

# TOWN OF WEST NEWBURY



# BYLAWS

Originally Adopted May 1, 1930  
Amendments as adopted through  
April 1, 2022

## TOWN OF WEST NEWBURY BYLAWS

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**I. TOWN OF WEST NEWBURY**  
**BYLAWS AS ADOPTED AT A SPECIAL TOWN MEETING**  
**HELD MAY 2, 1930s**

*[Posted according to law November 18, 1963]*

SECTION 1. No person shall behave himself or herself in a rude or disorderly manner, nor use indecent, profane or insulting language in any street, public place or public building in the town, nor to be, nor remain upon any doorstep, portico or other projections from any such building, nor in any church, meeting house, public hall or entrance thereto, to the annoyance of any other person, nor shall any person willfully frighten any horse or any other animal nor engage in any game, sport or amusement, in any street in the Town, whereby the free, safe and convenient use thereof by travelers therein shall in any way be intercepted or the occupants or adjoining estates unnecessarily annoyed or disturbed.

SECTION 3. No person shall place or maintain any table, tent, booth or other erection on any common or street in Town for the sale or exhibition of any article without permission of the Selectmen.

SECTION 4. No person shall ride or drive any vehicle, automobile, horse or beast upon the public common or sidewalks within the Town.

SECTION 5. No person shall ride or drive any horse, cow, carriage, automobile or other vehicle on the sidewalk of any street of the Town except for the purpose of crossing such sidewalk to go into some adjoining enclosure, provided that this shall not apply to children's or invalid's carriages.

SECTION 6. No person being the owner, keeper, or having the custody of any horse, cow or other animal shall permit or suffer the same to any pasture with or without a keeper upon any street, sidewalk, or any public grounds in the Town, or to go at large therein, nor suffer such horse, cow or other animal to remain upon any sidewalk in the Town.

SECTION 8. *[Amended at the Special Town Meeting October 14, 1987, approved by the Attorney General November 24, 1987 and posted according to law on February 27, 1988. Amended at the Special Town Meeting held on November 4, 2013, approved by the Attorney General on February 27, 2014 and posted according to law on March 12, 2014,*

*which added membership on the Investment Policy Committee.]* In compliance with the provisions of law relating thereto, there shall be a Finance Committee consisting of six (6) qualified voters who shall not hold any other Town Office or position, except that one member of the Finance Committee shall be a member of the advisory Capital Improvements Committee and a member of the Finance Committee shall be a member of the Investment Policy Committee, and who shall be appointed by the Selectmen, two (2) each for a term of three (3) years, any vacancy arising may be filled by the Selectmen at any time. It shall be the duty of the Finance Committee to consider all municipal questions affecting the revenue, indebtedness or expenditures of the funds of the Town, and for this purpose the committee shall have access to all books and records of the Town.

**SECTION 11.** No person shall fire or discharge any gun, fowling piece or firearms in or across any street or way in the Town of West Newbury provided, however, that this by-law shall not apply to the use of such weapons at any military exercises or in the lawful defense of the person, family or property of any person.

**SECTION 12.** *[Amended at the adjourned session, March 19, 1955, Annual Town Meeting]* No person shall establish or maintain a piggery within the limits of the Town without first obtaining a permit from the Board of Health. Under the provisions of this bylaw, five or more pigs over three months of age shall constitute a piggery.

**SECTION 13.** Amendment to this section adopted as *Enforcement of Town By-Laws* (See XXVIII) at the Annual Town Meeting, fourth session, held May 15, 1995, approved by the Attorney General June 28, 1995, and posted according to law July 10, 1995. established the following penalties for the preceding sections, and where indicated enforcing persons in addition to Police Officers:

Section I.1.	Disorderly Conduct	\$ 50.00
I.3.	Sales/Exhibitions	25.00
I.4.	Riding on Public Commons/Sidewalks (Animal Control Officer)	25.00
I.5.	Riding/Driving on Sidewalks (Animal Control Officer)	25.00
I.6.	Pasturing of Animals (Animal Control Officer)	25.00
I.11.	Firing of Guns/Fowling Piece Firearms	50.00
I.12.	Piggery (Health Agent, Animal Control Officer)	25.00

**SECTION 14.** These By-Laws shall take effect after their approval and establishment as required by law, and all previous By-Laws are hereby repealed.

## **II. ADVERTISING FOR BIDS BY-LAW**

*[The Advertising for Bids By-Law was repealed by vote taken under Article 27 of the Warrant for the April 30, 2001 Annual Town Meeting]*

## **III. ALCOHOLIC BEVERAGES BYLAW**

ALCOHOLIC BEVERAGES BYLAW *[Adopted at the Special Town Meeting, November 29, 1982. approved by the Attorney General January 20, 1983, and posted according to law March 14, 1983.]*

No person(s) shall have in his possession any alcoholic beverages as defined in Chapter 138, Section 1 of the Massachusetts General Laws, while on, in or upon any Town property without the written consent of the Board of Selectmen. Anyone who violates this By-Law shall be subject to a fine not to exceed \$300.00 for each offense.\*

*\*[As originally adopted. The Enforcement Bylaw ( see XXVIII) adopted at the fourth session of the 1995 Annual Town Meeting, approved by the Attorney General on June 28, 1995 and posted according to law July 10, 1995, established a penalty of \$100.00 for violations of this By-Law].*

#### **IV. BOARDS, COMMITTEES, AGENCIES**

APPOINTMENT OF BOARD MEMBERS BYLAW *[Adopted at the Annual Town Meeting of 1983, approved by the Attorney General July 1, 1983, and posted according to law March 22, 1984.]* Pursuant to the provisions of Section 4A, Chapter 41 of the Massachusetts General Laws: The Board of Health is authorized to appoint a member of their Board to act as Inspector of Sanitary Disposal Systems; the Board of Water Commissioners is authorized to appoint a member of their Board to work from time to time as required as laborer; and the Board of Assessors is authorized to appoint members of their Board to at as Clerk of their Board.

AMENDMENT TO APPOINTMENT OF BOARD MEMBERS BYLAW *[Adopted at the Annual Town Meeting of 1985, approved by the Attorney General July 17, 1985, and posted according to law March 26, 1986.]* By motion brought under Article 9 of the 1985 Annual Town Meeting Warrant it was voted unanimously to amend the “Appointment of Board Members” by-law to authorize the Planning Board to appoint a member of their Board to serve as Secretary to the Board.

AMENDMENTS TO APPOINTMENT OF BOARD MEMBERS BYLAW *[Adopted at the Annual Town Meeting of 1986, adjourned session of May 6, 1986, approved by the Attorney General June 12, 1986, and posted according to law June 20, 1986.]* By separate motions brought under Article 33 of the 1986 Annual Town Meeting Warrant it was voted to amend the “Appointment of Board Members” By-Law to 1. authorize the Water Commissioners to appoint a member of their Board to serve as Substitute Superintendent; and 2. authorize the Conservation Committee to appoint a member of its Committee to serve as Clerk.

ASSESSORS BYLAW *[Adopted March 4, 1967, approved by the Attorney General March 13, 1967, and posted according to law March 27, 1967.]* Assessors shall serve in no other elected office in the Town, provided however that present incumbents shall serve for the duration of their elected term in office.

CAPITAL IMPROVEMENTS COMMITTEE BYLAW *[Adopted at the Special Town Meeting of October 14, 1987, approved by the Attorney General November 24, 1987, and posted according to law February 27, 1988]*

*[Amendment to Capital Improvements Committee Bylaw adopted at the Special Town Meeting of January 25, 1993, approved by the Attorney General March 2, 1993, and posted according to law March 10, 1993, changed the word "Accountant" to "Finance Director" so that it reads References to the Finance Director were replaced with reference to the Town Manager by Article 19 of the Annual Town Meeting held on April 30, 2018 approved by the Attorney General on August 29, 2018 and posted according to law on October 5, 2018]*

Section 1: The Board of Selectmen shall establish and appoint a committee to be known as the Capital Improvement Planning Committee, composed of one member of the Board of Selectmen, one member of the Finance Committee, and five at-large members. The representative from the Board shall be appointed by the Board for a one-year term. The Finance Committee shall appoint a representative to serve a one-year term. The five at-large members are to serve a three year rotating term. The Town Manager shall be an ex-officio member without the right to vote. The Committee shall choose its own officers.

Section 2. *{Amended by Article 16 of the Special Town Meeting held on October 16, 2016, which changed the amount of "\$10,000" to "\$20,000" which was approved by the Attorney General on September .7, 2017 and posted according to law on September 19, 2018}* The Committee shall study proposed capital projects involving the planning for and the improvement, preservation and creation of tangible assets and projects which 1) have useful life of at least five years; 2) cost over \$20,000 and or 3) for which the town is authorized to borrow funds. Capital projects shall be submitted to the Capital Improvements Committee (CIC) at a date to be established by the Committee for consideration at the following Annual Town Meeting, or four months before a Special Town Meeting, except when emergency financing is necessitated by an accident, fire, judicial order or other similar special circumstances. All officers, Boards and committees, including the Selectmen and School Committee shall give to the CIC, on forms prepared by it, information concerning all anticipated capital projects requiring Town Meeting action during the next fiscal year and five ensuing years. The Committee shall consider the relative need: impact, timing and cost of these expenditures and the effect each will have on the financial position of the town. No appropriation shall be voted for a capital improvements requested by a department, board or commission unless the proposed capital improvement is considered in the Committee's report. The Committee shall not fail to report on any proposal that has been properly submitted.

Section 3: The CIC shall prepare an annual report recommending a Capital Improvement Budget for the next fiscal year, including any items to be funded in the current fiscal year, and a Capital Improvement Program including recommended capital improvements for the following five fiscal years. The report shall be submitted to the Board of Selectmen not later than six weeks prior to the Annual Town Meeting for its consideration and



recommendations. The Board shall submit the Capital Budget together with its recommendations to the Annual Town Meeting.

Section 4. Such Capital Improvement Program, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisal; but no such expenditure shall be incurred on projects which have not been so approved by the town through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

Section 5. The Committee's report and the Selectmen's recommended Capital Budget shall be published and made available in a manner consistent with the distribution of the Finance Committee report. The Committee shall deposit its original report with the Town Clerk.

Source: Adapted from a form presented in the "Massachusetts Finance Committee Handbook", Stuard DeBard, Association of Town Finance Committees.

Section 6: *[Section 6 added at the Annual Town Meeting, second session, on May 6, 2009, approved by the Attorney General on August 11, 2009 and posted according to law on August 20, 2009.]* The provisions of Sections 2 through 5 of this Capital Improvements Committee Bylaw shall not apply to capital projects, appropriations, or expenditures made under authority of the Community Preservation Act, Massachusetts General Laws Chapter 44B, or the Community Preservation Committee Bylaw.

COUNCIL ON AGING BYLAW: *[Adopted September 24, 1973, at a Special Town Meeting, approved by the Attorney General October 26, 1973, and posted according to law February 13, 1974.]*

Pursuant to Section 8B, Chapter 40 of the General Laws, the town will establish a Council on Aging to co-ordinate and carry out all programs designed to meet the problems of the aging in co-ordination with programs of the Commission on Aging established under Section 73, Chapter 6 of the General Laws; said Council shall be appointed by the Board of Selectmen and shall consist of eleven members, six of whom shall be over 60 years of age; initial appointments shall be made as follows:

four members for three years, two of whom shall be over 60

four members for two years, two of whom shall be over 60, and

three members for one year, two of whom shall be over 60;

subsequent appointments shall be made by the Board of Selectmen for three-year periods.

CIVIL DEFENSE BYLAW *[Adopted at the Annual Town Meeting April 30, 1977, approved by the Attorney General August 8, 1977, and posted according to law August 15, 1977.]*

That the Board of Selectmen be authorized and directed to establish an organization for Civil Defense for the Town in accordance with the Acts of 1950, Chapter 639, Section 13, and amendments thereto. The Board of Selectmen shall appoint a Director thereof, who, subject to the direction and control of the appointing authority, will be directly

responsible for the organization, administration, and operation of Civil Defense functions determined by the aforesaid Act.

MILL POND COMMITTEE BYLAW *[Adopted at the Special Town Meeting of October 22, 1991, approved by the Attorney General January 7, 1992, and posted according to law January 9, 1992. This Bylaw replaces the vote previously adopted under Article 30 of the 1976 Annual Town Meeting]* The Town hereby establishes a Mill Pond Committee to plan, coordinate and carry out all projects and general maintenance of the Mill Pond Recreation Area, including any buildings and structures thereon. Said committee shall be appointed by the Board of Selectmen and shall consist of seven voting members and five or more associate members. Each member shall be appointed for a one-year term which shall expire on June 15 of each year.

*[Second paragraph adopted at the Special Town Meeting of October 22, 2007, approved by the Attorney General on November 13, 2007 and posted according to law on December 5, 2007]* Beginning with the June 2008 appointments the Board of Selectmen shall appoint two voting members each to a one year term to expire on June 15, 2009, two voting members each to a two year term to expire on June 15, 2010, and three voting members each to a term to expire on June 15, 2011; thereafter all voting members shall be appointed to three year terms to expire on June 15 of the applicable year. Associate members shall continue to be appointed for one year terms which shall expire on June 15 of each year. In the event of a vacancy caused by the resignation, removal or inability to serve of any voting or associate member, the Board of Selectmen shall appoint a voting or associate member, as the case may be, to serve the balance of any such term.

OPEN SPACE COMMITTEE BYLAW *[Adopted at the third session of the Annual Town Meeting held on May 12, 1997, approved by the Attorney General on July 11, 1997, and posted according to law July 17, 1997.]* The Town hereby establishes an Open Space Committee to implement the Open Space and Recreation Plan of the Town of West Newbury by maintaining and updating the Plan itself and by managing the implementation of the action plans contained therein. Said committee shall be appointed by the Board of Selectmen and shall consist of seven voting members and two Associate members who shall also be appointed by the Board of Selectmen. Members shall be appointed for one-year terms which shall expire on June 15.

*[Second paragraph adopted at the Special Town Meeting of October 22, 2007, approved by the Attorney General on November 13, 2007 and posted according to law on December 5, 2007]* Beginning with the June 2008 appointments the Board of Selectmen shall appoint two voting members each to a one year term to expire on June 15, 2009, two voting members each to a two year term to expire on June 15, 2010, and three voting members each to a term to expire on June 15, 2011; thereafter all voting members shall be appointed to three year terms to expire on June 15 of the applicable year. Associate members shall continue to be appointed for one year terms which shall expire on June 15 of each year. In the event of a vacancy caused by the resignation, removal or inability to

serve of any voting or associate member, the Board of Selectmen shall appoint a voting or associate member, as the case may be, to serve the balance of any such term.

## **V. CONSTRUCTION, EXCAVATION, DEMOLITION**

**BUILDING CODES BYLAW** *[Adopted at the Annual Town Meeting of 1982. Approved by the Attorney General September 22, 1982, and posted according to law November 15, 1982.]*

Accepted as law the "Commonwealth of Massachusetts State Building Code" and, further, the "BOCA Basic Building Code" and the "National Building Code" as back-up codes to cover those areas not included in the Massachusetts State Code. The above codes shall be incorporated in the Town Bylaws as the recognized Town Building Codes. Approval of this Bylaw supersedes all provisions of the Building Code Bylaw adopted June 3, 1970.

**FOUNDATION BYLAW** *[Adopted at the Special Town Meeting, November 29, 1982. Approved by the Attorney General January 20, 1983, and posted according to law March 14, 1983. Amended at the adjourned session of the Special Town Meeting on October 30, 1996, by striking the Foundation Bylaw adopted on Nov. 29, 1982, and adopting a section entitled "Foundation Bylaw" as follows. Amendment approved by the Attorney General on November 12, 1996, and posted according to law on November 18, 1996.]*

A Certified Plot Plan shall be submitted to the Building Inspector upon completion of a foundation. The Certified Plot Plan shall be a 1" - 20' scale and shall mirror the site plan as previously approved by all necessary Boards.

The Certified Plot Plan shall show lot dimensions; foundation location; front, rear, and side yard dimensions. Each plan shall have the following certification endorsed on the plan: "I hereby certify that the location of the foundation is as shown and complies with the local Zoning and Building Codes of the Town of West Newbury, Massachusetts, when constructed."

Each plan shall be certified and bear the seal of a registered land surveyor in the Commonwealth of Massachusetts.

**OPENING OF STREETS BYLAW** *[Adopted May 18, 1974, at the Annual Town Meeting. Approved by the Attorney General June 19, 1974, and posted according to law August 6, 1974. Section 11 adopted at the Annual Town Meeting May 6, 1987, approved by the Attorney General on August 31, 1987 and posted according to law September 30, 1987. The Enforcement Bylaw ( see XXVIII) was adopted at the fourth session of the 1995 Annual Town Meeting, approved by the Attorney General on June 28, 1995 and posted according to law July 10, 1995, established a penalty of \$300 for violations of the Opening of Streets Bylaw; amended by Article 23 of the Annual Town Meeting held on April 29, 2019, approved by the Attorney General on July 18, 2019 and posted according to law on July 19, 2019]*

1. **PERMIT REQUIRED.** No person, firm, corporation, public utility or agency other than the Selectmen or the Road Commissioner in the lawful performance of their duties or those acting under their orders, except such other persons as are or may be authorized by statute, shall break or excavate the ground in any street or public way in the Town, or dig below the surface thereof, or place any obstruction thereon, or construct a driveway entrance from any street, without first obtaining a written permit therefore from the Department of Public Works (DPW) Director or by the Town Manager in his/her absence. Selectmen approval is also required for any trench greater than 150 linear feet continuous or combined on any street or any trench or roadway resurfacing greater than 2,500 square feet.
2. **APPLICATION FOR PERMIT.** No such permit shall be issued until after receipt by DPW of a written application therefore made in writing on forms provided by the Town and signed by the applicant or his authorized representative.
3. **SAFETY REQUIREMENTS.** All persons acting under such permit shall adhere to all OSHA rules and regulations relating to roadway construction work.
4. **SURETY BOND.** No such permit shall be issued until after the applicant has deposited with the Town a surety bond or security deposit when required by the DPW Director, in form and amount acceptable to the Town Counsel, guaranteeing that any road surface worked upon thereunder will be restored without cost to the Town.
5. No such permit shall be issued until after the applicant has filed with the Town a certificate of insurance in amounts acceptable to the Selectmen conditioned substantially that the applicant shall indemnify and save harmless the Town of West Newbury and its officers from all suits and actions of every kind brought against said Town and its officers for or on account of any injuries or damages received or sustained by any person in consequence of, or resulting from any work performed by or negligence of said applicant, his servants, agents or employees.
6. **FEE FOR PERMIT.** The fee for permits issued under this Chapter shall be set from time to time by the Selectmen and may be waived by them in their discretion.
7. **ISSUANCE OF PERMIT.** Upon the filing of an application and security as aforesaid, and payment of any fee, the Town shall cause to be issued, on forms provided by them, a permit specifying the nature and location of the work to be done; the terms and conditions of such work imposed to preserve public safety and convenience, and the time within which such work is to be completed, but such time shall not be longer than 180 days from the date of said permit, unless extended by the DPW Director for cause shown. Notwithstanding such other conditions as may be imposed, it shall be a condition of each permit issued under this Bylaw that the applicant shall, for a period of one year from the date of issuance of such permit, save harmless the Town of West Newbury from any and all claims for damages arising from or in consequence of any work performed by or any

act or omission of the applicant under such permit or of the applicant's servants, agents or employees.

8. EXPIRATION OF PERMIT. Permits issued under the provisions of this Bylaw shall expire as follows: Upon completion of all work specified on the permit, including the restoration of any excavation and the removal of any obstruction, the applicant may present the permit to the Town who shall cause the DPW Director to inspect such work. If the work has been completed to their satisfaction, and in accordance with the terms and conditions of said permit the DPW Director shall certify the same and the expiration of the permit thereon.

9. INSPECTION. The DPW Director is authorized to inspect, or cause to have inspected, at any time any or all work performed under a permit issued hereunder. If, in the opinion of the DPW Director the public safety and welfare so warrant, he/she may order the applicant to fill and resurface any excavation or remove any obstruction within 2 (two) hours of such notice and if such order is not complied with within such time, he or they may cause such work to be done and the applicant shall be responsible for the cost thereof.

10. EXCEPTIONS. (a) Section 4 of this Bylaw shall not apply to public utilities or service companies which elect, in lieu of a bond, to enter into a legally binding agreement with the Town of West Newbury securing said Town as provided therein. (b) Nothing in this Bylaw shall be construed to prevent or unduly delay the making of any necessary excavation or the performance of any work related thereto by any public service company in the event of an emergency, and in such cases such public service company may proceed with such work without regard for the provisions of this Bylaw, provided that within a reasonable period of time after the cessation of such emergency, and not longer than 10 days, all provisions of this Bylaw shall become effective with respect to such work.

11. NON-COMPLIANCE Any person, firm or corporation required to obtain a permit under this by-law who either does not obtain said permit or who fails to comply with the terms of the permit issued shall be subject to a penalty of not more than \$50.00; each day to be considered a separate and distinct offense.\*

*\*[Section 11 as originally adopted. The Enforcement Bylaw (see XXVIII) adopted at the fourth session of the 1995 Annual Town Meeting, approved by the Attorney General on June 28, 1995 and posted according to law July 10, 1995, established a penalty of \$300 for violations of the Opening of Streets Bylaw]*

SOIL REMOVAL BY-LAW *[Adopted at a Special Town Meeting held June 26, 1964, approved by the Attorney General July 8, 1964 and posted according to law June 15, 1965. Amendment voted at the December 27, 1965, Special Town Meeting replaced Section 1-2 with Sections 1-2A and 1-2B.]*

1-1. The removal of soil, loam or sand from any parcel of land not in public use in the Town of West Newbury, except as hereinafter provided shall be allowed only after a written permit therefor is obtained from the Board of Selectmen after a public hearing of which due notice is given.

1-2A. No permit shall be required for the continuous operating on any parcel of land or gravel pit in operation at the time this By-Law is adopted, provided such operation is not hereinafter discontinued for more than one year.

1-2B. A permit shall be required for the removal of soil, loam, sand, or gravel from any parcel of land when incidental to and in connection with the construction of a building on the parcel. Incidental to and in connection with the construction of a building on the parcel shall mean, removal of loam or soil from the parcel shall not exceed the volume of soil or loam excavated for cellars, drives, walks and septic tanks. The Board may issue a permit under this subsection without a public hearing, and the Board shall impose such reasonable conditions as to the disposition of top soil and the establishment of ground levels and grades as it may deem necessary for the adequate protection of the neighborhood and the Town prior to the issuance of the permit. The Board may, without a public hearing, on receipt of proof of violation of any condition, suspend or revoke any permits so issued.

1-3 In issuing a permit under this By-Law, the Board of Selectmen may impose such conditions not specifically provided for herein as it may deem necessary for the adequate protection of the neighborhood and the town. Any conditions imposed by the Board shall be attached to and made part of the permit. The Board may, in its discretion, require a bond, certified check or other security for compliance with said conditions or as evidence of good faith as to the completion of any proposed construction. The Board may, after a public hearing on proof of violation of any condition revoke any permits so issued. A permit issued under this section shall be void after three years.

#### REMOVAL OF SAND

2-1 Sand may be removed from any parcel of land, except within 300 feet of a street or way and the Board may issue a permit therefor, provided that the Board shall impose such reasonable conditions as to the disposition of top soil and the re-establishment of ground levels and grades as it may deem necessary.

#### REMOVAL OF SOIL OR LOAM

3-1 Soil or loam may be removed from any parcel of land within such parcel determined by the Board to be unsuited to agricultural use, and the Board may issue a permit for such removal. In issuing a permit the Board may impose reasonable conditions as to the re-establishment of ground levels and grades.

3-2 Notwithstanding the provision of the above, the Board may issue a permit for the removal of soil or loam from any parcel of land in the Town where such removal is necessary, incidental to, and in connection with the construction of a road or other facility

involving a permanent change in the use of the land. The Board shall issue no such permit unless it is reasonably satisfied that the construction will be completed and evidence thereof shall be made part of the records of the Board.

#### REMOVAL WITHIN 300 FEET OF STREETS

4-1 Soil, loam or sand may be removed from any parcel of land within such parcel lying within 300 feet of any street or way, provided a permit therefor has been issued by the Board after satisfactory evidence that such removal will not be seriously detrimental or injurious to the neighborhood, provided further that the Board shall impose reasonable conditions as to the method of removal, and the re-establishment of ground levels and grades and the planting of the area to suitable cover as it may deem necessary. Removal of soil or loam under authority of this section shall be further subject to provisions of Section III.

5-1 The removal of gravel from land not in public use, except as specifically authorized in paragraph "1-2." is prohibited.

6-1 The penalty for violation of any provision of this Earth Removal By-law shall be \$300.00 for each offense. Amended by vote of the Town at the Annual Town Meeting held on April 29, 1991, approved by the Attorney General on September 9, 1991, and posted according to law on September 17, 1991, by increasing the penalty from \$50.00 for the first offense; \$100.00 for the second offense, and \$200.00 for each subsequent offense to \$300.00 for violation of any provision of this Earth Removal By-Law for each offense. Amendment to this section adopted as *Enforcement of Town By-Laws* (See XXVIII) at the Annual Town Meeting, fourth session, held May 15, 1995, approved by the Attorney General June 28, 1995, and posted according to law July 10, 1995, also allows the Building Inspector to act as enforcing person in addition to Police Officers.

**TRENCH EXCAVATION BYLAW** *[Adopted at the Annual Town Meeting of April 28, 2008, approved by the Attorney General on June 12, 2008 and posted according to law on June 17, 2008; Amended by Article 22 of the Annual Town Meeting of April 29, 2019 approved by the Attorney General on July 18, 2019 and posted accorded to law on July 19, 2019]*

1. This Bylaw is intended to provide for the appointment of the DPW Director to issue permits for the excavation of trenches as required by Massachusetts General Laws Chapter 82A, Section 2.
2. The Board of Selectmen shall appoint the DPW Director to issue permits for the excavation of trenches on privately owned land and for the excavation of any public way in the Town of West Newbury pursuant to the provisions of said Chapter 82A.
3. The DPW Director so appointed shall be known as the "Permitting Authority".

4. The Permitting Authority shall exercise all of the authority, rights, duties and responsibilities of local Permitting Authorities under said Chapter 82A as the same may be amended and the provisions of the Code of Massachusetts Regulations as the same may be adopted or amended under the authority of said Chapter 82A.

5. The Board of Selectmen may adopt and from time to time, modify, amend, and rescind regulations in conformity with said Chapter 82A or other applicable law relating to the issuance of trench excavation permits hereunder, including, but not by way of limitation, the right and authority to establish and charge reasonable fees to cover the administrative costs of the trench excavation permitting process incurred by the Town in connection with the review and processing of permits.

## **VI. ANIMAL BY-LAW**

**DOG BY-LAW** *[Adopted at the Annual Town Meeting April 28, 1986, approved by the Attorney General June 12, 1986, and posted according to law June 20, 1986. See also notes on amendments and additions at the end of the Bylaw.]*

### **Section 1. Dog Licensing**

The Office of the Town Clerk shall be responsible for the licensing of dogs within West Newbury. All dogs three months or older must be licensed and tagged. Licenses are to be obtained by April 1 each year and will expire on the following March 31.

### **Section 2. License Fees**

2.1 License and kennel fees shall be established and revised from time to time by the Town by vote at Town Meeting, based upon the recommendation of the Town Fees Committee and after the Board of Selectmen hold a public hearing on the proposed fees. License and kennel fees are intended to be sufficient to fund all related costs of the Animal Control Officer and Town Clerk, and any property damages caused by unidentified dogs within Town boundaries. A notice of the fee hearing shall be published in at least one local newspaper at least two weeks prior to the meeting.

2.2 Any license or kennel fee due on April 1 but remaining unpaid on May 1 shall be subject to a supplemental fine of \$10.00 per dog; an additional fine of \$10.00 per dog shall be charged if the fee remains unpaid on June 1, and likewise, an additional fine of \$10.00 per dog on July 1 and August 1.

### **Section 3. Animal Control Officer**

3.1. The Animal Control Officer shall perform assigned duties in accordance with Chapter 140 of the General Laws of the Commonwealth of Massachusetts, and any other appropriate statutes relative hereto. The Animal Control Officer shall attend to all complaints and any other matters pertaining to dogs and shall take whatever action deemed necessary.



3.2 If the Animal Control Officer determines that a female dog in heat, even if confined, is attracting other animals, thus causing a disturbance or damage to neighboring property or public areas, the owner or keeper may be required to keep said animal, while in heat, in a kennel or to remove it from the area so that the nuisance is abated.

3.3 The Animal Control Officer may require dog owners or keepers to restrain their dogs from running at large in schools, school playgrounds, parks or recreational area. Owners and keepers may be required to restrain their dogs from running at large when the Animal Control Officer determines that any such dog is an annoyance, is dangerous or is known to cause damage in the neighborhood.

3.3.1. Dangerous or nuisance dog behavior, or other domesticated animals causing a nuisance. For the purpose of this Bylaw, dog behavior which is dangerous or a nuisance includes, but is not limited to, the following: molesting pedestrian passers-by or passing vehicles, including bicycles, attacking persons or domestic animals; or damaging public or private property.

3.3.2.: No person owning, harboring, or having custody and/or control of 4 or more dogs shall permit such dogs to run at-large in the Town of West Newbury at any time. A dog shall be deemed running at-large when it is both off the premises of the owner or such person in custody or control of, and is not on a leash, or electronic leash collar (also known as an electric leash). Any violation of this Section shall be considered a violation of Restraining of Dogs and subject to the fines and fees set forth therein

#### Penalties:

A person who owns or keeps a dog, or other domesticated animal, shall be responsible for the following fees which require the service of the Animal Control Officer in connection with any such dog or domesticated animal.

First Offense	Warning
Second Offense within twelve months	\$ 25.00
Third Offense, and any subsequent within twelve months of the first offense	75.00

Service of the Animal Control Officer is the response of the officer to a specific location, and requiring the removal, restraining or impounding of the dog or domesticated animal, whether occasioned by the request of a citizen, town official or otherwise. Fees shall be paid to the Town of West Newbury.

3.4 If the owner or keeper of a dog fails to comply with the order of the Animal Control Officer and does not appeal to the Board of Selectmen, as provided in the next section, the Animal Control Officer shall proceed to enforce said order as provided by law.

3.5 The Animal Control Officer having custody of a confined dog shall be allowed the sum of eight dollars per day for the care of such dog, payable by the owner or keeper thereof, if known, otherwise from the dog fund.

#### Section 4. Appeal of Animal Control Officer Ruling

4.1 The owner or keeper of a dog, about which the Animal Control Officer issued an order under the above sections of this By-Law, may appeal said order in writing to the Board of Selectmen within ten days of the issuance of the order.

4.2 The Board of Selectmen shall hold a public hearing on the ruling and accept testimony from any and all interested parties, including the Animal Control Officer, after which the Board may overrule the Animal Control Officer, reach an agreement with the appellant, or instruct the Animal Control Officer to proceed with enforcement procedures as prescribed in Chapter 140, Section 173A of the General Laws.

#### Section 5. Applicability of Other Statutes

Notwithstanding the provisions of this By-Law, all other aspects of Chapter 140, Sections 136A through 175 shall still be in effect.

#### Restraint of Dogs

No person owning, harboring or having custody or control of a dog shall permit such dog to be at large in the Town of West Newbury at any time, elsewhere than on the premises of the owner, except if such dog be on the premises of another person with the knowledge and consent of such person. Any dog which is not held firmly on a leash or under the immediate control of such owner or keeper, may be taken into custody of the Animal Control Officer. The owner shall be subject to:

1. A fine for violation of the Restraint Bylaw
2. Boarding fees for the number of days the animal is in the custody of the Animal Control Officer
3. Any necessary veterinary charges while the animal is in the custody of the Animal Control Officer

#### Fines:

First Offense	\$ 25.00
Second Offense	\$ 50.00
Third Offense and Subsequent Offenses	\$100.00

All town fees, fines, and charges shall be paid before the animal is returned to the owner or keeper.

This § shall be included within the scope of the provisions of Massachusetts General Laws, Chapter 40, § 21D, adopted at the fourth session of the 1995 Annual Town Meeting held on May 15, 1995, as § XXVIII, Enforcement of Town Bylaws. In addition to police officers, the Animal Control Officer shall also be an enforcing person for this section.

#### Dog License Fees

Neutered Male Dogs	\$15.00
Spayed Female Dogs	\$15.00

Male & Female Dogs	\$25.00
Kennel:	
Not more than 4 dogs	\$35.00
Not more than 10 dogs	\$50.00
Over 10 dogs	\$100.00

*[Amendment Adding Section 3.5 to the Dog By-Law voted at the October 22, 1991, Special Town Meeting, Approved by the Attorney General on January 7, 1992, and posted according to law on January 9, 1992.*

*[Amendment changing Section VI. "Dog Bylaw" to read "Animal By-Law" and the amendment to add Section 3.3.1. to the Animal Bylaw voted at the third session of the 1994 Annual Town Meeting held on June 16, 1994. Approved by the Attorney General on August 26, 1994, and posted according to law on August 31, 1994.]*

*[Amendment to Sections 2.2 and 3.3.1. adopted as Enforcement of Town By-Laws (See XXVIII) at the Annual Town Meeting, fourth session, held May 15, 1995, approved by the Attorney General June 28, 1995, and posted according to law July 10, 1995, allows the Animal Control Officer to act as an enforcing person in addition to Police Officers.]*

*[Amendment to add the section entitled "Restraint of Dogs" voted on May 3, 2001, at the second session of the 2001 Annual Town Meeting, and posted according to law on September 6, 2001. Fines were increased by an amendment voted on May 6, 2009 at the second session of the 2009 Annual Town Meeting, approved by the Attorney General on August 11, 2009 and posted according to law on August 20, 2009]*

*[Dog License Fees adopted under Article 20 of the 1986 Annual Town Meeting and approved by the Attorney General. Amendment voted at the 1990 Annual Town Meeting under Article 25, approved by the Attorney General on September 5, 1990, and posted according to law on October 22, 1990. Amendment voted at the 2003 Annual Town Meeting under Article 16, approved by the Attorney General on July 30, 2003 and posted according to law on August 11, 2003]*

*[Amendment to add Section 3.3.2 was adopted at the Annual Town Meeting of April 27, 2015, approved by the Attorney General on May 26, 2015 and posted according to law on May 27, 2015]*

## **VII. FINANCE DIRECTOR BY-LAW**

**FINANCE DIRECTOR BY-LAW** *[Adopted at the 1990 Annual Town Meeting. Approved by the Attorney General on September 5, 1990, and posted according to law on October 22, 1990. Deleted at the 2018 Annual Town Meeting Approved by the Attorney General of August 29, 2018 and posted according to law on October 5, 2018. The*

*Finance Director Special Legislation was superseded by the Town Manager legislation adopted as Chapter 97 of the Acts of 2017]*

DELETED

## **VIII. FINANCES**

**COLLECTOR BY-LAW** *[Adopted at the Annual Town Meeting, February 27, 1937. Posted according to law November 18, 1963.]*

That the Collector of Taxes be given full power to collect all accounts of the Town as provided in Article 20, Acts and Resolves of Massachusetts, 1936, which reads as follows:

A city or town may by ordinance or by-law, notwithstanding any other provision of the law, general or special, provide that collector of taxes shall collect, under the title of the city or town collector, all accounts due the city or town and may in a like manner define his powers and duties in relation to the collection of interest on investments of sinking or trust funds.

All bills for accounts due the city or town shall state that all checks, drafts or money orders shall be made payable to or to the order of the city or town and not to or to the order of any officer or commission.

**DEPARTMENTAL BUDGETS BY-LAW** *[Originally adopted at the 1971 Annual Town Meeting and amended at the December 4, 1973 Special Town Meeting, the 1982 Annual Town Meeting and the 1983 Annual Town Meeting. The Bylaw was further amended under Article 22 of the 1990 Annual Town Meeting, approved by the Attorney General on September 5, 1990 and posted according to law on October 22, 1990; the 1990 amendment to become effective on the effective date of the enabling legislation also voted under Article 22. The enabling legislation was enacted as Chapter 270 of the Acts of 1990 and signed into law on December 7, 1990 creating the Department of Budget and Finance; References to the Finance Director were replaced with reference to the Town Manager by Article 19 of the Annual Town Meeting held on April 30, 2018 approved by the Attorney General on August 19, 2018 and posted according to law on October 5, 2018]*

Pursuant to Section 59, Chapter 41 of the General Laws, the Selectmen and all Boards, committees, heads of departments or other officers of the Town authorized by law to expend money shall furnish to the Town Accountant and the Town Manager at a date in January as specified by the Selectmen and Town Manager, detailed estimates of the amounts necessary for the proper maintenance of the departments under their jurisdiction for the ensuing fiscal year, with explanatory statements as to any changes from the amounts appropriated for the same purposes in the preceding fiscal year, an estimate of the amounts necessary for outlays or permanent improvements, and estimates of any income likely to be received by the Town during the ensuing fiscal year in connection

with the Town's business or property entrusted to their care. These budget requests and income estimates will be consolidated by the Town Manager and together with recommendations will be submitted to the Finance Committee not later than the third Monday of March each year.

FEES BY-LAW *[Adopted at the April 29, 1991, Special Town Meeting, as provided by Chapter 40, Section 21, Paragraph 13, of the Massachusetts General Laws, approved by the Attorney General on September 3, 1991, and posted according to law September 17, 1991.]*

That all Town Officers are hereby required to pay all fees received by them by virtue of their office into the Town Treasury.

FINANCE COMMITTEE BY-LAW *[Adopted at the Annual Town Meeting, March 4, 1939, and posted according to law November 18, 1963.]*

The Finance Committee shall annually elect a chairman and secretary from its membership.

The chairman may call meetings whenever he thinks advisable, but shall call meetings at the request of four members of the committee. A quorum for any meeting shall be four members.

They shall meet at least ten days prior to the Annual Meeting each year and at least five days prior to any Special Town Meeting to prepare recommendations regarding all articles in the warrant, especially those involving the appropriation of money. The committee shall confer with and advise the Board of Selectmen whenever so requested by the latter.

Prior to the Annual Meeting the Selectmen shall submit to this committee the proposed budget for the next ensuing year.

## **IX. GASOLINE STATIONS**

GASOLINE FILLING STATION BY-LAW *[Adopted at the Special Town Meeting November 14, 1977, approved by the Attorney General February 2, 1978, and posted according to law March 14, 1978.]*

No person owning or operating a gasoline filling station shall allow the pumping of gasoline without an attendant employed by the station present to hold the gas nozzle while gasoline is being pumped into the tank of the vehicle.

## **X. GAS INSPECTOR BY-LAW**

GAS INSPECTOR BY-LAW *[Adopted at a Special Town Meeting, June 13, 1963. Approved by the Attorney General June 26, 1963, and posted according to law June 15, 1965.]*

The Board of Selectmen shall appoint, and may remove at pleasure, an inspector of gas piping and gas appliances, whose duties shall be the enforcement of the rules and regulations adopted by the Board established under Section H. of Chapter 25 of the General Laws.

## **XI. HISTORIC DISTRICTS BY-LAW**

HISTORIC DISTRICTS BY-LAW *[Adopted at the Special Town Meeting, April 5, 1976. Approved by the Attorney General August 27, 1976, and posted according to law September 8, 1976.]*

Be it ordained by the Selectmen of the Town of West Newbury as follows:

### **SECTION 1. Title**

This By-Law shall be known and may be cited as the Historic Districts By-Law under authority of Massachusetts General Laws, Chapter 40C, as amended.

### **SECTION 2. Purpose**

The purpose of this By-Law is to promote the educational, cultural, physical, economic and general welfare of the public through the preservation and protection of the historical assets of West Newbury, including buildings, cities and districts of historical and architectural interest; through the maintenance of such landmarks of the history of West Newbury, the Commonwealth and the Nation, and through the development of appropriate uses and settings for such buildings and places.

### **SECTION 3. Historic District Boundaries**

West Newbury Training Field Historic District

The boundaries are hereby established as shown on a map entitled "Boundaries of the West Newbury Training Field Historic District" dated April 5, 1976, which accompanies and is hereby declared to be a part of the By-Law.

### **SECTION 4. Membership of Historic District Commission**

The West Newbury Historic District Commission, herein referred to as the District Commission, shall consist of five (5) members and two (2) alternates appointed by the Selectmen.\*

The membership of the District Commission shall be made up as follows:

One (1) member from two (2) nominees submitted by the West Newbury Historical Society.

One (1) member, if possible, from two (2) nominees submitted by the Chapter of the American Institute of Architects covering the area.

One (1) member, if possible, from two (2) nominees submitted by the Massachusetts Board of Realtors,

One (1) member, if possible from two (2) nominees submitted by the West Newbury Planning Board

If the membership cannot be appointed as designated above, these positions shall be filled without designation.

Two (2) additional members without designation.

All nominees shall be residents of the Town of West Newbury.

Two (2) or more members shall be residents or owners of real estate in the West Newbury Training Field Historic District

When the District commission is first established, two (2) members shall be appointed for one (1) year terms, two (2) members shall be appointed for two (2) year terms, and the remaining members and the two (2) alternates shall be appointed for three (3) year terms, and all members shall serve until a successor is appointed and confirmed. At the expiration of their respective terms, the Selectmen shall appoint successors for three (3) year terms in the manner described in the preceding paragraphs. Vacancies for any unexpired term shall be filled in the same manner as in the original appointment. The District Commission shall elect annually a chairman and vice chairman from its own number and a secretary from within or without its number.

Alternates shall have all the powers and duties of regular members when called to serve by the chairman or vice chairman of the Commission.

All members and alternates shall serve without compensation.

#### SECTION 5. Administration of Historic Districts

No building or structure within the Historic District shall be constructed, demolished, moved or altered in any way that affects exterior architectural features and no building shall be moved into a Historic District unless the Commission shall first have issued a certificate of appropriateness, a certificate of hardship or a certificate of non-applicability with respect to such construction, alteration or movement. The building inspector shall not issue a permit within a Historic District unless one of the certificates noted above has first been issued by the District Commission or the proposed improvement is exempted from these provisions by Section 6.

#### SECTION 6. Exemptions to Review

The authority of the District Commission is not extended to the review of the following:

1) Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify.

2) Terraces, or landscaping that does not substantially change the grade level.

3) Storm doors, storm windows, screens, window air-conditioners, T.V. antennae.

4) Color and type of paint or roofing.

#### SECTION 7. Powers of the District Commission

The District Commission shall have all the powers of an Historic Commission as described in Chapter 40C of the Massachusetts General Laws. The Commission shall adopt rules and regulations for the conduct of its business, not inconsistent with Chapter 40C of the General Laws, or with the purpose of this By-Law.

The District Commission may receive and accept appropriations, grants and gifts for the furthering of the purpose of the By-Law, to establish an Historic marker program, publish guides, maps and other appropriate publications to illustrate historical and architectural resources of West Newbury and to acquire and maintain historic properties.

The District Commission shall serve in an advisory capacity to the Selectmen, the Planning Board, the Massachusetts Historical Commission, and other public agency, on matters pertaining to, or affecting, any historic structures or sites in the West Newbury Historic District.

The District Commission shall propose changes in West Newbury Historic District boundaries, as it deems appropriate. Massachusetts General Laws, Chapter 40C, will guide the procedures for these activities.

SECTION 8. Duties of the District Commission shall coordinate historic preservation activities, and oversee the preparation and implementation of historic preservation plans of West Newbury.

The District Commission shall provide assistance to owners of historic structures on matters pertaining to preservation of those structures in West Newbury.

SECTION 9. The District Commission shall adopt rules and regulations for the conduct of its business not inconsistent with Chapter 40C, of the General Laws, or with the purpose of this By-Law.

The District Commission shall act at all times with a clear understanding of the need of the residents of a West Newbury Historic District to enjoy the amenities of modern life in the use of their home and properties.

#### SECTION 10. Severability

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

*[\*Section 4 as Amended at the Annual Town Meeting, April 30, 1977, approved by the Attorney General August 8, 1977, and posted according to law August 15, 1977. By striking out the phrase "subject to confirmation by the Town Meeting."]*

## **XII. HUNTING BY-LAW**



HUNTING BY-LAW *[Adopted at the Annual Town Meeting, March 12, 1960, Adjourned Session, approved by the Attorney General March 25, 1960, and posted according to law November 18, 1963. Amended on April 27, 2006 at the Annual Town Meeting and posted according to law May 23, 2006.]*

SECTION 1. No person shall hunt or fire or discharge any firearms on any private property or property owned or controlled by the Town of West Newbury except with the written consent of the owner or the legal occupant thereof, and such consent shall be carried at all times by any person hunting and upon request shall be shown to any police officer, or officer of the Department of Conservation, or the property owner or his agent. For purposes of this paragraph, the Board of Selectmen shall be deemed to be the owner or legal occupant of any property owned or under the control of the Town of West Newbury.

SECTION 2. This By-Law shall not be applied to the lawful defense of life or property or to any law enforcement officer in the defense of his duties.

SECTION 3. Any person violating any provisions of this by-law shall be punished by a fine of not more than twenty dollars for each offense.\*

*\*[Section 3 as originally adopted. The Enforcement Bylaw ( see XXVIII) adopted at the fourth session of the 1995 Annual Town Meeting, approved by the Attorney General on June 28, 1995 and posted according to law July 10, 1995, established a penalty of \$50.00 for violations of the Hunting By-Law Bylaw]*

### **XIII. LOCAL LICENSE OR PERMIT AFFECTED BY NON-PAYMENT OF LOCAL TAXES**

LOCAL LICENSE OR PERMIT AFFECTED BY NON-PAYMENT OF LOCAL TAXES *[Adopted at a Special Town Meeting November 12, 1986, approved by the Attorney General December 4, 1986, and posted according to law February 26, 1987.]*  
CH.40 Sec. 57. Grant or Renewal of License as Affected by Non-payment of Local Taxes, Fees, etc.; Ordinance; Exceptions.

Any city and town which accepts the provisions of this section, may by by-law or ordinance deny any application for, or revoke or suspend any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges. Such by-law or ordinances shall provide that:

a) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including

renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

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

d) The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or member of his immediate family, as defined in section one of chapter two hundred and sixty-eight in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

A city or town may exclude any local license or permit from this section by by-law or ordinance. (Added by 1985, 640, approved December 23, 1985, effective 90 days thereafter.)

#### **XIV. LOITERING BY-LAW**

**LOITERING BY-LAW** *[Adopted October 15, 1979, approved by the Attorney General November 20, 1979 and posted according to law November 26, 1979.]*

No person shall stand or remain upon any street or way dedicated to the public use nor upon any footwalk or sidewalk adjacent thereto nor in any public place or place to which the public has a right of access as invitees or licenses within the Town of West Newbury, so as to obstruct the free passage of the public after having been ordered or requested to move by any police officer or other law enforcement official. Any person in violation of this By-Law may be arrested and prosecuted according to law. Anyone who violates this By-Law shall be subject to a fine of fifty (50) dollars for each offense.<sup>8</sup>

*\*[As originally adopted. The Enforcement Bylaw ( see XXVIII) adopted at the fourth session of the 1995 Annual Town Meeting, approved by the Attorney General on June 28, 1995 and posted according to law July 10, 1995, also established a penalty of \$50.00 for violations of this By-law]*

#### **XV. PUBLIC DRINKING BY-LAW**

**PUBLIC DRINKING BY-LAW** *[Adopted at the Annual Town Meeting April 30, 1977. Approved by the Attorney General August 8, 1977, and posted according to law August 15, 1977.]*

No person(s) shall drink any alcoholic beverages as defined in Chapter 138, Section 1 of the Massachusetts General Laws, while on, in, or upon any public way or upon any way to which the public has a right of access or license, park or playground, school grounds, or private land or place without the consent of the legal owner or person in control thereof. Any person(s) found drinking any alcoholic beverages in such public places shall be arrested and prosecuted according to law. All alcoholic beverages being used in violation of this By-Law shall be seized and safely held for trial before the court, at which time they shall be returned to the person(s) entitled to lawful possession, unless otherwise ordered by the Court. Whoever violates this By-Law shall be subject to a fine of not more than fifty (\$50) for each offense.\*

*\*8[As originally adopted. The Enforcement Bylaw ( see XXVIII) adopted at the fourth session of the 1995 Annual Town Meeting, approved by the Attorney General on June 28, 1995 and posted according to law July 10, 1995, also established a penalty of \$50.00 for violations of this By-Law]*

#### **XVI. SALARY COMPENSATION BY-LAW**

SALARY COMPENSATION BY-LAW *[Adopted at the Annual Town Meeting of 1983. Approved by the Attorney General July 1, 1983, and posted according to law March 22, 1984.]* Appointing authorities shall establish salary and wage rates after consultation with the Personnel Committee and with the approval of the Board of Selectmen.

## **XVII. SECURITY SYSTEMS BY-LAW**

SECURITY SYSTEMS BY-LAW *[Adopted at the Annual Town Meeting April 30, 1977. Approved by the Attorney General August 8, 1977, and posted according to law August 15, 1977.]*

No person shall connect or cause to be connected to the communications system of the Police Department or the Fire Department any private automatic security device for reporting of fire or unauthorized entry programmed to dial the main operating lines of said system. A device of this nature may be connected to a special telephone line provided for this purpose on the condition that a permit be obtained from the Board of Selectmen. This permit shall be denied by the Board of Selectmen without the prior approval of the proposed equipment and installation by the Inspector of the Fire Department and/or the Chief of Police. The Board may impose such conditions upon the permit as they deem necessary and the Board may revoke such permits if the equipment is defective or improperly maintained. An annual fee shall be established for this permit by the Board of Selectmen.

ADDENDUM TO SECURITY SYSTEMS BY-LAW *[Adopted at the Special Town Meeting October 14, 1987. Approved by the Attorney General on November 24, 1987, and posted according to law on February 27, 1988.]*

Addendum: False alarms, other than those caused by faulty telephone service, electrical storms, or the Town's main receiving console, shall be limited to two in any six-month period for such dwelling or business. The owner of the property shall be assessed a penalty of twenty-five dollars (\$25.00) for each additional false alarm during the six-month period, such penalty to be paid to the Town of West Newbury.

Any home or business installing or presently using an alarm system, whether or not connected to the Town's alarm communication systems, with an inside or outside bell, siren or horn must have an automatic shut-off device which will de-activate the audible alarm twenty (20) minutes after the system is activated. Any longer period would be considered to be a nuisance in the neighborhood and may be cause for Town Officials, employees or agents to enter onto private property to disconnect the alarm device and would be the basis for the same penalty specified in the above paragraph.

Any home or business installing or presently using security alarm systems connected to the Town's alarm communications system shall have a back-up power source to maintain their system during power failure for at least twelve (12) hour period.

All existing installations shall be in compliance with this By-Law on or before June 30, 1988.

*[Enforcement of Town By-Laws (See XXVIII) adopted at the Annual Town Meeting, fourth session, held May 15, 1995, approved by the Attorney General June 28, 1995, and posted according to law July 10, 1995 established a penalty to the owner of the property of \$50.00 after two false alarms, for each additional false alarm during six-month period.]*

## **XVIII. SOLICITING/CANVASSING BY-LAW**

**SOLICITING/CANVASSING BY-LAW** *[Adopted under Article 9 at the Annual Town Meeting held on April 29, 1991. Approved by the Attorney General on September 9, 1991, and posted according to law. Said By-Law to replace the Soliciting By-Law adopted at the December 10, 1969, adjourned session of a Special Town Meeting held December 3, 1969.]*

### **Section 1. License**

It shall be unlawful for any solicitor or canvasser defined in this By-Law to engage in such business within the Town without first obtaining a license therefore in compliance with the provisions of this By-Law. The provisions of this By-Law shall not apply to any person exempted under Chapter 101 of the General Laws or to any person duly licensed under Chapter 101 of the General Laws or to any person exempted by any other General Law, nor shall this By-Law be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic deliveries.

### **Section 2. Definition of Solicitor/Canvasser**

Any person who, for himself or for another person, firm or corporation travels by foot, automobile or any other type of conveyance from place to place, from house to house or street to street, taking or attempting to lease or take orders for wholesale/retail sale of goods, wares, merchandise or services including without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines books, periodicals or other articles of a commercial nature, the contracting of all types of home improvements or for services to be performed in the future whether or not such individual has, carries or exposes for wholesale/retail sale a sample of the subject of such sale or whether he/she is collecting advance payment for such wholesale/retail sales.

### **Section 3. Application for License**

Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under the penalties of perjury, containing the following information:

- a) Name of applicant
- b) Address of applicant (both local and permanent home address)
- c) Applicants height, weight, eye and hair color
- d) Applicants social security number

- e) The length of time for which the right to do business is desired
- f) A brief description of the nature of the business and the goods to be sold
- g) The name and home office address of the applicant's employer. If self-employed, it shall so state
- h) A photograph of the applicant which picture shall be submitted by the applicant and be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner
- i) If operating a motor vehicle: The year, make, color, VIN #, registration number, state of registration, vehicles owner and address
- j) Upon filing said application, each applicant shall pay a fee of twenty (\$20.00) dollars.

#### Section 4. Investigation and issuance of license.

1. Upon receipt of the application form, the Chief of Police or his designees shall investigate the applicants reputation as to morals and integrity.
2. After said investigation, but within seven (7) business days of the filing of the applicant, the Chief of Police or his designee shall endorse on such application his approval or disapproval. Failure of the Police Chief or his designee to act on said permit within seven (7) business days of the applicants' filing shall constitute approval. If disapproved, the applicant shall have the right to appeal to the Board of Selectmen in writing within seven (7) days of the denial by the Chief of Police or his designee. The Board of Selectmen must act upon the appeal at one of their next two regularly scheduled meetings. Failure to do so shall be deemed approval.
3. Such license when issued shall contain the signature of the Chief of Police and/or the Board of Selectmen and shall show the name, address and photograph of said licensee, the date of issuance and the length of time the license shall be effective as well as the license number.
4. The Police Department shall keep a record of all licenses issued for a period of six (6) years. Solicitors and canvassers, when engaged in the business of soliciting or canvassing, are required to display an identifying document issued by the Police Department by wearing said document on their outer garment. Each licensee is required to possess an individual license.

#### Section 5. Enforcement

The Police Officers of the town shall enforce this By-Law. No license shall be transferred or is transferable.

#### Section 6. Revocation

The Chief of Police or his designee is vested with the authority and jurisdiction to revoke said licenses. Any person aggrieved by said revocation may appeal to the Board of Selectmen within seven (7) business days, and a hearing will be scheduled for one of the next two regularly scheduled meetings of the Board of Selectmen.

#### Section 7. Explanation of License

Each license issued under the provision of this By-Law shall continue in force from the date of issue until the 31st day of December following, unless sooner revoked.

#### Section 8. Renewal

A license issued under the provisions of this By-Law may be renewed by the Chief of Police or his designee. An applicant requesting a renewal of a license must apply in person for such renewal, and provide such information as is required to obtain an initial license.

#### Section 9. Misrepresentation

1. No solicitor or canvasser licensed or exempted from license, may misrepresent in any manner, the buyer's right to cancel as stipulated by Chapters 93, 93A and 255 D of the Mass. General Laws.

2. No solicitor or canvasser, licensed or exempt from license may use any plan, scheme or ruse, which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office or other establishment with the purpose of making a sale of consumer goods or services.

#### Section 10. Trespassing

It shall be unlawful for any canvasser or solicitor to enter the premises of a resident or business who has displayed a "No Trespassing" or "No Soliciting" sign or poster. Further, it shall be unlawful for canvassers or solicitors to ignore a resident or business person's no solicitation directive or remain on private property after its owner has indicated that the canvasser or solicitor is not welcome.

Section 11. The following may be exempt from licensing requirements upon first contacting the Chief of Police or his designee:

Persons engaged in soliciting for charitable, benevolent, religious or political activities.

Section 12. Any person violating any provision of this By-Law shall upon conviction thereof, be punished by a fine not to exceed fifty (\$50.00) dollars for each and every offense.

*[Enforcement of Town By-Laws (See XXVIII) adopted at the Annual Town Meeting, fourth session, held May 15, 1995, approved by the Attorney General June 28, 1995, and posted according to law July 10, 1995 also establishes a penalty of \$50.00 for violations of this By-Law]*

### **XIX. TOWN COUNSEL BY-LAW**

TOWN COUNSEL BY-LAW *[Adopted at the Annual Town Meeting of March 3, 1958. Approved by the Attorney General April 1, 1958, and posted according to law November 18, 1963.]*

That the Selectmen appoint a Town Counsel, and that the services of said counsel shall be available as follows:

- 1) To any elected board by majority vote of said board
- 2) To any elected single office holder
- 3) To any appointed office holder, board or committee upon majority vote of the appointing authority, or upon written consent of the moderator.

The salary of said counsel shall be established annually.

## **XX. TOWN MEETINGS/ELECTIONS**

TOWN MEETING BY-LAW *[Adopted at the adjourned session of the Annual Town Meeting, 1968. Approved by the Attorney General April 18, 1968, and posted according to law September 27, 1968.]*

Town Meeting shall hereafter be conducted in accordance with the rules of parliamentary practice as set forth in "Town Meeting Time" by Richard B. Johnson, Benjamin A Trustman, Charles Y. Wadsworth, Current Edition.

TOWN MEETING BY-LAW *[Adopted at the March 12, 1960, adjourned session of the Annual Town Meeting, amended at the Annual Town Meeting of April 28 and 29, 1980, and amended under Article 6 of the 1991 Annual Town Meeting held on April 29, 1991. Approved by the Attorney General on September 9, 1991, and posted according to law.]*  
Said By-Law to read as follows:

That all Town Meetings in the Town of West Newbury be publicized in the following manner:

By posting attested copies of the Warrant, one at the Town Hall, one at the Town Office Building, one at the G.A.R. Memorial Library, one at the Post Office, and one at the Laurel Grange, and by leaving a copy with the Town Clerk; all of which shall be done at least fourteen days before the date of holding said meeting.

CHECK LISTS BY-LAW *[Adopted at the adjourned session of the Annual Town Meeting, 1968. Approved by the Attorney General April 18, 1968, and posted according to law September 27, 1968.]*

Voted, that the Town adopt a By-Law requiring the use of voter check lists for admittance to all Town Meetings.

DATE OF ANNUAL MEETING AND ELECTION BY-LAW *[Adopted December 18, 1973, amended at the Annual Town Meeting, June 20, 1979. Approved by the Attorney General October 9, 1979, and posted according to law November 26, 1979.]*



That the business meeting be held on the Monday preceding the first Monday in May and that the election of officers be held on the first Monday in May.

MOTION BY-LAW *[Adopted at the Annual Town Meeting of March 5, 1955. Approved by the Attorney General May 26, 1955, and posted according to law November 18, 1963.]*

A motion to table or indefinitely postpone shall be out of order at all Town Meetings.

QUORUM BY-LAW *[Adopted at the Annual Town Meeting April 30, 1977. Approved by the Attorney General August 8, 1977, and posted according to law August 15, 1977. Amended at the April 27, 2009 Special Town Meeting, approved by the Attorney General on May 14, 2009 and posted according to law on June 9, 2009]*

That the quorum for action on Special Town Meeting articles with appropriations which do not exceed twenty thousand dollars, shall be forty legal voters; for all articles with appropriations which exceed twenty thousand dollars and the Annual Town Meeting, ninety voters shall constitute a quorum.

## **XXI. TOWN REFUSE BY-LAW**

TOWN REFUSE BY-LAW *[Adopted March 5, 1966, amended at the Special Town Meeting November 12, 1985. Amended at the 2002 Annual Town Meeting by striking Sections 1-1 through 2-1 and substituting the following. Approved by the Attorney General on June 11, 2002, and posted according to law on June 13, 2002.]*

- 1-1 No person shall deposit or dispose of rubbish at any location within the Town of West Newbury, except as authorized by the Board of Health.
- 1-2 No person, except a resident of the Town, shall deposit recyclable material in any Town Recycling Area, except by written permit of the Board of Health; nor shall any person, except a resident of the Town, deposit refuse in any Town Refuse Disposal Area except by written permit of the Board of Health.
- 1-3 No person shall deposit recyclables collected outside the boundaries of the Town of West Newbury in a Town Recycling Area; nor shall any person deposit refuse that is collected outside the boundaries of the Town of West Newbury at a Town Refuse Disposal Area, except by written permit of the Board of Health.
- 1-4 No person shall pick over or remove any item from a Town Recycling Area, or from a Town Refuse Disposal Area, except by written permission of the Board of Health.
- 1-5 Any person transporting rubbish over the streets of the Town, who through intent, carelessness or neglect allows rubbish to be spilled on the streets of the Town, or on private property shall be subject to a fine of not more than \$200.
- 1-6 No person shall deposit recyclables in any Town Recycling Area or deposit refuse in any Town Refuse Disposal Area, except during hours specified by the Board of Health.
- 1-7 No person shall deposit garbage in the Town Recycling Area or in any Town Refuse Disposal Area.

- 1-8 No person shall dispose of demolition material in the Town Recycling Area or in any Town Refuse Disposal Area.
- 1-9 No person shall dispose of hazardous material, oil base paint, engine oil, pesticide, or any material or substance deemed hazardous by either the U.S. Environmental Protection Agency or the Massachusetts Department of Environmental Protection in the Town Recycling Area or in any Town Refuse Disposal Area.
- 1-10 No yard waste (including leaves and grass clippings) rocks, stones, turf, soil, will be collected or removed at curbside pickup or from the Town Recycling Area.
- 2-1 Person – as used herein, this term shall include natural persons and any legal entity, including, but not by way of limitation, corporations, limited liability companies, and partnerships.
- 2-2 Recycling Material – as used herein shall mean any material defined as such by regulations of the Board of Health and intended to be accepted for deposit at any Town Recycling Area.
- 2-3 Refuse – as used herein shall mean any material defined as such by regulations of the Board of Health and intended to be accepted for deposit at any Town Refuse Disposal Area.
- 2-4 Rubbish – as used herein shall mean any and all refuse, recyclable material, garbage, demolition material or material or substances of any kind intended for disposal or recycling.
- 2-5 Town Recycling Area - as used herein shall mean any area designated by the Board of Health as a recycling area.
- 2-6 Town Refuse Disposal Area – as used herein shall mean any area designated by the Board of Health as a refuse disposal area.
- 3-1 Any violation of this by-law, except as otherwise provided herein, shall be punished by a fine of not more than \$300.00 for each violation thereof. Two or more violations in a 24-hour period shall constitute separate offenses.

## **XXII. VEHICLES**

**VEHICLE REMOVAL BY-LAW** *[Adopted at the Special Town Meeting June 11, 1969, approved by the Attorney General September 19, 1969 and posted according to law November 18, 1969.]*

The Superintendent of Streets, for the purpose of removing or plowing snow, or removing ice from any way, is authorized to remove any vehicle interfering with such work to some convenient place which term shall include a public garage, and the owner of any vehicle so removed, shall be liable for the cost of such removal and the storage charges, if any, resulting therefrom.

**VEHICLE REMOVAL BY-LAW AMENDMENT** *[Adopted at the Annual Town Meeting, 1981, Second Session, approved by the Attorney General September 21 and posted according to law September 22, 1981. Subsequent amendment adopted at the*

*Annual Town Meeting, 1982, approved by the Attorney General September 22, 1982, and posted according to law November 15, 1982, changed the second sentence.]*

No person shall park any motor vehicle on any public way in the town overnight from December 1st until April 30th. The penalty for violation of this parking ban shall come under the jurisdiction of Chapter 90, Section 20A 1/2 of the General Laws imposing the maximum allowable fine for each offense.

VEHICLE CONTROL BY-LAW *[Adopted July 17, 1972. Approved by the Attorney General October 16, 1972, and posted according to law November 29, 1972.]*

Section 1. No person or entity, corporate or otherwise, as owner or as one in control of premises, shall keep in the open in any area of the Town of West Newbury any junk automobile as defined in the following section, without being licensed to do so under this By-Law.

Section 2. For the purpose of this By-Law, a junk automobile shall be one which is worn out, cast off, or discarded and which is ready for dismantling or destruction, or which has been collected or stored for salvage, or for stripping in order to make use of parts thereof. Any parts from such a vehicle shall be considered a junk automobile under this By-Law.

Section 3. A license to keep no more than one (1) junk automobile shall be requested from the Chief of Police, who may issue said license under the terms and standards set forth in Section 4 of this By-Law. The refusal to issue said license may be appealed to the Board of Selectmen by filing an appeal with the Town Clerk within twenty days of the refusal, and thereafter following the procedure for notice and hearing set forth in Section 3(a) of this By-Law.

a) A license to keep more than one (1) junk automobile may be requested by filing with the Clerk an application in writing to the Board of Selectmen. The Board of Selectmen shall hold a public hearing upon such request, notice of which shall be given by publishing in a newspaper published or circulated in West Newbury fourteen days at least before the date of the hearing. The cost of publishing shall be paid by the applicant for the license.

Section 4. The Board of Selectmen may grant a license for not over one year, upon such conditions as the Board deems proper, to keep such junk automobiles in the open, after the public hearing has been held and the Board determines that the keeping of the same will not depreciate property values in the area, or will not create a hazard to the public safety, or will not become a public nuisance. Renewals of said licenses may be granted only after the procedure set forth is followed.

Section 5. Upon the filing with the Board of Selectmen of a petition signed by at least 10 legal residents of West Newbury asking for revocation of any license issued under this By-Law, the Board shall call a public hearing to review the conduct of the licensee under said license. If the Board determines that the operation of the licensee under said license is such as to depreciate property values in the area, or create a hazard to public safety, or

constitute a public nuisance, the Board may, by majority vote, revoke said license, such revocation to be effective thirty days after the date of said vote.

Section 6. The holder of a Class 1, Class 2, or Class 3 license as defined in Massachusetts General Laws (Ter.Ed.)Ch.140, Sec. 58, is exempt from the provisions of this By-Law in respect to the premises specified in the license granted to him under Section 59 of said Chapter.

Section 7. Any person or entity who violates this By-Law shall be liable to a fine of \$10.00 and each day of violation shall be a separate a distinct offense.

### **XXIII. WATER USE RESTRICTION BY-LAW**

WATER USE RESTRICTION BY-LAW *[Adopted at the Annual Town Meeting April 29, 1978. Approved by the Attorney General July 25, 1978, and posted according to law October 24, 1978. Amended by deleting the original bylaw adopted on April 29, 1978, and inserting in its place the following Water Use Restriction Bylaw adopted under Article 26 at the third session of the 1999 Annual Town Meeting held on May 6, 1999, approved by the Attorney General on July 14, 1999, and posted according to law on July 21, 1999. Amended at the Special Town Meeting on April 28, 2003, approved by the Attorney General August 21, 2003 and posted according to law August 29, 2003. Amended by deleting and replacing Section 9 Penalties.]*

#### **SECTION 1. Authority**

This Bylaw is adopted by the Town of West Newbury under its police powers to protect public health and welfare and its powers under M.G.L. c.40, ss21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c.41,s.69B. This bylaw also implements the Town's authority under M.G.L. c40, s.41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

#### **SECTION 2. Purpose**

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town of West Newbury or by the Department of Environmental Protection. This Bylaw applies to municipal water users only.

#### **SECTION 3. Definitions**

Person shall mean any individual, corporation trust, partnership or association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c.21G,s15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town of West Newbury pursuant to section 4 of this bylaw.

Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

#### SECTION 4. Declaration of a State of Water Supply Conservation

The Town of West Newbury, through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 6 of this bylaw before it may be enforced.

#### SECTION 5. Restricted Water Uses

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under section 6.

- a) Odd/Even Day Outdoor Watering. Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- b) Outdoor Watering Ban. Outdoor watering is prohibited.
- c) Outdoor Watering Hours. Outdoor watering is permitted only during daily periods of low demand to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- d) Filling Swimming Pools. Filling of swimming pools is prohibited.
- e) Automatic Sprinkler Use. The use of automatic sprinkler system is prohibited.

#### SECTION 6. Public Notification of a State of Water Supply Conservation: Notification of DEP.

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section 5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

**SECTION 7. Termination of a State of Water Supply Conservation: Notice.**

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by section 6.

**SECTION 8. State of Water Supply Emergency: Compliance with DEP Orders**

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

**SECTION 9. Penalties**

Any person violating this bylaw shall be given a written warning for the first offense. For the second and subsequent violations within the same calendar year, said person shall be liable to the Water Department in the amount of \$100.00 which shall inure to the Town. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of Chapter 40 of the general laws. Each day of violation shall constitute a separate offense. In addition to the above fines, for violations beyond the second offense, the Commissioners shall have the right to suspend water service. If water service is suspended then a Reactivation Fee of \$250.00 will be charged and must be paid to the Town Collector before water service is restored.

**SECTION 10. Severability.**

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

**XXIV. WELL COVER BY-LAW**

**WELL COVER BY-LAW** *[Adopted December 27, 1965, approved by the Attorney General January 5, 1966, and posted according to law March 8, 1966.]*

Owner or owners of land in West Newbury where on is located an abandoned well or a well in use shall either provide a covering for such well capable of sustaining a weight of three hundred pounds or to fill well to the level of the ground. The penalty for violation of this By-Law shall be a fine of not less than one hundred dollars nor more than five hundred dollars.\*

*\*Well Cover By-Law as originally adopted. The Enforcement Bylaw ( see XXVIII) adopted at the fourth session of the 1995 Annual Town Meeting, approved by the Attorney General on June 28, 1995 and posted according to law July 10, 1995, established a penalty of \$300 for violations of this Bylaw]*

## **XXV. WEST NEWBURY WETLANDS PROTECTION BY-LAW**

WEST NEWBURY WETLANDS PROTECTION BY-LAW *[Adopted at the adjourned Annual Town Meeting May 11, 1988, approved by the Attorney General July 28, 1988, and posted according to law August 29, 1988.]*

That the Town of West Newbury adopts the provisions of M.G.L., CH.131, Sec. 40 and 310 CMR 10:00 as the West Newbury Wetlands Protection By-Law.

The Conservation Commission may adopt regulations and fees for permits for work within an area subject to the state wetlands protections act and regulations, in addition to the \$25.00 fee for Notices of Intent charged under M.G.L. c.131, sec. 40.

Town, county, state and federal projects are exempt from any fees imposed under this By-Law.

Any fees imposed under this By-Law will be refunded if a project is denied by the West Newbury Conservation Commission.

Permits are valid for three (3) years, as provided under state law.

Any determination or decision resulting from the administrative appellate process set forth in M.G.L. c. 131, sec. 40 and 310 CMR 10:05 (7) and/or judicial appeals of the determination or decision of that administrative process pursuant to M.G.L. c.30A will be adopted by the West Newbury Conservation Commission as the Commission's determination or decision under this By-Law after the exhaustion of all the appellate remedies described above.

## **XXVI. GENERAL HARBOR REGULATIONS**

GENERAL HARBOR REGULATIONS *[Adopted at the adjourned session of the Annual Town Meeting May 12, 1993, approved by the Attorney General July 26, 1993, and posted according to law August 6, 1993. Amended at the April 24, 2000, Annual Town Meeting, and posted according to law on July 27, 2000. Amended at the April 25, 2005 Annual Town Meeting and posted according to law on June 13, 2005.]*

### **I. PURPOSE**

A. It is the intent of these regulations to ensure safety to persons and property, to promote availability and use of a valuable, public resource, and to provide for safe navigation.

B. Regulations governing the safe operation of vessels and regulations protecting the environment are also contained herein.

C. These regulations apply in all parts of the Merrimack River which are under the jurisdiction of the West Newbury Harbormaster as defined in M.G.L.90B and in Section II.A. below.

D. The regulations promulgated herein are in addition to the requirements of State and Federal law.

## II. DEFINITIONS

A. *West Newbury "Harbor"* shall be all tidal waters lying within the corporate boundaries of the Town of West Newbury

B. *Length Overall (LOA)*: The length of a vessel inclusive of the bowsprits, booms and boomkins, pulpits, swim platforms, engines or extensions.

C. *Mooring*: Shall mean any structure or apparatus including floats and rafts held by anchors or bottom moorings.

D. *Individual Mooring*: Shall mean any mooring placed in West Newbury waters for the owner's private use.

E. *Person*: Shall include individuals, corporations, clubs, associations, partnerships, including their agents.

F. *Vessel*: Shall include any ship, boat or any other type of watercraft including personal watercraft, such as jet skis, being used as a means of transportation on the water and other floating structures such as barges and rafts.

G. *Operator*: Shall mean any person engaged in the operation and navigation of a vessel.

H. *Harbormaster*: Shall be considered to be the Harbormaster, Assistant Harbormaster or any authorized agent.

I. *Navigable Channel*: That area of water in the Merrimack River buoyed by the U.S. Coast Guard, and defined by the Army Corps of Engineers.

J. *Fairway*: Locally designated channels shown on the official West Newbury Harbor map as adopted by the West Newbury Board of Selectmen.



K. *Waterways:* Means all bodies of water within the territorial confine of the Town of West Newbury

L. *Headway Speed:* Means minimum speed required for safe steering of the vessel.

### III. OPERATION OF VESSELS IN WEST NEWBURY WATERWAYS

#### *Wake and Speed:*

No vessel shall create a wake or operate at a speed which endangers life, safety or property of any person in West Newbury Harbor. In narrow channels, designated mooring areas, or where posted, the speed of all vessels shall be reduced to the minimum speed required for safe steering of the vessel.

#### *Unlawful Pollution and Discharges:*

No oil, petroleum products, untreated sewage, rubbish, debris, or garbage shall be disposed of within West Newbury Waterways.

#### *Operation of Vessels:*

No person shall operate a vessel in West Newbury Waterways so as to endanger the lives, safety or property of others.

#### *Obstructions:*

Obstructions including, but not limited to, derelict and/or abandoned vessels to safe navigation of the Merrimack River shall be subject to removal by the Harbormaster without notice. Obstructions removed and stored by the Harbormaster shall be at the expense of the owner.

#### *Races and Regattas:*

1. No boat race or regatta shall be held in West Newbury Harbor without first obtaining a US Coast Guard Permit and notifying the Town Board of Selectmen and the Harbormaster with a copy of the Coast Guard permit for said race or regatta.

2. All races and regattas in West Newbury Harbor must be operated under the supervision of a race or regatta committee. All such committees shall, prior to their activity, file a written statement with the Town Board of Selectmen one month prior to the event, containing the following information:

- a) The identity, address and telephone number of the group or organization sponsoring the activity.
- b) A brief description of the activity, time of commencement, an estimate of hours and/or days, location specifying the course to be run, date of the activity and any alternative dates in the event of a weather postponement, and a listing of the fees to be charged.

- c) A roster of the names and addresses and phone numbers of the members of the committee responsible for the organization and conduct of the activity.
- d) A brief statement of the efforts by the committee to publicize the activity sufficiently such as will give reasonable notice to the boating public of the time, day, place and nature of the activity and thereby warn the public of courses to be run by participants and areas to be closed to the public during the activity. Warning the public can be accomplished through notice to dock or mooring holders. All races and regattas shall be accompanied by at least one motor-powered committee vessel. Committee boats must keep a constant monitor on VHF Channel 13 and have the ability to monitor on VHF Channel 16 for the duration of the race.

### **Commercial Fueling**

Commercial fueling is permitted only at licensed fuel docks in accordance with State Fire Marshall Code 527CMR 1-50.

### **Excise Tax and Fees**

#### **1. Resident**

No mooring space or slip shall be assigned to any person who is in arrears on any boat excise tax, mooring, slip or dockage fees, due and payable to the Town, for any year, present or previous. Proof of said payment shall be submitted with application for mooring/slip.

### **Accidents**

- 1. The operator of a vessel involved in an accident shall render all protocol and necessary assistance to persons affected by the accident to the extent possible without serious danger to life, crew, passengers and vessel.
- 2. The Harbormaster shall be notified of all accidents which are required to be reported by M.G.L.90B Section 9 and shall also be notified of accidents which result in environmental damage, or navigational obstructions. The Harbormaster shall be notified as soon as possible of the accident. A written report shall be submitted to the Environmental Police within 48 hours of the accident if the accident results in the loss of life, within 5 days if the accident results in injury requiring medical attention, loss of consciousness, property damage in excess of \$500.00, or disappearance of any person on-board under circumstances which suggest any possibility of injury or death. The operator of the vessel(s) is responsible for this report.
- 3. No vessel, mooring or other object shall be abandoned, sunk or placed where it may constitute a hazard to navigation.
- 4. Any vessel, mooring or object constituting a hazard to navigation, and any vessel or object improperly secured, swamped, sunk, washed ashore or found in a restricted area, may be removed or relocated at the direction of the Harbormaster if corrective action is not taken by the owner immediately upon being notified by the Harbormaster.

5. The expense of such removal or relocation and liability thereof shall be the responsibility of the owner.
6. Nothing in these sections shall restrict earlier action by the Harbormaster or Assistant Harbormaster, with or without notifying the owner if, in their judgment, such action is necessary to protect life and property.

#### **Other Prohibited Uses**

1. Water skiing is prohibited in mooring areas.
2. Diving or swimming off the Rocks Village Bridge is prohibited.
3. Every scuba diver or group of scuba divers while swimming on or under the surface of the waters of the commonwealth shall display for each diver or group of divers as a warning device to boat operators a diver's flag, so called, constructed of rigidly supported material at least twelve inches by fifteen inches in area of red background with a white diagonal stripe. Such diver's flag shall be displayed on a boat or surface float and shall extend a minimum distance of three feet from the surface of the water. Divers shall remain in an area within one hundred feet of such displayed diver's flag while at or near the surface of the water. A boat operator within sight of a diver's flag shall proceed with caution and within a radius of one hundred feet of such flag shall proceed at a speed not to exceed three miles per hour.
4. Except in the case of emergency, boats are prohibited from tying up to any speed marker float, buoy or navigation aid.

(State Law reference – Municipal authority to regulate motorboats and other lawful vessels, M.G.L.A.c90B, s15.)

#### **IV. MOORING AND FLOAT REGULATIONS**

- A. *Berthing permits* for slips, floats, moorings or other docking mechanisms shall be issued by the Harbormaster according to the terms and requirements of the application and available space and in accordance with Section III, paragraph G above.
- B. *Fees for mooring permits* issued by the Harbormaster shall be those authorized in the fees section of these regulations.
- C. *General regulations for Placement of Floats and other Structures*
  1. All permanent structures shall be set back a minimum of twenty-five (25) feet from the projected property line to provide swing area unless a lesser set back is

mutually agreed on by the adjacent property owner and submitted in writing to the Planning Board for approval. All structures shall be set back a minimum of twenty (20) feet from the federal channel, navigable channel, fairways and federal turning basins.

2. Structures requiring an Army Corps General Permit

All permanent structures requiring a GENERAL PERMIT from the Army Corps of Engineers (including Boats) shall project not more than 200 feet into the Merrimack River from the shore (to be measured perpendicular from the mean high watermark of the outermost portion of the property.)

In certain geographic locations, constraints posed by narrowness or shallowness of the current may not allow the project to extend the full 200 feet into the river.

The Harbormaster shall review for approval, all general permits on a case-by-case basis.

3. Structures requiring an INDIVIDUAL PERMIT from the Army Corps of Engineers.

All structures requiring an individual permit from the Army Corps of Engineers will be reviewed for approval on a case-by-case basis by the Harbormaster to determine maximum projection into the river. The setback between structures shall be required in Section 4 C.1. above.

D. Individual Mooring Permits

1. No person shall establish a mooring or float (including temporary floats) within the waters of the Merrimack River in West Newbury without first obtaining an annual permit from the Harbormaster. Applications for mooring permits may be submitted to the Harbormaster from January 1 of any calendar year to December 31 and shall contain such information and be in such a form as prescribed by the Harbormaster. Applications may be obtained from the Harbormasters Office.

2. Floats, rafts, and the mooring of boats held by anchors or bottom moorings installed without permission from the Harbormaster shall be considered a public nuisance and may be removed by the Harbormaster at the expense of the owner in the event he/she fails to remove same after notice from the Harbormaster.

3. No permit may be issued without prior payment of all appropriate fees by the applicant including, but not limited to, annual boat excise tax as applicable.

E. Issuance of Mooring Permit: Waiting List

1. Permits will be denied if the Harbormaster determines that the mooring will constitute a hazard to navigation, will not conform to the requirements of these regulations, or will otherwise not conform to the requirements of law or rights of the public. Permits will be issued for one calendar year only.

2. Individual mooring permits are not transferable except when directly adjacent to the waterfront property at the time of change of ownership.
3. Upon issuance of a permit, the Harbormaster will assess a mooring location and specify the marking and number of the mooring. Moorings shall be installed prior to June 1<sup>st</sup> each season for permits issued prior to May 7. For permits issued after May 7<sup>th</sup>, moorings shall be installed within 15 working days following issuance.
4. The Harbormaster will keep a chart available for public inspection at the Town Offices which clearly indicates the mooring areas permitted.
5. The Harbormaster shall keep a waiting list for available space and does not discriminate against any person based upon race, religion, sex or other illegal distinction.

Priority for the issue of permits to persons on the waiting list will be in this order: date of application and assignment to the waiting list, and subject to the size and type of boat related to the space available.

Allocation of space shall be made based on date of application and may be subject to the size and type of boat related to the space available. Copies of the up to date waiting lists must be made available to the public by the Harbormaster upon request.

## **V. SAFETY REGULATIONS**

1. **Speed Limit.** No motorboat shall be operated at any time on the waters of the Commonwealth at a speed greater than is reasonable and proper having regard to the lives and safety of the public; the state of visibility; the traffic density; the maneuverability of the vessel; the state of wind, water and current; and the proximity of navigational hazards. On the inland waters of the Commonwealth (as defined by M.G.L.c. 131, s.1) and in the absence of a specified speed limit established by federal, state, or local law for the particular water body or area, speed by a motorboat in excess of forty-five (45) miles per hour shall be presumed to be in excess of a reasonable and proper speed. The Provisions hereof shall not apply to vessels engaged in or practicing for organized competitive racing pursuant to a permit issued under 323 CMR 2.09. (323 CMR 2.07 (11))
2. **Headway Speed.** A motorboat shall not be operated at more than headway speed:
  - a) When the operator's vision is obscured under a bridge or by bends or curve or in any other manner.
  - b) When the motorboat is operated within one hundred fifty (150) feet of a marina, boat launching facility, raft or float;
  - c) When the motorboat is operated within three hundred (300) feet of a shoreline which is being used as a swimming area, whether public or private, unless operating in an area designated for water skiing (see also 323 CMR 2.07 (1) (c); or

- d) When the motorboat is in a channel, unless a duly authorized local, state or federal marine enforcement agency has (1) permitted otherwise; and (2) placed markers in the channel indicating the permitted speed.
- e) When the motorboat is operated within one hundred and fifty (150) feet of a swimmer.

Headway speed is the slowest speed at which a motorboat may be operated and maintain steerage way, but not to exceed six miles per hour

3. Classes of motorboats; required lighting, signaling and fire extinguishing and control devices

- a) Motorboats subject to the provisions of this chapter shall be divided into four classes as follows:-

Class A. Less than sixteen feet in length.

Class 1. Sixteen feet or over and less than twenty-six feet in length.

Class 2. Twenty-six feet or over and less than forty feet in length.

Class 3. Forty feet or over.

- b) Every motorboat in all weathers from sunset to sunrise shall carry and exhibit the following lights when underway, and during such time no other lights which may be mistaken for those prescribed shall be exhibited.

1. Every motorboat of classes A and 1 shall carry the following lights:-

First. A bright white light aft to show all around the horizon

Second. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

2. Every motorboat of classes 2 and 3 shall carry the following lights:-

First. A bright white light in the fore part of the vessel as near the stem as practical, so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on each side.

Second. A bright white light aft to show all around the horizon and higher than the white light forward.

Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side.

On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw light from right ahead to two points abaft the beam on the port side. The said lights shall be fitted with inboard screens so set as to prevent these lights from being seen across the bow.

3. Motorboats of classes A and 1 when propelled by sail alone shall carry the combined lantern, but not the white light aft, prescribed by subsection b.) 1.) of this section. Motorboats of classes 2 and 3, when so propelled, shall carry the colored lights, suitably screened, but not white lights prescribed by subsection b.) 2.) of this section. A motorboat of classes A, 1, 2, or 3 of subsection (a) of this section when propelled by sail alone if not otherwise required or authorized by this section to carry one or more lights visible from aft, shall carry at her stern a white light, so constructed that it shall show an unbroken light over an arc of the horizon of twelve points of the compass, so fixed as to show the light six points from right aft on each side of the vessel. Such light shall be carried as nearly as practicable on the same level as the sidelights. In a small motorboat propelled by sail alone, if it is not possible on account of bad weather or other sufficient cause for this light to be fixed, an electric torch or lighted lantern shall be kept at hand ready for use, and shall, on the approach of an overtaking vessel, be shown in sufficient time to prevent collision.
4. Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word “visible” in this subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.
5. When propelled by sail and machinery every motorboat shall carry the lights required by this section for a motorboat propelled by machinery alone.
- c) Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, Federal Act of October 11<sup>th</sup>, 1951 (33 USC 143-147D); as amended in lieu of the lights required by subsection (b) of this section.
  - d) Nothing in this section shall be construed as permitting or requiring, on waters within the marine boundary of the Commonwealth which have been designated by the Commandant of the Coast Guard as international waters, the display of lights other than those required by the laws of the United States.
  - e) Every motorboat of class 1, 2 or 3 shall be provided with an efficient whistle or other sound-producing mechanical appliance.
  - f) Every motorboat of class 2 or 3 shall be provided with an efficient bell.
  - g) Every motorboat shall carry at least one personal flotation device, as defined in section one, for each person aboard. Every motorboat of Class A, 1, 2, or 3 shall carry at least one personal flotation device of Type I, II or III for each person on board. Such devices shall be clearly labeled or imprinted as such and placed so as to be readily accessible in the motorboat and maintained in good and serviceable condition and appropriate size for whom it is intended. Devices designed to be thrown, such as a ring buoy or buoyant cushion shall be readily available on the motorboat. Devices which use kapok or fibrous glass for flotation material shall have such material encased in plastic covers. Every motorboat carrying passengers for hire shall carry at least one Coast Guard approved life preserver or Type I personal flotation device for each person on board so placed as to be readily accessible for use.

h) Every motorboat shall be provided with such number (as specified in this subsection), size and type of fire extinguisher capable of promptly and effectually extinguishing gasoline, as may be prescribed by the regulations of the director; which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible. Outboard motorboats less than twenty-six feet in length of open construction, not carrying passengers for hire, are not required to carry fire extinguishers.

i) The provisions of subsection (e), (f) and (h) shall not apply to motorboats propelled by outboard motors while competing in any race, or while engaged in such navigation as is incidental to the tuning up of boats and engines for such race.

j) Every motorboat shall have the carburetor or carburetors of every engine therein, except outboard motors, using gasoline as fuel, equipped with such efficient flame arrestor, backfire trap, or other similar device as may be prescribed by the regulations of the director for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

k) No person shall operate or suffer or permit the operation of any motorboat which is not equipped as required by this section or modification thereof.

4. Exhaust; use of cutouts

The exhaust of every internal combustion engine on any motorboat shall be effectively muffled by a muffler or underwater exhaust of a type or types approved by and used in conformity with the rules and regulations of the director. The use of cutouts is prohibited, except for motorboats competing in a race previously approved by the director, and for such motorboats while on trial runs during a period not to exceed forty-eight hours immediately preceding such race, and for such motorboats while competing in official trials for speed records during a period not to exceed forty-eight hours immediately following such race.

5. Jet ski, surf jet or wetbike operation

No person shall operate a jet ski, surf jet or wetbike (a) on waters of the commonwealth unless the person is sixteen years of age or older, (b) within one hundred and fifty feet of a swimmer, shore or moored vessel, except at headway speed, (c) on waters of the commonwealth of less than seventy-five acres, (d) without wearing an approved personal flotation device or (e) between sunset and sunrise. For the purpose of this section, the term, "headway speed", shall mean the slowest speed at which a personal watercraft, jet ski, surf jet or wetbike can be operated and maintain steerage way.

6. Negligent Operation



No person shall operate a personal watercraft in a negligent manner. The following are prohibited as examples of negligent operations:

- a) Unreasonably jumping, or attempting to jump, the wake of another vessel;
- b) Following within one hundred and fifty (150) feet of a water skier;
- c) Weaving through congested vessel traffic;
- d) Speeding in restricted areas;
- e) Crossing unreasonable close to another vessel;
- f) Operating a personal watercraft in such a manner that it endangers the life, limb or property of any person;
- g) Towing a water skier or any person in any manner from a personal watercraft; and
- h) Operating a personal watercraft during the evening, as defined by 323 CMR 4.03(4).

## **VI. PENALTIES AND ENFORCEMENT**

A mooring permit may be denied or revoked by the Harbormaster at any time for failure to comply with any or all bylaws as set forth, and any or all of the laws of the Commonwealth of Massachusetts. Such revocation subject to a hearing before the Board of Selectmen if requested.

Whoever violates any of the bylaws of these Articles, or refuses or neglects to obey the lawful orders of a Harbormaster, or resists him in the execution of his duties, shall subject the offender to a fine of not more than one hundred dollars (\$100.00)

Each day of violation shall constitute a separate offense. Fines for acts constituting a violation are as follows:

Placement of a mooring, float or dock without obtaining a mooring permit	\$100.00
Invalid or no vessel registration	20.00
Exceeding Speed Limit	50.00
Loud or Unmuffled Exhaust	50.00
Required Equipment Violations	25.00
Exceeding five (5) MPH in a designated mooring area (State Law)	25.00
Reckless/negligent operation of a vessel	50.00
Water skiing in a designated mooring area	50.00
Pollution of waterways	100.00
Unauthorized moving/tampering of moorings	100.00
Failure to remove derelict, abandoned, sunk and/or unsafe vessel after notice has been given	100.00
Other violations of the Rules and Regulations not specifically listed	50.00

This section shall be included within the scope of the provisions of Massachusetts General Laws, Chapter 40, Section 21D, adopted at the fourth session of the 1995 Annual Town Meeting held on May 15, 1995, as Section XXVII, Enforcement of Town Bylaws.

In addition to police officers, Harbormaster and Assistant Harbormasters shall also be an enforcing person for this section.

### **FEE STRUCTURE FOR MOORING PERMITS**

#### **MOORING FEES:**

The minimum fee for a mooring permit is \$50.00

#### **FLOATING DOCKS OR RAFTS:**

The minimum fee for a dock or float is \$50.00.

**VII. HARBOR COMMITTEE:** *[Amended at the Special Town Meeting held on November 4, 2013, approved by the Attorney General on February 27, 2014 and posted according to law on March 12, 2014, which changed “registered voters” to “town residents”]*

A. The Board of Selectmen shall appoint three town residents of West Newbury to serve as a Harbor Committee. Initial appointments shall be for one, two, and three years with each subsequent term to be three years. The Harbor Master shall be an ex-officio member of the Committee.

B. The Committee is advisory and shall report to the Board of Selectmen from time to time to make recommendations on any and all matters related to marine activity afloat or ashore.

Amendment adding Section VI. to the General Harbor Regulations voted at the third session of the 1994 Annual Town Meeting held on June 16, 1994. Approved by the Attorney General on August 26, 1994, and posted according to law on August 31, 1994.

Amendment to rescind the original § I-V and adopt the new § I-V voted at the April 24, 2000, Annual Town Meeting, approved by the Attorney General on July 24, 2000, and posted according to law on July 27, 2000.

Amendment increasing mooring fees in the to the General Harbor Regulations voted at the second session of the 2005 Annual Town Meeting held on May 5, 2005. Approved by the Attorney General on May 25, 2005, and posted according to law on June 9, 2005.

### **XXVII. SNOW REMOVAL BY-LAW**

**SNOW REMOVAL BY-LAW** *[Adopted at the adjourned session of the Annual Town Meeting May 12, 1993, approved by the Attorney General July 26, 1993, and posted according to law August 6, 1993.]*

No person other than an employee in the service of the Town of West Newbury or an employee in the service of an independent contractor acting for the Town of West Newbury shall leave snow or ice on a public way and/or sidewalk.

Amendment to this section adopted as *Enforcement of Town By-Laws* (See XXVIII) at the Annual Town Meeting, fourth session, held May 15, 1995, approved by the Attorney General June 28, 1995, and posted according to law July 10, 1995, established the following penalties for violations of this Section of the By-Laws:

1st Offense	\$ 50.00
2nd Offense	\$100.00
3rd Offense	\$200.00

and allows the Superintendent of Streets to act as an enforcing person in addition to Police Officers.

### **XXVIII. ENFORCEMENT OF TOWN BY-LAWS**

*[Adopted at the fourth session of the 1995 Annual Town Meeting held on May 15, 1995. Approved by the Attorney General on June 28, 1995, and posted according to law on July 10, 1995. Amended at the adjourned session of the Special Town Meeting on October 30, 1996 by adding the following sections: "Discharge of Water" and "Building Numbering" Amendment approved by the Attorney General on November 12, 1996, and posted according to law on November 18, 1996. Amended at the third session of the 1999 Annual Town Meeting held on May 6, 1999, by amending the "Water Use Restrictions Bylaw" and adding the "Rain Sensor Bylaw". Amendment approved by the Attorney General on July 14, 1999, and posted according to law on July 21, 1999. Amended at the third session of the 2000 Annual Town Meeting held on May 4, 2000, by adding the "Public Water Supply Bylaw" and amending the "General Harbor Regulations Bylaw". Amendments approved by the Attorney General on July 24, 2000, and posted according to law on July 27, 2000. Amended at the second session of the 2002 Annual Town Meeting held on May 2, 2002, by adding "Town Refuse Bylaw". Amendment approved by the Attorney General on June 11, 2002, and posted according to law. Amended at the Special Town Meeting held on April 28, 2003 by amending the Water Use Restriction section. Amendment approved by the Attorney General on August 21, 2003, and posted according to law on August 29, 2003. Amendment to penalties for Restraint of Dogs Violations at second session of 2009 Annual Town Meeting, approved by the Attorney General on August 11, 2009 and posted according to law on August 20, 2009; Lodging House Fines, at October 24, 2016 Special Town Meeting, Approved by the Attorney General on October 6, 2017 and posted according to law on November 1, 2017]*

#### **Enforcement**

a) Criminal Complaint. Whoever violates any provision of these by-laws may be penalized by indictment or on complaint brought in the district court. Except as otherwise provided by law and as the district court may see fit to impose, the

maximum penalty for each violation, or offense, brought in this manner, shall be three hundred dollars.

b) Non-criminal disposition. Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in General Laws, 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 by-laws and sections of by-laws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections. Each day on which any violation exists shall be deemed to be a separate offense.

#### Section

I.1.	Disorderly Conduct	\$ 50.00
I.3.	Sales/Exhibitions	25.00
I.4.	Riding on Public Commons/Sidewalks (Animal Control Off)	25.00
I.5.	Riding/Driving on Sidewalks (Animal Control Officer)	25.00
I.6.	Pasturing of Animals (Animal Control Officer)	25.00
I.11.	Firing of Guns/Fowling Piece Firearms	50.00
I.12.	Piggery (Health Agent, Animal Control Officer)	25.00
III.	Alcoholic Beverages By-Law	100.00
V.	Opening of Streets By-Law (Building Inspector)	300.00
	Soil Removal By-Law (Building Inspector)	300.00
VI.	Animal By-Law (Animal Control Officer)	
	Section 2.2 License Fees	
	Unpaid License as of May 1 – per dog	10.00
	Unpaid License as of June 1 - per dog (Add'l)	10.00
	Unpaid as of July 1 - per dog (Add'l)	10.00
	Unpaid as of August 1 - per dog (Add'l.)	10.00
	Section 3.3.1. Dangerous or Nuisance Domestic Animal Behavior	
	First Offense	Warning
	Second Offense within twelve months	\$ 25.00
	Third Offense, and any subsequent within twelve months of the first offense	75.00

	Restraint of Dogs:	
	First Offense	25.00
	Second Offense	50.00
	Third Offense and Subsequent Offenses	100.00
XII.	Hunting By-Law	50.00
XIV.	Loitering By-Law	50.00
XV.	Public Drinking	50.00
XVII.	Security Systems By-Law	
	After two, each additional false alarm during 6 month period	50.00
XVIII.	Soliciting/Canvassing	50.00
XXI.	Town Refuse Bylaw (Health Agent, Recycling Manager, Board of Health Members)	
	Fines for violation of Section 1-5	200.00
	Fines for violation of all other Sections	300.00
XXIII.	Water Use Restriction (Board of Water Commissioners, its DULY APPOINTED AGENTS & EMPLOYEES)	
	1 <sup>st</sup> Violation	Written Warning
	2 <sup>nd</sup> & Subsequent Violations	\$100
	3 <sup>rd</sup> & Subsequent Violations	Optional Water Suspension with \$250 Reactivation Fee
XXIV.	Well Cover By-Law (Building Inspector)	300.00
XXVI.	General Harbor Regulations (Harbor Master)	
	Whoever violates any of the bylaws of these Articles, or refuses or neglects to obey the lawful orders of a Harbormaster, or resists him in the execution of his duties, shall subject the offender to a fine of not more than one hundred dollars (\$100.00) Each day of violation shall constitute a separate offense. Fines for acts constituting a violation are as follows:	
	Placement of a mooring, float or dock without obtaining a mooring permit	100.00
	Invalid or no vessel registration	20.00
	Exceeding Speed Limit	50.00
	Loud or Unmuffled Exhaust	50.00
	Required Equipment Violations	25.00
	Exceeding 5 mph in designated mooring area (State Law)	25.00
	Reckless/negligent operation of a vessel	50.00

Water skiing in a designated mooring area	50.00
Pollution of waterways	100.00
Unauthorized moving/tampering of moorings	100.00
Failure to remove derelict, abandoned, sunk and/or unsafe vessel after notice has been given	100.00
Other violations of Rules and Regulations not specifically listed	50.00

XXVII. Snow Removal (Superintendent of Streets)

1st Offense	50.00
2nd Offense	100.00
3rd Offense	200.00

XXIX. Building Numbering (Building Inspector, Fire Department Officers)

First Offense	Warning
Second and subsequent offenses per month for each month said violation continues to exist.	\$25.00

XXX. Discharge of Water

First Offense	Warning
Second Offense	\$ 50.00
Third Offense and subsequent offenses	\$100.00

XXXI. Rain Sensor Bylaw

1st Offense	Warning
2nd Offense	\$50.00
each day of violation shall constitute a separate offense	

XXX.III. Public Water Supply Bylaw (Bd. of Water Commissioners, its duly appointed agents & employees)

Paragraph 1.	\$300.00
Paragraph 2.	\$300.00

XXXVIII. Lodging House. (Building Inspector, Health Agent and Fire Chief)

\$300.00

**XXIX. BUILDING NUMBERING**

*[Adopted at the adjourned session of the Special Town Meeting on October 30, 1996, approved by the Attorney General on November 12, 1996, and posted according to law November 18, 1996.]*

Any person owning property in the Town of West Newbury with a building or buildings situated thereon and assigned a permanent identifying number(s) by the Town shall affix said number(s) in such a manner that it is visible and legible from the roadway.

Buildings not visible from the roadway shall have number(s) posted adjacent to the entrance of the property, either by affixing to a mailbox or other permanent fixtures.

Within 60 days after acceptance of this By-Law all owners must affix said numbers of not less than 3" in height.

No new house or building will be issued an occupancy permit by the Building Inspector until property numbers are affixed to said residence.

Any person who violates any provision of this Building Numbering By-Law shall be subject to the following penalties:

First Offense	Warning
Second and Subsequent Offenses	\$25.00 per month for each month said violation continues to exist.

This section shall be included within the scope of the provisions of Massachusetts General Laws, Chapter 40, Section 21D, adopted at the fourth session of the 1995 Annual Town Meeting held on May 15, 1995, as Section XXVIII, *Enforcement of Town By-Laws*. In addition to police officers, the Building Inspector and officers of the Fire Department shall also be enforcing persons for this section.

### **XXX. DISCHARGE OF WATER**

*[Adopted at the adjourned session of the Special Town Meeting on October 30, 1996, approved by the Attorney General on November 12, 1996, and posted according to law November 18, 1996.]*

No person shall lead or suffer to be led into any street or other way or running stream in the Town or construct or suffer to remain any open drain, pipe, conductor or conduit opening into or upon such street or other way or running stream, from any house or other building in the Town, whereby water or any other liquid may be emptied into or upon any street or other way or running stream or whereby any stream of water or slush is discharged on any street or other way in such manner as to cause a nuisance by freezing or otherwise.

Any person, firm or corporation who violates any provision of this Discharge of Water By-Law shall be subject to the following penalties:

First Offense	Warning
Second Offense	\$ 50.00
Third Offense and Subsequent Offenses	\$100.00

This section shall be included within the scope of the provisions of Massachusetts General Laws, Chapter 40, Section 21D, adopted at the fourth session of the 1995 Annual Town Meeting held on May 15, 1995, as Section XXVIII, *Enforcement of Town By-Laws*

### **XXXI. RAIN SENSOR BYLAW**

RAIN SENSOR BYLAW *[Adopted at the third session of the 1999 Annual Town Meeting held on May 6, 1999, under Article 27, approved by the Attorney General on July 14, 1999, and posted according to law on July 21, 1999.]*

- A. Installation of new lawn sprinkler systems connected to the municipal water supply in the Town of West Newbury shall be equipped with a rain sensor device, approved by the Board of Water Commissioners, so that excessive watering will be automatically prevented during rain storms.
- B. Any service or repair to an existing lawn sprinkler system shall include the installation of an approved rain sensor device, if the same is not already installed and in good working condition.
- C. The Board of Water Commissioners shall maintain a list, available to the public, of approved rain sensor devices.
- D. The Rain Sensor Bylaw may be enforced using non-criminal disposition pursuant to the Non-Criminal disposition Bylaw. The enforcing persons shall be the Board of Water Commissioners, its duly appointed agents, and employees in addition to Police Officers.

The non-criminal penalties for violations of the Bylaw shall be:

First Offense	Warning
Second Offense	\$50.00

Each day of violation shall constitute a separate offense.

### **XXXII. SCENIC ROADS BYLAW**

SCENIC ROADS BYLAW *[Adopted at the second session of the November 15, 1999, Special Town Meeting held on November 18, 1999, under Article 29, approved by the Attorney General on March 3, 2000, and posted according to law on March 14, 2000.]*

In order to preserve the qualities and character of the town ways, the following are designated as Scenic Roads under the provisions of G.L., Chapter 40, Section 15c: All roads within the Town of West Newbury except State Route 113.

Any repair, maintenance, reconstruction, or paving work done with respect thereto, of a Scenic Road, shall not involve or include the cutting or removal of trees ten inches in diameter one foot from the ground, or larger, or the tearing down or destruction of stone



walls, or portions thereof, except with the prior written consent of the Planning Board after a public hearing duly advertised twice in a newspaper of general circulation in the area, as to time, date, place and purpose, the last publication to occur at least seven days prior to such hearing; provided, however, that when a public hearing must be held under the provisions of this section and under section three of chapter eighty-seven prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the tree warden and the Planning Board, and notice of such consolidated public hearing shall be given by the tree warden or his deputy as provided in said section three of chapter eighty-seven. In granting or refusing such consent, the Planning Board shall consider, among other things, the public safety, scenic views, preservation of historic and regional characteristics, and preservation and enhancement of natural and aesthetic qualities of the environment. The Planning Board may adopt reasonable further standards relative to Scenic Roads not inconsistent with this Bylaw and the General Laws.

Violations of the Bylaw shall be punishable by a fine of three hundred dollars for each separate offense.

### **XXXIII PUBLIC WATER SUPPLY BY-LAW**

*PUBLIC WATER SUPPLY BY-LAW [Adopted at the April 24, 2000, Annual Town Meeting. Approved by the Attorney General July 24, 2000, and posted according to law on July 27, 2000.]*

A. Except as authorized by the Board of Water Commissioners, no person, firm, corporation or other entity shall draw water from the municipal water supply unless metered on an approved meter installed by or at the direction of the Board of Water Commissioners. A violation of the provisions of this paragraph shall be punishable by a fine of \$300.00. Each day of violation shall constitute a separate offense.

B. No person, firm, corporation or other entity, except for the Board of Water Commissioners, its agents, servants or employees, or persons authorized by the Board of Water Commissioners, shall tamper with water meters (sealed or unsealed) or shall open a curb stop water valve, or hydrant, or tap into any municipal water supply. This paragraph shall not apply to the West Newbury Board of Fire Engineers, or any member of the West Newbury Fire Protection Company, acting in the course of his or her duties. For purposes of this paragraph, the term "tamper with" shall mean removal of a water meter, breaking the seal of a water meter, reversing a water meter or otherwise causing a water meter to render an incorrect reading. A violation of the provisions of this paragraph shall be punishable by a fine of \$300.00. Each day of violation shall constitute a separate offense.

The Public Water Supply Bylaw may be enforced using non-criminal disposition pursuant to the Non-Criminal Disposition Bylaw. The enforcing persons shall be the

Board of Water Commissioners, its duly appointed agents, and employees in addition to Police Officers.

#### **XXXIV. ANNUAL TOWN REPORT**

ANNUAL TOWN REPORT BY-LAW *[Adopted at the November 13, 2000, Special Town Meeting. Approved by the Attorney General January 9, 2001, and posted according to law on January 25, 2001.]*

In accordance with MGL, Chapter 40, Section 49, the Town shall publish an annual town report. Reports of all town departments, boards and officials shall be prepared on a fiscal year basis in order to correspond with the town's financial year.

#### **XXXV IN-GROUND IRRIGATION SYSTEMS BY-LAW**

IN-GROUND IRRIGATION SYSTEMS BY-LAW Adopted at the Special Town Meeting April 28, 2003. Approved by the Attorney General August 21, 2003, and posted according to law August 29, 2003.

##### **SECTION 1. Purpose.**

The purpose of this bylaw is to establish requirements for the installation of in-ground irrigation systems, so as to protect the availability of water supplied by the Town of West Newbury Water Department through the municipal water system.

##### **SECTION 2. Applicability.**

All in-ground irrigation systems installed after the effective date of this bylaw will be required to comply with the following:

- (1) Installation of new in-ground irrigation systems and expansion of existing systems will be permitted only when the source of water supply is a private well owned and under the control of the property owner, or an organization of the owners of the property, using the well.
- (2) All wells installed for the purpose of this bylaw shall be subject to all state, federal or local approvals required for well installation, including but not limited to regulations administered by the Board of Health, the Conservation Commission, and the Building Inspector.
- (3) Installation and continued operation of such systems requires that there be no connection between the private water supply and the municipal water service. Separation using valves or removable sections of pipe is prohibited.

(4) Irrigation systems sourced by private water supplies and operated as described herein shall not be limited to specific hours of operation, odd/even days of use, or other such water restriction, in the event of a Water Restriction declared by the Board of Water Commissioners.

**SECTION 3. Exceptions.**

This bylaw shall not be used to regulate in-ground irrigation systems installed on land used primarily and directly for the raising of fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, flowers, trees, nursery or greenhouse products, and ornamental plants and shrubs.

**XXXVI Community Preservation Committee Bylaw**

*[Adopted at the April 30, 2007 Annual Town Meeting, Approved by the Attorney General on June 11, 2007, Posted According to Law on June 25, 2007. Amended at the April 28, 2008 Annual Town Meeting, approve by the Attorney General on June 12, 2008, Posted According to Law on June 17, 2008 Amended by Article 11 of the Special Town Meeting held on October 24, 2016 approved by the Attorney General on September 17, 2017 and posted according to law on September 19, 2017 References to the Finance Director were replaced with reference to the Town Manager by Article 19 of the Annual Town Meeting held on April 30, 2018 approved by the Attorney General on August 29, 2018 and posted according to law on October 5, 2018]*

**Community Preservation Committee Bylaw**

**Sec. 1 Establishment**

- a) There is hereby established a Community Preservation Committee, consisting of seven (7) voting members pursuant to MGL Chapter 44B. The composition of the committee, the appointing authority, specific roles, and the term of office for the committee members shall be as follows:
- b) One member of the Board of Selectmen or their designee, as designated by a majority vote of the entire current membership of the Board of Selectmen for a term of one year and thereafter for a term of one year.
- c) One member of the community at large as designated by a majority vote of the entire current membership of the Board of Selectmen for a term of three years.
- d) One member of the Conservation Commission as designated by a majority vote of the entire current membership of the Conservation Commission for a term of three years.

- e) One member of the Planning Board as designated by a majority vote by a majority vote of the entire current membership of the Planning Board for an initial term of two years and thereafter for a term of three years.
- f) One member of the Historical Commission as designated by a majority vote of the entire current membership of the Historical Commission for an initial term of one year and thereafter for a term of three years.
- g) One member of the Parks and Recreation Commission as designated by a majority vote of the entire current membership of the Parks and Recreation Commission for an initial term of one year and thereafter for a term of three years.
- h) One member of the West Newbury Housing Authority as designated by a majority vote of the entire current membership of the Housing Authority for an initial term of two years and thereafter for a term of three years.
- i) The Town Manager or designee shall serve Ex Officio.
- j) Each member of the Committee shall serve for the term as set forth above, or until the person no longer serves in the Community Preservation Committee position or on the board or committee as set forth above, whichever is earlier. Any committee shall designate a replacement at its next meeting should a vacancy occur.
- k) Should any of the Commissions, Boards, Councils or Committees who have appointment authority under this Section be no longer in existence for whatever reason, the absent appointment authority for that Commission, Board, Council, or Committee shall be assumed by the Board of Selectmen, who may appoint a replacement member from the community at-large.
- l) Any member of the Committee may be removed for cause by their respective authority after hearing.
- m) The Committee shall elect a Chairman, Vice Chairman, and a Secretary annually from its membership.
- n) No person shall hold the seat of Chairman for more than one year in three consecutive years.

## **Sec. 2. Duties**

- a) The Community Preservation Committee shall hold one or more public hearings annually to provide information and solicit written proposals consistent with the Community Preservation Act, as adopted, from Town committees and boards, as well as unaffiliated citizens or groups (ad hoc committees). Notice of the hearing, or hearings, shall be posted publicly in accordance with the Open Meeting Law,

M.G.L Chapter 30A. §20 and published for each of the two weeks preceding a hearing in a newspaper of general circulation in the town as required by M.G.L. chapter 44B. §3(b) (1).

- b) Additionally the Committee shall meet any number of times in meetings posted in accordance with Open Meeting Law to consult with existing municipal boards, standing committees, or ad hoc committees including, but not limited to, the Conservation Commission, the Historical Commission, the Planning Board, the Board of Parks and Recreation Commissioners, the Housing Authority, the Open Space Committee, the Board of Water Commissioners, and the Workforce Housing Trust or persons acting in those capacities or performing like duties, to determine the needs, possibilities, and resources of the Town regarding community preservation possibilities and resources or to act on submitted proposals. All completed proposals, as determined by the committee, submitted to the Committee shall be voted upon and ranked for possible recommendation to the Town at Town Meeting. A written report of all votes and summary of findings shall be presented at said Town Meeting.
- c) The Community Preservation Committee shall make recommendations to the legislative body (Town Meeting) for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, and preservation of land for recreational use; for the acquisition, creation, and preservation of land for natural resources including agriculture, forestry, and conservation purposes; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use, and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.
- d) The Community Preservation Committee may include in its recommendation to the legislative body (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.
- e) In every fiscal year, the Community Preservation Committee must recommend either that the Town legislative body (Town Meeting) spend, or set aside for later spending, not less than thirty (30) percent of the annual revenues in the Community Preservation Fund consistent with the provisions in M.G.L. Chapter 44B.

- f) The Community Preservation Committee shall consult with the Finance Committee at a meeting prior to voting recommendations.

### **Sec. 3 Requirement for a quorum and cost estimates**

The Community Preservation Committee shall comply with the provisions of the Open Meeting Law, M.G.L. Ch. 39, §23B. The committee shall not meet or conduct business without the presence of a majority of the members of the Community Preservation Committee, which shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote of members present. Recommendations to the Town Meeting shall include a fully developed time and cost plan.

### **Sec. 4. Amendments**

This bylaw may be amended from time to time by a majority vote of the Town Meeting consistent with the provisions of M.G.L. c. 44B.

### **Sec. 5. Severability**

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

### **Sec. 6. Effective Date**

Following Town Meeting approval, this bylaw shall take effect immediately upon approval by the Attorney General of the Commonwealth, and after all requirements of the M.G.L. c. 40, §32 have been met. Each appointing authority shall have sixty (60) days after approval by the Attorney General to make their initial appointments.

If any appointing authority shall fail to make appointments as provided in this bylaw, the Board of Selectmen shall send notice of such failure to the appointing authority.

## **XXXVII STRETCH ENERGY CODE**

*[Adopted at the April 29, 2013 Annual Town Meeting, Approved by the Attorney General on June 14, 2013, Posted According to Law on June 26, 2013]*

### **§ 1 Definitions**

**International Energy Conservation Code (IECC)** - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for

energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments as approved by the Board of Building Regulations and Standards.

**Stretch Energy Code** - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8th edition Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code. Revised 8/20/12

**§ 2 Purpose** The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

**§ 3 Applicability** This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

**§ 4 Stretch Code** The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of West Newbury General Bylaws, Section XXXVII . The Stretch Code is enforceable by the inspector of buildings or building

### **XXXVIII LODGING HOUSE LICENSE:**

*[Adopted at the October 24, 2016 Special Town Meeting, Approved by the Attorney General on October 6, 2017, Posted According to Law on November 1, 2017]*

All lodging houses, as defined in Massachusetts General Laws (MGL) Chapter 140, as amended, located in the Town of West Newbury, shall be licensed by the Board of Selectmen. Any person desiring to conduct, or conducting a lodging house shall be subject to all regulations promulgated by the Board of Selectmen. Said regulations shall not be inconsistent with MGL Chapter 140, as amended.

### **XXXIX SHORT TERM RENTALS**

*[Adopted at the October 24, 2016 Special Town Meeting, Approved by the Attorney General on October 6, 2017, Posted According to Law on November 1, 2017]*

**Purpose:** The rental of residential premises to short term paying guests, not otherwise expressly licensed for such purpose by the Town of West Newbury or other proper authority, shall be allowed only in properties whose owners have obtained an annual license in accordance with the requirements of this by-law issued from the Board of

Selectmen. The licensing process is designed to protect the health and welfare of the short term paying guests, to ensure an orderly and transparent process for operating small-scale rental services, and to protect the tranquility of residential neighborhoods.

**Applicability:** The rental of residential premises to short term paying guests is allowed in owner-occupied residential premises pursuant to being licensed in accordance with this by-law and consistent with the Town's Zoning By-law. Short term paying guests are those who are staying in a dwelling unit for less than fourteen (14) consecutive nights. The Board may allow short term paying guests provided suitable accommodations exist as determined by the Board in accordance with this by-law.

**Process:** Every owner of residential premises who offers rentals to short term paying guests must first obtain a license to do so from the Board of Selectmen. Licenses are valid for a calendar year and must be renewed annually. Application for a license can be made at any time but the license shall expire December 31 of the subject year. A completed application will be reviewed and a decision rendered at a public meeting of the Board of Selectmen.

**Applications:** Application shall be made on a form approved by the Board of Selectmen and shall contain sufficient information to determine the exact nature of the proposed short term rental operation, including location, number of rooms to be rented and whether food will be served to the guests.

By completing the application, applicants will be confirming the following:

1. The property complies with applicable Board of Health regulations and Fire Department safety measures (fire/smoke alarms and CO monitors) and is in compliance with the State Sanitary Code, 105 C.M.R. § 410.00
2. A certificate of occupancy for the property is on file
3. Name of a local authorized agent who can act on behalf of the owner in the absence of the owner in the case of any problems, violations or emergencies should they arise while the owner is not present.
4. Agreement to maintain a guest registry showing the name of each guest and the night(s) of their stay. Said Registry shall include the home address of each guest and the make, model and license number for each automobile used by such guest. The registry shall be made available for review at any time at the request of a West Newbury Police Officer, the Health Agent of the Town of West Newbury and/or Board of Selectmen or any agent designated in Regulations promulgated by the Board of Selectmen.

**Application Fee:** The Board of Selectmen shall annually set a fee for applying for a Short Term Guest Rental Home License. The fee must be paid at time of application. The Board of Selectmen may grant licenses to those persons submitting applications in compliance with the requirements of this by-law. A license issued under this by-law shall not be deemed to supersede the application of any other lawful requirements applicable to the use authorized therein, including the necessity of obtaining other licenses or permits.



Owners shall comply with the Regulations that the Selectmen shall promulgate from time to time.

**Regulations:** The Board of Selectmen shall promulgate Regulations pursuant to this Bylaw and in accordance with any other lawful authority.

### **COMPLAINTS AND ENFORCEMENT:**

1. The Board of Selectmen may designate such Town officials as they deem appropriate to carry out the enforcement duties under this by-law.
2. If the Enforcement Agent, as designated by the Board of Selectmen, concludes that there has been a violation of this by-law or of the conditions of any license issued hereunder, the Enforcement Agent shall send notice to the license holder, by registered mail to the address stated on the initial Application, a notice ordering cessation of the improper activities.
3. If a license holder persists in such violation, the Enforcement Agent may seek enforcement of this bylaw through the mechanisms set forth in Article XVIII of the West Newbury Town By-laws, and the penalty for violations of this by-law shall be a fine of \$300 for each day an offense occurs.
4. In the event that a license holder persists in such violations, the Board may notify the license holder by mail, as above, of a hearing to be held not less than four (4) days thereafter to show cause why said license should not be revoked, and following said hearing, may in its discretion, modify, revoke or amend the license.
5. Upon petition of the property owner and/or license holder, abutters, or upon its own initiative, the Board of Selectmen may hold a hearing to determine whether or not the terms of this by-law, any other applicable state, federal or local law, or the license itself are being complied with, and/or whether or not activities conducted pursuant to a license issued under this bylaw constitute a nuisance or adversely impact the public health, safety or welfare.
6. The Board of Selectmen may, after hearing, mandate licensure, or modify, revoke or suspend a license issued hereunder. In addition, should the Board of Selectmen, after conducting a hearing, determine that a violation has occurred; it may direct the Enforcement Agent to seek enforcement of this by-law as set forth in paragraph 3, above.

**Validity:** The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof. This bylaw shall go into effect upon the posting of the approval of the Attorney General of Massachusetts of this Bylaw.

### **XL DEPARTMENTAL REVOLVING FUNDS**

*[Adopted at the April 24, 2017 Annual Town Meeting, Approved by the Attorney General on August 7, 2017, Posted According to Law on August 23, 2017; Reference to the PEG Grant Revolving Fund Section 5.2.1 was deleted and replaced with the GAR Library Fines and Penalties Revolving Fund in accordance with Article 6 of the Special Town*

*Meeting of October 23, 2017 which was approved by the Attorney General on March 2, 2018 and posted according to law on July 16, 2018. The Pipestave/Mill Pond Care and Maintenance Revolving Fund was adopted by Article 20 of the Annual Town Meeting held on April 29, 2019 which was approved by the Attorney General on July 18, 2019 and posted according to law on July 19, 2019. The Electric Vehicle Charging Stations Revolving Fund and Curbside Collection of Trash, Recycling and Food Waste Revolving Fund was adopted by Article 21 and 22 of the Annual Town Meeting held on May 23, 2021, which was approved by the Attorney General on October 28 and posted according to law on November 3, 2021.]*

1. Purpose. This by-law establishes and authorizes revolving funds for use by the town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some to the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44 Section 53E1/2
2. Expenditure Limitations. A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw with appropriation subject to the following limitations:
  - A. Fringe benefits of fulltime employees whose salaries or wages are paid from the fund shall also be paid from the fund.
  - B. No liabilities shall be incurred in excess of the available balance of the fund.
  - C. The total amount spent during a fiscal year shall not exceed the amount authorized by town meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal years by the selectmen and the finance committee.
3. Interest. Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the general fund.
4. Procedures and Reports. Except as provided in General Laws Chapter 44 Section 53E1/2 and this bylaw , the laws, bylaws, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditure and payment of town funds shall apply to the use of a revolving fund established and authorized by this bylaw. The town accountant shall include a statement on the collections credited to each fund, the encumbrance and expenditures charged to the fund and the balance available for expenditure in the regular report the town accountant provides the department, board, committee, agency or officer on appropriations made for its use.
5. Authorized Revolving Funds.
  - 5.1 Summer Recreation Revolving Fund.

- 5.1.1 Department. There shall be a separate fund called the Summer Recreation Revolving Fund authorized for use by the Park and Recreation Commission.
- 5.1.2 Revenues. The town accountant shall establish the Summer Recreation Revolving Fund as a separate account and credit to the fund all the receipts from fees charged to participants of the Summer Recreation Program charged and received by the Park and Recreation Commission in connection with the summer recreation programs sponsored by the Park and Recreation Commission.
- 5.1.3 Purposes and Expenditures. During each fiscal year, the Park and Recreation Commission may incur liabilities against and spend monies from the Summer Recreation Revolving Fund for the payment of program related wages, expenses and field trips.in connection with the Summer Recreation Programs.
- 5.1.4 Fiscal Years. The Summer Recreation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017 and shall continue until such time as town meeting votes to eliminate the fund.

5.2.1 GAR Library Fines and Penalties Revolving Fund.

- 5.2.2 Department. There shall be a separate fund called the GAR Library Fines and Penalties Revolving Fund authorized for use by the Trustees of the GAR Library.
- 5.2.3 Revenues. The town accountant shall establish the GAR Library Fines and Penalties Revolving Fund as a separate account and credit to the fund all the monies received in connection with the collection of fines and penalties for lost, damaged or destroyed library materials.
- 5.2.4 Purposes and Expenditures. During each fiscal year, the Trustees of the GAR Library may incur liabilities against and spend monies from the GAR Library Fines and Penalties Revolving Fund for the purchase of library materials.
- 5.2.5 Fiscal Years. The GAR Library Fines and Penalties Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018 and shall continue until such time as town meeting votes to eliminate the fund.

5.3.1 Police Vehicle Revolving Fund

- 5.3.2 Department. There shall be a separate fund called the Police Vehicle Revolving Fund authorized for use by the Police Department.

- 5.3.3 Revenues. The town accountant shall establish the Police Vehicle Revolving Fund as a separate account and credit to the fund all the monies charged and received by the Police Department in connection with the use of police vehicles by private details.
- 5.3.4 Purposes and Expenditures. During the fiscal year, the Police Department may spend monies from the Police Vehicle Revolving Fund for the purpose of purchasing and equipping new police vehicles.
- 5.3.5 Fiscal Years. The Police Department Revolving Fund shall operate for the fiscal years that begins on or after July 1, 2017 and shall continue until time as town meeting votes to eliminate the fund.

5.4.1 Pipestave/Mill Pond Care and Maintenance Revolving Fund.

- 5.4.2 Department. There shall be a separate fund called the Pipestave/Mill Pond Care and Maintenance Revolving Fund authorized for use by the Mill Pond Committee.
- 5.4.3 Revenues. The town accountant shall establish the Pipestave/Mill Pond Care and Maintenance Revolving Fund as a separate account and credit to the fund all the monies received in connection with past and future rental fees for use of the Mill Pond facilities, donations, and any other source.
- 5.4.4 Purposes and Expenditures. During each fiscal year, the Mill Pond Committee may incur liabilities against and spend monies from the Pipestave/ Mill Pond Care and Maintenance Revolving Fund for the maintenance and improvement to the grounds and facilities located at the Pipestave/Mill Pond areas, 693 Main Street, West Newbury.
- 5.4.5 Fiscal Years. The Pipestave/Mill Pond Care and Maintenance Revolving Fund shall operate for fiscal years that begin on or after July 1, 2019 and shall continue until such time as town meeting votes to eliminate the fund

5.5.1 Electric Vehicle Charging Stations Revolving Fund.

- 5.5.2 Department. There shall be a separate fund called the Electric Vehicle Charging Stations Revolving Fund.
- 5.5.3 Revenues. The town accountant shall establish the Electric Vehicle Charging Stations Revolving Fund as a separate account and credit to the fund all the monies received in connection with use of EV charging stations located on Town-owned property, donations, and any other source.

5.5.4 Purposes and Expenditures. During each fiscal year, the Town may incur liabilities against and spend monies from the Electric Vehicle Charging Stations Revolving Fund for the operations and maintenance of electric vehicle (EV) charging stations located on Town-owned property in West Newbury.

5.5.5 Fiscal Years. The Electric Vehicle Charging Stations Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021 and shall continue until such time as Town Meeting votes to eliminate the fund.

5.6.1 Curbside Collection of Trash, Recycling and Food Waste Revolving Fund.

5.6.2 Department. There shall be a separate fund called the Curbside Collection of Trash, Recycling and Food Waste Revolving Fund.

5.6.3 Revenues. The town accountant shall establish the Curbside Collection of Trash, Recycling and Food Waste Revolving Fund as a separate account and credit to the fund all the monies received in connection with fees charged for trash or recycling carts, trash stickers and bulk item stickers, donations, and any other source.

5.6.4 Purposes and Expenditures. During each fiscal year, the Town may incur liabilities against and spend monies from the Curbside Collection of Trash, Recycling and Food Waste Revolving Fund for the payment of expenses for trash or recycling carts and stickers and related expenses.

5.6.5 Fiscal Years. The Curbside Collection of Trash, Recycling and Food Waste Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021 and shall continue until such time as Town Meeting votes to eliminate the fund.

## **XLI STORMWATER MANAGEMENT BYLAW**

*[Adopted at the October 23, 2021 Special Town Meeting, Approved by the Attorney General on March 3, 2022, Posted According to Law on April 1, 2022]*

### **ARTICLE I – GENERAL PROVISIONS**

#### **SECTION 1. Purpose and Objective**

- A. *The purpose of this Bylaw is to protect public health, safety, general welfare, and environment by controlling the adverse effects of*

*construction site stormwater runoff and post-construction runoff. Stormwater runoff can be a major cause of:*

- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, coastal waters, wetlands, groundwater and drinking water supplies;*
- (2) Contamination of drinking water supplies;*
- (3) Contamination of downstream coastal areas;*
- (4) Alteration or destruction of aquatic and wildlife habitat;*
- (5) Overloading or clogging of municipal stormwater management systems; and*
- (6) Flooding.*

*B. The objectives of this Bylaw are to:*

- (1) Protect water resources;*
- (2) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements;*
- (3) Prevent and reduce pollutants from entering the Town of West Newbury's municipal separate storm sewer system (MS4);*
- (4) Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;*
- (5) Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed are maintained, and pose no threat to public safety; and*
- (6) Recognize the Town of West Newbury's legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.*

## **SECTION 2. Definitions**

Unless a different definition is indicated in other sections of this Bylaw, the following definitions and provisions shall apply throughout this Bylaw. Additional definitions may be adopted by separate regulation:

**ALTERATION:** Any activity that will measurably change the ability of a ground surface area to absorb water, will change existing surface drainage patterns, or will increase or decrease the rate or volume of flow from a site.

**BEST MANAGEMENT PRACTICE (BMP):** Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

**CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC):** A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

**DEVELOPMENT:** The modification of land to accommodate a new use or expansion of an existing use, usually involving construction.

**DISTURBANCE:** Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of the ground surface to absorb waters; removes trees or vegetation; clears or grades land; or results in an alteration of drainage characteristics.

**EROSION AND SEDIMENT CONTROL PLAN:** A document containing narrative, drawings and details—developed by a qualified professional engineer (PE) or a certified professional in erosion and sedimentation control (CPESC) — that includes best management practices or equivalent measures designed to control surface runoff, erosion, and sedimentation during construction and construction-related land disturbance activities.

**IMPERVIOUS COVER:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious Cover includes without limitation roads, paved parking lots, sidewalks, and rooftops.

**INFEASIBLE:** Means not technologically possible, or not economically practicable and achievable in light of best industry practices.

**INFILTRATION:** The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS:** The latest version, as may be amended from time to time, of the Stormwater Management Standards and accompanying Stormwater Handbook issued by the Department of Environmental Protection pursuant to authority under the Wetlands Protection Act, M.G.L. c. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53. The Stormwater Management Standards are incorporated in the Wetlands

Protection Act Regulations, 310 CMR 10.05(6)(k), and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of West Newbury.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency (EPA) or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

**NPDES PHASE II REGULATED AREA:** The area within West Newbury identified by EPA as “Designated MS4 Area” under the NPDES Phase II Stormwater Program.

**NONPOINT SOURCE POLLUTION:** Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and man-made pollutants finally depositing them into a water resource area.

**NEW DEVELOPMENT:** Any construction activities or land alteration resulting in earth disturbance on an area that has not previously been developed to include impervious cover.

**NORMAL MAINTENANCE:** Activities that are regularly scheduled to maintain the health and condition of a landscaped area. Examples include removal of weeds or invasive species, pruning, mowing, raking, and other activities that are done at regular intervals within the course of a year.

**OPERATION AND MAINTENANCE PLAN:** A plan that defines the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

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

**POINT SOURCE:** Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**POST-DEVELOPMENT:** The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity in accordance with approved plans on a specific site or tract of land. Post-development refers to the



phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project

**PRE-DEVELOPMENT:** The conditions that exist prior to the proposed disturbance activity. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

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

**REDEVELOPMENT:** Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites. The creation of new areas of impervious surface or new areas of land disturbance on a site constitutes new development, not redevelopment, even where such activities are part of a common plan which also involves redevelopment. Redevelopment includes maintenance and improvement of existing roadways including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems and repaving; and remedial projects specifically designed to provide improved stormwater management such as projects to separate storm drains and sanitary recharge and stormwater retrofit projects.

**RUNOFF:** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT:** Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION:** The process or act of deposition of Sediment.

**SITE:** Any lot or parcel of land or area of property where Land-Disturbing or Development Activities are, were, or will be performed.

**STORMWATER AUTHORITY:** Town of West Newbury Planning Board or the board, commission, or its agent, designated by the Planning Board to administer and enforce this Bylaw.

**STORMWATER:** Runoff from precipitation or snow melt and surface water runoff and drainage.

**STORMWATER MANAGEMENT:** The use of structural or nonstructural practices that are designed to control or treat stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater management includes the use of low-impact development (LID) management practices.

**STORMWATER MANAGEMENT PERMIT (SMP):** A permit issued by the Stormwater Authority, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

**TOTAL MAXIMIM DAILY LOAD or TMDL:** the greatest amount of a pollutant that a water body can accept and still meet water quality standards for protecting public health and maintaining the designated beneficial uses of those waters for drinking,

swimming, recreation, and fishing. A TMDL is also a plan, adopted under the Clean Water Act, specifying how much of a specific pollutant can come from various sources, including stormwater discharges, and identifies strategies for reducing the pollutant discharges from these sources so as not to violate Massachusetts surface water quality standards. (314 CMR 4.00, *et seq.*)

*TOTAL SUSPENDED SOLIDS OR TSS: Undissolved organic or inorganic particles in water.*

### **SECTION 3. Authority**

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Massachusetts home rule statutes, the regulations of the Federal Clean Water Act, 40 CFR 122.34, and as authorized by the residents of the Town of West Newbury at Town Meeting dated (insert date).

### **SECTION 4. Responsibility for administration**

*Stormwater Authority shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon Stormwater Authority may be delegated in writing by Stormwater Authority to its employees or agents.*

### **SECTION 5. Applicability**

- A. This Bylaw shall be applicable to any alteration, disturbance, including clearing, grading, excavation, development, or redevelopment that will disturb land surface area equal to or greater than 1 acre (43,560 s.f.).
- B. This Bylaw shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly controlled persons or entities) as of the effective date of this Bylaw, if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds established in the West Newbury Stormwater Bylaw and are not exempted by Section 6, then no such activity shall commence until a permit under this Bylaw has been issued. A development shall not be segmented or phased in a manner to avoid compliance with this Bylaw.

### **SECTION 6. Exemptions**

- A. Any activity which will disturb or alter land areas below the thresholds described in Section 5-A above.
- B. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations, 310 CMR 10.04 and G.L. c. 40A, § 3.
- C. Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this Bylaw.
- D. Normal maintenance of existing lawn, landscaping or garden areas.

- E. Construction of any fence that will not alter existing terrain or drainage patterns.
- F. Construction of utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) other than drainage which will not alter terrain, ground cover, or drainage patterns, provided that appropriate BMPs are used to prevent erosion, sedimentation and release of pollutants.
- G. Emergency repairs to any existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) or emergency repairs to any stormwater management facility that poses a threat to public health or safety as determined by the Stormwater Authority. Where such work is subject to the jurisdiction of the Conservation Commission, the work shall not proceed without the issuance of an Emergency Certification by the Commission pursuant to 310 CMR 10.06.
- H. The maintenance or resurfacing (not including reconstruction) of any public or private way.
- I. The repair or replacement of an existing and lawfully located driveway servicing not more than two dwelling units (see definition of dwelling unit in the Town's Zoning Bylaw) provided that all work remains within the existing limits of the existing driveway, erosion control measures are utilized to prevent runoff and sediment from entering a traveled way or adjacent properties, and all surfaces are permanently stabilized within 14 days of final grade.

#### **SECTION 7. Regulations**

- A. The Stormwater Authority may adopt within one (1) year, and may periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures, and administration of this Stormwater Management Bylaw by majority vote after conducting a public hearing to receive comments. Such hearing shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. Failure of the Stormwater Authority to issue such rules, or regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this Bylaw.
- B. Stormwater Management regulations, rules or guidance shall identify requirements for Stormwater Management Permits required by this Bylaw and not inconsistent with the most recent Small Municipal Separate Sewer System General Permit (MS4).

#### **SECTION 8. Enforcement**

The Stormwater Authority or its authorized agent shall enforce this Bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil remedies for such violations.

- A. Civil relief. If a person violates the provisions of this Bylaw, regulations, permit, notice, or order issued there under, the Stormwater Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities

which would create further violations or compelling the person to perform abatement or remediation of the violation(s).

B. Orders.

- (1) If the Stormwater Authority determines that a person's failure to follow the requirements of a Stormwater Management Permit and/or the related Erosion and Sedimentation Control Plan, and/or Operations and Maintenance Plan and/or any other authorization issued pursuant to this Bylaw or regulations issued hereunder, then the Stormwater Authority may issue a written order to the person to remediate the non-compliance and/or any adverse impact caused by it, which may include:
  - (a) A requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw and provisions of the Stormwater Management Permit and/or other authorization;
  - (b) Maintenance, installation or performance of additional erosion and sediment control measures;
  - (c) Monitoring, analyses, and reporting;
  - (d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity; and/or
  - (e) A requirement to eliminate discharges, directly or indirectly, into a watercourse or into the waters of the Commonwealth.
- (2) If the Stormwater Authority or its authorized agent determines that abatement or remediation of any adverse impacts caused by the permit holder is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of West Newbury may, at its option, pursue a Court Order allowing the Town to undertake such work, and expenses thereof shall be charged to the violator pursuant to G.L. c. 40, §58.
- (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of West Newbury, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Authority within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a municipal charge against the property owner and shall constitute a lien on the owner's property for the amount of said costs pursuant to G.L. c 40, §58.

C. Noncriminal disposition. As an alternative to a civil action, the Town of West Newbury may elect to utilize the noncriminal disposition procedure set forth in

M.G.L. c. 40, § 21D in which case the agent of the Stormwater Authority shall be the enforcing person. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violation shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- D. Entry to perform duties under this Bylaw. To the extent permitted by local, state, or federal law, or if authorized by the owner or other party in control of the property, the Stormwater Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Authority deems reasonably necessary.
- E. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief shall be appealed to a court of competent jurisdiction.
- F. Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

#### **SECTION 9. Severability**

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

### **ARTICLE II– STORMWATER MANAGEMENT PERMITS**

#### **SECTION 1. Applicability**

No person may undertake a construction activity or land disturbance, including clearing, grading, excavation or redevelopment that will disturb equal to or greater than 1 acre without a Stormwater Management Permit approved by a majority of the Stormwater Authority members or as otherwise provided in this Bylaw.

Any person that fails to follow the requirements of a Stormwater Management Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan, or any Permit issued under the Stormwater Management Regulations shall be in violation of this Bylaw.

#### **SECTION 2. Approval and/or Permit**

A Stormwater Management Permit must be obtained prior to the commencement of Land Disturbing Activity or Redevelopment based on the thresholds established in this Bylaw. An applicant seeking an approval and/or permit shall file an appropriate application with the Stormwater Authority in a form and containing information as specified in this Bylaw and in regulations adopted by the Stormwater Authority.

### **SECTION 3. Consent to Entry onto Property**

An applicant should consent to entry of Stormwater Authority or its authorized agents in or on the site to verify the information in the application and to inspect for compliance with Review or Permit conditions. Refusal to grant access may constitute grounds for denial and/or revocation of a Stormwater Management Permit.

### **SECTION 4. Inspection and Site Supervision**

The Stormwater Authority or its designated agent shall make inspections as outlined in the Stormwater Management Regulations to verify and document compliance with the Stormwater Management Permit.

### **SECTION 5. Compliance with the provisions of EPAs General Permit for MS4s in Massachusetts**

*This Bylaw and its related Stormwater Management Regulations shall be implemented in accordance with the requirements of United States Environmental Protection Agency's most recent Massachusetts Small Municipal Separate Storm Sewer System (MS4s) General Permit relating to construction site runoff, and post-construction stormwater management, as well as the Massachusetts Wetlands Protection Act (WPA) and Regulations as may be amended. Where conflicts exist between the MS4 Permit and the WPA, the stricter shall prevail. The Stormwater Authority may establish additional requirements by regulation to further the purposes and objectives of this Bylaw so long as they are not less stringent than those in the MS4 General Permit for Massachusetts.*

### **SECTION 6. Surety**

Pursuant to M.G.L. c. 44, § 53G ½, the Stormwater Authority may require the applicant to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the Stormwater Authority and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit.

### **SECTION 7. Final Reports**

Upon completion of the work, the applicant shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.), surveyor, or Certified Professional in Erosion and Sedimentation Control (CPESC), certifying that all BMPs, erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved Erosion and Sediment Control Plan and Stormwater Management Plan. The Stormwater Authority may, by regulation, require ongoing reporting to ensure long-term compliance, including, but not limited to, appropriate operation and maintenance of stormwater BMPs. Any discrepancies shall be noted in the cover letter.