:

- (A) Make a written application for such permit to the DPW Director on a form providing all information necessary for the administration and enforcement of this Article. No work shall commence until the DPW Director has approved the application and plan and has issued a permit, nor until the permittee has paid and provided all fees, deposits and certificates required by this Article.
- (B) Furnish in duplicate a plan showing the work to be performed under said permit. If approved by the DPW Director, one (1) copy of such plan shall be returned to the applicant at the time the permit is granted.

6.90.12 DUTIES AND RESPONSIBILITIES OF PERMITTEE

It shall be the duty and responsibility of any person receiving a permit to:

- (A) Pay a permit fee, established by resolution of the Board of Selectmen, per lineal foot of street opening measured along the length of the street opening; provided, however, that public utilities or authorities shall be billed quarterly for such fees as they shall accrue.
- (B) Make a deposit to cover the cost of restoring the street damaged by such work. The amount of deposit or bond shall be established by the Board of Selectmen from time to time by resolution.
- (C) Furnish a certificate of insurance, as required by 6.90.20.
- (D) Submit, when required by the DPW Director, a list of owners and tenants of all properties abutting the area where the work authorized by the permit is to be performed.

- (E) Present evidence that all materials, labor and equipment needed to complete such work as authorized by the permit are available.
- (F) Keep the original copy of the permit and an approved copy of the plan at all times while such work is in progress at the location for which said permit was granted, and show such permit and plan upon demand by Town authorities.

6.90.13

OPENING AND EXCAVATION RESTRICTIONS

- (A) No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street temporarily restored.
- (B) No more than two hundred fifty (250) feet, measured longitudinally, shall be opened in any street at any one time without special permission in writing from the Board of Selectmen, and only in instances where a special hardship can be shown.
- (C) All utility facilities shall be exposed sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.
- (D) Pipe drains, pipe culverts or toilet facilities encountered shall be protected by the permittee.
- (E) In the event permittee damages the property or facilities of another, permittee shall repair this damage within twelve (12) hours in the case of a utility and within forty-eight (48) hours in the case of any other private party. If the damage has not been repaired within these time limits, the party sustaining the damage shall undertake to have the repairs made at his own expense and report to the Town as soon as possible the amount of expense incurred. This amount may be withheld from the permittee's deposit or bond by the DPW Director pending final determination and settlement of any liability for this damage. Whenever damage occurs, the injured party shall notify the DPW Director within twenty-four (24) hours so that steps can be taken to determine the extent of the damage and plans can be made for its repair.
- (F) When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper drainage to the satisfaction of the DPW Director.
- (G) Safety devices.
 - (1) Every permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as shall be

determined by the DPW Director to be necessary for the protection of the public. Additional safety requirements may be prescribed by the DPW Director and, where applicable, a police detail shall be required.

- (2) Whenever any permittee fails to provide or maintain the safety devices required by the DPW Director, such devices may be installed and maintained by the Town. The amount of the cost incurred shall be paid by the permittee or deducted from his deposit or bond. Such costs shall be determined by the Town.
 - (3) No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of this Article.
- (H) Work authorized by a permit shall be performed between the hours of 7:00 AM and 7:00 PM, Monday through Saturday, unless the permittee obtains written consent from the DPW Director to do the work at an earlier or later hour. Such permission shall be granted only in case of an emergency.
- (I) In no case shall any opening made by a permittee be considered in the charge of the Town or any of its officers or employees, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of the police power, when it is necessary to protect life and property.

6.90.14 DEPOSIT OR BOND: WHEN PAYABLE: PURPOSE

The deposit or bond shall be made at the time the permit is received, and the deposit or bond shall be used to reimburse the Town for the cost of any work and materials furnished by it in connection with the work authorized by the permit and for any other purpose set forth in this Article.

6.90.15 FORM OF DEPOSIT OR BOND

The deposit or bond may be either in the form of a certified treasurer's or cashier's check or in lawful money of the United States.

6.90.16 INSUFFICIENT DEPOSIT OR BOND

If any deposit or bond is less than sufficient to pay all costs, the permittee shall, upon demand, pay to the Town an amount equal to the deficiency. If the permittee refuses or fails to pay such deficiency, the Town may institute

an action to recover the same in any court of competent jurisdiction. Until such deficiency is paid in full, no additional permits shall be issued to such permittee.

6.90.17 AMOUNT OF DEPOSIT OR BOND

The amount of deposit or bond for street openings shall be as established from time to time by resolution of the Board of Selectmen.

6.90.18 WAIVER OF DEPOSIT OR BOND

The deposit and bond requirement set forth in this Article may be waived by the Board of Selectmen if the work of excavation is being performed by the Town itself.

6.90.19 REFUND OF DEPOSIT OR BOND

Upon notification by the permittee that all work authorized by the permit has been completed and after restoration of the opening and final inspection, the DPW Director shall refund to the permittee his deposit or release his bond less all costs incurred by the Town in connection with said permit and any other expenses required by this Article for which final settlement has not been made. In no event shall the permit fee be refunded once work has been undertaken.

6.90.20 INSURANCE REQUIREMENTS

Each applicant, upon the receipt of a permit, shall provide the Town with an acceptable certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work. Such insurance shall cover any and all possible hazards of whatsoever kind or nature and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the Town in accordance with the nature of the risk involved, provided, however, that the liability insurance in effect shall be in an amount of one million dollars (\$1,000,000) for bodily injury, two hundred fifty thousand dollars (\$250,000) for damages to private property and two hundred fifty thousand dollar (\$250,000) for damages to Town property. Public utilities and authorities may be relieved of the obligation of submitting such a certificate if they are insured in accordance with the requirements of this Article.

6.91 CURBS AND GUTTERS

6.91.01 APPROVAL OF CONSTRUCTION

It shall be unlawful for anyone to lay, construct or establish any walk, curb or gutter upon any portion of the public domain of the Town of Sturbridge without the approval of the DPW Director, who shall determine and establish the line and grade where such walk, curb or gutter may be laid and constructed.

6.91.02 REMOVAL OF UNAPPROVED CONSTRUCTION

Any construction that is not approved by the DPW Director shall be removed at the expense of the person who made or caused to be made such walk, curb or gutter.

STORMWATER BYLAW

6.92.01 PURPOSE

The purpose of this Bylaw is to reduce pollutants from stormwater to the maximum extent practicable and to minimize flooding or other nuisances or property damage resulting from improper management of stormwater. The goal is to have private development seek to manage stormwater privately, within the confines of each private property whenever possible. Permits for connection to Town drainage facilities will only be considered when private solutions are not feasible.

6.92.02 PERMITS

No person shall uncover, excavate, block access to, or make a connection to any pipe, culvert, catch basin, manhole, or other structure under the control of the Town without first having obtained a permit from the Town Engineer or DPW Director.

6.92.03 DISCHARGE

No person shall discharge any water from construction sites into any public street or part of the Town drainage system without first having obtained a permit for that purpose from the Town Engineer or DPW Director. This permit shall be in addition to any other required state or federal permit.

No person shall discharge, cause the discharge, or divert a natural flow of surface or ground water in such a manner that it will cause an icing condition on a public way.

6.92.04 ILLEGAL DISCHARGES

No person shall directly or indirectly dump, discharge or cause or allow to be discharged into any catch basin, manhole, pipe, retention or detention pond, earth channel, structural control, infiltration chamber, or any other component of the Town's drainage system, any solid waste, construction debris, paint or painting product, antifreeze, hazardous waste, oil, gasoline, grease and all other automotive and petroleum products, solvents and degreasers, drain cleaners, commercial or industrial cleaners, soaps, detergents, ammonia, food and food waste, grass or yard waste, leaves, animal feces, dirt, sand, gravel or other pollutant.

6.92.05 STORMWATER MANAGEMENT STANDARDS

All development and redevelopment projects must comply with the Stormwater Management Standards issued by the Massachusetts Department of Environmental Protection dated March 1997 and the United States Environmental Protection Agency's Phase II Stormwater Regulations, as each may be from time to time amended.

6.92.06 ENFORCEMENT

The Board of Selectmen is hereby authorized to enact regulations to enforce this Bylaw.

6.92.07 VIOLATION

Each day that a violation of this Bylaw continues shall constitute a separate violation under Article V of the Town's General Bylaws.

6.92.08 PENALTIES

Penalties for violation of this bylaw may be imposed in accordance with the Town of Sturbridge Stormwater Management Regulations as may be amended from time to time.

CHAPTER SEVEN PUBLIC PROTECTION

7.00 SOLICITING

7.01 DEFINITIONS

The following words as used in this Bylaw, unless the context otherwise requires, shall have the following meaning:

Soliciting - The traveling by foot, automobile or any other type of conveyance from place to place, or from house to house for the purpose of:

- (A) Taking or attempting to take orders for the sale or lease of goods, wares, merchandise, or services.
- (B) Requesting or attempting to request contributions for any purpose including the selling, distributing or exposing for sale or taking orders for magazines, books, periodicals, or other items of a commercial nature; or
- (C) The contracting for home improvements or for services to be performed in the future.

Peddling - The same as soliciting.

Hawking - The selling of items on foot, from a vehicle or a portable stand, on or adjacent to a public way or property.

7.02 PROHIBITION

No person shall engage in the activity of soliciting, peddling or hawking in the Town of Sturbridge, without first obtaining a license in accordance with the provisions of Section 7.04.

7.03 EXEMPTIONS

The provisions of this Bylaw shall not apply to:

- (A) Salesmen or agents of wholesale houses or firms who solicit orders from retail dealers for resale or from manufacturers for manufacturing purposes.
- (B) Bidders for public works or supplies.
- (C) Local charitable, religious, fraternal, service and civic organizations (local meaning origin within the community).

- (D) The soliciting for any charitable, benevolent, fraternal, religious or political activities or organizations by a resident of the Town of Sturbridge.
- (E) Any person exempted by General Laws.
- (F) Person who deals with established customers whom they periodically call upon to solicit an order for future delivery.
- (G) Real estate brokers and insurance salesmen.

7.04 LICENSE

Any applicant for a license to engage in soliciting, peddling or hawking shall obtain an application form from the Town Administrator requiring the following information:

- (A) Name of applicant
- (B) Address of applicant
- (C) Applicant's height, eye and hair color
- (D) Applicant Social Security Number
- (E) The period of time for which the activity will be carried on in the Town of Sturbridge
- (F) The location(s) within the Town of Sturbridge on which the activity will be carried out
- (G) A brief description of the activity or business to be carried on, with a description of the goods or other materials to be sold, leased, or otherwise distributed
- (H) The name and home office of the applicant's employer. If self employed the applicant shall so state
- (I) If hawking is involved, a letter of permission signed by the land owner, or if a public way is to be used, a letter signed by the Chief of Police shall be attached to the application.
- (J) If operating a motor vehicle, the applicant shall indicate the year, make, color, model, vehicle identification number (VIN) registration number, state of registration, and the address of said owner.
- (K) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor within the past 10 years. When the application is completely filled out the applicant shall personally take the application and any required letter(s) of permission to the Chief of Police who will, upon presentation of identification, take 2, 2" X 2" photographs of the applicant showing the head and shoulders in a frontal view. One photograph shall be attached to the application. The Applicant's fingerprints shall be taken and retained by the Chief of Police.

7.04.2 The fee for said license shall be twenty-five(25) dollars for one week or any portion thereof or one hundred and fifty(150) dollars for one year or less. License fees shall be payable to the Town of Sturbridge. Following the receipt of the applicant's reputation as to morals and integrity. The Chief of Police shall approve or disapprove the application within a period of ten (10) days from the date it is filed.

The Chief of Police shall forward the application together with his recommendation. If the recommendation is favorable, the Town Administrator shall issue the license. If the Chief of Police recommends denial of the license, the license fee shall be returned to the applicant.

7.04.3 Each license shall contain the name and address of said licensee, the date of issuance, the license number, and the length of time the license shall be operative, and shall be signed by the Town Administrator.

7.04.4 The Town Administrator shall keep a record of all the licenses issued for a period of six (6) years from the date of original issuance.

7.04.5 No license may be extended beyond the original terminating date. If additional time is required, a new application must be initiated.

7.04.6 All licenses shall expire on December 31st of the year of issuance.

7.05 BADGE

All persons engaged in an activity constituting soliciting, canvassing, peddling or hawking are required to display an identifying badge by wearing said badge on an outer garment. The Chief of Police shall issue these badges to a license holder upon the payment of a \$5.00 deposit. The deposit shall be refunded to the licensee upon return of the badge to the Chief of Police.

7.06 RESTRICTIONS

No person shall:

- (A) Solicit or peddle before the hour of 8:00 A.M. of any day or after the hour of 8:00 P.M. of any day except by individual appointments.
- (B) Solicit or peddle or pretend to solicit or peddle by ringing, calling or knocking at any building which contains a sign or other marking indicating in open view that such activities shall not take place on that premises. Such signs as "No Soliciting" "No Salesmen" and the like shall be sufficient

warning to those persons who might otherwise engage in the activity of soliciting.

- (C) Misrepresent his own identity, his employer's identity, if any, or his partner's identity if any, while soliciting or peddling or hawking, in the Town of Sturbridge. No person shall fraudulently represent that he or she is the agent, employee, or partner of some other individual firm, corporation, or other entity when in fact no such relationship exists.

7.07

- (A) Licenses issued to this Bylaw may be revoked by the Chief of Police of the Town of Sturbridge after notice and hearing for any of the following reasons:
 - (1) Fraud, misrepresentation, or any false statements made to the Police Department in furnishing the information required in Section 7.04.
 - (2) Any violation of this bylaw.
- (B) Conviction of the license holder of any felony or crime involving morals, embezzlement or any other crimes of this nature.
- (C) Soliciting, peddling, canvassing or hawking in an unlawful manner or in such a manner as to constitute a breach of the peace, or be a threat or danger to the health, safety or general welfare of the people of the Town of Sturbridge.
- (D) Conducting activities different than those covered by the license or in a different location than that shown on the license.

7.08 Notice of hearing for revocation of a license shall be given by the Chief of Police in writing stating the grounds of the complaint and the time and the place of the hearing. Such notice shall be mailed, postage prepaid, to the license holder at the address given on the application form, at least five (5) days prior to the date set for the hearing.

7.09 APPEAL

Any person aggrieved by the decision of the Chief of Police shall have the right to appeal said decision to the Board of Selectmen. Such appeal shall be taken by filing with the Town Clerk a written statement on the ground for the appeal within fourteen (14) days after the receipt of the notice of the decision of the Chief of Police. The Board of Selectmen shall set the time and place for hearing such appeal. Notice of such time and place shall be given by the Town Clerk to the

aggrieved party in the manner herein above provided for hearing of notice of revocation by the Chief of Police.

7.10 VIOLATION

Every person violating any provision of this bylaw shall be punished by a fine not exceeding fifty (\$50.00) dollars. Every violator of any provision of this bylaw shall be guilty of a separate offense for every day such violation shall continue and shall be subject to the penalty imposed by this section and each and every separate offense.

7.20 CONDUCT AND ATTIRE

7.21 GENERAL

No person shall offer to view, set up, maintain, carry on, or engage in, in accordance with M.G.L., Ch. 140 § 181 or 183A or Ch. 138 § 12 , or any amendment or revision thereof, such acts or conduct being deemed as contrary to the public need, the common good and the preservation of public order.

- (A) Except as otherwise authorized by law, it is forbidden to employ or permit any person including entertainers in or on the licensed premises while unclothed or in such attire so as to expose to view or to display the naked areola, pubic hair, the cleft of the buttocks, the anus, vulva, or genitals.
- (B) It is forbidden to employ or permit any person including entertainers to mingle with patrons while unclothed or in attire prescribed in paragraph (A).
- (C) It is forbidden for any person including entertainers in or on the licensed premises to touch, caress or fondle the breasts, buttocks or genitals of any other person.
- (D) It is forbidden for any person including the entertainers to wear or use any device openly exposed to view as described in paragraph (a) which simulates the breasts, buttocks, pubic hair, genitals, vulva, anus or any portions thereof.
- (E) It is forbidden to employ or permit any person including entertainers in or on the licensed premises to perform any act or acts, or simulates the act or acts of:
 - (1) Sexual intercourse, masturbation, sodomy, bestiality, cunnilingus, fellatio, flagellation or other sexual acts prohibited by law.
 - (2) Touching, caressing or fondling of the breasts, buttocks, or genitals of another.

7.22 VISUAL DISPLAYS

It is forbidden to employ or permit any person including entertainers in or on the licensed premises to show motion picture films, television type cassettes, still pictures or other photographic reproductions depicting any of the acts, or simulation of acts, prohibited in Section 7.21.

7.23 VIOLATION OF OTHER LAWS

In addition to the foregoing, no person licensed under M.G.L., Ch. 140 § 181 or 183A or Ch. 138 § 12 or any revision or amendment thereof, shall employ, use the services of or permit on licensed premises any employee including entertainers or other persons who by lack of attire or conduct violates any like General Law, Special Act, or Bylaw of the Town of Sturbridge.

7.24 SEVERABILITY

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

7.40 “MONTE CARLO”, “LAS VEGAS” CASINO GAMBLING

7.41 GENERAL

All sponsoring organizations and their members shall comply with MGL, Ch. 271 § 7A , and the Rules and Regulations of the Massachusetts State Lottery Commission, and any additional regulations of the Massachusetts State Lottery Commission, and any additional regulations pertaining to the raffles, bazaars, Monte Carlo, Las Vegas, Casino Gambling, or other similar functions and further:

- (A) Every organization sponsoring an above-described function must hold a valid Raffle and Bazaar Permit.
- (B) Every organization contemplating holding an above-described function shall notify the Town Clerk, in writing by application, of its intent at least fifteen (15) days prior to the function. Upon receipt of such application, the Clerk shall determine whether it is in conformity with MGL Ch. 271 § 7A . If the clerk so determines, he or she shall forward the application to the Chief of Police of the Town of Sturbridge, who shall determine whether the

applicant is qualified to operate raffles and bazaars under MGL Ch. 271 § 7A. If the Chief of Police so determines, he shall endorse the application and return it to the Clerk, who shall forthwith issue a permit.

- (C) Every organization contemplating holding an above-described function shall submit the following information to the Chief of Police in writing, at least fifteen (15) days prior to the function:
- (1) A list of all the members of the organization and the date those persons became members;
 - (2) The name of the member in charge of the function;
 - (3) A list of the members who are to be working at the function and a description of their duties;
 - (4) The time and place at which the function is to be held;
 - (5) A sketch of the premises in which the event is to be held, including the location of all tables, cashier booths and counting rooms;
 - (6) The name of the vendor supplying the game equipment;
 - (7) The name of the representative of the vendor who may be on the premises during the function. Such person shall not work on the floor or game during the function. No further permits will be issued to an organization which violates this provision;
 - (8) A copy of the rental agreement relative to the game equipment.
 - (9) A copy of the rental agreement for the premises in which the function is to be held, unless held in the organization's own quarters, in which case that fact must be stated.
- (D) The owner or authorized occupant of the premises used for the function shall ensure that the number of people on the premises does not exceed that which is stipulated by the occupancy permit.
- (E) The function shall not commence before 7:00 P.M. and it shall terminate no later than 1:00 A.M., but in no event shall the function run longer than five (5) hours.
- (F) No person under eighteen (18) years of age shall take part in any of these functions.
- (G) The only acceptable games at the function shall be as follows:

Category 1

Craps
Black Jack
Roulette

Category 2

Big Six

Wheel Games
Money Wheel

Category 3
Chuck-a-Luck
Under and Over Seven
Beat the Dealer

- (H) A uniformed off duty police officer shall be employed by the organization at the expense of the organization. Such officer shall be designated by the Chief of Police. The officer's duties shall include protecting the patrons and ensuring compliance with these provisions. The officer shall remain on the premises until the function is closed.
- (I) No organization shall sponsor more than one function per six (6) month period.
- (J) Approval of the function must be posted in the place at the time of the function.

7.42 SEVERABILITY

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

7.60 ALL ALCOHOL AND BEER & LICENSE TRAINING

Any licensee holding an All Alcohol, including seasonal, of Beer and Wine license shall participate in a program designed to train employees who engage in either package sales, pouring and/or serving in methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors. This program will be based on the type of license issued.

Listed below are programs that are currently available that meet the requirements of this policy::

Techniques of Alcohol Management (T.A.M.) sponsored by the Massachusetts Package Store Association,

Training for Intervention Procedures by Servers of Alcohol (TIPS) offered by Health Communications and Alcohol Intervention Methods (AIM) Campbell/Trent,

OR;

Any insurance industry approved and qualified program offered by a certified trainer and approved by the Board of Selectmen.

All personnel shall be required to participate in a training program based on the type of license issued. Establishments will have six (6) months to comply with this policy from the date of its adoption or by the 1999 license renewal by having 75% of their eligible employees trained and certified. After that time, new employees will have ninety (90) days from the date of employment to complete one of the training programs. Each establishment must have all personnel trained and certified by the 2000 license renewal.

All establishments must maintain during operating hours in an accessible place, a roster or certificate of trained personnel. An updated roster shall be submitted with the annual application for renewal of the license. The roster shall include:

1. Employee name
2. Employee date of birth
3. Type of training
4. Date valid
5. Date of expiration
6. Date of hire

All personnel shall be required to be re-certified once every three years by an approved program, above noted.

Failure to comply with this policy may result in revocation of the license. Fines may also be levied against the license holder should any violation of this policy occur.

7.70 PUBLIC SAFETY – BUILDING NUMBERING

Under the provisions of Massachusetts General Laws, Chapter 148, Section 59, Display of Street Address Number on Buildings: Use in Enhanced 911 Service, every building in the Town of Sturbridge, including but not limited to, dwellings, apartment buildings, condominiums and business establishments shall have affixed thereto a number representing the address of such building. Said number,

as assigned by the Board of Assessors, shall be of a permanent weatherproof material, at least three inches (3") in height and two and one-half inches (2 ½") wide and shall be situated on the building so that it is legible from the nearest street or road providing vehicular access to such building. Said number shall be Arabic numbers in colors contrasting to the background.

Should the numbers on a building not be legible from the street on which the building fronts, as determined by the Fire Chief or his representative, a second number of the same minimum requirements shall be placed on two sides of a post or mailbox near the property line adjacent to the main entrance to the building site from a public or private way.

No occupancy permit for any structure shall be issued until the number has been properly affixed. It shall be the responsibility of each property owner in the Town of Sturbridge to display and maintain the assigned street number within ninety (90) days of the adoption of this bylaw.

7.71 NON-CRIMINAL DISPOSITION

Whoever violates any provision of this section is subject to a penalty of twenty dollars (\$20.00), under a non-criminal disposition, as contained in the Town of Sturbridge General Bylaws, Chapter Nine, Enforcement.

7.72 ENFORCEMENT

Notwithstanding any Town of Sturbridge Bylaw to the contrary, the municipal personnel for enforcement of this section shall be the Police Department, Building Inspector or the Fire Chief; or their designees. Each day in which any violation exists shall be deemed a separate offense.

CHAPTER EIGHT MISCELLANEOUS

8.00 LICENSES AND PERMITS OF DELINQUENT TAXPAYERS

- (1) The Town Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges hereinafter referred to as the Town Collector (“the licensing authority”), a list of any person, corporation or business enterprise (“the party”) that has neglected or refused to pay any local taxes assessments, betterments or other municipal charges for not less than a twelve (12) month period.
- (2) The Town Collector shall also state that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.
- (3) The Licensing Authority may deny, revoke or suspend any license or permit including renewals and transfers of any party whose name appears on a list furnished to the Licensing Authority from the Town Collector; provided, however, that written notice is given to the party and the Town Collector, as required by applicable provisions of the law, and the party is given a hearing to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie to any party. The Town Collector shall have the right to intervene in the hearing conducted with respect to the denial, revocation or suspension of the license. Any findings made by the Licensing Authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except an appeal from such license denial, revocation or suspension. Each department, Board or Commission that issues licenses or permits including renewals and transfers (“the licensing authority”) shall prior to a license being issued or renewed receive a certificate from the Town Treasurer/Collector stating that the applicant is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as of the date of the issuance of said license or permit.
- (4) Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the Licensing Authority receives a certificate issued by the Town Collector stating that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charged payable to the municipality as of the date of issuance of said certificate.
- (5) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the Licensing Authority to issue a certificate indicating

said limitations to the license or permit and the validity of the license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said license or permit, provided, however, that the holder must be given notice and a hearing as required by the applicable provisions of the law.

- (6) The Selectmen may waive such denial, suspension or revocation if they find there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family as defined in M.G.L., Ch. 268 § 1 , in the business activity conducted in or on said property.

That following licenses and permits shall be exempt from the provisions of this bylaw:

Chapter 48, Section 13	Open Burning
Chapter 85, Section 11A	Bicycle Permits
Chapter 101, Section 33	Sales or articles for charitable purposes
Chapter 149, Section 69	Children work permits
Chapter 140, Section 21E	Clubs, Association dispensing food or beverage licenses.
Chapter 140, Section 137	Dog License
Chapter 131, Section 12	Fishing, hunting, trapping licenses
Chapter 207, Section 28	Marriage license
Chapter 140, Section 181	Theatrical events, public exhibition permits

8.10 SURPLUS PERSONAL PROPERTY

8.11 All personal property of the Town which is of no further use to the particular board, officer or department in charge of the same shall be disposed of in the following manner:

- (A) The particular board, officer or department shall submit to the Selectmen a report in writing itemizing such property with an estimated value for each item.
- (B) The Selectmen may transfer such property to another board, officer or department having a use for the same.
- (C) The Selectmen shall from time to time sell or cause to be sold all such property not so transferred at a public sale after first giving notice of the time and place of sale by publication in the Southbridge Evening News and the Worcester Telegram & Gazette at least seven (7) days before such sale. The Selectmen may scrap any property for which there was no buyer at

such sale. All sale proceeds shall be paid into treasury of the Town upon receipt by the Selectmen.

- (D) Any such property in charge of Selectmen shall be disposed of in accordance with paragraphs “b” and “c” of this section of the bylaws.

8.20 VALUATION BOOKS

8.21 The Board of Assessors shall annually publish a valuation book.

8.22 This Publication shall be available in the Assessor’s Office and at the public library.

8.30 BUILDING CODE

The Building Code of the Town of Sturbridge shall be the most recent issue of the Building Code for the Commonwealth of Massachusetts as amended from time to time.

8.40 FALSE ALARMS

Definitions – For the purpose of this bylaw, the following terms, phrases, words and their derivations shall have the following meaning. The word “shall” is always mandatory and not merely directory.

Alarm Device – means an assembly of equipment and devices or a single device such as solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. In addition, any device which when activated by a criminal act calling for police response: (a) transmits a signal to the Safety Complex;(b) transmits a signal to a person who relays information to the Safety Complex; or (c) produces an audible or visible signal to which the police are expected to respond. Excluded from this definition and the scope of this bylaw are devices which are designed to alert or signal only persons within the premises in which the device is installed.

Alarm User – Means any person on whose premises an alarm system is maintained within the Town. The owner of any premises on which an alarm device is used, provided that an occupant who expressly accepts responsibility for an alarm device by registration pursuant to Section 8.42 shall be deemed the alarm user. Excluded from this definition are (a)Town, county, state and federal agencies; (b) persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or

holdup attempt. However, if such an alarm system employs an audible signal or flashing light outside the premises, the user of such an alarm system shall be within the definition of “alarm user” and shall be subject to this bylaw; and (c) the provisions of this bylaw shall not apply to alarm devices on the premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

Automatic Dial Alarm – A telephone device or attachment that mechanically or electrically selects a telephone line to the Safety Complex and reproduces a prerecorded voice message to report a criminal act or other emergency calling for police response. Excluded from this definition are devices which relay a digital code signal to the Safety Complex.

Contractor – Any firm or corporation in the business of supplying and installing alarm devices or servicing the same.

False Alarm – The term “False Alarm” means: (a) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents; or (b) any signal or oral communication transmitted to the Safety Complex requesting, or requiring, or resulting in a response on the part of the police department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises or no attempted robbery or burglary at a premises. Excluded from the definition are activation of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes, lightning and similar conditions.

Police Chief – the term “Police Chief” means the Chief of Police of the Town of Sturbridge or his designated representative.

Police or Police Department – The Term “Police” or “Police Department” means the Town of Sturbridge Police Department, or any authorized agent thereof.

Public Nuisance – For the purpose of this bylaw, the term “Public Nuisance” means anything which annoys, injures or endangers the comfort, repose, health or safety of any person(s) or of any community or neighborhood.

Town – The word “Town” means the Town of Sturbridge.

Alarm Appeal Board – The Board of Selectmen shall be designated the Alarm Appeal board. The Chairman of the Board shall be the Chairman of the Alarm Appeal Board.

8.41 ADMINISTRATIVE RULES

The Chief of Police may promulgate such rules as may be necessary for the implementation of this bylaw.

8.42 REGISTRATION REQUIRED

Each alarm user shall register his alarm device or devices with the Chief of Police prior to use; provided that alarm devices in use as of the effective date of this bylaw may be registered no later than sixty (60) days from such date.

8.43 REGISTRATION PROCEDURE

Every alarm user shall register by means of filling out a form provided by the Chief of Police listing the names, addresses and telephone numbers of the users, installer or contractor and at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. The list of the names, addresses and telephone numbers of the responders must be kept current at all times by the alarm user and shall be updated immediately. The Chief of Police shall issue the alarm user written acknowledgment of proper registration.

There shall be a one time registration fee of \$25.00 payable at the time of registration and such funds shall be added to the Town's General Fund.

8.44 CONFIDENTIAL INFORMATION

All information in the possession of the Chief of Police concerning particular alarm users and alarm devices shall be confidential and shall not be divulged without the written consent of the alarm user or users concerned.

8.45 AUDIBLE BELL OR HORN

All alarm systems which use an audible bell or horn shall be equipped with an automatic shut off device which will deactivate the alarm system within ten (10) minutes. All Alarm users with an audible bell or horn must comply with this section within ninety (90) days of the adoption of this bylaw.

Any alarm which fails to comply with the above paragraph and emits a continuous uninterrupted signal for more than thirty (30) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or

those persons designated by him under the above paragraph of this section, and which disturbs the peace, comfort and repose of a community or neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the police Chief shall endeavor to contact the alarm user, or the members of the alarm user's family or those persons designated by the alarm user under this section in an effort to abate the nuisance. The Police Chief shall record the time each complaint was made.

In the event that the Police Chief is unable to contact the alarm user or member of the alarm user's family or those persons designated by the alarm user under paragraph 2 of this section of the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system and if the Police Chief is otherwise unable to abate the nuisance, he may direct a police officer or firefighter or a qualified alarm technician to enter upon property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

After entry upon property has been made in accordance with this section and the nuisance abated, the Police Chief shall have the property secured, if necessary. The reasonable costs and expense of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed \$50.00. These funds shall be deposited in the Town's General Fund.

8.46 TESTING OF EQUIPMENT

No alarm system designed to transmit emergency messages directly to the Police Department shall be worked on, tested or demonstrated without obtaining permission from the Police Department. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the Police Department. An unauthorized test constitutes a false alarm.

Automatic Dial Alarm Interconnection to the Safety Complex:

No automatic dial alarm may be installed after the effective date of this bylaw without the prior approval of the Chief of Police.

The automatic dial alarm shall be regulated so as to not repeat the message more than two (2) times.

8.47 FALSE ALARM CHARGES

When the Chief of Police determines that the Police Department has responded to a false alarm, he shall impose a charge on the responsible alarm users according to the following schedule:

1st-3rd false alarms – \$25.00

Each subsequent false alarm - \$50.00

8.48 NOTIFICATION AND APPEAL

The Police Chief shall notify the responsible alarm user of any false alarm charges by mail. Within fourteen (14) days after the mailing of such notice, the alarm user may file written notice with the Chief of Police to include information to show that the alarm was not a false alarm within the meaning of this bylaw.

The Chief of Police shall consider such information, reaffirm or rescind the false alarm charge, and notify the alarm user of his decision by mail. Each notice of a false alarm charge or a reaffirmation of such a charge by the Police Chief to the alarm user shall refer to and provide instructions concerning the alarm user's right to further recourse by filing an appeal with the Appeal Board.

Within fourteen (14) days after mailing of such notice, the alarm user may file with the Board of Selectmen, herein after referred to as the Alarm Appeal Board, an appeal in writing.

8.49 APPEAL TO THE ALARM APPEAL BOARD

Upon the receipt of a timely appeal from a false alarm charge, the Alarm Appeal Board shall hold a hearing to consider it and shall mail notice of the time and place of said hearing to the alarm user making the appeal at his last known address at least fourteen (14) days before the hearing.

On the basis of information provided by the alarm user and other information introduced at the hearing, the Board shall affirm the charge if it finds that the charge was properly imposed or rescind the charge if the charge was not properly imposed.

If the Board finds that the charge was properly assessed, the charge shall be paid immediately.

8.50 CHARGES AND FEES PAID INTO GENERAL FUND

Charges for false alarms will be collected by the Town Treasurer and deposited into the Town's General Fund.

Town Assumes No Responsibility for Alarm Devices

Notwithstanding the provisions of this bylaw, the Town, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any alarm device or of the alarm monitoring facilities at the Safety Complex.

No liability whatsoever is assumed for the failure of such alarm devices or monitoring facilities or for failure to respond to alarms or for any other act or omission in connection with such alarm device.

Each alarm user shall be deemed to hold and save harmless the Town, its departments, officers, agents and employees from liability in connection with the alarm user's alarm device.

8.51 ENFORCEMENT OF THIS BYLAW

The Town, upon authorization by the Selectmen, may institute civil proceedings to enforce the provisions of this bylaw.

8.52 SEVERABILITY

The invalidity of any part or parts of this bylaw shall not affect the validity of the remaining parts.

CHAPTER NINE ENFORCEMENT NON-CRIMINAL DISPOSITION

9.01 ENFORCEMENT

Criminal Complaint:

Any person who violates the provisions of any bylaw of the Town of Sturbridge, may be penalized by the indictment or on the complaint brought in District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the penalty for each violation or offense shall be not less than twenty five dollars (\$25.00), nor more than three hundred dollars (\$300.00).

Non-Criminal Complaint:

Any person who violates the provisions of any bylaw of the Town of Sturbridge, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in M.G.L., Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following bylaws, rules or regulations are to be included within the scope of this subsection, that the specific penalties as listed hereunder shall apply in such cases, and that the municipal official listed for each ordinance, rule or regulation shall be the enforcing person for such ordinance, rule or regulation. Nothing herein shall limit or restrict any enforcing person's authority to seek criminal prosecution of any violation of any ordinance, rule or regulation listed herein. Each day on which any violation exists shall be deemed to be a separate offense.

9.02 VIOLATIONS SUBJECT TO SPECIFIC PENALTIES

Violation of General Bylaw - Chapter 3.00 - "Abandoned Motor Vehicles"

Enforcing Agents: Director of Inspections, Police Department

Penalty: First and Subsequent Offense: warning/\$25.00/\$50.00

Violation of General Bylaw - Chapter 3.05 - "Litter"

Enforcing Agents: Director of Inspections, Police Department

Penalty: First and Subsequent Offense \$200.00

Violation of General Bylaw – Chapter 3.50 – 3.65 – “Violation of Wetland Protection Bylaw”

Enforcing Agent: Conservation Commission or its designee, Board of Health Agent, Director of Inspections, Police Department

Penalty: First, Second and Subsequent Offenses: written warning from Conservation Commission/\$25.00/\$50.00/\$100.00

Violation of General Bylaw - Chapter 5.00 - “Animal Control”

Enforcing Agents: Animal Control Officer, Police Department

Penalty: First and Subsequent Offense warning/\$50.00/\$100.00

Violation of General Bylaw - Chapter 6.00 - “Obstructing the Public Way by Snow”

Enforcing Agents: Director of Inspections, Police Department

Penalty: First and Subsequent Offense \$50.00

Violation of General Bylaw - Chapter 6.41 - Rubbish on Streets

Enforcing Agents: Director of Inspections, Police Department

Penalty: First and Subsequent Offense \$20.00

Violation of General Bylaw - Chapter 6.50 - Clearing of Snow & Ice from Sidewalks

Enforcing Agents: Director of Inspections, Police Department

Penalty: First and Subsequent Offense \$10.00

Violation of General Bylaw - Chapter 6.70 - Parking Ban

Enforcing Agent: Police Department

Penalty: First and Subsequent Offense \$50.00

Violation of General Bylaw - Chapter 7.00 - “Soliciting”

Enforcing Agent: Police Department

Penalty: First and Subsequent Offense \$50.00

Violation of General Bylaw - Chapter 7.20 - “Conduct & Attire”

Enforcing Agent: Police Department

Penalty: First and Subsequent Offense \$200.00

Violation of General Bylaw - Chapter 7.40 - “Gambling”

Enforcing Agent: Police Department

Penalty: First and Subsequent Offense \$50.00

Violation of General Bylaw – Chapter 7.70 – 7.72 “Public Safety – Building Numbering”

Enforcing Agents: Police Department, Building Inspector and Fire Chief or their designees.

Penalty: First/subsequent offenses: Warning/\$20.00

Violation of the Zoning Bylaw

Enforcing Agent: Director of Inspections

Penalty: First: verbal or written warning

Second and Subsequent Offense \$50.00

Violation of MGL, Ch. 85, § 11B – Bicycle Helmet Law

Enforcement Agent: Sturbridge Police Department

Penalty: First Offense – written warning/Second Offense - \$10.00/Third and Subsequent Offenses - \$20.00.

Violation of Water Bylaws, Chapter Four – Outdoor Water Restriction

Enforcing Agent: DPW Director or Water Plant Operator

Penalty: First Offense – Written Warning; Second and Subsequent Offenses - \$25.00 per day. {**Amended 4-27-09 ATM Art. 20**}

ACCEPTANCE OF M.G.L.				
<u>Chapter</u>	<u>Section</u>	<u>Date Adopted</u>	<u>ATM/STM</u>	<u>NOTES</u>
32B	6/6/2020	ATM 06/06/2011	ATM	
90	22B, b-k	10/19/2009	STM	
61B	2A	4/27/2009	ATM	
61A	4A	4/27/2009	ATM	
61	2A	4/27/2009	ATM	
258	13	4/13/2009	ATE	
148	26H	4/28/2008	ATM	
148	26I	4/28/2008	ATM	
148	26E	4/28/2008	ATM	
148	26G	4/28/2008	ATM	
59	59(A)	4/30/2007	ATM	
39	23(D)	12/11/2006	STM	
41	110A	12/11/2006	STM	
41	110A	12/11/2006	STM	
39	23D	12/11/2006	STM	
59	5(54)	4/25/2005	STM	
59	57B	4/25/2005	STM	
40	8G	4/26/2004	ATM	
40	22F	4/26/2004	ATM	
391		10/8/2002	STM	Acts of 1924
41	108L	4/23/2002	ATM	
44B	3 - 7	4/30/2001	ATM	
59	5, Clause 17E	4/30/2001	ATM	
59	5, Clause 41D	4/30/2001	ATM	

59	5(K)	4/24/2000	ATM	
ACCEPTANCE OF M.G.L.				
<u>Chapter</u>	<u>Section</u>	<u>Date Adopted</u>	<u>ATM/STM</u>	<u>NOTES</u>
59	5, Clause 41C	4/26/1999	ATM	
60	3D	4/26/1999	ATM	
32B	18	4/26/1999	ATM	
32B	7A	4/26/1999	ATM	
32B	9A	4/12/1999	ATE	
32B	9A	4/12/1999	ATE	
44	53E 1/2	4/28/1997	ATM	
40	22D	4/28/1997	ATM	
140	147A	4/28/1997	ATM	
60	2	4/29/1996	ATM	
138	12, 14th ¶	4/24/1995	ATM	Chapter 481 of Acts of 1993
71	73A	4/25/1994	ATM	
71	83	4/25/1994	ATM	Acts of 1993
40	21E	11/6/1992	STM	
44	53E	4/27/1992	ATM	
44	53E	4/27/1992	ATM	
41	69B	4/27/1992	ATM	
291		4/29/1991	ATM	Acts of 1990
653	40	4/30/1990	ATM	Acts of 1989
40	42(a) - 42(i)	4/30/1990	ATM	
83	16A - 16F	4/30/1990	ATM	
40	57	4/30/1990	ATM	
40	21D	4/24/1989	ATM	
292		4/24/1989	ATM	Acts of 1988

64G	3A	4/28/1986	ATM	
ACCEPTANCE OF M.G.L.				
<u>Chapter</u>	<u>Section</u>	<u>Date Adopted</u>	<u>ATM/STM</u>	<u>NOTES</u>
59	Clause 41B, Sec. 5	6/24/1985	STM	Acts of 1982
41	41B	12/6/1982	STM	
138	12B	4/26/1982	STM	
743		4/26/1982	ATM	Acts of 1981
90	20A	12/14/1981	STM	
148	26C	4/13/1981	ATM	
138	17A	4/30/1979	ATM	
40	8G	3/13/1973	ATM	
41	97A	3/12/1973	ATM	
90	20C	3/13/1972	ATM	
40	22D	3/13/1972	ATM	
90	20C	3/13/1972	ATM	
40	8C	3/9/1970	ATM	
40	8D	3/9/1970	ATM	
414		3/11/1968	ATM	Acts of 1966
322		3/12/1962	ATM	Acts of 1961
40	8A	3/11/1957	ATM	
71	16	1/14/1952	STM	
820		3/12/1951	ATM	Acts of 1949
48	42,43 & 44	3/14/1949	ATM	
391		10/8/1934	STM	Acts of 1923
406		3/3/1930	ATM	Acts of 1928
147	32 - 47	3/5/1928	ATM	
40	6	3/2/1925	ATM	also 03/01/1926

240		4/27/1920	STM	Sunday Sport Law
ACCEPTANCE OF M.G.L.				
<u>Chapter</u>	<u>Section</u>	<u>Date Adopted</u>	<u>ATM/STM</u>	<u>NOTES</u>
287		9/25/1917	STM	Special Act of the Year 1917
153		2/5/1917	ATM	General Acts of the Year 1916
807		3/2/1914	ATM	Acts of 1913
42	39, 43, 44	4/16/1904	ATM	
548	332	4/1/1901	ATM	Acts of 1898
256		4/2/1900	ATM	Acts of 1899