

Bylaws

Town of Wenham

2008

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BYLAWS OF THE TOWN OF WENHAM

CHAPTER I - TOWN MEETINGS

Section 1: Five percent of the registered voters on the voting list at the time of an annual town meeting shall constitute a quorum for such annual meeting, and two percent of the registered voters on the voting list at the time of the annual town meeting shall constitute a quorum for all special town meetings prior to the next annual town meeting, provided that a number less than a quorum may from time to time adjourn the same. This section shall not apply to such parts of meetings as are devoted to the election of town officers. (Amended 5/12/83)

Section 2: The annual town meeting shall be held on the first Saturday in May in each year, with voting hours and hours for the consideration of articles in the Warrant to be set up by the Selectmen. (Amended 5/7/77)

Section 3: A motion to reconsider or to rescind a previous vote of the meeting may be made only for such compelling reasons as a change of circumstances, or the acquisition of new information since the original vote was taken, and may be made only on the same day as the original vote. (Amended 5/7/77)

Section 4. A motion to change the order of consideration of articles from that set forth in the Warrant shall be in order only when a change of circumstances, error, or discovery of new information has occurred since the posting of the Warrant that bears directly upon the purpose or effect of the article to be postponed or advanced, and may not be adopted solely to affect the time of voting on an article.

Section 5: In the case of action on a matter which by statute requires a two-thirds vote, the Town vote may be declared by the Moderator without taking and recording a count, as provided in M.G. Laws Chapter 39, Section 15, unless the vote so declared is immediately questioned by seven (7) or more voters. (Amended 10/5/2005)

CHAPTER II - LEGAL AFFAIRS

The Board of Selectmen shall have authority to prosecute, defend and comprise all litigation to which the town is a party, and to employ counsel whenever, in their judgment, necessity therefor arises.

Holiday Leave - All permanent full-time employees of the town shall receive eleven (11) paid holidays in each year; namely, January 1, Washington's Birthday, Martin Luther King Day, Patriots' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day,

Thanksgiving Day and Christmas Day. All employees whose duties require working on one of these holidays shall receive another day off with pay. (Amended 5/3/75)

Personnel Policies - The Board of Selectmen shall have authority to establish Personnel Policies for employees of the town. A public hearing, notice of which is to be published at least seven (7) days prior to the hearing in a newspaper of general circulation in the town, shall be held prior to the adoption or change of any Personnel Policy. For purposes of this bylaw, Personnel Policies may include any conditions of employment not otherwise governed by state or federal law. (Amended 5/9/81)

CHAPTER III - FINANCE AND ADVISORY COMMITTEE

Section 1: There shall be a Finance and Advisory Committee consisting of six legal voters of the town, and no elected or appointed town officer or employee shall be eligible to serve on said Committee.

Section 2: The Finance and Advisory Committee shall be chosen by an appointing committee consisting of the Moderator, the Chairman of the Board of Selectmen, and the Chairman of the Finance and Advisory Committee as provided in Section 3.

Within thirty days after this Bylaw becomes effective, such appointing committee, or a majority of them, shall appoint two members of the Finance and Advisory Committee for terms expiring at the final adjournment of the next succeeding annual town meeting, two members for terms expiring at the final adjournment of the second succeeding annual town meeting, and two members for terms expiring at the final adjournment of the third succeeding annual town meeting.

On July 1 of each fiscal year, such appointing committee or a majority of them, shall appoint two members of the Finance and Advisory Committee for terms expiring on June 30 of the third succeeding fiscal year. Any member who is appointed and serves for a second consecutive full three-year term shall be ineligible for reappointment until after the next succeeding annual town meeting. (Amended 5/2/98)

Whenever a vacancy occurs in the membership of the Finance and Advisory Committee, such vacancy shall be filled by the appointing committee for the balance of the unexpired term. If any member of the Finance and Advisory Committee becomes an elected or appointed town officer or employee, or is absent from five successive meetings, except in case of illness, his position shall be deemed to be vacant.

Section 3: The Finance and Advisory Committee shall meet for the purpose of organization as soon as possible after the annual appointment of its new members, and shall elect from its membership a chairman and a secretary who shall hold office until their successors are elected. Thereafter they shall meet from time to time at the call of the chairman or any two members thereof. Said Committee shall cause to be kept a true record of its proceedings. The

chairman shall be a member of the appointing committee during his term of office as chairman and thereafter until a succeeding chairman is elected. (As amended 5/2/98)

Section 4: The Finance and Advisory Committee shall consider all articles and warrants for town meetings involving an appropriation or expenditure of money or the disposition of any property of the town. The Committee shall hold prior to each annual town meeting one or more meetings at which the Selectmen and other invited officers, boards and committees of the town shall be present to consider the items which make up the annual budget and any other municipal matters. In discharge of its duty, said Committee shall have free access to all books of record and accounts, bills and vouchers on which money has been or may be paid from the town treasury. Officers, boards and committees of the town shall furnish said Committee upon request with facts, figures and any other information pertaining to their several activities.

The recommendations of the Committee on the articles in the warrant for the annual town meeting shall be printed in the annual town report, which shall be distributed, if possible, one week before the date of said meeting.

(The failure, for any reason, of the Committee to make such recommendations shall not affect the legality of any action taken at any meeting.) (As amended 3/7/59)

CHAPTER IV - FINANCIAL AFFAIRS

Section 1: There shall be an annual audit of the town's accounts under the supervision of the Director of Accounts of the Department of Corporations and Taxation in accordance with the provisions of Section 35, Chapter 44, General Laws.

Section 2: The Collector of Taxes shall collect, under the title of "Town Collector," all accounts due the town, in accordance with the provisions of Section 38A, Chapter 41, General Laws.

Section 3: All town officers shall pay all fees received by them by virtue of their office into the town treasury, including, without limiting the generality of the foregoing, all fees received by the Town Clerk for sporting and trapping licenses as agent for the Massachusetts Department of Fisheries and Game, and all fees for issuing dog licenses as agent for the County of Essex. (As amended 3/17/62)

Section 4: Any board or officer in charge of a department of the town may, with the approval of the Board of Selectmen, sell any town property which is within the possession or control of the department, and which has become obsolete or is not required for further use by the department, or trade the same in part payment for replacements for which funds have been provided. (As amended 3/20/71)

Section 5: No contract in the amount of Ten Thousand Dollars (\$10,000) or more with a contractor employing six or more persons shall be entered into by the town directly or through

any agency of the town unless the contractor certifies in writing to the Town that the contractor is in compliance with Chapter 151B of the General Laws, and sets forth affirmative action which the contractor provides for equal opportunities for all qualified persons without regard to age, sex, race, color, religion, or national origin. (Amended 3/20/71)

CHAPTER V - CERTAIN ACTS PROHIBITED

Section 1: No persons shall remain assembled on any sidewalk in front of any church, dwelling house, or other building so as to obstruct passage along the same, or to impede or annoy other persons.

Section 2: No person shall be a collector of, or a dealer in, junk, old metals or second-hand articles, or a keeper of a shop for the purchase, sale or barter of junk, old metals or second-hand articles unless licensed therefor by the Selectmen.

Section 3: No person shall throw stones, snowballs, sticks or other missiles, kick a football, play at any game in which a ball is used, fly kites, shoot with or use an air-gun, bow and arrows, slingshots, or other similar devices, on or across any public ways of this town.

Section 4: No person shall coast upon or across any sidewalk or street in the town, except at such times and in such places as may from time to time be designated by the Selectmen.

Section 5: No person shall operate upon any street in the town a motor vehicle carrying bituminous coal, or other dust-emitting material, without covering said material in such a way as to prevent flying dust.

Section 6: No person shall maliciously throw or drop any paper, paper container or other refuse on any public way in this town.

Section 7: No person shall maliciously throw or drop any flaming, smoldering or burning material from a vehicle of any kind on public ways in this town.

Section 8: No person shall fire or discharge any firearm within the limits of any park, playground or other public property except with the written consent of the Board of Selectmen, or hunt, trap, or fire or discharge any firearm on any private property except with the written consent of the owner, his authorized agent, or the legal occupant thereof.

This bylaw shall not apply to the lawful defense of life or property, or to any law enforcement officer acting in the discharge of his duties. (As amended 3/19/60)

Section 9: (a) Licenses Required. It shall be unlawful for any solicitor or canvasser as defined in this bylaw to engage in such business within the Town without first obtaining a license therefor in compliance with the provisions of this bylaw. The provisions of this bylaw shall not apply to any person exempted under Chapter 101 of the General Laws, or to any person duly

licensed under Chapter 101 of the General Laws, or to any person exempted by any other General Law, nor shall this bylaw be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries.

(b) Definition. A solicitor or canvasser is defined as any person who, for himself, or for another person, firm or corporation, travels by foot, automobile or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or take orders for retail sale of goods, wares, merchandise, or services, including without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment on such retail sales. For the purpose of this act, persons engaged in the pursuit of soliciting for charitable benevolent, fraternal, religious or political activities shall be exempt from the licensing requirements as set forth.

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

- (1) Name of applicant.
- (2) Address of applicant (local and permanent home address).
- (3) Applicant's height, weight, eye and hair color.
- (4) Applicant's social security number.
- (5) The length of time for which the right to do business is desired.
- (6) A brief description of the nature of the business and the goods to be sold.
- (7) The name and home office address of the applicant's employer. If self-employed, it shall so state.
- (8) A photograph of the applicant, which picture shall be submitted by the applicant and be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (9) If operating a motor vehicle: the year, make, model, motor number registration number, state of registration, vehicle's owner and address.

At the time filing the application, each applicant shall pay a fee of two dollars (\$2.00).

(d) Investigation and Issuance.

(1.) Upon receipt of the application, the Chief of Police shall investigate the applicant's reputation as to morals and integrity.

(2.) After an investigation of the applicant's morals and integrity, but within seven business days of the filing of the applicant, the Chief of Police shall endorse on such application his approval or disapproval. Failure of the Police Chief to act on said permit within seven business days of the applicant's filing shall constitute approval. If disapproved, the applicant shall have the right of appeal to the Board of Selectmen in writing within seven days of the denial by the Chief of Police.

The Board of Selectmen must act upon the appeal at one of their next two regularly scheduled meetings. Failure to so act shall be deemed approval.

(3.) Such license when issued shall contain the signature of the Chief of Police or the Board of Selectmen and shall show the name, address, and photograph of said licensee, the date of issuance and length of time the same shall be operative, as well as the license number. The Police Department shall keep a record of all licenses issued for a period of six (6) years. Solicitors and canvassers when engaged in the business of soliciting or canvassing are required to display an identifying badge issued by the Police Department, by wearing said badge on an outer garment. Each licensee is required to possess an individual license.

(e) Duty of Police to Enforce - Transfer. The police officers of the Town shall enforce this bylaw. No license shall be transferred.

(f) Revocation of License. The Chief of Police is hereby vested with jurisdiction over the revoking of licenses. Any person aggrieved by revocation may appeal to the Board of Selectmen within seven business days, and a hearing will be scheduled for one of the next two regularly scheduled meetings of the Board of Selectmen.

(g) Expiration of License. Each license issued under the provisions of this bylaw shall continue in force from the date of its issue until the thirty-first day of December following, unless sooner revoked.

(h) Renewal of License. A license issued under the provisions of this bylaw may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information as is required to obtain an initial license.

(i) Misrepresentation.

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

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

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

(k) Penalty. Any person violating any provision of this bylaw shall, upon conviction therefor, be punished by a fine not to exceed fifty dollars (\$50) for each and every offense. (As amended 5/4/91)

Section 10: No person owning land on which there is situated a permanent artificial sunken swimming pool containing twenty-four inches or more in depth of water, at any point, shall fail to erect and maintain thereon an adequate enclosure surrounding either the property or the pool area, sufficient to make such a body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than four feet above the underlying ground; all gates must be self-latching with latches placed four feet above the underlying ground or otherwise made inaccessible from the outside to small children. A pool cover or other protective device approved by the Board of Selectmen may be used so long as the degree of protection afforded by the alternate devices or structures is not less than the protection offered by the enclosure, gate and latch described herein. (As amended 3/18/67)

Section 11: The Superintendent of Streets shall be authorized to remove or cause to be removed to a convenient public garage any vehicle interfering with the removal or plowing of snow or ice, and the cost of such removal or storage charges, if any, resulting therefrom shall be paid by the owner of the vehicle. (As amended 12/30/63)

Section 12: No persons shall play, push or throw any snow or ice onto any street or sidewalk of the town unless it is immediately removed therefrom. (As amended 12/30/63)

Section 13: Unregistered Motor Vehicles

(a) The keeping of more than one unregistered motor vehicle, assembled or disassembled, except by a person licensed under General Laws, Chapter 140, Section 59, on any premises shall not be permitted unless said vehicles are stored within an enclosed building.

(b) A Special Permit to keep more than one unregistered motor vehicle on any premises not within an enclosed building after a duly called public hearing to which all abutters to the premises have received notice may be granted by the Board of Selectmen if it finds that such keeping:

- (1) Is in harmony with the general purposes and intent of this bylaw;
- (2) Will not adversely affect the neighborhood, and
- (3) Will not be a nuisance.

(c) All such special permits shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

(d) This article shall not apply to motor vehicles which are designed for and used for farming purposes.

(e) Whoever violates any provisions of this article of the bylaws shall be liable to a penalty of \$5.00 per day for each day of violation, commencing ten (10) days following the date of receipt of written notice of such violation from the Board of Selectmen. (As amended 3/21/70)

Section 14: Motor Vehicles, Snow Vehicles and Recreation Vehicles

No person shall use or operate a motor vehicle, trail bicycle, motor bicycle or similar motorized vehicle which is eligible for registration under Chapter 90B of the General Laws of the Commonwealth, or a snow vehicle or recreation vehicle as defined in Section 20 of said Chapter, in any park or other town-owned property except public roads and streets without the prior written consent of the Board of Selectmen, who shall first obtain consent of the town board having the responsibility for the management of such property. Any such consent shall be temporary in nature, shall specify the period of time during which it is in force and shall only be granted where the proposed use or operation will not, in the judgment of the boards granting the same, be detrimental to the purpose for which such property is owned. Notwithstanding anything to the contrary herein above contained, parking areas established for use in connection with such park or such other public property may be used for parking purposes without prior consent.

No person shall use or operate any such vehicle on or over any private property within the limits of the town without the written consent of the owner of such property.

No person shall operate a snow vehicle for other than an emergency between the hours of 8:00 P.M. and 8:00 A.M. (As amended 3/18/72)

Section 15: Unless granted a special permit by the Board of Selectmen, no person shall drink any alcoholic beverage, or have in his/her possession an open container of alcoholic beverage as defined in Massachusetts General Laws, Chapter 138, Section 1, upon any public way, public parking area, school property, town park or recreation area, on any way or property to which the public has a right of access as invitees or licensees, or upon any private property without the consent of the owner or his/her authorized representative. (As Amended 5/12/79)

Section 16: No person shall use or operate a boat or other vessel powered by an internal combustion engine on Pleasant Pond. This Bylaw shall not apply to any emergency or life-saving operation carried out by or with the approval of the Police Department, Fire Department, Parks and Recreation Commission, or the Board of Selectmen. (Amended 6/12/79)

CHAPTER VI - MOTOR VEHICLE REGULATIONS

No person having charge of a motor vehicle in a public street shall refuse or neglect to stop the same as directed by a police officer.

CHAPTER VII - CURFEW

No child under 16 years of age shall be, loiter, or remain upon any street, highway or place in this town after the hour of nine o'clock in the evening of any day, unless accompanied by or under the control or care of a parent, guardian or other adult person; or unless in some employment, or in the performance of some duty directed in writing by said parent, guardian or other adult person; and no such child, while in such employment or performance of such duty, shall loiter upon any such street, highway, park or other public way or place.

CHAPTER VIII - PENALTIES

Any person who shall violate any of the provisions of Chapters V - VII inclusive of these Bylaws shall forfeit and pay, for each offense, a sum not exceeding one hundred dollars. (As amended 5/14/88)

CHAPTER IX - PLANNING BOARD

Section 1: A Planning Board is hereby established under the provisions of General Laws (Ter. Ed.) Chapter 41, Section 81A (Acts of 1936, Chapter 211), to consist of five members, one member to be elected each year at the annual town meeting for a term of five years. The members shall serve without pay.

Section 2: At the first annual town meeting after the adoption of this bylaw, there shall be elected one member to serve for one year, one member to serve for two years, one member to serve for three years, one member to serve for four years, and one member to serve for five years.

Section 3: It shall be the duty of the Planning Board to study and make plans for the resources, possibilities, and needs of the town; to make a master plan as provided in Chapter 41, Section 81B of the General Laws, showing all existing and desirable features of the town; to extend and improve said master plan from time to time to suit the needs and desires of the town; to report annually to the town on the results of its studies, with any recommendations; to receive for approval, as provided in Chapter 41, Section 81F of the General Laws, plots of all subdivisions of land proposed in the town and to approve such plots as conform to the master plan; to examine plans of proposed streets or other municipal improvements and make recommendations regarding the same; and to report to the town on any item referred to it by the town for its opinion.

Section 4: The Planning Board shall prepare, or have prepared under its direction, a map of the town showing existing public ways and parks, and private ways used in common with two or more owners. Said map when prepared shall be submitted to the town meeting for adoption, and upon adoption shall become the official map of the town as provided in Section 81C of Chapter 41 of the General Laws.

Section 5: All articles in any warrant for a town meeting pertaining to the physical resources and features of the town shall be referred to the Planning Board for its consideration. The Selectmen, after drawing any such warrant, shall transmit immediately a copy thereof to each member of the Board. The Board shall, after due consideration, report thereon to the town meeting in writing such recommendations as it deems best for the interest of the town and its citizens.

Section 6: No street shall be proposed for acceptance at any town meeting unless such proposed action shall have been submitted to the Planning Board for its recommendation at least 60 days prior to the date of the meeting.

CHAPTER X - BOARD OF APPEALS

Section 1: A Board of Appeals is hereby established with the powers and duties as stated in Sections 81 H and 81 I of Chapter 41 of the General Laws. The Board shall consist of three members, one member to be appointed each year by the Selectmen for a term of three years, provided that when said members are first appointed, one shall be appointed to serve for one year, one for two years, and one for three years. There shall also be appointed one associate member for a two-year term. The associate member shall be designated by the Chairman of the Board to sit in place of any member incapacitated by personal interest or absence.

Section 2: The Board of Appeals shall adopt rules and regulations consistent with law for conducting its business and otherwise carrying out its purposes. (See Zoning Bylaws)

CHAPTER XI - REPEAL OF BYLAWS PASSED HERETOFORE

All bylaws heretofore adopted are hereby repealed.

(The foregoing is a true copy of the Bylaws accepted at the Annual Town Meeting of March 5, 1945, and approved by the Attorney General, Clarence A. Barnes, under date of April 4, 1945, and as amended at the Special Town Meeting held on May 11, 1955 and approved by Attorney General George Fingold, June 29, 1955.)

CHAPTER XII - EARTH REMOVAL BYLAW

A. Purpose

The purpose of this bylaw is to promote the health, safety, welfare and amenities of the community or any neighborhood thereof, to prevent harmful results from improper excavation and to assure compliance with the Master Plan of the Town of Wenham.

B. General

1. This section is adopted under the authority of General Laws, Chapter 40, Section 21, Clause 17.
2. For the purposes of this bylaw, "earth" shall include soil, loam, sod, clay, sand and gravel or quarried stone, or any combination thereof.
3. The Board of Selectmen referred to in this bylaw shall be the same Board of Selectmen established under Section 1, Chapter 41 of the General Laws or the predecessor thereto.

C. Permits Required

1. Other than as excepted in this Section no earth shall be removed from any parcel of land not in public use, either above or under water, in the Town of Wenham unless by and in accordance with a permit issued under the authority of this bylaw. In order to preserve the natural resources of the Town of Wenham, the removal from the town of topsoil or sod is prohibited; relocation within the town of topsoil or sod from one parcel of land to another, within the town, is permitted by written permit as hereinafter set forth.
2. The annual removal of earth other than topsoil or sod in a quantity less than one hundred (100) cubic yards per year or the removal of topsoil or sod in a quantity of less than ten (10) cubic yards per year shall be exempt from the provisions of this bylaw.

3. The removal of earth in compliance with the requirements of a subdivision plan approved by the Planning Board is exempt from the provisions of this bylaw.
4. The grading and redistribution of earth on any site is governed by Section VII-B of the Zoning Bylaw of the Town of Wenham.

D. Permit Applications

1. Application for a permit hereunder shall be filed with the Board of Selectmen and the Town Clerk in such forms as the Board of Selectmen shall prescribe from time to time. In the event that no rules have been prescribed at the time of the application, within thirty (30) days of filing the application the Board of Selectmen may require the applicant to furnish such additional specified information as may be reasonably useful and further may also require a refiling within thirty (30) days of date of notice to applicant. The legal date of filing of application, for all purposes including those specified in section E, herein, shall be the date of last filing.

E. Permit Hearing

1. No permit shall be issued without a public hearing held within sixty-five (65) days of the filing of the application with the Town Clerk in conformity with provisions for special permits under Sections 9 and 11 of Chapter 40A, General Laws.
2. Failure of the Board of Selectmen to take final action within 90 days after the hearing shall be deemed approval of the requested permits, provided that such permits shall be valid only for six (6) months from the date of automatic approval, excluding the time required to pursue or await the determination of appeal, and further provided that all work shall be done in accordance with the standards for earth removal in subdivisions as stipulated in the Rules and Regulations governing subdivisions, of the Planning Board of the Town of Wenham.
3. Permits issued by vote of the Board shall automatically expire upon completion of the earth removal project for which it was issued or at such time as may be specified in said permit, and in any event within one (1) year from the date of issue thereof.
4. A permit may be renewed by the Board of Selectmen for a period of one (1) year without a hearing if it finds that all conditions then applicable have been complied with and that the work has been carried on continuously and in good faith. A permit may not be renewed more than once without a hearing, unless in the opinion of the Board of Selectmen the area of the previous permit is being satisfactorily restored for use in accordance with the reuse plan approved by said Board.

F. Permit Issuance

1. Permits for earth removal may be issued by the Board of Selectmen subject to the approval where required and the advice where applicable of the Planning Board, Conservation Commission, Board of Health, Highway Department, Police Department and other relevant town departments, subject to the express limitations provided hereinafter and to such additional limitations of time and usage as the Board feels are reasonably required to satisfy the purpose of this bylaw. The Board of Selectmen shall be guided by the standards for earth removal in subdivisions as adopted from time to time by the Planning Board in their Rules and Regulations for Subdivisions.
2. Permits for earth removal shall be issued only upon condition that a cover of topsoil of not less than six inches (6") in depth shall be replaced or allowed to remain, except where, due to construction of roads, buildings or other permanent physical features, such provision is impractical. Such topsoil cover shall be seeded with a perennial cover crop to assure uniform growth and surface soil stabilization.
3. In exercising its discretion under this bylaw, the Board of Selectmen shall not issue any permit for earth removal if in their opinion such removal will:
 - a. Endanger the public health or safety or constitute a nuisance because of noise, vibration, smoke, gas fumes, odor, erosion, pollution or other objectionable features, hazard or explosion or fire.
 - b. Produce noise, dust or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of the adjacent property or the economic condition of the district or town.
 - c. Result in the transportation over town ways which will be injured in any way by loads in excess of the road capability or by means of handling vehicles used to transport earth or of handling materials in transport.
 - d. Alter any significant topographical feature or result in a change in the topography and cover which will be disadvantageous to the appropriate re-use of the land as permitted by the Zoning Bylaw.

G. Prohibitions

The Board of Selectmen shall not issue any earth removal permit if the work extends within three hundred feet (300') of a way open to public use, whether public or private, or two hundred fifty feet (250') of a building or structure, or within one hundred feet (100') of a natural stream or body of water unless the Board is satisfied that the removal will not

undermine the way or structure and will not cause damage to the abutting property, stream or body of water.

H. Validity

The invalidity of any section, subsection or provision of this bylaw shall not invalidate any other section or provision thereof.

I. Administration, Enforcement and Penalties

1. The Board of Selectmen or duly authorized representative shall review the progress of the work from time to time to ensure proper conduct.
2. If the Board of Selectmen concludes that there has been a violation of this bylaw, a notice of violation shall be sent to the landowner and where applicable, the permit holder, by registered or certified mail to the address of the landowner on the Town records and, when applicable, to the address of the permit holder on the initial application, and may send a notice ordering a cessation of the improper activities, or take any other action necessary to prohibit further violation.
3. Each violation of this bylaw shall be subject to a fine of \$50 for the first offense, \$100 for the second and \$200 for each subsequent offense, under the terms of General Laws, Ter. Ed., Chapter 40, Section 21, Paragraph 17. Each truckload, or partial truckload, and each day of noncompliance shall constitute a separate offense. The land owner, the permit holder and the driver of the truck shall be jointly and severally liable for the fines.
4. Whether or not specified in the permit, the Board of Selectmen shall have the power to revoke or suspend a permit issued under this bylaw if any permit provisions are not fully complied with by the permit holder or any of its employees, agents, or contractors, either directly or indirectly.

CHAPTER XIII - SMOKE DETECTORS AND SPRINKLER SYSTEMS

All buildings or structures occupied in whole or in part for residential purposes and not regulated by Sections 26A, 26B or 26C of the Massachusetts General Laws, shall upon the sale or transfer of such building or structure, be equipped by the seller with approved smoke detectors as provided in Section 26E of the Massachusetts General Laws. The head of the Fire Department shall enforce the provisions of this bylaw. The provisions of Chapter 148, Section 30, of the Massachusetts General Laws shall not apply to this bylaw. (Amended 5/9/81)

SPRINKLER SYSTEMS

In any city or town which accepts the provisions of this section, every building or addition of more than seven thousand five hundred gross square feet in floor area shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code. No such sprinkler system shall be required unless sufficient water and water pressure exists. For purposes of this section, the gross square feet of a building or addition shall include the sum total of the floor areas for all floor levels, basements and subbasements, measured from outside walls, irrespective of the existence of interior fire restrictive walls, floors and ceilings.

In such buildings or additions, or in certain areas of such buildings or additions, where the discharge of water would be an actual danger in the event of fire, the head of the fire department shall permit the installation of such other fire suppressant systems as are prescribed by the state building code in lieu of automatic sprinklers. Automatic suppressant or sprinkler systems shall not be required in rooms or areas of a telephone central office equipment building when such rooms or areas are protected with an automatic fire alarm system. Sprinkler systems shall not be required in a one-story building having a fire resistance rating as prescribed in the state building code that is solely for offices, provided the building is protected by an automatic fire alarm system. This section shall not apply to buildings or additions used for residential purpose.

The head of the fire department shall enforce the provisions of this section.

This act shall apply to construction of buildings or additions or major alterations commenced after July 1, 1983.

SMOKE DETECTORS

In any city or town which accepts this subsection, one- and two-family dwellings occupied in whole or in part for residential purposes and not required by section twenty-six A or twenty-six B shall be equipped with approved smoke detectors. Owners of such buildings or structures shall install either an approved monitored battery-powered smoke detector or an approved primary power smoke detector on each level of habitation and on the basement level; provided however, that the head of the fire department shall allow the installation of approved monitored battery-powered smoke detectors. Such approved smoke detectors shall be installed in the following manner: an approved smoke detector shall be installed on the ceiling of each stairway leading to the floor above, near the base of, but not within each stairway, and an approved smoke detector shall be installed outside each separate sleeping area.

Buildings or structures occupied in whole or in part for residential purposes and containing not less than three nor more than five units and not regulated by Section twenty-six A, twenty-six B or twenty-six C shall be equipped with approved smoke detectors. Owners of such buildings or structures shall install either an approved monitored batter-powered smoke detector or an approved primary-power smoke detector outside each separate sleeping area; provided, however, that the head of the fire department shall allow the installation of approved monitored

battery-powered smoke detectors; and provided further, that in all common hallways and basements of said residential buildings or structures a series of interconnected approved primary-power smoke detectors shall be installed.

For the purposes of this section, "approved primary power" shall mean an alternating-current primary source of electric power furnished by an electric power or light company municipally operated or operating under the authority of the department of public utilities which is the primary source of electricity or is a secondary source but is permanently wired thereto and will become operational upon the failure of the primary source of power.

The head of the fire department shall enforce the provisions of this section. The provision of section thirty shall not apply to this section.

CHAPTER XIV - FIRE AND INTRUSION ALARMS

The Emergency Center Advisory Committee with the approval of the Board of Selectmen, if such Committee shall not be appointed, the Board of Selectmen, is authorized to establish rules, regulations, and schedules of fees for the installation, operation, and maintenance of fire and intrusion alarm systems, including medical alert systems. No person shall install, operate, or maintain a fire intrusion, or medical alert alarm system which is connected by direct line to the Emergency Center or which incorporates a telephone dialing device programmed to dial a local police, fire or emergency telephone number automatically, or which uses exterior audible signals at the alarm location, unless such person first obtains a permit from the Emergency Center Advisory Committee, or the Board of Selectmen, and thereafter complies with applicable rules and regulations and pays any applicable fees. No person shall intentionally transmit any false fire, intrusion, or medical alert alarm. Repeated transmissions of false fire, intrusion or medical alert alarms after notice of a system malfunction from the Emergency Center Advisory Committee or the Board of Selectmen, shall constitute an intentional transmission of a false fire, intrusion, or medical alert alarm. Violation of this bylaw shall be punishable by a fine of up to but not more than one-hundred dollars (\$100) for each offense. (Amended 5/12/84)

CHAPTER XV - REPAIR OF PRIVATE WAYS

The Town of Wenham is authorized to make temporary repairs on private ways in accordance with the following bylaw:

1. The owners of land which abuts and has frontage on a private way open to continuous public use for (10) years or more may petition the Board of Selectmen, on a form to be provided by the town, which must be signed by at least 80 percent of the abutters of such private way, to have the town make temporary emergency or general repairs to such private way. If the Board of Selectmen determine first the public necessity will be served thereby, it may authorize such repairs to be made by the town in accordance with the provisions of this bylaw, upon the

condition that the petitioning abutters agree to indemnify and hold the town harmless for claims for personal and property injury resulting from any defects in such private way.

2. If upon receipt of an abutter's petition the Board of Selectmen determine that public safety access and safe passage of public service vehicles on the private way so require, it may order that temporary emergency repairs be made to the private way at the town's expense. Such temporary emergency repairs shall be limited to the filling and patching of holes in the surface of such private ways or the least expensive feasible correction to a defect in drainage which has caused a blockage of such private way.
3. Temporary general repairs shall be any repairs to private ways which are not emergency repairs as provided in the preceding section, and which are reasonable and appropriate to serve the public necessity and convenience as determined by the Board of Selectmen. Temporary general repairs may include the installation and construction of drainage where required; the filling of holes in the surface of such ways and repairs to the surface materials; and the reconstruction and resurfacing of the base and surface of the way. Materials for such repairs shall, where practical, be the same as or comparable with those for the existing surfaces of such ways, but may include resurfacing the ways with bituminous materials including bituminous concrete. The cost of labor to perform temporary general repairs shall be paid by the town, and may be performed by employees of the town provided that the cost of materials is paid by the abutters of such private ways as betterments. Temporary general repairs shall not be undertaken until (1) the Finance and Advisory Board determines that the budget cost of such repair work to be paid by the town is includable in the town's operating budget for the year, or in the alternative, has been separately raised and appropriated by vote of an annual or special town meeting, and (2) the town acting through the Board of Selectmen has assessed betterments for cost of repair materials upon the owners of properties abutting and having frontage on such private way, allocated in proportion to the frontage thereof on such way, and said owners have deposited in full the projected costs of the materials required to perform such repairs.
4. The town shall not be liable on account of any damage caused by temporary emergency repairs or general repairs performed by the town pursuant to this bylaw. The town shall post warning signs at the beginning of such private way that the town is not responsible for any defects in such way, and that members of the public use the same at their own risk.

CHAPTER XVI - HOUSE NUMBER BYLAW

A. Bylaw

All houses, businesses, and other buildings within the Town of Wenham shall conspicuously display street identification numbers to assist emergency vehicles, postal and delivery vehicles to locate specific properties in the town.

1. It shall be the duty of each owner or occupant to provide for the display of such number in such a manner that it is visible from the street.
2. Said number shall be a minimum of three inches in height and contrasting in color.
3. In the event that the house, building or business is not visible from the street, the number shall be displayed on a post or mailbox which is visible from the street.

B. Penalty

1. Upon notice of a violation, the Board of Selectmen or Chief of Police will notify the owner or occupant in writing at the earliest convenience of either of the officials.
2. An owner or occupant shall have thirty days to correct such violation. If the owner or occupant fails to place the numbers in the manner required by the bylaw, within 30 days, the penalty shall be a five dollar fine for each day the numbers are not displayed. If no action is taken within 30 days of the written notice, the fine shall be retroactive to the date of the written notice being issued.
(Voted May 9, 1987)

CHAPTER XVII - ANIMAL CONTROL OFFICER FEES

A person who owns or keeps a dog, or other domesticated animal within the territorial limits of the Town of Wenham, shall be responsible for the following fees when the service of the Animal Control Officer is required in connection with any such dog or domesticated animal.

1. First service within a calendar year Free
2. Second service within a calendar year \$25
3. Third service and any subsequent service \$50
4. A pick-up fee of \$15 shall be paid to the Town for any dog retrieved by the animal control officer.
5. All fees incurred as a result of the impounding of a dog, shall be collected prior to the release of said dog from impoundment.

6. Any person who is the owner, or keeper of a dog, or a kennel within the Town of Wenham, who fails to obtain a license for said dogs or kennel, as required in Chapter 140 of the Massachusetts General Laws, within thirty days of the date on which the license is due, shall pay in addition to the fee for such license, a penalty fee of \$5 if payment is made thirty-one to sixty days after the due date; a penalty of \$10 if payment is made sixty-one to ninety days after the due date; and a penalty of \$15 if payment is made after ninety-one days following the due date. All penalty fees required under this section shall be made payable to the Town of Wenham.
7. If the animal control officer determines that a female animal in heat, even confined, is attracting other animals, thus causing a disturbance or damage to neighboring property or public area, the animal control officer may require the owner or keeper of the animal, to confine said animal, while in heat, in a kennel or to remove it from the area so that the nuisance is abated.

"Service" of the Animal Control Officer shall consist of the response of the officer to a specific location, and the removal, restraint, or impounding of the dog or domesticated animal, whether occasioned by request of a citizen, town official or otherwise. Fees shall be payable to the Town of Wenham. (Amended May 1993)

CHAPTER XVIII - WATER RESOURCES PROTECTION BYLAW

Section 1: Purpose

The purpose of this bylaw is to protect the water resources, wetlands, and adjoining areas in Wenham by prior review and control of activities deemed by the Conservation Commission likely to have a significant or cumulatively detrimental effect upon the following values: public or private water supply, groundwater, fisheries, wildlife, wildlife habitat and the prevention and control of flooding, erosion, sedimentation, storm damage, or pollution (collectively, the "resource area values protected by the bylaw"). This bylaw is intended to utilize the Home Rule Authority of this town to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act, G.L. Ch. 131, sec. 40 and Regulations thereunder, 310 CMR 10.00.

Section 2: Jurisdiction

Except as permitted in writing by the Conservation Commission or as provided in this bylaw, no person shall remove, fill, dredge, discharge into, build upon, otherwise alter or degrade the following resource areas: any freshwater wetland as determined by vegetational community, soils composition or hydrologic regime including any marsh, wet meadow, bog, or swamp; any lake, stream, river, or pond, whether intermittent or continuous, natural or manmade; any land

under such waters; any bank or beach; or lands within one hundred (100) feet of any of the aforesaid resource areas; any land subject to flooding or inundation by groundwater, surface water or storm water.

Section 3: Exceptions

The application and permit required by this bylaw shall not be required for maintaining, repairing, but not substantially changing, relocating or enlarging, any existing or lawfully located structure or facility used in the service of the public to provide electricity, gas, water, telephone, telegraph, or other telecommunication services, provided that, except in cases of public emergency, written notice and plan of work has been given to the Commission at least forty-eight (48) hours prior to commencement of work, and provided that the work is performed in accordance with standards adopted in regulations promulgated under this bylaw.

The application and permit required by this bylaw shall not apply to any emergency project necessary for public health and safety which has been certified as an emergency project in accordance with MGL Ch. 131, Section 40; provided that the Commission or its agent certifies the work as an emergency project; provided that within 30 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

The application and permit required by this bylaw shall not be required for work performed for the normal maintenance or improvement of lands in lawful, active agricultural use, provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

Other than as stated in this section, the exceptions provided in the Wetlands Protection Act, G.L. Ch. 131, sec. 40 and Regulations, 310 CMR 10.00 shall not apply under this bylaw.

Section 4: Requests for Determination and Applications for Permits

Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw shall request in writing a determination from the Commission. Such request for determination shall contain data and plans as specified by regulations adopted under this bylaw.

The Commission in an appropriate case may accept any request, application and plans filed under M.G.L. Ch. 131, Sec. 40 as having also been filed under this bylaw. An application

for a permit or a request for determination shall be hand delivered or sent by certified mail to the Commission. Any application for a permit or determination shall at the same time be mailed or delivered to the Board of Selectmen, Planning Board, Zoning Board of Appeals, Board of Health and Building Inspector.

The Applicant shall pay fees as specified in regulations adopted under this bylaw. The fee is in addition to that required by the Wetlands Protection Act, M.G.L. Ch. 131, sec. 40. The Commission may waive the fees, costs, and expenses for an application or request filed by a government agency, or if the project serves a public purpose as determined by the Commission.

Upon receipt of a permit application or Request for Determination, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application.

The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be \$15,000.

Section 5: Notice and Hearings.

The Commission shall hold a public hearing within twenty-eight (28) days from receipt of a completed application or request for determination, provided that written notice of date, time, and place of hearing is given at least five (5) working days prior to the hearing, at the expense of the applicant, to all abutters, and in a newspaper of general circulation in Wenham. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When the applicant is other than the owner, the application or request for determination, the notice of the hearing, and the permit or determination shall be sent by the Commission to the owner. Upon written request of an applicant, the Commission may extend the twenty-eight (28) day time period provided notice is given in accordance with this section of the bylaw. The Commission in an appropriate case may simultaneously hold a hearing under this bylaw and the hearing conducted under the Wetlands Protection Act, M.G.L. ch. 131, sec. 40.

For reasons stated at the hearing, which may include a request from a Town board or inspector named in Section 4, the Commission may continue the hearing to a date certain, announced at the hearing, or to a date within twenty-eight (28) days of receipt of information deemed necessary by the Commission.

Section 6: Determinations, Permits, and Conditions

The Commission in an appropriate case may simultaneously issue the permit, determination, or other action on an application issued under this bylaw with the Determination of Applicability, Order of Conditions, or other action issued or taken under the Wetlands Protection Act. M.G.L. Ch. 131, sec. 40, when applicable, or may proceed independently on matters not subject to said Act.

Within twenty-eight (28) days following the close of a hearing held on a request for determination of jurisdiction or applicability of this bylaw, the Commission shall issue a written response. The response shall include findings of fact and shall state whether or not an application for a permit under this bylaw must be filed.

If the Commission, after a public hearing on an application for a permit, determines that the activities which are the subject of the application are likely to have an effect upon the values protected in this bylaw, the Commission, within twenty-eight (28) days following the close of the hearing, shall in writing make findings of fact determining whether such effect is significant or cumulatively detrimental and whether such effect can be mitigated so as to protect said values. Based on such findings, the Commission shall either issue or deny a permit for the activities requested. Permits shall contain conditions which the Commission deems necessary to protect said values, and all activities authorized by the permit shall be conducted and performed so as to comply with those conditions. For good cause the Commission may amend or modify the conditions of a permit issued under this bylaw after public notice and hearing.

The Commission is empowered to deny in writing a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the performance standards and other requirements in regulations of the Commission; for failure to present adequate evidence that the proposed work will not have significant or cumulatively detrimental effects upon the values protected by this bylaw; or when no conditions are deemed by the Commission to be adequate to protect resource areas.

To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. The Commission may extend any permit for one or more periods of up to three years each.

Section 7: Regulations and Definitions; Establishment of Fees

After public notice and public hearing the Commission may promulgate or amend rules and regulations to accomplish the purposes of this bylaw and may establish a schedule of filing fees and consultant fees to be paid by persons making requests for determinations or applications for permits thereunder. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

Except as otherwise required by this bylaw or regulations promulgated thereunder, definitions and regulations set forth in M.G.L. Ch. 131, sec. 40 and 310 Code of Mass. Regulations 10.00 effective November 1987 as amended from time to time shall apply.

Section 8: Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed in a permit issued hereunder be secured wholly or in part by methods set forth in the regulations adopted under this bylaw.

Section 9: Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Commission and its agents shall have the authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by enforcement orders, administrative orders, and civil and criminal court actions. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement. Any person who violates the provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law.

The violation of any provision of this bylaw, or regulation, or permits issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or portion thereof during which a violation continues or unauthorized fill or other alteration remains in place shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

The Commission shall also have the authority to enforce this bylaw, its regulations, and permits issued thereunder by enforcement orders, violation notices, non-criminal citations under G.L.Ch.40, Section 21D, and civil and criminal court actions. (amended 5/6/06)

Section 10: Severability

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

Section 11: Appeals

A decision of the Commission shall be reviewable in the Superior Court in accordance with G.L. Ch. 249, sec. 4.

Section 12: Relation to the Wetland Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. Ch. 131, sec. 40, and Regulations 310 CMR 10.00, thereunder.

CHAPTER XIX - NONCRIMINAL DISPOSITION OF CERTAIN VIOLATIONS

Section 1. Authority: In accordance with the provisions of Massachusetts General Law, Chapter 40, Sec. 21D, as amended, certain violations of the following listed bylaws, rules, and/or regulations of Town officials, boards and departments may be enforced pursuant to said Section 21D, as an alternative to initiating criminal proceedings.

Section 2. Enforcement: Noncriminal Disposition, when implemented, shall be enforced by the person(s) so designated in Section 4 below. The procedures shall be in accordance with Chapter 40, Section 21D.

Section 3. Penalties: The specific penalties for violations of the applicable bylaws, rules and regulations shall be as listed in Section 4 below.

Section 4. Applicable Bylaws, Rules or Regulations:

A. Zoning Bylaw: Notwithstanding the enforcement and penalties prescribed in the Wenham Protective Zoning Bylaw, Section XIV, and the Massachusetts General Laws Chapter 40A, the provisions of said Bylaw may be enforced by the Building Inspector by non-criminal complaint. Each day of violation shall constitute a separate offense. No enforcement shall be authorized until the enforcing officer has mailed by certified mail or delivered by hand to the offender, a written notice of violation and thirty days have expired from the date of mailing or delivery and no appeal pursuant to Chapter 40A has been filed, or if any appeal has been filed, final determination has been made favorable to the Town. The penalty for violations(s) shall be as follows:

1st Offense	Warning
2nd Offense	\$ 25
3rd Offense	\$ 50
4th Offense and each subsequent offense	\$100

B. Water Resources Protection Bylaw

In addition to the enforcement and penalties prescribed in the Wenham Water Resources Protection Bylaw, Section 9, the provisions of said bylaw may be enforced by the Conservation Commission, its agents, including the Conservation Commission Coordinator, Officers, and employees by non-criminal complaint. Each day of the violation shall constitute a separate offense. No enforcement shall be authorized until the enforcing officer has mailed, by certified mail, or delivered by hand to the offender, a written notice of violation and thirty days have expired from the date of mailing or delivery and no appeal has been filed, or if any appeal has been filed, final determination has been made favorable to the Town. The penalty for violation(s) shall be as follows:

Offense	Buffer Zone	Wetland Resource	Non-Compliance/COC
1 st Offense	Warning	Warning	Warning
2 nd Offense	\$ 50	\$100	\$200
3 rd Offense	\$200	\$200	\$300
4 th Offense	\$300	\$300	\$300

CHAPTER XX - FIRE LANE

Section 1: It shall be unlawful to obstruct or block a private way with a vehicle or other means as to prevent access by fire apparatus or equipment to any building.

Section 2: It shall be unlawful to obstruct or park any vehicle in any fire lane, such a fire lane to be designated by the Chief of the Wenham Fire Department and posted and marked as such. Said fire lanes shall be a width of twelve (12) feet from the curbing at a sidewalk for a mall, shopping center, nursing home or school. Where no sidewalk with curbing exists the width shall be eighteen (18) feet from the building.

Section 3: The building owner of record shall provide, install and maintain signs and/or markings as provided in section two (2) of the bylaw.

Section 4: The bylaw shall be enforced by the Police Department of the Town of Wenham.

Section 5: This bylaw shall pertain to all buildings in the Town of Wenham except buildings used for residence use, but limited to four (4) dwelling units or less.

CHAPTER XXI - WATER USE RESTRICTION

Section 1: Authority

The Bylaw is adopted by the Town of Wenham under its police powers to protect public health and welfare and its power under M.G.L. c.40, S21 *et seq* and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, S69B. This bylaw also implements the Town's authority under M.G.L. c. 40, S41A, conditioned upon a declaration of water supply emergency issued by the Massachusetts Department of Environmental Protection.

Section 2: Purpose

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restriction, requirements, provisions or conditions imposed by the Town or by the Massachusetts Department of Environmental Protection.

Section 3: Definitions

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

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Massachusetts Department of Environmental Protection under M.G.L. c. 21G, S15-17

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town of Wenham Water Commissioners pursuant to Section 4 of this bylaw.

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

Section 4: Declaration of a State of Water Supply Conservation

The Town of Wenham, through its Board of Water Commissioners may declare a State of Water Supply Conservation upon determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all consumers, to include fire fighting operations and to ensure compliance with the Massachusetts Department of Environmental Protection's permitted and registered withdrawals. Public notice of a State of Water Conservation shall be given under Section 6 of this bylaw before it may be enforced.

Section 5: Restricted Water Uses

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

- a. Odd/Even Day Outdoor Watering: Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- b. Outdoor Watering Ban: Outdoor watering is prohibited.
- c. Outdoor Water Hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- d. Filling Swimming pools: Filling of swimming pools is prohibited.
- e. Outdoor Sprinkler use: The use of lawn and garden sprinklers of all types, including the use of automatic sprinkler systems, is prohibited. Hand watering is permitted.

Section 6: Public Notification of a State of Water Supply Conservation

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

Section 7: Termination of State of Water Supply Conservation:

Notice

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

Section 8: State of Water Supply Emergency: Compliance with DEP

Orders

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

Section 9: Penalties

Any person violating this bylaw shall be liable to the Town of Wenham in the amount of \$50 for the first violation and \$100 for each subsequent violation which shall inure to the Town. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

Section 10: Severability

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

**CHAPTER XX11 – COMMUNITY PRESERVATION ACT –
COMMUNITY PRESERVATION COMMISSION**

Section XXI. Community Preservation Committee

Chapter 1. Establishment

- (1) There is hereby established a Community Preservation Committee consisting of nine voting members pursuant to Massachusetts General Laws Chapter 44B. The Committee shall consist of the following members:
 - One member of the Historic District Commission as designated by the Commission
 - One member of the Housing Authority as designated by the Authority
 - One member of the Planning Board as designated by the Board
 - One member of the Recreation Commission as designated by the Commission
 - One member of the Conservation Commission as designated by the Commission
 - Four at-large members to be designated by the Board of Selectmen
- (2) The term for the first-appointed Community Preservation Committee will begin on January 1, 2006, ending on May 31, 2008. Subsequent terms will begin on June 1 of each year and will be for two years. Any vacancy on the Community Preservation Committee shall be filled by the commission, authority or board that designated the member who creates the vacancy by designating another member in accordance with Section (1) above for the unexpired term.
- (3) Should any commission, authority or board designating a member for the Community Preservation Committee cease to exist for whatever reason the Board of Selectmen will determine the appropriate alternative designating commission, authority or board.

Chapter 2. Duties

- (1) The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with town boards and others including, but not limited to, the Historical Commission, the Housing Authority, the Planning Board, the Conservation Commission, and the Recreation Commission in conducting such studies. As part of its studies the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly, including on the Town's web page, and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town. The Committee will file an annual report on its activities to the Town Clerk.
- (2) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, rehabilitation, restoration and preservation of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of such open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings, or construction of new buildings on previously developed sites.
- (3) The Community Preservation Committee may include in its recommendations to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation, but for which sufficient funds are not then available in the Community Preservation Fund to accomplish that specific purpose, or to set aside for later spending funds for general purposes that are consistent with community preservation.

Chapter 3. Requirements for a quorum and cost estimates

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Meetings will be held in accordance with the open meeting law. Recommendations to the Town Meeting shall include their anticipated costs.

Chapter 4. Amendments

The Community Preservation Committee shall, from time to time, review the administration of this By-law, making recommendations, as needed, for changes in the By-law and in administrative practice to improve the operations of the Community Preservation Committee. The first review shall be completed at least by November 1, 2008 and subsequent reviews shall

be completed in no more than five-year intervals. This Bylaw may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not be in conflict with Chapter 44B of the Massachusetts General Laws.

Chapter 5. Severability

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

Chapter 6. Effective Date

This vote shall take effect and this Bylaw shall be submitted to the Attorney-General of the Commonwealth only upon certification that a majority of voters have approved a ballot question accepting sections 3 to 7, inclusive, of Massachusetts General Laws Chapter 44B. Upon approval of this Bylaw by the Attorney General of the Commonwealth, the Board of Selectmen shall request the Historic District Commission, the Housing Authority, the Planning Board, the Conservation Commission, and the Recreation Commission to designate a member to serve on the Community Preservation Committee. The Board of Selectmen will designate four at-large members of the Community Preservation Committee.

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CHAPTER XXIII - CANINE CONTROL BY-LAW

1 PREAMBLE.

1.1 Purpose. The purpose of the Wenham Canine Regulation By-Law, hereinafter called the "By-Law", is to:

- a. Establish a Town-wide program to register dogs owned by Wenham residents.
- b. Establish fees for the registration of dogs and to set fines for violations of the By-Law.
- c. Establish rules and regulations for the control of dog complaints caused by nuisance.
- d. Authorize a Town Agent to enforce the provisions of the "By-Law".

1.2 Authority. The "By-Law" has been adopted pursuant to the provisions of GLc 140 ~ 147A.

2 PROCEDURE.

2.1 Registration of Dogs. Notwithstanding the provisions of GLc 140 ~ 137 or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs kept in the Town shall be conducted in the Office of the Town Clerk.

2.2 Manner of Display. The owner or keeper of a dog registered in Wenham shall cause it to wear around its neck or body, a collar or harness to which shall be securely attached a tag in a form as prescribed by the Town Clerk and available at the Town Clerk's office.

2.3 Fees Established. Notwithstanding the provisions of Section 139 of Chapter 140 or any other provision of law to the contrary, the annual fees to be charged by the Town for the issuance of licenses for all dogs six (6) months old or older, shall be:

All Dogs (male or female) Ten (\$10.00) dollars, per registered dog

Kennel (four (4) or more dogs) Two hundred (\$200.00) dollars, maximum fifty (50) tags.

Any owner or keeper of a dog, owned or kept in Wenham as of January 1 of each year, who fails to register that dog on or before January 31 of each year shall pay a late fee of twenty-five (\$25.00) dollars in addition to any other fees provided for in this By-Law, for each such dog not registered in accordance with the provisions of this section.

In the event any dog over six (6) months old becomes owned or kept in Wenham after January 1 of each year, the owner or keeper shall register such dog within thirty (30) days of the date the dog became so owned or kept, or pay the late fee as provided for in this section.

No dog shall be licensed for the current year until all fees and fines from the previous year have been paid.

2.4 Fees to Be Paid into Town Treasury. Notwithstanding the provisions of Section 147 of said Chapter 140 or any other provision of law to the contrary, all money received from the issuance of dog licenses by the Town, or recovered as fines or penalties by the Town under the provisions of Chapter 140 relating to dogs, shall be paid into the treasury of the Town and shall not thereafter be paid over by the Town Treasurer to Essex County.

2.5 Damages Paid from Town Treasury. Notwithstanding the provisions of Section 147 of said Chapter 140 or any other provision of law to the contrary, whoever suffers loss by the worrying, maiming or killing of his livestock or fowl by dogs outside the premises of the owners or keepers of such dogs, shall, after investigation as provided in Section 161 of Chapter 140, be paid from the Town Treasury as provided in Section 161 of Chapter 140.

3 DOG COMPLAINTS FOR NUISANCE.

3.1 Definition of Nuisance. Animal behavior which constitutes a nuisance includes, but is not limited to, the following: molesting passerby or passing vehicles (including bicycles), attacking persons or domestic animals, trespassing on school grounds or other public property, damaging public or private property, barking, whining, or howling in an excessive, continuous, or untimely fashion.

3.2 Duties and Powers of Animal Control Officer. The Animal Control Officer shall attend to all complaints, and other matters pertaining to dogs, and shall take whatever legal action is authorized by law. The Animal Control Officer shall be empowered to enforce this By-Law and no person shall interfere with or hinder, molest or abuse any Animal Control Officer in the exercise of such powers.

3.3 Abandoned and Abused Dogs. The Animal Control Officer shall confine any animal found to be without adequate care, or found in unsanitary or unsafe conditions or that has been abused, abandoned, or neglected. Any such animal shall be confined for not less than three (3) days.

3.4 Impounded Dogs. Impounded dogs shall be kept for ten (10) days unless reclaimed by their owners. Dogs not claimed by their owners within ten (10) days or placed in suitable new homes, may be humanely euthanized by the Animal Control Officer or by an agency delegated by him to exercise that authority.

3.5 Quarantined Dogs. Any dog which bites a person shall be quarantined for ten (10) days if ordered by the Animal Control Officer. During quarantine, the dog shall be securely confined and kept from contact with any other animals. At the discretion of the Animal Control Officer, the quarantine may be on the premises of the owner. If the Animal Control Officer requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital.

3.6 Female Dogs in Heat. If the Animal Control Officer determines that a female animal, in heat, even when confined to the property of the owner or keeper, is attracting other animals to the area, which condition causes disturbance or damage to neighboring property or public areas, the Animal Control Officer may require the owner or keeper to place and keep the animal while in heat in a kennel or to remove it from the area so that the nuisance is abated.

3.7 Uncontrolled Dogs. The Animal Control Officer is authorized to require owners or keepers of dogs to prevent such dogs from running at large in schools, school playgrounds, parks or public recreational areas. The Animal Control Officer is further authorized to require owners or keepers of dogs to restrain their dogs from running at large when it has been determined by the Animal Control Officer that the dog is an annoyance, is dangerous, is known to cause damage in the neighborhood, or further is on the property of an owner who does not wish the dog on his or her property.

3.8 Barking Dogs. If the Animal Control Officer determines that an animal is a nuisance due to excessive barking, whining or howling in a continuous or untimely fashion, the Animal Control Officer is authorized to order the owner or keeper to house the animal.

3.9 Fee and Fine Enforcement. All pound fees, pickup fees and fines including the licensing fee shall be paid by the owner or keeper before release of the dog or dogs.

3.10 Pick-Up Fees. The owner of any stray dog picked up by the Animal Control Officer shall be charged a ten (\$10.00) dollar fee.

3.11 Appeal of Order. The owner or keeper of a dog, about which the Animal Control Officer has issued an order, under the above sections of the By-Law, who wishes to appeal the order, may make such an appeal in writing to the Board of Selectmen within ten (10) days of the issuance of the order. In the event of such an appeal the Board of Selectmen will hold a public hearing.

4 ENFORCEMENT; PENALTY.

4.1 Violation; Fines. Any person violating any provision of the By-Law, other than those provisions of subsection 2.3 relating to the deadline for registering dogs, shall be deemed guilty of a misdemeanor and shall be punished by a fine of twenty-five (\$25.00) dollars for the first offense and fifty (\$50.00) dollars for each subsequent offense. If any violation be continuing, each day's violation shall be deemed a separate violation. Complaints will be sought in District Court according to GLc 140 ~ 173A. Under the provisions of this By-Law, the Town Clerk is authorized to accept payment of fines for violations, sought in the District Court.

4.2 Enforcement Officer. The Animal Control Officer and/or Police are hereby authorized to issue a Notice of Violation to an owner or keeper who has violated any provision of the By-Law.

4.3 Enforcement Authority. Notwithstanding the provisions of this By-Law, all other aspects of Chapter 140, Sections 135A through 175 shall still be in effect.