

# **ARTICLE I TOWN MEETINGS**

**SECTION 1.** Warrants for all Town Meetings shall be served by posting attested copies thereof in four or more public places in the Town, fourteen (14) days at least before the day appointed for said meeting, one in each Precinct: Precinct A – Town Hall, 17 Main Street, Precinct B – Whalom Variety Store 423 Electric Avenue in the Whalom-Bakerville District, Precinct C – Powell Stone & Gravel Co. Inc., 225 Leominster-Shirley Road, Precinct D – Centre Pizza & Variety, 1383 Massachusetts Avenue.. The warrant for any Town Meeting, with report and recommendation of the Finance Committee (required by Section 2 of Article XII of these by-laws), shall be mailed by the Board of Selectmen to each dwelling unit in the Town in which a registered voter resides, at least fourteen (14) days prior to such meeting. The warrant for the Annual Town Election shall be included in the mailing for the Annual Town Meeting. (5/3/03)

**SECTION 2.** The Annual Town Meeting shall be held on the first Saturday in May commencing at 9:00 A.M. and all required reports shall be made at that time. The Annual Town Election shall be held on the third Saturday in May commencing at 7:00 A.M. and ending at 5:00 P.M.

**SECTION 3.** All requests for the insertion of subjects in the warrant for the Annual Meeting shall be submitted on or before 4:00 P.M. on the 42nd day before the date of the Annual Meeting. The requests shall be filed in the office of the Selectmen and the date of filing shall be noted on the request. No subject, the insertion of which is requested after the time herein designated, shall be inserted in the warrant. (ATM 5/01, Art. 31)

**SECTION 4.** On matters requiring a two thirds vote by statute a count need not be taken unless the vote so declared is immediately questioned by seven or more voters as provided in MGL Chapter 39, Section 15. (10/21/97)

**SECTION 5.** Any Town Meeting is required to take place not less than fourteen (14) days prior and not more than thirty (30) days prior to any Town Election. (11/6/01)

**SECTION 6.** All Town committee meetings, either standing or ad hoc, must be held on Town Property. (11/6/01)

## **ARTICLE II TOWN ADMINISTRATION**

**SECTION 1.** All Boards, standing committees and officers of the Town, shall keep proper records of all their doings and accounts. The records and vouchers of such boards, committees and officers shall be kept in their respective offices and shall not be removed therefrom; such records and vouchers shall be open to the inspection of the citizens of the town, the said records and vouchers remaining under the supervision of the board, committee or officer having charge thereof.

The minutes of all town boards and committees' meetings shall be filed with the Town Clerk within two (2) weeks after those minutes are approved by the board, and the minutes of all executive sessions of those boards and committees shall be filed with the Town Clerk within two (2) weeks of those minutes being made public. Minutes shall include the material substance of the discussions, including votes, and need not be a verbatim record unless otherwise required by law. (5/13/89)

**SECTION 2.** The selectmen may make from time to time such rules and regulations for the government, disposition and management of the police, including the elected constables when acting as police officers, as they may deem expedient.

**SECTION 3.** All public grounds, parks, buildings and places of public resort owned by the town, shall be under the supervision of the Board of Selectmen, except as otherwise provided by statute, and the use of the town hall may be granted by the Selectmen, at their discretion, without pay therefor to any town organization of society for free public entertainment, lectures or meetings.

**SECTION 4.** The Board of Selectmen and the elected constables of said town shall have the right, either individually or collectively, to enter all places of public resort, business or amusement licensed in the town, at any and all times, for the purpose of assuring themselves that the same are conducted according to law and the terms and conditions of the licenses.

**SECTION 5.** The Board of Selectmen may grant and issue such licenses as are authorized by statute, and all licensees shall pay, in advance and before any license shall be issued, such a sum of money as shall have been fixed and determined by statute, and in the event that no such sum shall have been fixed and determined by statute, the Selectmen are hereby authorized to fix and determine said sum.

**SECTION 6.** The Board of Selectmen shall have the right and power to revoke and annul any license, whenever any of the terms and conditions of such license may have been broken, or any infraction of the laws of the Commonwealth has been committed by the licensees.

**SECTION 7.** The financial year shall begin on the first day of July and end on June 30th.

**SECTION 8.** Except as otherwise permitted or required by law, no person holding an elective office shall perform work or other services for the town for remuneration so long as such work is subject to the direct control or supervision of the Board or Department of which such person is a member. (ATM 5/01, Art. 32)

**SECTION 9.** Fees collected for the Town by the Town Clerk and Tax Collector by virtue of these offices shall be paid into the treasury.

**SECTION 10.** All Town Boards or Officers having in their charge or control personal property owned by the Town which, in the best judgment of said Boards or Officers has become obsolete and does not have a value in excess of \$500.00 as reasonably estimated by them are hereby authorized, with the prior written approval of the Chief Administrative and Financial Officer, to sell and convey the same in behalf of the Town upon such terms as said Boards or Officers deem reasonable; provided, however, that a description of such property sold, together with the name and address of the buyer and the consideration paid therefor, shall be included in the annual report of the responsible Board or Officer for the year in which the property was sold. No such personal property, the estimated value of which exceeds \$500.00, shall be sold without prior authorization by a Town Meeting. (ATM 5/01, Art. 33)

**SECTION 11.** The Board of Selectmen shall issue to comply with the Commonwealth of Massachusetts State Building Code, a prescribed fee Schedule. All fees collected within the Town of Lunenburg shall be paid into the Treasury.

**SECTION 12.** License and Permit Fee schedule adopted April 6, 1981 Annual Town Meeting, Article 23. (See "LICENSE AND PERMIT FEE SCHEDULE") April 1981, 1982, May 14, 1988 Art 61.

**MGLA Chapter 262, Section 34, clauses 1-79:**

CLAUSE	DESCRIPTION	FEE
(1)	For filing and indexing assignment for the benefit of creditors.	10.00
(11)	For entering amendment of a record of the birth of a child born out of wedlock subsequently legitimized.	10.00
(12)	For correcting errors in a record of birth.	10.00
(13)	For furnishing certificate of a birth.	10.00
(13A)	For furnishing an abstract copy of a record of birth.	5.00
(14)	For entering delayed record of birth.	10.00
(20)	For filing certificate of a person conducting business under any title other than his real name. Business Certificate.	25.00
(21)	For filing by a person conducting business under any title other than his real name for a statement of change of his residence, or of his discontinuance, retirement or withdrawal from, or change of location of, such business.	5.00
(22)	For furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business.	10.00
(24)	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.	20.00
(29)	For correcting errors in a record of death.	10.00
(30)	For furnishing a certificate of death.	10.00
(30A)	For furnishing an abstract copy of a record of death.	5.00
(42)	For entering notice of intention of marriage and issuing certificates thereof	25.00
(43)	For entering certificate of marriage filed by persons married out of the Commonwealth.	10.00
(44)	For issuing certificate of marriage.	10.00
(44A)	For furnishing an abstract copy of a record of marriage.	5.00
(45)	For correcting errors in a record of marriage.	10.00

(54)	For recording power of attorney.	10.00
(57)	For recording certificate of registration granted to a person to engage in the practice of optometry, or issuing a certified copy thereof.	20.00
(58)	For recording the name of the owner of a certificate of registration as a physician or an osteopath in the Commonwealth.	20.00
(62)	For recording order granting locations of poles, piers, abutments flat rate or conduits, alterations or transfers thereof, and increase in number of wires and cable or attachments under the provisions of Sec. 22 of Chapter 166.	50.00 add'l streets 10.00
(66)	For examining records or papers relating to birth, marriage or deaths upon the application of any person, the actual expense thereof, but not less than	5.00
(67)	For copying any manuscript or record pertaining to a birth, marriage or death.	per page 5.00
(69)	For receiving and filing a complete inventory of all items to be included in a "closing out sale", etc.	1st page 10.00 add'l pages 2.00
(75)	For filing a copy of written instrument or declaration of trust by trustees of an association or trust, or any amendment thereof as provided by Sec. 2, Chapter 182.	20.00
(78)	For recording deed of lot or plot in a public burial place or cemetery	10.00
(79)	Recording any other documents.	1st page 10.00
	Passports	30.00
	Voters Card & Certificate of Residence (Article 61, May 14, 1988 T.M.)	5.00
94/41	Milk Dealers	5/years/5.00
100/14	Auctioneer (30 days)	20.00
140/2	Innholders	10.00
140/32B	Licensing Mobile Home Parks, recreational camps or cabins or motels	25.00
140/177	Automatic Amusement Devices:	
A	All "video games", so-called	35.00
	All other Automatic Amusement Devices (revised 5/13/87)	35.00
140/185I	Tell Fortunes	50.00
271/7A	Raffles and Bazaars	20.00
98/56	Balances and scales:	
	Scale with capacity over 10,000 lbs.	100.00
	Scale with capacity 5000 - 10,000 lbs.	50.00
	Scale with capacity 1000 - 5000 lbs.	40.00
	Scale with capacity 100 - 1000 lbs.	30.00
	Scale with capacity more than 10 lbs. less than 100 lbs.	15.00
	Scale with capacity 10 lbs. or less	10.00
	Weights	
	Avoirdupois (Set)	15.00
	Metric (Set)	15.00
	Apothecary (Set)	15.00
	Troy (Set)	15.00
	Capacity Measures	
	Vehicle Tanks	100.00
	Each Indicator	25.00
	Each 100 gal. Or %	25.00
	Liquid; 1 gallon or less	10.00
	Liquid; > than 1 gallon	10.00
	Liquid Measuring Meters	
	Oil, Grease	15.00
	Gasoline	15.00
	Vehicle Tank Pump	30.00
	Vehicle Tank Grav	30.00

Propane (LPG)	30.00
Bulk Storage	75.00
Company Prover	100.00
<b>Pumps &amp; Other Devices</b>	
Each stop on pump	10.00
Retail Scanners (3, 11, 12+)	100.00, 200.00, 250.00
Taxi Meters	25.00
Odometers	25.00
Leather Meas. (Sem)	10.00
Fabric Measuring	10.00
Wire-Rope-Cord	10.00
<b>Linear Measures</b>	
Yard Sticks	5.00
Tapes	5.00
Wheel Measures	25.00
Surveyors of Measures	25.00
<b>Miscellaneous</b>	
Milk Jars (Per Gross)	25.00
Dry Measures	10.00
Bottle Return	10.00
Wood, Bark Measures	25.00
Sand, Loam Measures	25.00
Adjusting	10.00
Retest	20.00
Non-Res Surcharge	20.00
Special Facilities	20.00/Cost
Repairs	Cost

**SECTION 13.** Repealed See Article IX, Section

**SECTION 14.** The Board of Selectmen shall adopt rules and regulations for licensing of taxicabs, limousines and other related transportation services having their principal place of business within the Town of Lunenburg, including the establishment of fees and penalties.

**SECTION 15.** The Board of Selectmen shall annually provide for an independent audit for all books and accounts of the Town. The Audit requirement may be fulfilled in whole, or in part, by a certified public accountant, a firm of public accountants, or under the auspices of a federal or state governmental agency, or any combination thereof. (May 14, 1988 Art 3)

**SECTION 16.** Licenses and Permits of Delinquent Taxpayers.

(a) The tax collector or other municipal official responsible for records of all Town taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

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

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

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

This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five, sales of article for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty. ((9/24/1991))

## **ARTICLE III SELECTMEN**

**SECTION 1.** The Selectmen shall exercise a general supervision over all matters affecting the interests or welfare of the Town.

**SECTION 2.** The Selectmen may settle any claims or suits against the Town, which in their opinion cannot be defended successfully, and they may employ counsel in suits against the Town and in other matters whenever they deem it necessary.

**SECTION 3.** The Selectmen may appear (either personally or by counsel) before any committee of the legislature, or board or commission, to protect the interest of the Town, but are not authorized by this By-law to commit the Town to any course of action.

**SECTION 4.** No member of the Board of Selectmen shall sign or become liable upon the bond of any Town officer required to give bonds.

**SECTION 5.** This Section purposely left blank.

## **ARTICLE IV TOWN CLERK**

**SECTION 1.** The Town Clerk has custody of the Town Seal, and all conveyances under seal which may hereafter be executed by the town, pursuant to a vote of the town or otherwise, shall be sealed with such a seal and subscribed by a majority of the Board of Selectmen. (ATM 5/01, Art. 35)

**SECTION 2.** It shall be the duty of the Town Clerk to see that every conveyance to the town of any interest in land is properly recorded in the Registry of Deeds.

**SECTION 3.** It shall be the duty of the Town Clerk to keep all his/her records in a legible manner and properly indexed.

**SECTION 4.** It shall be the duty of the Town Clerk to publicly post in the office of such clerk and on the principal bulletin board in the town and on the Lunenburg Town Website the notice of every meeting of all Town Boards and committees.

**SECTION 5.** It shall be the duty of the Town Clerk to publicly post in the office of such clerk and on the principal bulletin board in the town and on the Lunenburg Town Website the agenda, as defined in the Lunenburg Town Charter section 7-8(b), of every meeting of all Town boards and committees.

**SECTION 6.** It shall be the duty of the Town Clerk to post on the Lunenburg Town Website minutes of meetings of all town boards and committees. The official minutes shall be in the office of the Town Clerk.

**SECTION 7.** For the purpose of implementing Sections 4, 5 and 6 of Article IV, the Town Clerk shall have the authority to specify to all town boards and committees the format for submission of meeting notices, agendas, and meeting minutes.

## **ARTICLE V USE OF PUBLIC WAYS**

**SECTION 1.** No person shall within the limits of any street or highway in said town play at any game of ball or engage in any amusement, game or exercise interfering with the safe and convenient use of such streets or highways by travelers, except by the permission of the Selectmen.

**SECTION 2.** No person shall break or dig up the wrought part of any highway or street, or place within the limits of any street or highway any obstruction or rubbish, stones, ashes, or any animal or vegetable substance or offal, or move any building into or along the same, without a license from the Selectmen, the Chief Administrative Financial Officer (or equivalent), or DPW Director or his designated Agent. (5/13/87)

**SECTION 3.** No person shall tie any animal to any ornamental or shade tree, vine or shrub in any street or on any public land, or to any structure put up for the protection of the same, or shall otherwise willfully or wantonly injure or deface any public building or any public grounds.

**SECTION 4.** No owner, or person having the care of any swine, sheep, horses, mules, or neat cattle, shall allow the same to go at large in any highway or public place in said town, except under proper restraint.

**SECTION 5.** No person shall make any indecent figures or write indecent or obscene words upon, or mar, disfigure or deface any fence, building or other public place within the Town, and no person shall behave in a disorderly manner, or use any indecent or profane language in any street, lane, alley or other public place in the Town, or near any dwelling-house or obstruct the free passage of foot travelers on such sidewalk, and no person shall saunter or loiter in a street in such a manner as to obstruct travelers, but nothing in this section shall be construed to curtail, abridge or limit the right of opportunity to any person to exercise the right of peaceful persuasion guaranteed by Section 24 of Chapter 149 of the General Laws, or to curtail, abridge or limit the intendment of any statute of the Commonwealth of Massachusetts. Whoever violates any portion of the by-law shall be punished by a fine of not more than fifty dollars (\$50.00) for each offense.

**SECTION 6.** No person shall place any table, tent, booth, stall or other thing in a street, highway, sidewalk, or on any of the public grounds in the town, for the sale of fruit, or any other things, without a license from the Selectmen.

**SECTION 7.** No person shall wantonly injure, mar, deface, or destroy a fence, signboard, guidepost, guideboard, awning lamp post, street light, or lantern in a street, highway or public place in said town.

**SECTION 8.** No person shall nail, post or paste any advertisement or notice upon a shade tree, bridge, fence, guide post, electric light or telephone pole in said town, or erect any advertising signboard within the town limits without permission from the Selectmen.

**SECTION 9.** Repealed.

**SECTION 10.** Repealed

**SECTION 11.** No person shall set out, suffer or cause to be grown at or near the line of intersecting public ways, any trees, shrubs, or bushes in such manner, or to such height, as will constitute an obstruction to vision of persons operating motor vehicles along such ways.

**SECTION 12.** No person shall drink any alcoholic beverage as defined in Chapter 138, Section 1 of the General Laws of the State, or possess an opened container full or partially full of any alcoholic beverage, while on, in, or upon any public way, upon any way to which the public has right of access, in any place to which members of the public have access as invitees or licensees, in any park or playground, conservation area or recreation area, on private land or place without consent of the owner or person in control thereof. Any person convicted of violating this ordinance shall be punished by a fine not exceeding TWO HUNDRED (\$200.) DOLLARS for each offense. (April, 1979)

**SECTION 13.**

(a) 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 a 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 the distinguishing license plate authorized by Section Two of Chapter Ninety, according to the following formula:

If the number of parking spaces is at least one (1) but not more than twenty-five (25), one (1) parking space;

More than twenty-five (25) but not more than fifty (50), two (2);

More than fifty (50) but not more than seventy-five (75), three (3);

More than seventy-five (75) but not more than one hundred (100), four (4);

More than one hundred (100) but not more than one hundred fifty (150), five (5);

More than one hundred fifty (150) but not more than two hundred (200), six (6);

More than two hundred (200) but not more than three hundred (300), seven (7);

More than three hundred (300) but less than four (400), eight (8);

More than four hundred (400), but less than (500) nine (9).

More than five hundred (500) but less than one thousand (1000) 2% of total number of spaces.

More than one thousand (1000), twenty (20) spaces plus one additional space for each one hundred spaces over 1000.

(b). Parking spaces designated as reserved under the provisions of paragraph (a) shall be identified by the use of above grade signs with white lettering against blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May Be Removed at Owner's Expense"; 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 wide areas with four feet of cross hatch between them.

(c). No person shall leave an unauthorized vehicle within parking spaces designated for use by disabled veterans or handicapped persons or in such a manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way.

(d). The punishment for violations of subparagraphs (a) through (c) shall be \$100.00 for each offense. (STM 6/06, Art. 9)

**SECTION 14.** No person shall plow, shovel, or otherwise place snow, ice, and debris onto that portion of any public way which is open to travel. The punishment for violation shall be \$50.00(5/13/87)

**SECTION 15.** A permit is required to be issued by the DPW Director or his designated Agent for improvements which increase the volume of surface water onto town ways. (May 14, 1988 Art 55)

**SECTION 16.** No person shall leave an unauthorized vehicle unattended within the limits of private ways furnishing means of access for fire apparatus to any building.

## **ARTICLE VI**

### **GOVERNMENT OF TOWN MEETINGS**

**SECTION 1.** All motions made in connection with proposed action to be taken on any article at any Town Meeting shall be debatable, notwithstanding the rules or parliamentary law contained in "Town Meeting Time".

**SECTION 2.** The duties of the presiding officer, not specially provided for by law or by the foregoing rule, shall be determined by the rule of parliamentary law contained in "Town Meeting Time" so far as they are adapted to town meetings.

**SECTION 3.** No money shall be raised or appropriated at a special town meeting except by a two-thirds vote of the voters present and voting.

**SECTION 4.** The number of voters necessary to constitute a quorum at Town Meetings, except such parts as are devoted exclusively to the election of Town Officers, shall be fifty (50), provided, that a number less than a quorum may from time to time adjourn the same.

## **ARTICLE VII JUNK COLLECTORS**

**SECTION 1.** The Selectmen may license suitable persons as Junk Collectors, to collect by purchase of otherwise, junk, old metals and second-hand article from place to place in the town; and no person shall so collect without such license, and such licensee shall display his name and license number on his vehicle when engaged collecting, transporting or dealing in junk as aforesaid. The aforesaid licenses may be revoked at pleasure, and shall be subject to the provision of Sections 54 to 56 inclusive, of Chapter 140 of the General Laws, and all amendments thereto.

**SECTION 2.** Before issuing any license or permit of the Third Class as defined in Chapter 140, Section 58, of the General Laws relative to second-hand motor vehicles, the following requirements shall be met:

- (a) The applicant shall file with the licensing authority a plan showing the location of the premises where the license or permit, if granted, is proposed to be exercised; where, on the said premises, the second-hand motor vehicles are to be kept and in general the proposed set-up which the applicant proposes to have on the said premises.
- (b) He shall file a list setting forth the maximum number of second-hand motor vehicles to be kept on the said premises at any time, and a detailed description of all the operations proposed to be carried on if and when such license or permit may be issued.
- (c) Unless the licensing authority is satisfied that the location of the said premises is such that the proposed operations can be carried on in the open with reasonable regard for order and sightliness, the applicant shall be required to provide for the erection of a fence which, in the judgment of the licensing authority, will be suitable for maintaining orderliness and sightliness as may reasonably be done, having regard to the nature of the operations to be carried on upon the premises. The licensing authority shall determine the location of the fence and the applicant shall there upon show the same on the plan submitted by him.
- (d) No such license or permit shall be issued to an applicant until said plan, and list bearing the written approval and the date thereof, of a majority of the members of the licensing authority is filed in the office of the Town Clerk.
- (e) Failure on the part of any licensee here under to maintain the said premises strictly in accordance with the said plan and list approved by the licensing authority as aforesaid shall be grounds for revocation of said license unless any changes have been approved in writing by the licensing authority and noted upon the license.

Nothing in this section shall be construed as exempting Third Class licenses under General Laws, Chapter 140, Section 58, from the applicable provisions of existing laws and regulations, or authorizing the use of land in violation of any other By-law of the Town of Lunenburg.

**ARTICLE VIII**  
**Repealed.**

## **ARTICLE IX MISCELLANEOUS PROVISIONS**

**SECTION 1-A. DOG RESTRAINT.** No owner or keeper of any dog shall permit such dog, whether licensed or unlicensed to become a public nuisance within the town at anytime. It shall be the duty of the Dog Officer to apprehend any dog which he/she has reason to believe to be a public nuisance and to impound such dog in a suitable place and to order the owner thereof to restrain such dog. The owner of any dog impounded may reclaim such dog upon payment of the sum of twenty-five (\$25.00) dollars for the first twenty-four (24) hour period or any part thereof that the dog is held and twenty-five (\$25.00) dollars for each additional twenty-four (24) hours or any part thereof; provided, however, if the dog is not licensed that before release to any person, a license, if such is required by the Town, shall be secured. The sums collected pursuant to the provisions of this section shall be accounted for and paid over to the Town Treasurer. Any dog which has been impounded and has not been redeemed by the owner within ten (10) days shall be disposed of as provided for the laws of the Commonwealth of Massachusetts. Any owner found in violation of any of the provisions of the By-law shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine in accordance with the following schedule or any other schedule permitted by law: 1st offense - \$50.00; 2nd offense - \$75.00; 3rd and subsequent offenses in any 12 month period - \$100.00. If the owner or keeper of a dog be a minor, the parent or guardian of such minor shall be held liable for any violations of this By-law and shall attend to all complaints or other matters pertaining to dogs in the Town with citation rights.

Definitions: Dog - All animals of canine species, both male and female.  
Owner - Any person or persons, firm association or corporation owning, keeping or harboring a dog as herein defined.  
Public Nuisance - Any dog shall be deemed a public nuisance when attacking persons or domestic animals while such dog is on property other than that of the dog owner; when destroying property; when on a public school grounds and not under restraint; when it persistently chases moving vehicles; when it persistently and continuously barks or howls; when it is permitted to run at large and unrestrained on property other than its owners; any unspayed female dog in season shall be deemed a public nuisance when not confined indoors or housed in a veterinary hospital or registered kennel. Each time one of the above nuisances exists shall constitute a separate offense. (May 1985) (\$3.00 FEE CHG. TO \$12.00 FEE 5/11/91) (ATM 5/06, Art. 40)

**SECTION 1-B. DOG LICENSES.** The annual fee in the Town of Lunenburg shall be: Unspayed Female/Unaltered Male - \$20; Spayed Female/Altered male - \$5; (Dogs for which their age can be confirmed as being eight years or older, and dogs for which it can be verified by a veterinarian in writing that they cannot be spayed or altered due to severe medical reasons, shall adhere to the same fee schedule as spayed and altered dogs). Kennel (1-4 dogs) - \$30; Kennel (5-10 dogs) - \$60; Kennel (over 10 dogs) - \$100.

**SECTION 1-C. DOG KENNELS.** No owner or keeper of five or more dogs shall erect a kennel for housing of said dogs, without prior written approval of the **Dog Officer** relative to

the construction, location and capacity of said kennel. Should the petitioner be turned down by the Dog Officer, the petitioner shall have the right to appeal to the Board of Selectmen.  
(5/13/87)

**SECTION 2.** No person shall fire or discharge any firearms or explosives of any kind within the limits of any highway, park or other public property, except with the consent of the Board of Selectmen, nor on any private property, except with the consent of the owner or the legal occupant thereof, provided, however, that this by-law shall not apply to the lawful defense of life or property, nor to any law enforcement officer acting in the performance of his duties. Any persons violating any of the provisions of this by-law shall be punished by a fine of not more than \$20.00 for each offense.

**SECTION 3.** No person shall throw any glass or metal substance or the carcass of any dead animal, or any matter liable to putrefy, into any pond, brook, or stream of water, in said town, or leave such carcass or substance on the ground or insufficiently buried.

**SECTION 4.** No person shall foul any brook, pond or stream of water with any substance which shall kill the fish therein, or create offensive smells therefrom so as to injure the public health or annoy the inhabitants of the town.

**SECTION 5.** No person shall in any manner injure any of the pumps, wells or drinking fountains in the streets or public grounds of the town, nor shall throw or place any substance or thing in said pumps, wells or drinking fountains.

**SECTION 6.** Repealed.

**SECTION 7.** Repealed.

**SECTION 8.** The Board of Selectmen shall make rules and regulations for the operation of Motor Boats upon the Rivers, Ponds and Lakes of the Town to the end that such Motor Boats shall not be operated in a manner which endangers the safety of the public or is detrimental or injurious to the neighborhood or to the value of the property therein, and provide penalties of violation of such rules and regulations. (See Boating By-Laws adopted 3/17/58).

#### **BOATING BY-LAWS**

Rule 1: No person shall operate a motor-driven boat on any lake, pond or river in the Town of Lunenburg at such a manner as to endanger the lives and safety of others or the property of others or in such a manner as to create excessive wash or wake so as to interfere with the operation and safety of other water craft, endanger bathers or damage property.

Rule 2: No person shall operate a motor-driven boat on any lake, pond or river in the Town of Lunenburg within one hundred fifty (150) feet of a public bathing beach except when making an emergency landing or for life saving purposes.

Rule 3: No person shall operate a motor-driven boat on any lake or pond or river in the Town of Lunenburg while under the influence of intoxicating liquor.

Rule 4: No person shall operate a motor-driven boat while towing water skiers, aquaplanes, or similar devices, unless there is present, in said boat at least one other person capable of observing and assisting the person or device being towed. The person operating a motor-

driven boat while engaged in such a towing operation shall be responsible for the safety of such operation.

Rule 5: The foregoing rules and regulations shall be enforced by authorized police officials and the violation of said rules and regulations shall, for each offense be punished by a fine not more than twenty (\$20) dollars.

Adopted by Board of Selectmen 3/17/58

Howard A. Hamel

Carlton T. Ellms

David Eyles

March 31, 1958 - VOTED That the foregoing rules and regulations for use of motor boats on waters within the town of Lunenburg are hereby approved to the extent authorized under the provisions of Section 15B of Chapter 102 of the General Laws, as enacted by Chapter 678 of the Acts of 1950.

Department of Public Works, Division of Waterways

Commissioner and Associate Commissioner

## **SECTION 9. EARTH REMOVAL ORDINANCE**

### 1. Definitions for the purpose of this Chapter:

- (a) "Earth" shall include soil, loam, sand, gravel, and stone.
- (b) "Board" shall mean the Selectmen of the Town of Lunenburg.

### 2. Purpose

The purpose of this Chapter is to protect the health, safety and welfare of the public by regulating the removal of earth so as not to create dust, washouts, noise, ponds, and other hazardous land conditions.

### 3. Enforcement

Any person, firm or corporation willfully violating, disobeying or refusing to comply with any of the provisions of this Ordinance shall be prosecuted under the terms of General Laws, Ter. Ed., Chapter 40, Section 21, paragraph 17, and shall be subject to a fine of not more than \$50.00 for the first offense, not more than \$100.00 for the second offense, and not more than \$200.00 for any subsequent offense. Each day during any portion of which such violation is allowed to continue shall be considered a separate offense. The Board may revoke or suspend the permit of any person, firm or corporation holding a permit under this Ordinance if such person, firm corporation violates, disobeys, or fails to comply with any of its provisions.

### 4. Existing soil removal operations

Any person, firm or corporation engaged in the operation of soil removal on the effective date of this Chapter may continue such operation for 30 days after such date, but shall, within said 30 days apply for a permit in accordance with this Chapter. At the end of such 30 days the operation shall be governed by the terms of the permit issued or, if no such permit is issued, shall cease.

### 5. Validity

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

6. Permit required.

No earth in an amount in excess of ten (10) cubic yards shall be moved from any parcel of land within the Town of Lunenburg to another parcel either within or without the Town unless such removal is authorized by a permit issued by the Board. No earth in an amount in excess of ten (10) cubic yards shall be moved in less than ten (10) cubic yard quantities over a period of time, deemed by the Board to be for the purpose of evading any of the provisions of this ordinance. No earth removal permit shall be issued until an application therefore is filed with the Board and the Board has held a public hearing on the application, after publication of the time and place, and subject matter sufficient for identification, in the newspaper having general distribution in the Town once in each of two successive weeks, the first publication to be not less than fourteen (14) days prior to said public hearing, and notice of such hearing shall be sent by mail to owners of abutting property prior to said public hearing.

7. Application for permit

Applications for such permits shall be accompanied by exhibits and documentation deemed necessary by the board for the proper issuance of a permit, which shall include the following:

- (a) Name and address of the legal owner of the land in question.
- (b) Name and address of petitioner, if different, and names and addresses of owners of abutting property.
- (c) An adequate and sufficient plan of land prepared by a registered engineer or land surveyor and indicating tract boundaries, adjacent streets and roads, the limits of the proposed excavation, the locations of all structures within two hundred (200) feet of said limits, original topography of five-foot contours, proposed final contours of five-foot intervals, and the location and proposed use of all structures and buildings to be used in connection with the removal operation. Any of the above provisions may be waived at discretion of the board.
- (d) Statement of plans for the disposal of rock, tree stumps and other waste material, and for the drainage of the site and excavation during and after the removal operation.
- (e) Proposed Closure Plan as provided in number 13 of Article IX, Section 13, unless waived at discretion of the Board.

#### 8. Reasons for denial

No permit for earth removal shall be issued if such removal will (a) endanger the general health, safety, or welfare or constitute a public nuisance, (b) result in detriment to the normal use of adjacent property by reason of noise, dust, erosion, or vibration, (c) result in traffic hazard in residential areas, or congestion and physical damage to public ways.

#### 9. Duration of permit

No permit for any earth removal shall be issued for more than one (1) year's duration, and may be renewed thereafter.

#### 10. Control of operation

In approving the issuance of a permit, the Board shall impose all reasonable requirements which shall be deemed necessary by the Board and may include: grading, seeding, and planting, fencing necessary for public safety and screening unsightly operations, methods of removal, location and use of structures, hours of operation, routes of transportation of material removed, control of drainage, control of dust, disposition of waste material incident to the operation, due consideration for the preservation of the Town's natural resources including inland swamps and waters and the aesthetic values, and final appearance of the property on completion of the operation.

#### 11. Bond of Security

The Board may require suitable bond or other security adequate to assure compliance with any of the provisions of this by-law.

#### 12. Exemptions

This Ordinance shall not be construed to apply to any such removal incidental to the construction or alteration of any structure for which a building permit has been issued, or to the removal incidental to the installation of any cesspool or septic tank for which a permit has been issued by the Board of Health, or to the grading or development or any approved subdivision or public way.

(January 10, 1968)

#### 13. Completion and Closure

(a) The Board may require a closure plan before issuance of a permit, expiration or termination of an existing permit.

(b) Closure plan must be approved and completed to the satisfaction of the Board before any:

- (1) Building/Construction
- (2) Transfer of ownership
- (3) Termination of bond or security

(c) Closure plan shall include:

- (1) Proposed final contours
- (2) Proposed final drainage
- (3) Proposed final revegetation
- (4) A drawing, drawn to scale, showing the location of any material (rock, tree stumps or any other waste material) buried on the site. (5/30/86)

#### 14. Earth Removal Permit Fees

Fees to be established from time to time by the Board of Selectmen. Failure to pay the Earth Removal Permit Renewal Fee shall result in the automatic non-renewal of the Earth Removal Permit. (5/12/90)

**SECTION 10.** Owners of land which has been excavated shall erect barriers or take other suitable measures within five days after such owners have been notified in writing by the Selectmen that, in their opinion, such excavation constitutes a hazard to the public safety. The penalty for violation of this By-law shall be as follows: For the first offense - \$50.00; for the second offense - \$100.00; for each subsequent offense - \$200.00

**SECTION 11.** No Town way or other way, whether it be the traveled or untraveled portion thereof, which the Town of Lunenburg is, by law, obligated to maintain and keep in repair shall be dug up, no opening made therein for any purpose, nor shall any material be dumped or placed thereon or removed therefrom, and no obstruction or structure shall be placed thereon or removed therefrom or changed without written permit from a majority of the Board of Selectmen and then only in accordance with the Board's regulations and the work shall be done under the supervision of the Superintendent of Highways, and the entire expense of replacing and resurfacing the highway at the same level and in as good condition as before, with materials equal in specifications to those removed, shall be paid by the person or persons to whom the permit was given or by whom the work was done. The Board of Selectmen may require a bond to guarantee the faithful and satisfactory performance of the work and payment for any damage to any such way caused by or resulting from the operations authorized by such permit. The amount of the bond shall be determined by the Selectmen, not to exceed the estimated cost of the work and any possible damage.

**SECTION 12.** The Selectmen shall annually appoint an Inspector of Gas Piping and Gas Appliances in Buildings, who shall be a licensed plumber or licensed gas fitter.

**SECTION 13.** The title of Sealer of Weights and Measurer is hereby changed to Inspector of Weights and measures and any Deputy Sealer of Weights and Measures to Deputy Inspector of Weights and Measures, as provided by Chapter 405 of the Acts of 1965.

**SECTION 14.** Any time roadside trees are removed in connection with the reconstruction of a Town way, it shall become the responsibility of the Tree Warden to plant new trees in place thereof, the cost of same to be included each year in the budget of the Tree Warden.

**SECTION 15.** The Selectmen shall annually appoint an Inspector of Wires who shall be licensed electrician and they shall annually fix the salary or compensation of said Inspector of Wires. The Board of Selectmen shall approve for issuance a prescribed fee schedule and all fees collected within the Town of Lunenburg shall be paid in to the Treasury.

**SECTION 16.** If there are no permanent members of the Fire Department, except the Fire Chief, a call firefighter or a member of the Town's Volunteer Fire Department, who is disabled or incapacitated for more than seven (7) days because of injuries sustained in the performance of his duties, without fault because of injuries sustained in the performance of his duties, without fault of his own, and is thereby unable to perform the usual duties of his regular occupation at the time such injury or incapacitation at a rate of compensation equal to that payable to a first year permanent member of the Police department. (2/6/84)

**SECTION 17.** Any person, before proceeding to go from door to door within the Town for the purpose of bartering, selling, or taking orders for any goods, wares or merchandise, or for the purpose of begging or soliciting alms or charitable contributions, shall first record his name and address with the Chief of Police of the Town or his designee, together with such other information as the Chief of Police of the Town or his designee may reasonably require for the purpose of confirming such person's true identity and ascertaining the nature of the activities sought to be carried on. Upon compliance by any such person with these requirements, the Chief of Police or his designee shall issue a written permit to such person, upon a form by the Board of Selectmen to engage in the activity described therein. Upon the request of any person being solicited, or of a police officer, the holder shall exhibit his permit. The Chief of Police or his designee, may, however, authorize a director of any worthy cause, to solicit contributions within the Town without having each solicitor under his direction registered and recorded. Who ever violates any portion of this by-law shall be punished by a fine of not more than \$100.00 for each offense. Should the permit be denied by the Police Chief or his designee, the solicitor has the right to appeal to the Board of Selectmen. (May 1985).

**SECTION 18. Prohibition of Recreational Vehicles.**

(a) Scope. This ordinance shall apply to all recreation vehicles within the limits of the Town of Lunenburg. Recreation vehicles are defined as any motor vehicle designed or modified for use over unimproved terrain if used for recreation or pleasure off a public way as defined in Chapter Ninety, and all legally registered motor vehicles when used off a way, as defined under Chapter Ninety; provided, however, that for the purpose of vehicles used for agriculture, forestry, lumbering or construction shall be excluded from this definition when used for such purpose, provided, further, that in any complaint brought under this chapter the burden shall be upon the Defendant to prove such use. Any motor vehicle legally registered under Chapter Ninety will not be subject to registration under this chapter but registration numbers shall be displayed as required by said Chapter Ninety.

(b) Prohibition of Recreational Vehicles. Recreation vehicles are restricted from all private properties except under the following conditions:

1. The land is owned or leased by the owner of the recreation vehicle.
2. The owner or user of the recreational vehicle carries on his person written permission of landowner.

(c) Penalties.

1. Any person who violates any provision of this ordinance shall be fined an amount not to exceed \$50.00.
2. For the purposes of this ordinance, each subsequent day or part thereof of violation of such ordinances, whether such violation of such be continuous or intermittent, shall be construed as a separate and succeeding offense. (5/13/87)

### **SECTION 19. Private Swimming Pools**

All private inground pools shall be enclosed by an impassable four (4) foot high fence with self-latching gate of an equivalent enclosure or means of protection from access to the pool. All inground pools shall comply with this by-law before any water is placed in the pool. Existing pools may have 90 days from the day of the passing of this by-law to comply. Who violates any portion of this by-law shall be punished by a fine of not more than \$85.00 for each day of offense. (5/13/89)

### **SECTION 20. Ban on Cigarette Rolling Paraphernalia\***

No persons or business shall sell or offer for sale, nor display any cigarette rolling paraphernalia in the Town of Lunenburg. Any person or business which violates the By-law shall be punished by a fine of \$100.00. \*(voted as Article VI, Section 20)

### **SECTION 21. Sewer Assessment Bylaw**

The Sewer Commissioners, shall assess sewer betterment assessments under MGL Chapter 83, §14 by a rate based upon the uniform unit method, as provided by MGL Chapter 83, §15, and shall assess one hundred percent of the cost of sewer projects upon those who benefit from each project, unless another percentage is voted by Town Meeting and amend its vote under Article 4 of the May 8, 1999 Annual Town Meeting to provide that assessments authorized by that vote under the fixed uniform rate be instead assessed under the uniform unit method provided by the By-law.

#### **Section 1. Assessments.**

##### **(a) General**

Every person owning land abutting upon any way in which a main or common sewer has been laid out, and who enters or has entered his particular drain into such main drain or common sewer, or who by more remote means receives benefit thereby for draining his land or buildings, shall be assessed under the provisions of M.G.L.c.83 section 14. The Sewer Commission shall have the power as set forth in M.G.L.c.83 section 15, when ascertaining assessments as a betterment for construction, to apply a rate based upon a uniform unit method. A uniform unit method shall be based upon sewerage construction costs divided among the total number of existing and potential sewer units to be served after having proportioned the cost of special and general benefit facilities.

(b) Assessments under this section shall be ascertained, assessed, certified and committed to the Town Treasurer by the Sewer Commission. Such assessments may be made for all sewers, lateral sewers, pump stations and appurtenant works. Sewer betterment assessments and any sewer betterment policies which are adopted by the Town under M.G.L.c.80 and M.G.L.c.83 for particular public sewer construction projects shall follow the procedures set out herein below.

##### **(b) Method of assessment: uniform unit.**

(1) The Town of Lunenburg shall assess sewer betterments based upon a uniform unit method. Each unit shall be equal to a single-family residence. Multiple family buildings and non-residential buildings as described herein shall be converted into units on the basis of residential equivalents. The total assessment for a particular sewerage construction project shall not be based on or limited by an estimated betterment. Revenue generated by said betterment assessment shall be equal to or shall cover the total project costs associated with design and construction of the sewers and pumping station, and appurtenant work.

(2) The Town shall levy assessments against all properties abutting a sewer street after acceptance of the entire pertinent construction contract(s) including finalization of all pertinent contractual documents. The date of acceptance shall be determined by the Sewer

Commission. In the order of assessment, the Town shall designate the owner of each parcel on the preceding January 1<sup>st</sup> as liable for assessment under the provisions of the General Laws.

(3) For assessment purposes, all properties receiving direct benefit from the sewerage system shall be converted into sewer units. Properties receiving direct benefit, either developed or undeveloped, shall be designated a number of sewer units under the following guidelines:

1. Single-family dwellings shall comprise one (1) sewer unit.

2. Multiple unit residential properties shall comprise a number of sewer units based on the following methodology:

a. residential properties such as apartments or multi-family homes shall be assessed one (1) sewer unit for each apartment with more than three (3) rooms. Residential units comprised of three (3) rooms or less shall be assessed one-half (1/2) of one (1) sewer unit for each such unit.

b. Residential condominium complexes shall be assessed one (1) sewer unit for each dwelling unit.

(4) Subdivisions shall be assessed one (1) sewer unit for each buildable lot except that a subdivision which pursuant to subdivision regulations of the Town of Lunenburg agreed to install and by the appropriate assessment date for betterments has actually installed a dry system in said subdivision shall not be assessed a sewer betterment fee per lot but shall be assessed a sewer privilege fee as set by Section 2 herein below. Certain lots not involving actual subdivision shall also be assessed as provided in Section 3(c) herein below.

(5) a. Non-residential buildings, which shall include all industrial, commercial and municipal properties, shall comprise a number of sewer units based upon water consumption as follows: Sewer units = Non-residential water usage (gpd) / 300 (gpd). (Rounded up to the next whole number.) Non-residential buildings not metered for water use shall be assigned a water consumption volume based on Title 5 (Part 2, Section 13) of the State Environment Code of the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

(5) b. When a single structure or building contains a non-residential use and a residential use and neither use is accessory to the other and the non-residential use does not receive municipal water service, such mixed use structure shall be charged a betterment only for the residential unit or use. This provision shall not apply in the following zoning districts as defined in the Town zoning by-law:

Retail Commercial; Commercial; Office Park and Industrial.

(6) Undeveloped residential lots shall be converted into dwelling units on the basis of maximum number frontage and area requirements as directed in the zoning by-law in effect at the time of assessment. Each potential dwelling unit shall then comprise one (1) sewer unit; the owner of an undeveloped lot may apply pursuant to M.G.L.c. 83 section 19 to extend the time for payment as provided in Section 4 herein below. In addition, land classified as agricultural, horticultural, recreations, or forest land, upon the application of the owner, may have the betterment assessment suspended for so long as the land is devoted to that use pursuant to M.G.L.c. 61A section 18, M.G.L.c. 61B section 13, and M.G.L.c. 61 section 5.

(7) Undeveloped non-residential lots shall be converted into a maximum anticipated water consumption on the basis of the zoning by-law. An equivalent number of sewer units shall then be determined utilizing the formula described for non-residential, developed properties (Rounded up to the next whole number).

(8) Nothing in this section shall supersede the language of Section 2 herein below concerning a compensatory fee for increase in the use of the land.

(c) Betterment payment.

Except as provided herein, the provisions of the General Laws relative to the assessment, apportionment, division reassessment, abatement and collection of sewer assessments shall apply. The Tax Collector of the Town of Lunenburg shall have all of the powers conveyed by the General Laws. In accordance with M.G.L.c. 80 section 12, assessments made shall constitute a lien upon the land assessed until the full balance is paid. At the time of assessment, a property owner may select a payment schedule over a period of ten (10) years or twenty (20) years if they so specifically request. Once a selection has been made, the payment method may not be changed at a later date; however, the balance of the principal due on any lien may be paid in full at any time.

Upon the transfer of title to a new owner, the seller/transferor shall immediately notify the Town Treasurer/Collector and Town Assessors. After transfer of title, the betterment lien may be transferred. The betterments may be paid in full to the collector's office without interest or charges within thirty (30) days of the date of assessment. With regard to apportionment, the interest rate charged by the Town shall be the project bond rate paid by the Town for the sewer project plus a flat fee of two hundred dollars (\$200.00), as allowed by Acts and Resolves of 1993, Commonwealth of Massachusetts, Chapter 433.

(d) Abatements and deferrals.

(1) Unbuildable lot. A property owner may request of the Building Inspector a formal written opinion which declares that under the then current Town zoning by-law, the lot(s) which have been assessed a sewer betterment is not buildable without issuance of one (1) or more variances under the applicable zoning by-law provisions. This letter must be filed permanently with the Building Inspector and with the Zoning Board of Appeals. Upon issuance of the opinion, the property owner may then file an application for abatement with the assessing board which shall include a certified copy of the building inspector's opinion and which shall require a notarized statement that the owner and any subsequent purchaser or their assigns or agents shall not apply for a variance to make the lot buildable.

A property owner may file a notice of intent to construct a dwelling with the Town Conservation Commission for one (1) or more lots that have been assessed a sewer betterment. Following the regular hearing procedures of the Conservation Commission for any such notice, if the commission issues a formal denial of the notice of intent to construct a dwelling, and if all such documents which are otherwise required by law to be filed with the Registry of Deeds have been so filed, then the property owner may file with the assessing board an appeal action for abatement so long as the owner did not appeal the denial. The appeal action shall include a certified copy of the denial of the notice of intent to construct a dwelling.

All such abatements that are issued by the assessing board under this Section 1(d)

(1) shall also be permanently filed with the offices of the Building Inspector and the conservation commission. All applications and orders or opinions issued under this section shall state that the property owner has voluntarily requested that the property be found unbuildable and that the property owner fully understands all consequences stemming from such determination.

(2) Age and income. A property owner may defer the betterment assessment as provided in M.G.L.c.80 section 13B, which has been accepted by the Town of Lunenburg, if they are sixty-five (65) years of age or older and qualify under M.G.L. c.59 section 5, Clause 41A. However, the transfer of lien provision, Section 3(c), betterment payments, shall not apply to deferrals as provided for in this section, in compliance with M.G.L. c.80 section 13B.

Section 2. Compensatory Sewer Privileges Fee; increase in use of land.

Notwithstanding the over provisions of this Sewer Assessment By-Law, if a betterment has: (i) been assessed to a property based upon the estimated number of developable sewer units as required by this article or a sewer betterment policy adopted by the Sewer Commission and said property is ultimately developed to accommodate a number of sewer units in excess of the number estimated for determining the betterment assessment, and/or (ii) been assessed to a developed parcel and later in time the use of that parcel is increased to accommodate a number of sewer units in excess of the number estimated for determining the betterment assessment, then the Town shall assess a compensatory sewer privilege fee to reflect the increased use. This fee shall be equivalent to the amount that would have been charged as a betterment assessment upon the additional uses or units at the time of the original assessment. Apportionment of this fee shall be permitted only if specifically requested at the time of assessment and only for a period of ten (10) years or less. Apportioned sewer privilege fees shall bear interest at the same rate charged for the most recent Town sewer project betterments.

Section 3. Laying out and payment for particular sewers connecting with common sewer or main drain and sewer privilege fee.

(a) Whenever any land is connected with a common sewer or main drain laid out by the Sewer Commission in a public way, the Commission shall, at the expense of the Town, lay the particular sewer providing such connection from the common sewer or main drain to the boundary of the way. When a common sewer or main drain is constructed in a public way, the Sewer Commission may lay such particular sewers from the common sewer or main drain to the boundary of such way as may be necessary, in the opinion of the Sewer Commission, to connect land abutting on such way with such main drain or common sewer. The owner, of any land having direct access to a main drain or common sewer via a sewer constructed to the boundary of a public way as aforesaid, may make application to the Sewer Commission to connect any buildings on said land to the common sewer. Any such connection as may be approved by the Sewer Commission shall be in accordance with all rules and regulations as may be from time to time promulgated by the Sewer Commission.

(b) The owner, of any land benefited by the layout of a particular sewer from the common sewer to the boundary of the way, shall pay to the Town for the permanent privilege of using the same, such reasonable amount as the Sewer Commission may determine, under the provisions of M.G.L.c. 83 section 24 and; the amount so determined shall be assessed, certified and committed to the Town Treasurer by the Sewer Commission.

(c) Notwithstanding the provisions of Section 1 hereinabove and Sections 3(a) and (b), the owner(s) of a subdivision which pursuant to the regulations of the Planning Board who has/have been required to construct sanitary sewer, shall not be assessed a sewer betterment fee but shall be assessed a sewer privilege fee on a per lot basis in lieu of a betterment. Such fee shall be assessed at the time that the subdivision dry sewer is connected to the main sewer and may be subject to apportionment. In addition, regardless of whether or not a subdivision is involved, any applicant for a sewer extension permit shall at the time such sewer extension is completed pay such privilege fee. The fee shall be determined by the Sewer Commission and shall not exceed one hundred (100) percent of the betterment for the most recent Town sewer project.

Section 4. Land not built upon; extension of time for assessment.

Any land not built upon at the time of a sewer betterment assessment may upon application of the landowner receive an extension of time for the payment of the assessment until the land is built upon. Interest at the rate of four (4) percent per year shall be paid annually upon the assessment from the time it was made. The assessment shall be paid within three (3) months after such land is built upon.

## Section 5. Maintenance of Sewer Works

### a. Main Drains and Common Sewers.

It shall be the responsibility of the Sewer Department to maintain all main drains and common sewers in the Town of Lunenburg. Privately built main drains, common sewers, and appurtenances including pumps, pumping stations and force mains etc. shall not be maintained by the town unless and until said main drains, common sewers and all appurtenances have been accepted by the sewer commission and ownership of and, access to, said main drains, common sewers and appurtenances has been granted by the owner thereof to the Sewer Department.

### b. Sewer Services and Sewer Connections.

It shall be the sole responsibility of the property owner to maintain all connection pipes and any other components necessary to connect the buildings or structures on said property to the main drain or common sewer including the physical connection ("Y" or "T" Connection or entry to a manhole) to the main drain or common sewer and the main or mains running from main drain or common sewer to the property line of the property owner.

## **SECTION 22. Demolition Delay**

The intent and purpose of this Section is to protect the historic and aesthetic qualities of the Town of Lunenburg by preserving, rehabilitating or restoring whenever possible, significant buildings or structures which constitute or reflect distinct features of architectural or historical resources of the Town, by promoting continued private ownership and utilization of such building and by providing owners of significant structures with time to consider alternatives to demolition, thereby promoting the public welfare and preserving the cultural heritage of the Community.

### **Definitions:**

**Application:** an application for a permit for the demolition of a building, which shall include a photograph of the building taken within the past year.

**Permit:** a permit issued by the Building Official for demolition of a building pursuant to an application.

**Demolition:** the act of pulling down, destroying, removing or razing a building or structure.

**Significant Building:** any building or structure that the Historical Commission determines, in conjunction with the Building Official and Fire Chief determines meets one of the following conditions:

- a) Listed on the National or State Registries of Historic Places or is subject of a previously submitted application for listing of historic places said registries or,
- b) Included in a local registry of Historic Places or is on a current or previously submitted inventory prepared by the local Historical Commission or,
- c) Importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the town of Lunenburg or the Commonwealth of Massachusetts or,
- d) Historically or architecturally important in terms of period, style, or method of building construction, or
- e) Seventy-five (75) years old or more.

### **Procedure:**

An application for Demolition Permit will be made to the Building Official who shall within five (5) days forward a copy of the Demolition Permit application to the Historical Commission. The Historical Commission shall, within five (5) business days of receiving said application, determine whether a Demolition Plan Review is required. If a Demolition

Plan Review is required, the applicant will supply to the Historical Commission a written narrative that includes the following:

- a) Sketch showing the location of the building or structure with reference to neighboring properties.
- b) Photographs of said structure.
- c) Description of the age, architectural style, historical association and importance of the building to be demolished.
- d) Reasons for demolishing.

**Demolition Plan Review by the Historical Commission**

- a) Within thirty (30) days after said application is reviewed by the Historical Commission, the Historical Commission shall hold a Demolition Plan Review meeting during their next scheduled public meeting (held on the first Monday of the month, except during summer months) to determine the applicability of the delay procedure or determination of non-applicability of the delay procedure. Said meeting will be advertised in the local newspaper and posted in the usual manner one (1) week prior to said meeting.
- b) Written reports shall be presented by the Historical Commission, Building Official and Fire Chief and the applicant pertaining to the applicability or non-applicability of the delay procedure of the building or structure. The Historical Commission shall determine the status of the application based on the reports noted above. The written report of the determination taken shall be given to the Building Official with seven (7) days of the closing of the review meeting.
- c) If the Historical Commission determines the building or structure is not a significant building under this bylaw, the Building Official may issue a demolition permit upon receipt of the notification.
- d) If the building or structure is determined to be a significant building under this bylaw, the Building Official shall impose a Demolition Delay of one hundred eighty (180) days from the date of notification, in which time the applicant must notify the Historical Commission through written documents that:
  - 1) bona fide, reasonable attempts have been to sell, preserve, move, rehabilitate or restore said building or structure. Evidence shall include a listing of the building with a licensed real estate broker, an estimate of rehabilitation or restoration costs of the building or structure or an estimate for moving the building or structure.
  - 2) a party or parties have been located who have agreed to preserve, rehabilitate, restore or relocate the building or structure
  - 3) the applicant has agreed to alternatives to demolition and/or accept conditions noted in the applicability determination.

**Emergency Demolition:**

Nothing in this bylaw shall restrict the Building Official or the Fire Chief from ordering the demolition of a significant building determined to present a clear and present danger to the safety of the public, which only demolition can prevent.

**Non-Compliance:**

The Building Official is empowered to institute any proceeding in the law or equity as he deems necessary to obtain compliance with the requirement of this bylaw to prevent a violation thereof.

No building permit shall be issued with respect to any premises upon which a significant building has been demolished in violation of this bylaw for a period of two (2) years after the date of the violation.

## **Section 23. BURGLAR ALARM SYSTEMS**

### **Section 1. Title and purpose**

This by-law shall be known as the Burglar Alarm System By-Law.

The purpose of the by-law is to encourage alarm users and alarm businesses to maintain the operation reliability of their alarm systems, to reduce or eliminate false alarm dispatch requests, to establish a system of regulations and fees with respect to burglar alarm systems, and to provide for penalties for violations of this by-law.

### **Section 2. Definitions**

For the purposes of this by-law, certain words and phrases shall be construed as set forth in this article, unless it is clear from the context that a different meaning is intended.

**Alarm System** means a device or services of devices, including, but not limited to, systems interconnected with radio frequency signals, which are designed to discourage crime by emitting or transmitting a remote or local audible, visual or electronic signal indication of an alarm condition. It may include a single device such as a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard or intruder requiring urgent attention and to which police are expected to respond. This includes silent alarms warning of potential intruders or robbery.

**False Alarm** means the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his/her employees or agents. It shall include a signal or oral communication transmitted to the Police Department requesting, requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery, burglary or attempted threat.

For the purposes of this definition, activation of an alarm system caused by actual criminal offense, or with evidence of a criminal intent, or resulting solely from power outages or extreme weather conditions shall NOT be deemed to be a false alarm. An alarm dispatch request which is canceled by the alarm business or alarm user prior to the dispatch of the responding officer shall not be considered a false alarm.

### **Section 3. Alarm System Operation, Maintenance and Control**

An alarm user shall maintain the alarm site and the alarm system in a manner that will minimize or eliminate false alarm dispatches and make every reasonable effort to respond or cause a representative to respond to the alarm site when notified by the Town to deactivate a malfunctioning alarm system or to provide access to the alarm site. An alarm user shall not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report.

If the alarm system business, user or installer is testing the system they shall notify the police department prior to and at the end of such testing.

Every alarm user/owner shall submit to the Chief of Police and/or his designee the names and telephone numbers of his/her residence and place of employment and at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open or provide access to the premises wherein the alarm system is installed. The alarm user will be responsible to keep this information current and updated.

All alarm systems installed after the effective date of this By-Law which uses an audible horn, siren or bell shall be equipped with a device that will shut off such horn, siren or bell within fifteen (15) minutes after activation of the alarm system.

#### **Section 4. Penalties**

Upon receipt of one (1) to three (3) or more false alarms within a calendar year, the Chief of Police or his/her designee may;

A. Send a letter of warning

B. Assess a fine of fifty (\$50.00) dollars as a false alarm service fee for each false alarm in excess of three (3) occurrences within a calendar year. All fees assessed hereunder shall be paid to the Town of Lunenburg c/o the Town Treasurer

#### **Section 5. Limitation of Liability**

Neither the Town of Lunenburg nor any of its officers shall be under any obligation or duty to an alarm user, or to any person hereunder, by reason of this by-law. The Town of Lunenburg specifically disclaims liability for any damages which may be caused by failure to respond to an alarm, take any action thereon or in relation thereto.

#### **Section 6. General Provisions**

General Provisions of this by-law shall not apply to any;

A. Town Governmental Agency, The United States Governmental Agencies or The Commonwealth of Massachusetts Governmental Agencies.

B. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition NOT directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premise are specifically excluded from the provisions of this by-law, or

C. Any alarm system installed on a vehicle unless the vehicle is permanently located at site.

Except as provided by law, the information furnished and secured pursuant to this by-law shall be considered confidential in character and shall not be subject to public inspection and shall be kept so that the contents thereof shall not be known except to persons charged with the administration of this by-law.

The provisions of this by-law are separable, and if any article, section or subsection, sentence, clause or phrase of this by-law is for any reason held to be invalid or unconstitutional by the decision of any court of the competent jurisdiction, such decision shall not affect the validity of the remaining portions of this by-law.

## **Section 23A Fire and Emergency Medical Services Details**

Anytime a Fire or Emergency Medical detail is needed for an event on Town of Lunenburg property, the Lunenburg Fire Department will be the authority having jurisdiction. The party needing/requesting the detail will notify the Lunenburg Fire Department as soon as possible with the detail information, i.e.; type of detail needed, location of detail, time detail starts, and any other pertinent information. Should the Lunenburg Fire Department be unable to fill the details they will notify the requesting party as soon as possible. Anyone in violation of the by-law will be prohibited from using Town property for 6 months for each violation.

## ARTICLE X PROSECUTIONS AND PENALTIES

**SECTION 1.** Except when otherwise provided by law, prosecutions for offenses under the by-laws of the Town may be made by any constable or police officer of the Town.

**SECTION 2.** Criminal Complaint. Whoever violates any provision of these by-laws may be penalized by complaint brought in the district or housing court. Except as may be otherwise provided by law and as the district court or housing court may see fit to impose, the maximum penalty for each violation or offense, brought in such manner, shall be Two Hundred (\$200.00) Dollars.

**SECTION 3.** Non-Criminal Disposition. Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board, or department which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the foregoing by-laws and section of by-laws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such section: Each day on which any violation exists shall be deemed to be a separate offense. (5/13/87)

<u>GENERAL BY-LAWS</u>	<u>FINE</u>
Art. V, Sec. 2, Digging in Highway (DPW Director or designated Agent)	\$50.00/Day
Art. VII, Sec. 1, Junk Collection (Building Inspector)	\$50.00/Day
Art. IX, Sec. 1, A-1, Dog Restraint (Dog Officer)	\$50.00 1st Offense \$75.00 2nd Offense
Art. IX, Sec. 8, Boating By-law (Board of Selectmen)	\$100.00 3rd Offense and subsequent offenses \$20.00/Day
Art. XVI, Sec. 5, Unregistered Motor Vehicles (Board of Selectmen) (5/13/89)	\$300.00/Day
Art. XXI, Sec. 11, General Wetland Protection By-law (Conservation Commission)	\$300.00/Day
Art. XIX, Sec. 17, Regulation of Off-road vehicles (Board of Selectmen)	\$50.00/Day

**ARTICLE XI**  
**REPEAL OF PREVIOUS BY-LAWS**

Upon the approval of these By-laws, as provided by law, all previous By-laws thereby be annulled and repealed.

## **ARTICLE XII**

### **FINANCE COMMITTEE**

**SECTION 1.** There shall be a Finance Committee consisting of seven voters of the Town, appointed by the Selectmen, as hereinafter provided, no one of whom shall be a Town officer elected by ballot, or an appointed officer receiver a salary.

**SECTION 2.** Said Finance Committee may consider any or all municipal questions and shall examine all articles calling for expenditures of money, shall during the months of January and February, and may at any other time, hold public hearings for the purpose of determining their findings and recommendations, shall report the same to the Town in the annual report when practicable and when not so reported to each and every Town meeting in printed form or otherwise.

**SECTION 3.** Upon the approval of this By-law, the Selectmen shall appoint said Committee as follows: two members who shall act as such until the first meeting of the Selectmen after the next annual meeting; two members who shall act as such until the first meeting of the Selectmen after the second annual meeting; three members who shall act as such until the first meeting after the third annual meeting. Upon the expiration of the term of office of each member, the Selectmen shall then appoint a successor to serve as a member for the term of three years.

**SECTION 4.** Members absent from one-third of the regular meetings of the Finance Committee in any fiscal year may be removed by a two thirds (2/3) vote of the remaining members present and voting. Any member who shall remove from the Town shall upon such removal automatically cease to be a member of such committee. (4/4/81)

## **ARTICLE XIII REPORT OF FEES**

**SECTION 1.** All Town officers receiving any fees by virtue of their office shall report the amount thereof from time to time to the Selectmen, who shall publish the same in the annual report.

**ARTICLE XIV  
PROTECTIVE BY-LAW**

Adopted 8/18/60 (see separate schedule).

**ARTICLE XV  
SALARY ADMINISTRATION PLAN**

(See separate schedule)

## **ARTICLE XVI UNREGISTERED MOTOR VEHICLES**

**SECTION 1.** No person or firm shall keep or permit to be kept on any premises within the Town of Lunenburg, more than one unregistered motor vehicle assembled or disassembled, unless said vehicles are stored within an enclosed building.

**SECTION 2.** 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 By-law; (2) will not adversely affect the neighborhood and (3) will not be a nuisance.

**SECTION 3.** All such special permits granted shall limit the number of unregistered motor vehicles to be kept on the premise by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

**SECTION 4.** The provisions of Sections one through five, inclusive of this Article, shall not apply to motor vehicles designed and used for farming purposes, nor to persons or firms in the lawful exercise of licenses granted under General Laws, Chapter 140, Sections 58 and 59, as amended. (5/13/87)

**SECTION 5.** Whoever violates any provisions of this Article of the By-law shall be liable to a penalty of three hundred dollars (\$300.00) per day for each day of violation. (5/13/89)

## **ARTICLE XVII**

### **BUILDING COMMITTEE**

**Section 1.** There shall be a separate Committee appointed for each Town building project. Each Committee shall consist of a minimum of seven (7) members for a term not to exceed 30 days following completion of the project. Members of the Committee shall be comprised of (1) member from the Planning Board to be appointed by the Planning Board, and two (2) members from the Department or Board having jurisdiction over the building, or a designee, to be approved by such Board, and three (3) citizens at large to be appointed by the Selectmen and Moderator. If membership exceeds seven (7) proportional integrity as outlined above shall, to the extent possible, be maintained with no one group having a majority.

## **ARTICLE XVIII COUNCIL ON AGING**

**SECTION 1.** There is hereby established a local Council on Aging, consisting of eleven (11) voting members who shall be appointed by the Board of Selectmen from the registered voters of the Town of Lunenburg. The Chairman of the Council shall be elected by the members of the council at the annual meeting in June. The local Council on Aging shall be responsible to the Board of Selectmen, and its members shall serve without compensation, and within the limits of available funds. It may appoint such clerks and other employees as it may require with the approval of the Chief Administrative Financial Officer. It shall be the duty of the local Council on Aging to carry out programs designed to meet the needs of the aging in coordination with programs of Executive Office of Elder Affairs established by the Commonwealth of Massachusetts and to submit an annual report to the Town and a copy thereof to said Executive Office. (ATM 5/07, Art. 23)

## **ARTICLE XIX**

### **REGULATIONS OF CERTAIN ACTIVITIES ON WHALOM LAKE**

**SECTION 1.** Definitions. The following words as used in this By-law unless a different meaning is required by the context, or as specifically prescribed, shall have the following meanings:

(a) "Vehicle(s)" shall include all motor vehicles both registered and unregistered including - but not limited to snow vehicles, recreational vehicles, motorcycles, etc.

(b) "Public Access" shall mean the public access located in the City of Leominster.

(c) "Law Enforcement Officer" shall mean any police officer of the Town of Lunenburg or City of Leominster, fish and game wardens, members of the State Police and employees of the Commonwealth having police powers on public lands.

**SECTION 2.** No person, group of persons or organizations shall operate, or cause to be operated, any vehicle on Whalom Lake without a written permit from the Board of Selectmen of the Town of Lunenburg or other Municipal or State Agency duly authorized by law.

**SECTION 3.** Every application for a permit made by an individual shall be signed by the applicant therefore, who shall give his or her full name and home address.

**SECTION 4.** This Section purposely left blank.

**SECTION 5.** Every application for a Permit made by an association shall be signed by a majority of the members of the governing body thereof, who shall state their full names and home addresses.

**SECTION 6.** Every applicant for a Permit required by the provisions of Section 5, Chapter 110, General Laws, to file a certificate stating the real name of a person conducting a business, shall file with his application a certified copy thereof.

**SECTION 7.** Every application for Permit made by a corporation shall state the full names and home addresses of the president, treasurer, clerk and secretary, directors and manager or other principal representative of the corporation. It shall be signed by some officer duly authored by a vote of its board of directors or other similar board. A copy of such vote certified by the clerk or secretary of the corporation, together with a copy of the certificate of its organization, shall accompany the application. A copy of the vote appointing its manager or other principal representative shall also accompany the application.

**SECTION 8.** All applications for Permits shall be made upon blanks furnished by the said Board of Selectmen shall be fully answered in detail and shall be typewritten or legibly written in ink. Applications written in pencil, in whole or in part, will not be accepted. Any

false statement contained in any application shall be a cause or ground for refusing to grant the Permit or for suspending, canceling or revoking a Permit already granted.

**SECTION 9.** As many police officers shall be assigned to duty at Whalom Lake as may reasonably be deemed necessary by the Chief or Senior officer in charge of the Police Department of the Town of Lunenburg in order to properly and effectively police any activity thereon which will involve the operation of vehicles, whenever in the judgment of the Chief or such Senior officer, there is a likelihood that there will be a substantial number of participants in, and/or persons present to witness the activity. The expense incurred in providing such officers shall be borne by the applicant for the Permit.

**SECTION 10.** No person shall operate a vehicle on Whalom Lake who has not attained the age of sixteen and one-half (16 1/2) years.

**SECTION 11.** No vehicle shall be operated on Whalom Lake within five hundred (500) feet of a residence, or in a negligent manner so that the lives and safety of the public might be endangered or the property of others might be damaged.

**SECTION 12.** It shall be unlawful to possess or keep in and upon a vehicle on Whalom Lake any alcoholic beverage or any controlled substance as defined by General Laws, Chapter 94C, as amended.

**SECTION 13.** No vehicle or any part thereof, shall be allowed to remain on Whalom Lake later than sunset on any day and, in default thereof, shall be subject to being towed or otherwise removed and impounded at the expense of the owner.

**SECTION 14.** It shall be unlawful for any person to discharge in or upon Whalom Lake any pollutant or to discard therein or thereupon, litter of any kind or upon the ways adjacent thereto, including Lakefront Road, Prospect Street, Lakeside Avenue and in and about the vicinity of the public access area. Whoever violates any part of this section shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00).

**SECTION 15.** No vehicle shall enter upon Whalom Lake except by the public access.

**SECTION 16.** The Permit of any holder thereof, who, in the conduct of the activity permitted, commits or permits any violation or infraction of any part of this By-law shall be subject to modification, suspension, cancellation or revocation.

**SECTION 17.** Whoever violates any part of sections 2, 11, 12 and 15 hereof, shall be punished by a fine of \$50.00 a day (5/13/87).

**ARTICLE XX**  
**REGULATIONS OF CERTAIN ACTIVITIES ON SHIRLEY**  
**RESERVOIR**

**SECTION 1.** Definition. The following words as used in this By-law unless a different meaning is required by the context, or as specifically prescribed shall have the following meanings; (a) Vehicle(s) shall include all passenger motor vehicles and trucks both registered and unregistered.

**SECTION 2.** No person, group of persons or organizations shall operate, or cause to be operated, any vehicle on Shirley Reservoir.

**SECTION 3.** It shall be unlawful for any person to discharge in or upon Shirley Reservoir any pollutant or to discard therein or thereupon, litter of any kind or upon the ways adjacent thereto. Whoever violates any part of this section shall be punished by a fine of not less than one hundred (\$100.00) dollars, nor more than two hundred (\$200.00) dollars.

**SECTION 4.** Whoever violates any part of Section 2 hereof, shall be punished by a fine of not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars.  
(May 1985)

## **ARTICLE XXI**

### **GENERAL WETLANDS PROTECTION**

**SECTION 1: PURPOSE.** The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas in the Town of Lunenburg by prior review and control of activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, ground water, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, shellfish, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture and recreation values deemed important to the community (collectively, the "wetland values protected by this bylaw"). This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional standards and procedures stricter than those of the Wetlands Protection Act, G.L.Ch. 131, s.40 and Regulations thereunder, 310 CMR 10.00.

**SECTION 2: JURISDICTION.** Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or alter the following resource areas: any freshwater wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; creeks; beaches; lands under waterbodies; lands subject to flooding or inundation by groundwater or surface water; lands subject to flooding; lands within 100 feet of any of the aforesaid resource areas; perennial rivers and streams and lands within 200 feet of such rivers and streams (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

**SECTION 3: CONDITIONAL EXEMPTIONS.** The permit and application required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, and existing and lawfully located structure or facility used in the service of the public to provided electric, gas, water, telephone, telegraph or other telecommunication provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use at the time the work takes place, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Conservation Commission or its agent certifies the work as an emergency project provided that the work is performed only for the time and place certified by the

Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this bylaw. Upon failure to meeting 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.

Other than stated in this section the exemptions provided in the Wetlands Protection Act, G.L.Ch.131, s.40, and Regulations, 310 CMR 10.00, shall not apply.

**SECTION 4: APPLICATIONS FOR PERMITS AND REQUESTS FOR DETERMINATION.** 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.

The Commission in an appropriate case may accept as the permit application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act, G.L. Ch. 131, s.40, and Regulations, 310 CMR 10.00.

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

At the time of a permit application or RFD, or application for Certificate of Compliance, the applicant shall pay a filing fee specified in Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act, G.L.Ch.131 s.40 and Regulations, 310 CMR 10.00.

Upon receipt of a permit application or RFD, 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. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of a resource area survey and delineation, analysis of resource area functions, including wildlife habitat evaluations, hydro geologic and drainage analysis, and environmental or land use law.

The Commission may waive the filing fee, consultant fee, and costs and expenses for an application or RFD filed by a government agency.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The applicant shall pay the fee to be put into a revolving fund which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings. **This revolving account shall be**

**authorized annually and the amount expended by the Commission from this fund shall be limited for the ensuing fiscal year.**

The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based on its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

The maximum consultant fee charged to reimburse the Commission for reasonable costs and expensed shall be according to the following schedule:

Project Cost	Maximum Fee
Up to \$100,000	\$500
\$100,001 to \$500,000	\$2,500
\$500,001 to \$1,000,000	\$5,000
\$1,000,001 to \$1,500,000	\$7,500
\$1,500,001 to \$2,000,000	\$10,000

Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged at an additional \$2,500 maximum fee per increment.

The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project applicable to those activities within resource areas protected by this bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

**SECTION 5: NOTICE OF HEARINGS.** Any person filing an application or RFD with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivery, to all abutters according to the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, including any in another municipality or across a body of water. The notice to abutters shall enclose a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination unless an extension is authorized in writing by the applicant.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, G.L. Ch. 131, s. 40, and Regulations, 310 CMR 10.00.

The Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of boards and officials listed in Section 6.

**SECTION 6: COORDINATION WITH OTHER BOARDS.** Any person filing a Wetlands Protection Act Permit with the Commission shall provide written notice thereof at the same time, by certified mail or hand delivery, to the Board of Selectmen, Planning Board, Zoning Board of Appeals, Board of Health and Building Inspector. The Commission shall not take final action until such boards and officials have had fourteen (14) days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account, but which shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

**SECTION 7: PERMITS AND CONDITIONS.** If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities permitted and exempt, and foreseeable future activities.

The Commission is empowered to deny a permit for failure to meet the requirement of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw, and where no conditions are adequate to protect those values. Due consideration shall be given to any

demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

Lands within 100 feet of specific resource areas, and within 200 feet of rivers and streams, are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resources have a high likelihood of adverse impacts upon them, either immediately as a consequence of construction, or over time as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within aforesaid 100-foot or 200-foot area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

In the case of areas within 200 feet of rivers and streams, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of evidence that (1) there is no practicable alternative to the proposed project with less adverse impacts, and, as well, should there be no such practicable alternative, (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purposes, logistics, existing technology, costs of the alternatives, and overall project costs.

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 in its discretion 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. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters and town boards, pursuant to secs. 5 and 6, and a public hearing.

No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district

wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

**SECTION 8: REGULATIONS.** After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. 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.

At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

**SECTION 9: DEFINITIONS.** The following definitions shall apply in the interpretation and implementation of this bylaw.

The term "bank" shall include the land area which normally abuts and confines a water body, the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in slope or the mean annual flood level, whichever is higher.

The term "vernal pool" shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife.

The term "rare species" shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents or assigns.

The term "alter" shall include, without limitation, the following:

- (a) Removal, excavation or dredging of soil, sand gravel, or aggregate materials of any kind.
- (b) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics.
- (c) Drainage or other disturbance of water level or water table.
- (d) Dumping, discharging or filling with any material which may degrade water quality.
- (e) Placing of fill, or removal of material, which would alter elevation.
- (f) Driving of piles, erection or repair of buildings, or structures of any kind.
- (g) Placing of obstructions or objects in water.
- (h) Destruction of plant life including cutting of trees.
- (i) Changing water temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of water.

- (j) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.
- (k) Application of pesticides or herbicides.
- (l) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

**SECTION 10: 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 thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

- (a) By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit;
- (b) By accepting a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality 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 11: 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, its agents, officers, and employees shall have 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 violation notices, administrative orders, and civil and criminal court actions. Any person who violates 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 Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

Municipal boards and officer, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or permits, or administrative orders issued thereunder, shall be punished by a fine of up to \$300.00. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of

the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in G.L. 40, s. 21D.

**SECTION 12: BURDEN OF PROOF.** The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

**SECTION 13: APPEALS.** A decision of the Commission shall be reviewable in the Superior Court in accordance with G.L. Ch.249, s.4.

**SECTION 14: RELATION TO THE WETLANDS 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, G.L. c. 131, Section 40, and Regulations CMA 10.00 thereunder.

**SECTION 15: 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. (May 14, 1988 SP.T.M. Art 3)(1998 ATM Art. 16)

## **ARTICLE XXII BOARD OF HEALTH**

**SECTION 1.** There shall be a Board of Health which shall consist of five members. Four of these members shall be elected for terms of three years each and the fifth member shall be appointed by the Board of Selectmen. The terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible shall expire each year. (May 12, 2001 A.T.M. Art. 36)

## **ARTICLE XXIII COMPUTER ADVISORY COMMITTEE**

**SECTION 1.** There shall be a Computer Advisory Committee which shall consist of nine (9) members to be appointed by the Board of Selectmen. Any vacancy in the Committee shall be filled by the Board of Selectmen. The Committee shall propose and recommend technology, strategic planning and policies and procedures encompassing the Town and School departments. The committee shall have the responsibility for reviewing the Technology Department goals and objectives. All technology purchases will be processed through the Technology Director's recommendation. The committee shall issue a recommendation on all computer related purchases in excess of five thousand dollars.

**SECTION 2.** This Committee shall also provide technical assistance to the Town Technology department and other Town departments as applicable. (5/1/04)

## **ARTICLE XXIV SEWER USE REGULATIONS**

**SECTION 1.** (a) Notwithstanding chapter 83 of the General Laws or any other general or special law to the contrary, this act shall be the sewer by-law of the town of Lunenburg.

**SECTION 2.** For the purposes of this act, the following words shall have the following meanings unless the context clearly requires otherwise:

“Available capacity”, flow that is available via intermunicipal agreement or other sources that has not been previously allocated by the sewer commission.

“Bisected lot”, property in which the line defining the sewer service area passes through the lot.

“Commission”, the board of sewer commissioners.

“Protective by-law”, the zoning by-law of the town of Lunenburg.

“Reserve capacity”, the flow capacity reserved for use by property owners along the sewered ways.

“Sewer service area”, the geographical areas of the Lunenburg sewer service area with boundaries as delineated on the sewer service area map.

“Sewer service area map”, the map approved by the town meeting vote on May 2, 2009, as may be amended from time to time by vote of the town meeting, delineating the sewer service area and sewer service zones.

“Sewer service zone”, an area located within the sewer service area and delineated on the sewer service area map.

### **1.0 PURPOSE.**

It shall be the purpose of this by-law to regulate the connections to and extensions of the town’s sewer system in order to preserve and manage limited treatment capacity pursuant to intermunicipal agreements. Priority shall be given to providing solutions for wastewater problems within the sewer service area including, but not limited to, failed septic systems with poor site conditions for upgrades.

### **2.0 SEWER SERVICE AREA.**

The town of Lunenburg, acting by and through the commission, may lay out, plan, construct, maintain and operate a system of common sewers within the sewer service area. The provision of sewer service within the sewer service area shall be under the jurisdiction and control of the commission. No person shall extend or construct a sanitary sewer intended to be connected to a municipal common sewer to serve property, or any portion of a property, located outside the designated sewer service area. Prior to the initiation of a sewer project in any sewer service zone and prior to submitting an appropriation request to the town, the sewer commission shall survey the landowners in the sewer service area to determine whether a minimum of 2/3 of all affected owners support the installation of sewer service.

### **3.0 CONNECTION ELIGIBILITY.**

Developed parcels of land or portions of parcels of land located within a sewer service zone that abut a public way in which a sewer has been laid shall be eligible to connect existing buildings to the sanitary sewer unless the property is subject to a waiver deed restriction. Any undeveloped single family, commercial or industrial lot or any undeveloped parcel of land created out of a pre-existing developed lot, provided that it has at least 50 feet

of frontage along the sewer way located within the sewer district and conforms to the Lunenburg protective by-law, shall be eligible to connect and shall be limited to 330 gallons per day of capacity. Additional capacity for those parcels may be granted by a majority vote of the sewer commission, subject to available capacity. No property or portion of a property, located outside of service zones shall be allowed to extend or construct a sanitary sewer. A lot bisected by a sewer service zone boundary line shall only install a sewer connection that serves buildings that are located within the sewer service zone lines.

#### 4.0 SEWER EXTENSIONS.

Owners of parcels of land or portion of parcels of land located within the sewer service area not presently served by sewer may extend the existing sewer system to serve those parcels but such extension shall be at the discretion of the commission, subject to available capacity, and only if otherwise in compliance with law and with the conditions of any permits. Prior to granting approval for a sewer extension, the commission may require the applicant to supply, at the applicant's own cost and expense, maps, plans, reports, specifications and other data which properly describe the proposed work. All development and construction shall be monitored in accordance with the "Monitoring and Inspection Procedures and Fee System of the Lunenburg Sewer Commission". Upon approval and prior to the commencement of work, the applicant may be required to post bonds, undertakings, guaranties and insurance policies in forms and amounts acceptable to the commission to guarantee completion of the proposed work and restoration and to indemnify and save harmless the town of Lunenburg and its officers, agents, servants and employees from damage or loss arising out of or in connection with the work.

#### 5.0 RESERVE CAPACITY.

At the time of finalization of the betterment for a sewer project, the 100 per cent build out utilization capacity shall be established consistent with the number of assessments and capacity allotment. Ninety per cent of that total capacity shall be held in reserve by the commission for future use by the assessed properties that are equitably entitled to such capacity.

#### 6.0 ALLOCATION OF CAPACITY FOR CHANGE OR EXPANSION OF USE IN EXISTING FACILITIES.

The commission may allow for increased allocation for the change of use, or expansion of use which results in an increased sewage design flow, in existing facilities within the sewer service area, subject to available capacity and subject to the assessment of privilege fees by the commission under sections 17 and 20 of chapter 83 of the General Laws. For the purposes of this section and section 7.0, a "change of use" or "expansion of a preexisting use" shall mean any undertaking on a property, whether involving material changes to structures or not, which results in an increase of design flow on the property from the existing conditions pursuant to 310 CMR 15.000.

#### 7.0 APPROVAL REQUIRED FOR CHANGE OR EXPANSION OF PROPERTY USE.

Any proposed change of use or expansion of preexisting use which results in an increase in flow allocation or change in type of flow including, but not limited to, residential to commercial, or commercial to industrial, for a property within the sewer service area shall be reviewed by the commission. An application completed by the property owner on a form approved by the commission shall accurately and completely indicate the existing use and the

proposed use and the associated flows calculated pursuant to the Title V of 310 C.M.R. 15.000. At the discretion of the commission, applications may be approved by the commission based on available capacity.

**8.0 ABANDONMENT OF SEPTIC SYSTEMS AT PROPERTIES TO BE SERVED  
BY MUNICIPAL SEWER.**

Within 30 days after connection to the sewer system, the on-site subsurface sewage disposal system shall be abandoned in accordance with the Lunenburg board of health regulations and Title V of 310 C.M.R. 15.000.

**9.0 AMENDMENTS TO BY-LAW.**

This by-law may be amended by vote of the Lunenburg town meeting in the same manner that other general by-laws of the town may be amended.

Approved July 26, 2010.

## **ARTICLE XXVIII**

### **AMERICANS WITH DISABILITIES COMMITTEE**

**SECTION 1.** There shall be an Americans with Disabilities Commission which shall be composed of five (5) members serving three year terms appointed by the Board of Selectmen; one (1) a representative of the Board of Selectmen and shall be initially appointed for a one (1) year term, one (1) shall be the Building Inspector initially appointed for a three (3) year term, one (1) shall be the Superintendent of Buildings and Grounds for the school system and shall be initially appointed for a three (3) year term, and two (2) at-large members initially appointed for a one (1) and a two (2) year term respectfully.

**SECTION 2.** It shall be the responsibility of the Americans with Disabilities Committee to make recommendations to the Town enabling compliance with the provisions of the Americans with Disability Act of 1992. (4/10/1993)

## **ARTICLE XXVI SEWER COMMISSION**

ATM 5/6/06, Article 36 Voted (Yes 119, No 66) to adopt a by-law establishing a sewer commission as follows:

Sewer Commission:

(a) Composition, Mode of Selection: - There shall be a sewer commission consisting of five members appointed for terms of three years each so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.

(b) Powers and Duties: - The sewer commission shall make careful studies of the resources, possibilities and needs of the town as they relate to the availability of sanitary sewers and shall make plans for the installation of a system of sanitary sewers and for the maintenance of a sanitary sewer system. The sewer commission shall develop a comprehensive or master plan for a town wide system, where need is identified, of sanitary sewers setting forth in graphic and textual form policies to govern the future growth and development of the entire town. The sewer commission shall, in conjunction with other land use bodies, develop a long range strategic plan for guiding town growth and development. The powers and authority of the sewer commission shall include oversight of the sewer enterprise fund, and subject to the approval of the Board of Selectmen, to set rates and charges for use of the sanitary sewer system and advice to the board of selectmen relating to intergovernmental agreements relating to sanitary sewers.

The sewer commission shall make an annual written report to the town meeting, including, among other things, a full accounting of the Sewer Enterprise Fund, information regarding the condition of the town's sewer system and any plans or proposals for its development and estimates of their cost.

The sewer commission shall have such other powers, duties and responsibilities as may be provided by by-law.

## **ARTICLE XXVII CAPITAL PLANNING COMMITTEE**

There shall be a Capital Planning Committee. That Committee shall consist of five members to be appointed as follows. One member each designated by the Finance Committee, the Selectmen, the School Committee and the Planning Board, and a fifth member chosen by the Town moderator. Each member shall be appointed for a term of three years, said terms staggered so that as nearly an equal number of members shall be appointed each year. The Capital Planning Committee shall establish and update a comprehensive capital plan. The committee shall at least annually provide its materials to the Chief Administrative and Financial officer so that the Chief Administrative and Financial Officer will meet the obligations of the Office set forth in Section 6-6[sic] of the Lunenburg Town Charter. The Capital Planning Committee shall be responsible for providing a complete inventory of town property, real and personal, including school property, in conjunction with the Chief Administrative and Financial Officer. (ATM 5/05/07, Art. 21)

# ARTICLE XXV

## PUBLIC ACCESS CABLE COMMITTEE

### Article I – Establishment

The name of the organization shall be the Public Access Cable Committee, herein referred to as PACC. The Selectmen activated and appointed the PACC in July 2007 to assist with the development of Lunenburg TV Channels 8 & 9.

### Article II – Mission Statement

The Committee was created for the purpose of establishing a local access TV station operating on cable for the Town of Lunenburg. PACC is to oversee programming in areas of public affairs, education, entertainment and town government.

### Article III – Office

The principal office shall be in Lunenburg Town Hall in the broadcast office.

### Article IV – Membership

#### Section 1. Number of Members

PACC Shall consist of 7 (seven) members who shall be appointed by the Lunenburg Board of Selectmen from residents of the Town of Lunenburg or full time students at Lunenburg High School.

#### Section 2. Term of Appointment

The term shall be for 3 (three) years or, in case of a vacancy, any portion of an unexpired term. Members shall be appointed for terms of three years each or, in case of a vacancy, any portion of an unexpired term, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The above Term of Appointment and the Term Limits Policy shall be effective with the appointments by the Board of Selectmen commencing fiscal year 2009.

#### Section 3. Term Limits

Length of time to be served shall be in keeping with the Term Limits Policy as adopted by PACC. This policy may be waived by vote of PACC.

Term Limiting Policy: PACC members appointed by the Lunenburg Board of Selectmen shall not serve more than two terms in succession, plus any portion of an unfilled term, effective with the completion of current terms. In this instance, a member who has already served two terms will not be eligible for reappointment at the completion of that member's term. There shall be at least one-year hiatus prior to reappointment after the second three-year term is served.

#### Section 4. Composition of Membership

Members shall reflect the makeup of the community at large. Any resident of the town or any Lunenburg High School student is eligible to submit his/her name to the Lunenburg Selectmen for consideration to PACC.

#### Section 5. Voting Power

All duly appointed current members of PACC shall have the right to vote on all issues.

#### Section 6. Resignation

Members appointed by the Lunenburg Board of Selectmen shall resign in writing to the Board of Selectmen and PACC.

## Section 7. Attendance

Regular meeting attendance is expected for all members of PACC. In the event of 3 (three) consecutive absences, except for the reason of health or extenuating circumstances as duly reported to the Chair in advance of the meeting, PACC may request resignation of that member through the appointing authority.

## Section 8. Vacancies

Vacancies shall be filled on the recommendation of PACC which will pass on those recommendations for review and approval by the Lunenburg Board of Selectmen.

## Section 9. Representations

No member of PACC shall make written or oral presentations for PACC unless authorized by a vote of PACC.

## Section 10. Non-PACC Members

PACC may appoint a Non-PACC member to act on PACC's behalf. In such a case, all written materials, oral presentations or communications from the Non-PACC member on behalf of PACC, will need to be approved by a vote of PACC prior to his/her presentation or execution.

## Article V Meetings

### Section 1. Regular Meetings

Regular meetings shall be held on a monthly basis. The meeting date, time and location will be the first Monday of each month at the Lunenburg Library starting at 7:00p.m.

### Section 2. Special Meetings

The Chair or a majority of PACC members may call for Special Meetings.

### Section 3. Organizational Meeting

The organizational meeting shall be held at the regularly scheduled monthly meeting after the start of each fiscal year.

### Section 4. Open Meeting Law

All meetings shall be posted and conducted in compliance with the provisions of the Chapter 99, Section 23B of the Massachusetts General Laws. The meeting agenda shall be posted in accordance with the Town Charter.

### Section 5. Quorum

The presence of a simple majority of the total membership shall be necessary and sufficient to constitute a quorum for the transaction of business. Votes shall be cast only by members in attendance.

## Article 6. Officers

### Section 1. Officers

The officers shall consist of a Chairman, Vice-Chairman and Secretary as elected by the members.

### Section 2. Election

Election for officers shall take place at the PACC organizational meeting.

### Section 3. Terms of Office

Term of office for officers shall be for 1 (one) year, with no restrictions on re-election, except as it pertains to the Term Limits Policy.

#### Section 4. Vacancy

Any vacancy may be filled at a regular or special meeting of PACC with the approval of the Lunenburg Board of Selectmen. It shall be for the expired term of the previous incumbent. In the case of the Chair, the Vice-Chair shall fill the position of the Chair for the remainder of the unexpired term of the Chair.

#### Section 5. Duties of Officers

Chair – The Chair shall be the chief executive officer and be subject to the direction of PACC. The Chair or his/her designee shall provide the agendas for meetings preside at meetings and orient new members. The Chair or his/her designee shall provide all PACC members a copy of the Open Meeting Law as required by state statute.

Vice-Chair – The Vice-Chair shall exercise all the functions of the Chair during the absence or disability of the Chair, and when so acting, shall have all the powers and be subject to all restrictions of the Chair.

Secretary- The Secretary shall take the meeting minutes, post notices of upcoming meetings and provide minutes to PACC members. He/She shall post the meeting agenda in accordance with the Town Charter.

#### Article VII – Amendments

Amendments or alterations to these By-Laws may be considered at either a regular or special PACC meeting. In either case, notification of the meeting and its purpose shall be given 14 (fourteen) days prior to the assembly. The notice shall include a summary of the proposed amendment, the full text of the proposed amendment or alteration, and a statement of the purpose of the proposed change. The proposed amendment must be approved by a majority vote of PACC. It will then be sent to the Lunenburg Board of Selectmen for approval and be submitted to the next Town Meeting for approval.

#### Article VIII – Staff

PACC shall appoint or hire staff, as is necessary, to meet programming, content and or operational requirements. All appointments and/or hires shall be approved by a majority of PACC prior to service being executed.

#### Article IX – Other Provisions

##### Section 1. Establishment of Policy and Procedures

PACC may establish policy or procedure according to the following guidelines:

Such proposals must be presented to the PACC members at one meeting and voted on at the following meeting, except when the waiting period is waived by majority vote of the members.

The approved policy or procedure shall be included in the PACC Policy Manual.

##### Section 2. Possible Conflict

If any part of these by-laws is in conflict with municipal ordinances or by-laws, those of the municipality shall have preference.