

# Town of Hingham

## GENERAL BY-LAWS



# Town of Hingham General By-Laws

Revised through 2021

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\*The 2021 ATM Article 21 revised all General By-Laws so as to provide gender neutral language throughout the By-Laws and was approved by the MA Attorney General effective 8/2021. This Article was revised to reflect such gender neutral language.

## ARTICLE 1

### GENERAL PROVISIONS

**SECTION 1** - All by-laws adopted prior to March 2, 1936, are hereby repealed.

**SECTION 2** - These by-laws may be amended or repealed in whole or in part:

- (1) at an annual town meeting, by the affirmative vote of a majority of the voters present and voting thereon; or
- (2) at a special town meeting by the affirmative vote of two-thirds (2/3) of the voters present and voting thereon.

**SECTION 3** - If any Article or Section of any Article of these by-laws is declared unconstitutional or illegal by any court, or is disapproved by any state authority having jurisdiction, the validity of the remaining provisions of these by-laws shall not be affected thereby.

**SECTION 4** - Under the Town of Hingham General By-laws, the Select Board shall be the entity historically known as the Board of Selectmen. The Select Board shall have and exercise all legal rights, authority, duties and responsibilities vested in a board of selectmen by the Constitution and General Laws of the Commonwealth of Massachusetts, by vote of the Town of Hingham Town Meeting and by the Town of Hingham General By-laws.

**SECTION 5** - In all currently active Town of Hingham communications and documents, such as policies, rules and regulations, where reasonably practical, and in all future Town of Hingham communications and documents, the words "board of selectmen", "selectmen" and "chairman" shall be deleted and replaced with words "select board", "members of the select board" or "select board members" and "member of the select board" or "select board member" and "chair", respectively.

It is the intent of this provision that gender-neutral terminology shall be used in all current and future Town of Hingham communications and documents, and that with respect to currently active Town communications and documents where it is not reasonably practical to change terminology that is not gender-neutral, such documents shall be interpreted to impute gender-neutral terminology. This provision does not prohibit the use of a personal pronoun or title with respect to a specific individual whose gender is known.

**SECTION 6** - Wherever words of one gender appear in the Town of Hingham General By-laws such words shall be construed to include all genders.

## ARTICLE 2

### TOWN MEETING AND NOTICE THEREOF

**SECTION 1** - The annual town meeting for the transaction of all business except the election of such officers and the determination of such matters as by law are required to be elected or determined by ballot shall be held on the fourth Monday of April in each year at seven o'clock P.M., except that in the year 1976 said annual town meeting shall be held on the first Monday of May at seven o'clock P.M.

**SECTION 2** - The annual election of such and the determination of such matters as by law are required to be elected or determined by ballot shall be held on the Saturday following the fourth Monday of April in each year. At this and all town elections the polls shall be opened at eight o'clock A.M. and remain open until eight o'clock P.M.

**SECTION 3** - At state elections the polls shall open at seven o'clock A.M. and remain open until eight o'clock P.M.

**SECTION 4** - (a) Except as otherwise required by law, notice of every town meeting shall be given by posting, at least seven days before the day appointed for the meeting, an attested copy of the warrant therefor in the Town Office Building. Compliance with this paragraph (a) as to any meeting shall constitute valid notice thereof.

(b) If the Hingham Journal or any other newspaper is at the time circulated in the town as a local newspaper, the Select Board shall publish in one such newspaper, at least seven (7) days before the date on which at any meeting there is to be an election of officers, or other action by official ballot, a statement of the time and place at which the polls will be open, and a copy of so much of the warrant as refers to the business then and there to be done, provided that except as otherwise provided by law compliance with the provisions of this paragraph (b) shall not be a requisite of valid notice of any meeting, and noncompliance therewith shall not affect the validity of any meeting or action taken thereat.

**SECTION 5** - (a) At least seven (7) days before the day appointed in the warrant for any annual town meeting, the Select Board shall cause a copy of the warrant and a copy of the report of the advisory committee thereon to be delivered to each occupied dwelling house, tenement and hotel in the town, by mail or by any method determined by the Select Board. Provided, however, that if it appears to the Select Board that for any reason timely distribution of the warrant under this paragraph will not be made, and if the Hingham Journal or any other newspaper is at the time circulated in the town as a local newspaper, they shall publish an attested copy of the entire warrant in one such newspaper at least seven (7) days before the day appointed in the warrant for the meeting.

(b) At least fourteen days before the day appointed in the warrant for any special town meeting, the Select Board shall cause a copy of the warrant to be delivered to each occupied dwelling house, tenement and hotel in the town, by mail or by any method determined by the Select Board. Provided, however, that if it appears to the Select Board that for any reason the timely distribution of the warrant under this paragraph will not be made, and if the Hingham Journal or any other newspaper is at the time circulated in the town as a local newspaper, they shall publish an attested copy of the entire warrant in one such newspaper at least fourteen days before the day appointed in the warrant for the meeting.

(c) As soon practicable after the adjournment of any town meeting, on a vote to adjourn to another day, the Select Board shall cause a brief statement of the day and hour to which the adjournment was voted and of the business remaining to come before the meeting to be posted in the same place where notice of the town meeting was posted pursuant to Section 4 of this Article, and if the period of adjournment will permit, shall cause a similar notice to be published in some one newspaper, if any, circulated in the town as a local newspaper.

(d) Except as otherwise required by law, compliance with this Section 5 shall not be a requisite of valid notice of any meeting of any action taken thereat.

**SECTION 6** - In connection with each article made a part of the warrant for a town meeting there shall be inserted in the warrant, the name of the town board, department or other town entity proposing the article, and in the case of an article inserted pursuant to a petition to the Select Board, the name of the first person signing such petition and the words 'and others'.

**SECTION 7** - The warrant for the annual town meeting shall close on the twentieth day of January, except that the closing date for all zoning articles shall be December first; provided, however, that the Select Board shall open the warrant within such period for the insertion of additional articles to the extent that compliance with any provision of law shall require, or whenever in their reasonable opinion there remains sufficient time for compliance with the provisions of Sections 4, 5, and 6 of this Article and with the provisions of Article 14. The warrant for a special town meeting shall close on the day determined by the Select Board who shall cause notice of said date to be posted in the Town Office Building.

**SECTION 8** - (a) Each matter produced for insertion in a warrant for an annual or special town meeting, whether by a Town board or by petition, shall be submitted to the Select Board in the form of the complete text of the proposed article accompanied by the full name and contact information of a knowledgeable representative of the proponent. In the case of an article submitted by petition, the submission also shall include the required signatures of at least ten registered voters of the Town in the case of an Annual Town Meeting or 100 registered voters of the Town in the case of a Special Town Meeting.

(b) The Select Board, no later than ten days after any of the following: the January 20th date described in SECTION 7, the closing date of a re-opened warrant described in SECTION 7 or the closing date of the warrant for a special town meeting shall: (i) cause to be posted in a clearly identified position on the Town's website, a complete copy of each submission described in Section 8(a) above; and, (ii) transmit a copy of such submissions to the Advisory Committee; and (iii) make available for viewing or purchase a paper copy of such submissions."

**SECTION 9** - The number of voters constituting a quorum in order to convene the first session of a Regular or Special Town Meeting shall be three hundred. The number of voters necessary to convene the second or any subsequent session of a Regular or Special Town Meeting shall be two hundred. Once convened, the quorum to transact business at any Regular or Special Town Meeting shall be two hundred; provided, however, that a number of less than two hundred may from time to time adjourn the same.



## ARTICLE 3

### PROCEDURE AT TOWN MEETINGS

**SECTION 1** - All sessions of any town meeting shall be public to the extent required by law. At any session of a town meeting held for the transaction of town business (other than for the election of such officers as are required by law to be elected by ballot) no person whose name is not on the list of voters shall be admitted to that part of the hall reserved for voters, and this provision shall be enforced by use of such list. The moderator shall determine the bounds of the reserved space.

**SECTION 2** - Printed copies of the warrant shall be furnished the voters at all town meetings.

**SECTION 3** - Articles in the warrant shall be acted upon in their order, unless the meeting by vote otherwise determines.

**SECTION 4** - All reports, motions, and resolutions submitted for the consideration of the meeting involving the expenditure of money shall be in writing and any other report, motion, or resolution shall be reduced to writing if the moderator so directs.

**SECTION 5** - No person shall speak more than twice upon any question, except for the brief correction of an error in or misunderstanding of their previous statement, unless all other who have not spoken on the question shall have spoken if they desire to do so, and unless leave of the meeting is first obtained.

**SECTION 6** – Without the permission of the moderator, no person shall speak on any subject for more than six (6) minutes for the first time or more than three (3) minutes for the second time.

**SECTION 7** - Every person desiring to speak shall arise and address the chair and, after recognition is obtained, shall stand while speaking, unless the moderator otherwise directs.

**SECTION 8** - Except as otherwise required by law, all votes shall be taken in the first instance by voice vote or by electronic vote ("E-vote"), as determined by the moderator. In the event of a voice vote, the moderator shall call the vote, including votes requiring a supermajority as to which the moderator may declare that the required supermajority has voted in favor, unless a count is required under the following provisions. If the moderator is in doubt as to the results of a voice vote or if seven (7) voters rise to request a count, then a standing vote or an E-vote, as determined by the moderator, shall be taken in such manner as the moderator may determine, but if the Advisory Committee or fifty (50) voters promptly call for a count, then a ballot vote or an E-vote, as determined by the moderator

**SECTION 9** - When a question is before the meeting, the following motions, to wit:

To adjourn,  
To lay on the table,  
For the previous question.  
To postpone to a time certain,  
To commit, recommit or refer  
To amend,  
To postpone indefinitely,

shall be received and shall have precedence in the foregoing order, and the first three shall be decided without debate.

**SECTION 10** - No vote shall be reconsidered except after the affirmative vote of two-thirds (2/3) of the voters present and voting on a motion to reconsider such vote.

**SECTION 11** - A motion to reconsider any vote must be made before the final adjournment of the meeting at which the vote was passed; provided, however, that such motion to reconsider shall not be made at an adjourned session of the meeting unless the mover has given notice of their intention to make such a motion either at the session of the meeting at which the vote was passed or by written notice to the town clerk not less than twelve hours before the hour to which adjournment has been voted and not more than forty-eight hours after the hour of adjournment of such session. A vote shall not be reconsidered a second time or after a motion to reconsider it has failed to pass.

**SECTION 12** - At a special town meeting, not held within the annual town meeting, no amount of money shall be appropriated for any purpose (1) if the Advisory Committee recommends to the meeting that no amount be appropriated for that purpose or (2) which is in excess of the amount recommended to the meeting by the Advisory Committee for that purpose, except in either case by the affirmative vote of two-thirds (2/3) of the voters present and voting on such appropriation.

(Section 12 was submitted by the Town Clerk to the Attorney General on 7/27/87. It was adopted after no action by the Attorney General within 90 days as specified in Chapter 40, Section 32 of the Massachusetts General Laws)

## ARTICLE 4

### OFFICERS, BOARDS, AND COMMITTEES -- GENERAL

**SECTION 1** - With the exception of the town accountant, each head of a town department and each board or committee, appointed or elected, shall, on or before the twentieth day of January of each year, file with the Select Board a written report of their doings during the preceding calendar year, with recommendations, if any, for action by the town.

**SECTION 2** - Each officer, department head, board, or committee authorized to expend money shall, on December twentieth of each year, transmit to the town accountant all un-paid bills outstanding as of that date. Books of the town shall be closed December thirty-first of each year.

**SECTION 3** - Each officer, department head, board, or committee making any rule or regulation shall file a copy thereof with the town clerk within ten days after the effective date thereof.

**SECTION 4** - Each officer, department head, board, or other committee shall keep the original of all plans, whether tracings or sketches, made under their direction, or file the same with the Town Clerk.

**SECTION 5** - Each officer, shall pay into the town treasury all fees received by them by virtue of their office, including fees received under the provisions of Section 3 of Chapter 129A of the General Laws of the Commonwealth (inserted by Section 1 of Chapter 329 of the Acts of 1933) and Section 147 of Chapter 140 of the General Laws.

**SECTION 6** - No officer, department head, board or committee authorized to expend money shall make purchases of supplies or material or contract for services to be rendered to the town without first issuing a written purchase order therefor on prescribed forms; provided, however, that the provisions of this Section shall not apply to salaries or wages of part- time or regularly employed officers, clerks, and wage earners of any department of the town. All purchase orders shall be in triplicate; one to be designated for the vendor, one to be designated for and delivered to the town accountant, and one to be designated for the files of the officer, department head, board, or committee issuing the order. Purchase orders issued by the School Committee shall be sufficiently authenticated by the signature of the Superintendent of Schools or of such one assistant to the Superintendent of Schools as the School Committee may designate for that purpose from time to time. The order designated for the vendor shall not be delivered to the vendor until the town accountant shall have certified thereon that there is sufficient unencumbered balance of the appropriation to be charged to pay the amount due under the order; provided, however, that verbal orders for supplies, materials, or services to be rendered may be given for an amount not to exceed twenty-five dollars (\$25.00). All

verbal orders shall be confirmed in writing on prescribed purchase order forms on the day the orders are given and immediately transmitted to the town accountant and shall be subject to their certification as aforesaid.

**SECTION 7** - The town accountant shall prescribe the methods of accounting and forms to be used by the several departments of the town concerned with the collection or disbursement of money and such methods and forms shall conform to the requirements prescribed by the statutes of the Commonwealth and any rules or regulations made thereunder.

## **SECTION 8 - PRE-EMPLOYMENT PHYSICAL BY-LAW**

### A. Nondiscrimination in Employment.

The Town shall not discriminate against qualified handicapped persons by reason of their handicap(s) in its employment practices. For purposes of this section, "handicapped person" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment; provided, however, that such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such person from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to the property or the safety of others. For purposes of this section, "qualified handicapped person" means a person who, with reasonable accommodation, can perform the essential functions of the job in question.

### B. Reasonable Accommodation.

The Town will make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the accommodation would impose an undue hardship on the operation of the program in question, or would impose an unreasonable restriction on the essential functions of the job in question

### C. Employment Criteria.

The Town will not use employment tests or criteria that unreasonably discriminate against handicapped persons, as defined herein. Employment tests or criteria will be adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

### D. Preemployment Inquiries.

Except as provided in subsection (E), no one acting for the Town may conduct a preemployment medical examination or make preemployment inquiry of an

applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. Preemployment inquiry may, however, be made into an applicant's ability to perform job-related functions.

#### E. Medical Examinations.

Town Officers and boards having authority to employ may condition an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty; provided that (i) all entering employees are subjected to such an examination regardless of handicap, and (ii) the results of such an examination are used only in accordance with the requirements of this subsection. Each medical examination will be conducted by a physician selected and approved by the Town, which physician may be the personal physician of the employee to be examined. Any physician approved to conduct such an examination will be furnished with a description of the essential functions of the job offered to the applicant. The approved physician will conduct or cause to be conducted such examination and laboratory tests as they consider appropriate to determine whether the employee is physically fit for employment.

The examining physician will make their report in writing to the Town officer or board having authority to employ. After reviewing the examining physician's report, the Town officer or board will notify the employee whether the offer of employment is to be confirmed or revoked. Before revoking an offer of employment, the Town officer or board will consider whether reasonable accommodation can be made in accordance with subsection (B) above. Information obtained in accordance with this subsection as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

- 1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;
- 2) First-aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and
- 3) Authorized state and federal officials will be provided relevant information upon request.

## ARTICLE 5A

### SELECT BOARD

**SECTION 1** -- To the extent permitted by law and except as otherwise provided by law or these by-laws, the Select Board shall have the general direction and management of the property and affairs of the town. This section shall not apply to property in the custody or use of any town department, officer, or committee. The Select Board is authorized and empowered, in accordance with the provisions of chapter 41, section 23A, of the Massachusetts General Laws, to appoint a town administrator as provided in Article 5B of these by-laws.

**SECTION 2** -- The Select Board shall cause to be printed and made available to residents before the annual town meeting, the annual town report, which shall contain a Select Board's report, a report of the town administrator, and the reports provided for by Section 1 of Article 4 of these by-laws. The report of the doings of the Select Board shall include the following relating to the town administrator position: (i) a statement as to the status of any employment contract between the town and the town administrator describing its key terms, including, but not limited to, the term of the contract, total compensation (including salary and benefits), termination, removal and non-renewal provisions; and (ii) a statement clearly indicating any authority or responsibility listed in Section 5B hereof contemplated to be assigned or delegated to the town administrator which has not been so assigned or delegated and any which has been modified or withdrawn from assignment or delegation to the town administrator and the rationale therefor, together with an affirmation that all other listed authorities and responsibilities in said Section 5B continue to be assigned or delegated.

**SECTION 3** - The Select Board may appear, either personally or by counsel, before any court, committee of the Legislature, or by any federal, state, or county board or commission or other tribunal, to protect the interests of the town, but they are not authorized hereby to commit the town to any course of action.

**SECTION 4** - Except as otherwise provided by law, by these by-laws, or by vote of the town in any instance, all deeds, conveying land or interests in land executed by the Select Board, pursuant to due authorization, shall be valid if signed by a majority of the Select Board and sealed with the town seal.

**Section 4A** – In addition to such other requirements as are established by law, the Select Board shall not transfer or dispose of real property of the Town unless Town Meeting, by majority vote, has approved the use or uses intended for the property upon its disposition. For purposes of this section, Town real property shall mean any land and/or buildings owned, held or controlled in the name of the Town by the Select Board, the School Committee or Conservation Commission. Intended use or uses of the property shall refer only to the use or uses of the property immediately after disposition and approval of the use shall not operate as a restriction on the

property thereafter.

**SECTION 5** - The Select Board shall make and enforce rules and regulations consistent with law and these by-laws for the government of the police department and shall cause copies of the same to be printed for the use of the police department.

**SECTION 6** - The Select Board, acting on the advice of counsel, may at any time settle any claim, demand, or suit against the town which in their opinion it is advisable in the best interests of the town to settle, but only if the amount to be paid does not exceed the balance then remaining of funds appropriated for or transferred to the claims account in the then-current year.

**SECTION 7** - The Select Board may institute and prosecute any and all actions, suits, or legal proceedings which they shall deem necessary or advisable in the interests of the town, and may appear in and defend any action, suit, or legal proceeding brought against or involving the rights or interests of the town; and they may employ counsel to act in the foregoing matters whenever they deem it necessary.

**SECTION 7A** - In the event that any civil action, suit, or proceeding, of whatever nature, is brought by any party other than the town or the Commonwealth against a present or former officer, department head, or member of a board or committee in their individual capacity, based upon or arising out of an act or a failure to act of such officer, department head, or member which is or purports to be in their official capacity, the Select Board shall, upon the written request of such officer, department head, or member, retain legal counsel of its choice for the defense thereof and pay, from any available general appropriation for legal services to the town, all costs and expenses of such defense, including the fees of said counsel, and a payment of twenty dollars (\$20.00) per day to any such officer, department head, or member of a board or committee who is not a full-time employee of the town and who appears at such civil action, suit, or proceeding after and upon issuance of a summons, provided that such officer, department head, or member shall enter into an undertaking, in such form and with such security or without security as the Select Board shall determine to repay to the town all such costs and expenses, including any payment or payments of twenty dollars (\$20.00), directly related to the defense of such officer, department head, or member in their individual capacity as may have been paid or required to be paid by the town in the event that such officer, department head, or member is finally adjudged in such action, suit, or proceeding not to have acted in good faith in what they reasonably believed to be the performance of their official duties.

**SECTION 8** – (A) The Town’s Chief Procurement Officer shall be responsible for disposing of all tangible supplies that are no longer useful to the Town but that have a resale or salvage value of less than \$10,000. The term “supplies” includes motor vehicles, machinery, computer equipment, furniture, and other items of personal

property, but does not include real property.

(B) Upon the request of any department head, board, or committee, the Chief Procurement Officer or their designee may declare supplies to be surplus, and may approve the supplies for disposition, if those supplies are no longer useful to the Town.

(C) Any supplies declared to be surplus and approved for disposition shall be disposed of in accordance with the following procedures, compliance with which shall be the responsibility of the Chief Procurement Officer:

(1) The Chief Procurement Officer or their designee shall circulate a list of the supplies to be disposed of to other Town departments, including the School Department, and shall convey the supplies to any department that wants them;

(2) In the event that no other Town department claims the supplies, the Chief Procurement Officer or their designee shall value the supplies in a commercially reasonable manner.

(3) (a) If the supplies are valued at \$10,000 or more, the Chief Procurement Officer shall comply with the requirements of Massachusetts General Laws chapter 30B, sections 15(b) through (d).

(b) If the supplies are valued at less than \$10,000 but more than \$100, the Chief Procurement Officer shall utilize any one or more of the following methods of disposition, with the intent of maximizing the return on revenue to the Town:

(i) Trade-in the supplies with the purchase of equipment;

(ii) Sell the supplies to another governmental unit that is known to be interested;

(iii) Sell the supplies to the highest bidder after advertising the supplies' availability on the Internet, at the Town Office Building, and / or in a newspaper published in the Town;

(iv) Sell the supplies at public auction, notice of which shall conform to Massachusetts General Laws chapter 30B, section 5(c); or

(v) Sell the supplies at private sale, except that no such private sale shall be made to any employee or elected or appointed official of the Town;

(c) If the supplies are valued at \$100 or less, the Chief Procurement Officer may utilize any one or more of the methods of disposition specified in the preceding subsection. Alternatively, the Chief Procurement Officer may recycle or trash the supplies or may donate them to a charitable organization that has received a tax exemption from the United States by reason of its charitable nature, as the Chief



Procurement Officer deems appropriate.

(4) The Town shall reserve the right to accept or reject any or all offers to purchase surplus supplies. All surplus supplies shall be sold on an "as is / where is" basis, with no warranty of any kind, express or implied.

(5) All monies from the disposition of supplies under this procedure shall be payable to the Town. All revenue from the disposal of supplies under this procedure shall be deposited with the Town Treasurer for deposit in the General Fund.

(6) If the Town receives no offers for a surplus supply, the supply may be disposed of in any commercially reasonable manner.

**SECTION 9** - The total assessed upon any individual estate by reason of construction of a new sidewalk in an abutting way or the reconstruction of a sidewalk already existing in such way with material of more permanent character than that with which it was originally constructed shall not exceed one percent (1%) of the value of such estate as fixed by the last preceding assessment for taxes.

## ARTICLE 5B TOWN ADMINISTRATOR

\* See Special Act ([An Act Relative To The Town Administrator In The Town Of Hingham](#) approved on September 9, 2016)

**SECTION 1** -- The Select Board is authorized and empowered, in accordance with the provisions of chapter 41, section 23A of the Massachusetts General Laws, to appoint a town administrator for a term of one or three years or any such longer term as may hereafter be authorized by law and, in its discretion, for successive terms thereafter, and to remove the town administrator at its discretion. The town administrator shall act by and for the Select Board in any matter which the Select Board may assign to the town administrator relating to the administration of the affairs of the town or of any town office or department under the supervision and control of the Select Board, and, with the approval of the Select Board, may perform such other duties as may be requested of the town administrator by any other town officer, board, committee or commission. A town administrator appointed under the provisions of this section shall be sworn to the faithful performance of the town administrator's duties. During the time the town administrator holds office, the town administrator shall devote full time to the position of town administrator and shall not engage in any other business or occupation and shall not hold elective town office, but may be appointed by the Select Board or, with their approval, by any other town officer, board, committee or commission, to any other town office or other position consistent with this office.

The town administrator shall be appointed solely on the basis of executive and administrative qualifications and shall be a person of proven professional ability fitted by education, training and previous full-time employment in a responsible public or business administrative position. No appointee shall have held elective office within the town for a period of 12 months prior to their appointment as town administrator.

The position of town administrator shall not come within the personnel by-law. The Select Board may enter into an employment contract with the town administrator.

The Select Board shall provide the town administrator with an annual review of the town administrator's job performance with input from department heads, employees and members of elected and appointed boards. As part of its annual review, the Select Board shall evaluate the town administrator's performance, including their ability to supervise municipal employees properly, administer town government effectively, effectuate policy and accomplish established goals.

**SECTION 2** -- Subject to chapter 41, section 23A of the Massachusetts General Laws and subject to assignment of authority to the town administrator by the Select Board, the town administrator is hereby designated the Chief Administrative Officer of the town and is responsible for (i) the administration and supervision of all town departments and

appointed personnel under the jurisdiction of the Select Board and as otherwise provided by law or these by-laws; (ii) directing the overall activity of the municipality when exercising the town administrator's authority for finances, operations and oversight; and (iii) implementing town policies. Pursuant to assignment by the Select Board, the town administrator shall have additional authority and responsibility as follows:

A. The authority and responsibility to exercise overall responsibility for human resources for the town, including but not limited to (i) authority for hiring, supervision, evaluation, discipline and removal of town employees under the jurisdiction of the Select Board and (ii) the responsibility to assist the personnel board in the implementation and administration of the personnel by-law and salary and classification plan and in that regard:

With respect to the appointment of the chief of police, the fire chief and the superintendent of public works, the town administrator shall coordinate the recruitment and screening of suitable candidates for consideration and appointment by vote of the Select Board. The town administrator shall provide the Select Board with relevant materials for the evaluation of no more than five such candidates. In the event that the Select Board does not appoint any of the candidates, the town administrator will continue to present one or more candidates until one is appointed. Any of the chief of police, the fire chief and the superintendent of the department of public works may be removed by vote of the Select Board after consultation with the town administrator.

With respect to the appointment of department heads under the jurisdiction of the Select Board other than the chief of police, the fire chief and the superintendent of public works and except as may otherwise be provided by law, the town administrator shall appoint and remove all such department heads. The town administrator shall consult with the appropriate elected or appointed board, commission, committee or official as well as the Select Board prior to making these department head appointments or undertaking their removal. Prior to finalizing such a department head appointment, the town administrator shall provide notice to the Select Board of the anticipated appointment and the terms and conditions of employment for the appointment. The Select Board shall approve or disapprove the appointment and the terms and conditions of employment within 14 days of such notice. A failure of the Select Board to act within this 14 day period shall be deemed approval of the appointment and the terms and conditions thereof. Any termination or removal of such department heads shall be subject to the same notice and approval requirements for appointments as set forth in this paragraph.

The town administrator or the town administrator's designee shall appoint and remove all other town employees under the jurisdiction of the Select Board except as may be required by Civil Service.

The town administrator shall be responsible for the supervision, management, evaluation and discipline of all other town employees under the jurisdiction of the Select Board. The town administrator annually shall be responsible for performance evaluations of all department heads and shall oversee the performance evaluation program conducted by

department heads for employees within their respective departments. The town administrator shall act as hearing officer for appeals of Civil Service disciplinary suspensions of five days or less and act on behalf of the Select Board in the grievance process under collective bargaining agreements.

B. The authority and responsibility to, in a timely manner, prepare, develop and assemble the town budget for all non-school departments and accounts and following the development of the budget, the town administrator shall submit the entire budget document to the Select Board for review. The town administrator shall forward the budget document, including any alterations approved and incorporated therein by the Select Board, to the Advisory Committee.

C. The authority and responsibility to act as the Chief Procurement Officer for the town. In that regard, the town administrator shall exercise full authority for procurement as provided under chapter 30B of the Massachusetts General Laws. The town administrator shall be responsible for the purchase of all supplies, materials, services and equipment, and shall have the authority to award and sign all contracts up to \$50,000, in addition to all MassHighway contracts and state and federal grants. Any contract over \$50,000 shall require the approval of the Select Board. The town administrator shall have the authority to sign all contracts approved by the Select Board on behalf of the town. All contracts and grants signed by the town administrator shall be promptly reported, in writing, to the Select Board.

D. The authority and responsibility to:

1. Attend all regular and special meetings of the Select Board, unless unavailable for reasonable cause, where the town administrator shall have a voice, but no vote, in all of its proceedings and keep full and complete records of the same;

2. Keep the Select Board fully informed as to the needs of the town and make recommendations to the board with regard thereto;

3. Keep the Select Board fully informed on departmental operations, fiscal matters, administrative actions and provide regular reports to the board on all such matters and provide special reports to the board at its request;

4. Coordinate collective bargaining negotiations under the jurisdiction of the Select Board, on behalf of and at the direction of the Select Board;

5. Administer and enforce collective bargaining agreements and other employment agreements under the jurisdiction of the Select Board at the direction of and on behalf of the Select Board;

6. Manage all real and personal property of the town under the jurisdiction of the Select Board;

7. Oversee the purchase of all supplies, materials, services and equipment, and approve the award of all contracts for all town departments exclusive of the schools, subject to Section C above;

8. Determine the compensation of all non-school employees within the limits of the town's salary and classification plan and/or collective bargaining agreements and other employment agreements and subject to the personnel by-law;

9. Coordinate the activities of all appointed and elected boards, committees and commissions and have the authority to require such bodies and individuals to meet with and provide information to the town administrator, at reasonable times for the purpose of coordination and financial planning. In addition, the town administrator shall be a resource to all elected and appointed boards and departments;

10. Reorganize, abolish, consolidate or establish any department or position under the town administrator's authority as the town administrator deems appropriate from time to time, subject to the approval of the Select Board before implementation and funding by town meeting, if needed;

11. Supervise, direct and be responsible for the efficient administration of all town departments under the jurisdiction of the Select Board and for all functions for which the town administrator is given responsibility, authority or control by the Select Board;

12. Delegate, authorize or direct any employee appointed under the jurisdiction of the Select Board to exercise any power, duty or responsibility which the office of the town administrator is authorized to exercise;

13. Administer and enforce either directly or through a person or persons supervised by the town administrator, all provisions of the laws of the Commonwealth applicable to the town, all by-laws, and all regulations and policies established by the Select Board;

14. Investigate or inquire into the affairs of any town department under the jurisdiction of the Select Board and have access to all books and records of the same;

15. Attend all sessions of town meeting, whether regular or special, unless unavailable for reasonable cause and answer all questions addressed to the town administrator, particularly those questions that are related to town finances, warrant articles and matters under the general supervision of the town administrator; and

16. Coordinate the prosecution, defense and/or compromise of all litigation to which the town is a party solely at the direction of and on behalf of the Select Board.

E. The town administrator shall exercise such additional authority and perform such other duties as are lawfully assigned by the Select Board.

## ARTICLE 6

### TOWN CLERK

**SECTION 1** - The town clerk shall provide, for use at each town meeting, in accordance with the provisions of these by-laws, (1) a voting list and (2) ballots which shall be divided into two sections by a perforation and shall have the word "Yes" printed on one section and the word "No" on the other, each in letters approximately one-half inch high.

**SECTION 2** – The town clerk shall keep a file of all reports submitted pursuant to Section 1 of Article 4 of these by-laws and of all documents, plans, and copies of rules and regulations relating to the affairs of the town which come into the town clerk's custody. The town clerk shall suitably index all the records of the town in the town clerk's custody in a manner convenient for reference and examination.

**SECTION 3** – The town clerk shall have stated daily hours for the transaction of business and shall give public notice thereof.

**SECTION 4** - Whenever a voter shall have given notice to the town clerk of an intention to reconsider any vote, pursuant to the provisions of Section 11 of Article 3 of these by-laws, the town clerk shall immediately post a copy of such notice at the place where the notice of the meeting was posted.

**SECTION 5** - The town clerk may in the town clerk's discretion employ a competent stenographer to take in shorthand, after being duly sworn, the entire proceedings of any town meeting, and the town clerk or, with the consent of the Select Board, any other town officer, department head, board, or committee, may require the stenographer to transcribe the whole or any part of their notes of such proceedings. The stenographer's notes shall be filed with the town clerk and retained as part of the public records of the town. The stenographer shall be paid by the town for services as aforesaid. Any voter may at any time require the stenographer to transcribe and furnish to them a record of the whole or any part of any proceedings taken by the stenographer provided they shall pay the stenographer in advance therefor at the usual rates.

**SECTION 6** - Except as otherwise may be required by law, the following fees shall be charged by the town clerk:

- (a) For filing and indexing assignment for benefit of creditors, five dollars.
- (b) For entering amendment of a record of the birth of a child born out of wedlock, subsequently legitimized, ten dollars.
- (c) For correcting errors in a record of birth, ten dollars.

- (d) For furnishing certificate of a birth, ten dollars.
- (e) For furnishing an abstract copy of a record of birth, five dollars.
- (f) For entering delayed record of birth, ten dollars.
- (g) For filing certificate of a person conducting business under any title other than their real name, fifty dollars.
- (h) For filing, by a person conducting business under any title other than their real name, of a statement of change or residence, or of their discontinuance, retirement, or withdrawal from or of a change of location of, such business, twenty dollars.
- (i) For furnishing certified copy of certificate of person conducting business under any title other than their real name, or a statement by such a person of their discontinuance, retirement, or withdrawal from such business, three dollars.
- (j) For recording the name and address, the date, and number of the certificate issued to a person registered for the practice of podiatry in the Commonwealth, ten dollars.
- (k) For correcting errors in a record of death, ten dollars
- (l) For furnishing a certificate of death, ten dollars.
- (m) For furnishing an abstract copy of a record of death, five dollars.
- (n) For entering notice of intention of marriage and issuing certificate thereof, thirty dollars.
- (o) For entering certificate of marriage filed by persons married out of the Commonwealth, ten dollars.
- (p) For issuing certificate of marriage, ten dollars.
- (q) For furnishing an abstract copy of a record of marriage, five dollars.
- (r) For correcting errors in a record of marriage, ten dollars.
- (s) For recording power of attorney, five dollars.
- (t) For recording certificate of registration granted to a person to engage in a practice of optometry, or issuing a certificate copy thereof, ten dollars.
- (u) For recording the name of the owner of a certificate of registration as a

physician or osteopath in the Commonwealth, ten dollars.

- (v) For recording order granting locations of poles, piers, abutments, or conduits, alterations or transfers thereof, and increase of number of wires and cable or attachments under the provisions of section twenty-two of chapter one hundred and sixty-six of the General Laws, fifty dollars, and five dollars additional for each street or way included in such order.
- (w) For examining records of papers relating to birth, marriage, or death upon application of any person, the actual expense thereof, but not less than five dollars.
- (x) For copying any manuscript or record pertaining to a birth, marriage, or death, three dollars per page.
- (y) For receiving and filing a complete inventory of all items to be included in a "closing out sale," "going out of business sale," "discontinuance of business sale," "selling out," "liquidation," "lost our lease," "must vacate," "forced out," or other designation of like meaning, two dollars per page.
- (z) For filing copy of written instrument or declaration of trust by the trustees of an association or trust, or any amendments thereof, as provided by section two of chapter one hundred and eighty-two of the General Laws, ten dollars.
- (aa) For recording any paper not specifically provided, five dollars for the first page and two dollars for each additional page.
- (bb) For furnishing a certificate that a person is a registered voter, five dollars.
- (cc) For furnishing a burial permit for a death within the town, ten dollars.



## **ARTICLE 7**

### **ASSESSORS**

The assessors shall publish periodically a list of valuations fixed by them on real estate, the next publication to be in the year 1940 and thereafter at intervals of five years.

## **ARTICLE 8**

### **TOWN TREASURER**

**SECTION 1** - The town treasurer shall have stated daily hours for the transaction of business and shall give public notice thereof.

**SECTION 2** - The town treasurer shall pay no money from the treasury except upon a warrant or order signed by a majority of the Select Board and by the town accountant. Such warrant or order shall be sufficient authority to the treasurer to pay money in accordance therewith, and such payment shall discharge him from all liability on account of the money so paid.

**SECTION 3** - All checks drawn to the order of the town treasurer, any department, or cash shall be countersigned by the town accountant.

#### **SECTION 4**

(a) Maintenance of list of nonpaid taxes, fees, and charges.

The treasurer/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) Denial, revocation or suspension of license or permit.

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 treasurer/collector; provided, however, that written notice is given to the party and the treasurer/collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation, or suspension of said license or permit to any party. The treasurer/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 treasurer/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) Payment Agreement.

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 the law.

(d) Waiver of suspension or revocation.

The Select Board 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 members of their immediate family, as defined in Section 1 of Chapter 268 in the business activity conducted in or on said property.

(e) Nonapplicable licenses and permits.

This action shall not apply to the following licenses and permits: open burning, bicycle permits, sales of articles for charitable purposes, children work permits, clubs and associations dispensing food or beverage licenses, dog licenses, fishing, hunting, trapping licenses, marriage licenses, theatrical events, and public exhibition permits.

## **SECTION 5**

The due date for payment of municipal charges and bills, unless otherwise provided by law, shall be thirty days after the charge or bill is issued, and thereafter interest on such charges and bills which remain unpaid shall accrue at the rate of interest charged on tax bills under the provisions of MGL Chapter 59, Section 57.

## **ARTICLE 9**

### **BOARD OF HEALTH**

**SECTION 1** - The board of health shall have stated daily hours during which its office shall be open for the transaction of business, and it shall give public notice thereof.

**SECTION 2** - The board shall make from time to time such regulations as it deems necessary for public health and safety, filed the same with the town clerk, and cause the same to be printed in suitable form for public distribution.

## ARTICLE 10

### PUBLIC WAYS -- COMMON LANDS

**SECTION 1** - No person shall erect, set up, or maintain any fence, portico, platform, or doorstep extending into, on, or over any sidewalk or other part of any public way.

**SECTION 2** - No person shall establish or maintain over any sidewalk or other part of any public way, any sign, sign board, or advertising device unless they shall have first obtained a permit therefor from the Select Board; and any such permit may be revoked by the Select Board at any time.

**SECTION 3** - No person shall establish or maintain any shade or awning over any part of a sidewalk, or other part of any public way, unless the same be secured and safely supported, and unless the lowest part thereof is not less than seven feet above the surface of the sidewalk or way, nor in any event without obtaining a permit therefor from the Select Board.

**SECTION 4** - No person other than a public officer or town agent, servant, or employee in the performance of their duties shall place any obstruction to travel on any public way without the consent of the Select Board; provided, however, that this section shall not be construed to prohibit reasonable emergency action to warn travelers of any obviously dangerous condition observed in the public way, provided the condition and action taken are reported by the person acting as soon as reasonably may be to the Select Board, the police or the superintendent of streets. No person shall leave any rubbish or refuse, or any noxious, dangerous, offensive, or unsightly object or matter on or in any public way, park, beach, or common lands of the town.

**SECTION 5** - Every person operating or having charge of a vehicle in any public way shall operate it in all respects as may be directed by any police officer.

**SECTION 6** - No person having under their care or control any vehicle shall permit the same or the animal or animals attached thereto, if any, to stand on or across any public way in such a manner as to obstruct the same for any unnecessary length of time. No person shall stop with any vehicle in any public way so near another vehicle as to obstruct public travel or upon or across any foot crossing or so as to obstruct any private way or private driveway.

**SECTION 6A** - The superintendent of streets may for the purposes of removing or plowing snow, or removing ice, from any public way, remove, or cause to be removed, to some convenient place, including any public garage, any vehicle which interferes with the removal or plowing of such snow, or the removal of such ice. In the event that such vehicle is so removed, the owner of such vehicle shall be liable for the cost of such removal and for the storage charges, if any, resulting therefrom, but shall not, notwithstanding any other provision of these by-laws, be otherwise liable

to any fine, penalty, or other charge solely by reason of the fact that such vehicle was interfering with such plowing or removal.

**SECTION 7** - No person shall distribute or place, or cause to be distributed or placed, on or in any public way, park, beach, or other public place any placard, handbill, flier, poster, advertisement, or paper of any description; provided, however, that this section shall not be deemed to prohibit placing the same within doors of stores, offices, or business houses, or at the doors of residences, nor to apply to the distribution on any election day, to the extent otherwise permitted by law, of stickers or political notices.

**SECTION 8** - No person who owns or has charge of any horse, grazing beast, or swine shall suffer or permit such animal to run at large or, while at pasture, to be so tethered that it can, within the limits of its tether, go upon the traveled part of any street or upon any sidewalk.

**SECTION 9** - No person shall throw stones, snowballs, or other missiles, or shoot with or use any gun, bean blower, bow and arrow, slingshot, or other similar device in, on, or across any public way, park, beach, or common lands of the town. No person shall play at any game in which a ball is used, on the traveled part of any street or on any sidewalk; provided, there is excepted from the scope and effect of the preceding language the shooting and use of bow and arrows for the exclusive purpose of otherwise lawful hunting of deer and fowl as may be allowed by written authorization and permit on designated portions of any lands under the management, custody or control of the Town of Hingham Conservation Commission in conformity with the provisions of Article 30, Section 3, of the Town of Hingham By-laws, as amended from time to time.

**SECTION 10** - No person shall behave in a rude or disorderly manner, or use any indecent, profane or insulting language in any public place.

**SECTION 11** - No person shall loiter in any street, or on any sidewalk, or in any other place after being directed by a police officer to move on. No person shall obstruct the free use of any public way or sidewalk.

**SECTION 12** - No person shall break the surface of or dig up any sidewalk or other part of any public way or place thereon any staging or other temporary structure or move any building in or along the same without a written permit from the Select Board. Any permit issued therefor shall be in force for such time only as the board may specify and shall be subject to such conditions as they may prescribe, and in every case shall be upon condition that during the whole of every night from sunset to sunrise lighted lanterns and proper barriers shall be so placed as to secure travelers from danger; and upon the further condition that the permittee shall indemnify the town against the claims of all persons who may be injured in their persons or property by reason of the exercise of the privileges conferred by the permit. Permits for moving buildings along the public ways shall be issued only after

the applicant has secured from the building commissioner the permit required by Article 3, Section 20, of the Building By-Law adopted March 15, 1937.

**SECTION 13** - A person having a permit under Section 12 of this Article shall restore the public way to its original condition or to a condition satisfactory to the Select Board. The Select Board shall have the right to revoke any such permit at any time and may require a bond, either before the work is commenced or during its progress to assure the proper performance of the work, the restoration required therein, and/or the indemnification provided for in Section 12 of this Article.

**SECTION 14** - No person shall knowingly suffer or permit any water or other liquid to run or be discharged from any building owned by them or under their control, onto or across any curbed or finished sidewalk. Provided, however, that this Section shall not be deemed to prohibit washing windows or other parts of any building on private property if the work is done at a time when, and in such manner that, no unsafe condition results therefrom.

**SECTION 15** - No person shall coast upon or across any sidewalk, or other part of any public way, except at such times and at such places as may from time to time be designated by the Select Board.

**SECTION 16** - No person shall affix, write, paint, print, or otherwise inscribe any notice, advertisement, work, figure, or pictures on any sidewalk or other part of any public way, or on any fence, wall, post, stone, tree, building, or structure adjoining any public way without the consent of the owner thereof.

**SECTION 17** - No person, except physicians responding to emergency calls or drivers of ambulances, patrol wagons, fire apparatus responding to an alarm, or vehicle transporting United States mail, shall ride a horse or drive a vehicle through a funeral procession.

**SECTION 18** - No person shall fire or discharge any gun, pistol or other firearm in or across any public way or place, or within fifty yards thereof, but this section shall not prevent the use of such weapons in the lawful defense of one's person, family, or property, nor in the performance of any duty required or authorized by law.

**SECTION 19** - No person shall detonate or ignite any fireworks, or throw any lighted fireworks in, into, or upon any public way or place except on such days or parts thereof as shall be designated by the Select Board as periods when this Section will not apply. No person shall set any bonfire in any public way or place without first obtaining written permission from both the Select Board and the fire department.

**SECTION 20** - No person shall injure, deface, or destroy any street sign, guide board, lamp post, lamp, or lantern thereon, nor any tree, building, fence, or post or other thing set, erected, or made for the use or ornament of the town.

**SECTION 21** - No person who owns or controls any building to which access is had through any opening or entrance in a sidewalk or other part of any public way shall suffer or permit a platform or grate or other covering thereof to raise above the adjacent surface of the sidewalk or street. Each such entrance or opening shall at all times when not in use be covered by a suitable grating or other covering, and whenever it is in use it shall be suitably guarded. The construction of each such cover and the method of guarding all such openings and entrances when in use shall be subject at all times to the approval of the Select Board.

**SECTION 22** - No owner or person in control of any building which abuts upon any sidewalk, and which has a roof slanting towards the sidewalk, shall permit the building to be without a barrier, snow guard, or other device to prevent snow or ice falling from such roof to the sidewalk.

**SECTION 23** - No person shall drive or ride a horse or drive an automobile along any sidewalk.

**SECTION 24** - All petitions for permission to erect poles in any public way shall contain an accurate description of the location prayed for and be accompanied by plans showing such location and the bounds of the way for a distance of two hundred feet on year side thereof, and, as to the part of the way so shown, the location of all buildings adjacent and thereto and of all poles thereon, and of all shade trees and hydrants therein or extending thereover. The ownership of all standing poles shall be designated on such plan.

**SECTION 25** - No person shall permit any part of tree, hedge, bush, or shrubbery growing on their land to extend over or overhang any street, sidewalk, or highway so as to interfere with the free full use of such street, sidewalk, or highway.

**SECTION 26** - The Select Board upon request may, at their discretion, supply any property owner of the town, or their officer or agent, with the lines and grades for sidewalks and streets. No charge shall be made for such service furnished within a reasonable time (as determined by the Select Board) after the first laying out, acceptance, or relocation of the street or sidewalk. Except as aforesaid the Select Board shall charge for such service such reasonable fee as shall be fixed by them. All fees collected hereunder shall be turned over to the town treasurer.

**SECTION 27** - At each junction of a private way with a public way there shall be a sign, erected and maintained on the private way by the owner thereof, reading "Private Way" or "Not a Public Way," but this section shall not apply to any private driveway not exceeding twelve feet in width which has a gate, gateway, or bar way at its junction with the public way, or which is otherwise so constructed and located that, in the opinion of the superintendent of streets, it cannot reasonably be mistaken for a public way.



**SECTION 28** - Each petition for the acceptance of a way to be acted on at any annual town meeting shall be presented to the Select Board not later than the first day of October next preceding such meeting.

**SECTION 29** - The word "vehicle" as used in this Article shall include every description of carriage or other artificial contrivance used or capable of being used as a means of transportation, except as otherwise provided herein or by law.

**SECTION 30** - No person shall enter upon the premises of another or upon any public property with the intention of peeping into the windows of a home or other building thereon, without the assent of the occupant, or of spying in any manner upon any person therein. This section shall not apply to an officer of the law in the performance of their duties.

**SECTION 30A** - No person shall drink any alcoholic beverages, as defined in Chapter 138, Section 1, of the Massachusetts General Laws, while on, in or upon any public way or way in which the public has a right of access as invitees or licensees, or any consent of the owner or person in control thereof. All alcoholic beverages being used in violation of this By-Law shall be seized and safely held until final adjudication of the charge against the person or persons summoned before the court for such violation, at which time they shall be returned to the person lawfully entitled to possession thereof. A police officer may arrest without a warrant anyone who violates this Section if such person is unknown to the officer and such person's identity is ascertained or until such person can be taken before a court having jurisdiction of the offense. Violation of this section shall be punishable by a fine of not more than Two Hundred (\$200.00) Dollars for each violation.

**SECTION 31** - Except as otherwise provided in any Section of this Article, any person violating any of the provisions of this Article shall forfeit not more than Twenty (\$20.00) Dollars for each offense.

#### Enforcement of Town By-Laws and Rules and Regulations

##### A. Criminal Process

Whoever violates any provision of these by-laws, may be prosecuted and penalized in the courts of the Commonwealth as provided by the Massachusetts General Laws.

##### B. Non-Criminal Process

Whoever violates the provisions of the by-laws listed below may, at the discretion of the designated enforcing officer, be subject to imposition of a penalty through non-criminal process in accordance with Massachusetts General Laws, Chapter 40, Section 21D:

##### 1. General By-Law

Article 10, Section 4 Obstruction of public ways

Enforcing Officer

Police Officers

Penalty

First offense: Warning

Second and subsequent offenses: \$50.00 fine

2. General By-Law

Article 10, Section 14 Discharge of liquid on public ways

Enforcing Officer

Police Officers

Penalty

First offense: Warning

Second and subsequent offenses: \$50.00 fine

3. General By-Law

Article 15 Harbor By-Law

Enforcing Officers

Harbormaster

Assistant Harbormasters

Penalty

First offense: Warning

Second offense and subsequent offenses: \$50.00

4. Shellfish Regulations and Management Plan

Enforcing Officers

Shellfish Constable

Assistant Shellfish Constable

Penalty

First offense: \$50.00

Second offense and subsequent offenses: \$100.00

5. General By-Law

Article 22 Wetlands Protection By-Law

Enforcing Officer  
Conservation Officer

Penalty  
First offense           \$ 50.00  
Second offense       \$100.00  
Third offense         \$300.00

6. Town of Hingham Taxi Rules and Regulations

Enforcing Officers  
Police Officers

Penalty \$100.00

7. Rules and Regulations for Limousine Licenses

Enforcing Officers  
Police Officers

Penalty \$100.00

For the purposes of this section, the enforcing officer(s) designated above may enforce the By-Law indicated. The availability of non-criminal process shall not preclude the use of criminal process or other means of enforcement. Penalties specified shall apply to each offense, and for purposes of this Section, the existence of a violative condition shall be deemed a separate offense for each day that such condition continues.

**SECTION 32** - No person shall, except in the performance of legal duty or in military exercises or funerals, discharge any firearms or any other rifle upon or across any private property without consent of the owners or tenants thereof. Whoever violates this provision shall be punished by a fine not exceeding Twenty (\$20.00) for each offense.

**SECTION 33** - Regulation of Activity within Bare Cove Park.

Section 1 – The Bare Cove Park Committee (the “Committee”) shall oversee the day –to-day operations of Bare Cove Park, approximately 450 acres of land and improvements owned by the Town of Hingham. The Committee shall consist of nine citizens of the Town appointed by the Select Board of three-year terms.

Section 2 - The Committee shall propose, from time to time, such regulations as it deems necessary for the governance of Bare Cove Park to be adopted by the Select Board (the “Board”). The Board shall file such regulations as it has adopted with the Town clerk and cause the same to be printed in suitable form for public distribution.

## **SECTION 34 - REMOVAL OF SOIL, LOAM, SAND, OR GRAVEL**

A. The removal of soil, loam, sand, or gravel from any land in the town not in public use to any location outside the town is prohibited.

B. The foregoing prohibition shall not apply to any removal activity in lawful operation on any premises on March 10, 1941, and any such removal activity may continue as an exempt operation unless and until abandoned. Nor shall the foregoing prohibition apply to any removal activity pursuant to a permit issued by the Board of Appeals prior to March 28, 1966

C. Whoever violates the provisions of this Article shall be punished by a fine of fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense, and for each subsequent offense two hundred dollars (\$200.00).

D. The provisions of this Article shall be enforced by the Building Commissioner.

## **SECTION 35 - Unregistered Motor Vehicles in Residential Districts**

A. No person shall have more than one unregistered automobile or truck ungaraged on their premises in residential districts at any one time unless authorized by the Select Board. A violation of this Article shall be punishable by a fine of not more than Twenty (\$20.00) Dollars.

B. Whoever violates any provisions of this Article may, at the discretion of the Building Commissioner or a Police Officer of the Town of Hingham, be subjected to the imposition of a penalty through non-criminal process in accordance with Massachusetts General Laws, Chapter 40, Section 21D. For purposes of this paragraph, after the issuance of warning for a violation, a penalty of \$50.00 may be imposed for the second and subsequent violations of this Article. The availability of noncriminal process and penalties under this paragraph shall not preclude the use of criminal process or other means of enforcement.

C. Penalties specified shall apply to each offense and for purposes of this Article the existence of a violation shall be deemed a separate offense for each day that such violation continues.

## **SECTION 36 - Size of Street Numbers on Buildings**

The owner of each building used as a dwelling place or place of business within the Town shall maintain the approved street number of the premises in a conspicuous place, legible from the street, with numerals at least three (3) inches high.

## ARTICLE 11

### PARADES AND OPEN AIR MEETINGS

**SECTION 1** - No person, without having first obtained a permit from the chief of police, shall form or conduct in any way any parade (other than a military, funeral, or school parade) or any assembly of people for the purpose of display or demonstration.

**SECTION 2** - No person shall give any public address, speech, or harangue in any public way, public square, or public park without permission therefor from the chief of police.

**SECTION 3** - No permit shall be withheld under this Article for any consideration other than public order or safety or reasonable public convenience.

**SECTION 4** - Any person violating any of the provisions of this Article shall forfeit not more than ten dollars (\$10.00) for each offense.

## ARTICLE 12

### JUNK COLLECTORS

**SECTION 1** - The Select Board may license suitable persons as junk collectors to pass over public ways and in the course thereof to purchase and collect junk. No person shall engage in such business without such license. As used in these by-laws the word "junk" shall be deemed to describe all articles and material usually so described, and also old metal and every second-hand article.

**SECTION 2** - The Select Board may require each junk collector and each employee and agent of any such, when engaged in collecting junk, to display upon their person or vehicle, or both, a badge of such design as they may prescribe.

**SECTION 3** - The Select Board may require that any place, vehicle, or receptacle used for the collecting or keeping of junk shall be subject to examination at any time by the Select Board or their agent.

**SECTION 4** - The Select Board may license suitable persons to be dealers in and keepers of shops for the purchase, sale, and barter of junk, and no person shall be a dealer in or keeper of a junk shop without such license.

**SECTION 5** - Every person so licensed shall keep a book in which shall be written at the time of every purchase of any article of junk a description thereof, the name of the person from whom and the time when such purchase was made. Such book shall at all times be open to the inspection of the Select Board and police department.

**SECTION 6** - Every person so licensed shall put in a conspicuous place on their shop a sign having their name and occupation clearly inscribed thereon and shall at all times allow their shop and articles therein to be examined by the Select Board or the police department and shall comply with all directions and requirements of the Select Board or of the board of health.

**SECTION 7** - No person shall use any building, enclosure, or other structure for the storage, sale, or keeping of rags, waste, paper stock, or other inflammable material without a written license therefor from the Select Board, which license shall be granted only after the premises have been inspected and approved by the chief of the fire department.

**SECTION 8** - No person licensed under this Article shall directly or indirectly purchase or receive from any minor any article of junk, except rags, paper or bottles, knowing or having reason to believe the minor to be such.

**SECTION 9** - Each license granted under this Article shall expire on April 30 following the date of issuance and may be revoked by the Select Board at any time

in their discretion.

**SECTION 10** - Whoever violates any of the provisions of this Article or any rules, regulations or restrictions contained in any license issued to them hereunder or any requirement of the Select Board made hereunder shall forfeit not more than twenty dollars (\$20.00) for each offense.

## **ARTICLE 13**

### **DEALERS IN OLD OR SECOND-HAND METALS AND PRECIOUS METALS**

#### **SECTION 1 - LICENSE -- REQUIRED**

No person shall deal in or keep a shop for the purchase, sale, or barter of old or second-hand metals or old or second-hand precious metals, hereinafter sometimes referred to as "such article" or "such articles," (including gold, silver, or platinum, without regard to the form or amount of such precious metal, or whether or not such precious metal is an incidental or minor component of some other article such as jewelry, bric-a-brac, statuary, or the like), or keep or store the same for purchase, sale, or barter, in any building or place within the limits of the town, without a license from the Select Board.

#### **SECTION 2 - LICENSE -- ISSUANCE; CONTENTS; TERM; FEE**

The Select Board may license suitable persons to be dealers in or keepers of shops for the purchase, sale, or barter of old or second-hand metals or old or second-hand precious metals, at such places within the town as may be designated in such licenses, under such conditions and restrictions as are prescribed in this Part I, which by the provisions hereof are deemed to be and shall be incorporated in every such license.

Such license shall continue in force until the first day of May following the effective date of such license unless sooner revoked. Any such license may be granted in April to take effect on the first day of May next ensuing. The licensee shall pay to the Town Clerk, for the use of the town, fifty dollars (\$50.00).

#### **SECTION 3 - LICENSE -- RECORDATION BY TOWN CLERK**

It shall be the duty of the Town Clerk to keep a record of every license granted under the provisions of this Part I.

#### **SECTION 4 - GENERAL RULES AND REGULATIONS**

No person required to be licensed under this Part I shall, directly or indirectly, either purchase or receive by way of barter or exchange any of such articles from a minor knowing or having reason to believe them to be a minor.

No such article purchased or received shall be sold or altered in appearance, form, or substance until a period of at least thirty days from the date of its purchase or receipt has elapsed, except when such period, or portion thereof, is waived by the Chief of Police or the Chief of Police's designee. No such person shall have their shop open for the transaction of business nor shall they purchase or receive any of such articles, except between 8:00 a.m. and 10:00 p.m. No person so engaged as



a dealer in or a keeper of a shop for the purchase, sale, or barter of such articles, licensed under this Part I, shall keep, store, or deposit such articles other than in a covered building devoted to that purpose.

Every person required to be licensed under this Part I shall make out and deliver to the Chief of Police of the Town every day, Sundays and holidays excepted, before the hour of 10:00 a.m., a clear, legible, and correct list containing an accurate description of all such articles purchased or receiving during the preceding business day, the prices paid therefor, the time when such articles were purchased or received, and the respective numbers of such articles (required by Section 5 hereof) together with the name and address of the party from whom such articles were purchased or received. An electronic copy of this record shall be forwarded to the Police Department within one (1) calendar day of the transaction.

#### **SECTION 5 - BOOKS TO BE KEPT; NUMBERING OF ARTICLES PURCHASED; INSPECTION**

Every person required to be licensed under this Part I shall keep a book in which shall be written in English, at the time of every purchase or receipt, a description of the old or second-hand metal or old or second-hand precious metal so purchased or received, the name, date of birth, and residence of the person from whom, and the day and hour when, such purchase or receipt was made.

Every such person shall, at the time of any such purchase or receipt, attach a number to each such article bought or received, and shall make entry of such number in the book. Such book shall at all times be open for the inspection of the Select Board, Chief of Police, any member of the police force, and by any person authorized in writing by the Select Board.

#### **SECTION 6 - DESIGNATION AND INSPECTION OF SHOPS**

Every person required to be licensed under this Part I shall put in some suitable and conspicuous place in their shop a sign having their name and occupation clearly and legibly inscribed thereon. Such shops, and all articles therein may at all times be examined by the Select Board, Chief of Police, any member of the police force, and by any person authorized in writing by the Select Board.

#### **SECTION 7 - SCALES REQUIRED**

Every person required to be licensed under this Part I shall have on the licensed premises a suitable scale. Said scales shall be annually tested and sealed by the Sealer of Weights and Measures of the Town of Hingham.

## **PART II**

### **CONVEYANCES FOR COLLECTION OF METALS**

#### **SECTION 8 - LICENSES -- REQUIRED**

No person shall drive, operate, or maintain a wagon or other conveyance for the collection of old or second-hand metals or old or second-hand precious metals within the limits of the town without a license from the Select Board. In this Part II, "such person" shall mean any person driving, operating, maintaining, or controlling any wagon or conveyance required to be licensed under this Part II.

#### **SECTION 9 - LICENSES -- GENERALLY**

The Select Board may license suitable persons to drive, operate, maintain, or control wagons or other conveyances for the collection of old or second-hand metals or old or second-hand precious metals, under such conditions and restrictions as are prescribed in this Part II, which by the provisions hereof are deemed to be and shall be incorporated in every such license. Such license shall continue in force until the first day of May following the effective date of such license unless sooner revoked; provided, that such license may be granted in April to take effect on the first day of May next ensuing. The licensee shall pay to the Town Clerk for the license, for the use of the town, fifty dollars (\$50.00)

#### **SECTION 10 - LICENSES -- RECORDATION BY TOWN CLERK**

It shall be the duty of the Town Clerk to keep a record of every license granted under the provisions of this Part II.

#### **SECTION 11 - GENERAL RULES AND REGULATIONS**

Every such wagon or other conveyance required to be licensed under this Part II shall bear clearly and conspicuously the licensee's name, and the number of the license, printed in English on a metal plate affixed to the outside, and each side, of the wagon or other conveyance. Each driver, operator, or person in control of any such licensed wagon or other conveyance shall wear on the front of their hat a metal badge, upon which shall appear in figures not less than one inch square the number of their license issued under this Part II. Such metal plates and badge shall be furnished by the Town Clerk at the expense of the licensee. Every license shall designate the person employed to drive such vehicle. Such driver shall not be changed without the consent of the Select Board, and record of such change shall be made in the Office of the Town Clerk. Every such wagon or other conveyance and all articles therein may at all times be examined by the Select Board, Chief of Police, any member of the police force, and by any person authorized in writing by the Select Board.

No such person shall, directly or indirectly, either purchase or receive by way of barter or exchange any of such articles from a minor knowing or having reason to believe them to be a minor.

No such person shall purchase or receive any of such articles except on weekdays between 8:00 a.m. and 10:00 p.m.

No such article purchased or received shall be sold or altered in appearance, form, or substance until a period of at least fifteen days from the date of its purchase or receipt has elapsed, except when such period, or portion thereof, is waived by the Chief of Police or the Chief of Police's designee.

Every person required to be licensed under this Part II shall make out and deliver to the Chief of Police of the Town every day, Sundays and holidays excepted, before the hour of 10:00 a.m., a clear, legible, and correct list containing an accurate description of all such articles purchased or received during the preceding business day, the prices paid therefor, the time when such articles were purchased or received, and the respective number of such articles (required by Section 12 hereof), together with the name and address of the party from whom such articles were purchased or received.

#### **SECTION 12 - BOOKS TO BE KEPT; NUMBERING OF ARTICLES PURCHASED; INSPECTION.**

Every person required to be licensed under this Part 11 shall keep a book in which shall be written in English, at the time of every purchase or receipt, a description of the old or second-hand metal or old or second-hand precious metal so purchased or received, the name, date of birth, and residence of the person from whom, and the day and hour when, such purchase or receipt was made.

Every such person shall, at the time of any such purchase or receipt, attach a number to each such article bought or received, and shall make entry of such number in the book. Such book shall at all times be open for the inspection of the Select Board, Chief of Police, any member of the police force, and by any person authorized in writing by the Select Board.

#### **SECTION 13 - SCALES REQUIRED**

Every person required to be licensed under this Part II shall have in any such wagon or conveyance a suitable scale. Said scales shall be annually tested and sealed by the Sealer of Weights and Measures of the Town of Hingham

### **PART III - VIOLATIONS**

#### **SECTION 14 - PENALTIES.**

Whoever violates any of the provisions of this Article 13 or any regulations or restrictions contained in any license issued hereunder shall be subject to a fine or not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00); and each day of any such violation shall constitute a separate offense.

## ARTICLE 14

### ADVISORY AND CAPITAL OUTLAY COMMITTEES

#### PART 1 ADVISORY COMMITTEE

**SECTION 1** - There shall be an advisory committee, which shall perform the duties set forth in the following sections of this Article and be governed by the provisions thereof. Said committee shall consist of fifteen citizens of the town, and shall be appointed as provided in the following section. No person holding an elective or appointive town office shall be eligible to serve on said committee.

**SECTION 2** - Prior to the commencement of each fiscal year or as soon thereafter as reasonable review of prospective appointees permits, the Moderator shall appoint five members of said Committee, each to serve a term of three (3) years, commencing on the first day of the fiscal year for which the appointment is made or the date of the actual appointment if made after the commencement of the fiscal year. Each member of the Committee shall serve through June 30th of the year in which such member's term expires. The Committee shall choose its own officers who shall serve without pay. The Committee shall cause to be kept a true record of its proceedings.

**SECTION 3** - All Articles in any Town Meeting Warrant shall be referred to and considered by the Advisory Committee. A public meeting may be held upon any article, and a notice of such meeting shall be given in accordance with the Open Meeting Law of the Commonwealth of Massachusetts, M.G.L. c. 30A, s. 18-25 as then in effect. The Committee shall report to the Town Meeting, in print or otherwise, such recommendations on each article as it deems best for the interests of the Town.

**SECTION 4** - The advisory committee shall consider the budget proposed for the town for the ensuing fiscal year by the Select Board. Such budget shall show in detail all estimated income from the proposed tax levy and other sources and all proposed expenditures, including debt service, for the ensuing fiscal year, and shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years. The advisory committee shall, after considering such proposed budget, establish the amounts which should, in its opinion, be appropriated for the ensuing fiscal year, shall add thereto such explanations and suggestions as it deems expedient, and shall report thereon as provided in Section 3.

**SECTION 5** - Whenever any vacancy shall occur in the Committee it shall be filled by the Moderator. If any member is absent from five consecutive meetings of the Committee, for other cause than illness, said member's position shall be deemed vacant and the Committee shall report such vacancy to the Moderator, who shall

proceed to fill the same. Any person appointed to fill a vacancy in the Committee shall hold office for the unexpired term of the person whom such appointee succeeds.

**SECTION 6** - The committee shall make an annual report of its doings, with recommendations relative to financial matters and such other matters as it deems expedient, to be printed with the annual reports of the town officers.

## **PART 2**

### **CAPITAL OUTLAY COMMITTEE**

**SECTION 1** - There shall be a Capital Outlay Committee (Committee), which shall perform the duties set forth in the following sections of this Article 14 and be governed by the provisions hereof. Said Committee shall consist of five citizens of the Town, appointed as provided in the following sections, and the Town Accountant ex-officio.

**SECTION 2** - The moderator shall appoint three members of said Committee. Prior to the commencement of each fiscal year, the moderator shall appoint one member to said Committee to serve a term of three years, commencing on the first day of the fiscal year next following the appointment.

**SECTION 3** - The Chair of the Advisory Committee, at or about the commencement of each fiscal year, shall appoint, from among the members of the Advisory Committee, two members of said Committee to serve a term of one year, beginning on the first day of said fiscal year.

**SECTION 4** - Whenever any vacancy shall occur in the Committee, it shall be filled by the appointing authority which appointed the member whose position shall have become vacant. Any person appointed to fill a vacancy in the Committee shall hold office for the unexpired term of the person whom they succeed.

**SECTION 5** - The Town Accountant, as an ex-officio member of the Committee, shall not be entitled to vote on the making of recommendations to be included in its reports. The Committee shall choose its own officers and shall serve without compensation.

**SECTION 6** - It shall be the duty of the Committee to ascertain annually what capital outlays will be required by the Town during the next five years. In making this determination, it may consult with Town, county, and state officials, and with other boards and committees of the Town. It shall publish and distribute to each voter an annual report and such further reports as it deems advisable, and shall include in such reports its recommendation for scheduling capital outlays and for the financing of such outlays as in its judgment cannot be, or should not be, paid for entirely out of current revenues.”

## **ARTICLE 15**

### **HARBOR BY-LAW**

#### **SECTION 1 - Authority and Enforcement**

The Harbormaster has the authority to enforce this Article 15 and regulations adopted pursuant hereto; G.L. Chapter 60B: Excise on Boats, Ships and Vessels in Lieu of Local Property Tax; G.L. Chapter 90B: State Boating Laws; G.L. Chapter 91: Waterways; G.L. Chapter 102: Shipping and Seamen, Harbors and Harbor Masters; G.L. Chapter 130: State Marine Fisheries Regulations; G.L. Chapter 131: State Inland Fish Regulations; CMR 310: Department of Environmental Protection; CMR 320: Public Access Facilities; CMR 321: Division of Fisheries and Wildlife; CMR 322: Division of Marine Fisheries; CMR 323: Division of Law Enforcement; CMR 527: Board of Fire Prevention Regulations; and other applicable laws and regulations, to the full extent permitted by law.

#### **SECTION 2 - Definition of Terms**

As used in this Article 15, and in any regulations adopted pursuant to this Article 15, the following words shall have the following meanings, respectively:

“Anchor” - The holding of a Vessel in place by lowering a heavy weight into the water by cable, chain, line or other method.

“Channel” - a navigable route for the passage of Vessels, established by customary use or under the authority of federal, state or municipal law.

“Docking” - The making fast of a boat, raft, or float by means of cables, anchors, lines, chains, or other device or contrivances, to the ocean bottom, the shore, or a dock, slip, pier, or marina; meaning and intending that this phrase applies to boats, rafts or floats which are secured to the ocean bottom, as well as to boats, rafts, or floats secured to a dock or slip in a marina.

“Harbormaster” - The harbormaster, deputy harbormaster and assistant harbormasters duly appointed by the Select Board.

“Hingham Harbor” - The waters of the sea lying within the limits of the Town of Hingham.

“Hingham Waterways” - The navigable bodies of water within the limits of the Town of Hingham including, without limitation, the ponds, rivers, streams, seas, and oceans.

“Mooring” - A temporary, semi-permanent, or permanent anchorage installation, comprising an anchor, chain, and mooring buoy, or their equivalents.

“Person” - An individual; a receiver; a trustee; a partnership; joint venture; a firm; an

unincorporated association; a syndicate; a trust; a corporation; or any other entity having legal personality.

“Skin Diving” - Swimming underwater with the aid of fins, mask, snorkel tube, or self-contained apparatus for the assistance of breathing.

“Vessel” - The word “vessel” shall mean, inclusively, to the extent permitted by law, watercraft of every description, including but not limited to ships of all kinds, barges, sailing vessels, craft and powerboats of any type or kind by whatever means propelled, every object designed, adapted or capable of being navigated, towed or operated on water from place to place for the transportation of merchandise, people, or for any other purpose (except a seaplane), or other artificial contrivance, used or capable of being used as a means of transportation on water, and as otherwise construed under Massachusetts and/or federal law.

### **SECTION 3 – Waterways Regulations**

The Harbormaster shall adopt regulations governing the Hingham Waterways; Vessels on or in the Hingham Waterways, including but not limited to the anchorage, mooring, and/or operation of such vessels; and/or activities that take place on or in the Hingham Waterways; and to the extent said vessels and activities affect and/or are related to or directed to the Hingham Waterways, around the Hingham Waterways; to the full extent permitted by law, including, without limitation, anchorage, moorings, floats, mooring waiting lists, docking, and shellfishing. These regulations shall be submitted to the Select Board for approval and then, if approved, to the Environmental Police for review and approval to the extent necessary. After review by the Environmental Police, the Select Board shall have the opportunity to consider any comments provided by the Environmental Police, and resubmit to the Environmental Police for approval to the extent necessary. Upon approval by the Select Board, and by the Environmental Police to the extent necessary, a notice shall be published in a newspaper in circulation in the Town of Hingham and copies thereof shall be made available through the Harbormaster's Office upon request. Said regulations may be amended from time to time in the manner hereinbefore set forth.

### **SECTION 4 - Wake Restrictions**

No vessel shall exceed the speed of six (6) nautical miles per hour or be operated at speed which shall cause a visible wake within the confines of Hingham Harbor, except while engaged in water skiing or the use of personal watercraft in areas as defined on charts issued for such use by the Select Board.

### **SECTION 5 - Skin Diving**

Any person skin diving in Hingham Harbor shall:

- (a) Obtain the written approval of the Harbormaster in advance, designating the permitted area;
- (b) Operate from a vessel occupied and under the control of at least one other



natural person not less than eighteen (18) years of age;

(c) Display a diver's flag consisting of a red field and a white diagonal stripe not less than twelve (12) inches square, held upright on a float or other similar device at a height sufficient to be visible to passing vessels; and

(d) Tow said float and flag with them while they are on surface or submerged in water, unless for commercial purposes permission in writing is granted by the Harbormaster to display floats or flags in some other manner for the protection of divers in Hingham Harbor.

### **SECTION 6 - Water Skiing**

No person shall operate a vessel in Hingham Harbor or in the Hingham Waterways of the Back River or Weir River (which are Areas of Critical Environmental Concern) while towing water skiers, aquaplanes or other similar devices except in areas defined on charts issued by the Select Board, and in no event shall any such vessel be operated within one hundred fifty (150) feet of any beach or swimming float.

### **SECTION 7 - Obstruction of Channels**

No private marker, mooring or anchorage buoy, lobster pot buoy, or other temporary or permanent marker may be placed in the fairway or channel of Hingham Harbor at any time without the express written permission of the Harbormaster. Any such marker or buoy, so placed in any fairway or channel in Hingham Harbor, shall be construed as a hazard to navigation, and shall be removed by the person causing it to be in place, upon the order of the Harbormaster, or may be removed by the Harbormaster, with no liability to the Harbormaster or the Town of Hingham, or the agents, servants, or employees of either.

### **SECTION 8 - Unauthorized Boarding or Moving of any Vessel**

No person, other than the Harbormaster or a person acting with the Harbormaster's written consent, shall board or move any vessel in mooring or anchorage or molest any tender except in case of emergency or with the express consent of the owner or master of said vessel or as otherwise permitted by law.

### **SECTION 9 - Conformance with Existing Regulations and Disclaimer**

Nothing contained herein shall be construed to conflict with the jurisdiction of the United States Government with respect to the enforcement of navigation, shipping, anchorage, and associated laws of the United States, or any lawful regulation of the Division of Waterways of the Department of Environmental Protection, or the Environmental Police or any of the laws of the Commonwealth of Massachusetts.

The invalidity of any section or provision of this Article shall not invalidate any other section or provision thereof.

### **SECTION 10 – Violation**

Whoever violates any section or provision of this Article or any regulation adopted pursuant to this Article shall be liable for a penalty to be determined by the Select Board in an amount not to exceed fifty (50) dollars per day for each violation to the

full extent permissible by law, and/or as otherwise authorized by law.

**SECTION 11 – Effective Date**

This Article shall become effective upon approval of the Director of Environmental Police and the expiration of five (5) days after publication in a newspaper of general circulation in the Town of Hingham. The provisions of Sections 1 through 6 of the previously existing Article 15 as in effect prior to the enactment of this Article 15 shall remain in full force and effect until the regulations to be adopted pursuant to Section 3 of this Article 15 become effective.

## ARTICLE 16

### COUNCIL ON AGING

**SECTION 1** - There shall be a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in cooperation with programs of the Massachusetts Executive Office of Elder Affairs as established under Massachusetts General Laws chapter 6A, section 16.

**SECTION 2** - The Council on Aging (consisting at the time of amendment of this section of seven (7) members, the terms of four (4) of whom expire in 1973 and terms of the other three (3) of whom expire in 1975) shall henceforth consist of eleven (11) members appointed by the Select Board. Eight (8) members shall be appointed in 1973, four (4) for a term of three (3) years and four (4) for term of one (1) year. Thereafter upon the expiration of a term of each member (including the three present members whose terms will expire in 1975) each appointment shall be for a term of three (3) years. Any member may be reappointed for subsequent terms and the members of the Council shall serve without pay.

**SECTION 3** - Whenever a vacancy shall occur in the membership of the Council by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled by appointment by the Select Board for the remainder of the term.

**SECTION 4** - The Council on Aging at its annual meeting to be held at a date, time, and place as determined by the Council shall elect from its membership a Chair, Vice Chair, and Secretary.

**SECTION 5** - The Council shall submit an annual report of its activities to the Town and shall send a copy thereof to the Executive Office of Elder Affairs.

**SECTION 6** - The Council may appoint such clerks and other employees as it may require, providing however that no clerks or employees shall be appointed unless the Town of Hingham shall previously have appropriated the funds for the salary of any such clerks or employees or the same shall have been provided by the Commonwealth of Massachusetts and/or the Federal Government.

**SECTION 7** - In accordance with M.G.L. c. 44, s. 53E½, there is hereby established in the Department of Elder Services a Department of Elder Services Revolving Fund for the following purposes:

1. For the receipt of all fees and charges received from Senior Center Programs of the Department of Elder Services and/or the Council on Aging.
2. For Expenditures to pay the costs and expenses of said Senior Center Programs.

The Director of Elder Services shall be authorized to expend from said Revolving Fund for said purposes in accordance with the provisions of M.G.L. c. 44, s. 53E½. The Director of Elder Services shall report all receipts and expenditures of said Revolving Fund to the Select Board at the end of each Fiscal Year.

And further, to establish said Elder Services Revolving Fund for Fiscal Year 2018 in accordance with the above provisions and to limit the total amount that may be spent from said Elder Services Revolving Fund to \$60,000 during Fiscal Year 2018.

## ARTICLE 17

### DOG REGULATIONS

**SECTION 1** - No owner or keeper of a dog shall permit the dog to go beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash or attended by a person exercising control of such dog. If, in the sole judgment of the Animal Control Officer or any police officer, an unleashed dog (That is not confined to the property of the owner or keeper) is not under voice control, the owner or keeper shall leash the dog immediately at the direction of said officer.

**SECTION 2** - The Animal Control Officer may apprehend and impound any dog which they determine to be in violation of Section 1.

**SECTION 3** - The Animal Control Officer, upon apprehending any dog, shall make a complete registry, entering the breed, color and sex of such dog, its license number, and the name and address of the owner if known.

**SECTION 4** - If the owner of an impounded dog is known, such owner shall be given notice of the impounding within three days thereof. Such owner may reclaim the dog upon payment of a fee determined by the Animal Control Officer with the approval of the Select Board, together with any unpaid license fees, late fees, fines and reasonable costs incurred by the Town for impounding and maintaining the dog.

**SECTION 5** - No person shall keep within the Town any dog which by biting, barking, howling or in any other manner disturbs the peace and quiet of any neighborhood or endangers the safety of any person, domesticated animal or farm animal. No owner or keeper of a dog shall permit the dog to perform its natural body functions on property other than that of the dog owner or keeper without approval of said property owner.

**SECTION 6** - The Animal Control Officer is hereby authorized to seek a complaint against the owner or keeper of a dog who is found to have violated Sections 1 or 5 of this By-Law and impose fines and reclaiming fees with the approval of the Select Board.

**SECTION 7** - In addition to the foregoing fines and reclaiming fees, the Animal Control Officer is also authorized and empowered to muzzle, restrain or order the owner or keeper of a dog to muzzle or restrain a dog pending a hearing before the Select Board as hereinafter provided, when the Animal Control Officer finds that

- a. a dog has bitten or threatened any person, domesticated animal or farm animal,
- b. a dog has chased any vehicle upon any way open to public travel in the Town,  
or

- c. the owner or keeper has violated any provision of this By-Law more than three times in any calendar year.

**SECTION 8** - The owner or keeper of any dog that has been ordered muzzled or restrained under the provisions of Section 7 may request the Animal Control Officer in writing to vacate such order. If such order is not vacated, the owner of such dog may bring a petition in the District Court praying that the order of restraint be reviewed by the court as provided in Massachusetts General Laws, Chapter 140, Section 157 as amended.

**SECTION 9** - In addition to any other statutory authority contained in Massachusetts General Laws, Chapter 140, the Animal Control Officer may enter a complaint with the Select Board to the control or disposition of any dog found to be uncontrollable or whose owner or keeper is unresponsive to any other penalties contained in this By-Law.

**SECTION 10** - Dog Licenses and Rabies Vaccinations

- a. Each dog in Hingham must be licensed at six months of age and remain licensed thereafter.
- b. No dog license will expire later than the expiration date of the current rabies vaccination.
- c. No dog license will be issued until proof of a current rabies vaccination has been determined.
- d. A fine of \$15 will be assessed for failure to license a dog within two months after (1) the dog reaches six months of age or (2) expiration of the current license or (3) being acquired or moved into the Town of Hingham without a current license.
- e. A fine of \$50 will be assessed for failure to maintain a current rabies vaccination for a dog unless (1) the dog is under six months of age or (2) the dog has been acquired or moved into the Town of Hingham less than ninety days.
- f. Any fine may be assessed through non-criminal process in accordance with MGL Ch 40, Section 21 D. Each day on which any such violation continues shall be considered a separate violation of this section. The availability of non-criminal process under this article shall not preclude the use of criminal process or other means of enforcement.

**SECTION 11** - All monies received or recovered from license fees, late fees, reclaiming fees, reasonable costs and fines shall be paid into the treasury of the

Town of Hingham.

**SECTION 12 – Banned or Removed Dogs**

a. Dogs “banned” or “removed” from another town or municipality may not be relocated to or permitted to be kept within the territory of the Town of Hingham.

b. Fines for Violation – Violation of Article 17, Section 12 a shall be punished by a fine of \$50.00 for each offense, each day of violation constituting a separate offense.

## ARTICLE 18

### FEES FOR PLUMBING AND GAS PERMITS

#### Residential Plumbing and Gas Fees:

1 Fixture (Minimum)	\$ 35
Each additional fixture	\$ 10
New house (complete)	\$200
Site Visit	\$ 35
Re-inspection fee	\$ 75/unit

#### Commercial Plumbing and Gas Fees:

1 fixture (Minimum)	\$ 45
Each additional fixture	\$ 15
Site Visit	\$ 50
Re-inspection fee	\$ 75/unit

Work started without permits: Double fee

Permit applications are to include homeowner's phone number.

Inspections are conducted Monday – Friday After 10:00 am

Inspections to be called in to 781-741-1420 between 8:30 and 10:00 am with the permit number.

Plumbers must be on premises for all inspections

No Water Piping To Be Installed On Outside Walls. No exceptions

Permit applications cannot be accepted without required fees

Rough and final inspections mandatory

Re-inspection fees will be enforced

In accordance with M.G.L. c. 44, s. 53E½, there is hereby established in the Building Department a Building Department Revolving Fund for the following purposes:

1. For the receipt of all fees from plumbing, gas, and electrical inspections performed by Inspectors.



2. For expenditures to pay wages, salaries, and fringe benefits (as applicable) for said Inspectors and their staff for performance of their services.

The Building Commissioner shall be authorized to expend from said Revolving Fund for said purposes in accordance with the provisions of M.G.L. c. 44, s. 53E½. The Building Commissioner shall report all receipts and expenditures of said Revolving Fund to the Board of Selectmen at the end of each Fiscal Year.

## **ARTICLE 19**

### **FIRE DISTRICTS**

The following districts are established and designated as Fire Districts pursuant to and in accordance with Article 3 of Massachusetts State Building Code. All buildings and structures, and all additions, enlargements, and/or extensions to existing buildings and structures, erected or extended or added after January 1, 1975, in areas so designated shall be governed by the provisions of Article 3 of the Massachusetts State Building Code:

(1) Fire District No.1: All areas designated on a plan entitled "Town of Hingham Fire Districts – 1975" as from time to time amended, on file in the office of the Town Clerk, and in the office of the Building Commissioner, including those areas or zones designated on the Town of Hingham Zoning Map as Business District A, Business District B, Waterfront District, Industrial District A, Industrial District B, Industrial Park District, and Office Park District.

(2) Outside Fire Limits: All areas not designated as within Fire District No. 1 are deemed to be "Outside Fire Limits."

## **ARTICLE 20**

### **FEEES FOR EXPLOSIVES AND INFLAMMABLE MATERIALS**

Fees for licenses, registrations and certificates relative to explosives and inflammable materials included in Massachusetts General Laws Chapter 148, Section 9.

The following fees for initial licenses and for certificates of annual registration are hereby established and shall be paid to the Town Clerk by all applicants and holders of licenses excepting from the provisions hereof the Town of Hingham and any subdivision thereof, including all boards, departments, committees, commissions, councils, and any body of a similar nature of the Town, prior to issuance of a license or certificate of annual registration:

(1) Initial License: The fee for initial license pertaining to the keeping, storage, manufacture or sale, of gunpowder, dynamite, crude petroleum or any of its products, or explosive or inflammable fluids or compounds, tablets, torpedoes or any explosives of a like nature, of any substance having such properties that it may spontaneously, or acting under the influence of any contiguous substance, or of any chemical or physical agents, ignite or inflame or generate inflammable or explosive vapors or gases to a dangerous extent, shall be \$100.00.

(2) The fee for annual registration and/or certificate of such annual registration pertaining to the keeping, storage, manufacture or sale of any product or material, included in subparagraph (1) above, shall be \$100.00.

## ARTICLE 21

### FEES FOR BUILDING PERMITS

The following fees for building permits are hereby established and shall be paid by an applicant for a building permit, to the Building Commissioner, for use of the Town, at the time of filing an application and, in any event, prior to the issuance of permit:

#### **Residential**

New Construction, Add'n/Altn's. Demolition	\$10/\$1000 of est. cost or \$50 minimum
Certificate of Occy. (includes Temporary)	\$35 per unit
Tent	\$35
Re-inspection fee	\$75
Work started w/o permit	Dbl. Fee & \$100

#### **Commercial**

New Construction, Add'n/Altn's. Demolition	\$15/\$1000 of est. cost or \$50 minimum
Certificate of Occy. (Includes Temporary)	\$35 per unit
Signs	\$3 sq. ft. or \$50 minimum
Tent	\$35
Re-inspection fee	\$75
Work started w/o permit	Dbl. Fee & \$100

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The fees set forth herein may be changed and adjusted from time to time by the Select Board.

In the case of an application for a building permit submitted by the Hingham Housing Authority, this fee may be waived at the discretion of the Select Board, but only for such projects as are developed solely by the Hingham Housing Authority or by the Hingham Housing Authority in partnership with other public sector or nonprofit organizations.

## ARTICLE 22

### WETLANDS PROTECTION BY-LAW

#### **SECTION 1: PURPOSE AND PROTECTABLE RESOURCES**

The purpose of this By-Law is to protect the foreshores, wetlands, and groundwater supply of the Town of Hingham by controlling activities deemed to have a significant effect on wetland and water quality values, including, but not limited to, the following:

Public or private water supply, groundwater, flood control, erosion control, storm damage, water pollution, fisheries, shellfish, wildlife, recreation and aesthetics. No person shall remove, fill, dredge, or alter any bank, freshwater wetland, coastal wetland, beach, dune, bog, flat, marsh, meadow, vernal pools or swamp, or any estuary, creek, river, stream, pond, lake, or the ocean, or the land under or bordering on said waters or wetlands, or any land subject to tidal action, coastal storm flowage, or flooding, or Riverfront Area without first filing written notice of their intention to so remove, fill, dredge, or alter by sending a separate letter, by certified mail, or by hand delivery to the Hingham Conservation Commission (hereinafter referred to as the "Commission") or its authorized agent, and without receiving and complying with an Order of Conditions, and provided all appeal periods have lapsed. Such Notice of Intent shall include such plans as required, from time to time, by the Commission and as may be necessary to describe such proposed activity and its effect on the environment. The same plans and specifications required to be filed by an applicant under Massachusetts General Laws, Chapter 131, Section 40, will be accepted as fulfilling the requirements of this By-Law.

The Commission may hear any oral presentation under this By-Law at the same public hearing required to be held under the provision of said Chapter 131, Section 40 of the Massachusetts General Laws. Definitions set forth in said chapter and section of the General Laws and in the regulations issued, as amended from time to time, by the Department of Environmental Protection, or any successor thereto, are hereby made a part of this By-Law. The Commission may, from time to time, adopt such additional definitions, regulations, and performance standards as it may deem necessary to further the purpose and protect the interests of this By-Law. Said definitions shall become effective upon publication following a public hearing.

This Article 22 is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40 and regulations thereunder, 310 CMR 10.00. Activities that may not require review or permitting under the Wetlands Protection Act, the Rivers Protection Act, or other federal, state or local statutes are not assumed to be exempt from this By-Law.

## **SECTION 2: REGULATED ACTIVITIES**

2A. Except as permitted by the Commission or as otherwise provided in this By-Law, no person shall remove, fill, dredge, alter or build upon or within one hundred (100') feet of any resource area, as outlined in Section 1 of this By-Law, or within the two-hundred foot (200') Riverfront Area, as defined in 310 CMR Section 10.58. The provisions of this By-Law shall not apply to any removing, filling, dredging, or altering necessary in the course of maintaining or repairing, or replacing, but not substantially changing or enlarging, an existing lawfully located structure or facility used in the service of the public to provide electric, gas, sewer, water, telephone or telecommunication services. Any removal, filling, dredging or altering authorized by this section 2A shall be subject to best management practices for sediment and erosion control.

2B. Except as authorized by the Commission, no activity or alteration shall be permitted within a fifty (50') foot Buffer strip between any wetland resource , bordering vegetated wetland, coastal dune or bank, and/or isolated vegetated wetland and any proposed site disturbance. Prohibited activities shall include, but are not limited to, the following: (1) new construction of any buildings, decks, in-ground and above-ground swimming pools, sheds and/or driveways of any nature or type (excepting water dependent structures expressly approved by the Commission); (2) alteration, reconstruction or relocation of existing buildings, sheds and/or driveways of any nature or type; and (3) activities which involve or result in the removal, filling or altering of land within the buffer strip, including vegetation removal and grading. Nothing herein shall preclude the maintenance of an existing, lawfully constructed structure located within the BUFFER ZONE. The Commission may allow the prohibited activities upon an express determination that the applicant has made a clear and convincing showing that the proposed work in the BUFFER STRIP and its natural and consequential impact and effects will not adversely affect the wetland values of this By-Law.

2C. Except as authorized by the Commission, no activity or alteration shall be permitted within one hundred (100') feet of a vernal pool, whether it be certified or uncertified but accompanied by credible evidence of its viability as a vernal pool. The one hundred feet (100') around the defined vernal pool boundaries shall be known as "Vernal Pool Protection Zone".

Isolated Vegetated Wetlands, Isolated Land Subject to Flooding, and the adjacent 100 feet surrounding these depressions are protected under the Hingham Wetlands Protection By-Law. Vernal Pool Habitat is defined as confined basin depressions which, at least in most years, hold water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish populations, as well as the area within 100 feet of the mean annual boundaries of such depressions.

## **SECTION 3: DEFINITIONS**

The term "person" as used in this By-Law shall include any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, the Commonwealth or political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representatives, agents or assigns.

#### **SECTION 4A: REQUEST FOR DETERMINATION**

The Commission may make a determination as to whether or not this By-Law applies to a specific situation prior to the filing of a written Notice of Intent under the provisions hereof within twenty-one (21) days of the receipt of a written request by certified mail, or by hand, from any person desiring such a determination. The Commission, its agents, officers, and employees, may enter upon the land on which the proposed work is to be done in response to a Request for Determination, or for the purpose of carrying out its duties under this By-Law, and make, or cause to be made, such examination or survey as it deems necessary.

#### **SECTION 4B: NOTICE OF INTENT**

The same Notice of Intent, plans and specifications required to be filed by an applicant under Massachusetts General Laws, Chapter 131, Section 40, will be accepted as fulfilling the filing requirements of the By-Law. Within twenty-one (21) days after receiving a Notice of Intent, the Commission shall hold a public hearing on the proposed activity. Notice of the date, time and place of said hearing shall be given by the Commission at the expense of the applicant not less than five (5) days prior to such hearing by publication in a newspaper of general circulation in the Town and by mailing a notice to the applicant by mail. The applicant may be present at said hearing and may be represented by counsel and shall be entitled to present evidence, call witnesses, and question any witnesses appearing at the hearing. The Commission shall make and keep a record of its proceedings and, upon request, shall furnish copies at reasonable cost. Said hearing shall be conducted simultaneously with the public hearing required to be held under the provisions of said Chapter 131, Section 40, and in conformity with said regulations promulgated by the Department of Environmental Protection. The Commission, its agents, officers, and employees, may enter upon the land on which the proposed work is to be done in response to a Request for Determination, or for the purpose of carrying out its duties under this By-Law, and make, or cause to be made, such examination or survey as it deems necessary.

#### **SECTION 5: AUTHORIZATION OF COMMISSION TO DENY PROJECT**

The Commission is empowered to deny permission for any removal, dredging, filling or altering on subject lands within the Town if, in its judgment, such denial is necessary to preserve the environmental quality and to protect the wetland and water quality values of either or both the subject lands and contiguous lands. Due consideration shall be given to possible effects of the proposal on all values

to be protected under this By-Law and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.

#### **SECTION 6: ISSUANCE OF AN ORDER OF CONDITIONS**

The Commission may, as an alternative to denial, impose such conditions as it deems necessary to contribute to said protection and preservation of subject and contiguous lands in accordance with the purpose of this By-Law and may issue an Order of Conditions. Any Order of Conditions issued under this By-Law shall be considered a "permit obtainable by local by-law", as defined in Massachusetts General Laws, Chapter 131, Section 40 and its regulations.

#### **SECTION 7A: EMERGENCY WORK AND OTHER EXEMPTIONS**

Notice required by Section 1 of this By-Law shall not apply to emergency projects necessary for the protection of the health or safety of the citizens of the Commonwealth and to be performed or ordered to be performed by an agency of the Commonwealth of Massachusetts or of the Town. An emergency project shall mean any project certified to be an emergency by the Commission or its authorized agent. If the Commission or its authorized agent, as the case may be, fails to act within twenty-four hours of receipt of a Request for Certification of an emergency project, said project may be certified by the Hingham Select Board or its authorized agent. In no case shall any removal, filling, dredging, or altering commence prior to any emergency certification nor extend beyond the time necessary to abate the emergency.

#### **SECTION 7B: FILING FEES:**

The Commission is authorized to establish filing fees to defray costs incurred in conducting hearings under the Wetlands Protection By-Law and to adopt rules and regulations regarding the establishment and collection of such fees. Such rules and regulations may be adopted or amended at any regularly scheduled meeting of the Commission subject to the approval of the Select Board. Upon such approval they shall be published once in a newspaper of general circulation in the Town, shall thereafter be posted for seven consecutive days in five conspicuous places, and shall become effective upon the expiration of said seven (7) days.

The Commission may waive fees when an application fee for a permit, filing, or request for determination or applicability or other application is made by a government agency, municipality or not-for-profit organization.

#### **SECTION 8: ESTABLISHMENT OF SURETY BONDS**

The Commission may require the posting of security, running to the Town, including, without limitation, a letter of credit, cash, and bond with surety, in such form and amount and with such conditions as may be determined in the sole opinion of the Commission, after recommendation by its Town Counsel. Such security shall secure faithful and satisfactory performance on work required by



any final "Order of Conditions", but shall not be an amount greater than the estimated cost of the work required for the restoration of affected lands and properties if the work is not performed as required.

The Commission may also consider a Conservation Restriction, easement or other covenant enforceable in a court of law as a way to secure adherence to conditions imposed by the Commission. Such covenant shall be executed and duly recorded by the owner of record, running with the land to the benefit of the Town, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

#### **SECTION 9: ENTRY TO PROPERTY FOR REVIEW PURPOSES**

The Commission, its agents, officers and employees shall have the authority to enter upon privately owned land pursuant to warrant, court procedure, or another appropriate administrative order for the purpose of performing their duties under the Bylaw and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.

#### **SECTION 10: BURDEN OF PROOF**

The applicant for a permit shall have the burden of proving by a preponderance of credible evidence that the work proposed in the application and depicted on the plans will not have unacceptable significant or cumulative effect upon the wetland values protected by this Article 22.

#### **SECTION 11 ESTABLISHMENT OF ENFORCEMENT AUTHORITY**

##### **SECTION 11A:**

The Commission shall have the authority to enforce this By-Law, its regulations, and permits issued thereunder by enforcement orders, violation notices, administrative orders, and civil and criminal court actions. Upon request of the Commission to, and with the approval of, the Select Board, the Town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law.

##### **SECTION 11B: ESTABLISHMENT OF FINES**

Any person including, but not limited to, the property owner, landscaper, contractors and tree cutting services, who violates any provision of this By-Law, its regulations or any conditions of a permit issued pursuant to it shall be punished by a fine which shall be set by the Commission. The fine shall be \$100.00 (one hundred dollars) per violation. Each day or portion thereof during which a violation continues shall constitute a separate violation and each By-Law, regulation or permit violated shall constitute a separate offense. A Hingham police officer or the Conservation Commission or its agent may enforce this By-Law by noncriminal complaint pursuant to M.G.L. Chapter 40, Section 21D.

Upon request by the Commission, the Select Board and Town Counsel shall take such legal action as may be necessary to enforce this By-Law and permits issued pursuant to it.

**SECTION 11C: SHOW-CAUSE HEARINGS**

The Commission may require a Wetlands By-Law violator to attend a “Show-Cause” Hearing at a scheduled time and date certain if, in the Commission’s judgment, the violator has failed to respond to an Enforcement Order, cooperate with the Commission’s request for remedial actions or take required steps necessary for ensuring protection of the resources and associated buffer zones in a timely manner.

**SECTION 12: SEVERABILITY**

Should any section or provision of this By-Law be found invalid, the validity of any other section or provision thereof shall not be affected, nor shall it invalidate any permit, approval or determination which previously has been issued.

## ARTICLE 23

### SEWER APPROPRIATION BY-LAW

**SECTION 1** - Any Article in the Warrant for a regular or special town meeting which involves the expenditure or appropriation of money for the laying out, construction, making and/or maintaining a system of main drains and common sewers, within the Town of Hingham, shall include the following information in the body of the Article or in the motion under the Article, printed in the Advisory Committee report, or provided by the Advisory Committee as a printed document to be furnished voters at said regular or special town meeting:

(a) A complete list of streets, roads, ways or portions thereof in which there is to be the layout, construction or making of a system of main drains and common sewers;

(b) A financial impact statement including:

(i) The total estimated cost of the project;

(ii) The estimated property tax impact per \$1000 of assessment for each and every year funds are expended or repayments are being made on borrowing for said project;

(iii) The estimated rate of the assessment upon the owners of the land to be bettered based on the method of assessment voted by the Town and allowed by Massachusetts General Laws.

(c) The Board of Health may, but is not required to, submit an advisory statement indicating the public health and environmental needs for said project;

(d) The Board of Sewer Commissioners may, but is not required to, submit an advisory statement indicating the scope and constraints of said project; and

(e) Such other information as the Advisory Committee deems appropriate.

## ARTICLE 24

### PARKING FOR HANDICAPPED PERSONS

#### **SECTION 1 - REQUIREMENTS FOR HANDICAPPED PARKING SPACES**

No person shall park a motor vehicle, motorcycle or like means of transportation in a designated parking space that is reserved for vehicles owned and operated by disabled veterans or by handicapped persons unless said vehicle bears a distinctive license plate authorized by Section 2 of Chapter 90 of the General Laws or by similar laws of other jurisdictions.

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

If the number of parking spaces in any such area is more than fifteen (15) but not more than twenty-five (25), one parking space; more than twenty-five (25) but not more than forty (40), five (5%) percent of such spaces but not less than two (2); more than forty (40), but not more than one hundred (100), four (4%) percent of such spaces but not less than three (3); more than one hundred (100) but not more than two hundred (200), three (3%) percent of such spaces but not less than four (4); more than two hundred (200) but not more than five hundred (500), two (2%) percent of such spaces but not less than six (6); more than five (500) hundred but not more than one thousand (1,000), one and one-half (1 1/2%) percent of such spaces but not less than ten (10); more than one thousand (1,000) but not more than two thousand (2,000), one (1%) percent of such spaces but not less than fifteen (15); more than two thousand (2,000) but less than five thousand (5,000), three fourth (3/4 of 1%) percent of such spaces but not less than twenty (20); and more than five thousand (5,000), one half of the one percent (1/2 of 1%) of such spaces but not less than thirty (30).

#### **SECTION 2 - SIGN REQUIREMENTS FOR HANDICAPPED PARKING SPACES**

Parking spaces designated as reserved under the provisions hereof shall be identified by use of the above grade signs with white lettering against a blue background bearing the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles may be removed at Owner's Expense." Said spaces shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a

handicapped person; and shall be twelve feet wide or two eight foot side areas with four feet of cross hatch between them.

**SECTION 3 - REGULATION OF UNAUTHORIZED VEHICLES IN HANDICAPPED SPACES**

Unauthorized vehicles shall be prohibited within parking spaces designated for use by disabled veterans or handicapped persons as authorized by this By-Law, and shall be prohibited for use in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or a public way.

**SECTION 4 - PENALTY**

The penalty for violation hereof shall be as follows:

First Offense: One Hundred (\$100.00) dollars

Second Offense: One Hundred (\$100.00) dollars

Three or more offenses, the vehicles may be removed according to the provisions of Section 120D of Chapter 266 of the General Laws.

## ARTICLE 25

### WEIGHTS AND MEASURES – FEES

**SECTION 1** - Except as otherwise provided herein and as may be required by law, the following fees shall be charged by the Sealer of Weights and Measures:

a. For sealing balances and scales:

- over 10,000 pounds, fifty dollars;
- 5,000 to 10,000 pounds, thirty dollars;
- 1,000 to 5,000 pounds, twenty dollars;
- 100 to 1,000 pounds, ten dollars;
- more than ten pounds but less than 100 pounds, six dollars;
- ten pounds or less, four dollars;

b. For sealing avoirdupois, metric, apothecary, or troy weights -- forty cents each;

c. For sealing liquid - measuring meters:

- for oil or grease, four dollars;
- for gasoline, eight dollars;
- for vehicle tank pump, sixteen dollars;
- for vehicle tank gravity, twenty dollars;

d. For sealing other devices:

- fabric - measuring, four dollars;
- wire, rope, or cordage - measuring, four dollars;
- yard sticks, forty cents

**SECTION 2** - From time to time, fees herein may be established, changed, adjusted, increased, and/or deleted by the Sealer of Weights and Measures, with the approval of the Select Board.

## **ARTICLE 26**

### **ON-SITE WASTE WATER DISPOSAL SYSTEM INSPECTION**

No person or entity shall sell or transfer any real property within the Town, having a building or structure thereon, which utilizes an on-site waste water disposal system or systems, without having certified and provided the following:

(1) A written certification to the buyer that an inspection of the system or systems has been made, within the twelve month period immediately preceding the sale or transfer of said property, by a Disposal Works Installer licensed by the Town of Hingham or its subdivisions. Said certification shall disclose that the inspection was made, and the result(s) of said inspection;

(2) A scale drawing or plot plan to the Board of Health and the Board of Sewer Commissioners, containing the location, on said property, of the cover or covers for such system or systems. A copy of said drawing or plot plan shall also be provided to the buyer.

Any further action to be taken under this by-law shall be in accordance with such regulations as shall be adopted by the Board of Health.

## **ARTICLE 27**

### **PUBLICATION OF BUILDING PERMITS ISSUED**

Each week the office of the Building Commissioner shall cause to be published, in a newspaper of general circulation in Hingham, a list of all Building Permits issued during the previous week, except those issued for interior alterations and re-roofing. The list shall include the name or names of the applicant or applicants, the address of the property, the date the Permit was issued, a brief description of the proposed construction or operations and the statement; Building Permits may be appealed to the Board of Appeals. The time within which an appeal may be taken by a person aggrieved by an interpretation, order, requirement, direction or failure to act by the Building Commissioner, under the State Building code, is 45 days.



## **ARTICLE 28**

### **HISTORIC DISTRICTS BY-LAW**

#### **SECTION 1 - AUTHORITY AND PURPOSE**

This By-Law shall be known and may be cited as the Historic Districts By-Law of the Town of Hingham and is adopted pursuant to the provisions of Chapter 40C of the Massachusetts General Laws, as amended.

The purpose of this By-Law is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town, or its architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith. Regulations may be promulgated by the Historic Districts Commission in accordance with the provisions of Chapter 40C of the Massachusetts General Laws, as amended, in order to fulfill the purposes of this By-Law.

#### **SECTION 2 - HISTORIC DISTRICTS COMMISSION**

In accordance with the provisions of Chapter 40C, Section 4, of the Massachusetts General Laws, the Historic Districts Commission appointed by the Select Board pursuant to the provisions of Chapter 502 of the Acts of 1966 shall be designated as the Historic Districts Commission under this By-Law. The Commission shall consist of five citizens of the Town appointed for three-year terms, with the terms of either one or two members expiring each year. Five alternate members shall be appointed in a like manner. Vacancies shall be filled in the same manner as the original appointment for an unexpired term. One regular member and one alternate member shall be appointed from each of at least three nominees submitted by the Boston Chapter of the American Institute of Architects, from at least three nominees submitted by the Hingham Historical Society, and from at least three nominees submitted by the Hingham Planning Board. One regular and one alternate member shall be appointed, where possible, from among the residents of the historic districts, and one regular and one alternate member shall be appointed at large. If within thirty days after submission of a request for nominees to an organization entitled to submit nominations for membership on the Commission no such nominations have been made, the Select Board may proceed to make the appointments to the Commission without nomination by such organization.

In case of the absence, inability or unwillingness to act of a member of the Commission, their place shall be taken by an alternate member designated by the chair. Each member and alternate shall continue in office until the expiration of their term or until their successor is duly appointed and qualified. All members shall serve without compensation. The Commission shall annually elect a chair and vice-chair from its number and a secretary from within or without its number.

### **SECTION 3 - DEFINITIONS**

As used in this By-Law the word "altered" includes the word "rebuilt", "reconstructed", "restored", "removed", and "demolished" and the phrase "changed in exterior color"; the word "building" means a combination of materials forming a shelter for persons; animals or property; the word "Commission" means the Commission acting as the Historic Districts Commission; the word "constructed" includes the words "built", "erected", "installed", "enlarged", and "moved"; the words "exterior architectural feature" means such portion of the exterior of the building or structure as is open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint and other materials applied to exterior surfaces and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures; the words "person aggrieved" mean an applicant, an owner of property adjoining the property of an applicant, an owner of property within the same historic district as the property of an applicant and within one hundred feet of said property as measured from a property line and any charitable corporation one of whose purposes is the preservation of historic structures or districts; the word "structure" means a combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway.

### **SECTION 4 - CERTIFICATE OF APPROPRIATENESS, NON-APPLICABILITY OR HARDSHIP**

Except as otherwise provided in Sections 6 or 7 of this By-Law, no building or structure within an historic district shall be constructed or altered in any way that affects an exterior architectural feature unless the Commission shall first have issued a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship with respect to such construction or alteration.

Any person who desires to obtain a certificate from the Commission shall file with the Commission an application therefor in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material or other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

No building permit for construction of a building or structure or for alteration of an exterior architectural feature within an historic district and no demolition permit for demolition or removal of a building or structure within an historic district shall be issued by the Building Commissioner until the certificate required by this section has been issued by the Commission.

## **SECTION 5-- FACTORS CONSIDERED BY COMMISSION IN MAKING DETERMINATION ON APPLICATION FOR CERTIFICATE**

In passing on matters before it the Commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture, material and color of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures the Commission shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity, and the Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by other applicable laws or by-laws. The Commission shall not consider interior arrangements or architectural features not subject to public view.

The Commission shall not make any recommendation or requirement, except for the purpose of preventing changes or developments incongruous with the historic aspects or the architectural characteristics of an historic district.

## **SECTION 6 - EXCLUSION OF CERTAIN MATTER FROM REVIEW**

The authority of the Commission shall not extend to the reconstruction, if substantially similar in exterior design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year of the damage or destruction and carried forward with due diligence.

The Commission may determine from time to time after public hearing that certain categories of exterior architectural features, if the provisions of applicable laws or by-laws do not limit the authority of the Commission with respect thereto, may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purposes of this By-Law.

Upon request the Commission shall issue a certificate of non-applicability with respect to construction or alteration in any category then not subject to review by the Commission in accordance with this Section 6.

## **SECTION 7 - ORDINARY MAINTENANCE; LANDSCAPING; CHANGES OTHERWISE PERMITTED OR REQUIRED**

Nothing in this By-Law shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within an historic district which does not involve a change in design, material, color or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of a requirement certified by a duly authorized

public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of the applicable historic district by-law.

## **SECTION 8 - ADDITIONAL POWERS, FUNCTIONS AND DUTIES OF COMMISSION**

The Commission shall be a majority vote of the members thereof promulgate appropriate procedural rules and regulations for the calling of meetings, the calling and conduct of hearings, the issuance and filing of certificates and other determinations, and the keeping of records, provided that the same shall be consistent with the requirements of Chapter 40C, Sections 10 and 11, of the Massachusetts General Laws, and other provisions of this By-Law.

The Commission may after public hearing set forth in such manner as it may determine various designs of certain appurtenances, such as lighting fixtures, which will meet the requirements of an historic district and a roster of certain colors of paint and roofing materials which will meet the requirements of an historic district, but no such determination shall limit the right of an applicant to present other designs or colors to the Commission for its approval.

The Commission may, where a certain construction or alteration is otherwise inappropriate, nevertheless determine that owing to conditions especially affecting the building or structure involved, but not affecting the historic district generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and that such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this By-Law. If the Commission so determines, it shall cause a certificate of hardship to be issued to the applicant.

The Commission may, subject to appropriation, employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work, and may accept money gifts and expend the same for such purposes.

The Commission shall have, in addition to the powers, authority and duties granted to it by this By-Law, such other powers, authority and duties as may be assigned to it from time to time by Town Meeting vote.

## **SECTION 9 - APPEALS TO AND ENFORCEMENT BY THE SUPERIOR COURT**

Any person aggrieved by a determination of the Commission may, within twenty days after the filing of the notice of such determination with the Town Clerk, appeal to the superior court for Plymouth County, in accordance with the provisions of Chapter 40C, Section 12A, of the Massachusetts General Laws.

The superior court for Plymouth County may, in accordance with the provisions of Chapter 40C, Section 13, of the Massachusetts General Laws, enforce the provisions of this By-Law, and any determination, ruling or regulation issued pursuant thereto, and may, upon the petition of the Commission or the Select Board, restrain by injunction violations thereof; and, without limitation, such court may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, or the substantial restoration of any building, structure or exterior architectural feature altered or demolished in violation thereof, and may issue such other orders for relief as may be equitable.

Whoever violates any of the provisions of this By-Law shall be punished by a fine of not less than ten dollars nor more than five hundred dollars. Each day during any portion of which a violation continues to exist shall constitute a separate offense.

#### **SECTION 10 - DISTRICTS ESTABLISHED BY SPECIAL ACTS OF THE GENERAL COURT**

The Lincoln Historic District and the Glad Tidings Historic District, established pursuant to a prior Special Act of the Massachusetts General Court, shall hereafter be subject to the provisions of this By-Law, notwithstanding the terms of such Special Act. The provisions of this By-Law shall not affect the validity of these historic districts.

## ARTICLE 29

### ELECTRICAL PERMIT FEES

- A. **All inspection requests require a permit number.**
- B. All service related work requires a utility authorization number.
- C. Service alteration fees are in addition to minimum charges.
- D. Fees for unusual or special condition not listed on this fee schedule shall be set by the Inspector of Wires or the Building Commissioner.
- E. Electrical permits must be obtained within 5 days of commencing work or a double fee for that permit will be charged.
- F. **All jobs must have a final inspection.**

#### Residential

1	Base Residential Fee	\$35.00
2	Reinspection fee	\$75.00
3	Inspection(late fee) permits after staging	\$70.00
4	Service Change 100 to 200 AMP Residential	\$35/\$70
5	Each Addn'l 100 AMPS or portion of (w 1 meter)	\$35.00
6	Temporary Service , six month limit	\$40.00
7	New Single Family Dwell/Complete Rehab + 50%	\$200.00
8	New Home complete with 200 AMP Service	\$225.00
9	New Home complete with 300 AMP	\$275.00
10	New Home complete with 400 AMP or more	\$325.00
11	Trenches each 100'	\$35.00
12	Audio Visual System	\$35.00
13	Major Appliances	\$35.00
14	Septic system wiring motor/pump	\$35.00
15	Alarm systems, Fire and Burgler	\$35.00
16	Gas or Oil Burners	\$35.00
17	Hot Water heater	\$35.00
18	Electric Heating per 10KW	\$35.00
19	Each addn'l 100 AMP meter or subpanel, each	\$35.00
20	Swimming Pools (inground)	\$90.00
21	Swimming Pools (above ground)	\$60.00
22	Hot Tubs/Spas/Hydromassage	\$60.00
23	Private Street Lighting, then \$20 per pole	\$35.00
24	Heat, Vent, & A/C Units	\$35.00
25	Low Voltage	\$35.00
26	Grounding of foundation/Metal Siding/Metal Bldg.	\$35.00
27	Hand holes, each	\$35.00

## Commercial Electrical Permit Fee Schedule

- A. **All inspection requests require a permit number.**
- B. All service related work requires a utility authorization number.
- C. Service alteration fees are in addition to minimum charges.
- D. Fees for unusual or special condition not listed on this fee schedule shall be set by the Inspector of Wires or the Building Commissioner.
- E. Electrical permits must be obtained within 5 days of commencing work or a double fee for that permit will be charged.
- F. **All jobs must have a final inspection.**

### Commercial

1	Base Commercial Fee	\$50.00
2	Reinspection required	\$75.00
3	Inspection Fee for Off Hour Inspections (add'l fee)	\$200.00
4	Annual Maintenance Inspection Fee (up to 5 insp)	\$225.00
5	Inspection (Late fee) for permits filed after staging work	\$100.00
6	New Const. - fee calculated @ .10 per sq. ft. \$200.00 min	\$200.00
7	Comm., Indust., Rehab more than 50% use new const.	\$200.00
8	200 AMP or less	\$150.00
9	201 AMP to 400 AMP	\$200.00
	401 to 600 AMP (over 600 based on \$1 per AMP)	\$250.00
10	Each Addn'l. Sub Panel or sub-main	\$50.00
11	Temporary Service , six month limit	\$70.00
12	Alarm System (Fire or Burglar)	\$50.00
13	Gas or Oil Burner	\$70.00
14	Cellular Tower Antenna	\$500.00
15	Cellular Tower Equipment Room	\$500.00
16	Gas Pumps (first 2, then \$20 per pump)	\$ 50.00
17	Grounding of foundation, Metal Siding or Metal Building	\$50.00
18	Ground Mounted Light (up to 3, each addn'l. \$20. per pole	\$50.00
19	Traffic light. (each addn'l. \$50)	\$100.00
20	Trenches per 100'	\$35.00
21	Low Voltage (first 25 jacks) each addn'l. \$1.50	\$70.00
22	HVAC Air Conditioner, addn'l. \$5 per ton/Max \$100	\$70.00
23	Tents, Concessions, Carnivals	\$100.00
24	Energy Management Systems	\$50.00
25	Hand holes, each	\$50.00
26	Exit Sign/Emergency Light (each)	\$10.00
27	Sign Lighting	\$25.00
28	Motion Picture Machines and Special Apparatus	\$50.00
29	Motors and Generators 1 HP to 8 HP	\$25.00
30	Motors and Generators 9 HP and over	\$35.00
31	Transformers 5 KVA -	\$250.00

## ARTICLE 30

### RULES AND REGULATIONS GOVERNING USE OF CONSERVATION LAND IN HINGHAM

**SECTION 1** - All people are welcome to use lands under the control of the Conservation Commission for passive recreation from 1/2 hour before sunrise to 1/2 hour after sunset. No person shall be allowed to use said lands at other times without the written permission of the Conservation Commission.

**SECTION 2** - No cars, trucks, or other powered vehicles or tools are allowed in or on said lands except authorized Town vehicles and those which may be allowed in or on said lands with the written permission of the Conservation Commission.

**SECTION 3** - (1) No hunting is allowed on any lands under the management, custody or control of the Town of Hingham Conservation Commission (hereinafter "Commission") other than as may be authorized by the Commission in accordance with the provisions of subsection (2) of this Section 3.

(2) (a) Otherwise lawful hunting of deer and fowl by use and shooting of bow and arrows may be conducted on those designated portions of any lands under the management, custody or control of the Commission only as authorized by written permit issued by the Commission in accordance with the provisions of this Section 3.

(2) (b) Such authorization and permits, if any, as provided for in subsection 2(a) hereof shall be granted by the Commission pursuant to a written policy or regulations developed, adopted, promulgated and implemented by the Commission to (i) comply with the Commission's legal obligations, (ii) manage the needs of the hunting community and the non-hunting community, and the resources involved with the activity, and (iii) comply with provisions of state and federal laws and regulations applicable to such hunting.

(2) (c) The Commission shall (i) develop and adopt said written policy or regulations as provided for under subsection 2(b) hereof through a public hearing process, (ii) promulgate and implement the initial written policy or regulations no later than October 1, 2014.

(2) (d) A mandatory provision of any such policy or regulations under subsection (2) (c) hereof shall require that any such authorization and permits can only be issued upon written application by each individual seeking such authorization and permit, which application shall require such information as the Commission deems reasonable to (i) comply with the Commission's legal obligations, (ii) manage the needs of the hunting and non-hunting community, and the resources involved with the activity, and (iii) comply with provisions of state and federal laws and regulations applicable to such hunting. The Commission may, as a condition precedent to the



issuance of any such authorization and permit, and with approval of the Select Board of the Town of Hingham, charge to and require payment of a uniform fee by all such applicants for the purpose of defraying the administrative cost of the Commission incurred in processing such applications and administering this Section 3; and may as a further condition precedent thereof require a written release of liability and/or indemnification from the applicant to the extent allowed by law.

**SECTION 4** - No person shall cut, break, remove, deface, defile, or ill-use any structure, fence, sign, stone wall, or have possession of any part thereof in or on said lands.

**SECTION 5** - No unauthorized person shall cut any trees, bushes, plants, or flowers in or on said lands without the written permission of the Conservation Commission.

**SECTION 6** - No trails shall be cut or marked, nor facilities of an enduring nature such as bridges, towers, lean-tos or buildings be constructed without the written permission of the Conservation Commission.

**SECTION 7** - No person shall engage in business, sell or expose for sale, or give away goods, wares or circulars, upon said lands without the written permission of the Conservation Commission.

**SECTION 8** Overnight camping on Conservation lands is not permitted without prior written approval from the Conservation Commission.

**SECTION 9** - No person shall dump or discharge any litter, trash, stumps, brush, leaves, sand, stones, or fill on any lands under the control of the Conservation Commission.

**SECTION 10-** No person except with written permission of the Conservation Commission under Permit, shall dig or disturb any artifact or archaeological remains.

**SECTION 11-** All persons 15 years of age and over, while fishing on land under control of Hingham Conservation Commission, shall possess and display a valid Massachusetts Fishing or Sporting License and comply with all other Fish & Wildlife Laws of the Commonwealth of Massachusetts. The Hingham Conservation Commission encourages a policy of "Catch and Release" of all fish taken from any waters under control of the Commission.

**SECTION 12-** No person shall tamper with the operation of any fish ladder or interfere with migrating adult or juvenile herring in any water courses or water bodies controlled by the Commission.

**SECTION 13-** Possession or consumption of alcoholic beverages is prohibited on all lands under the control of the Conservation Commission.

**SECTION 14-** Penalties: Any violation of the Rules and Regulations hereunder, carries with it a penalty of a fine not to exceed \$200.00.

## **ARTICLE 31**

### **DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS OR STRUCTURES**

#### **SECTION 1 - INTENT AND PURPOSE**

This By-Law is adopted for the purpose of protecting the historic and aesthetic qualities of the Town by preserving, rehabilitating or restoring whenever possible, buildings or structures which constitute or reflect distinctive features of the architectural or historic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage of the Town.

#### **SECTION 2 - DEFINITIONS**

For the purposes of this By-Law the following words and phrases have the following meanings:

Commission - The Hingham Historical Commission

Commission Staff – The person(s) regularly providing staff services for the Commission whom the Commission has designated as “commission staff” for the purposes of this By-Law.

Commissioner – The person occupying the office of Hingham Building Commissioner or otherwise authorized in the Town of Hingham to issue permits under the Massachusetts State Building Code.

Demolition – The act of pulling down, destroying, removing, razing or commencing the work of any destruction of a regulated building or structure as defined in Section 3 of this By-Law, or any portion thereof, excluding modifications to the interior of the building or structure having no effect on the exterior thereof. Without limiting the foregoing, demolition includes the act of removal or replacement of any historic architectural element of any regulated building or structure for which a building permit is required from the Commissioner including, but not limited to, the frame, finish, window(s), roofing, chimney(s), siding, or any other architectural feature affecting the exterior of a regulated building or structure.

Permit - A permit issued by the Commissioner for any Demolition (as defined in this By-Law). A Permit, as this term is used in this By-Law, shall include a building permit for Demolition activities as defined above and/or a permit for demolition issued by the Commissioner pursuant to the Massachusetts State Building Code.

Historically Significant – a determination by the Commission that a Regulated Building or Structure is:

(1) Importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth of Massachusetts or the United States of America; or

(2) historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.

### **SECTION 3 - REGULATED BUILDINGS AND STRUCTURES**

The provisions of this By-Law shall apply only to the following buildings or structures (and the architectural elements thereof) which shall be known for purposes of this bylaw as "Regulated Buildings or Structures":

(1) a building or structure listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listings on either of said Registers; or

(2) a building or structure located within 200 feet of the boundary line of any federal, state or local historic district; or

(3) a building or structure included in the Inventory of the Historic and Prehistoric Assets of the Commonwealth, the Hingham Comprehensive Inventory of the historic, architectural and archeological assets of the Town or designated by the Commission for inclusion in either of said Inventories. Notwithstanding the preceding sentence, the provisions of this section shall not apply to any building or structure located in a local historic district and subject to regulation under the provisions of Chapter 40C of the Massachusetts General Laws.

### **SECTION 4 - PROCEDURE**

A. The Commissioner shall forward a copy of each Permit application for a Regulated Building or Structure to the Commission within seven (7) days after the filing of such application. Notwithstanding anything to the contrary contained in this Article 31, the procedure set forth in this Section 4 shall not apply, and the Commissioner may issue a Permit, if the Commissioner determines that: (a) the proposed Demolition is part of a project which includes the repair or renovation of the structure in question, and (b) the appearance of the structure subsequent to the completion of the Demolition and related repair or renovation from the street(s) abutting the property upon which the structure is located shall be substantially the same as its appearance prior to such Demolition.

B. Within thirty (30) days after its receipt of such application, the Commission shall determine whether the Regulated Building or Structure is Historically Significant. The applicant for the permit shall be entitled to make a presentation to the Commission if they make a timely request in writing to the Commission. The Commission may, by a majority vote of the Commission, delegate the determination of whether a Regulated

Building or Structure is Historically Significant to Commission Staff or to a designated Commission member. In the event that the Commission delegates the determination to the Commission Staff or to a designated Commission member, the Commission shall adopt criteria to be followed by the Commission Staff or such member in making the determination. A determination by the Commission Staff or by a Commission member pursuant to such delegation shall be deemed a determination by the Commission.

C. If the Commission determines that the Regulated Building or Structure is not Historically Significant, it shall so notify the Commissioner and the applicant in writing and the Commissioner may issue a Permit. If the Commission determines that the Regulated Building or Structure is Historically Significant, it shall notify the Commissioner and the applicant in writing that a demolition plan review must be made prior to the issuance of a Permit. If the Commission fails to notify the Commissioner and the applicant of its determination within thirty (30) days after its receipt of the application, then the Regulated Building or Structure shall be deemed not Historically Significant and the Commissioner may issue a Permit.

D. Within sixty (60) days after the applicant is notified that the Commission has determined that a Regulated Building or Structure is Historically Significant, the applicant for the permit shall submit to the Commission ten (10) copies of a demolition plan which shall include the following information: (i) a map showing the location of the Regulated Building or Structure or architectural element(s) thereof to be demolished with reference to lot lines and to neighboring buildings and structures; (ii) photographs of all street facade elevations; (iii) a description of the Regulated Building or Structure or architectural element(s) thereof to be demolished; (iv) the reason for the proposed Demolition and data supporting said reason, including, where applicable, data sufficient to establish any economic justification for Demolition; and (v) a brief description of the proposed reuse of the parcel on which the Regulated Building or Structure is located.

E. The Commission shall hold a public hearing with respect to the application for a Permit, and shall give public notice of the time, place and purposes thereof at least fourteen (14) days before said hearing in such manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the board of assessors, to the planning board, to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice. Within sixty (60) days after its receipt of the demolition plan, the Commission shall file a written report with the Commissioner on the demolition plan which shall include the following: (i) a description of the age, architectural style, historic association and importance of the Regulated Building or Structure or architectural element(s) thereof to be demolished; and (ii) a determination as to whether or not the Regulated Building or Structure or any architectural element thereof should preferably be preserved. The Commission shall determine that a Regulated Building or Structure or architectural element thereof should preferably be preserved only if it finds that the Regulated Building or Structure or architectural

element(s) thereof is Historically Significant because it is important to the Town's historical and/or architectural resources and is in the public interest to preserve, rehabilitate or restore.

F. If, following the demolition plan review, the Commission does not determine that the Regulated Building or Structure and/or architectural element(s) thereof to be demolished should preferably be preserved, or if the Commission fails to file a report with the Commissioner within the time limit set out in subparagraph (E) next above, then the Commissioner may issue a Permit.

G. If, following the demolition plan review, the Commission determines that the Regulated Building or Structure and/or architectural element(s) thereof to be demolished should preferably be preserved, then the Commissioner shall not issue a Permit for a period of six (6) months from the date of the filing of the Commission's report unless the Commission informs the Commissioner prior to the expiration of such six (6) month period that it is satisfied that the applicant for the Permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the Regulated Building or Structure who is willing to preserve, rehabilitate or restore the Regulated Building or Structure, or has agreed to accept a Permit on specified conditions approved by the Commission.

H. Any material change to the plans filed and approved by the Commissioner and the Commission that (i) pursuant to the Massachusetts State Building Code, requires the permit holder to file for a modification, (ii) occurs subsequent to the issuance of a Permit previously approved by the Commission, and (iii) affects the exterior of a Regulated Building or Structure or architectural element thereof, must be reviewed by the Commission. The applicant shall submit plans detailing the requested changes to the Commission and the Commissioner. The Commission shall issue a written report to the Commissioner within 30 days of receipt of such plans. Such report shall either approve the requested changes and authorize the issuance of a Permit pursuant to the revised plans or shall deny the proposed changes. The changes shall be deemed approved if such report is not received by the Commissioner within said thirty (30) day period. If the proposed changes are not approved, the applicant may proceed with the work as authorized under the original Permit or the work as described in the revised plans will be subject to Section 4.G above.

## **SECTION 5 - EMERGENCY DEMOLITION**

If the condition of a Regulated Building or Structure poses a serious and imminent threat to the public health or safety due to its deteriorated condition, the owner of such Regulated Building or Structure may request the issuance of an emergency Permit from the Commissioner. As soon as practicable after the receipt of such a request, the Commissioner shall arrange to have the property inspected by a board consisting of the Commissioner, the Chair of the Commission and the Board of Health, and the Chief of the Fire Department, or their respective designees. After the inspection of the Regulated Building or Structure and consulting with this board, the Commissioner shall determine

whether the condition of the Regulated Building or Structure represents a serious or imminent threat to public health or safety and whether there is any reasonable alternative to the immediate Demolition of the Regulated Building or Structure which would protect the public health and safety. If the Commissioner finds that the condition of the Regulated Building or Structure poses a serious and imminent threat to public health or safety, and that there is no reasonable alternative to the immediate Demolition thereof, the Commissioner may issue an emergency Permit to the owner of the Regulated Building or Structure. Whenever the Commissioner issues an emergency Permit, under the provisions of this section 5, the Commissioner shall prepare a written report describing the condition of the Regulated Building or Structure and the basis for the decision to issue an emergency Permit with the Commission. Nothing in this section 5 shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by Chapter 143, Sections 6-10, of the Massachusetts General Laws. In the event that a Board of Survey is convened under the provisions of Section 8 of said Chapter 143 with regard to any Regulated Building or Structure, the Commissioner shall request the Chair of the Commission or the Chair's designee to accompany that Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the Commission.

## **SECTION 6 - NON-COMPLIANCE**

A. The Commission may request that the Select Board institute any and all actions or proceedings, in law or equity as the Select Board may deem necessary and appropriate to obtain compliance with the requirements of this By-Law or to prevent a threatened violation thereof.

B. Anyone who engages in Demolition in violation of this By-Law may be subject to a fine of not more than three hundred (\$300) dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished Regulated Building or Structure or architectural element is completed or unless otherwise agreed to by the Commission.

C. No building permit shall be issued with respect to any premises upon which Demolition has occurred in violation of this By-Law for a period of three (3) years after the date of such violation. As used herein, "premises" refers to the parcel of land upon which the Regulated Building or Structure (or architectural element thereof) was located and all adjoining parcels of land under common ownership or control.

D. Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any Demolition in violation of this By-Law better serves the intent and purpose of this By-Law, it may, prior to the expiration of said three (3) year period, authorize the Commissioner in writing to issue a Permit upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this By-Law. Upon issuance of such written authorization by the Commission to the Commissioner, and compliance of the landowner with the conditions, if any, of such

authorization, the building permit moratorium set forth in subsection 6.C shall cease, provided that future Permit applications for the premises shall be subject to applicable provisions of this By-Law.

E. Nothing in this Section shall be deemed to exempt a landowner from compliance with any requirements of the State Building Code or prohibit landowners from complying with any requirements of the State Building Code.

#### **SECTION 7 - APPEALS TO SUPERIOR COURT**

Any person aggrieved by a determination of the Commission may, within twenty days after the filing of the notice of such determination with the Commissioner, appeal to the superior court for Plymouth County. The court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the decision of the Commission to be unsupported by the evidence or to exceed the authority of the Commission or may remand the case for further action by the Commission or make such other decree as justice and equity shall require.

#### **SECTION 8 - SEVERABILITY**

In case any section, paragraph or part of this By-Law is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part of this By-Law shall continue in full force and effect.



## ARTICLE 32

### FIRE PREVENTION CODES

**SECTION 1** - Under the provisions of Chapter 148, Section 38A of the Massachusetts General Laws, the Town hereby establishes a permit fee in the sum of two hundred (\$200.00) dollars for the removal of an underground gasoline storage tank.

**SECTION 2** - Each compact dumpster shall have one two foot square hinged steel flap located on the top of the compactor for each ten feet in compactor length for the purpose of venting and firefighting.

**SECTION 3** - Each new underground tank used for storage of a flammable liquid shall be provided with not less than one separate four-inch (4") diameter PVC pipe with one end capped. Each open end shall be installed in the tank field under, and not more than three feet from, the tank. The pipe shall slope continuously downward to the capped end which shall terminate in an accessible pea-stone sump area located on the downward slope of the tank field. The purpose of the pipe or pipes is to provide means for detection of leakage from the tank.

**SECTION 4** - All underground tubing used for liquified petroleum gas (LPG) installations shall be protected against damage or distortion by protective hose or other covering approved by the Fire Chief.

**SECTION 5** - It shall be unlawful to obscure from view, damage, deface, park at, obstruct or restrict the access to any fire hydrants, fire lanes so marked or any Fire Department connection for the pressurization of fire suppression systems, including fire hydrants, fire lanes, and Fire Department connections that are located on public or private streets and access lanes, or private property. Upon receipt of notification of violation, obstructions or encroachments, the fire official shall proceed to notify the Police Department to remove same. Cost incurred in the per-performance of necessary work shall be paid for by the owner of record of said land, vehicle or obstruction.

**SECTION 6** - A person shall not use or operate any fire hydrant intended for use of the Fire Department for fire suppression purposes unless such person first secures a permit from the Fire Department and the Water Company having jurisdiction. This section shall not apply to the use of such hydrants by a person employed by and authorized to make such use by the Water Company having jurisdiction.

**SECTION 7** - Any business that is required to have on the premises, material safety data sheets (MSDS), shall have them stored in one or more protective containers accessible to the Fire Department, at a location or locations determined by the Fire Chief.

**SECTION 8** - When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life saving or firefighting purposes, the Fire Chief may require a key box to be installed in an accessible location. The key box shall be of a type approved by the Fire Chief and shall contain keys to gain necessary access as required by the Fire Chief.

**SECTION 9** - The placement of new hydrants in the Town of Hingham shall be as follows: Hydrants shall be easily accessible to fire apparatus. There shall be no obstructions, such as poles or fences to obstruct access to the hydrant. Hydrants shall not be located where they could be easily hit by automobiles and other vehicles such as the edge of driveways or directly in line with driveways.

Hydrants installed after the effective date of this By-Law shall not be spaced more than eight hundred (800) feet apart in residential areas, or more than five hundred (500) feet apart in mercantile and industrial areas. At no time shall the distance exceed eight hundred (800) feet to any building in the development. Hydrants shall be of a make and specifications as prescribed by the Fire Department, and be connected to a minimum of an 8" water main that will supply a minimum flow that will be prescribed by the Fire Department.

Hydrants installed after the effective date of this By-Law shall be set plumb with a minimum of eighteen (18) inches between the finish grade and the bottom of the large outlet. Hydrants shall be located no further than seven (7) feet from a paved road, and when placed on the same side as the sidewalk, shall be placed between the sidewalk pavement and the street pavement. Hydrants should be placed as close to intersections as possible and on property lines when possible. All expenses incurred in the placing of such hydrants shall be paid by the developer.

**SECTION 10** - For each nuisance fire alarm, after the third nuisance fire alarm within a 90 day period at the same location, the owner of the premises shall be required to pay an administrative fee of one hundred fifty (\$150.00) dollars to the Treasurer of the Town of Hingham. A nuisance fire alarm is defined as one caused by the failure of equipment, not owned by the Town, on the owners premises.

**SECTION 11** - Each marina float or pier system which is greater than 500 feet long from its land-side beginning to its end or ends, or which is determined by the Fire Chief or the Chief's designee (Fire Chief) to be inaccessible for firefighting, shall have a fire protection water piping system (System) installed for firefighting or emergency use. The System shall be a manual dry standpipe system, with a fire department connection and removable cap at its land-side end, ready for connection by the Fire Department to a water source in the event of need. The System shall be constructed of durable, corrosion-resistant materials, and it shall be equipped with 1½" hose connections at 100 foot intervals for use in fighting fires. The System shall be designed and installed in accordance with appropriate and nationally recognized standards for such systems; where so warranted by special conditions, the Fire

Chief may consider alternative materials and/or design standards for the standpipe system when such alternatives, in the Fire Chief's opinion, provide the required protection. The System shall be maintained in good operating condition at all times when the float or pier system is in use. The System shall be inspected and tested annually, on or before May 1, by a qualified testing agency, and a report detailing the results of the inspection and test shall be forwarded to the Fire Chief within ten days of the inspection and test. Any components of the System that fail the inspection or test shall be repaired or replaced within 30 days and the System shall be retested. The design and construction of all Systems shall be subject to the review and approval of the Fire Chief. Design documents for such Systems shall be submitted to the Fire Chief prior to the commencement of System construction, and the Fire Chief shall review and respond to the submittal within 30 days of receipt thereof. No System shall be constructed, expanded, or otherwise altered without the Fire Chief's approval. Installation of such System shall be completed, and the System must receive the Fire Chief's approval, before a float or pier system is allowed to be used. The marina float or pier owner shall pay all costs of the System, including, but not limited to, its design, construction, maintenance, inspection, and testing. The provisions of this By-Law shall apply to all new and existing marina floats or piers meeting the criteria described in the first sentence of this Section 11. A violation of this Section 11 may result in a fine of one hundred dollars (\$100) if, after receiving written notice of a violation from the Fire Chief, the marina owner fails to correct the violation within 30 days of receipt of such notice, or within such longer time as the Fire Chief may grant in appropriate circumstances. Each day that an uncorrected violation exists after the allowed time for correction has elapsed shall be deemed to be a separate offense."

**SECTION 12 - Violations** - Any person or persons in violation of any fire prevention code By-Law of the Town of Hingham or state laws or regulations applicable to fire prevention shall be subject to a fine of twenty (\$20.00) dollars per day per violation unless specified in said provisions. Notices of violations shall be in writing and violations shall be corrected in accordance with said notice. Said fine(s) shall be paid to the Treasurer of the Town of Hingham within ten working days. Failure to pay said fine(s) within the specified time shall result in the Fire Chief of the Fire Chief's designee initiating a complaint at the District Court.

## **ARTICLE 33**

### **REGULATION OF VENDORS, HAWKERS AND PEDDLERS**

#### **GENERAL**

A person licensed by the Commonwealth of Massachusetts as a transient vendor under the provisions of Chapter 101, Section 3 of the General Laws, or as a hawker or peddler under the provisions of Chapter 101, Section 22 of the General Laws shall, before making any sales of goods, wares or merchandise within the limits of the Town of Hingham, obtain a local license from the Select Board in the case of a transient vendor, or register with the Select Board in the case of a hawker or peddler. The Select Board may establish rules and regulations for the licensure, registration, operation and conduct of transient vendors, hawkers and peddlers.

#### **PARADES**

Transient vendors, hawkers or peddlers selling goods, ware and merchandise in conjunction with or in the vicinity of any parade, including, without limitation the Fourth of July Parade, in the Town of Hingham, shall be subject to the following restrictions:

1. Transient vendors, hawkers or peddlers shall at all times remain a distance of at least thirty (30) feet from the center-line of the street or roadway of the parade route.
2. No string graffiti products or aerosol spray products shall be sold.
3. No explosive devices such as HAND THROWN CAPS or similar products capable of making explosive noises shall be sold.
4. All transient vendors, hawkers and peddlers shall display their license number in a conspicuous manner at all times.
5. All transient vendors, hawkers and peddlers shall make any goods, wares or merchandise, which they offer or intend to offer for sale, available for inspection by the Police or Fire Chiefs or their designees.

## **ARTICLE 34**

### **FEEES FOR AUTOMATIC AMUSEMENT DEVICES**

The annual fee for a license, issued under Massachusetts General Laws, Chapter 140, Section 177A, to keep and operate an automatic amusement device shall be established at one hundred (\$100.00) dollars.

## ARTICLE 35

### ROLLERSKATING AND SKATEBOARDING

**SECTION 1** - No person shall rollerskate or skateboard on the following streets or adjoining public sidewalks:

Main Street from its intersection with Leavitt Street to its intersection with North Street; and

Central Street from its intersection with Elm Street to its intersection with North Street; and

North Street from its intersection with Route 3A to its intersection with Lincoln Street; and

South Street from its intersection with North Street to its intersection with Lafayette Avenue; and

Fearing Road from its intersection with Cottage Street to its intersection with North Street; and

Station Street from its intersection with North Street and its intersection with Water Street.

**SECTION 2** - Whoever violates the provisions of this Article shall be punished by a fine of not more than ten (\$10) dollars for the first offense, fifteen (\$15) dollars for the second offense and not more than twenty-five (\$25) dollars for the third and all subsequent offenses.

**SECTION 3** - The provisions of this Article are severable. If any provisions of the Article or the application thereof to any person or circumstance is held unconstitutional or invalid by any authority of competent jurisdiction, the application of such provisions to any other person or circumstance or the application of the remaining provisions of this Article shall not be impaired.

## **ARTICLE 36**

### **SOLICITATION**

#### **SECTION 1 – Definitions**

As used in this By-Law, the following terms shall have the meaning indicated:

a. 'Solicitor' shall include the following: any person who, for themselves or another person, firm, corporation, group or organization travels by foot, automobile, or any type of conveyance from place to place, house to house, or from street to street, taking orders or attempting to take orders for goods, wares, merchandise, services or securing or attempting to secure donations.

Solicitor shall also include any person requesting directly or indirectly any money, credit, property, financial assistance or anything of value in exchange for goods or services.

Solicitor shall not include any person who secures money, credit, property, financial assistance, or any other thing of value on the plea or representation that it will be used for a charitable, political or religious purpose or that it is to be exchanged for any such goods or services.

b. 'Charitable' shall mean and include the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported.

c. 'Religious' and 'religion' as used herein shall not mean and include the word 'charitable' as herein defined, but shall be given their commonly accepted definitions.

d. 'Person' shall mean any individual, firm, co-partnership, corporation, company, association, or joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other representative thereof.

#### **SECTION 2**

No solicitor or any person as defined in Section 1 shall enter upon the property of a resident or business which is affixed with a sign prohibiting solicitors or canvassers or any similar signs prohibiting trespassers or entry onto property.

#### **SECTION 3**

All solicitors as defined in Section 1 must obtain a permit if an individual, or a registration if an organization, prior to soliciting within the Town of Hingham All

individual solicitors must have said permit in their possession when soliciting within the Town of Hingham. Solicitors are obligated to inform the Police Department as to areas of Town in which soliciting will take place on each day solicitation is to take place. Where solicitation will occur after 6:00 p.m., the Solicitor shall inform the Police Department of the specific streets on which the intended solicitation is to occur.”

#### **SECTION 4**

Solicitors must obtain the following approvals, as applicable: An Organization Solicitation Registration and an Individual Solicitation Permit.

A. Organization Solicitation Registration: Every organizational solicitor in the Town of Hingham must submit a fully completed Organization Solicitation Registration form to the Chief of Police using the Organization Solicitation Registration form available at the Police Records Office. The Police Chief shall have twenty (20) days to approve the registration for such organization or notify the applicant that the registration is denied. The registration is non-transferable.

B. Individual Solicitor Permit: Each individual who seeks to solicit must submit a fully completed Individual Solicitation Permit application form and a passport-sized photograph to be used for the permit badge to the Chief of Police. The Individual Solicitation Permit application form shall be available at the Police Records Office. The Police Chief shall have twenty (20) days to approve an Individual Solicitation Permit application or notify the applicant that the permit is denied. Upon approval, the Chief of Police shall cause an individual permit, with picture identification, to issue within five (5) business days. The permit is non-transferable and must be displayed at all times while the permittee is soliciting. Upon request, the permittee shall show their permit to a police officer.

Each permit shall be valid for no more than six (6) months from the date of issue.

The organization registrant shall pay a processing fee of \$25 for each permit badge issued to individuals soliciting on its behalf. The Police Chief, for good cause shown, may waive this fee.

#### **BASIS FOR DENIAL OF A REGISTRATION**

The Chief of Police may refuse to register an organization which has been charged with fraud, deceptive or misleading advertising, or is under investigation by the Attorney General’s Consumer Fraud Prevention Division, until such charge or investigation is disposed of and the organization found not culpable.

No registration shall issue to any organization that the Police Chief determines has violated this by-law. No registration shall issue if the Police Chief determines that the application contains any fraudulent or untruthful statements. The Police Chief is



authorized to conduct background checks on applicants to determine suitability related to reasons for denial.

## BASIS FOR DENIAL OF A PERMIT

No permit shall issue if the applicant for the permit has ever been convicted of a felony, or any one or more of the following misdemeanors:

Assault and battery;

Breaking and entering a building or ship with intent to commit a misdemeanor;

Larceny;

Shoplifting, cheating by check;

Unlawful or fraudulent use of credit cards;

Unlawful taking of money;

Stealing or poisoning of a dog;

Buying, receiving or concealing stolen goods;

Deceptive advertising;

Making or publishing false statements;

Destruction or injury of a building;

Trespass on property after prohibition; and/or

Trespass with internal combustion engine or source of mechanical power.

No permit shall issue to any person who has violated any provision of this by-law. No permit shall issue if the Chief determines that the individual permit application form is incomplete. No permit shall issue if the Chief determines that the individual permit application form contains any untruthful or fraudulent statement. The Police Chief is authorized to conduct background checks on applicants to determine suitability related to reasons for denial.

## SECTION 5

**No permit or registration for solicitation shall be granted by the Police Chief unless the Police Chief finds that the applicant has presented substantial evidence of the goods or services they are proposing to solicit.**

## SECTION 6

No person having received a registration or a permit shall represent to the public that the same constitutes an endorsement or approval by the Town or its officials.

Should a permittee be arrested and charged with a crime that is alleged to have occurred in the course of conducting business under the permit, the permit shall be automatically suspended. Such suspension shall last until the resolution of the criminal proceedings. Should the permittee be found guilty of the offense, the permit shall be revoked and no subsequent permit shall be issued.

Upon determination by the Chief of Police that a permittee has been convicted of a

felony or any of the above-named misdemeanors, the permit shall be revoked and must be returned to the Police Chief within three (3) business days. Upon a determination that an Organization Solicitor Registration form contains untruthful or misleading information, or that the registrant has been convicted of fraud or found by the Attorney General's office to have violated any consumer protection law or regulation, the registration and any permits issued under that registration shall be revoked. All revoked permits must be turned in to the Police Department within three (3) days of notice by the Chief to the registrant or permittee. Failure to do so shall constitute a violation of this by-law and each day the permit is not turned in shall constitute a separate offense. Any person or organization that is denied registration or a permit or whose registration or permit has been revoked may appeal by filing a written notice of appeal with the Select Board. Such appeal must be filed within five (5) days after receipt of the notice of denial or revocation. The Select Board shall hear the appeal at a regularly scheduled meeting after the filing of the written notice of appeal. The Select Board shall issue a decision with thirty (30) days of the filing of the appeal.

#### **SECTION 7 – Penalties**

If due notice is given of a violation of this Article and that such a violation continues thereafter on the date of such notice, such a continuation shall constitute a separate offense. Each day thereafter that a violation continues shall constitute a separate offense. Any person who commits a violation of this Article shall be punished by a fine of \$100.00 for each such offense.

#### **SECTION 8**

Each provision of this Article shall be deemed independent of all other provisions hereof, and it is further the intention of the Town of Hingham that, if any provision of this Article is declared invalid, all other provisions shall remain valid and enforceable.

## ARTICLE 37

### COUNTRY CLUB MANAGEMENT COMMITTEE

**SECTION 1** - There is established effective July 1, 1993 a committee of the Town which shall be known as the Country Club Management Committee (the "Committee").

**SECTION 2** - The Committee shall consist of five citizens of the Town who shall initially be the five members of the Country Club Development Committee on June 30, 1993. The terms of such initial members shall expire on June 30, and the Select Board shall appoint members for three year terms commencing on July 1, as follows: two in 1994, one in 1995 and two in 1996. Thereafter upon the expiration of the term of each member, the Select Board shall appoint a member for a term of three years. Whenever any vacancy occurs, a member shall be appointed by the Select Board to fill the remainder of the unexpired term.

**Section 3** - While the Select Board may appoint such persons as they deem appropriate, they should if possible include as members of the Committee persons with training, experience or understanding with respect to financial controls and reporting, commercial, contract and municipal law, facilities management, and the organization and management of golf, swimming and other recreational activities for which the Country Club facility is or may be used.

**SECTION 4** - The Committee shall have care, custody and control of the approximately 160 acres of land and improvements owned by the Town of Hingham, numbered 274 South Street and generally known as the South Shore Country Club ("the Facility"), and shall do everything necessary or desirable to operate, maintain and enhance, in a prudent and business-like manner designed to be self-sustaining, the Facility.

**SECTION 5** - After notice and a hearing, the Select Board may remove a member of the Committee for good cause shown and may also remove a member if such removal is recommended by a majority vote of all the remaining members of the Committee (not including the member whose status is at issue) for failure to perform Committee duties or to abide by Committee rules and procedures duly adopted. If the Committee makes such a removal recommendation to the Board, the Select Board will investigate the facts and circumstances, and hold a public hearing at which the Committee shall have a right to appear and give evidence.

**SECTION 6** - The Committee may from time to time after a public hearing adopt rules for its own governance and adopt rules and regulations for the governance of the Facility.

**SECTION 7** - The Committee shall elect annually from among its members a Chair

and may elect such other officers as its rules may provide.

**SECTION 8** - The Committee shall submit to the Select Board a comprehensive annual written report on its operations and activities, and on the financial affairs of the Facility, and an interim status report on such matters at six-month intervals between annual reports. The Committee and the Select Board shall hold semiannual joint meetings at which the Committee shall summarize its recently submitted report, and answer any question thereon.

**SECTION 9** - The Committee shall submit as part of the regular municipal budget process, to the Select Board and the Advisory Committee, an annual operating budget including utilization in the next fiscal year of funds from operating receipts of the Facility. Each year the Committee shall present for comment, to the Select Board and Advisory Committee, a rolling five year capital and facility plan.

**SECTION 10** - The accounts of the Facility shall be audited annually as part of the Annual Town Audit, and the Committee shall take such additional steps as it may deem necessary or desirable to insure a high degree of confidence in the controls of the Facility's receipts and expenditures.

**SECTION 11** - For the purposes of Section 12 of Chapter 30B of the Massachusetts General Laws, the Committee, in conjunction with the Select Board, may enter into lease agreements: dealing with the provision of food and beverage at the South Shore Country Club, for a term of not less than one (1) year but in no event greater than ten (10) years, with up to three additional extensions of no more than five (5) years each, based on mutually agreed upon performance criteria; dealing with the bowling facilities for a term not exceeding seven (7) years; and may enter into golf maintenance contracts for a term not exceeding five (5) years.

## **ARTICLE 38**

### **COMMUNITY PRESERVATION COMMITTEE**

#### **SECTION 1 - Establishment**

In accordance with M.G.L. Chapter 44B, known as the Community Preservation Act, there is hereby established a Community Preservation Committee (“the Committee”) consisting of nine members. The term of office of each member of the Committee shall be three years. In case of a vacancy, the designating or appointing authority for that seat shall designate or appoint a new member to fill the remainder of the unexpired term. The composition of the Committee and the methods of appointment of the members of the Committee shall be as follows:

One (1) member of the Conservation Commission as designated by that Commission;

One (1) member of the Historical Commission as designated by that Commission;

One (1) member of the Planning Board as designated by that Board;

One (1) member of the Housing Authority as designated by that Authority;

One (1) member of the Recreation Commission as designated by that Commission;

Two (2) members to be appointed by the Select Board; and

Two (2) members to be appointed by the Moderator.”

#### **SECTION 2 - Amendments**

This Article 38 may be amended from time to time by a majority vote of Town Meeting, provided that no such amendment may cause this Article to conflict with the Community Preservation Act.

#### **SECTION 3 - Severability**

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

#### **SECTION 4 - Effective\_Date**

This Article shall take effect immediately upon approval of the Attorney General of the Commonwealth and proper posting by the Town Clerk in accordance with Section 32. Each of the appointing authorities designated in Section 1 shall have thirty (30) days after such approval to make their initial appointments. Should any such appointing authority other than the Select Board fail to make its initial appointment within such time, the Select Board shall make such appointment. Should the Select Board fail to make any of its initial appointments within such time, the Moderator shall make such appointments.

## ARTICLE 39

### HINGHAM AFFORDABLE HOUSING TRUST

**SECTION 1** (a) There shall be in the Town of Hingham a Hingham Affordable Housing Trust Fund, (hereinafter referred to as “the trust”). The purpose of the trust is to provide for the creation and preservation of affordable housing in the Town of Hingham for low- and moderate-income households.

(b) There shall be a board of trustees which shall include not less than five (5) nor more than nine (9) trustees. The trustees shall be appointed by the Select Board and shall include one (1) member of the Select Board and are designated as public agents for purposes of the constitution of the Commonwealth. The initial terms of the trustees shall be staggered as one (1) or two (2) year terms. All terms thereafter shall be for two (2) years.

**SECTION 2** (a) The powers of the board of trustees shall include the following:

(1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with the provisions of the Hingham Zoning By-Law or other by-law, or any general or special law or any other source, or money from the Community Preservation Act, G.L. Chapter 44B.

(2) to accept and receive municipal, school or other public property, subject to a majority vote of Town Meeting to transfer said property to the trust, for the purposes of the trust.

(3) to purchase and retain real or personal property for the purposes of the trust, including without restriction investments that yield a high rate of income or no income, and to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate.

(4) to manage or improve real property.

(5) to sell, lease, exchange, transfer or convey any real property for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to trust property as the board deems advisable, notwithstanding the length of any such lease or contract.

(6) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust.

(7) to employ and pay reasonable compensation to advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary.

(8) to apportion receipts and charges between income and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation, depletion or otherwise.

(9) to carry property for accounting purposes at other than acquisition date values.

(10) to borrow money on such terms and conditions and from such sources as the trustees deem advisable, to mortgage and pledge trust assets as collateral, subject to review by the Town Finance Director and approval by a majority vote of the Select Board. (Any debt issued by the Trust shall not be deemed to constitute a debt or liability of the Town of Hingham or a pledge of the faith and credit of the Town, but shall be payable solely from the revenues, funds and/or assets of the Trust. Any debt instrument executed by Trust shall contain on the face thereof a statement to the effect that the Town of Hingham is not obligated to pay the same or the interest thereof except from revenues, funds and/or assets of the Trust and that neither the faith and credit nor the taxing power of the Town of Hingham is pledged to the payment of the principal of or the interest on such debt. The issuance of debt by the Trust shall not directly or indirectly or contingently obligate the Town of Hingham to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.)

(11) to make distributions or divisions of principal in kind.

(12) to defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this Article, to continue to hold the same for such period of time as the board may deem appropriate.

(13) to extend the time for payment of any obligation to the trust.

(14) to provide grants or loans to assist low- or moderate-income homebuyers to purchase or rehabilitate a dwelling unit in the Town of Hingham.

(15) to convey, through sale, lease or transfer, real property purchased under this act, to any for-profit or non-profit developer or any public agency to provide low- or moderate-income housing, subject to an affordable housing restriction under Section 26 or Sections 31-33 of Chapter 184 of the General Laws.

(16) Each year the Trust shall provide to the Select Board a transparent and detailed financial report on the year's activities, as well as a cumulative report on all the activities of the Trust since inception, reflecting how the Trust has used its funds. The report shall include, but not be limited to:



- (a) sources of funds,
- (b) a description of projects undertaken and the status of those projects,
- (c) a schedule of all amounts spent, including for preservation of affordable housing, for creation of affordable housing, for grants or loans to other entities for preservation or creation of affordable housing, for administrative support, and for any other purposes permitted under this by-law, and
- (d) a prospective view of the Trust's expected operations for the next year, to the greatest extent possible.

In addition, the Trust shall provide a narrative report of proposed activities to the Select Board and the Advisory Committee in the fall of each year.

(17) Expenditures for the acquisition or disposition of real property shall be subject to approval by a majority vote of the Select Board.

(18) To act as the lottery and monitoring agent for affordable housing and to accept compensation for those services for deposit into the trust.

**SECTION 3** (a) As a means of providing available assets for the trust, all moneys received by the Town through the following means shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust:

(1) cash payments made by developers to the Town for purposes of creating or preserving affordable housing, under any development agreements or development approvals pursuant to the Hingham Zoning By-Law;

(2) gifts, grants, donations, contributions or other cash payments to the trust for the purpose of providing low- or moderate-income housing;

(b) general revenues appropriated into the trust become trust property, and to be expended these funds need not be further appropriated;

(c) all moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board of trustees within one year of the date they were appropriated into the trust, shall remain trust property;

(d) the trust is exempt from Chapters 59 and 62 of the General Laws, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof; and

(e) the books and records of the trust shall be reviewed annually by an independent auditor in accordance with accepted accounting practices.

**SECTION 4** As used in this act, the term “low or moderate income housing” shall mean “low income housing” or “moderate income housing” as defined in Section 2 of Chapter 44B of the General Laws.

**SECTION 5** The Town Treasurer shall be the custodian of the fund. Any income or proceeds received from the investment of funds shall be credited to and become part of the fund.

**SECTION 6** (a) The trust is a governmental body for purposes of Sections 23A, 23B and 23C of Chapter 39 of the General Laws.

(b) The trust is a board of the city or town for purposes of G.L. Chapter 30B and Section 15A of Chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, department and public instrumentalities of the Town shall be exempt from G.L. Chapter 30B.

(c) The trust is a public employer and the members of the board are public employees for purposes of G.L. Chapter 258.

(d) The trust shall be deemed a municipal agency and trustees as special municipal employees for purposes of G.L. Chapter 268A.”

## **ARTICLE 40**

### **THE NAMING OF PUBLIC BUILDINGS AND PUBLIC LANDS**

#### **SECTION 1 - Purpose**

This by-law is enacted to establish the process by which, in naming, renaming or otherwise designating public buildings and public lands, the Town seeks to recognize individuals, locations and/or events of significance in local history and local affairs.

#### **SECTION 2 - Definitions**

1. "Designate" - the act of calling by a distinctive title, term, or expression any public buildings or public lands as defined in this by-law.
2. "Name" – a word or phrase that constitutes the distinctive designation of any public building or public lands as defined in this by-law.
3. "Rename" – the act of redesignating any public buildings or public lands as defined in this by-law
4. "Public Building" – any structure, edifice or other facility owned or maintained by the Town of Hingham, or any department or agency thereof.
5. "Public Lands" – any real property owned or maintained by the Town of Hingham, or any department or agency thereof, including, but not limited to, playgrounds, parks, courts, athletic fields, intersections and medians, and private ways on public lands, but not including public ways regulated by Article 10 of the General By-laws.
6. "Features" – benches, bricks, flagpoles, plaques, parking spaces, trees, scoreboards, and signs or other markers located on public lands or within public buildings.

#### **SECTION 3 - Procedure**

1. The naming, renaming or other designation of any public building or public lands shall be by majority vote at an Annual Town Meeting. Once a public building or public lands have been named, they shall not be renamed unless there are exceptional circumstances.
2. Any proposed name or designation of any public building or public lands shall be submitted to the Select Board for its review and recommendation as to the appropriateness thereof. Following a duly-advertised public hearing, and with the advice of the Hingham Historical Commission, the Board shall forward its recommendation to the Annual Town Meeting.

3. No public building or public lands shall be named for any living person or shall bear the name of a commercial enterprise.

4. The naming, renaming or other designation of individual rooms, areas or sub-areas within a public building, or areas or sub-areas associated with any public lands, shall be by the department or agency having jurisdiction over the same, and paragraphs 1, 2 and 3 of this section shall not apply, provided that:

(a) such rooms, areas, or sub-areas constitute less than 25% of the public building or public lands at or in which the same may be located;

(b) the same shall not be named for any living person;

(c) no such room, area or sub-area shall bear the name of a commercial enterprise; and

(d) a duly-advertised public hearing is held at which such naming, renaming or designation is considered and acted upon by said department or agency. Any person objecting to such naming, renaming or designation by the department or agency may, within 10 days thereafter, appeal the action in writing to the Select Board, which shall, after a duly advertised public hearing, approve or reject the action.

5. The installation and naming, renaming or other designation of features shall be by the department or agency having jurisdiction over the same. The Select Board may, after a duly-advertised public hearing, establish standards and specifications for signs, plaques, markers or other features to be erected on public property within the Town.

## ARTICLE 41

### FALSE ALARMS

#### FALSE ALARMS

A. Definitions. For purposes of this Article, the following words and phrases shall have the following meanings:

#### ALARM SYSTEM

Any assembly of equipment and/or devices that is designed to be activated, manually or automatically, for the purpose of drawing attention to the presence of a hazard, emergency, or dangerous situation, whether caused criminally or otherwise, to which the police are expected to respond.

#### ALARM USER

Any person or business entity on whose premises an alarm system is installed and maintained in the Town of Hingham, except for alarms that are installed in or on motor vehicles.

#### FALSE ALARM

The activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of the alarm system or their agent or employees that causes any signal or communication to be transmitted to the Emergency Dispatch Center requesting, requiring, or resulting in a response from the Police Department when, in fact, there has been no unauthorized entry or intrusion into the premises or attempted robbery or burglary at the premises. False alarms include alarm activation caused by non-criminal behavior that could have been prevented by simple preventative measures. Excluded from this definition shall be the activation of an alarm system by power outages, utility companies, or other external factors beyond the alarm user's control, including hurricanes, severe storms, or other unusual weather conditions.

**B. False Alarm Fines.** The following schedule of fines for false alarms shall apply, subject only to adjustment from time to time by the Select Board, after public hearing, as circumstances warrant:

(1) After the Emergency Dispatch Center has recorded three (3) separate false alarms within any 12-month period, commencing on the date of alarm registration, the alarm user shall be assessed the following fines:

(a) Residential Alarm Users

\$50 for the 4th, 5th, and 6th false alarms

\$100 for the 7th, 8th, and 9th false alarms

\$150 for the 10<sup>th</sup> and any subsequent false alarm, and a mandatory meeting with the Chief of Police or the Chief of Police's designee to resolve the problem of repeated false alarms.

(b) Commercial Alarm Users

\$100 for the 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> false alarms

\$200 for the 7<sup>th</sup>, 8<sup>th</sup>, and 9<sup>th</sup> false alarms

\$300 for the 10<sup>th</sup> and any subsequent false alarm, and a mandatory meeting with the Chief of Police or the Chief of Police's designee to resolve the problem of repeated false alarms.

(2) Failure to pay the assessed fine within thirty (30) days shall subject the alarm user to court action for violation of a Town By-Law

**C. Audible Alarm.** All alarm systems that emit an audible signal shall be equipped with a device that limits the length of the audible signal to no more than ten (10) minutes.

Any user of an alarm system that does not have such a device, or that has a malfunction that allows the audible signal to continue for more than ten (10) minutes, shall be assessed a fine of \$50. Failure to pay such fine within thirty (30) days shall subject the alarm user to court action for violation of a Town By-Law or the placement of a municipal charge lien on the real property pursuant to M.G.L. c. 40, section 58, in the Plymouth County Registry of Deeds until the fine is paid.

**D. Registration.** All alarm systems shall be registered with the Police Department annually. Failure to register annually shall subject the alarm user to a fine of \$50, payable and enforceable as stated above.

**E. Unauthorized Alarm Activation.** Any alarm system activated intentionally without prior notification of the Police Department shall subject the alarm user to a fine of \$150 for the first and each subsequent such alarm, payable and enforceable as stated above.

**F. Exemptions.**

(1) All Federal, state, and municipal buildings and properties shall be exempt from the provisions of this By-Law.

(2) No provision of this By-Law shall be construed to place an obligation on the Police Department to respond to an alarm.

**ARTICLE 42**  
**NOISE CONTROL**

**SECTION 1: SHORT TITLE**

This By-law may be cited as the Hingham Noise Control By-law.

**SECTION 2: DECLARATIONS OF FINDINGS AND POLICY**

WHEREAS excessive sound poses a serious hazard to the public health, welfare, safety and quality of life, and WHEREAS the residents of the Town of Hingham have a right to, and should be ensured, an environment free of excessive Sound that may jeopardize their health, welfare or safety, or degrade their quality of life; NOW THEREFORE, it is the policy of the Town of Hingham to prevent excessive Sound which may jeopardize the health, welfare or safety of its residents, or adversely impact their quality of life. This By-law shall apply to the control of all Sound originating within the geographical limits of the Town of Hingham.

**SECTION 3: DEFINITIONS**

(a) All terminology used in this By-law, but not defined below, shall be used with the meanings ascribed to such terms in the applicable standards of the American National Standards Institute (“ANSI”) or its successor bodies.

(b) “Construction” means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding Demolition for, or of, public or private rights-of-way, structures, utilities, or similar property.

(c) “Demolition” means any dismantling, intentional destruction of, or removal of, structures, utilities, public or private rights-of-way surfaces or similar property.

(d) “Emergency Work” means any work performed for the purpose of preventing or alleviating the physical harm to Persons or property, which requires immediate action.

(e) “Enforcement Official” means a Town official having authority to enforce this By-law as provided in Section 4 below.

(f) “Legal Holiday” means any day designated as a legal holiday under federal or Massachusetts state law.

(g) “Noise Disturbance” means any Sound which: (a) may disturb or annoy reasonable Persons of normal sensitivities; (b) causes, or tends to cause, an adverse effect on the public health and welfare; (c) endangers or injures Persons; or (d) endangers or injures real or personal property.

(h) "Person" means any individual, association, partnership, joint venture, corporation or other form of legal entity.

(i) "Plainly Audible Sound" means any Sound as to which the information content is unambiguously communicated to the listener including, without limitation, understandable speech, comprehension of whether a voice is raised or normal, repetitive bass Sounds, or comprehension of musical rhythms, without the aid of any listening device.

(j) "Power Tool" means any device powered mechanically, by electricity, by gasoline, by diesel or any other fuel, which is intended to be used, or is actually used, for functions including, without limitation, cutting, nailing, stapling, sawing, vacuuming or drilling.

(k) "Public Right-of-Way" means any highway, boulevard, street, avenue, lane, sidewalk, alley or similar place, which is owned or controlled by a government entity.

(l) "Public Property" means any real property, including structures thereon, which are owned or controlled by a government entity.

(m) "Residential District" means any area designated as a Residential District in the Town of Hingham Zoning By-law.

(n) "Sound" means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium resulting in compression and rarefaction of that medium, and which propagates at finite speed to distant locations.

(o) "Weekday" means any day from Monday through Friday that is not a Legal Holiday.

#### **SECTION 4: ENFORCEMENT OF ORDINANCE**

(a) Enforcement Officials. This By-law shall be enforced by the Chief of Police, the Executive Health Officer, the Building Commissioner and their authorized designees. For all purposes other than the granting of permits under this By-law, designees of the Chief of Police shall include any Hingham Police Officer.

(b) Penalties for Violation. Violations of this By-law shall be punishable by fine in accordance with the following schedule:

Offense	Fine
First	\$100
Second	\$200
Third and Subsequent	\$300

Violations resulting from Sound emanating from a particular parcel of property will be assessed against the Person controlling said property at the time of the violation, regardless of said Person's legal status as owner, lessor, tenant-at-will, licensee or otherwise. Nothing contained in this subsection shall prohibit an Enforcement Official



from giving a warning in lieu of a fine if, in the Official's discretion, a warning is appropriate under the circumstances.

(c) Non-Criminal Disposition. In assessing fines for violations of this By-law, the Enforcement Official shall follow the procedure set forth in M.G.L. c. 40, § 21D.

## **SECTION 5: DUTIES AND RESPONSIBILITIES OF TOWN BOARDS AND OFFICIALS**

(a) Town Programs and Activities. All Town departments, boards and officials shall carry out their programs and activities in a manner reasonably consistent with this By-law.

(b) Cooperation of Town Boards and Officials. All Town departments, boards and officials shall cooperate with the Enforcement Officials in enforcing the provisions of this By-law.

(c) Project Review and Approval. All Town departments, boards and officials having responsibility for the review and approval of new projects or activities, or changes to existing projects that result, or may result, in the production of Sound shall, to the extent reasonably feasible under the circumstances, require compliance with the provisions of this By-law as a condition of approval. This By-law is not intended to require any Town department, board or official to apply a more restrictive standard for the approval of any project or activity, or change to any existing projects, than has been applied prior to the By-law's adoption.

## **SECTION 6: NOISE DISTURBANCE PROHIBITED**

(a) No Person shall make, continue, or cause to be made or continued, any Noise Disturbance. Unamplified, non-commercial public speaking and public assembly activities conducted at conversational voice levels on any Public Property or Public Right-of-Way shall be exempt from the operation of this Section if such Sound is not Plainly Audible beyond 100 feet or does not infringe the legitimate rights of others.

(b) The facts required to establish a Noise Disturbance shall be identical to those required

to establish a disturbance of peace under the common law (and punishable under M.G.L. c. 272, § 53). Violations of this By-law need only be proven by a preponderance of the evidence.

## **SECTION 7: SPECIFIC ACTIVITIES**

(a) Specific Activities Prohibited. Notwithstanding any other provision of this By-law, a Person engaging in any of the activities specified in subsections (b) through (d) of this Section 7 at any time other than that permitted for such activity in the applicable subsection shall be in violation of this By-law.

(b) Construction, Demolition and Commercial Landscaping Activity. No Person shall operate or permit the operation of any tools or equipment used in Construction, Demolition or commercial landscaping work in a Residential District between the hours of 7:00 p.m. and 6:59 a.m. the following day on Weekdays or between the hours of 7:00 p.m. and 7:59 a.m. the following day on any other day.

(c) Domestic Power Tools. No Person shall operate, or permit the operation of, any Power Tool or any garden tool, leaf blower or similar device powered mechanically, by electricity, by gasoline, by diesel or other fuel, outdoors in a Residential District between the hours of 8:00 p.m. and 6:59 a.m. the following day.

(d) Dumpsters and Trash Receptacles. No Person shall empty dumpsters or similar trash receptacles between the hours of 8:00 p.m. and 6:59 a.m. the following day on Weekdays or between the hours of 8:00 p.m. and 7:59 a.m. the following day on any other day.

(e) Engine Braking Devices. No Person shall operate any motor vehicle with an engine braking device engaged within the Town limits unless required for safety. This provision shall not apply to motor vehicles traveling on Route 3.

## **SECTION 8: EXEMPTIONS AND PERMITS**

(a) Exemptions. The following uses and activities shall be exempt from the provisions of this By-law:

(1) Any law enforcement motor vehicle in the performance of law enforcement duties.

(2) Any fire apparatus, ambulance, rescue, public works or emergency response vehicle creating Sound in the performance of public safety responsibilities.

(3) Any vehicle in the performance of Emergency Work.

(4) Public address systems used at public events in a manner approved by any Town board, department or official having authority over said use.

(5) Safety signals, warning devices, emergency pressure relief valves and similar devices during and in relation to public emergencies.

(6) Any activity (i) for which a permit under subsection (b) of this section exempting said activity from the provisions of this By-law has been granted by an Enforcement Official, (ii) which is the subject of a decision of any Town Board having authority over said activity including, without limitation, decisions of the Planning Board permitting certain activity at the Hingham Shipyard development and the Derby Street Shoppes or (iii) that is allowed by a Town board, department or official having authority over said activity including, without limitation, activity permitted subject to noise and/or use restrictions.

(7) Parades, music festivals, public gatherings, and events for which the Chief of Police has granted a permit.

(8) Bells, chimes or carillons, or their amplified, recorded, or other electronic substitution while being used in conjunction with religious services or to denote time intervals between the hours of 7:00 a.m. and 9:00 p.m.

(9) Snow removal from public or private parking lots, roads, driveways, sidewalks and other surfaces traveled by vehicles or pedestrians.

(10) Activities of temporary duration during a time of emergency conducted by a public utility company to repair or maintain public utility infrastructure.

(11) Construction activity under a valid permit issued by the Chief of Police under section 7 or 15 of Chapter 136 of the Massachusetts General Laws, or by any Town board, department or official having regulatory authority over Construction activity.

(12) Any vehicle utilizing an amplified communications system operated by a highway maintenance, water department, or public utilities worker acting in the performance of their responsibilities.

(13) The operation of modes of public transportation including, without limitation, buses, trains and commuter boats.

(14) Any activity to the extent the regulation thereof has been preempted by state or federal laws or regulations.

(b) Permits. Any Enforcement Official, for good cause shown, and with appropriate conditions so as to reasonably minimize the any adverse impact on the public, may grant a permit allowing activity that would otherwise violate this By-law.

## **SECTION 9: APPEAL**

Appeal of any citation for a violation of this By-law shall be made to the District Court or other court of competent jurisdiction in accordance with the provisions of M.G.L. c. 40, § 21D.

## **SECTION 10: SEVERABILITY**

If any of the provisions of this By-law are held to be invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

## **ARTICLE 43**

### **MARIJUANA NOT MEDICALLY PRESCRIBED**

In accordance with Massachusetts General Laws chapter 94G, section 3(a)(2), all types of marijuana establishments, as defined in Massachusetts General Laws chapter 94G, section 1, and as may otherwise be defined by Massachusetts law or regulation, including, without limitation, all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, on-site consumption of marijuana, and any other types of licensed marijuana-related businesses, as well as businesses dealing in marijuana accessories, and the conducting of any such activity for commercial purposes by whatever name used, shall be prohibited within the Town of Hingham. This prohibition shall not be construed to prohibit Registered Marijuana Dispensaries to the extent permitted under the Town of Hingham Zoning By-Laws.

## **ARTICLE 44**

### **PLASTIC BAG REDUCTION AND ENCOURAGE REUSABLE BAGS**

#### **SECTION 1 - PURPOSE AND INTENT**

Single-use plastic checkout bags have significant detrimental impacts on the environment and to public health including but not limited to: causing the death of marine animals and birds through ingestion and entanglement, contributing to pollution of the land environment and waterways, creating physical and financial burdens to solid waste collection and recycling facilities, clogging storm drainage and sewer systems, necessitating the expenditure of millions of barrels of crude oil nationally for their manufacture, and increasingly risking the public health from non-biodegradable microplastics, which wildlife ingest and enter the food chain that humans consume.

The goal of this by-law is to reduce the common use of plastic checkout bags and to promote the use of reusable bags by consumers, thereby reducing local land and marine pollution, reducing waste, protecting the town's unique natural beauty and irreplaceable natural resources, and improving the quality of life for the citizens of Hingham.

#### **SECTION 2 - DEFINITIONS**

The following words shall, unless the context clearly requires otherwise, have the following meanings:

“ASTM D6400” means the American Society for Testing and Materials (ASTM) International Standard Specification for Compostable Plastics.

“Checkout Bag” means a bag with or without handles provided by a Store to a customer at the point of sale that is intended for the purpose of transporting food or merchandise out of the Store. Plastic bags without handles used to cover clothing such as a dry cleaning bag are not included in this definition.

“Compostable Plastic Bag” means a plastic bag that conforms to the current ASTM D6400 standard specifications.

“Paper Bag” means a paper bag that can be readily recycled.

“Product Bag” means (1) a bag in which loose produce, bulk items, unwrapped baked goods or prepared food, or other products are placed by the consumer to deliver such items to the point of sale or check out area of the Store, or (2) a bag that contains or wraps foods to retain moisture or to segregate foods (like meat or ice cream) or other items to prevent contamination or damage when the items are placed together in a Recyclable Bag or Reusable Bag. Plastic bags without handles used to cover clothing such as a dry cleaning bag are not included in this definition.

“Recycled Paper Bag” means a paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content, and displays in a visible manner on the outside of

the bag (1) the word “recyclable” or a symbol identifying the bag as recyclable and (2) a label identifying the bag as being made from post- consumer recycled content and the percentage of post-consumer recycled content in the bag.

“Reusable Bag” means a bag that is either (1) made of cloth or other machine washable fabric, or (2) made of plastic other than polyethylene or polyvinyl chloride that is durable, non-toxic, and generally considered a food grade material, and is more than 4 mils in thickness.

“Single-use Plastic Checkout Bag” means a plastic Checkout Bag that is less than 4 mils thick or a Compostable Plastic Bag.

“Store” means any commercial enterprise selling goods, food or services directly to the public, whether for or not for profit, including, but not limited to: convenience and grocery stores, markets, restaurants, pharmacies, liquor stores, take-out food purveyors, and merchandise retailers.

### **SECTION 3 - USE REGULATIONS**

- (a) No Store in Hingham shall provide to any customer a Single Use Plastic Checkout Bag after November 1, 2019, except that existing stock may be provided to customers for a period of six months after that date.
- (b) If a Store provides Checkout Bags to customers, it may only provide Reusable Bags, Paper Bags or Recycled Paper Bags.

If a Store provides Product Bags to customers, it may only provide Reusable Bags, Paper Bags, Recycled Paper Bags, or Compostable Plastic Bags.

### **SECTION 4 - ADMINISTRATION AND ENFORCEMENT**

- (a) The administration and enforcement of this by-law is the responsibility of the Hingham Board of Health.
- (b) A person, individually or by their servant or agent, who violates any provision of this by-law may be penalized by a non-criminal disposition pursuant to M.G.L. Chapter 40, Section 21D and the Town of Hingham non-criminal disposition by-law.
- (c) The following penalties shall apply:
  - (1) First violation: written warning
  - (2) Second violation: \$100 fine
  - (3) Third violation: \$200 fine
  - (4) Fourth and subsequent violations: \$300 fine

Each day a violation continues constitutes a separate violation. A violator shall not be penalized for more than one violation per day.

- (d) The Board of Health may extend the time for compliance with this by-law for good cause shown for a period of time not to exceed one year from the effective date of the by-law. Any such extension shall be in accordance with regulations to be adopted by the Board of Health governing the criteria upon which such an extension may be granted.

#### **SECTION 5 - RIGHT TO A HEARING**

Any person or persons aggrieved by an order that has been served pursuant to this by-law may request a hearing before the Hingham Board of Health by filing a written petition to the Hingham Executive Health Officer within seven (7) days of receipt of said order.

#### **SECTION 6 - EFFECTIVE DATE:**

This by-law shall take effect on November 1, 2019.