

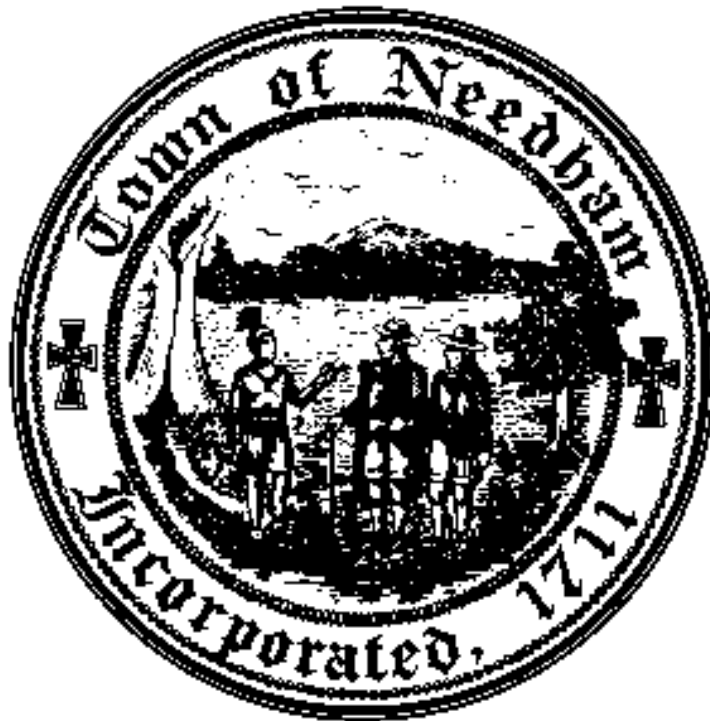
**TOWN OF NEEDHAM**

**MASSACHUSETTS**

# **GENERAL BY-LAWS**

## **CHARTER**

(Acts of 1971, C. 403 as amended by the  
Act of the General Court.)



**JULY 2022 COMPILATION**

(Note: There were no amendments in 2020)

**TOWN OF NEEDHAM**

**GENERAL BY-LAWS**

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## **ARTICLE 1**

### **TOWN MEETING**

#### **SECTION 1.1 DATES OF MEETING**

**1.1.1** Annual Town Meeting for the election of officers and such other matters as may be voted on the official ballot shall be held on the second Tuesday in April of each year; and the Annual Town Meeting for the transacting of business shall be held on the first Monday in May of each year. If the business is not completed that day, an adjournment shall be taken to the next following Wednesday. If any business shall then remain unfinished, adjournment shall be taken to the next following Monday, with successive adjournments to the next following Wednesdays and Mondays until all business is completed, unless otherwise voted at one of the scheduled meetings.

**1.1.2** If for any reason a State Primary or State Election should occur within 30 days before or immediately following the date established for the Annual Town Meeting, the Select Board, after consultation with the Town Clerk, may by proclamation postpone and schedule another day in the month of April for the Annual Town Election.

#### **SECTION 1.2 NOTIFICATION**

1.2.1 All Town Meetings shall be notified and warned by posting attested copies of the Warrant calling for the Town Meeting in not less than twenty public places in the Town at least seven days before the time of holding the Annual Town Meeting and at least fourteen days before any Special Town Meeting.

1.2.2 The Town Clerk shall cause to be delivered or mailed to each Town Meeting Member, at least seven days in advance, a copy of the Warrant for the Annual Town Meeting, held for the purpose of the transacting of business.

1.2.3 The Town Clerk shall cause to be delivered or mailed to each Town Meeting Member, at least fourteen days in advance, a copy of the Warrant for each Special Town Meeting.

1.2.5 The Town Clerk shall make available to any resident, upon request, a copy of the Warrant for each Town Meeting, and shall post a copy of each warrant on the official Town of Needham website.

1.2.6 The Town Clerk shall cause the titles and a synopsis of all Town Meeting Articles to be printed in a local newspaper.

#### **SECTION 1.3 VOTES**

**1.3.1** If two-thirds vote of the Town Meeting is required by statute, a count shall not be taken unless it is deemed necessary by the Moderator in the fulfillment of the duties of the office.

**1.3.2** A vote of the Town Meeting shall be taken by a roll call of the yeas and nays: (a) whenever requested by twenty-five of the Town Meeting members present, immediately following a voice vote, standing vote or vote by show of hands; (b) whenever such a roll call on the pending question is ordered by affirmative vote of a majority of the Town Meeting Members present and voting; or (c) whenever such a roll call is deemed necessary by the Moderator in the fulfillment of the duties of his office.

**1.3.3** A motion to reconsider a warrant article in the warrant of a Town Meeting convened under such warrant may be adopted by a simple affirmative majority vote of said Town Meeting. A warrant article aforesaid which has once been reconsidered may not again be reconsidered, unless such further reconsideration is moved on behalf of the Select Board or Finance Committee and is adopted by a simple majority of Town Meeting.

#### **SECTION 1.4 SPECIFIC REQUESTS BY MODERATOR**

The Moderator may direct to any person in the hall a specific request by a Town Meeting Member for information pertaining to the question under consideration.

**SECTION 1.5 MOTIONS BY SPEAKERS**

Any speaker who addresses the merits of a matter shall not be permitted to place on the floor, immediately following the speaker's remarks, a motion to move the previous question or a motion to limit debate.

**SECTION 1.6 DIVISION OF MOTION**

If a motion under an article of the Town Warrant is susceptible of division, it shall be divided upon the request of twenty voters; and the questions shall be put separately on each part.

**SECTION 1.7 ATTORNEYS AS SPEAKERS**

Any person employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking.

**SECTION 1.8 APPROPRIATIONS - INFORMATION RELATIVE TO BALLOT QUESTIONS**

The Town Meeting may appropriate and authorize the expenditure of town funds for the purpose of providing the voters of the town with factual information relative to measures to be voted upon at elections in the town. Measures, as used in this section, shall both mean measures submitted to the voters for acceptance or rejection under the Town Charter, as amended, or any other law, but shall not include a new or revised charter or charter amendment proposed by a Charter Commission, or a measure requiring discussion in the Information for Voters published by the Secretary of the Commonwealth, or any measure placed upon the ballot by a state general law not relating to the organization, powers, duties, obligations and finances of the Town.

**SECTION 1.9 ELECTION OF OFFICERS**

**1.9.1** The Town, at its annual town election of officers, shall in every year when the term of office of any incumbent expires, and except as otherwise provided by law, choose by ballot from its registered voters the following town officers for the following terms of office:

- (a) Five Select Board Members for a term of three years.
- (b) Seven members of the School Committee for a term of three years.
- (c) A Moderator for a term of three years.
- (d) A Town Clerk for a term of three years.
- (e) Five members of the Park & Recreation Commission for a term of three years.
- (f) Two Constables for a term of three years.
- (g) Three Assessors for a term of three years.
- (h) Three Commissioners of Trust Funds for a term of three years.
- (i) Seven Trustees of the Needham Public Library for a term of three years.

- (j) Five Trustees of Memorial Park for a term of three years.
- (k) Five members of the Board of Health for a term of three years.
- (l) Five members of the Planning Board for five year terms, so arranged that the term of not more than one member shall expire each year.
- (m) Three members of the Needham Housing Authority for five-year terms, so arranged that the term of not more than one member shall expire each year.

**1.9.2** In all cases, except for the Planning Board and Housing Authority, where three or more members of a board or commission are to be elected for terms of more than one year, as nearly 1/3 as possible, shall be elected annually.

**SECTION 1.10 FINANCE COMMITTEE**

**1.10.1** There shall be a Finance Committee consisting of nine registered voters, none of whom shall be Town officers, agents or employees (other than Town Meeting Members). The Moderator shall annually appoint three members to serve for three years. Said committee shall choose its own chairman and secretary. Vacancies on said committee may be filled at any time by the Moderator.

**1.10.2** The Committee shall have access to all facts, figures, records and other information relating to all Town departments, boards, committees or officers; and when requested by the Committee, such information shall be furnished immediately by whomever it is requested, including the Town Manager and/or any department, board, committee, officer or employee. If not directly requested of the Town Manager, the Committee shall inform the Town Manager or the School Superintendent and/or their designees of such requests. The Town Manager shall report to the Finance Committee whenever the expenditures of any department are exceeding or are likely to exceed its appropriations.

**1.10.3** The Finance Committee shall consider all matters of business included within the articles of any warrant for a Town Meeting, and shall, after due consideration, report thereon its recommendations as to each article that it finds to have a financial implication. The Committee shall report in print or otherwise to all Town Meetings. For the information of voters, the report of the Finance Committee to the Annual Town Meeting shall be printed, together with the motion substantially in the form to be proposed in connection with each article, in the warrant of said meeting. The Finance Committee's recommendation on the operating budget shall be the Main Motion to be acted on by Town Meeting. In its motion, or motions, the Finance Committee shall divide the proposed appropriation for each department into a sufficient number of items to separate the major classifications of expenditures. The Finance Committee shall transmit to the Town Manager its initial draft proposed budget on or about the 22<sup>nd</sup> day of February, and its final proposed budget for publication in the Warrant by no later than the 15<sup>th</sup> day of March.

**SECTION 1.11 PERSONNEL BOARD**

**1.11.1** The Town Moderator shall appoint the Personnel Board, consisting of five (5) persons for three (3) year overlapping terms. At least two members of the Personnel Board shall be qualified by reason of their experience as human resources executives. Any registered voter of the Town may be appointed to the Personnel Board, provided however, that no Town employee or Town elected official (other than a Town Meeting Member) shall be appointed.

**1.11.2** The Personnel Board may retain such clerical and other assistance, and make such expenditures, as it deems necessary to the performance of its duties.

**1.11.3** The Personnel Board shall advise the executive branch on strategic human resources and collective bargaining matters. The Personnel Board shall report to the Select Board and/or Town Meeting, as it deems appropriate as to the status of human resource administration in the Town. The Town Manager shall consult with the Personnel Board prior to appointing an assistant town manager/personnel director, or person performing said function regardless of title, in accordance with Section 20(d) of the Town Charter.

**1.11.4** If an Article is inserted in the warrant for an Annual or Special Town Meeting with respect to the human resource system of the Town, a copy of such article shall be furnished to the Personnel Board by the Town Manager. The Personnel Board shall report its recommendation to Town Meeting with respect to such article.

**1.11.5** The Personnel Board will consult with the Town Manager, the Select Board and the Finance Committee on a motion to propose appropriations to fund the cost items of collective bargaining agreements. The Personnel Board shall review such agreements and report its recommendations to Town Meeting. The Town Manager shall keep the Personnel Board informed as to the status of collective bargaining and the Personnel Board shall make recommendations to the Town Manager and Select Board, as it deems appropriate.

**1.11.6** At the request of the Personnel Board, the Town Manager shall provide access to all facts, figures, records and other information pertaining to Town departments and positions to the extent that the release of such records is not inconsistent with privacy and confidentiality laws.

**1.11.7** The Town Manager shall provide such advice, assistance and information to the Personnel Board as it may require for the discharge of its functions.

## **SECTION 1.12 APPROVAL OF EMPLOYEE CONTRACTS**

**1.12.1** When a collective bargaining agreement has been signed by the Town Manager and approved by the Select Board with any organization of Town employees under said Chapter 150E, the Town Manager shall provide to the Personnel Board and to the Finance Committee (1) a copy of said agreement, (2) a copy of the motion to be presented to the Town Meeting proposing an appropriation or appropriations to fund the cost items of said agreement (as defined in said Chapter 150E), and (3) any explanatory or other information relevant to said agreement which said Board or Committee may request. Said Board and said Committee shall report their respective recommendations to the Town Meeting as to whether or not the motion to appropriate for the funding of cost items in the collective bargaining agreement ought to be adopted.

**1.12.2** The motion to be presented to the Town Meeting shall identify clearly the collective bargaining agreement to be funded and the amount or amounts to be appropriated in such a way that Town Meeting members will know what agreement is to be funded, how it is to be funded, and what is the grand total of the cost items to be funded in relation to said agreement. Prior to consideration by the Town Meeting of any motion to fund the cost items of a collective bargaining agreement, the employer shall provide Town Meeting members with a fair and concise summary of said agreements and information as to the amount of the appropriation or appropriations being requested to fund the same.

**1.12.3** A motion to fund the cost items of a collective bargaining agreement, once introduced upon the floor of Town Meeting, shall be amendable only upon a motion to amend offered by or on behalf of the Select Board or the Finance Committee for the purpose of correcting an error. No other motion to amend shall be admissible. The motion to fund, so corrected if necessary, shall be voted or rejected by the Town Meeting. No motion in relation to collective bargaining agreement will be admissible which the Moderator, after consultation with Town Counsel, determines to be in contravention of M.G.L. Chapter 150E.

## **SECTION 1.13 SPECIAL COMMITTEES**

**1.13.1** Special committees established or continued by vote at an annual or special town meeting, and instructed to report to a subsequent annual town meeting, shall file their reports in writing with the Select Board not later than the first Monday of February preceding the Annual Town Meeting which they report, and said reports shall be printed and included as appendices to the report of the Finance Committee to the Town at the Annual Town Meeting.

**1.13.2** The chairman of each temporary study committee established by the town meeting shall, upon the termination of the existence and the work of his committee, deposit with the Town Librarian the working papers and other material gathered or compiled by the committee in the course of its work. Subject to the approval of the Town Clerk and the requirements of M.G.L. Chapter 66, the Town Librarian may destroy that portion of the working papers and material having no substantial value, with the balance being deposited in the public administration collection.

## **SECTION 1.14 TOWN MEETING WARRANTS**



The last date on which the Select Board shall receive articles, by petition or otherwise, for inclusion in the warrant for the next Annual Town Meeting shall be the first Monday in February. The Select Board are not prohibited from inserting in the warrant for said Annual Town Meeting, after that date, articles which, in the Board's opinion, are of such importance to the welfare of the Town as to make their consideration at such meeting necessary or desirable.

**SECTION 1.15 NUMBERING/LETTERING ASSIGNMENT BY TOWN CLERK**

The Town Clerk is authorized to assign appropriate numbers or letters to by-law sections, subsections, paragraphs and subparagraphs where none are approved by Town Meeting; and if such numbering or lettering is approved by Town Meeting, to make non-substantive editorial revisions to the same to ensure consistent and appropriate sequencing and numbering; and to make non-substantive editorial revisions to references regarding such numbering or lettering as contained within the by-laws to ensure accuracy and conformity.

**ARTICLE 2**

**TOWN ADMINISTRATION AND ORGANIZATION**

**SECTION 2.1 GENERAL**

**2.1.1 Salaries.** No elected Town officer shall hold a salaried position under a board of which such officer is a member. No contract for materials or property of any kind shall be made on behalf of the Town by any such board with any of its members.

**2.1.2 Payment Over of Fees.** On and after January 1, 1946, all Town officers, except constables, shall pay all fees received by them by virtue of their office, into the Town treasury.

**2.1.3 Contract Procedures.** The Town and all of its departments excluding the Board of Health, shall comply with the procurement procedures of General Laws Chapter 30B, as it may from time to time be amended. The Board of Health shall follow the procurement procedures of General Laws Chapter 30B with respect to the purchase and disposal of supplies and interests in real estate. The term "supplies" as used herein has the same meaning as defined in Section 2 of said Chapter 30B. No contract for an amount over \$50,000 entered into by the Town shall be effective until it shall have been approved as to form by the Town Counsel. The Town Manager will notify the Select Board in writing when approving a contract in excess of \$1,000,000.

Unless otherwise prohibited by law, the Town is authorized to solicit, award and enter into contracts for periods up to three years, including any renewal, extension or option provision, subject to annual appropriation. The Town is authorized to solicit, award and enter into certain types of contracts for periods exceeding three years but not to exceed the time period specified as follows, including any renewal, extension or option provisions:

	<b>YEARS</b>
Appraisal Services for Revaluation . . . . .	5
Environmental studies and consultants . . . . .	10
Hospital Service Agreements . . . . .	5
Incineration, composting garbage, recycling . . . . .	20
Lease by the Town of private land or buildings . . . . .	10
Lease of any equipment . . . . .	10
Lease of land from a public agency or authority for recreational purposes	99
Lease of Public Lands and buildings . . . . .	10
Lease of Public Lands and/or buildings for the installation of solar photovoltaic facilities for electric generation . . . . .	30
Lease of Public Lands for historical and educational purposes to a non-profit or charitable organization . . . . .	30
Lease of Public Lands for recreational purposes to a Non-profit or charitable organization . . . . .	20

Lease purchase of any equipment . . . . .	10
Lighting . . . . .	10
Maintenance agreements for equipment, buildings or grounds . . . . .	5
Online Subscription Services . . . . .	10
Physicians Contracts . . . . .	5
Purchase of oil and fuel . . . . .	5
Purchase of power (or net metering credits) from solar photovoltaic facilities installed on land leased or licensed from the Town . . . . .	20
School transportation . . . . .	5
Sewer and disposal contracts . . . . .	30
Software License and/or Maintenance Agreements . . . . .	10
Telecommunication Services . . . . .	5
Water studies . . . . .	10
Water supply . . . . .	20
Water supply construction . . . . .	20.

**2.1.4. Vacancies in Certain Appointive Offices.**

**2.1.4.1 Definitions**

For the purposes of this Section 2.1.4 the following words shall have the following meanings:

a) appointive committee: A committee, commission or board of the town composed of members appointed by one or more appointing authorities and created by:

- i) town by-law
- ii) vote of Town Meeting
- iii) vote of a committee, commission or board of the town, or
- iv) interdepartmental agreement

b) Excessive absences: The failure to attend three or more consecutive meetings of the appointive committee.

c) Medical incapacity: The determination of a duly licensed medical doctor that the person is incapable of performing the duties of the office because of a lack of physical or mental capacity.

**2.1.4.2** The appointing authority may remove and replace any person it has appointed to an appointive committee prior to the end of his or her term for excessive absences from committee meetings or because of medical incapacity, but only upon the written request of a majority of the remaining members of the appointive committee.

**2.1.4.3** Before removing and replacing its appointee under Section 2.1.4 of these By-Laws, the appointing authority shall notify in writing the appointee of the appointing authority’s intent to remove him or her and its reasons therefor. Upon the written request of the appointee, the appointing authority shall hold a hearing under the provisions of the Open Meeting Law, G.L. Chapter 39, Section 23B prior to taking final action on the removal.

**SECTION 2.2 ADMINISTRATION**

**2.2.1 Operating Budget.** The Town Manager shall issue budget guidelines and instructions for all Town departments to submit their spending requests for the ensuing fiscal year. The Town Manager shall consult with the Finance Committee prior to the issuance of said guidelines and instructions. The Town Manager and/or his/her designee and the Finance Committee shall consult with each other throughout the Budget process. The Town Manager and School Superintendent will provide the Finance Committee with copies of their respective departmental spending requests on or before the 2<sup>nd</sup> Wednesday of December. Following receipt of these spending requests, the Finance Committee may begin its consideration of same, including the commencement of budget hearings. The Town Manager, after consultation with the Select Board and School Committee, shall not later than the 31<sup>st</sup> day of January, present to the Finance Committee a balanced budget recommendation in the form of an executive budget, which shall include the spending priorities of all

Town departments for the ensuing fiscal year, including in addition thereto, the voted School Committee budget request if different than that contained in the proposed balanced budget. The Town Manager's executive budget recommendation shall not be binding on the Finance Committee. Said executive budget recommendation shall include the estimates of Town revenues and proposed expenditures of all Town departments, including debt service and other amounts required to be raised for the ensuing fiscal year. The Town Manager may amend or otherwise revise revenue estimates as may be warranted. All such revisions shall be provided in writing to the Select Board, School Committee and Finance Committee.

## **2.2.2 Capital Improvement Budget**

**2.2.2.1** All boards, departments, committees, commissions and officers of the town shall annually, at the request of the Town Manager, submit to him or her in writing a detailed estimate of the capital expenditures required for the efficient and proper conduct of their respective departments and offices for the ensuing fiscal year and the four year period following thereafter. The Town Manager, after consultation with the Select Board, shall submit in writing to the Select Board a careful, detailed estimate of the recommended capital expenditures for the aforesaid periods, showing specifically the amount necessary to be provided for each office, department and activity and a statement of the amounts required to meet the debt service requirements or other indebtedness of the Town. The Select Board shall transmit a copy of the capital budget to the Finance Committee along with the Select Board recommendations relative thereto. The Select Board shall transmit the capital budget to the Finance Committee no later than the first Tuesday after the first Monday in January.

**2.2.2.2** A capital expenditure is defined as the acquisition, construction, renovation, betterment or improvement involving land, public buildings and facilities; water and sewer system laterals, mains, and appurtenances; and equipment or vehicles; provided the cost is \$25,000 or more and the improvement will have a useful life of five years or more; or any planning, feasibility, engineering or design study in preparation for such capital expenditures.

**2.2.2.3** The Capital Improvement Plan shall include: (a) a list of all capital improvements proposed to be undertaken during the next five years, together with supporting data; (b) cost estimates, methods of financing, and recommended time schedule; and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired. The first year of the Capital Improvements Program shall constitute the proposed capital improvements budget for the coming fiscal year and the ensuing four years of the plan are included for planning purposes.

## **2.2.3 Town Counsel**

The Select Board shall appoint a Town Counsel, who shall act as attorney and counsel for the Town and the various officers and boards thereof, to institute and prosecute suits in the name of the Town, to defend suits brought against the Town, and to compromise and settle suits and claims, unless otherwise ordered by special vote of the Town. Town Counsel shall have the authority to engage the services of attorneys to assist in carrying out the duties of the office.

## **2.2.4 Town Treasurer and Tax Collector**

**2.2.4.1** **Town Treasurer.** The Town Treasurer shall prosecute proceedings under the provisions of M.G.L. Chapter 60 for the foreclosure of the right to redeem lands purchased, taken or held by the Town for the nonpayment of taxes.

**2.2.4.2** The Town Treasurer shall have the custody, management and sale of all lands held by the Town under a tax collector's deed, or a taking of land for taxes after the title of the Town has become absolute by the foreclosure of the right of redemption according to law, or under a deed to the Town by the owner of the equity of redemption given in lieu of foreclosure proceedings. The Town Treasurer is authorized and empowered with the approval of the Select Board, in the name and on behalf of the Town, to sell such lands at public auction or pursuant to the procedures permitted by M.G.L. Chapter 30B, and to execute, acknowledge and deliver proper deeds for that purpose. Notice of any sale by auction shall be published in a newspaper published in the Town for three consecutive weeks, the first publication to be not less than twenty-one days before the sale.

**2.2.4.3** The provisions of the Sub-section 2.2.42 shall not apply to land which the Town has authorized to be used for municipal purposes. Prior to sale of such land, any person legally entitled thereto shall be granted the right to redeem

property acquired by the Town as aforesaid, notwithstanding the foreclosure of the right of redemption, upon the payment of the amount due the Town, including the interest and costs. This right to redeem must be exercised within two years of the date when the title of the town has become absolute, either by the foreclosure of the right of redemption according to law, or by a deed to the Town by the owner of the equity of redemption given in lieu of foreclosure proceedings.

**2.2.4.4 Interest Charges - Past Due Bills.** The due dates for the payment of all municipal charges and bills shall be 30 days after the charge or bill is issued by the Town, unless otherwise specified by a general law or special act of the Commonwealth. Interest accrues at the same rate as charged on tax bills under the provisions of M.G.L. Chapter 59, Section 57. The Select Board shall have the authority to abate any such interest charges, in whole or in part.

**2.2.4.5 Municipal/Changes Lien.** The Town, acting through its Select Board, shall impose a lien on real property located within the Town for any solid waste disposal fee or charge which has not been paid by its due date, in accordance with the provisions of MGL Chapter 40 Section 58.

**2.2.4.6 Tax Collector.** The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town.

## **2.2.5 Public Works Department**

### **2.2.5.1 Highways**

**2.2.5.1.1 Assignment of Street Numbers.** All buildings on or near the line of public or private ways shall be assigned a number or numbers by the Select Board, who shall assign odd numbers for one side of a way and even numbers for the opposite side of such way. Said assigned numbers, shall not be less than 4 inches high with ½ inch stroke, shall be placed in a conspicuous place on said building or buildings by the owner or occupant within thirty days from the time that notice is given by the Board to the owner or occupant of the number or numbers assigned to said building or buildings. On any building constructed or renovated after July 1, 2002 that is located so that it is more than 100 feet from the line of a public or private way to the building, a post or suitable marker bearing the assigned street number or numbers that conforms to this by-law shall be installed and maintained within ten feet of the line of the way near the entrance to the property thereof. Street numbers in existence as of the effective date of the By-law are not required to be replaced by the owner or occupant unless notified by said Board.

The owner and occupant of each building in the Town to which a number has been thus assigned shall maintain said number on said building at all times in such a manner that the number will be clear and conspicuous and the view of said number is not obstructed. Whoever violates the provisions of this subsection 2.2.5.2.1 shall be subject to a fine of not exceeding twenty dollars (\$20.00) for each offense under the non-criminal process authorized by MGL Chapter 40, Section 21D. Each day on which the violation continues shall be considered a separate offense.

**2.2.5.1.2 Acceptance of New Streets.** In connection with specifications for new streets and ways through private property:

- (a) A plan and profile of every such street or way shall be filed in the office of the Director of Public Works, who shall approve or establish the grade thereof.
- (b) Every street or way shall be at least forty feet in width and have a road bed not less than twenty feet in width.
- (c) All loam shall be removed from the road bed to a depth of twelve inches below finished grade and from the sidewalk to a depth of six inches, or such greater depth as may be required by the Director of Public Works.
- (d) The entire area of every new street shall be first cleared of all stumps, brush, roots, and like material and all trees not intended for preservation.
- (e) All excavation or embankment work shall be brought accurately to a subgrade of not less than eight inches for the roadway and four inches for the sidewalk below finished grade, or such greater depth as the nature of the subsoil, in the opinion of the Director of Public Works, may require.
- (f) All corners of intersecting streets or ways shall be rounded as approved by the Director of Public Works.

- (g) The bottom of the excavation and the top of the fill when completed, hereinafter known as the subgrade, shall be true to the lines, grades and cross-sections given by the Director of Public Works. After all drains have been laid and the subgrade has been shaped correctly, it shall be brought to a firm, unyielding surface by rolling the entire area with an approved three (3) wheeled roller, weighing not less than ten (10) tons. Any portion of the subgrade which is not accessible to a roller shall be thoroughly tamped by hand. All soft and yielding material and other portions of the subgrade which will not compact readily when rolled or tamped shall be removed and replaced with suitable material. All rock or boulders found in the excavation shall be taken away or broken off to a depth of not less than six (6) inches below the surface of the subgrade. The bottom of the base course shall be spread with dry, clean 1 1/4-inch to 2 1/2-inch stone over the bottom course, in such a quantity that after being rolled there will be a depth of not less than 2 1/2 inches and not more than 3 inches, and then shall be rolled until the stone does not creep under action of the roller. One and three-fourth gallons of tar or asphalt binder shall then be applied to each square yard of road surface. Dry, clean 3/4-inch stone shall be spread evenly over the surface, rolled thoroughly; and there shall then be applied to this surface 1/2 gallon of asphalt binder per square yard, which shall be covered with dry, clean pea stone and rolled until a smooth, unyielding surface results.

**2.2.5.1.3 Petition for Acceptance of New Streets.** All streets to be accepted by the Town must be petitioned for not later than six months prior to the start of the Town Meeting at which such petition is to be acted upon. No streets shall be accepted by the Town unless constructed in compliance with the foregoing specifications.

**2.2.5.1.4 Street Occupancy Permit.** Except as herein provided, a Street Occupancy Permit, issued by the Director of Public Works, in such form and content as said Director may require, must be obtained before undertaking any work, including, without limitation, construction, repair, maintenance or reconstruction work, in, within or affecting a public way. The person responsible for such work or in charge of those performing such work shall review such work with the Director of Public Works and the Police Chief, or their designees, to determine whether or not such work will result in the disruption of the normal flow of traffic or cause a safety hazard to pedestrian or vehicular traffic. If the Director of Public Works and the Police Chief, or their designees, determine that such work will result in the disruption of a normal flow of traffic, or will create a safety hazard to pedestrian or vehicular traffic, the person responsible for such work, or in charge of those performing such work, shall follow the safety precautions ordered by the Director of Public Works and the Police Chief, or their designees, including but not limited to, the hiring of a Needham Police Officer, under the existing regulations governing privately paid police details, to direct traffic and minimize the vehicle safety hazards connected with such work.

No work shall be commenced in, within or affecting a public way until those persons responsible for such work comply with the requirements of Sub-section 2.2.5.1.4. The Town of Needham is exempt from the requirements of this sub-section. Whoever violates the provisions of Sub-section 2.2.5.1.4 shall be subject to a fine not exceeding one hundred dollars (\$100.00) each day being a separate offense.

The Chief of Police or Director of Public Works, or their respective designees, are hereby authorized to stop any work on any way conducted in violation of any provision of this sub-section.

**2.2.5.1.5 Removal of Snow and Ice.** The Director of Public works may, for the purpose of removing or plowing snow, or removing ice from any way, remove, or cause, to be removed to some convenient place, including a public garage, any vehicle interfering with such work, and impose liability for the cost of such removal and of resulting storage charges, if any, upon the owner of such vehicle.

**2.2.5.1.6 Street Intersections.** At each intersection of public or private streets or ways in the Town, there shall be a clearance area consisting of the triangular area formed by the side lines of the intersecting streets or ways and a line joining each side line at a point twenty-five (25) feet distant from the point of intersection or, in case of rounded corners, from the point at which the side lines would intersect if projected. In case of uncertainty as to the point of intersection of such projected side line, the Town Engineer shall certify the clearance area drawn in accordance with the foregoing provisions. No fence or other structure, shrubbery, foliage, hedge, tree or the like which interferes with sight lines across such clearance area and thereby limits or obstructs the view of vehicular traffic entering such intersection shall be erected, planted, maintained or allow to exist, provided, however, that Sub-section 2.2.5.12.6 shall not apply to buildings in violation of the Town Zoning By-Law.

**2.2.5.1.7 Construction and Maintenance of Overhead Poles**

Any person, firm, corporation or partnership, or their agents and employees, granted any license, permission or other authority to construct or maintain poles and overhead wires and associated overhead structures upon, along, under or across any public way or ways, is forbidden from installing or constructing, and shall remove immediately, any poles, overhead wires and associated overhead structures which are located on, along or across Chestnut street between its intersection with School Street and the railroad bridge at Needham Junction.

#### **2.2.5.2            Sewers**

**2.2.5.2.1**            The Department of Public Works may require house connections to sewer mains within five years after the laying of such mains. This provision shall apply only to mains laid after March 18, 1940.

**2.2.5.2.2**            Plans and descriptions of all common sewers belonging to the Town, with a true record of the charges of making and repairing said sewers and all assessments therefor, shall be kept in the Department of Public Works.

#### **2.2.5.3            Miscellaneous**

**2.2.5.3.1            Wells, Cisterns and Cesspool Protection.** The owner of any premises within the Town on which a well, cistern or cesspool is located, or, if the premises are in the exclusive possession of a person other than the owner, such person having possession of said premises, shall cause each such well, cistern or cesspool to be protected at ground level by masonry and a metal cover, or by such other substantial protective materials as may be approved by the Town's Director of Public Works.

The owner of premises within the Town on which a well, cistern or cesspool is located, or, if the premises are in the exclusive possession of a person other than the owner, such person having possession of said premises, shall cause each such well, cistern or cesspool, the use of which has been discontinued, to be filled in to ground level with material commonly used as fill, or, in the case of a well or cistern, with the approval of the Town's Director of Public Works, covered with masonry in a substantial and safe manner. Such filling or masonry work, as the case may be, shall be performed as to wells, cisterns, and cesspools, the use of which has been discontinued prior to the effective date of Sub-section 2.2.5.3.1, immediately following said effective date, and as to wells, cisterns, and cesspools, the use of which shall be discontinued subsequent to the effective date of Sub-section 2.2.5.3.1, immediately following such discontinuance of use.

#### **2.2.5.4            Trench Safety**

**2.2.5.4.1**            The Town Manager is authorized to designate a local permitting authority for issuing trench permits and/or licenses under the regulations promulgated by the Commonwealth of Massachusetts Department of Public Safety and Division of Occupational Safety in accordance with Chapter 82A of the General Laws relative to excavation and trench safety.

**2.2.5.4.2**            A trench is defined as a subsurface excavation greater than three feet in depth and is fifteen feet or less between the soil walls as measured from the bottom.

**2.2.5.4.3**            The Select Board may, from time to time enact fees to cover the costs of processing said permits and for enforcement thereof.

**2.2.5.4.4**            The Select Board may, from time to time, and after a public hearing, enact local rules and regulations consistent with Chapter 82A relative to the trench permitting process, the standard and special conditions for issued permits, and the enforcement of issued permits.

**2.2.5.4.5**            The Town may perform temporary repairs to private property if such repairs are determined by the Director of Public Works to be required for public necessity, in accordance with regulations issue by the Select Board in accordance with Section 2.2.5.4.4. Said repairs shall be considered necessary to abate an immediate hazard.

#### **2.2.5.5    Municipal Water Supply**

##### **2.2.5.5.1    Applicability**

This section pertains to residences and commercial property and industry served by the Town's water system.

**2.2.5.5.2 Implementation of a Mandatory Non-essential Outdoor Water Use Restriction** The Select Board or its designee shall have authority to implement a mandatory non-essential outdoor water use restriction in an effort to promote water conservation and to ensure compliance with the Water Management Act.

**2.2.5.5.3 Backflow Prevention on Automatic Irrigation Systems** All automatic irrigation systems connected to the municipal water system in the Town shall be protected from backflow events by the installation of a backflow prevention device approved by the Director of Public Works.

#### **2.2.5.6 Private Ways**

**2.2.5.6.1 Snow and Ice Removal.** The Town may remove snow and ice from such private ways within its limits for emergency vehicle access in accordance with Massachusetts General Laws and in accordance with regulations or policies issued by the Select Board. Such snow and ice removal may be limited to those private ways maintained in an acceptable condition and in accordance with standards determined by the Director of Public Works.

**2.2.5.6.2 Barricades.** Barricades installed on private ways that serve to deter prompt and appropriate emergency access shall be removed on order of the Fire Chief.

**2.2.5.6.3 Temporary Repairs.** The Town may perform temporary repairs to private ways if such repairs are determined by the Director of Public Works to be required for public necessity, in accordance with regulations or policies issued by the Select Board.

Said repairs shall be considered necessary to abate the immediate hazard caused by the defect and shall not be considered as maintenance of the private way nor shall the way be considered a public way. Drainage shall not be included as part of any such repairs, and the private way need not have been open to public use prior to the repairs being made.

Abutters to the private way may petition the Town to perform temporary repairs. In such cases, fifty one percent of the abutters to the private way must petition the Director of Public Works for the repairs to be made by the Town. Upon receipt of a petition and a determination of the necessity of such repairs, the Town shall provide the petitioners with a statement of the cost of such repairs. Within seven (7) days of receipt of the statement of cost, the petitioners shall be entitled to withdraw the petition. Unless the petition is withdrawn, the Town shall promptly make the repairs and the petitioners shall thereafter reimburse the Town for the cost of the repairs, if the repairs exceed \$300. The reimbursement amount shall be equal to the petitioner's pro rata share of the cost of repairs based on the ratio that each petitioner's frontage bears to the total frontage of the petitioners on the private way. Betterment charges will not be assessed for such repairs.

If the cost of repairs does not exceed \$300, no reimbursement will be required.

The Town shall not be liable for any damage to private property caused by such repairs, except as otherwise provided by law.

#### **2.2.6 Information Technology**

**2.2.6.1 Purpose.** It is hereby declared to be the policy of the Town of Needham that there shall be an Information Technology Center (within the Department of Finance) that shall be responsible for providing services and systems to all Town offices and departments. It is further declared that, subject to statutory provisions to the contrary, and insofar as practical, all data processing services and systems shall be centralized in the Information Technology Center.

**2.2.6.2 Organization.** There is hereby created a department of the Town government to be known as the Information Technology Center which shall be part of the Department of Finance of the Town. In addition, there shall be an advisory board as described below. The Center's operations shall be under the management and control of the Director of Finance. The Advisory Board shall serve in an advisory capacity for all long-range planning and capital acquisition functions.

#### **2.2.6.3 Technology Advisory Board**

- (a) There shall be a Technology Advisory Board (hereinafter called the Board) consisting of five (5) regular members and four (4) ex officio members. The ex officio members shall be non-voting members.
- (b) The regular members of the Board shall be appointed by the Select Board to staggered three-year terms. The regular members of the Board shall be residents of the Town who have knowledge and experience in telecommunications or information technology. No employee of the Town shall be a regular member of the Board. In the event that a vacancy occurs during a regular member's three-year term, the Select Board shall, within ninety (90) days, appoint a successor to fill the balance of the unexpired term.
- (c) The ex officio members of the Board shall be:
  - (i) the Town Manager or his or her designee,
  - (ii) the Town's Director of Management Information Services,
  - (iii) the School Department's Director of Financial Services, or a substitute designated by the Superintendent of Schools,
  - (iv) the School Department's Director of Technology, or a substitute designated by the Superintendent of Schools.
- (d) The role of the Board shall be (1) to provide technical assistance to all Town departments and the School Department in the formulation of technology plans and capital requests for voice, data and video systems; (2) to advise the Town Manager in the review of capital requests for voice, data and video systems, taking into consideration the goals of maximizing efficiency and cost effectiveness, minimizing unnecessary redundancy, and insuring, to the extent possible, the compatibility of each request with other existing or proposed systems; (3) to advise the Permanent Public Building Committee on the specifications to be considered for voice, data and video systems when constructing or renovating Town Facilities; (4) advise the Town Manager, Town Select Board, and Town Departments on matters relating to information technology policy, specifically with reference to issues of security, privacy, future technology and possible provision of government services through information technology; and (5) the advice will be delivered through a vote of the regular members and reported to the Town Manager, Town Select Board, and the Town Departments which requested the advice.
- (e) The Board shall, annually in June, elect from among its regular members a chairman and vice-chairman, each of whom shall serve until a successor is duly elected. The chairman shall annually appoint a member to serve as secretary.

**2.2.6.4 Information Technology Center**

- (a) The Town Manager may appoint a Director of Management Information Systems who shall supervise the daily operation of the Information Technology Center.
- (b) It shall be the responsibility of the Information Technology Center, through the Director of Finance and the Director of Management Information Systems, to provide data processing services for all Town offices and departments to the extent possible and practical. The Information Technology Center will attempt to accommodate all requests from all departments whenever economically feasible and within the limits of the equipment capability and capacity of the Town's resources.
- (c) Each office or department of the Town utilizing any service provided by the Information Technology Center covered by Sub-section 2.2.6.4 shall have such control over the data supplied to, and received from, such center as such office or department finds necessary to conduct its own affairs.
- (d) Security of data, issuance of reports, extracts from data files, form control, operations, commitments, costs of services (when appropriate or necessary), training and user approvals as they relate to the Information Technology Center shall be considered appropriate subjects covered by rules and regulations promulgated by the Director of Finance with the assistance of the Director of Management Information Systems and the Advisory Board.

**2.2.6.5 Confidentiality**



- (a) Although municipal records are generally of a public nature, it is recognized that certain data to be processed through the Center are of a classified or confidential nature. The Department head of any board, commission or other official tribunal having control of such classified or confidential data shall notify the Director of Finance in writing of the classified or confidential nature of the data; and the Director of Finance shall take the necessary steps to protect such classified or confidential data.
- (b) No person shall disclose or make known in any manner the contents or nature of any data while in the custody of the Center for processing, or any data originated by the Center, without the express consent of the Director of Finance or his duly authorized representatives, or without the express consent of the head of the department, board, commission or other official tribunal supplying the basic information; nor shall any person tamper with, change, alter or destroy any data while in the custody of the Center, except in accordance with approved programs for processing the data. Whoever violates any provision of Sub-section 2.2.6.5 shall be subject to appropriate disciplinary action.

## **Section 2.2.7 Departmental Revolving Funds**

2.2.7.1 This By-Law establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies, or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by Massachusetts General Law Chapter 44, Section 53E½.

2.2.7.2 A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this By-Law without appropriation subject to the following limitations:

- (a) Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- (b) No liability shall be incurred in excess of the available balance of the fund.
- (c) The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board and Finance Committee.

2.2.7.3 Interest earned on monies credited to a revolving fund established by this By-Law shall be credited to the general fund.

2.2.7.4 Except as provided in Massachusetts General Law Chapter 44, Section 53E½ and this By-Law, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this By-Law. The Town shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the town accountant provides the department, board, committee, agency or officer on appropriations made for its use.

### 2.2.7.5 Authorized Revolving Funds

#### 2.2.7.5.1 School Transportation Revolving Fund

Fund Name There shall be a separate fund called the School Transportation Revolving Fund authorized for use by the School Committee.

Revenues The town accountant shall establish the School Transportation Revolving Fund as a separate account and credit to the fund all of the fee-based transportation program receipts charged and received by the School Committee in connection with school transportation programs.

Purposes and Expenditures During each fiscal year, the School Committee may incur liabilities against and spend monies from the School Transportation Revolving Fund for pupil and other districtwide transportation activities in connection with school transportation programs. The costs associated for students bussed and not charged a fee will be funded through a regular budget appropriation or other funding source.

Fiscal Years The School Transportation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.2 Needham Transportation Revolving Fund

Fund Name There shall be a separate fund called the Needham Transportation Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Needham Transportation Revolving Fund as a separate account and credit to the fund all of the fees the transportation program charged and received by the Health and Human Services Department in connection with the services.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Needham Transportation Revolving Fund for transportation provided to seniors and other users of the service in connection with Health and Human Services transportation program

Fiscal Years The Needham Transportation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.3 Water Conservation Revolving Fund

Fund Name There shall be a separate fund called the Water Conservation Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Water Conservation Revolving Fund as a separate account and credit to the fund all of the receipts from sale of water conservation devices and program fees charged and received by the Department of Public Works in connection with water conservation programs.

Purposes and Expenditures During each fiscal year, the Department of Public Works may incur liabilities against and spend monies from the Water Conservation Revolving Fund for the purchase, resale, and promotion of water conservation devices and outreach programs to encourage water conservation in connection with promotion of water conservation and sale of devices to conserve water.

Fiscal Years The Water Conservation Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.4 Home Composting Revolving Fund

Fund Name There shall be a separate fund called the Home Composting Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Home Composting Revolving Fund as a separate account and credit to the fund all of the receipts from sale of composting bins charged and received by the Department of Public Works in connection with the promotion of home composting.

Purposes and Expenditures During each fiscal year, Department of Public Works may incur liabilities against and spend monies from the Home Composting Revolving Fund for the purchase, resale, and promotion of home composting bins and related outreach programs.

Fiscal Years The Home Composting Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.5 Youth Services Programs Revolving Fund

Fund Name There shall be a separate fund called the Youth Services Programs Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Youth Services Programs Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with the related fee-based programs.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Youth Services Programs Revolving Fund for costs related to youth service and community program activities.

Fiscal Years The Youth Services Programs Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.6 Traveling Meals Revolving Fund

Fund Name There shall be a separate fund called the Traveling Meals Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Traveling Meals Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with traveling meals program.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Traveling Meals Revolving Fund for the costs to provide traveling meals in connection with program.

Fiscal Years The Traveling Meals Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.7 Immunization Program Revolving Fund

Fund Name There shall be a separate fund called the Immunization Program Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The town accountant shall establish the Immunization Program Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with the immunization and vaccination programs.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Immunization Program Revolving Fund for costs associated with immunization, vaccination, and medical countermeasure distribution programs, as well as educational programs and public information efforts in support of those services.

Fiscal Years The Immunization Program Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.8 Public Facility Use Revolving Fund

Fund Name There shall be a separate fund called the Public Facility Use Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Public Facility Use Revolving Fund as a separate account and credit to the fund all of the facility use receipts charged and received by the Department of Public Works in connection with the use of Town facilities by community groups and organizations.

Purposes and Expenditures During each fiscal year, the Department of Public Works may incur liabilities against and spend monies from the Public Facility Use Revolving Fund for costs to operate and maintain the facility for use for conferences, programs, functions or other events in connection with the use of the facilities.

Fiscal Years The Public Facility Use Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.9 Memorial Park Activities Revolving Fund

Fund Name There shall be a separate fund called the Memorial Park Activities Revolving Fund authorized for use by the Memorial Park Trustees.

Revenues The town accountant shall establish the Memorial Park Activities Revolving Fund as a separate account and credit to the fund receipts from food sales and voluntary program activities received by the Memorial Park Trustees.

Purposes and Expenditures During each fiscal year, the Memorial Park Trustees may incur liabilities against and spend monies from the Memorial Park Activities Revolving Fund to provide a food concession and to maintain and improve Memorial Park.

Fiscal Years The Memorial Park Activities Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.10 Tree Replacement Revolving Fund

Fund Name There shall be a separate fund called the Tree Replacement Revolving Fund authorized for use by the Department of Public Works.

Revenues The town accountant shall establish the Tree Replacement Revolving Fund as a separate account and credit to the fund all of the receipts accepted by the Needham Select Board for the purpose of tree plantings charged and received by the Department of Public Works in connection with tree removal approvals.

Purposes and Expenditures During each fiscal year, the Department of Public Works may incur liabilities against and spend monies from the Tree Replacement Revolving Fund for purchase, maintenance, distribution, and promotion of shade trees in the Town of Needham in connection with payments received by the Town and accepted by the Select Board for said purpose. Salary or wages of full-time staff shall be paid from the annual budget appropriation of the Department of Public Works and not from the Fund.

Fiscal Years The Tree Replacement Revolving Fund shall operate for fiscal years that begin on or after July 1, 2017.

#### 2.2.7.5.11 Aging Services Programs Revolving Fund

Fund Name There shall be a separate fund called the Aging Services Programs Revolving Fund authorized for use by the Health and Human Services Department.

Revenues The Town Accountant shall establish the Aging Services Programs Revolving Fund as a separate account and credit to the fund all of the program receipts charged and received by the Health and Human Services Department in connection with the related fee based programs.

Purposes and Expenditures During each fiscal year, the Health and Human Services Department may incur liabilities against and spend monies from the Aging Services Programs Revolving Fund for costs related to educational, entertainment, and programmatic activities offered through the Department.

Fiscal Years The Aging Services Programs Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

*[Note: Article 10 of STM 5.14.18 labeled section 2.2.5.11 in error. The section should be labeled 2.2.7.5.11]*

### 2.2.8 Independent Audit

The Select Board shall annually employ a certified public accountant to make audits of the accounts of the Town.

## SECTION 2.3 PLANNING BOARD

**2.3.1 Installation of Water Mains.** Every person making or opening subdivision of land in the Town shall, at his own expense, make such provisions for the development of streets therein, including the construction and drainage thereof, and the installation of water mains therein, as may be required by the Planning Board. Such street development and construction shall be in accordance with specifications therefor which the Director of Public Works shall from time to time adopt and water mains shall be installed only in a manner approved by the Director of Public Works. The Planning

Board may require a proper bond with an adequate surety or sureties to secure performance of requirements of Sub-section 2.3.1.

**2.3.2 Drainage.** Every person constructing a street or way to public travel within the Town shall at his own expense make such provisions for the drainage of such street or way, and the territory contiguous thereto, as may be required by the Planning Board. The Planning Board may require a proper bond with an adequate surety or sureties to secure performance of its requirements of Sub-section 2.3.2.

## **SECTION 2.4 BOARD OF APPEALS**

**2.4.1 Appointment By Select Board.** There shall be a Board of Appeals consisting of three regular members and two associate members appointed by the Select Board. The three regular members shall be appointed for three years and in such a manner that the term of one regular member shall expire each year.

**2.4.2 Associate Members.** The associate members shall be appointed by the Select Board for a term of one year. In case of a vacancy or the absence, inability to act, or interest on the part of a regular member of the Board of Appeals, that place may be taken by an associate member designated by the Chairman or acting Chairman.

**2.4.3 Statutory Authority.** Said Board of Appeals shall be the board of appeals, required under the provisions of M.G.L. Chapter 40A, Section 14, and Chapter 41, Section 81Z, and shall have all powers and duties and shall be governed by the procedure prescribed in all provisions of the general laws applicable to boards of appeals and to applications for special permits or for variances, arising under either the Building By-Laws or the Zoning By-Laws, and shall have jurisdiction of all appeals under the Subdivision Control Law.

**2.4.4 Adoption of Rules.** The Board of Appeals may adopt rules consistent with the provisions of M.G.L. Chapter 40A, Section 14 and Chapter 41, Section 81Z, and provisions of the Building or Zoning By-Laws, for conducting its business and otherwise carrying out the purposes of said by-laws, the Subdivision Control Law and all applicable statutes.

## **SECTION 2.5 BOARD OF HEALTH**

**2.5.1 Transportation of Refuse and Garbage.** No person shall carry in or through any of the streets, squares, courts, lanes, avenues, roads, places or alleys within the Town of Needham, any house dirt, ashes or garbage, or other refuse or garbage, or any grease or bones or any refuse substances from any dwelling houses or other buildings or places in the Town, except upon such terms and conditions as the Board of Health may deem in the health and interest of the Town.

**2.5.2 Disposal of Refuse and Garbage.** No person shall litter or, without a license from the Board of Health, dispose of any refuse on or in any public land, way, sidewalk, pond, stream, brook or watercourse or on any private land except at the Recycling Transfer Station with an appropriate permit for entry to that facility and in compliance with the rules and regulations adopted by the Select Board.

Any person who violates any provision of Sub-section 2.5.2 in the presence of a police officer may be arrested by such officer without a warrant, if such person refuses to give his true name and address or to remove any substance unlawfully discarded by such person after having been requested by such officer. Any person who violates any provision of Sub-section 2.5.2 shall be punished by a fine not exceeding two hundred dollars (\$200.00) for each offense.

**2.5.3 Sale of Cigarettes by Machine.** All sale of cigarettes by machine is prohibited.

Any person who violates sub-section 2.5.3 Sale of Cigarettes by Machine shall be punished by a fine not exceeding two hundred (\$200.00) dollars for each offense. Each sale in violation of sub-section 2.5.3 shall be considered a separate offense.

## **SECTION 2.6 PUBLIC FACILITIES**

**2.6.1 Building Design and Construction Department** There is hereby established a Building Design and Construction Department under the authority of the Town Manager. The Department shall be responsible for managing the design (including feasibility studies), construction, reconstruction, alteration or enlargement of all buildings owned by the Town or constructed on land owned, leased, licensed or operated by the Town. These projects will be under the jurisdiction of the Permanent Public Building Committee as provided below, for which the Building Design and Construction Department will provide support.

**2.6.2 Permanent Public Building Committee** There shall be a Permanent Public Building Committee (hereinafter "Committee") responsible for overseeing the design (including feasibility studies), construction, reconstruction, alteration or enlargement of all buildings owned by the Town or constructed on land owned, leased, licensed or operated by the Town.

**2.6.2.1** The Committee shall consist of the Town Manager or his or her designee and six additional members appointed by majority vote of an appointing authority. The appointing authority shall consist of the Moderator, the Chairman of the School Committee, the chairman of the Select Board, the Chairman of the Board of Library Trustees, and the Chairman of the Park and Recreation Commission.

**2.6.2.2** Each of the members appointed by the Appointing Authority shall be a registered voter of the Town of Needham. No member appointed by the Appointing Authority shall be a paid employee of the Town, or serve as an elected official, or elected member of another standing Town board, committee or commission, except Town Meeting, or serve as an appointed member of another standing Town board, committee, or commission directly involved in the design, permitting, and/or financing of public buildings.

**2.6.2.3** Among the members appointed by the Appointing Authority, there shall be a commercial general contractor, an architect, an engineer, and an attorney, if qualified individuals with the necessary expertise are available for appointment, and two other residents. If a commercial general contractor, architect, engineer, or attorney, as the case may be, is not available for appointment, the Appointing Authority shall have the discretion to appoint instead any individual meeting the qualifications set forth in 2.6.2.2 with construction, engineering, or accounting experience to fill that vacancy

**2.6.2.4** The Town Manager, if a member, shall serve ex officio. A member serving as the designee of the Town Manager shall serve at the discretion of the Town Manager. Members appointed by the Appointing Authority shall serve for terms of three years.

**2.6.2.5** The Appointing Authority shall, following the effective date of this section, appoint members of the Committee as follows: Two members for one year, two members for two years and two members for three years. Upon the expiration of a term, future appointments shall be for terms of three years, except that if a member vacates his or her seat before the expiration of his or her term, the Appointing Authority shall appoint a replacement to complete the unexpired portion of that term. Expiring terms shall end on December 31 of each year. A member may hold his or her seat after his or her term expires until a successor is qualified.

**2.6.2.6 Definitions**

For the purpose of this Section 2.6.2 the following words shall have the following meanings:

- a. architect: a person with educational training and experience in the field of architecture, and a professional registration.
- b. building: a structure in a portable or fixed location, with an area of at least one hundred square feet, having a roof or providing shelter, including swimming pools.
- c. clerk-of-the-works: an individual responsible for day-to-day inspection of a project. He or she shall prepare and maintain detailed daily records of a project's progress and shall report to the project manager.
- d. commercial general contractor: a person with the educational training and experience in general construction of a commercial nature, and a commercial general contractor's license, or at least ten years of experience as a commercial general contractor.

- e. designer: an individual, corporation, partnership, sole proprietorship, joint venturer, joint stock company, limited liability partnership or other entity engaged in the practice of architecture, landscape architecture, or engineering. If the designer is an individual, he or she shall be registered as an architect, landscape architect or engineer in the Commonwealth of Massachusetts, and if the designer is one of the other categories listed above, the majority of the partners or owners shall be registered as an architect, landscape architect or engineer in the Commonwealth of Massachusetts.
- f. direct construction cost: the direct cost for material, labor and equipment to construct, reconstruct, enlarge or alter a building.
- g. engineer: a person with educational training and experience in his or her engineering discipline, and a professional registration.
- h. feasibility study: prepared by a designer, and identifies the needs of a building user as well as alternatives for meeting the user's functional requirements. It includes surveys and testing, including environmental impacts, access for the disabled and cost estimates.
- i. final design: prepared by a designer, the final design includes a schematic design, design development, final drawings and specifications, bidding documents and contract documents.
- j. indirect construction costs: architectural and engineering fees, furnishings and equipment, permit and license fees, project management costs, salaries for the project manager and clerk-of-the-works, financing costs, and project contingencies.
- k. project: a project is a proposed construction, reconstruction, alteration or enlargement of any building owned by the Town or constructed on land owned, leased or operated by the Town.
- l. Project Committee: a committee consisting of the Permanent Public Building Committee members and the representatives designated by a User Agency for a specific building project. A member of the Permanent Public Building Committee shall serve as chairperson for all Project Committee activities.
- m. project manager: an individual who acts on behalf of the Committee, and who is responsible for the day-to-day supervision of a project. He or she shall maintain project records, issue emergency directives, and oversee the clerk-of-the-works and other project participants.
- n. total project cost: the combination of the direct and indirect construction costs.
- o. User Agency: an elected or appointed board, committee or commission, including the Select Board, School Committee, Library Trustees, Park and Recreation Commission, Memorial Park Trustees, Conservation Commission, or other board, committee or commission having responsibility for a building.

**2.6.2.7** The Committee is responsible for projects having a total project cost of \$500,000 or more. The Committee may defer its jurisdiction in the instance where the project includes little or no actual building construction.

**2.6.2.8** The Committee shall develop and publish procedures describing its activities. The Committee shall submit a report of all its activities for publication in the Town's annual report.

**2.6.2.9** The Committee shall invite to its meetings representatives from the Board of Health, the Commission on Disabilities, and any health and safety committee or other advisory committee for the project appointed by the relevant User Agency.

**2.6.2.10** The Committee shall, subject to appropriation, conduct feasibility studies and final designs, oversee the construction of projects, procure designer and consultant services as it deems necessary or as required by law. The relevant User Agency shall determine the functional need and utility of a project.

**2.6.2.11** Before the commencement of a feasibility study and before any hiring for a project, the relevant User Agency shall designate two people to serve on the Project Committee as its representatives. The User Agency may replace its representatives as it deems necessary. The User Agency representatives shall have full voting rights and shall have full participation in all the Project Committee’s deliberations and actions.

**2.6.2.12** Any User Agency seeking to construct, reconstruct, alter or enlarge a building under its jurisdiction shall file a project application with the Committee. The Committee shall meet with the User Agency. At the request of the User Agency or at the discretion of the Committee, a feasibility study shall be conducted. Prior to the commencement of a feasibility study, the feasibility study funding shall be submitted as part of the capital improvement planning process in accordance with Section 2.2.2 of this by-law and funded by Town Meeting. The Project Committee and the User Agency shall review the completed feasibility study. Upon review, the Project Committee and the User Agency shall each indicate on a separate, signed copy whether they will accept, amend or reject the feasibility study. These provisions do not preclude the User Agency from conducting independent studies relating to its functions.

**2.6.2.13** If a feasibility study approved by the Project Committee and the User Agency shows that a proposed construction project is necessary, the Project Committee shall conduct a final design. Prior to the commencement of the final design, the final design scope of work and its funding shall be submitted as part of the capital improvement planning process in accordance with Section 2.2.2 of this by-law and funded by Town Meeting. Prior to approval of a final design and contract documents by the Project Committee, a draft version shall be reviewed by the Project Committee and the User Agency. The final design and contract documents shall not be considered approved until the Project Committee and the User Agency acknowledge their approval in writing.

**2.6.2.14** A description of the estimated total project cost shall be prepared for all feasibility studies and final designs.

**2.6.2.15** Whenever project funding approval is sought from the town meeting, the Project Committee and the User Agency shall provide a detailed report to the town meeting that includes an explanation of the project need, scope of work, schedule and costs.

**2.6.2.16** The Committee shall employ project managers and clerk-of-the-works for each project as it deems necessary.

**2.6.2.17** The Town Clerk shall maintain a register of Committee members, and of architects, engineers, contractors, accountants, and attorneys that are willing to serve on the Committee. The Town Clerk shall maintain said register in such form as the Town Clerk, in consultation with the Select Board, may determine and such register may be purged from time to time of such information as the Town Clerk determines to be obsolete and of no further value.

**2.6.2.18** Except as the laws of the Commonwealth may otherwise require, the Chairperson of the Committee, or his or her designated representative, shall, upon the termination of the Project Committee: (1) provide the User Agency and the Department of Public Works – Building Maintenance Division (hereinafter “BMD”) with a complete and final set of drawings and specifications of the finished structure, as-built drawings, Operations and Maintenance Manuals, all other contract documents, and attic stock materials used therein, and shall provide to the User Agency and BMD all papers guaranteeing the building or any feature thereof (“warrantees”) for work done thereon, and (2) post a digital copy of remaining records and reports on the town server for the purpose of maintaining detailed records, including any inventory indicating what papers, materials and records were deposited with the User Agency and BMD. Subject to the approval of the Town Clerk and the requirements of M.G.L. Chapter 66, the user Agency and BMD may destroy that portion of the material relinquished to the User Agency and BMD determined to have no substantial value, the balance of such materials being deposited in the Public Administration Collection.

## **SECTION 2.7 SPECIAL COMMITTEES AND COMMISSIONS**

### **2.7.1 Transportation Committee**

**2.7.1.1** There is hereby established a Transportation Committee, which shall serve under the supervision of the Select Board as Town Agents. The said Committee shall consist of five members appointed as hereinafter provided, a simple majority of whom shall constitute a quorum for the transaction of business, and of the members of the General Court, whose districts include all or part of Needham, serving ex officio as non-voting members. Of the five appointed members aforesaid, two shall be appointed by the Select Board, two shall be appointed by the Planning Board and one shall be appointed by the Moderator, each such appointee to serve for a term of three years; provided, however, that of the members



originally appointed, one shall serve for a term of one year, two for a term of two years and two for a term of three years, as the Select Board shall determine. If any appointed member shall resign or otherwise vacate his office, a successor shall be appointed by the appropriate authority to serve for the balance of the unexpired term.

The Committee shall, annually in April, elect from its membership a Chairman and such other officers it deems necessary and desirable.

**2.7.1.2 Duties of the Committee.** The Transportation Committee shall conduct continuing studies of the mass transportation needs of the Town, with particular emphasis upon commuter transportation. It shall make such special studies relative to transportation problems as the Select Board or Town Meeting may, from time to time, direct.

## **2.7.2 Future School Needs Committee**

**2.7.2.1** There shall be a Future School Needs Committee consisting of seven members: two members of the Finance Committee, two members of the School Committee, two members of the Select Board, and one member appointed by the Town Moderator. The chairman shall be designated from time to time by vote of the Committee. The Future School Needs Committee will assist in the identification of the criteria necessary to develop the estimates and projections. It shall be the responsibility of the School Committee to procure professionally-developed estimates of the Town's current and projected student population and to provide this information to the Future School Needs Committee for their review, guidance, and feedback.

## **SECTION 2.7.3 Community Preservation Committee**

### **2.7.3.1 Establishment**

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by said Commission for a term of three years.

One member of the Historical Commission as designated by said Commission for a term of three years.

One member of the Housing Authority as designated by said Authority for a term of three years.

One member of the Park and Recreation Commission as designated by said Commission for an initial term of two years and thereafter for a term of three years.

One member of the Planning Board as designated by said Board for an initial term of one year and thereafter for a term of three years.

Two members to be appointed by the Select Board, one member to be appointed for a term of one year and thereafter for a term of three years and one member to be appointed for a term of two years and thereafter for a term of three years.

Two members to be appointed by the Moderator, one member to be appointed for a term of one year and thereafter for a term of three years and one member to be appointed for a term of two years and thereafter for a term of three years.

No person shall be appointed to the committee for more than two consecutive three year terms.

Should any of the Commissions, Boards, Committees, or individuals who have appointment authority under this by-law be no longer in existence for what ever reason, the appointing authority for that Commission, Board, Committee, or individual shall become the responsibility of the Select Board.

### **2.7.3.2 Duties**

- 2.7.3.2.1** The Community Preservation Committee shall study the needs, possibilities, and resources of the town regarding community preservation. The committee shall consult with the Finance Committee, the Select Board and other existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Park and Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.
- 2.7.3.2.2** The Community Preservation Committee, after consultation with the Finance Committee and the Select Board, shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.
- 2.7.3.2.3** The Community Preservation Committee may include, in its proposal to the Town Meeting, a recommendation to set aside for later spending funds for purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund. The Community Preservation Committee may recommend the issuance of general obligation bonds or notes in anticipation of revenues to be raised pursuant to Mass. Gen. Laws, Chapter 44B, Section 3, the proceeds of which shall be deposited in the Community Preservation Fund.
- 2.7.3.2.4** As provided in the Massachusetts Community Preservation Act, no expenditures shall be made from the Community Preservation Fund without the approval of Town Meeting.
- 2.7.3.2.5** The Community Preservation Committee will submit an annual administrative and operating budget for the Community Preservation Committee, which cannot exceed five percent (5%) of the annual revenues in the Community Preservation Fund, to Town Meeting for approval.

### **2.7.3.3 Requirement for a Quorum and Cost Estimates**

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Proposals to the Town Meeting shall include their anticipated costs.

### **2.7.3.4 Exemptions**

Taxpayers qualifying for the low-income exemption or the low and moderate-income senior exemption as provided for in G.L. c. 44B shall submit an application for the exemption on a form provided by the Board of Assessors within three months after the tax bill or notice is sent.

### **2.7.3.5 Severability**

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

### **2.7.3.6 Effective Date**

This by-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of M.G.L. c.40, S. 32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

The provisions of this Community Preservation by-law shall be of no force or effect until such time as the Town Meeting and the voters of the Town vote to accept the provisions of Section 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Community Preservation Act.

## **SECTION 2.8 PUBLIC LIBRARY**

### **2.8.1 Public Administration Research Collection at the Public Library**

There is hereby established, and there shall hereafter be maintained, a Public Administration Research Collection at the Town's Public Library, under the supervision of the Director of the Public Library, for the use of the town officers and committees, civil organizations and individual citizens of the Town engaged in research in matters pertaining to governmental and social problems, particularly relating to the Town of Needham. To the extent that the facilities permit, library employees shall assist the members of the Town Meeting and any committee thereof in all matters requiring statistical research or fact-finding, in connection with studies ordered by the Town Meeting.

**2.8.2** The Town Clerk shall furnish the Director of the Public Library with at least two copies of every publication issued by the Town and distributed through the Town Clerk's office. Any town department, board, commission or committee publishing a report not so distributed shall file at least two copies of such report with the Director of the Public Library.

## **SECTION 2.9 COUNCIL ON AGING**

**2.9.1** There is hereby established a Council On Aging, consisting of a representative nominated by each of the following Town boards and committees: the Board of Health, the School Committee, the Trustees of the Needham Public Library, the Housing Authority, and the Park and Recreation Commission, and not fewer than seven additional members, all of whom shall be appointed by the Select Board and shall hold office for a term of three years.

**2.9.2** It is the duty of the Council:

- (a) To identify the needs and concerns and strengths of Needham's elderly and retired persons and those approaching retirement age.
- (b) To design, promote, coordinate or implement services and programs to meet these needs and concerns.
- (c) To inform the community and enlist the support and participation of all citizens in this effort.
- (d) To work in coordination with programs of the Executive Office of Elder Affairs of the Commonwealth of Massachusetts.

**2.9.3** A simple majority of the members shall constitute a quorum for the transaction of any business of the council. The council shall elect from its membership such officers it deems necessary and desirable.

**2.9.4** If any appointed member shall resign, or otherwise vacate his office, his successor shall be appointed in the same manner as described above to serve for the balance of the unexpired term.

## **SECTION 2.10 YOUTH COMMISSION**

**2.10.1** There is hereby established a Youth Commission consisting of eight members. A simple majority of the members shall constitute a quorum for the transaction of any business of the Commission. The appointing authorities for said Commission shall be as follows: One by the Select Board, one by the Park and Recreation Commission, one by the Finance Committee, one by the Moderator, one by the Chief of Police, and one by the School Committee. Additionally, two student members to be appointed to the Commission by Superintendent of Schools as follows: In the first year a member of the Needham High School Junior Class shall be appointed for a two year term, and a member of the Senior Class for a one year term. Thereafter, one member of the Junior Class will be appointed for a two year term each year.

On or before the first day of June in each year, the appointing authorities shall appoint to the Commission sufficient members to fill expiring terms, each member so appointed to serve until the first day of June of the third year thereafter, with student members appointed to serve until the first day of June of the second year thereafter.

**2.10.2** It shall be the duty of the Youth Commission to study, define, and ascertain the needs and problems of the Needham youth, and take such action necessary to promote the mental, physical and social growth of the youth of Needham through the implementation of appropriate procedures.

## **SECTION 2.11 HISTORICAL COMMISSION**

**2.11.1 Commission Members** There shall be an Historical Commission of the Town of Needham, consisting of seven (7) members, each of whom shall be a resident of the Town of Needham, appointed by the Select Board. Initially, three (3) members shall be appointed for the term of three (3) years each, three (3) members shall be appointed for the term of two (2) years each, and one (1) member shall be appointed for a term of one (1) year. Thereafter, as the term for which the members were initially appointed expires, their successors shall be appointed for a term of three (3) years each. In the event of a vacancy occurring in the membership other than by the expiration of the term of a member, a successor shall be appointed to serve for the balance of the unexpired term.

**2.11.2 Quorum.** At all meetings of the Historical Commission, four (4) members shall constitute a quorum.

**2.11.3 Officers.** The members of the Historical Commission shall annually, within thirty (30) days after the annual appointments are made by the Select Board, elect from its membership a chairman, a vice-chairman and a secretary who shall serve during the ensuing year and until the election of their successor. All other meetings of the members shall be held at such designated times and places as the members shall designate.

**2.11.4 Powers and Authority of the Historical Commission.** The Historical Commission may exercise all the powers, authority and functions authorized by M.G.L. Chapter 40, Section 8D, and may make reasonable rules and regulations to aid in the orderly performance of its powers, authority and functions consistent with said Section 8D and Sub-section 2.11.4.

### **2.11.5 Demolition of Historical Buildings**

**2.11.5.1 Purpose.** A demolition delay by-law provides a review procedure which results in a delay in the demolition of historically significant buildings. Such a by-law does not sanction or deny a proposed demolition but allows time for consideration of preservation alternatives to destruction. Property owners retain final decision-making authority.

#### **2.11.5.2 Definitions.**

Demolition - the act of pulling down, destroying, removing or razing a building or portion of a building or commencing such work with the intent of completing the same.

Historically Significant - property that is listed in the Needham Historical Inventory and is listed or awaiting listing in the National and/or State Registers, this property having been associated with historic person(s) or event(s) or having been designated by the Needham Historical Commission as architecturally significant or unusual.

Preferably preserved - worthy of a delay period to allow consideration of alternatives to demolition.

#### **2.11.5.3 Initial Determination**

**2.11.5.3.1** When an application for a building demolition permit is filed with the Building Department, the Building Department shall determine if the building is contained in the Needham Historical Commission Inventory.

**2.11.5.3.2** If the building is not contained in the inventory, the demolition permit will not be reviewed by the Needham Historical Commission.

**2.11.5.3.3** If the building is contained in the inventory, the demolition permit application, if properly completed, will be referred to the Needham Historical Commission for its review. The application need not be accompanied by evidence of workmen's compensation coverage or letters from utility providers that the utilities have been disconnected in order for the application to be referred to the Historical Commission.

#### **2.11.5.4 Procedure For Review**

**2.11.5.4.1** The Building Department must submit the application within 5 business days to the Historical Commission, and shall not issue the demolition permit until the Needham Historical Commission has returned the application to the Building Department, or upon the failure of the Needham Historical Commission to act in accordance with the time limits set within this Demolition Delay By-Law.

**2.11.5.4.2** The Historical Commission must meet to determine whether the building is historically significant. This must be done within 21 days of receipt of the application from the Building Department. The Commission will notify the applicant of the meeting at least seven days in advance of the meeting.

**2.11.5.4.3** At this meeting, the owner of the property may make a presentation to the Commission if (s)he chooses.

**2.11.5.4.4** If the Commission finds that the building is not historically significant, there will not be a Demolition Plan Review, and the application will be immediately returned to the Building Department.

**2.11.5.4.5** If the building is found to be historically significant, there will be a Demolition Plan Review conducted by the Needham Historical Commission.

#### **2.11.5.5 Demolition Plan Review Process**

**2.11.5.5.1** The applicant must submit 7 copies of a Demolition Plan to the Historical Commission. The Demolition Plan shall contain:

- 1) A map or plan showing the location of the building or structure to be demolished.
- 2) A photograph of the street facade elevation.
- 3) A narrative description of the building or structure, or part thereof, to be demolished.
- 4) The reason for the proposed demolition and data supporting said reason, including (where applicable) data sufficient to establish any economic justification for the demolition.
- 5) A certified list of abutters to said property and other neighbors within 300 feet, whose names are ascertained from the Board of Assessor's most recent tax list.

**2.11.5.5.2** Within forty-five days of the receipt of this demolition plan, the Commission shall review the application at a public hearing of the Commission to determine if the structure is preferably preserved. Public notice of such hearing shall be published by the Commission at the expense of the applicant in a local newspaper giving the time, place, and purpose of the hearing once in each of two successive weeks, the first publication not less than fourteen days before the day of said hearing. The Commission shall also mail a copy of said notice to the applicant, to abutters and to all owners of all property within 300 feet of the applicant's property as appearing on the most recent tax list, to the Needham Planning Board and such other persons as the Commission shall deem established to be notified.

**2.11.5.5.3** If the building is not determined to be preferably preserved, the application for a permit to demolish will be returned to the Building Department immediately.

**2.11.5.5.4** If the building is determined to be preferably preserved, the application for a permit to demolish need not be returned to the Building Department for a period of 6 months from the date on which the Historical Commission files its report with the Town Clerk to prevent demolition.

**2.11.5.5.5** If the Commission is satisfied that the applicant/owner has sincerely tried to find alternatives to demolition with no success, the application may be returned to the Building Department before the expiration of the 6-month period.

**2.11.5.5.6** In any event, at the expiration of the 6-month period the application shall be returned to the Building Department.

#### **2.11.5.6 Failure to Act**

If the Historical Commission fails to act within the specified time limits, the Building Inspector may issue a demolition permit without return of the application from the Commission.

#### **2.11.5.7 Building Permits**

No permit for the alteration of an existing structure or the erection of a new structure that involves demolition on the site of an existing historically significant building may be issued prior to the issuance of a demolition permit from the Building Department for such an existing building or any portion thereof.

#### **2.11.5.8 Emergency Demolitions**

The Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions in the historically significant building. The Building Inspector shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Historical Commission.

#### **2.11.5.9 Enforcement and Remedies**

In the event of a demolition of an historically significant building in violation of this by-law, the person or persons responsible for the demolition including, but not limited to, the owners, tenants, developers, or contractors, shall each be subject to a fine of up to \$300 per day for each violation. Each day that the building is not restored to its condition immediately prior to the said demolition, and the demolition permit is not issued, shall be a separate offense, up to a maximum of 183 days.

#### **2.11.5.10 Severability**

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

#### **2.11.5.11 Rules And Regulations**

Pursuant to M.G.L. Chapter 40, Section 8D and Section 2.11.5.4 above, the Historical Commission shall make rules and regulations to implement this section.

#### **2.11.5.12 Appeals**

Any person aggrieved by a determination of the Commission may appeal to Superior Court, per M.G.L. 249, Section 4.

### **ARTICLE 3**

#### **POLICE POWERS, AUTHORITY AND REGULATIONS**

#### **SECTION 3.1 GENERAL**

**3.1.1 Grazing of Animals.** No owner or persons having the care of any horses, cows, or other grazing animals shall permit or allow them to roam at large or to graze on any street, lane, common square or other public place within this Town, nor permit any such animal to roam or stand upon any sidewalk within the Town.

**3.1.2 Obstruction of Sidewalks.** Except as permitted by the Select Board or the Director of Public Works, no person shall place, or cause to be placed, upon any public way or sidewalk, any lumber, wood, box, crate, barrel, can,

package or other thing, or allow the same to remain for more than one hour, or more than ten minutes after being notified to remove the same by a constable or police officer.

**3.1.3 Coasting in Streets.** No person shall coast in any street or public way except those publicly designated for that purpose by the Select Board.

**3.1.4 Use of Sidewalks.** No person shall ride, drive, draw or push any motorcycle, automobile, car, wagon or sled, except invalid's or children's hand carriages, over or upon any public footpath or sidewalk.

**3.1.5 Bicycles on Sidewalks.** No person shall ride a bicycle on any sidewalk within certain marked areas of Needham Square and Needham Heights Square business districts. The pushing or walking of a bicycle is not prohibited in such areas. For this purpose, the Police Chief, with the approval of the Select Board, shall establish the boundary limits of the sidewalks subject to Sub-section 3.15 by appropriate markings on the sidewalks or other signs.

**3.1.6 Discharge of Firearms.** No person shall fire or discharge any firearm, or other explosive articles, within the limits of any park, playground, public way, public building or other property except with the consent of the Select Board, or hunt, or fire or discharge any firearm or other explosive articles, on any private property except with the written consent of the property's owner or legal occupant. This Sub-section shall not apply to the lawful defense of life and property, or to any lawful enforcement officer acting in the discharge of his duties.

**3.1.7 Dealing in Second-Hand Merchandise.** No person shall collect, deal in or keep a shop for the purchase, sale or barter of junk, old metals or second hand articles, within the limits of the Town, unless licensed by the Select Board.

**3.1.8 Snow and Ice on Sidewalks.**

**3.1.8.1** Any person who places any snow or ice on a sidewalk or a street, shall forfeit fifty dollars (\$50.00) for each offense.

**3.1.8.2** Any owner, tenant, occupant, proprietor, manager, agent, board, trust, or other entity having charge of property used wholly or in part for (a) a commercial purpose (including without limitation as a store, restaurant, bank, gym, theater, childcare facility or office); (b) a hospital or medical establishment; (c) a place of worship; (d) multi-family housing containing three (3) or more dwelling units on a lot; or (e) any other use open to the public, or to a particular membership or clientele, that allows snow or ice to remain on a sidewalk abutting, on, or within its property for more than five hours between sunrise and sunset, shall forfeit fifty dollars (\$50.00) for each offense. If, by reason of weather conditions the snow and ice is evenly spread over a sidewalk and frozen and therefore difficult to remove, it may remain until it can more easily be removed; provided that while the snow and ice remain, entity in charge shall keep the sidewalk in safe condition by sanding or otherwise.

**3.1.9 Consumption of Alcoholic Beverages.** No person shall possess or consume an alcoholic beverage as defined by M.G.L. Chapter 138, Section 1, as amended, within the limits of any park, playground, public land or public building owned or under the control of the Town of Needham, except with written permission of the appropriate controlling Town tribunal, nor shall any person consume alcoholic beverage as defined in Section 1, on any public way or any way to which the public has a right of access as invitees or licenses, including any person in a motor vehicle in, on or upon any public way or any way to which the public has said right of access, within the limits of the Town of Needham; and no person shall consume an alcoholic beverage as previously defined, in, on or upon any private land or place without the consent of the owner or persons in control of such private land or place.

Any person who violates Sub-section 3.1.9 of the General By-Laws may be arrested by a police officer without a warrant.

All alcoholic beverages being used in violation of Sub-section 3.1.9 may be seized and held until final adjudication of the charge against any such person or persons has been made by the court.

**3.1.10. Use of Marijuana.** No person shall consume marijuana (or tetrahydrocannabinol, as defined in G.L. c. 94C, 1, as amended) within the limits of any park, playground, public land or public building owned or under the control of the Town of Needham, nor shall any person consume marijuana, as previously defined, on any public way or any way to which the public has a right of access as invitees or licenses, including any person in a motor vehicle in, on or upon any public way or any way to which the public has said right of access, within the limits of the Town of Needham; and no

person shall consume marijuana, as previously defined, in, on or upon any private land or place without the consent of the owner or persons in control of such private land or place. Nothing in this bylaw shall authorize any possession, cultivation, transport, distribution, sale or use of marijuana otherwise prohibited by law.

**3.1.11 Licensed Hawkers and Peddlers.** Except as otherwise specified by regulations issued by the Select Board:

3.1.11.1 No person, under Massachusetts General Law Chapter 101, Section 22, shall sell or offer to sell items specified therein within 1,000 feet of any recreational area in organized use, or within 1,000 feet of any school (public or private) during the hours that school is in session, nor until one hour after the closing of said school or schools.

3.1.11.2 Such hawkers or peddlers shall not remain parked at any one location for a period of time exceeding ten (10) minutes, nor shall a bell, horn or other device to attract customers be used after the hour of 8:00 P.M. of any day.

**3.1.12 Household Refuse.** No person shall deposit any household refuse or garbage in any receptacle maintained by the Town of Needham on public property.

**3.1.13 Discharge of Water.** No person shall discharge or cause to be discharged ground or surface water collected by mechanical pump within a building or any surface water collected on private property in a manner that would create a hazardous condition or cause damage to a public way or sidewalk. No person shall allow a discharge to continue for more than ten minutes after being notified to cease by constable, police officer or Select Board.

**3.1.14 Bow and Arrows.** No person shall hunt with or discharge bow and arrow within the limits of any park, playground, public way, public building or other public property except with the consent of the Select Board, or hunt by bow and arrow on any private property except with the written consent of the property's owner or legal occupant.

**3.1.15 Fines.** Whoever violates the provisions of Sections 3.1 shall be punished by a fine not exceeding fifty dollars (\$50.00) for each offense, unless otherwise provided.

## **SECTION 3.2 SALE OF FOOD**

**3.2.1 Purpose.** Section 3.2 is for the purpose of promoting public health, safety, convenience, welfare and peace, controlling noise and protecting nighttime tranquility.

**3.2.2 Hours of Sale - Retail.** No store, restaurant, or place of business engaged in the retail sale of food shall be open for the transaction of retail business between the hours of midnight and 6:00 A.M. except during other hours as the Select Board may fix by special permit.

**3.2.3 Definition of Food.** The term food as used in Section 3.2 shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law, permit or license granted to the seller of such beverages shall otherwise provide.

**3.2.4 Fines.** Violators of Section 3.2 shall be subject to a fine of two hundred dollars (\$200.00) for each violation. For the purposes of Section 3.2, every calendar day on which Section 3.2, or the terms of any special permit, is violated shall be a separate offense; and each separate sale of food shall be deemed a separate offense. In the event of a sale of several items at one time to one customer, only one sale shall be deemed to have taken place. This section may be enforced by the procedures of M.G.L. Chapter 40, Section 21D.

**3.2.5 Special Permit.** In cases where the purposes of Section 3.2 permit it, the Select Board may issue a special permit allowing a store, restaurant or place of business to open or remain open for the transaction of business at specified hours other than those required by Section 3.2 or to remain open 24 hours a day. Such special permits shall remain in effect for a period of one year, unless revoked sooner after notice to the licensee and an opportunity for a hearing, upon a finding by the Select Board that the special permit no longer furthers the purposes of Section 3.2. Application for such a permit shall be made on a form supplied by the Select Board and shall be accompanied by a non-refundable, reasonable fee determined by the Select Board.



### **SECTION 3.3 PENALTIES FOR IMPROPER USE OF BURGLAR ALARMS**

**3.3.1** Preamble - It is determined that the number of false alarms being made to the Needham Police Department hinders efficiency and lowers department morale. This situation constitutes a danger to the general public, homeowners, businesses and Needham police officers. The adoption of Section 3.3 will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Needham.

#### **3.3.2 Definitions**

- (a) The term Burglar Alarm System means any assembly of equipment and devices or a single device such as a solid-state unit connecting directly to a 110 volt alternating current line arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. The provisions of Sub-section 3.3.4 shall apply to all users.
- (b) The term False Alarm means (i) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence on the part of the user of an alarm system, or his employees or agents; (ii) any signal or automatic dialing device transmitted to the Police Department requesting, requiring or resulting in a response on the part of the Police Department when there has been no unauthorized intrusion, robbery, burglary or attempted threat. For the purposes of this definition, activation of alarm systems for the purpose of testing with prior approval by the Police Department, or by act of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.
- (c) The term Automatic Dialing Device refers to an alarm system which automatically sends via regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of an emergency situation which the alarm system is designated to detect.

#### **3.3.3 Control and Curtailment of Signals Emitted by Alarm Systems**

- (a) Every alarm user shall submit to the Police Chief his name, address and telephone number, and the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Police Department, to an emergency signal transmitted by an alarm system and who can open the premises in which the alarm system is installed. The owner of said premises shall immediately notify the Needham Police Department of any changes in the list of employees or other persons authorized to respond to alarms.
- (b) All alarm systems, installed after the effective date of Section 3.3, which use an audible horn or bell, shall be equipped with a device that will shut off such bell or horn within (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Needham must have such a shut-off device installed within six (6) months of passage of Section 3.3.
- (c) Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7 P.M. and 6 A.M. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user, or those persons designated by him under paragraph (a) of Sub-section 3.3.3, and which disturbs the peace, comfort or repose of the community, neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under Sub-section 3.3.3, in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complaints and the time each complaint was made.
- (d) No alarm system which is designated to transmit emergency messages or signals to the Police Department will be tested until the Police Dispatcher has been notified.
- (e) The provisions of Section 3.3 shall not apply to alarm devices on premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

### **3.3.4 Penalties**

(a) The user shall be assessed a false alarm service fine for each false alarm in excess of one (1) occurring within a calendar year according to the following schedule:

- 1) Second false alarm twenty-five dollars (\$25)
- 2) Third false alarm fifty dollars (\$50)
- 3) Fourth and subsequent false alarms, one-hundred dollars (\$100)

The Police Chief shall notify the alarm user by mail or by service in hand by a police officer of such violation and said user shall submit payment to the Town Treasurer for deposit to the General Fund within fifteen (15) days of the notice.

(b) The owner of a system which causes six (6) or more false alarms within a calendar year, or who fails to pay the fee after said notice, may be ordered, by the Select Board, after a public hearing, to disconnect and otherwise discontinue the use of such system.

## **SECTION 3.4 HANDICAPPED PARKING**

### **3.4.1 Requirements for Handicapped Parking Spaces**

No person shall park a motor vehicle, motorcycle or any other means of transportation in a designated parking space reserved for vehicles owned and operated by disabled veterans or by other handicapped persons, unless said vehicle bears the distinctive number plates or a handicap placard furnished by the Registry of Motor Vehicles, authorized by M.G.L. Chapter 90, Section 2, or bears an official handicap plate or placard issued by any other state. 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 or residential dwellings, or for any other place where the public has right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas for vehicles owned and operated by disabled veterans or handicapped persons whose vehicles bear any of the aforementioned means of identification authorized by M.G.L. Chapter 90, Section 2, according to the following formulas:

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five percent of such spaces, but not less than two; more than forty but not more than one hundred four percent of such spaces, but not less than three; more than one hundred but not more than two hundred, three percent of such spaces, but not less than four; more than two hundred but not more than five hundred, two percent of such spaces, but not less than six; more than five hundred but not more than one thousand, one and one-half percent of such spaces, but not less than ten; more than one thousand but not more than two thousand, one percent of such spaces, but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one percent of such spaces, but not less than twenty; and more than five thousand, one-half of one percent of such spaces, but not less than thirty.

### **3.4.2 Sign Requirements for Handicapped Parking Spaces**

Parking spaces designated as reserved under the provision of the sections of this article shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking : Special Plate Required. Unauthorized Vehicles may be Removed at Owner's Expense". These spaces shall be as near as possible to a building entrance or walkway, shall be adjacent to curb ramps or other unobstructed means 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.

### **3.4.3 Regulations of Unauthorized Vehicles in Handicapped Spaces**

Unauthorized vehicles shall be prohibited within parking spaces designated for use by disabled veterans or handicapped persons as authorized by Section 3.4, or in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or public way.

#### **3.4.4 Penalty**

The penalty for violation of Section 3.4 shall be as follows:

\$100.00 each offense

### **SECTION 3.5 ABANDONED, WRECKED, DISMANTLED OR DISCARDED VEHICLES**

**3.5.1 Definitions.** The following definitions shall apply to the interpretation and enforcement of Section 3.5.

- (a) Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (b) Vehicle shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and to transport persons or property or to pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.
- (c) Street or highway shall mean the entire width between the boundary lines of every way publicly maintained where any part is open to the use of the public for purposes of vehicular travel.
- (d) Property shall mean any real property within the Town which is not a street or highway.

#### **3.5.2 Abandonment of Vehicles**

Except as to vehicles for which other provisions are made under the laws of the Commonwealth of Massachusetts, no person shall abandon any vehicle within the Town, and no person shall leave any vehicle at any place within the Town for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

#### **3.5.3 Leaving of Wrecked, Non-operating Vehicle on Street**

Except as to vehicles for which other provisions are made under the laws of the Commonwealth of Massachusetts, no person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street or highway within the Town.

#### **3.5.4 Disposition of Wrecked, Unregistered or Discarded Vehicles**

No person in charge or control of any property within the Town, whether as owner, tenant, lessee or otherwise, shall allow any partially dismantled, non-operating, unregistered, wrecked, junked or discarded vehicle to remain on such property longer than ten (10) days. No person shall leave any such vehicle on any property within the Town for a longer time than ten (10) days, except any such vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town. This section shall not apply to Class III licenses under M.G.L. Chapter 140, Section 58.

**3.5.5 Towing.** Any vehicle left unattended, inoperative or in any way impeding the flow of traffic or creating a safety hazard may be ordered removed by a police official, with rank of not less than Sergeant, to some convenient location at the expense of the registered owner of said vehicle.

**3.5.6 Impounded.** The Fire Chief, Chief of Police, Director of Public Works or any member of their Department designated by such official, is hereby authorized to remove, or have removed, any vehicle left at any place within the Town which reasonably appears to be in violation of Section 3.5, lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with M.G.L. Chapter 135 relative to unclaimed and abandoned property.

**3.5.7 Penalties.** Any person violating any of the provisions of Section 3.5 shall be deemed to have committed a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding fifty dollars (\$50.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

## **SECTION 3.6 FIRE PREVENTION**

### **3.6.1 Fire Lanes, and Vehicles Obstructing the Passage of Fire Apparatus**

**3.6.1.1 Fire Lanes:** The Fire Chief shall require public or private fire lanes as deemed necessary for the efficient and effective use of fire apparatus. Such fire lanes shall have a minimum width of 18 feet and shall be designated by pavement markings and/or signs as determined necessary by the Fire Chief. The signs shall say "No Parking - Fire Lane" and the signs and pavement markings shall be maintained in a clean and legible condition at all times by the owner of the property and replaced when necessary to insure adequate visibility. Any person who refuses to post such signs or mark the pavement as ordered by Fire Chief or violates any of the provisions of sub-section 3.6.1 shall be punishable by a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00) for each and every noncompliance or violation.

**3.6.1.2** It shall be unlawful to leave an unattended vehicle blocking a private way which furnishes access for fire apparatus to any building.

**3.6.1.3** It shall be unlawful to obstruct or park a vehicle in any fire lane established by the Fire Chief under Sub-section 3.6.1. The Police Chief, Fire Chief or a member of their departments designated by them is hereby authorized to remove, or have removed, any vehicle within a fire lane established under this section which may block or obstruct the operations of fire apparatus by the Fire Department in the performance of its duties. Such vehicle may be towed and impounded until the costs of towing, impounding and other fines are paid.

### **3.6.2 Penalties for Improper Use of Fire Alarms**

**3.6.2.1 Preamble -** It is determined that the number of false alarms being made to the Needham Fire Department hinders efficiency and lowers department morale. This situation constitutes a danger to the general public, homeowners, businesses and Needham firemen. The adoption of Sub-section 3.6.2 will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Needham.

#### **3.6.2.2 Definitions**

- (a) The term Fire Alarm System means any assembly of equipment and devices or a single device such as a solid-state unit connected directly to a 110 volt alternating current line arranged to signal the presence of a hazard requiring urgent attention and to which the Fire Department is expected to respond. The provisions of Sub-section 3.6.2.4 shall apply to all users.
- (b) The term False Alarm means (i) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence on the part of the user of an alarm system, or his employees or agents; (ii) any signal or automatic dialing device transmitted to the Fire Department requesting, requiring or resulting in a response on the part of the Fire Department when there is no fire. For the purposes of this definition, activation of alarm systems for purposes of testing with prior approval by the Fire Department, or by act of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.
- (c) The term Automatic Dialing Device refers to an alarm system which automatically sends over regular telephone lines, by direct connection or other otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designated to detect.

#### **3.6.2.3 Control and Curtailment of Signals Emitted by Alarm Systems**

- (a) Every alarm user shall submit to the Fire Chief his name, address and telephone number, and the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Fire Department, to an emergency signal transmitted by an alarm system and who can open the premises in which the alarm system is installed. The owner of said premises shall immediately notify the Needham Fire Department of any changes in the list of employees or other persons authorized to respond to alarms.
- (b) All alarm systems installed after the effective date of this by-law, which use an audible horn or bell, shall be equipped with a device that will shut off such bell or horn within (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Needham must have a shut-off device installed within six (6) months of passage of Sub-section 3.6.2.
- (c) Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7 P.M. and 6 A.M. which cannot be shut off or otherwise curtailed when the firemen arrive in response to the alarm, and which disturbs the peace, comfort or repose of the community, neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Fire Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of Sub-section 3.6.2.3, in an effort to abate the nuisance. The Fire Chief shall record the names and addresses of all complainants and the time each complaint was made.
- (d) No alarm system which is designated to transmit emergency messages or signals to the Fire Department will be tested until the Fire Dispatcher has been notified.
- (e) The provisions of Sub-section 3.6.2 shall not apply to alarm devices on premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

**3.6.2.4 Penalties**

- (a) The user shall be assessed one hundred dollars (\$100.00) as a false alarm service fine for each false alarm in excess of three (3) occurring within a calendar year. The Fire Chief shall notify the alarm user by mail or by service in hand by a fire department official of such violation and said user shall submit payment to the Town Treasurer for deposit to the General Fund within fifteen (15) days of the notice.
- (b) The owner of a system which causes six (6) or more false alarms within a calendar year, or who fails to pay the fee after said notice, may be ordered by the Select Board, after a public hearing, to disconnect and otherwise discontinue the use of the system.

**SECTION 3.7 DOG REGULATIONS**

**3.7.1 Use of Leashes.** No person shall allow a dog owned or kept by her/him to go beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash.

**3.7.2 Disturbing the Peace.** No person shall own or keep within the Town any dog which bites, excessively barks or howls or in any other manner disturbs the peace and quiet of any neighborhood, or endangers the safety of any person, domesticated animal or farm animal.

**3.7.3 Complaints.** The animal control officer is hereby authorized to seek a complaint against the owner or keeper of a dog who is found to have violated the provisions of sub-sections 3.7.1, 3.7.2, 3.7.4, 3.7.5, 3.7.6, 3.7.7, or 3.7.8 for which the following penalties shall be imposed:

1. First Offense – twenty-five dollars (\$25.00)
2. Each Subsequent Offense – fifty dollars (\$50.00)

**3.7.4 Restraint of Dogs.** In addition to the foregoing penalties, the animal control officer is also authorized and empowered to muzzle or restrain a dog, or to order the owner or keeper of a dog to muzzle or restrain a dog, pending a hearing before the Select Board as hereinafter provided, when the animal control officer finds that a dog has bitten or threatened any person or domesticated or farm animal, or has chased any vehicle upon any way open to public travel in the Town, or the owner had violated the provisions of section 3.7 more than three times in any calendar year. The owner or

keeper of any dog that has been ordered to be restrained or muzzled under the provisions of section 3.7 may request in writing to the Select Board that the animal control officer vacate such order.

**3.7.5 Uncontrollable Dogs.** In addition to any other statutory authority contained in M.G.L. Chapter 140, the animal control officer may, with the approval of the Select Board, enter a complaint before the Select Board to obtain an order to control or dispose of a dog found to be uncontrollable, or whose owner or keeper is unresponsive to any other penalties contained in Section 3.7.

**3.7.6 Restricted Areas.** No person shall allow a dog, other than a service dog, owned or kept by him or her, whether leashed or unleashed, to trespass on Memorial Park or DeFazio Park.

**3.7.7 Removal of Pet Waste.** No person owning or keeping a dog shall suffer, permit, or allow such a dog to leave feces in any public or private property of someone other than that of the dog's owner or keeper within the Town of Needham, without the approval of said property owner. Any person having custody and control of a dog in any such area shall carry with him or her proper equipment for the removal of feces. For purposes of this section, the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces. No person shall leave or dispose of said feces in any catch basin, drainage structure, waterway or on any public property or street except in a trash receptacle.

**3.7.8 Off-Leash Areas.** The Town may authorize an area or areas to be used as off-leash areas for dogs licensed in the Town of Needham for which a separate fee will be assessed and for which the Select Board may, from time to time, establish regulations for use. No person owning or keeping a dog shall suffer, permit or allow such dog to use the off leash area without the proper license or in violation of such regulations.

**3.7.9 Vaccination Requirement** Whoever is the owner of a pet (dog or cat or ferret) six months of age or older shall cause such pet (dog or cat or ferret) to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Department of Public Health. Such owner shall produce a veterinarian's certificate that such pet (dog or cat or ferret) has been so vaccinated setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued. An exemption from such vaccine may be granted by the Board of Health only upon presentation of a licensed Massachusetts veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, such inoculation is considered inadvisable for a specified period of time for such reasons as provided in MGL Chapter 140 s.145B.

**3.7.9.1** Unvaccinated pets (dogs or cats or ferrets) acquired or brought into the Town shall be vaccinated within thirty days after acquisition or entry into the Town or upon reaching the age of six months, whichever comes later.

**3.7.9.2** Pets (dogs or cats or ferrets) shall be re-vaccinated in accordance with rules and regulations adopted and promulgated by the Department of Public Health.

**3.7.9.3** Whoever violates this section shall be punished by a fine of not more than one hundred dollars per offense."

## **SECTION 3.8 NOISE REGULATION**

### **3.8.1 General**

Except in an emergency, construction activity conducted pursuant to a building permit, which causes noise that extends beyond the property line, shall be limited to the hours of 7AM to 8PM unless authorized by rules or regulations adopted by the Select Board. The penalty for violation of this regulation shall be a \$50 fine.

## **SECTION 3.9 PUBLIC NUISANCE REGULATION**

**3.9.1** As defined below, no owner or tenant shall keep in the public view, on any lot, in any residential district, any substantial amount of junk or debris for more than a reasonable amount of time.

### **3.9.2** Definitions

3.9.2.1 Junk and Debris includes, but is not limited to, scrap metal, scrap construction materials, rags, plastics, batteries, paper trash, inoperable appliances, mattresses, tires, inoperable machinery, or other item not defined as a structure in accordance with the Massachusetts Building Code and the Town of Needham Zoning By-law, which is not in active use for any purpose authorized in a residential district.

3.9.2.2 A substantial Amount shall mean a quantity of material which occupies more than 375 cubic feet in the aggregate on any lot.

3.9.2.3 Reasonable Amount of Time shall mean thirty (30) days.

3.9.2.4 Public View shall refer to junk and debris viewed from either (i) any property line at six (6) feet or less above ground level, or (ii) by any immediately direct abutter from any place within that immediately direct abutter's residence.

**3.9.3** Conditions existing as of the date of the enactment of this section which meet the definition of substantial amounts of junk or debris must be brought into compliance within ninety (90) of the date of the approval of this By-law.

**3.9.4** Action under this Section shall not bar any separate action initiated by any other Town Department under other provisions of this By-law or by regulation.

**3.9.5** Any Town employee(s) so designated for this work ("enforcement officer") by the Town Manager shall enforce this By-law. The first notice of violation issued by the enforcement officer shall be a written warning. The owner/occupant shall then have thirty (30) days within which to remedy and cure the violation. If within a reasonable period of time after this thirty (30) days have elapsed, the violation has yet to be remedied, the enforcement officer may issue a second written violation notice with a fine of fifty (\$50.00) dollars. If within a reasonable period of time after sixty (60) days have elapsed since the issuance of the first notice of violation, the violation has still not been remedied, the enforcement officer may issue a third written violation with a fine of one hundred (\$100.00) dollars, plus an additional ten (\$10.00) dollars per day beginning on the 76<sup>th</sup> day following issuance of the first notice of violation and continuing thereafter until the violation is fully remedied/cured.

In the event that the owner/occupier of the involved property is subsequently cited with a second or third offense within that calendar year, the deadlines for remediation and related fines are as stated in the amended Section 8.2.2.4 of the General By-law.

**3.9.6** Any citizen against whom a notice of violation is issued under this By-law shall have the right for a hearing before the Town Manager and/or his/her designee, and following said hearing, the Town Manager and/or his/her designee shall within a reasonable period of time thereafter, issue a decision. From the date that such a hearing request is received by the Town Manager until the date that a decision is issued, all of the deadlines stated in sections 3.9.6 and 3.9.7 shall be temporarily stayed.

### **SECTION 3.10** MARIJUANA ESTABLISHMENTS

All types of "marijuana establishments" as defined in G.L. c.94G, §1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Needham. Exempt from the provisions of this prohibition are medical marijuana treatment centers operated under a medical use marijuana license in accordance with the provisions of G.L. c. 94I.

### **Section 3.11** STRETCH ENERGY CODE

#### **3.11.1** Definitions

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

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

**3.11.2 Purpose** The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for new buildings.

**3.11.3 Applicability** This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

**3.11.4 Stretch Energy Code** The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into this section.

**3.11.5 Enforcement** The Stretch Energy Code is enforceable by the Building Commissioner effective January 1, 2020.

[Note. ATM Article 49 passed on May 13, 2019 added Section 3.10 entitled “Stretch Energy Code”. Because there was a previous section 3.10 entitled Marijuana Establishments, the town Clerk renumbered the Stretchy Energy Code to Section 3.11.]

## ARTICLE 4

### LICENSES AND PERMITS

#### SECTION 4.1 DOG LICENSES

**4.1.1 Licenses.** Any owner or keeper of a dog which is six (6) months of age or older and is located in the Town of Needham shall obtain a license from the Town Clerk for that dog commencing on January 1st of each year, as required by M.G.L. Chapter 140.

**4.1.2 Application.** When applying for a license, the applicant must show proof that the dog has received a veterinarian certificate for rabies vaccination within the last three years, if the dog is six months of age or over, as required by M.G.L. Chapter 140, Section 145B. No fee shall be charged for a license for a dog specifically trained to lead or serve a blind person or a deaf person, provided that the Division of the Blind or Deaf certifies that such dog is so trained and actually in the service of a blind or deaf person.

**4.1.3 Refund.** No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering or removal from the Town of Needham or the Commonwealth or any other disposal of said dog.

**4.1.4 Failure to License.** In addition to the requirement that a dog shall be duly licensed as required by law, the owner of a dog not licensed on or before April 30th in any year shall be subject to a fine of fifty dollars (\$50.00), in addition to the license fee, upon the complaint of the dog officer. The owner of any unspayed and unleashed female dog found by the dog officer roaming in season (heat) off the premises of the owner or keeper shall be subject to a fine of fifty dollars (\$50.00). Each such occasion shall constitute separate violations.

**4.1.5 Fees.** The fees for registering and licensing dogs of all types in the Town shall be established from time to time by vote of the Select Board.



**SECTION 4.2 PUBLIC CARRIAGES AND TAXIS**

**4.2.1 Licenses.** The Select Board may license hackney carriages or motor vehicles for the conveyance of persons for hire from place to place within the Town and may revoke such licenses at their discretion. A record of all licenses so granted or revoked shall be kept by the Select Board.

**4.2.2 Penalties.** No person shall set up, use or drive in the Town any unlicensed hackney carriage or motor vehicle for the conveyance of passengers for hire from place to place within the Town. Any person violating Section 4.2 shall be subject to a penalty not exceeding twenty dollars (\$20) for each offense.

**4.2.3 Expiration and Fees.** Licenses shall expire on the thirtieth day of April following the date of issuance, and shall not be transferred without the written consent of the Select Board. For each license the sum of ten dollars (\$10.00) shall be paid to the Town Treasurer for use by the Town. A license so granted shall become void if the applicant neglects or refuses to take out and pay for his license within ten days after notice that it has been granted.

**4.2.4 Taxi Stands.** The Select Board may grant to the holder of a license under Section 4.2 a license to use a certain portion of a public way as a taxi stand for the solicitation of passengers for hire and no person shall use any portion of any public way for such purpose without such license. Any person who violates any of the provisions of Sub-section 4.2.4 shall be punished by a fine of not more than twenty dollars (\$20.00) for each offense.

**SECTION 4.3 FEES, REGISTRATION APPLICABLE TO FLAMMABLES**

**4.3.1 Statutory Authority.** Pursuant to the authority of M.G.L. Chapter 148, Sections 10A, 13, 38A and 39A, and the Needham Fire Code, there is hereby established a fee schedule for licenses granted by the Select Board, Annual Certificate of Registration filed with the Town Clerk and Permits granted by the Chief of the Fire Department as follows:

**4.3.2 Licenses for the Storage of Flammables issued by the Select Board**

Class A: (all types)

166	-	40,000 gallons .	.	.	\$50.00
40,001	-	80,000 gallons .	.	.	200.00
80,001	-	100,000 gallons .	.	.	300.00
100,001	-	500,000 gallons .	.	.	400.00
500,001	-	1,000,000 gallons.	.	.	500.00
over 1,000,000 gallons	.	.	.	.	800.00

Class B Fuel: (all types)

501	-	20,000 gallons .	.	.	50.00
20,001	-	40,000 gallons .	.	.	100.00
40,001	-	80,000 gallons .	.	.	200.00
80,001	-	100,000 gallons .	.	.	300.00
100,001	-	500,000 gallons .	.	.	400.00
500,001	-	1,000,000 gallons.	.	.	500.00
over 1,000,000 gallons	.	.	.	.	800.00

Class C Fluids (all types)

1,001	-	20,000 gallons .	.	.	50.00
20,001	-	40,000 gallons .	.	.	100.00
40,001	-	80,000 gallons .	.	.	200.00
80,001	-	100,000 gallons .	.	.	300.00
100,001	-	500,000 gallons .	.	.	400.00
500,001	-	1,000,000 gallons.	.	.	500.00
over 1,000,000 gallons	.	.	.	.	800.00

Flammable Solids 101 lbs and up . . . . . 50.00

Flammable Gases (within a building)					
3,001 cubic ft. and up	.	.	.	.	50.00
Flammable Gases (outside a building)					
10,001 cubic ft. and up	.	.	.	.	50.00
Liquid Petroleum Gases					
500	-	1,000 gallons	.	.	50.00
over	-	1,001 gallons	.	.	100.00

**Automobiles**

The parking of four or more vehicles in a structure - two dollars (\$2.00) per vehicle, and not less than fifty dollars (\$50.00).

Advertising costs for a hearing by the Select Board for the issuance of a license for the storage of flammables shall be paid by the applicant.

The annual fees shall include the cost of the initial registration with the Town Clerk. The fee for each annual renewal registration with the Town Clerk shall be the amount herein specified for the original license as set forth above.

**4.3.3 Permit Fees**

Underground Storage Tank Removal	.	.	.	.	\$100.00
Underground Storage Tank Installation	.	.	.	.	100.00
Underground Gasoline Tank Removal	.	.	.	.	100.00
Underground Gasoline Tank Installation	.	.	.	.	100.00

**SECTION 4.4 GENERAL**

**4.4.1 Denial, Revocation or Suspension for Failure to Pay Municipal Taxes.**

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

**4.4.1.2** 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 or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay local taxes, fees, assessments, betterments or any other municipal charges provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as the date of issuance of said certificate.

**4.4.1.3** 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.

**4.4.1.4** The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officer, stockholders, if any, or members of his immediate family, as defined in M.G.L. Chapter 268A, Section 1 in the business or activity conducted in or on said property.

This section 4.4.1 shall not apply to the following licenses and permits authorized by the following Massachusetts General Laws: open burning, section thirteen of chapter forty-eight; bicycle permits, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work-permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

## **ARTICLE 5**

### **SIGN BY-LAW**

#### **SECTION 5.1 AUTHORITY AND OBJECTIVES**

This article shall be known as the Sign By-Law, and is adopted under the authority of M.G.L. Chapters 93 and 43B. It is intended that this article will serve the following objectives:

Facilitate efficient communications to ensure that people receive the messages they need or want; promote good relationships between signs and the buildings and environment to which they relate; maintain visual diversity by avoiding a requirement of uniformity; and support business vitality within business and industrial zones by avoiding burdensome procedures and restrictions.

It is hereby determined that if the number of signs in the Town of Needham is excessive and unduly distracting to motorists and pedestrians, it can create a traffic hazard, reduce the effectiveness of signs needed to direct the public and mar the appearance of the Town of Needham.

The regulations contained in this article are the minimum amount of regulation necessary to achieve its purposes.

#### **SECTION 5.2 DEFINITIONS**

Sign: Any device designated to inform or attract the attention of persons who are not on the premises on which the device is located. Any exterior building surfaces which are internally illuminated or decorated with gaseous tube or other lights are considered signs. The following, however, shall not be considered signs within the context of this article:

- a) flags and insignia of any government except when displayed in connection with commercial promotion;
- b) legal notices or informational devices erected or required by public agencies;
- c) standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline;
- d) integral decorative or architectural features of buildings, except letter, trademarks, moving parts or parts internally illuminated or decorated with gaseous tube or other lights;

- e) on-premises signs guiding and directing traffic and parking, not exceeding two square feet in area and bearing no advertising matter;
- f) devices hand-carried or mounted on vehicles, unless regularly or recurrently located for fixed display;
- g) signs on newspaper vending machines or newspaper racks, which are limited in context to the name and logo of the newspaper sold via such machine or rack and to the means of purchasing a newspaper from such machine or rack.

Sign Area: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, and together with any decorative framing or other element whose judged intent is to extend the effective sign area, exclusive of minimal supporting framework, but without deducting for open space or other irregularities. Only one side of flat, back-to-back signs need be included in calculating sign area. In the event of lettering on an awning, the sign area shall be the area of the smallest horizontally or vertically oriented rectangle which could enclose all the lettering and symbols thereon.

On-Premises Signs: Only signs pertaining exclusively to the premises on which they are located or to the products, accommodations, services or activities on the premises are on-premises signs.

Off-Premises Signs: Signs not pertaining exclusively to the premises on which they are located or to the products, accommodations, services or activities on the premises on which they are located.

Temporary Sign: Any sign constructed of paper, cloth, canvas, fabric, cardboard, wallboard, wood, metal, or plastic or other light material, with or without frames, intended to be displayed for a continuous period of not more than sixty days.

Permanent Attached Signs: Signs, other than temporary signs, which are attached to a building or visible through its window, whether wall or projecting, are permanent attached signs.

Permanent Freestanding Signs: Signs, other than temporary signs, which are not attached to a building, are permanent freestanding signs.

Compound Sign: One sign structure with two or more signs on it.

Street Banner: A sign in the form of a banner spanning a public street, placed within the Town right-of-way, and/or in locations designated pursuant to Section 5.3.1.5 below.

## **SECTION 5.3 ADMINISTRATION**

**5.3.1 Design Review Board.** Except for street banners governed, reviewed and approved by the Select Board pursuant to Subsection 5.3.1.5, the review of all sign permit applications, and requests for special permits shall be performed by the Design Review Board (herein referred to as the "Board"), as further defined in Section 7.7 of the Needham Zoning By-Law. Three members shall constitute a quorum. All decisions shall require a positive vote of at least three members.

The Board shall meet at least monthly at such time and place to be determined by the members and at such additional times as it determines necessary to carry out the provisions of this article. In the event a member is unable or refuses to sit, the Chairman shall designate an alternate member to sit in the place of that absent member.

**5.3.1.5 Select Board.** Street Banners, which are placed within the Town right-of-way, spanning public streets and/or in locations authorized by the Select Board providing notice of a community-wide public event open to the general public and/or an activity of general community interest and which are hosted by the Town or its departments, boards, agencies, or commissions or by non-profit groups or organizations, may be specifically approved by the Select Board and displayed in locations authorized by the Select Board for a time period not to exceed fourteen (14) consecutive days before the announced event. Neither commercial advertising nor partisan

political content shall be allowed to appear on the street banner. All street banners will be removed within two business days after the announced event or entertainment. Street Banners shall not be subject to the sign requirements of Subsections 5.3.2, 5.3.3, 5.3.4, 5.3.5, 5.3.6, and 5.3.7, and Sections 5.4 and 5.5. The Select Board may promulgate such regulations regarding street banners as it deems appropriate.

**5.3.2 Issuance of Permits.** No sign shall be erected, enlarged, redesigned, structurally altered, or used without the review of the Board, at which the applicant shall appear, and a sign permit issued by the Building Inspector, except for signs described in Sub-sections 5.5.1 (a), 5.5.1 (c), and 5.5.3.4. Permits shall be authorized only for signs in conformance with this article.

Applicants shall file a permit application accompanied by a photograph of the facade to which the sign is to be attached, or the area of intended location if unattached, and two prints of scale drawings of the sign and supporting structure showing placement thereon; the applicant shall also file five copies of the permit application, including five copies of all application materials, with the Design Review Board. (See Section 7.7 Design Review, of the Zoning By-Law.) If an applicant requires guidance as to whether any special permits are required or knows that such permit or permits are required, the applicant may file his application with the Building Inspector. If the Building Inspector finds that the proposed sign is in all respects in conformance with this article, he shall within 35 days of filing instruct the applicant to file the application directly to the Design Review Board.

The Design Review Board shall review requests for sign permits submitted and shall, within thirty-five (35) days of the receipt of the application materials, transmit its advisory recommendations regarding the design of the sign to the Building Inspector and the applicant. No sign permit shall be issued by the Building Inspector within this thirty-five (35) day period unless said recommendations are sooner received. If approved by the Design Review Board, the Building Inspector shall issue a sign permit within 45 days of the filing of the application.

If the Building Inspector, upon requested review, finds that the proposed sign is not in conformance with this Article as aforesaid, he shall, within 35 days of the filing of the application notify the applicant in writing of the reasons why a sign permit cannot be granted as of right and give the applicant the option of revising the signage or applying for a special permit. The Building Inspector shall forward a copy of such notice to the Board.

### **5.3.3 Appeal from Building Inspector's Action or Failure to Act**

Any person aggrieved by the Building Inspector's action or failure to act may appeal by filing an appeal with the Board and the Town Clerk within 30 days of the Building Inspector's action or failure to act. The Board shall rule on the appeal within 75 days of the filing of the appeal with the Town Clerk. If the Board denies relief to the applicant, it shall notify him in writing of the reasons for such denial. Failure of the Board to act within said 75 days shall be deemed to be a grant of the relief sought, subject to applicable judicial appeal under state law. If, on appeal, the permit is approved, the Board shall direct the Building Inspector to issue the permit.

**5.3.4 Special Permits.** If an applicant wishes to obtain a permit for a sign that does not comply with this article, he shall apply to the Board for a Special Permit from the requirements of this article in accordance with the procedure established under Sub-section 5.3.3 of this article. The Board shall set a date for and hold a public hearing. It will be the responsibility of the applicant, at his own expense, to give notice of the public hearing at least seven days in advance by advertisement in a newspaper of general circulation in Needham and by posting such notice in a conspicuous place in the Town Hall for a period of not less than 7 days before the day of the hearing. The applicant for a Special Permit is further required to give notice of the public hearing, sent 10 days before the hearing by certified mail, return receipt requested, postage prepaid to all parties in interest.

Parties in Interest as used in Sub-section 5.3.4 shall mean the abutters, owners of land directly opposite the proposed site of the sign on any public or private street or way and abutters to the abutter within three hundred feet of the property line of the applicant as they appear on the most recent applicable tax list.

Publications and notices of the public hearing required by Sub-section 5.3.4 shall contain the name of the area or premises; street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the petition; the date, time and place of the public hearing; the subject matter of the hearing; and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in Needham.

The Board may in its discretion grant a Special Permit, but only if the proposed sign meets all of the Design Guidelines set forth in Sub-section 5.3.5 of this article and if the Board finds that, owing to physical peculiarities of the specific location, literal enforcement of the terms of this article would result in substantial hardship to the applicant or substantial detriment to the vicinity, and that such a Special Permit will be consistent with the stated objectives of this Article. If the Board denies the Special Permit sought, it shall notify the applicant in writing of the reasons for such denial. Failure of the Board to act within 75 days shall be deemed to be a grant of the permit sought by such applicant. If the permit is approved, the Board shall direct the Building Inspector to issue permit with such terms and conditions it deems appropriate.

Special Permits are not transferable.

**5.3.5 Design Guidelines.** The following guidelines shall be used by the Board in its review of all sign applications. A Special Permit may be permitted under Sub-section 5.3.4 above only if the Board finds that the proposed sign meets all of the following guidelines:

- a) Sign scale is appropriate in relation to development scale, viewer distance and travel speed and sign sizes on nearby structures.
- b) Sign size, shape and placement serves to define or enhance such architectural elements of the buildings as columns, sill lines, cornices and roof edges, and not to interrupt, obscure or hide them.
- c) Sign design is not wholly discontinuous with other signage on the same or adjacent structures, providing continuity in mounting location and height, proportions, materials or other important qualities.
- d) Sign materials, colors, lettering style and form are compatible with building design and use.
- e) Sign content does not overcrowd background.
- f) Sign legibility is not impaired by excessive complexity, multiple lettering styles or colors or other distracting elements.

**5.3.6 Fees - General.** Application and hearing fees shall be established and revised from time to time by the Board at a level not exceeding that sufficient to defray the estimated cost of administering this article, and shall be based upon the number, area and illumination of the signs applied for.

**5.3.7 Temporary Real Estate Signs.** Temporary real estate signs require payment of a uniform fee to be determined by the Board whenever a sign is to be displayed on the premises of property being offered. Real estate brokers or agents shall obtain a one-year permit for displaying such signs and shall be subject to a uniform fee to be assessed annually in an amount to be determined by the Board.

## **SECTION 5.4 GENERAL REGULATIONS**

**5.4.1 Maintenance.** All signs shall be maintained in a safe and neat condition to the satisfaction of the Building Inspector and in accordance with requirements of the State Building Code. Structural damage, missing letters or other deterioration obscuring content shall be remedied within sixty days or the sign shall be removed. Signs pertaining to a business that has closed, discontinued, or changed its name shall be removed within sixty days.

### **5.4.2 Prohibitions**

#### **5.4.2.1 Illumination**

- a) Illuminated signs shall be lighted by a steady stationary light, shielded and directed solely at or internal to the sign.
- b) No illumination shall be permitted which casts glare onto any residentially used premises or onto any portion of a way so as to create a traffic hazard, or which results in average face brightness exceeding 60-foot lamberts elsewhere.

- c) No sign shall be illuminated after 11 P.M. and before 7 A.M., unless related to a retail establishment during hours it is open to the public. In an emergency declared by the Selectmen, however, hours of permissible illumination may be expanded or curtailed to the extent and for such period as the Select Board may require.
- d) Flashing signs, strobe lights, and series or chasing lights, are prohibited from being visible outside a business.

**5.4.2.2 Location**

- a) No sign shall be erected at the intersection of any streets or of a street and driveway in such a manner as to obstruct free and clear vision; or at any location where, by reason of its position, shape or color, it may interfere with, or obstruct the view of, or be confused with any authorized traffic sign, signal or device.
- b) No signs shall be attached to motor vehicles, trailers or other movable objects regularly or recurrently located for fixed display.
- c) No sign shall be attached to a radio, television, or water tower, or microwave or satellite dish, or any other type of tower or smoke stack.
- d) No sign shall extend above or beyond the end of the wall to which it is attached, nor overhang a street or sidewalk by more than the thickness (up to 12") of a flat wall sign: except one perpendicular, blade, or projecting sign (hereinafter "projecting sign") is allowed by right, even if it is a second sign, provided it does not, in the opinion of the Board, materially obstruct neighboring signs or businesses. Projecting signs may not be internally illuminated. If the projecting sign is the only sign requested by an applicant seven (7) square feet are allowed by right. If the projecting sign is in addition to a sign on the façade, three (3) square feet is allowed by right. Projecting signs may have a maximum projection of four (4) feet from the wall and a minimum of eight (8) feet above the sidewalk.
- e) No portion of any sign shall be located above the roof line of a building. Roof line means the intersection of the exterior wall and the roof.
- f) No freestanding sign shall be located within a required side or rear yard or within fifteen feet of a streetline or extend more than twenty feet above adjoining ground level.

**5.4.2.3 Type**

- a) A V-shaped sign consisting of two single-faced signs shall not be permitted.
- b) Pennants, streamers, advertising flags, banners, spinners or similar devices shall not be permitted.
- c) No animated or revolving sign shall be permitted and only time and temperature indicators shall be allowed to flash.
- d) Sandwich boards are also permitted provided they meet the following requirements: one sign per business; 2 feet by 3 feet maximum sign panel in a black or white colored frame; they are comprised of permanent printed sign panels or handwritten sign panels; they are located on the site of the advertised business' street front on private property, or if on public property, do not block or interfere with the 48" width of the public sidewalk; they are on display during the business' operating hours only; they may advertise short term sales, daily menus, sign-up periods up to three weeks ahead of end date, and similar special events; they are not internally illuminated; and they do not contain any alcohol or cigarette advertisements.

**SECTION 5.5 PERMITTED SIGNS**

**5.5.1 All Zoning Districts.** The following signs are allowed in all zoning districts:

- a) One on-premise sign, either attached or free-standing, indicating only the name and/or profession of the owner or occupant, the street and/or number, not to exceed two square feet in area. No permit is required.

- b) One off-premise directional sign may be erected and maintained within the public right-of-way at any intersection if authorized by the Select Board, or on private property if authorized following an application and hearing by the Board in accordance with Sub-sections 5.3.2 and 5.3.3 of this article. Such signs shall be permitted only upon the Board's determination that the sign will promote the public interest, will not endanger the public safety and will be of such size, location and design as will not be detrimental to the neighborhood. At locations where directions to more than one establishment are to be provided, all such directional information shall be incorporated into a single structure. All such directional signs shall be unlighted and each shall be not over four square feet in area.
- c) Signs of not more than a total of twelve square feet in area, erected for charitable, educational, political or religious purposes. No permit is required.
- d)
  - (i) A temporary unlighted real estate sign not larger than twelve square feet in area, advertising the sale, rental or lease of the premises or subdivision on which it is erected.
  - (ii) A temporary unlighted sign not larger than twelve square feet indicating the name, address and telephone number of the parties involved in construction on the premises.
  - (iii) For a development of six or more lots or dwelling units, one sign not larger than twelve square feet at each visible street entrance to the development from a prior existing way indicating the name, address and telephone number of the parties involved in construction on the premises.
- e) One bulletin board not exceeding twelve square feet for and on the premises of a public, charitable, educational, political or religious institution. No permit is required to change the lettering on such a bulletin board.
- f) One memorial sign or tablet indicating the name of the building and/or date of erection, if not exceeding 2% of the area of the wall to which it is attached and if carved into or attached in such a way as to be an integral part of the building, and without separate illumination.

**5.5.2 Single Residence, General Residence, Apartment and Institutional Zoning Districts**

- (a) One on-premises sign, either attached or freestanding, oriented to each street on which the premises abut, each such sign not to exceed twelve square feet in area, indicating the nonresidential principal use or uses of the premises.
- (b) One on-premises sign, either attached or freestanding, stating the name of the apartment complex if it contains more than six units, such sign not to exceed twelve square feet.

**5.5.3 Business, Industrial, and Industrial Park Zoning Districts**

**5.5.3.1 Number:** In addition to signs allowed under Sub-section 5.5.1 and 5.4.2.2 d) the following are permitted:

- a) One permanent sign whether permanently attached or freestanding, as further described in Sub-sections 5.5.3.2 and 5.5.3.3 of this article, for each occupant of separate space per street that the premises abut. However, no permit may be granted for more than one freestanding sign per parcel;
- b) One additional sign for each business which has an entrance facing a side or rear parking lot available for use by the public; said sign to be located so as to designate the entrance and to be smaller than the primary sign.

**5.5.3.2 Permanent Attached Signs.** The total area of all permanent attached signs shall be not more than fifteen percent of the projected area of the elevation to which they are attached. Each sign shall not exceed 2 square feet for every linear foot of the projected area of the elevation to which it is attached, up to a maximum of 32 square feet. If a sign is oriented for visibility from Route 128 (I-95), and is to exceed 32 square feet, then the Board may approve it only after a finding that the sign complies with the Design Guidelines, and no such sign shall exceed one hundred square feet.

**5.5.3.3 Permanent Freestanding Signs**



- a) Area: If a single sign, the area shall not be more than 32 square feet, and not more than 60 square feet if oriented for visibility from Route 128 (I-95). If a compound sign, the total area of a freestanding sign structure shall not exceed 60 square feet
- b) Visibility: Every freestanding sign placed within thirty feet of the curb line of intersecting streets and driveways shall have an open space of at least seven feet from the ground to the base of the sign, except that monument signs may be no more than 3 feet above street grade.
- c) All freestanding signs on the same parcel of land shall be attached to the same support.

**5.5.3.4 Temporary.** Except as provided in Section 5.4.2.3 d), temporary signs, in addition to signs allowed under Sub-section 5.5.3.1, are permitted only if unlighted, inside of windows, occupying not more than 25% of the area of each window, and advertising sales, special events or changes in the nature of an operation, but shall not otherwise be used to advertise a continuing or regularly recurring business operation and shall be removed promptly when the information they display is out of date or no longer relevant. No permit is required.

**5.5.4 Table of Sign Areas.** The following table of maximum sign sizes is presented for ease of use. For clarification, refer to the appropriate section(s) of the By-law. In some instances the actual size may be less than the maximum area. Signs of less than 2 square feet require no permit.

Type	Maximum Area (square feet)
Sale, lease, rental subdivision [5.5.1.d (i)]	12
Construction [5.5.1.d.(ii)]	12
Development of 6 or more units or lots [5.5.1.d.(iii)]	12
Real estate signs [5.5.1.d.(i)]	12
Religious, educational, charitable or political institutions [5.5.1.c]	12
On premise signs, all zoning districts [5.5.1.a]	2
Nonresidential principal uses in residential districts [5.5.2.a]	12
Apartment complexes [5.5.2.b]	12
<b>Business, Industrial, or Industrial Park</b>	
Districts Attached [5.5.3.2] 2 sq. ft. for each linear ft. of building	32
Attached if visible from Rt. 128 [5.5.3.2]	100
Freestanding [5.5.3.2]	32
Freestanding if visible from Rt. 128 [5.5.3.3].	60
Off-premises directional signs [5.5.1.b]	4
Bulletin boards for institutions [5.5.1.e]	12

## **SECTION 5.6 VIOLATIONS**

**5.6.1 Fines.** Any person violating any provisions of this Article shall be subject to a penalty up to the maximum amount allowed for each offense under the noncriminal processes authorized by M.G.L. Chapter 40, Section 21D. Each day on which the violation continues shall be considered a separate offense.

**5.6.2 Notice and Removal.** Existing signs which violate this article shall be removed or brought into conformity with this article within thirty days of notification of violation by the Building Inspector, unless he authorizes a longer period necessitated by unavailability of parts.

**5.6.3 Pre-existing, Non-Conforming Signs.** Signs erected prior to February 24, 1986, and not enlarged, redesigned, or structurally altered after that date other than pursuant to a permit issued by the Building Inspector shall not have to be removed or brought into conformity with this article until February 24, 1996.

## **ARTICLE 6**

### **GENERAL WETLANDS PROTECTION**

#### **SECTION 6.1 PURPOSE**

The purpose of this article is to protect the wetlands, related water resources and adjoining land areas in the Town of Needham by prior review and control of activities deemed by the Conservation Commission likely to have a significant effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, wildlife habitat, recreation, agriculture and aquaculture values (collectively, the "wetlands values protected by this article").

#### **SECTION 6.2 JURISDICTION**

Except as permitted by the Conservation Commission (hereinafter referred to as "the Commission") or as provided in this article, no person shall remove, fill, dredge, build upon or alter the following resource areas: (1) within 100 feet of any freshwater wetland, marsh, wet meadow, bog or swamp; (2) within 100 feet of any bank, beach, dune or flat; (3) any lake, river, pond or stream, whether or not intermittent; (4) within 100 feet of any lake, river, pond, stream or estuary; (5) any land under said waters; or (6) any land subject to flooding (collectively, the "resource areas").

#### **SECTION 6.3 EXCEPTIONS**

The permit and application required by this article shall not be required for maintaining or repairing, but not changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph or other telecommunications services, provided that written notice has been given to the Commission at least 14 days 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 article shall not be required for work performed for normal maintenance or improvement of land in agricultural use or in aquacultural use, provided that written notice has been given to the Commission at least 14 days prior to the commencement of work.

The permit and application required by this article shall not apply to emergency projects necessary for the protection of the health or safety of the public, as determined by the Commission, in such circumstances and upon such conditions as it deems appropriate, after advance written notice has been received by the Commission prior to commencement of any work, except for emergency response to safeguard life, health and property damage.

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

## **SECTION 6.4 APPLICATION FOR PERMITS AND REQUESTS FOR DETERMINATION**

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

The Commission shall accept as the application and plans under this article the Notice of Intent and plans filed under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, together with such other information as is required by this article and regulations issued hereunder.

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

At the time of an application or request, the applicant shall pay a filing fee specified in regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, M.G.L. Chapter 131, Section 40. The Commission may waive or reduce the filing fee and costs and expenses for an application or request filed by a government agency or otherwise as the Commission may determine by its regulations.

## **SECTION 6.5 NOTICE OF HEARINGS**

The Commission in an appropriate case may combine its hearing under this article with the hearing conducted under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40.

Any person filing an application or a request for determination with the Commission shall give written notice thereof, at the same time, to all abutters at their mailing addresses, shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality. The applicant shall notify abutters in writing by hand delivery or certified mail, return receipt requested, or by certificates of mailing. If written notification is made by hand-delivery, the applicant shall obtain signatures at the time of delivery acknowledging receipt of said notification. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters free of charge. 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 request for determination, with written notice given at the expense of the applicant at least five working days prior to the hearing, in a newspaper of general circulation in the Town.

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 shall have the authority to continue the hearing to a date certain announced at the hearing, for reason stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant deemed necessary by the Commission in its discretion, or comments and recommendations of boards and officials listed in Section 6.6. In the event the applicant objects to a continuance or postponement, the hearing shall be closed; and the Commission shall take action on such information as is available.

## **SECTION 6.6 COORDINATION WITH OTHER BOARDS**

Any person filing a permit application or a request for determination with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Select Board, Planning Board, Board of Health and Building Inspector. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until such boards and officials have had 21 days from receipt of notice to file written comments and recommendations with 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 6.7 PERMITS, DETERMINATION AND CONDITIONS**

If the Commission, after a public hearing, determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this article, 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 is empowered to deny a permit for failure to meet the requirements of this article; 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 wetland values protected by this article; and where conditions are inadequate to protect those values. The Commission may require applicants to retain an independent consultant, acceptable in advance by the Commission, in order to provide the Commission with sufficient information on which to base a decision.

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. The Commission may renew any permit for one period of up to three years, provided that such request is received in writing by the Commission at least 30 days prior to the expiration of the permit.

The Commission may revoke or modify a permit issued under this article for good cause after notice to the holder of the permit, to the public, to abutters and to town boards pursuant to Section 6.5 and a public hearing.

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

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

## **SECTION 6.8 REGULATIONS**

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this article. 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 article.

## **SECTION 6.9 DEFINITIONS**

Except as otherwise provided in regulations of the Commission, the definitions of terms in this article are those set forth in the Wetlands Protection Act, M.G.L. Chapter 131, Section 40 or regulations promulgated thereunder.

The following definitions shall apply in the interpretation and implementation of this article:

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

by-laws, 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 activities when undertaken to, upon, within or affecting resource areas protected by this article:

- (a) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;
- (b) Changing of pre-existing 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 expansion 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 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, including but not limited to, application of pesticides or herbicides.

#### **SECTION 6.10 SECURITY**

As part of any permit issued under this article and 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 any conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- (a) By a proper bond, deposit of money, 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 a 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.

Upon written request of the applicant, the Commission shall release the covenant described in (b) above, or partially release said covenant with respect to particular lots, provided that:

1. No violation notice under this Article or enforcement order under M.G.L. Chapter 131, Section 40 has been recorded at the Norfolk County Registry of Deeds as of the date of the applicant's request; and
2. A proper bond or other undertaking of financial responsibility, as provided in (a) above, and sufficient in the opinion of the Commission, has been given to the Commission.

In the event that a bond or other undertaking has already been given, the Commission reserves the right to increase the amount of the bond or other undertaking of financial responsibility sufficient, in the opinion of the Commission, to secure completion of the work to be performed pursuant to the permit.

#### **SECTION 6.11 ENFORCEMENT**

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 article and may make, or cause to be made, such examinations, surveys or sampling as the Commission deems necessary.

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

Upon request of the Commission, Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police or Town Counsel shall take legal action for enforcement under criminal law.

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

Any person who violates any provision of this article, regulations thereunder or permits issued thereunder may be punished by a fine of not more than the maximum amount allowed under Chapter 40 of the Massachusetts General Laws. Each day or portion thereof during which a violation continues shall constitute a separate offense; and each provision of the article, regulations or permit violated shall constitute a separate offense.

### **SECTION 6.12 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 article. 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 6.13 APPEALS**

A decision of the Commission shall be reviewable in the Superior Court in an action filed within 60 days of the date of the decision in accordance with M.G.L. Chapter 249, Section 4.

### **SECTION 6.14 RELATION TO THE WETLANDS PROTECTION ACT**

This article is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rules statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and regulations thereunder.

### **SECTION 6.15 EFFECTIVE DATE**

The effective date of this article shall be September 1, 1988, and shall not be applicable to (a) work presently regulated by Orders of Condition issued by the Commission pursuant to the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and regulations thereunder, and (b) work that is the subject of Notices of Intent filed with the Commission prior to September 1, 1988, pursuant to the provisions of said Wetlands Protection Act.

## **ARTICLE 7**

### **STORMWATER**

#### **SECTION 7.1 PURPOSE**

The purpose of this By-Law is:

- (a) To prevent pollution of Needham's wetlands and surface waters from uncontrolled stormwater runoff and illicit discharges.
- (b) To prevent pollutants from entering the Town of Needham's Municipal Separate Storm Sewer System (MS4).

- (c) To prohibit illicit connections and unauthorized discharges to the MS4 and to require the removal of all such illicit connections.
- (d) To comply with state and federal statutes and regulations relating to stormwater discharges, including the NPDES MS4 Permit issued by the U.S. Environmental Protection Agency (EPA), the Massachusetts Stormwater Standards, regardless of the location of the subject property relative to wetlands or other resource areas, and the Memorandum of Understanding (MOU) issued to the Town of Needham by the EPA in 1996.
- (e) To establish the legal authority to ensure compliance with the provisions of this By-Law through permitting, inspection, monitoring, and enforcement.
- (f) To control runoff and prevent soil erosion and sedimentation resulting from construction site stormwater runoff.
- (g) To promote infiltration and the recharge of groundwater.
- (h) To protect, maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to manage stormwater runoff.
- (i) To ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.

## **SECTION 7.2 DEFINITIONS**

For the purposes of this By-Law, the following definitions shall apply:

Alteration Any activity that will change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, construction of new structures, excavation, earthmoving, or paving.

Best Management Practices (BMPs) Structural, non-structural, and managerial techniques that are recognized to be the most effective and practical means to prevent or minimize increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment.

Clean Water Act The Federal *Water Pollution Control Act* (33 U.S.C. §§ 1251 *et seq.*) as it may hereafter be amended, and the Massachusetts Clean Water Act and Regulations.

Commercial The term commercial shall include municipal, industrial, and multi-family projects.

Construction Site Any site where activity is proposed or occurs that involves the alteration of land and involves a permit required by the Town.

Development The alteration of land requiring an application for a building permit; or for a permit from the Planning Board, Zoning Board of Appeals (ZBA), or Conservation Commission.

Erosion Control The prevention or reduction of the movement of soil particles or rock fragments due to stormwater runoff. Erosion control is typically achieved through the installation of straw bales, silt fence, silt socks, or by surface coverings such as jute mesh, erosion control blankets, or by the establishment of surface vegetation.

Dry Well A subsurface structure that infiltrates stormwater runoff.

Green Citizen Certificate A certificate issued by the Select Board conferring recognition to environmentally conscious citizens who install infiltration/recharge systems, rain gardens, or similar stormwater quality improvements that are not required by the Stormwater By-Law or these promulgated regulations.

Illicit Connection A surface or subsurface drain or conveyance that allows a discharge into the MS4 that is not entirely composed of stormwater or clean groundwater, including any connection from an indoor drain, sink, toilet, or laundry facility.

Illicit Discharge Any direct or indirect discharge to the MS4 or the Waters of the Commonwealth that is not composed entirely of stormwater or clean groundwater, including, without limitation, any discharge of a pollutant, sewage, process wastewater, or wash water, except as exempted. The term does not include a discharge in compliance with a NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit.

Impervious Surface Any material or structure on, above or below the ground that prevents water from infiltrating through to the underlying soil. Impervious surfaces may include, without limitation: paved surfaces, parking lots, sidewalks, driveways, rooftops and swimming pools.

Large Residential Project A residential project (new construction or reconstruction) of a residential building with larger than 4,000 square feet (s.f.) of ground coverage.

Low Impact Development (LID) Stormwater management systems and practices that mimic natural hydrologic processes resulting in infiltration, evapotranspiration or use of stormwater. LID techniques manage stormwater as close to the source as possible. LID practices frequently use cost-effective landscape features located at the lot level.

Massachusetts Stormwater Handbook (MSH) A document published in 1997 and revised and updated in 2008 by MassDEP as guidance on the 1996 Stormwater Policy.

MS4 (Municipal Separate Storm Sewer System) The system of conveyances, owned or operated by the Town of Needham, that is designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, swale, culvert, channel, catch basin, outfall, outlet, reservoir, or other drainage structure.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit

A permit issued by the United States Environmental Protection Agency or jointly with the state that authorizes the discharge of stormwater containing pollutants into waters of the United States.

New Construction Construction or replacement of a structure, house or building which requires a Building Permit or construction/reconstruction of a parking lot, or construction of a subdivision roadway requiring Planning Board or Board of Appeals approval.

Non-point Source Pollution Rainfall or snowmelt that picks up pollutants as it moves across the ground.

Non-stormwater Discharge A discharge that is not composed entirely of stormwater, such as sanitary waste or process water.

Operation and Maintenance (O&M) Plan A plan setting the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

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

Plot Plan The plan that accompanies an application for a Building Permit.

Point Source Any discernible, confined and discrete conveyance, including, without limitation, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. The term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

Pollutant Any element or characteristic of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into Needham's MS4 or waters of the Commonwealth. Pollutants shall include, but are not limited to:

- (a) Paints, varnishes, and solvents;
- (b) Oil and other automotive fluids;
- (c) Non-hazardous liquid and solid wastes and yard wastes;
- (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, accumulations and floatables;
- (e) Excess pesticides, herbicides, and fertilizers;
- (f) Hazardous materials and wastes;
- (g) Sewage, fecal coliform and pathogens;
- (h) Dissolved and particulate metals or nonmetals, including phosphorus;



- (i) Animal wastes;
- (j) Rock, sand, salt, silt, soils;
- (k) Construction wastes and residues; and
- (l) Noxious or offensive matter of any kind.

Permitting Authority The municipal board, committee or department with authority for issuing permits for construction. These include the Planning Board, Conservation Commission, Department of Public Works, Building Department, and Zoning Board of Appeals.

Recharge The process by which groundwater and the underlying aquifer is replenished by the absorption of water.

Redevelopment Replacement, rehabilitation, or expansion of existing structures, improvement of existing roads or reuse of degraded or previously developed areas. Redevelopment is defined to include the following projects:

- (a) Maintenance and improvement of existing roadways including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems and repaving; and
- (b) Development, rehabilitation, expansion and phased projects on previously developed sites provided the redevelopment results in no net increase in impervious area.

Runoff The water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into the MS4 or streams or other surface waters or land depressions.

Sanitary Sewer System A separate underground conveyance system specifically for transporting sanitary waste operated separately and independently from the MS4, to which storm, surface, and ground waters are not lawfully admitted.

Small Diameter Drain Program A Town of Needham Program allowing the extension of the Town’s drainage system (MS4) by a series of 6-inch, 8-inch and 10-inch drain pipes used to collect roof drains and clean sump pump discharges.

Stormwater Water originating from rainfall and snow/ice melt.

Stormwater Management The use of structural or non-structural practices that are designed to reduce and control stormwater runoff pollutant loads, discharge volumes or peak flow discharge rates. Stormwater Management includes the use of Low-Impact Development (LID) management practices.

Vegetation Trees, shrubs, bushes and ground cover, including grass.

Watershed Management Plan The plan developed for the Town of Needham subdividing watershed areas within the Town and depicting drainable soil areas appropriate for infiltration/recharge.

Waters of the Commonwealth All waters within the jurisdiction of the Commonwealth of Massachusetts under the Wetlands Protection Act (M.G.L ch. 131 section 40 and regulations at 310 CMR 10.00) and regulations at 314 CMR 9.00, Water Quality Certification, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, wetlands, and vernal pools.

Waters of Needham All waters within the jurisdiction of the Town of Needham under the Wetlands Protection Bylaw (Article 6) and implementing regulations, including rivers, streams, lakes, ponds, springs, impoundments, wetlands and vernal pools.

**SECTION 7.3 ADMINISTRATION**

- 7.3.1 The Select Board shall adopt, and may periodically amend, Stormwater Regulations to effectuate the purposes of this By-law, after conducting a public hearing to receive Public comment.
- 7.3.2 The Director of Public Works shall be responsible for the day-to-day administration of this By-Law and its Regulations except as provided in Section 7.3.3 below. The Director may designate a person or persons to carry out any of his/her duties under this Stormwater By-Law.

- 7.3.3 The issuing authorities for permits (Building Department, Planning Board, Zoning Board of Appeals, and Conservation Commission) are responsible for determining compliance with this By-law for any application to these authorities. The Director of Public Works/designee shall review permit applications and provide an advisory opinion to the issuing authorities.
- 7.3.4 The Director of Public Works/designee shall have the authority to investigate suspected illicit discharges and to require the elimination of illicit discharges.

#### **SECTION 7.4 APPLICABILITY**

##### **7.4.1 Permits and Approvals**

All persons required to obtain a Building Permit for new construction and/or additions greater than 25% of the existing building footprint shall be subject to the requirements of this By-Law.

All persons also required to obtain Planning Board Site Plan approval pursuant to the Zoning By-Law, Planning Board approval for a Subdivision, and/or a Board of Appeals Decision (for new construction and/or additions greater than 25% of the existing building footprint) are subject to the requirements of this By-Law.

##### **7.4.2 Stormwater Management and Erosion Control**

Except as listed below, all applications for new construction or redevelopment subject to the provisions of this By-law, whether or not the issuance of a Building Permit is required, shall include Stormwater Management and Erosion Control provisions.

The relevant permitting authority (Building Department, Planning Board, Zoning Board of Appeals, or Conservation Commission) shall review and approve the Stormwater Management and Erosion Control Plan prior to the issuance of a permit.

The Director of Public Works/designee shall participate in the review process and make recommendations to the permitting authority as needed. Applications involving facade treatments, interior renovations, and/or changes in use are exempt from the requirement for a Stormwater Management and Erosion Control Plan.

The following applications do not require a Stormwater Management and Erosion Control Plan when proposed in an area not subject to jurisdiction of the Conservation Commission:

- Applications for addition to a commercial structure, parking lot, or roadway that is less than 1,500 square feet.

##### **7.4.3 Modification of Building Permits**

The applicant, or an agent thereof, shall obtain the approval of the Director of Public Works prior to any change or modification of an activity associated with the Stormwater Management and Erosion Control provisions of the Building Permit. The Director of Public Works shall approve or reject the change or modification in writing on the plot plan submitted within two (2) weeks of the receipt of such change or modification. If no action is taken within the said two-week period, the change or modification shall be deemed to have been approved.

##### **7.4.4 Modification Requiring Planning Board, Zoning Board of Appeals, and/or Conservation Commission Approval**

In circumstances where Planning Board, Zoning Board of Appeals, and/or Conservation Commission approval is required prior to the issuance of a Building Permit, approval by the respective board or commission is required prior to any significant change or modification of an activity associated with an approved Stormwater Management and Erosion Control Plan. Additional stormwater runoff and erosion control measures may be required prior to approval of the change or modification.

#### **SECTION 7.5 ILLICIT DISCHARGE, DETECTION & ELIMINATION (IDDE)**

##### **7.5.1 Prohibited Activities**

7.5.1.1 **Illicit Discharges** No person shall cause or allow an illicit discharge into the MS4 or into the Waters of the Commonwealth. This By-Law shall not exempt stormwater discharges from regulations under the National Pollutant Discharge Elimination System (NPDES) stormwater program where applicable.

7.5.1.2 **Illicit Connections** No person shall construct, use, allow, maintain or continue any Illicit Connection, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

7.5.1.3 **Obstruction of Municipal Storm Drain System** No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior written approval from the Director of Public Works.

#### 7.5.2 Regulated Activities

7.5.2.1 No person shall connect a pipe or other appurtenance to the Town of Needham Sanitary Sewer System or the MS4, or otherwise perform any modification, repair, rehabilitation, or replacement work on either system, without receiving an approved Sewer Connection Permit or Drainage Connection Permit from the Department of Public Works.

7.5.2.2 No person shall allow a pipe, swale or other point source to discharge onto a Public Way.

#### 7.5.3 Exemptions

The following are exempt from the requirements of this By-Law:

- (a) Water line flushing;
- (b) Landscape irrigation;
- (c) Diverted stream flows;
- (d) Rising ground waters,
- (e) Uncontaminated ground water (groundwater that is free of pollutants);
- (f) Discharges from potable water sources;
- (g) Air conditioning condensation;
- (h) Lawn watering;
- (i) Flows from wetland resource areas;
- (j) Discharges or flows from firefighting activities; and
- (k) Discharges necessary to protect public health, safety, welfare or the environment.
- (l)

### **SECTION 7.6 EMERGENCY SUSPENSION OF STORM DRAIN SYSTEM ACCESS**

The Director of Public Works/designee may suspend MS4 access to any person or property without prior written notice when such suspension is determined to be necessary to prevent or terminate a threatened or actual discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event that any person fails to comply with an emergency suspension order issued pursuant to this section, the Director of Public Works/designee may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

### **SECTION 7.7 STORMWATER MANAGEMENT AND EROSION CONTROL**

#### 7.7.1 Regulated Activities

A Stormwater Management and Erosion Control plan shall be required for any construction activity as set forth under Section 7.4 of this By-Law.

#### 7.7.2 Exempt Activities

The following activities shall be exempt from this By-Law:

- (a) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this By-Law;
- (b) Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture, or the use, expansion, or reconstruction of existing structures for the primary purpose of agriculture, horticulture, floriculture, or viticulture, to the extent protected under the *Zoning Act, M.G.L. c. 40A, § 3*;
- (c) Customary cemetery management;
- (d) Normal maintenance of Town-owned public land, ways, public utilities and appurtenances; and
- (e) Emergency activities necessary to protect public health or safety.

### 7.7.3 General Requirements

#### 7.7.3.1 **Pre-Construction**

A Stormwater Management and Erosion Control plan shall be submitted as part of a Building Plot Plan or independently with an application for a Building Permit, Planning Board application, Zoning Board of Appeals application, Conservation Commission application, and/or prior to any development activity.

#### 7.7.3.2 **Construction**

The Stormwater Management and Erosion Control plan shall include construction period measures to prevent the discharge of silt or sediment to the MS4 and/or abutting properties.

#### 7.7.3.3 **Post-Construction**

For both commercial and residential projects, the Stormwater Management and Erosion Control Plan shall include provisions for post-construction measures to provide a minimum combined volumetric capacity to recharge a minimum of one (1) inch of rainfall depth over the total impervious area of the property (buildings and impervious surfaces). For commercial projects, the Stormwater Management and Erosion Control Plan shall include stormwater runoff quality controls and other structural and non-structural Best Management Practices (BMPs) to remove pollutants from stormwater prior to recharge to the groundwater in accordance with the Massachusetts Stormwater Handbook. The purpose of this plan is to prevent or minimize increases in stormwater volumes and flows to the MS4 and to reduce pollutant loading to the MS4 and receiving waters.

#### 7.7.3.4 **Standard Infiltration Method**

As one option to satisfy Sections 7.7.3.1 and 7.7.3.2 and 7.7.3.3, for residential and commercial development subject to this By-Law with 4,000 square feet of impervious surface or less on the property, a Standard Infiltration Method (SIM) may be utilized consisting of the installation of drywells at one or more corners of the main dwelling/building to collect the roof runoff from the structure. Building projects involving additions greater than 25% of the existing building footprint but less than 50% of the existing building footprint shall collect the entire runoff from the roof of the addition plus runoff from the roof on the side of the existing structure that contains the addition. Building projects involving additions that are 50% or greater than the existing building footprint shall capture the stormwater runoff from the entire roof. The as-built (certified) Plot Plan showing the improvements to the property shall be stamped by a Massachusetts Registered Land Surveyor.

#### 7.7.3.5 **Poor Soils**

Properties located within an area of poor soils as identified on the Town's Watershed Management Plan or due to shallow depth to groundwater or other reason as determined by the Director of Public Works/designee, a small diameter drain shall be extended from the Town's stormwater drainage system (MS4) down gradient of the property to the property to collect the roof runoff from the main dwelling. If there is no portion of a drainage system within 100 feet of the property, the property owner shall contribute to a fund for the Town to construct a communal infiltration system on Town property. The

contribution shall be an amount as determined by the Select Board per cubic foot of stormwater required to be recharged as described above.

#### 7.7.3.6 **Operation and Maintenance Plan**

An Operation and Maintenance Plan (O&M Plan) shall be submitted with the application for a Building Permit, Planning Board application, Board of Appeals application, or Conservation Commission application pursuant to this By-Law. The Operation and Maintenance Plan shall be designed to ensure compliance with this By-Law in all seasons and throughout the life of the system. The O&M Plan shall be signed by the property owner. For residential and commercial development with 4,000 square feet of impervious surface or less, the O&M Plan shall consist of an annual inspection of the drywells, and removal of sediment, leaves or debris as needed.

#### 7.7.3.7 **As-Built Drawing**

Except as provided for in Section 7.7.3.4, as-built drawings stamped by a Massachusetts Registered Professional Engineer showing all stormwater management systems shall accompany the as-built Plot Plan at the completion of a project.

#### 7.7.4 Design Criteria

7.7.4.1 Residential development and commercial development with 4,000 square feet or less of impervious surface constructed using the Standard Infiltration Method (SIM) will be deemed compliant with the design criteria of this By-law.

7.7.4.2 All developments subject to this By-Law shall satisfy the following design criteria:

- (a) Stormwater Management and Erosion Control measures must, in the opinion of the Building Department, Planning Board, Zoning Board of Appeals, or Conservation Commission, as the case may be, be in compliance with all applicable provisions of the Massachusetts Stormwater Standards issued in 1996 as amended, regardless of the proximity of the development to resource areas or their buffer zones, as defined by the *Wetlands Protection Act, M.G.L. c. 131, § 40* and its implementing regulations.
- (b) Erosion and sediment controls must be implemented to prevent adverse impacts caused by the discharge of silt or sediment to municipal and/or abutting properties during and after land disturbance and construction activities.
- (c) There shall be no change to the existing conditions of abutting properties from any increase in volume or peak rate of stormwater runoff or from erosion, silting, flooding, sedimentation or impacts to wetlands and other resource areas as defined in the Massachusetts Wetlands Protection Act and/or Needham Wetlands Protection Bylaw.
- (d) When any proposed discharge may have an impact upon streams, wetlands and/or the MS4 or its conveyance system (storm sewers), the Director of Public Works/designee may require minimization or elimination of this impact based on site conditions and existing stormwater system capacity.

### **SECTION 7.8 MAINTENANCE OF STORMWATER FACILITIES**

[Reserved]

### **SECTION 7.9 SEVERABILITY**

If any provision of this Article shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the Article shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof.

## **SECTION 7.10 ENFORCEMENT**

The Director of Public Works/designee shall enforce this By-Law, and any regulations, orders, violation notices, and enforcement orders made pursuant to this By-Law as follows:

- 7.10.1 The Director of Public Works may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include (but are not limited to) an order to:
- (a) eliminate illicit connections or discharges to the MS4;
  - (b) perform monitoring, analyses, and reporting;
  - (c) cease and desist unlawful discharges, practices, or operations; and
  - (d) remediate contamination in connection therewith.
- 7.10.2 If the Director of Public Works/designee determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, it shall be a violation of this By-Law and the Director of Public Works/designee may, at his or her option, authorize such work.
- 7.10.3 Any person or entity aggrieved by a decision of the Director of Public Works/designee under this provision of this Stormwater By-Law may submit a letter of appeal to the Select Board who may affirm, amend, or overrule that decision after a public meeting held not more than 45 days after the submission of a letter of appeal.
- 7.10.4 If a person violates the provisions of this By-Law, or any regulation, permit, notice, or order issued thereunder, the Director of Public Works/designee, with the approval of the Select Board, may seek injunctive relief in a court of competent jurisdiction to restrain such person from activities that would create further violations or to compel the person to perform abatement or remediation of the violation.
- 7.10.5 The remedies set forth in this Section are not intended to be exclusive of any other remedies available under applicable federal, state, or local law.

## **SECTION 7.11 WAIVER**

The permit granting authority may waive strict compliance with any requirement of this By-Law when (a) such action would serve a substantial public interest, (b) such action is required for compliance with the Massachusetts Contingency Plan (MCP), or (c) strict compliance would result in severe economic hardship greater in magnitude than the public interest to be served.

## **ARTICLE 8**

### **PENALTIES AND ENFORCEMENT OF TOWN BY-LAWS,**

#### **RULES AND REGULATIONS**

### **SECTION 8.1 PENALTIES**

**8.1.1** Whoever performs an act, or carries on a business or an activity within the Town for which a license or permit is required by the provisions of these General By-Laws, the Building, Plumbing and Electrical Wiring Codes and the Zoning By-Laws, without having a valid outstanding license or permit to perform such an act, or to carry on such business or activity, shall, unless a specific penalty is provided elsewhere in said by-laws or codes, be punished by a fine of not exceeding twenty dollars (\$20.00) for each offense.

**8.1.2** Except as may be otherwise provided by law, and as the district court may see fit to impose, for any violation of these General By-laws the minimum penalty for each violation shall be fifty dollars (\$50). The maximum penalty for each violation or offense brought in such manner shall be three hundred dollars (\$300).

## **SECTION 8.2 ENFORCEMENT**

**8.2.1 Criminal Complaint.** Any person violating any provision of these General By-Laws may be penalized by indictment or on complaint brought in the district court.

**8.2.2 Non-criminal Disposition.** Any person violating any provision of these General By-Laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in M.G.L. Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following sub-sections are to be included within the scope of this sub-section, that the specific penalties as listed here shall apply in such cases and that in addition to the municipal personnel listed for each section, if any, police officers shall in all cases be considered enforcing persons for the purpose of this provision; and each day on which any violation exists shall be deemed to be a separate offense.

### **8.2.2.1 Zoning By-Law**

Enforcement Agent: Building Inspector, Assistant Building Inspector  
Fine Schedule:  
Warning - First Offense;  
\$50. - subsequent offenses

### **8.2.2.2 Sign By-Law (Section 5)**

Enforcement Agent: Building Inspector, Assistant Building Inspector  
Fine Schedule:  
Warning - First offense;  
\$50. - subsequent offenses

### **8.2.2.3 Demolition of Historical Buildings (2.11.5.9)**

Enforcement Agent: Building Inspector  
Fine Schedule: Up to \$300 per offense.

### **8.2.2.4 Police Regulations**

#### **A. Grazing Of Animals (Sub-section 3.1.1)**

Fine Schedule:  
\$20. per offense

#### **B. Obstructing Public Ways Or Sidewalks (Sub-section 3.1.2)**

Fine Schedule:  
\$50. per offense

#### **C. Carrying Refuse Substances Without Board Of Health Approval (Sub-section 2.5.1)**

Enforcement Agent: Health Director and Sanitarian  
Fine Schedule:  
First Offense - \$50.  
Second Offense - \$100.

Third Offense - \$200  
Fourth and Subsequent Offenses - \$300

**D. Coasting On A Public Way (Sub-section 3.1.3)**

Fine Schedule:  
\$20. per offense

**E. Driving On A Public Sidewalk or Footpath (Sub-section 3.1.4)**

Fine Schedule:  
\$50. per offense

**F. Riding Bicycles On Sidewalks In Needham Square and The Heights Square Business Districts (Sub-section 3.1.5)**

Fine Schedule:  
\$20. per offense

**G. Discharging A Firearm (Sub-section 3.1.6)**

Fine Schedule:  
First Offense - \$50.  
Second Offense - \$100.  
Third Offense - \$200  
Fourth and Subsequent Offenses - \$300

**H. Corner Clearance (Sub-section 2.2.5.1.6)**

Enforcement Agent: Town Engineer/Building Inspector  
Fine Schedule:  
\$50. per offense

**I. Alcoholic Beverages On Public Property (Sub-sections 3.1.9)**

Fine Schedule:  
\$50. per offense

**J. Public Consumption of Marijuana (Sub-section 3.1.10)**

Fine Schedule: \$50 per offense

**K. Licensed Hawkers And Peddlers (Sub-section 3.1.11)**

Fine Schedule:  
\$50. per offense

**L. Household Refuse (Section 3.1.12)**

Enforcement Agent: Director of Public Works or Designee  
Fine Schedule:  
Warning - First Offense  
\$25 Second Offense  
\$50 Third Offense  
\$75 Fourth and Subsequent offenses

**M. Nighttime Closing Hours (Sub-sections 3.2.1 through 3.2.5)**



Fine Schedule:  
\$200. per offense

**N. Obstructing Fire Lanes (Sub-sections 3.6.1.1 through 3.6.1.3)**

Enforcement Agent: Fire Chief/Fire Inspectors  
Fine Schedule:  
\$50. per offense

**O. Public Carriages (Taxis) (Sub-sections 4.2.1 through 4.2.4)**

Fine Schedule:  
\$50. per offense

**P. Abandoned Cars (Sub-section 3.5.4 – 3.5.7)**

Fine Schedule:  
\$50.00

**Q. Discharge of Water (Sub-section 3.1.12)**

Fine Schedule:  
\$50.00 per offense

**R. Snow and Ice on Sidewalks (Sub-Section 3.1.8)**

Enforcement Agent: Any DPW Supervisor  
Fine Schedule: \$50.00 per offense

**S. Discharge of Bow and Arrow (Section 3.1.13)**

Fine Schedule:  
First Offense - \$50.  
Second Offense - \$100.  
Third Offense - \$200  
Fourth and Subsequent Offenses - \$300

**T. Noise Regulation (Section 3.8.1)**

Fine Schedule:  
\$0 First offense  
\$25. Second offense  
\$50. For each additional offense

**U. Public Nuisance Regulation (Section 3.9)**

Fine Schedule:  
\$0 First offense – written warning  
\$50. Failure to remedy/cure first offense within thirty (30) days following issuance of the first notice of violation  
\$100. Failure to remedy/cure first offense within sixty (60) days following issuance of the first notice of violation  
\$10 Additional per diem fine for failure to remedy/cure first offense within seventy-five (75) days following issuance of the first notice of violation, which additional daily fine shall continue until the first offense is fully remedied/cured  
\$50. Second offense within the calendar year

\$100. Failure to remedy/cure second offense within thirty (30) days following issuance of the first notice of violation

\$10. Additional per diem fine for failure to remedy/cure second offense within forty-five (45) days following issuance of the first notice of violation, which additional fine shall continue until the second offense is fully remedied/cured

\$100. Third offense within the calendar year

\$200. Failure to remedy/cure third offense within thirty (30) days following issuance of the first notice of violation

\$10. Additional per diem fine for failure to remedy/cure third offense within forty-five (45) days following issuance of the first notice of violation, which additional fine shall continue until the third offense is fully remedied/cured.

**V. Vaccination Requirements (Section 3.7.9)**

Enforcement Agent: Animal Control Officer

Fine Schedule: \$50 per offense

**W. Street Occupancy Permit/Excavation in a Public Way (Sub-section 2.2.5.1.4)**

Enforcement Agent: Director of Public Works or his or her designee

Fine Schedule:

\$300 per offense

**8.2.2.5 Conservation Commission Regulations**

**A. Wetlands Protection By-Law (Sub-sections 6.1 through 6.15)**

Enforcement Agent: Conservation Commission Chairman/Conservation Agent

Fine Schedule:

\$100. first offense

\$200. subsequent offenses

**8.2.2.6 Fire Department Licenses And Permits (Sub-sections 4.3.1 through 4.3.3)**

**A. Removing Underground Tank Without A Permit**

Enforcement Agent: Fire Chief/Fire Inspector

Fine Schedule:

\$200. per offense

**B. Failure To Obtain Required Fire Department License Or Permit**

Enforcement Agent: Fire Chief/ Deputy Chiefs/Fire Inspectors

Fine Schedule:

\$200. per offense

**8.2.2.7 Board Of Health Regulations**

Enforcement Agent: Health Director, Environmental Health Agent,  
or Public Health Nurse

Fine Schedule:  
First Offense - \$50  
Second Offense - \$100  
Third Offense - \$200  
Fourth and Subsequent Offenses - \$300

#### **8.2.2.8 Select Board Regulations**

**A. Regulations Regarding For-Profit Transient Vendors/Businesses; Hawkers and Peddlers; Door to Door Solicitations**

\$25.00 First offense  
\$50.00 Each subsequent offense within any twelve month period, each subsequent offense constituting a separate offense. (*Revised Article 70, 2001 A.T.M.*)

**B. Regulations Regarding Trench Safety Authorized by Section 2.2.5.4.4**

Enforcement Agent: Director of Public Works  
Fine Schedule: \$100 per offense.

**C. Water Emergencies; Violations (Sub-Section 2.2.5.5)**

Enforcement Agent: Any DPW Supervisor  
First violation: Written Warning  
Second violation (issued within the same calendar year): \$50  
Third violation (issued within the same calendar year): \$200  
Fourth and subsequent violations (issued within the same calendar year): \$300  
Each day of violation shall constitute a separate offense.

**D. Private Ways (Sub-Section 2.2.5.6)**

Enforcement Agent: Fire Chief  
\$50 per offense.

#### **8.2.2.9 Stormwater Regulation (Article 7)**

Enforcement Agent: Director of Public Works, Town Engineer

Fine Schedule

First Offense – Written Warning

Second Offense – failure to cure offense within 15 days’ of notice of first offense  
- \$50 - each day being a separate offense.

Subsequent Offenses – failure to cure offense within 15 days’ notice of second offense - \$100 - each day being a separate offense.

### **ARTICLE 9**

#### **LEGAL CONSTRUCTION OF GENERAL BY-LAW PROVISIONS**

## **SECTION 9.1 DEFINITIONS**

As used in these General By-Laws, the following words and phrases shall have the following meanings, unless the context clearly requires a different construction:

Home Rule Amendment - Amendment Article II of the Constitution of the Commonwealth, as revised by Amendment Article LXXXIX of said Constitution, all as the same from time to time be amended hereafter.

M.G.L. - the General Laws of the Commonwealth of Massachusetts, as most recently amended.

Town - the Town of Needham.

Town Charter - Acts of 1971, Chapter 403 (the Needham Special Home Rule Charter Act), as from time to time amended.

## **SECTION 9.2 EFFECT OF GENERAL LAW AMENDMENTS**

If a provision of the General Laws, cited in a Town by-law, shall be renumbered and located elsewhere in the General Laws by the General Court or by an initiative law, the old citation appearing in by-law shall be construed as meaning the new provision, until such by-law is amended to correct the reference. The Town Counsel shall, as necessary, submit to the Town Meeting as soon as may be, proposals to correct any statutory references in the Town by-laws.

## **SECTION 9.3 CONSTRUCTION OF OTHER WORDS AND PHRASES**

Words and phrases used in General By-Law provisions enacted under authority of, or in implementation of, general or special laws of the Commonwealth shall have the meaning such words and phrases have in said laws, unless the by-law context clearly requires a different construction.

## **SECTION 9.4 SEVERABILITY CLAUSE**

These Articles, and their various parts, sections and clauses thereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid by the Attorney General or by a court of competent jurisdiction, the remainder shall remain in full force and effect.

**TOWN OF NEEDHAM**  
**MASSACHUSETTS**

**CHARTER**

(Acts of 1971, C. 403 as amended by the  
Act of the General Court.)



**2022 Compilation**

(Note: Amended by the Annual Town Meeting, Article 38, and signed by the Governor of the Commonwealth of Massachusetts on November 28, 2022)

**TOWN OF NEEDHAM**

**CHARTER**

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## PART 1.

### INCORPORATION, SHORT TITLE, DEFINITIONS

**Section 1. Incorporation Continued.** All the inhabitants dwelling within the territorial limits of the town of Needham, as presently and hereafter constituted, shall continue to be a body politic and corporate known as the town of Needham which shall be a political subdivision of the commonwealth and, as such, shall have perpetual succession and shall hold and exercise all powers and privileges heretofore exercised by the town and any additional powers and privileges herein conferred and all powers and privileges conferred upon towns under the constitution and laws of the commonwealth.

**Section 2. Short Title.** This act shall be known and may be cited as the Needham special home rule charter.

**Section 3. Definitions.** As used in this act, the following words and phrases shall have the following meanings unless the context or the constitution of the commonwealth clearly requires otherwise.

"Charter", this act and any amendments to this act adopted pursuant to chapter 43B of the General Laws.  
"Civil defense laws", all General Laws, temporary laws and the provisions of this charter relative to: (i) the defense of the commonwealth in anticipation of, during and following enemy attack; (ii) the suppression of domestic disorders; (iii) the protection of order, life and property during and immediately following natural or man made disasters of great magnitude; and (iv) the continuity of government in the commonwealth and in the town during and immediately following any such attack, disorder or disaster.

"Town meeting", a regular or special meeting of the elected representative town meeting members; provided., however, that "town meeting" shall not include a meeting of the registered voters of the town unless the context clearly requires otherwise.

"Vote of the town", a town by law or a vote adopted by the town meeting including, where appropriate to the context, the results of a referendum.

## PART 2.

### REPRESENTATIVE TOWN MEETING

**Section 4. Representative Town Meeting Continued.** There shall continue to be in the town the form of representative town government by limited town meetings as set forth herein.

**Section 5. Establishment of Town Meeting Precincts.** The division of the town into 10 voting precincts shall continue until re-divided pursuant to this section. The select board, in exercising its authority to divide the territory of the town into voting precincts, shall make such division as will provide not more than 10 precincts, each of which shall contain approximately the same number of inhabitants.

The precincts shall be established so as to consist of compact and contiguous territory and bounded, so far as possible, by the center line of known streets and ways or by other well-defined limits. Their boundaries shall be reviewed and, if need be, revised by the select board based on the most recent federal census in the second January following the taking of the census, conformable to the requirements of sections 1 to 10, inclusive, of chapter 54 of the General Laws. In any year when so directed by a vote of a town meeting, the boundaries shall be reviewed and, if necessary, revised by the select board in conformity to said sections 1 to 10, inclusive, of said chapter 54.

Not later than 20 days after the establishment or revision of the precincts, but not later than January 31 of that year, the select board shall file a report of their doings with the town clerk, the registrars of voters and the assessors with maps or descriptions of the precincts and the names and residences of the registered voters therein. The select board shall also cause to be posted at the town hall such maps or descriptions of the precincts as established or revised from time to time, with the names and residences of the registered voters therein. They shall also cause to be posted in at least 1 public place in each precinct a map or description of that precinct, with the names and residences of the registered voters therein

The division of the town into precincts and any revision of such precincts shall take effect on the date that the select board files the report thereof with the town clerk. Whenever the precincts are established or revised, the town clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts.

Meetings of the registered voters of the several precincts for elections, for primaries and for voting upon any question to be submitted to all of the registered voters of the town shall be held on the same day and at the same hour and at such places within the town as the select board shall direct in the warrant for such meeting.

**Section 6. Representative Town Meeting Membership.** Other than the officers designated in section 7 as town meeting members at large, the representative town meeting membership in each precinct shall consist of the largest number divisible by 3 which will admit of a representation thereof in the approximate proportion which the number of inhabitants therein bears to the total number of inhabitants in the town and which will cause the total elected membership to be as nearly but not more than 240 as may be.

In any year in which a revision of the precincts in the town may not be done because of the restrictions imposed by chapter 54 of the General Laws, the select board may reapportion the seats of the town meeting members elected from precincts in proportion to the number of inhabitants residing therein in order to reflect significant population changes as estimated by the town clerk using the annual street listings and the annual school census.

The registered voters in each precinct shall elect by ballot the number of registered voters in the precinct, other than the officers designated in section 7 as town meeting members at large, as provided for in the first paragraph to be town meeting members.

The incumbent town meeting members serving at the time this charter takes effect shall continue to serve the balance of the terms for which they were elected. Their successors shall be elected in the same manner for 3-year terms as may be necessary to provide for each precinct the total number to which it is then entitled. Upon the redivision of the town into a greater or lesser number of precincts in accordance with the procedures set forth in this charter and in the General Laws, the terms of all incumbent town meeting members shall terminate upon the election and qualification of their successors as provided in the following paragraph.

After any redivision of the town into precincts as provided in this charter, the registered voters in each precinct shall elect by ballot the number of registered voters in the precinct, other than the officers designated in section 7 as town meeting members at large, as provided for in the first paragraph to be town meeting members pursuant to the following paragraph.

The first third in order of votes received of members so elected shall serve 3 years, the second third in such order shall serve 2 years and the remaining third in such order shall serve 1 year, beginning on the day of such election. In case of a tie vote affecting the division into thirds, the members elected from the precinct shall determine the same by ballot. Thereafter, except as otherwise provided herein, at each annual town election, the registered voters of each precinct shall, in like manner, elect as town meeting members for terms of 3 years such number of elected town meeting members as are necessary to provide for such precinct the total number of elected town meeting members to which it is then entitled and the registered voters shall at such election fill any vacancies then existing in the number of town meeting members in such precinct and such persons elected shall serve for the remainder of the unexpired terms for which they were elected. The terms of office of all elected town meeting members from each precinct shall cease upon the election of their successors as herein provided. Town meeting members as such shall receive no compensation. After each election of town meeting members, the town clerk shall forthwith notify each member by mail of their election.

**Section 7. Town Meeting Members at Large.** Any representative town meeting held under this charter, except as otherwise provided herein, shall be limited to the voters elected pursuant to section 6, together with the following elected officers designated as town meeting members at large, each of whom shall have the right to vote in the town meeting: (a) any resident member of the general court from the town whose state legislative district is wholly within the town; (b) the moderator; (c) the town clerk; (d) the members of the select board; (e) the chairperson of each other elected board of the town, except the housing authority and the commissioners of trust funds.

If a voter elected to be a town meeting member under section 6 shall be elected to become 1 of the officers designated as a town meeting member at large in clauses (a) to (d), inclusive, of the first paragraph, such person shall, upon such election, cease to be a town meeting member elected under said section 6 and the resulting vacancy in the representation of that member's precinct shall be filled as provided in section 9. A voter may serve at the same time as a town meeting member upon election as such under said section 6 and as an officer designated as a town meeting member at large under clause (e)



of said first paragraph and such voter may vote in proceedings of the town meeting as a single member and shall not vote a second time by reason of such dual tenure of offices. The designation as a town meeting member at large under said clause (e) of said first paragraph shall apply to the chair of the elected board as of the tenth day following the annual town election.

**Section 8. Nomination of Candidates for Town Meeting Members.** Nomination of candidates for town meeting members to be elected under this charter shall be made by nomination papers, which shall bear no political designation, but to the name of an incumbent candidate elected by the people, the words "Candidate for Re-election" may be added. Nomination papers shall be signed by not less than 10 voters of the precinct in which the candidate resides and shall be filed with the town clerk not later than the date fixed by law as the last day for filing nomination papers by candidates for town office; provided, however, that any town meeting member may become a candidate for reelection by giving written notice thereof to the town clerk not later than the last date fixed by law for the giving of such notice. No nomination papers shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

**Section 9. Resignations and Vacancies in Elected Town Meeting Membership.** A town meeting member may resign by filing a written resignation with the town clerk and such resignation shall take effect on the date of such filing. A town meeting member who removes from the town shall cease to be a town meeting member and an elected town meeting member who removes from 1 precinct to another or becomes removed due to a revision of precincts shall not retain membership after the next annual election as an elected member from the precinct from which he is removed.

If a vacancy occurs in the full number of town meeting members from any precinct, whether arising from a failure of the registered voters thereof to elect or from any other cause, the town clerk shall immediately select the person who received the next highest number of votes for the office of town meeting member in the preceding election in that precinct and shall notify such person of such person's appointment as a town meeting member. If that candidate does not accept such appointment, the town clerk shall select the person who received the next highest number of votes for the office of town meeting member in the preceding election in that precinct. If that candidate does not accept such appointment, the town clerk shall call together the town meeting members of the precinct wherein the vacancy occurred and they shall by majority vote of those present, elect any registered voter of that precinct to fill the vacancy. The town clerk shall count the ballots, make a certificate of the election and notify the person so chosen and, upon receipt by the town clerk of a written acceptance by the person so elected, the person shall be deemed elected and qualified as a town meeting member, subject to the right of all town meeting members to judge the election and qualification of its members, as provided in section 10.

A town meeting member appointed or elected to fill a vacancy pursuant to this section shall serve only until the next annual town election.

A tie vote between 2 or more persons for the last place to be filled by elected candidates or between 2 or more persons with the highest number of votes as defeated candidates or between 2 or more persons with the second highest number of votes as defeated candidates shall be resolved by a majority vote of the town meeting members from that precinct attending a meeting called by the town clerk for that purpose. Upon resolution of a tie vote by the town meeting members, any person not so chosen for the last place to be filled by elected candidates shall be deemed to be the person or receiving the highest number of votes as defeated candidates and any person so tied at the election with the highest number of votes as defeated candidates who are not so chosen by the town meeting members of the precinct shall be deemed to be the person or person receiving the second highest vote as defeated candidates.

**Section 10. Town Meeting to be Judge of Own Members.** The representative town meeting shall be the judge of the election and qualifications of its elected members.

**Section 11. Time, Notice, Conduct and Adjournment of Town Meeting.** The annual town meeting for the election of town officers and such other matters as may be voted on the official ballot and the annual town meeting for the transaction of business by the representative town meeting shall be held in February, March, April or May of each year as shall be determined by vote of the town.

The town clerk shall notify town meeting members of the time and place at which representative town meetings shall be held and such notices shall be sent by mail at least 7 days before the meeting.

A majority of the town meeting members shall constitute a quorum for the transaction of business but a lesser number may organize temporarily and may adjourn from time to time. Notice of each adjourned representative town meeting shall be posted by the town clerk in at least 5 public places in the town and the town clerk shall also notify the members by mail of

the adjournment at least 24 hours, if the period of adjournment shall permit, before the time of the adjourned representative town meeting. A notice shall state briefly the business to be acted upon at the town meeting and shall include notice of any proposed reconsideration. All town meetings shall be open to the public and the press and, subject to such conditions as may be determined from time to time by the representative town meeting, a voter of the town who is not a town meeting member may speak at any representative town meeting but shall not vote.

**Section 12. Warrant Articles and Voting Thereon by Town Meeting.** The articles in the warrant for every town meeting that relate to the election of the moderator, town offices, town meeting members, to referenda and to all other matters to be acted upon and determined by ballot shall be acted upon and determined by the registered voters of the town in their respective precincts.

All other articles in the warrant for a town meeting shall be acted upon and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the select board in the warrant for the meeting, subject to the referendum procedure provided for in section 13.

**Section 12A. Right of Initiative; Initiative Procedures.** Registered voters of the town may, by initiative petition prepared and filed in accordance with this section, propose to an annual town meeting the passage of a measure. If the measure fails to pass at the annual town meeting, the registered voters may cause the measure to be submitted to the voters of the town for their approval or disapproval as hereinafter provided; provided, however, that no measure shall be proposed by initiative petition which: (i) makes a specific appropriation of money from the treasury of the town other than an appropriation to pay for the costs of a study or to pay for a capital acquisition or improvement; (ii) amends the zoning map or zoning by laws of the town; or (iii) proposes the submission to the voters of the town of an amendment to the charter.

An initiative petition shall set forth the full text of the measure proposed by the petitioners and shall first be signed by not less than 100 and not more than 250 registered voters of the town, each of whom shall sign their name and record their address on the petition as such person's name and address appear on the list of registered voters. The initiative petition shall be submitted to the town counsel not later than the fifteenth day of January prior to the annual town meeting into which that petition is to be introduced. If the town counsel shall certify that the measure proposed by the initiative petition does not conflict with the constitution or the laws of the commonwealth and that it includes only subjects not excluded from the initiative by this section, the initiative petition shall then be filed by the town counsel with the select board and the select board shall cause the proposed measure to be included in the warrant for the annual town meeting as an initiative article and shall be so designated; provided, however, that if the town counsel fails within 10 days following receipt of an initiative petition, to notify the select board in writing of the counsel's reasons for not certifying the petition, the petition shall be deemed to have been certified by the town counsel and, upon the request of any registered voter who had previously signed that petition, the select board shall cause the proposed measure to be included in the warrant as an initiative article and shall be so designated.

If an initiative article is included in the warrant for an annual town meeting, the moderator shall give to any registered voter of the town who signed the initiative petition the privilege of making the first substantive motion under the initiative article, which shall be in the words of the proposal in the article. The moderator shall allow opportunity for debate on the initiative article and on motions thereunder and shall not accept a motion to put the previous questions as to the first substantive motion or as to any motion in substitution therefor until the petitioners and their opponents have been afforded a reasonable time within which to present their arguments without repetition. The town meeting shall act on the first substantive motion in the form in which it was presented and, if such motion is not passed, the town meeting may take such other action under the initiative article which is within the scope thereof, including the adoption of any alternative measure. Action under an initiative article shall be taken by a majority vote, by a 2/3 vote or by such other vote as may be required by the nature of the action under any applicable state law.

If the annual town meeting shall dissolve without having adopted, enacted or voted on passage of the first substantive motion presented as aforesaid under an initiative article but at least 1/4 of the total number of town meeting members voting upon the first substantive motion have voted in the affirmative, the original petitioners of the initiative article may complete their petition by filing with the select board an additional number of signatures of registered voters of the town which, when combined with the signatures of the original petitioners, shall equal in number not less than 15 per cent of the total number of persons registered to vote in the town. Each additional signatory voter shall sign the voter's name, and set forth the voter's address on the petition as it appears on the list of registered voters and all additional signatures shall be gathered not earlier than the day following the day on which the aforesaid town meeting dissolved and shall be filed with the select board as set forth above not later than 20 days, not including Sundays and legal holidays, following the dissolution.

If the annual town meeting has adopted, enacted or voted passage of any motion as an alternative to or a substitute for the first substantive motion, the original petitioners of the initiative article may in like manner complete their initiative petition by filing with the select board an additional number of signatures as provided in the preceding paragraph.

Within 10 days after the filing of the completed initiative petition, the select board shall issue a call for a special meeting of the voters. The meeting shall be held within 14 days after the call was issued to present to the voters at large the measure proposed in the petition that was acted upon unfavorably by the town meeting and any alternative measures that may have been adopted by the town meeting; provided, however, that the 14-day period shall not include Sundays or legal holidays or any day between the first Wednesday in July and the first Wednesday in September immediately following as no such special meeting shall be held between the first Wednesday in July and the first Wednesday in September. Both of the measures shall appear on the ballot to be voted upon by the voters at large and shall be stated in the same language and form used in the motions acted upon by the town meeting as appearing in the records of the town meeting. The checklist shall be used in the same manner as it is used in the election of town officers.

If a majority of the registered voters of the town voting thereon and at least 20 per cent of all the registered voters, shall vote in the affirmative on either the first substantive motion or upon the alternative motion, the measure voted upon in the affirmative by the number of voters thus required and the measure receiving the largest number of votes if conflicting measures are approved shall take effect immediately or at such later time as may be specified in the measure or, if it be a by law subject to the approval of the attorney general, it shall take effect subject to section 32 of chapter 40 of the General Laws; provided, however, that any measure which, for passage, requires a 2/3 affirmative vote of the town meeting members voting thereon in a town meeting shall, if proposed by an initiative petition or if it is an alternate measure adopted by the town meeting, shall require the affirmative vote of 2/3 of the registered voters voting thereon at a special meeting called by the select board under this section. Any measure proposed by initiative petition or adopted by the town meeting, and approved by the registered voters of the town under this section shall thereafter be subject to amendment, revision or repeal by the town meeting, subject to the right of referendum by petition as provided in section 13.

Nothing in this section shall invalidate or limit the right of 10 or more registered voters to have an article inserted in the annual town meeting warrant at their written request or the right of 100 registered voters or 10 per cent of the total number of registered voters of the town, whichever is lesser, to have an article inserted in a special town meeting warrant at their written request or the right of 200 registered voters or 20 per cent of the total number of registered voters of the town, whichever is lesser, to request in writing the calling of a special town meeting as provided for in section 10 of chapter 39 of the General Laws.

**Section 13. Referenda on Representative Town Meeting Action.** No final vote of a town meeting passing a measure under any article in the warrant, except a vote to adjourn or dissolve or a vote appropriating money for the payment of notes or bonds of the town and interest thereon becoming due within the current fiscal year or a vote for the temporary borrowing of money in anticipation of revenue or a vote declared by preamble by a 2/3 vote of the town meeting members present and voting thereon to be an emergency measure necessary for the immediate preservation of the peace, health, safety, or convenience of the town shall be operative until after the expiration of 20 days, not including Sundays and legal holidays, from the dissolution of the town meeting.

If within that 20-day period a referendum petition, signed by not less than 15 per cent of the registered voters of the town and containing their names and addresses as the same appear on the list of registered voters, is filed with the select board requesting that the measure passed by any such vote which has not become operative as aforesaid be submitted to the voters of the town at large, then the operation of such vote shall be further suspended pending its determination as hereinafter provided and the select board, within 10 days after the filing of the referendum petition, shall call a special meeting which shall be held within 14 days after issuing the call to present to the voters at large the measure so involved; provided, however, that the 14-day period shall not include Sundays and legal holidays or any day between the first Wednesday in July and the first Wednesday in September immediately following as no such special meetings shall be held between the first Wednesday in July and the first Wednesday in September.

All votes on any measure so submitted shall be taken by ballot and the measure so submitted shall be stated upon the ballot in the same language and form as the motion was adopted by the town meeting, as appearing in the records of the town meeting. The checklist shall be used in the same manner as in the election of town officers. If a majority of the registered voters of the town voting thereon and at least 20 per cent of all the registered voters shall vote in the negative, the action of the town meeting in passing the measure that was the subject of the referendum petition shall be null and void, otherwise it shall take effect immediately upon the declaration by the select board of the vote upon the referendum or at such later date as may be specified by the vote of the town meeting.

If a referendum petition is not filed within the 20-day period, the vote of the town meeting passing the measure shall become effective on the expiration of that period or at such later date as may be specified in the vote passing the measure.

**Section 14. Powers of Town and Town Meeting.** The town shall continue to have the capacity to act through and be bound by its town meeting members who shall, when convened from time to time as provided by law, constitute a representative town meeting and the representative town meeting shall exercise exclusively, in conformance with this charter, all powers vested in the municipal corporation. Actions in conformance with laws that are now or hereafter applicable to the transaction of town affairs in town meetings shall, when taken by a town meeting in accordance with this charter, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as heretofore organized and conducted.

**Section 15. Certain Rights of the People not Abridged.** Nothing in this charter shall abridge the right of the inhabitants of the town to hold general meetings as that right is secured to them by the constitution of the commonwealth and nothing in this charter shall confer upon any representative town meeting of the town the power finally to commit the town to any measure affecting its municipal existence or changing its government without action taken thereon by the voters of the town at large, using the official ballot and check list therefor.

### PART 3.

#### TOWN OFFICERS

**Section 16. Select Board.** There shall be a select board for the town which shall consist of 5 members elected at each annual town election for 3-year terms. The select board shall continue to have and exercise all the powers and duties vested in select boards or boards of selectmen by the General Laws or by vote of the town, except as otherwise provided herein. For the purposes of this charter and the by-laws of the town, “selectmen” or “board of selectmen” shall mean select board. Members of the select board may be addressed as select board member, board member, selectwoman or selectman.

The select board shall have general authority to execute the civil defense laws within the town and to make any declaration of emergency as required by law.

**Section 17. School Committee.** There shall continue to be a school committee for the town which shall consist of 3, 5, 6, 7 or 9 members elected at each annual town election for terms of 3 years as the town may vote. The school committee shall have the powers, duties, responsibilities and functions vested in school committees by the General Laws and as delegated to it by the town which are not inconsistent with the General Laws. The school committee shall execute all laws pertaining to educational responsibilities assigned to the town and such further responsibilities as may be delegated to them by vote of the town.

**Section 18. Moderator.** A moderator shall be elected by ballot at the annual town election for a term of 3 years and shall serve as moderator of all town meetings, except as otherwise provided by law, and shall serve until a successor is elected and qualified. Nominations for and election of a moderator shall be as in the case of other elective town officers and any vacancy in the office may be filled by the town meeting members at a meeting held for that purpose. If a moderator is absent, a moderator pro tempore may be elected by the town meeting members.

**Section 19. Other Elected Officers.** The town, at its annual town meeting, shall in each year when the term of office of an incumbent expires and except when other provision is made by law, choose by ballot from its registered voters the following town officers for the following terms of office:

- (i) a town clerk for a term of at least 1 year;
- (ii) 3 or 5 park and recreation commissioners for 3-year terms as may be established by vote of the town;
- (iii) at least 1 constable for a 3-year term unless the town, by vote, provides that constables shall be appointed;
- (iv) 1, 3 or 5 assessors, but as nearly 1/3 of their number shall be elected or appointed annually, each to hold office for 3-years terms as provided by vote of the town;
- (v) 5 members of the board of health for 3-year terms;

- (vi) 5 to 9 planning board members elected pursuant to section 81A of chapter 41 of the General Laws as established by vote of the town;
- (vii) 7 trustees of the Needham Public Library, but as nearly one1/3 of their number shall be elected annually, each to hold office for 3-year terms as provided by vote of the town;
- (viii) 3 members of the Needham Housing Authority for 5year terms;
- (ix) 3 or 5 trustees of Memorial Park for 3-year terms as provided by vote of the town; and
- (x) any other officers as may be provided for by the General Laws or by vote of the town.

**Section 20. Appointed Officials.**

(a) The select board shall appoint and may remove a town manager or an acting town manager in accordance with section 20A.

(b) The select board shall appoint a town counsel, members of the board of appeals, election officers, registrars of voters, except the town clerk, members of the historic commission, conservation commission, commission on disabilities, the tenant member of the housing authority and, except as provided in section 19, all other boards, committees, and commissions for whom no other method of selection is provided in this charter or by-law.

(c) The town manager shall appoint, subject to the approval of the select board, a chief of the police department, a chief of the fire department, a director of public works, an assistant town manager/director of finance or a person performing such functions regardless of title and an assistant town manager/personnel director or a person performing such functions regardless of title. Appointments made by the town manager shall become effective upon the approval of the select board. If the select board shall fail to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment was filed with the select board; provided, however, that notice of appointment shall be considered filed with the select board when the notice is filed at an open meeting of the select board.

(d) The town manager shall be the appointing authority for the following officials and employees of the town:

(i) the town accountant, a town treasurer/tax collector, a planning director, an administrative assessor, an inspector of buildings, a director of public health, a director of veterans' services, a director of park and recreation, a director of youth services, a director of management information systems, an executive director of the council on aging, a library director, a town engineer, a director of municipal building maintenance and a building construction and renovation manager or any persons performing such functions regardless of title; and

(ii) all other employees and officials of the town for whom no other method of selection is provided in this charter, except for employees of the school department and the executive secretary of the finance committee; provided, however, that the executive secretary of the finance committee shall be appointed by the finance committee.

(e) Any appointment by the town manager in accordance with clause (i) of subsection (d) shall be subject to the approval of the elected or appointed board or committee having jurisdiction over a department, if any. Appointments made by the town manager shall become effective upon the approval of the board or committee. If a board or committee fails to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment was filed with the board or committee; provided, however, that notice of appointment shall be considered filed with the board or committee when the notice is filed at an open meeting of the board or committee.

(f) A person appointed by the town manager under subsections (c) and (d) who is not subject to chapter 31 of the General Laws may be removed by the town manager; provided, however, that no removal shall be made of any officer in said subsection (c) without the approval of the select board; and provided further, that no removal shall be made of other employees or officers until the town manager consults with the elected or appointed boards or committees having jurisdiction over that employee's department, if any. Removal of officers pursuant to said subsection (c) shall become effective upon the approval of the select board. If the select board fails to act, removals made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed removal was filed with the select

board; provided, however, that notice of removal shall be considered filed with the select board when the notice is filed at an open meeting of the select board.

**Section 20A. Appointment and Removal of Town Manager.**

**(a) Appointment of Town Manager.**

(1) The select board shall appoint a town manager for a term of not more than 3 years. The town manager shall be a professionally qualified person of proven ability who has had substantial involvement with municipal government. The town manager shall be appropriately fitted by education, training and experience to perform the duties of the office; provided, however, that such experience shall have been full-time, paid experience in a responsible administrative position.

(2) Upon the expiration of the term of the town manager or upon the resignation or removal of the town manager or if a vacancy occurs in the office of town manager, the select board shall appoint an acting manager within 7 days after such expiration, resignation, removal or vacancy to perform the duties of the office and the acting manager shall serve until a successor is appointed and qualified in accordance with paragraph (1).

(3) The town manager shall be appointed without regard to party or political designation. The town manager shall be a citizen of the United States of America. No person holding elective public office in the town, except for town meeting member, shall, within 3 years of holding such elective public office, be eligible for appointment as town manager.

(4) The town manager shall not hold an elective public office during the town manager's tenure and shall not engage in any other business or occupation during such tenure, except for part-time consultative or teaching duties, directly related to the profession of municipal management and with the expressed consent of the select board. The town manager may be appointed for successive terms of office.

(5) Before entering upon the duties of the town manager's office, the town manager shall be sworn, in the presence of a majority of the select board, to the faithful and impartial performance of the town manager's duties by the town clerk or a justice of the peace.

**(b) Acting Town Manager.** The town manager may designate, subject to the approval of the select board, by means of a letter filed with the town clerk, a suitable person to perform the duties of the office during the town manager's temporary absence or disability. If the town manager fails to make the appointment or if the person so appointed fails to serve, the select board may appoint a suitable person to perform such duties. Upon a vacancy in the office of town manager or upon a suspension of the town manager, the select board shall, within 7 days after such vacancy or suspension, appoint an acting town manager to perform the duties of the office.

**(c) Removal of the Town Manager.** The select board may suspend or remove the town manager by the affirmative vote of a majority of the full membership of the select board.

**Section 20B. Powers and Duties of the Town Manager.** The town manager shall be the chief executive officer of the town. In addition to other powers and duties provided for in this charter, the town manager:

(i) shall supervise, either directly or through persons appointed by the town manager in accordance with this charter, all department managers, except the school department managers, and shall be responsible for the efficient administration of all departments, except the school department; provided, however, that the town manager shall not exercise any control over the discretionary power vested by law in any board, committee, commission or officer;

(ii) may, consistent with this charter, the General Laws and the town by-laws and with the approval of elected boards having jurisdiction over affected departments, where applicable, and with the approval of the select board after a public hearing held by the select board for such purpose, reorganize, consolidate or abolish departments under the town manager's supervision and establish such new departments as the town manager considers necessary and transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of 1 department to another;

(iii) shall have jurisdiction over the rental and use of all town property, except school property, and shall be responsible for the maintenance and repair of all town buildings, including school buildings and grounds; provided, however, that the town manager shall be responsible for the preparation of plans and the supervision of all work on existing and new buildings,

including the planning and work on school buildings, unless otherwise assigned by the town meeting to a permanent building committee; and provided further that any plans for the construction or improvement of school buildings or property shall be subject to the approval of the school committee;

(iv) shall be the purchasing agent for the town and shall award all contracts for all departments and activities of the town, except for the school department;

(v) shall adopt rules and regulations establishing a personnel system, subject to the approval of the select board and with the oversight of the personnel board as provided herein; provided, however, that such personnel system shall make use of modern concepts of personnel management and shall include, but not be limited to: (a) a method of administration; (b) personnel policies indicating the rights, obligations and benefits of employees; (c) a classification plan; (d) a compensation plan; (e) a method of recruiting and selecting employees based on merit principles; (f) a centralized record keeping system; (g) disciplinary and grievance procedures; (h) a professional development and training program; and (i) such other elements as deemed necessary; provided further, that all town agencies and positions shall be subject to the rules and regulations adopted under this clause, excluding employees of the school department and as otherwise provided in chapter 150E of the General Laws; provided further, that personnel policies referenced in clause (b) or changes to such policies shall not be submitted to the select board without the prior review and approval of the personnel board; provided further, that classification or compensation plans referenced in clauses (c) and (d), or changes to such plans, shall not be submitted to the select board for approval until the town manager has submitted the plan or plan revision to the personnel board for review and comment and, if comments were made within 15 days after submission, the town manager has provided written response to any comments made by the personnel board; and provided further, that in all other aspects of the personnel system, the town manager shall confer with the personnel board.

(vi) shall fix the compensation of all town employees except, those under the jurisdiction of the school committee, within the limits established by appropriation and subject to chapter 150E of the General Laws.

(vii) shall negotiate and administer all collective bargaining agreements with employee organizations representing town employees, other than employees of the school department, pertaining to wages and other terms and conditions of employment in accordance with chapter 150E of the General Laws; provided, however, that such agreements, other than agreements with employee organizations representing school department employees, shall be subject to the approval of the select board; provided further, that subject to the approval of the select board, the town manager may employ special counsel to assist in the performance of the duties under this clause; and provided further, that the town manager or a designee shall participate in the deliberations of the school committee in collective bargaining with employee organizations representing school department employees as provided in said chapter 150E;

(viii) shall keep the records of the office of town manager and shall render, as often as may be required by the select board, a report of all operations during the period reported on;

(ix) shall keep the select board advised as to the needs of the town and shall recommend to the select board for adoption measures requiring action by the select board or by the town as considered necessary or expedient by the town manager;

(x) shall implement town meeting votes and shall report in writing annually to the town meeting on the status of prior town meeting votes on which implementation has not been completed, except matters related to the schools;

(xi) shall administer, either directly or through a person appointed by the town manager in accordance with this charter, all general and special laws applicable to the town, all by-laws and votes of the town and all rules and regulations made by the select board, except matters related to the schools;

(xii) shall report to the select board and the finance committee on the financial condition of the town;

(xiii) shall have access to all town books and papers for information necessary for the proper performance of the town manager's duties and may, without notice, cause the affairs of any department or activity under the town manager's control, or the conduct of any officer or employee thereof, to be examined;

(xiv) shall be accessible and available for consultation to the chairs of town boards, committees and commissions, whether appointed or elected, and shall make accessible and available to them such data and records of the town manager's office as may be requested in connection with their official duties; and

(xv) shall perform such other duties consistent with the town manager's office as may be required by the by-laws, by vote of the town or by vote of the select board.

The town manager shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws shall be submitted to the town manager. The approval of the warrant by the town manager or, in the town manager's absence, by the acting town manager shall be sufficient authority to authorize payment by the town treasurer but the select board shall approve all warrants in the event of the absence of the town manager or acting town manager or during a vacancy in the office of town manager.

When a payroll, bill or other claim against the town has been presented to the town manager, the town manager shall, if the matter appears to the town manager to be invalid, excessive in amount or otherwise contrary to the interests of the town, immediately investigate the facts and determine what, if any, payments shall be made. Pending the investigation and determination by the town manager, payment shall be withheld.

**Section 20C. Estimate of Capital Expenditures.** All boards, departments, committees, commissions and officers of the town shall annually, at the request of the town manager, submit to the town manager in writing a detailed estimate of the capital expenditures, as defined by by-law, required for the efficient and proper conduct of their respective departments and offices for the ensuing fiscal year and the ensuing 4-year period. The town manager, after consultation with the select board, shall submit to the select board in writing a careful, detailed estimate of the recommended capital expenditures for the aforesaid periods, showing specifically the amount necessary to be provided for each office, department and activity and a statement of the amounts required to meet the debt service requirements or other indebtedness of the town. The select board shall transmit a copy of the capital budget to the finance committee along with the select board's recommendations relative thereto. The calendar dates on or before which the capital budget is to be submitted and transmitted shall be specified by by-law.

**Section 21. Other Boards, Committees and Commissions.** The following boards and committee shall continue to perform the duties and responsibilities assigned to them by the General Laws or by vote of the town:

- (i) a finance committee which shall consist of such number as shall be established by vote of the town;
- (ii) a personnel board;
- (iii) commissioners of trust funds; and
- (iv) such other boards, committees and commissions as provided for by the General Laws or by vote of the town.

#### PART 4.

#### PUBLIC WORKS

**Section 22. Select Board to be Board of Public Works.** The select board shall continue to be and shall exercise the functions of a board of public works and, in that capacity, shall exercise under the designation of select board all of the powers and duties vested by law in the following boards and offices: (i) highway surveyors; (ii) water commissioners; (iii) sewer commissioners; and (iv) tree wardens; provided, however, that such boards and commission shall be abolished on the effective date of this act. The select board, acting as the board of public works, shall be the lawful successor of the boards and offices abolished by this section.

**Section 23. Director of Public Works.** The town manager shall appoint a director of public works who shall administer, under the supervision of the town manager, the departments of the town under the control of the select board as they may designate. The director shall be responsible for the efficient administration of all departments within the scope of the director's duties and shall hold office subject to the will of the town manager, consistent with subsection (c) of section 20. The director shall be especially fitted by education, training and experience to perform the duties of the office and shall not be required to be a resident of the town. During the director's tenure, the director shall not hold elective public office or another appointive public office and the director shall not be engaged in any other business or occupation. The director shall, subject to the approval of the town manager, appoint such assistants, agents and employees as the performance of the duties of the departments under the director's supervision may require and may, with like approval, remove any such



assistant, agent or employee. The director shall keep records of the doings of the office and shall have charge of and shall preserve, arrange and index so as to be readily accessible to the public all plans, surveys, field notes, records, documents and inventories connected with the engineering operations of the town. The director shall deliver to the town manager, as often as the town manager may require, a report of all operations under the director's control during the period reported upon and shall, annually and at such other times as the town manager may request, make a synopsis of all the reports for publication. The director shall keep the town manager fully advised of the needs of the town within the scope of the director's duties and shall furnish to the town manager a carefully prepared and detailed written estimate of the appropriations required during the ensuing fiscal year for the proper conduct of all departments of the town under the director's supervision.

**Section 24. Laying Out, and Maintenance of Drains, etc.** The town may lay out, construct, maintain and operate a system of main drains and common sewers for all or part of its territory, with such connections and other works as may be required for a system of sewage disposal. For such purpose, the town may construct such sewers or drains over and under land in the town as may be necessary to conduct the sewage to the south metropolitan sewerage system and, for the purpose of providing better surface or other drainage, may make, lay and maintain such drains as it seems best. The town may, within its limits, make and maintain subdrains and, with the approval of the commonwealth's department of public health, discharge the water into any brook, stream or watercourse within the town. The town may make and maintain within its limits in any way where main drains or common sewers are constructed such connecting drains, underdrains and sewers within the limits of such way as may be necessary to connect any estate which abuts upon such way.

**Section 25. Particular Sewers.** The town, through its select board acting as the board of public works, may upon the application of the owner of any estate abutting on any way where a main drain or common sewer is constructed, lay in such sewered way and in the private land of such owner such particular sewer or connecting drain as may be necessary to connect any building on such estate with that main drain or sewer and the town manager may make all necessary contracts in the name and behalf of the town for such purpose. The expenses thereof shall be paid out of any appropriation that may be made by the town therefor.

**Section 26. Exercise of Eminent Domain, etc., for Sewer and Drain Purposes.** The select board, as the board of public works acting for and on behalf of the town, may take by eminent domain under chapter 79 of the General Laws or acquire by purchase or otherwise any lands, water rights, rights of way or easements, public or private, in the town, necessary for accomplishing any purposes referenced in sections 24 to 31, inclusive, and may construct such main drains and sewers under or over any bridge, railroad, railway, boulevard or other public way or within the location of any railroad and may enter upon and dig up any private land or public way for the purpose of laying such drains and sewers and for maintaining and repairing the same and may do any other thing proper or necessary for the purposes of said sections 24 to 31, inclusive; provided, however, that the select board shall not take in fee any land of a railroad corporation and shall not enter upon or construct any drain or sewer within the location of any railroad corporation except at such time and in such manner as the select board and the corporation may agree or, in case of a failure to agree, as may be approved by the department of public utilities. Any person injured in their property by an action of the select board under this section may recover damages from the town under said chapter 79.

**Section 27. Apportionment of Costs of Sewage Disposal.** The town shall, by vote of its town meeting, determine what proportion of the cost of any system of sewerage and sewage disposal the town shall pay; provided, however, that it shall pay not less than  $\frac{1}{4}$  and not more than  $\frac{2}{3}$  of the whole cost. In providing for the payment of the remaining portion of the cost of a system or for the use of a system, the town may avail itself of any of the methods authorized by the General Laws and any General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon shall apply to assessments made hereunder. At the same meeting at which it determines the proportion of the cost to be borne by the town, the town meeting may by vote determine which methods the remaining portion of the cost shall be provided for. The collector of taxes of the town shall certify the payments of such assessments or apportionments thereof to the select board and the select board shall preserve a record thereof.

**Section 28. Assessment of Sewer Betterment.** The cost of constructing each particular sewer or connecting drain described in section 25 shall be assessed by the select board upon the estate benefited thereby. Such assessments shall be made by filing with the collector of taxes of the town a certificate, designating the way and the private land on which the particular sewer or connecting drain has been constructed and by giving the names of any owners of the estate for which such connection has been made and the amount of the assessment to be paid by each such owner. A copy or duplicate of the certificate shall, within 10 days after the filing of the same with the collector of taxes, be recorded in the Norfolk county registry of deeds or, in the case of registered land, in the office of the assistant recorder for the Norfolk county registry of

deeds. The collector of taxes shall, upon receipt of such certificate, make a written demand for the payment of such assessment or charge and each owner shall, within 3 months after such demand was served upon the owner or occupant of the estate or sent by mail to the last address of the owner known to the collector of taxes, pay to the collector of taxes the sum so assessed or charged. Except as provided in this paragraph, the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon shall apply to assessments made under this section. In applying such provisions to assessments, the notice referred to in this section shall be deemed to be the demand of the tax collector required thereunder. The lien for any assessment made under this section shall attach upon the recording or filing for registration of the copy of duplicate of the certificate of assessment. In the apportionment of such assessments thereunder, no installment shall be less than \$10.

**Section 29. Application of Sewer Receipts.** The receipts from sewer assessments and from payments made in lieu thereof shall be applied to the payment of charges and expenses incident to the maintenance and operation of the system of sewerage, or to the extension thereof, to the payment of interest upon bonds and notes issued for sewer purposes or to the payment or redemption of such bonds or notes.

**Section 30. Sewer Contracts.** All contracts made for the purposes of sections 24 to 31, inclusive, shall be made in the name of the town and shall be signed by the town manager. No contract shall be made and no obligation shall be incurred hereunder for the purposes of said sections 24 to 31, inclusive, in excess of the amount appropriated by the town therefor.

**Section 31. Sewer Regulations.** The select board, as the board of public works, may prescribe rules and regulations for the connection of estates and building with main drains and sewers and for the inspection of materials, construction, alteration and use of all connections and drains entering into any such main drains and sewers. The select board may prescribe penalties, which shall not exceed \$50, for each violation of any such rule or regulation. The rules and regulations shall be published at least once a week for 3 consecutive weeks in a newspaper published in the town; provided, however, that if there is no such publication, then the rules and regulations shall be published at least once a week for 3 consecutive weeks in a newspaper published in the county of Norfolk. No rules and regulations shall take effect until such publication has been made.

## PART 5.

### PARK, RECREATION AND CONSERVATION

**Section 32. Park and Recreation Commission.** There shall continue to be a park and recreation commission in the town which shall consist of such number of commissioners, who shall be elected for such terms as authorized by vote of the town pursuant to section 19. The park and recreation commission shall have the powers, duties and functions vested: (i) by the General Laws in boards of park commissioners, playground or recreation commissions and town forest committees; and (ii) in the commission by this charter or by vote of the town. The commission shall continue to have the management and care of the town forest, formerly managed by the special town forest committee.

**Section 33. Memorial Park.** The land known as the Memorial Park in the town of Needham shall continue to be under the jurisdiction of the Trustees of Memorial Park. The trustees shall continue to: (i) receive, hold and manage, with the approval of the town meeting, any devise, bequest or gift for the establishment or equipment of memorials for properly commemorating the service of members of the armed forces of the commonwealth and the armed forces of the United States; and (ii) maintain and operate, upon such portion of Memorial Park as they determine, an athletic field with suitable equipment and, in their discretion, to regulate its use for athletic games and other entertainment of a public nature, to which an admission fee may be charged upon such terms and conditions as the trustees may impose.

**Section 34. Conservation Commission.** There shall continue to be in the town a conservation commission of not less than 3 and not more than 7 members as determined by vote of the town. The conservation commission members shall be appointed by the select board for 3-year terms and the terms of office of approximately 1/3 of the members shall expire each year. The commission shall have the powers, duties and functions specified by section 8C of chapter 40 of the General Laws and such additional duties as may be assigned to it by vote of the town.

The conservation commission may receive gifts of both real and personal property in the name of the town, subject to the approval of the select board. The conservation commission may acquire by gift, purchase, grant, bequest, devise, lease or otherwise the fee in such land or water rights or any lesser interest, development right, easement, covenant or other

contractual right, including conveyances on conditions or with limitations or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open space and other land and water areas within the town and shall manage and control the same. The conservation commission may adopt rules and regulations governing the use of land and waters under its control and may prescribe fines of not more than \$100 for any violation thereof.

## PART 6.

### MUNICIPAL PLANNING

**Section 35. Planning Board.** There shall continue to be in the town a planning board which shall consist of not less than 5 and not more than 9 members who shall be elected or appointed as may be determined by vote of the town. The planning board members shall be elected or appointed for 5-year terms, so arranged such that the term of at least 1 member shall expire each year and their successors shall be elected or appointed in like manner.

**Section 36. Board of Appeals.** There shall continue to be a board of appeals established under section 14 of chapter 40A of the General Laws, which shall be the existing board of appeals under the town building by law and shall perform the duties of the board of appeals under section 81AA of chapter 41 of the General Laws. The board of appeals shall consist of 3 members who shall be appointed by the select board for 3 year terms so arranged that the term of 1 appointee shall expire each year. The select board shall, in a like manner, appoint 2 associate members.

The board of appeals shall have and shall exercise all of the powers and duties of boards of appeal under the zoning enabling act, the subdivision control law and the building by laws and such further powers and duties as may be granted to the board by vote of the town.

## PART 7.

### GENERAL PROVISIONS

**Section 37. Construction.** The provisions of this charter act shall be construed as if said act had been adopted by the procedure set forth in sections three and four of Article LXXXIX of the Amendments to the Constitution of the Commonwealth. The powers granted to the town of this charter act shall be liberally construed in order to give full effect to the powers specifically granted herein. The provisions of this charter act as originally adopted shall be construed as a continuation of the provisions of the existing law in effect at the time of its adoption unless the contrary is clearly required by the context thereof.

**Section 38. Severability.** The provisions of this charter act are severable. If any of the provisions of this charter act are held to be unconstitutional, or invalid, the remaining provisions of said act shall not be affected thereby. If the application of this charter act or any of its provisions to any person or circumstances is held to be invalid, the application of said act and its provisions to other persons or circumstances shall not be affected thereby.

**Section 39. Repeal of Certain Acts.** Chapter seventy-three of the acts of nineteen hundred and twenty-three, chapter four hundred and fifty-four of the acts of nineteen hundred and twenty-four, chapter one hundred and eighty-nine of the acts of nineteen hundred and thirty-two, chapter twenty-nine of the acts of nineteen hundred and thirty-four, chapter sixty-eight of the acts of nineteen hundred and thirty-seven, chapter thirty of the acts of nineteen hundred and fifty, chapter twenty-one of the acts of nineteen hundred and fifty-five, chapter seventy-four of the acts of nineteen hundred and fifty-five, chapter three hundred and fifty-nine of the acts of nineteen hundred and fifty-six, chapter three hundred and sixty-eight of the acts of nineteen hundred and fifty-six, chapter eighty-four of the acts of nineteen hundred and fifty-nine and chapter one hundred and forty of the acts of nineteen hundred and sixty-five are hereby repealed.

**Section 40. Existing Law.** All general laws, and all special laws, town by-laws, rules and regulations of or pertaining to the town which are in force when this charter act takes full effect, and which are not specifically repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation. Nothing in this charter act shall affect or impair the rights or privileges of persons who are town officials or employees at the time it takes effect or derogate from the protection afforded to them by the civil service law, laws relating

to veterans' tenure, or chapter thirty-two of the General Laws. Nothing contained herein shall impair any existing contractual rights established prior to the adoption of this charter act or any amendment thereto.

**Section 41. Effective Date.** Sections forty-one and forty-two of this act shall take effect upon the passage of this act. Section one to forty, inclusive, of this act shall become effective on the first day of April immediately following the next town election specified in section forty-two if a majority of the voters of the town voting thereon at such election have voted in favor of its adoption. Any amendment or revision adopted subsequent to said date shall become effective upon the date specified in such amendment or revision.

**Section 42. Submission of Act to Voters.** This charter act shall be submitted for acceptance to the registered voters of the town of Needham at the town election next held following the passage of this charter act. The vote shall be taken by ballot in accordance with the provisions of the General Laws, so far as the same shall be applicable, in answer to the following question which shall be placed upon the official ballot to be used in said town at said election: -- "Shall an act passed by the General Court in the year nineteen hundred and seventy-one, entitled 'An Act recodifying the existing laws establishing the frame of government of the town of Needham into a special home rule charter act', be accepted?".

Upon its acceptance by a majority of the registered voters of said town voting thereon at said town election, as aforesaid, this charter act shall take effect in the town of Needham on the first day of April immediately following said election, as herein provided, but not otherwise.

*Approved June 14, 1971.*

*Amended 1973, 1974, 1975, 1976, 2000.*

And further amended by Chapter 176 of the Acts of 2004

(Section 6 and 7 of Chapter 176 of the Acts of 2004 shall take effect upon its passage.

Section 1 to 5, inclusive, shall take effect 185 days following acceptance by a majority of the registered voters of the town which was so passed on November 2, 2004)

And further amended by Chapter 341 of the Acts of 2018 (signed by the Governor on 1/1/2019).