

1.0 ADMINISTRATIVE BYLAWS

1.1 GENERAL PROVISIONS

- 1.1.1 The following Bylaws shall regulate the administration of the affairs of the Town of Bolton, Massachusetts.
- 1.1.2 Any of the Bylaws under 1.0 may be repealed or amended or other Bylaws may be adopted by a majority vote, at any town meeting, an article or articles for that purpose having been inserted in the warrant for such meeting.
- 1.1.3 The Selectmen shall publish the Bylaws of the town at least once every five years.
- 1.1.4 Whoever violates any of the provisions of these Bylaws whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine of not more than Twenty Dollars (\$20.00) for each offense. Each day of violation shall constitute a separate offense.
- 1.1.5 The preceding sections notwithstanding, any person violating the provisions of any section of these bylaws which is subject to a specific penalty may be penalized by a non-criminal disposition as provided in M.G.L. Chapter 40 s 21D which includes the giving, to the violator, a written notice to appear before the clerk of the district court. The non-criminal method of disposition may also be used for violations of any rules or regulations of any town officer, board or department which is subject to a specific penalty. Without intending to limit the foregoing, the following bylaws, rules and regulations are to be included within the scope of this section, the specific penalties listed shall apply and in addition to police officers, who in all cases shall be enforcing officers, the Town personnel listed shall also be enforcing officers:

a) General Protective and Regulating Provisions of Section 1.9

Penalty: \$20.00 a day

Enforcing Officer:

Section 1.9.2	(hawkers and peddlers) - Police Department
Section 1.9.3	(junk dealers) - Police Department
Section 1.9.5	(tethering to a tree) - Director of Public Works
Section 1.9.7	(lumber piles) - Director of Public Works
Section 1.9.8	(digging in highway) - Director of Public Works
Section 1.9.10	(unregistered motor vehicle) - Police Department
Section 1.9.13	(town beach) - Police Department
Section 1.9.14	(motorized recreation vehicle) - Police Department
Section 1.9.19	(hunting and trapping) – Police Department

- b) Removal of Soil, Loam, Sand and Gravel Bylaw (Section 1.10)
Penalty: \$50.00 a day
Enforcing Officer: Board of Selectmen
- c) Protection of Groundwater Bylaw (Section 1.11)
Penalty: \$50.00 a day
Enforcing Officer: Board of Health
- d) Street Numbering Bylaw (Section 1.13)
Penalty: \$10.00 a day
Enforcing Officer: Police Department
- e) Violation of any provision of the Zoning Bylaws
Penalty: \$50.00 a day
Enforcing Officer: Board of Selectmen
- f) Violation of any condition of a Special Permit of Variance
granted pursuant to the Zoning Bylaw or M.G.L. Chapter 40A.
Penalty: \$50.00 a day
Enforcing Officer: Board of Selectmen
- g) Discharge of Snow or ice onto Public Ways (Section 1.19)
Penalty: \$100
Enforcing Officer: Police Department
- h) Violation of Wetland Bylaw (Section 1.18)
Penalty: \$300.00 for each offense, each day of violation shall be a separate offense.
Enforcing Officers: Conservation Commission and Agent

1.1.6 Providing Holdover Status for Elected Officials Other Than Members of the Board of Selectmen as follows:

TOWN OF BOLTON
HOME RULE BYLAW

WHEREAS, the Town Meeting is the Town of Bolton legislative body, and under Article LXXXIX of the amendments to the Constitution of the Commonwealth of Massachusetts (The Home Rule Amendment), the Town Meeting has the power to adopt legislation affecting the internal affairs of the Town; and

WHEREAS, the Town wishes to adopt legislation to allow it to provide “holdover” status to all elected Town officers, except to members of the Board of Selectmen, whose term of office terminates as a result of such officer’s physical relocation of his

or her residence from the Town of Bolton to another municipality;

NOW, THEREFORE, the Town adopts the following bylaw pursuant to The Home Rule Amendment by amending Article 1.0 (Administrative Bylaws), Section 1.1 (General Provisions), by adding the following subsection 1.1.6, Holdover Status for Elected Officials Other Than Members of the Board of Selectmen, as follows:

1. In the event an individual holding an elected office in the Town, other than a member of the Board of Selectmen, ceases to be a resident of the Town of Bolton, the individual may remain in the elected office as a holdover until the Board of Selectmen, in a written document signed by the members of the Board of Selectmen, or by a majority of the members of said Board, and filed with the Town Clerk's office, appoint a temporary officer to hold the elected office and exercise the powers and perform the duties of that office until another individual is duly elected or appointed and qualifies under the law. In no case, however, shall an individual remain as a holdover in the elected office for more than ninety (90) days. This Section shall not apply to any member of the Board of Selectmen.
2. Within 10 days after his/her appointment, any temporary officer must be sworn and shall post a bond, if required, for the faithful performance of his/her duties. Failure to do so will result in a rescission of the appointment.

1.2 TOWN MEETINGS AND WARRANTS

- 1.2.1 The Annual Town Meeting for the transaction of business shall be on the first Monday in May at a time to be determined by the Board of Selectmen. The election of officers shall take place on the second Monday in May and commence at 12:01 p.m. and close at 8:00 p.m. of that day.
- 1.2.2 The Annual Town Meeting shall, unless a different time or method is prescribed by law, be called by posting an attested copy of the warrant, calling the same, at the Town Hall, at the Post Office and at two other public places in the Town seven days, at least, before the day appointed for said meeting, and by mailing a copy of the warrant to each household where one or more registered voters resides.

A Special Town Meeting shall, unless a different time or method is prescribed by law, be called by posting an attested copy of the warrant, calling the same, at the Town Hall, at the Post Office and at two other public places in the town fourteen days, at least, before the day appointed for said meeting, and by mailing a copy of the warrant to each household where one or more registered voters resides.

1.2.3 The presence of seventy-five (75) registered voters at a town meeting for the transaction of business shall be required to constitute a quorum except for a motion to adjourn for which no quorum shall be required.

1.2.4 When an article requiring an appropriation of money is presented in the warrant for a town meeting, said article must contain the request for the appropriation.

For all matters requiring a two thirds vote under Chapter 39, Section 15 of the Mass General Laws, a count need not be taken unless the vote so declared is immediately questioned by seven or more voters.

1.2.5 The Moderator shall have the power to require persons who are not registered voters to identify themselves and leave the floor of the hall when he shall deem this action necessary.

1.2.6 Articles for the warrant shall be acted upon in the order in which they stand, except that the Moderator may upon request and for reasons stated entertain the motion to take up an article out of this regular order.

1.2.7 No motion, the effect of which would be to dissolve a town meeting, shall be in order until every article in the warrant has been acted upon, but this shall not preclude the postponement of action on, or consideration of, any article to an adjournment of the meeting to a stated time.

When a question is before the meeting, the following motions, namely: to adjourn; to lay on the table; for the previous question; to postpone to a stated time; to commit, recommit or refer; to amend; to postpone indefinitely; shall be received and shall have precedence in the foregoing orders, and the first three shall be decided without debate.

No article in the warrant shall be again taken into consideration after having been disposed of unless ordered by a vote of two-thirds of the voters present and voting.

1.2.8 The Moderator may decline to put motions obviously frivolous or tending to disorder. A motion shall be presented in writing if the Moderator requests. The Moderator shall be governed in his rulings by these articles.

1.2.9 All committees unless otherwise specially directed by the meeting shall be appointed by the Moderator except as otherwise provided by law and all committees so appointed shall be directed to report within a definite time. If a committee does not report within the time stated, or at the first Annual Town Meeting thereafter, it shall be considered discharged. The Moderator shall not be a member of any committee appointed by him.

- 1.2.10 It shall be the duty of the appointing body promptly after every town meeting to notify all members of committees who shall be selected or appointed at such meeting.
- 1.3 ADVISORY COMMITTEE
- 1.3.1 The Advisory Committee shall consist of six citizens of the Town, which committee shall be appointed as provided in the following section, and no person holding an elective or appointive town office shall be eligible to serve on said committee.
- 1.3.2 The Moderator, Town Clerk and Chairman of the Board of Selectmen shall constitute the appointing committee, who shall, within 30 days of each annual meeting for the election of officers appoint from the citizens of the Town two members to serve for the term of three years. The terms of office of said members shall expire June 30. Said committee shall choose its own officers, and shall serve without pay excepting, however, the secretary thereof, who may receive such compensation as the Town may by vote provide. Said committee shall cause to be kept a true record of its proceedings.
- 1.3.3 To the Advisory Committee shall be referred for recommendations all articles in any warrant for a town meeting hereafter issued. It shall be the duty of the Board of Selectmen after drawing any warrant for a town meeting, to transmit immediately a copy thereof to the Chairman of the Advisory Committee, and said committee shall consider such articles. A public hearing on said articles may be held at the discretion of said committee, unless a public hearing by some other tribunal is required by law, and a notice of such hearing shall be given by posting a copy thereof in at least three public places in town. After due consideration of the subject matter in such articles, said committee shall report thereon, in print or otherwise, such information and recommendations as it shall deem best. All recommendations of the committee made to the Town shall be recommendations of a majority of the committee. In case of disagreement, all reports shall be reported back to the Town without recommendation. To the Advisory Committee shall also be referred the disposition of all tangible supplies and property, not including real property, the value of which exceeds \$1,000. The Advisory Committee shall dispose of all such supplies and property in compliance with applicable procurement requirements. The agency possessing tangible supplies and property, not including real property, the value of which is \$1,000 or less shall dispose of such supplies and property using sound business principals.
- 1.3.4 It shall be the duty of the Advisory Committee to consider the annual estimates and expenditures as prepared by the various town officers, boards, and committees charged with the expenditure of the Town's money, and add another column to the prepared statement giving the amount which in its opinion shall be appropriated for the ensuing year, and add thereto such explanations and suggestions in relation to the proposed appropriations as it may deem expedient, and report thereon, as provided in 1.3.3.

The Selectmen shall include in their estimates, separately, the salaries of all officers elected directly by the Town, and all other items not otherwise provided for, and the salaries of all other persons shall be included in the estimates of officers, boards, or committees appointing them. The Treasurer shall include in his estimates the amount required for the payment of interest on the town debt and for the payment of such portions of the town debt as may become due during the succeeding year. Said estimates and explanations shall be filed with the Advisory Committee on or before the fifteenth day of January.

- 1.3.5 Whenever any vacancy shall occur in said committee - by resignation, removal from town, death, failing to qualify, or otherwise - said vacancy shall be filled by said committee. And if any member is absent from five consecutive meetings of said committee, except in case of illness, said committee shall consider the position vacant and proceed to fill the same. The term of office of all persons chosen as aforesaid, to fill vacancies, shall expire on June 30, succeeding such vacancy and a successor shall be appointed to fill out the unexpired term of each member whose office has been so vacated, in the same manner as the original appointment.
- 1.3.6 It shall be the duty of said committee to make an annual report of its doings, with recommendations relative to financial matters, to be printed with the annual reports of the other town officers.
- 1.4 LEGAL AFFAIRS
 - 1.4.1 The Selectmen shall have the general direction and management of the property and affairs of the Town in all matters not otherwise provided for by law or by these Bylaws.
 - 1.4.2 The Selectmen together with two other citizens of the Town neither of whom shall hold an elective town office, shall constitute a Law Committee. The two members holding no elective office so serving with the Selectmen shall be appointed annually by the Moderator. This committee, except as otherwise provided by law or vote of the Town, shall have full and exclusive authority as agents of the Town to engage counsel, to institute, prosecute, defend, compromise and settle all claims, suits and actions brought by or against the Town or protect the Town with liability insurance from any or all claims, provided, however, that no claim or action against the Town, unless reduced to the form of an execution or decree of Court shall, except in cases which are covered by liability insurance, be compromised or settled by the payment of any amount in excess of Two Hundred Dollars (\$200.00) without a special vote of the Town.
 - 1.4.3 It shall be the duty of the Law Committee to notify the citizens of the Town by posting in four public places as soon as possible notice of the fact that an action at

law or suit in equity has been brought against the inhabitants of the Town, when the amount of the action or suit is Five Hundred Dollars (\$500.00) or more.

- 1.4.4 All conveyances of land or interests in land which may hereafter be authorized by vote of the Town, or otherwise, except land held under tax titles, shall be signed by a majority of the Board of Selectmen unless otherwise provided by law, or these Bylaws or by special vote of the Town, and the same shall be sealed with the town seal.
- 1.4.5 The Law Committee in their annual report shall state what actions have been brought against or on behalf of the Town, what cases have compromised or settled and the terms thereof, and the current standing of all suits of law involving the Town or any of its interests, and they shall give a summary of their activities and decisions during the past year.

1.5 FINANCIAL AFFAIRS

- 1.5.1 The Town Treasurer shall prescribe the methods of accounting and the forms to be used by the several officers, boards and committees of the Town pertaining to their receipts and disbursements, and shall provide that such methods and forms shall conform to the requirements prescribed by law or by any rules or regulations made thereon.

1.6 PURCHASING AND CONTRACTS

- 1.6.1 All procurement, for which appropriations have been made or monies otherwise legally provided, shall be made in compliance with MGL, c. 30B, the Uniform Procurement Act; MGL c. 7, ss. 38A ½-38O, Design Services; MGL c. 149, ss. 44A-44J, Public Building Construction; MGL c. 30, ss. 39A-40A, Public Works Construction; and all other relevant laws, as they may be amended from time to time. It shall be the responsibility of each department and designated committee to determine if funds are available before making commitments.

Each expenditure shall be approved by the head of the department or a majority of the committee having control. Bills presented by vendors for services shall be approved and signed by a majority of the department officers or committee responsible and also by a majority of the Board of Selectmen. Bills shall then be passed to the Town Treasurer for payment.

It shall be the responsibility of each department or committee to keep total expenditures within monies legally available. The Town Treasurer shall pay only up to the total amount authorized for the designated purpose or department or committee requirements.

- 1.6.2 Deleted April 9, 2001, Article 2

- 1.6.3 Deleted April 9, 2001, Article 2
- 1.6.4 Any person or firm requiring the services of the Tree Warden and/or Moth Superintendent shall pay for services at an hourly rate equal to the hourly rate of the General Foreman of the Forestry Division Department of Public Works. Said compensation shall be paid directly to said Tree Warden and/or Moth Superintendent.
- 1.7 RECORDS AND REPORTS
- 1.7.1 All officers, boards and committees of the Town shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the Town, and shall not be removed therefrom. Said books, shall unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under supervision of the officer, board or committee having custody thereof.
- 1.7.1.1 All boards, committees, commissions of the Town, elected or appointed, shall compile and maintain minutes of all posted and emergency meetings and shall file a copy of said minutes with the Town Clerk within one week of approval. Minutes of executive sessions need not be filed with the Town Clerk until such time as the reason for the session is no longer valid.
- 1.7.2 All officers, boards and standing committees, and special committees of the Town having charge of the expenditure of town money shall annually report thereon in writing so as to give the citizens a fair and full understanding of the objects and methods of such expenditures, referring, however, to the report of the Town Treasurer for statements in detail of receipts and payments, and may make therein such recommendations as they deem proper. Such reports shall be submitted to the Selectmen for inclusion in the Annual Town Report on or before the 10th day of January of each year. All reports shall be signed by at least a majority of the board. The Selectmen shall cause these reports, together with a list of town officers and other matter usually published, to be printed and placed in the hands of the Town Clerk, ready for distribution, two months, at least, before Annual Town Meeting in May.
- 1.7.3 The Annual Town Report shall contain, in addition to the reports of officers, boards and committees as herein before provided, a detailed report of all monies received into and paid out of the town treasury in the year next preceding, showing separately payments made from the proceeds of loans as capital outlays for permanent improvements, the report of the Collector of Taxes, of receipts, payments and statements; statements of all funds belonging to the Town or held for the benefit of its inhabitants; a statement of the liabilities of the Town on bonds, notes, certificates of indebtedness authorized but not incurred, and the purposes thereof; a statement of

transfers made to or from any appropriation; abstracts of the records of the meetings of the Town held since the publication of the last annual report; and such other matters as the said report is required by law to contain, or as may be inserted by the Selectmen under the discretion granted by law.

- 1.7.4 The several boards of town officers shall file with the Board of Selectmen at the end of each calendar year a schedule of all property in their charge. These schedules shall be open to public inspection.
- 1.7.5 The Selectmen, or the Town may direct that the Assessors' valuation list, the Bylaws and standing votes of the town and the rules and regulations adopted by any officer, board or committee, be printed either separately or as a part of the annual report.
- 1.7.6 The Town Clerk shall conduct an annual census.

1.8 CEMETERIES

- 1.8.1 The Town of Bolton will accept from any person any sum of money not less than One Hundred Dollars (\$100.00), the interest whereof shall be applied to the care and repair of such lot or lots in the public burial ground of the Town as the person depositing the money shall designate, in accordance with Section 25 of Chapter 114 of the General Laws (Ter. Ed.).
- 1.8.2 All such money shall be deposited by the Town Treasurer to the credit of the burial fund. The Treasurer shall keep the account of burial lot fund in a book showing the date of each deposit, the amount deposited, the name of the depositor, the name of the cemetery containing the lot and the number of the lot.

- 1.8.3 The treasurer shall give the depositor a receipt in the following form:

Date _____
This certifies that _____ has deposited with me the sum of _____ Dollars, the interest of which is to be forever applied in accordance with the provisions of Section 25, Chapter 114, General Laws (Ter. Ed.), for the care of lot number _____ on the plan of the _____ Cemetery.
Treasurer, Town of Bolton

- 1.8.4 The Cemetery Committee shall not be required to expend the interest on each deposit annually but may, at its discretion, allow it to accumulate in order to do more satisfactory work.
- 1.8.5 Lots in the cemeteries shall be free to inhabitants of the Town of Bolton.

- 1.8.6 The assignment of lots shall convey only the right of burial. The Title to all lots shall be vested in the Town.
- 1.8.7 No lots shall be graded, nor shrubbery or trees planted, nor monuments erected, in any cemetery, except with the approval of the Cemetery Committee.
- 1.8.8 Any grave opened in Bolton cemeteries shall be paid for at the rate of no less than \$150.00 for regular hours. The rate for overtime or weekends shall be no less than \$250.00 and holiday hours shall be no less than \$500.00.

Winter burial shall be at the discretion of the Cemetery Committee and if done with extra equipment (i.e. compressor, plowing, sanding) shall be paid for by the deceased's account.

This money to revert to the Town Treasury and shall be used in accordance with Sections 15 and 25 of Chapter 114 of the General Laws (Ter.Ed.).

- 1.8.9 Within thirty (30) days after the closing of a grave a flush marker shall be placed on such grave under the direction of the Cemetery Committee.

1.9 PROTECTIVE AND REGULATING PROVISIONS

1.9.1 DOG AND KENNEL BYLAW

- 1.9.1.1 The Town of Bolton adopts this Dog and Kennel Bylaw in accordance with, and to conform with, Sections 136A through 174D of Chapter 140 of the Massachusetts General Laws.

- 1.9.1.2 For the purposes of this Section 1.9

“**Kennel**” shall be defined as one (1) pack or collection of more than three (3) dogs six (6) months old or older on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes.

“**At Large**” shall be defined as any dog off the premises of its owner or keeper, and not under the direct control of a person demonstrating the ability to properly control the dog.

- 1.9.1.3 At no time shall a person owning or keeping a dog in the Town allow such dog to be unlicensed, uncollared, untagged, or to become a “public nuisance” to others within the Town Limits. A dog shall be deemed a “public nuisance” for, but not limited to, the follow reasons:

- attacking or chasing persons or domestic animals
- damaging property of others beyond its owner/keepers property
- interfering with or disrupting organized school or public activities
- interfering with the use of a public right-of-way
- chasing moving vehicles

- exhibiting a vicious disposition
- barking or howling excessively resulting in complaints to the Police or Animal Control Officer
- running at large
- creating other disturbance

- 1.9.1.4 Every person owning or keeping a dog that is six (6) months old or older shall obtain a dog license from the Town Clerk, and every person maintaining a kennel shall obtain a kennel license from the Town Clerk, as required by Section 137 and 137A of Chapter 140 of the Massachusetts General Laws. Every such dog and kennel license shall be valid for one year beginning on April first and ending on March thirty-first. Each license shall contain the name, address, and telephone number of the owner or keeper of the dog, and such other information as the Town Clerk deems appropriate; in addition, each kennel license shall include the number of dogs maintained in the kennel. Each license shall be issued upon the condition that the owner or keeper shall comply with the provisions of this bylaw and any law, rule, or regulation relating to the ownership and control of dogs.
- 1.9.1.5 As allowed by Section 173 of Chapter 140 of the Massachusetts General Laws, all owners or keepers of dogs kept in the Town of Bolton, who on the first day of May of each year have not licensed said dog or dogs as prescribed by Section 137 and 137A of Chapter 140 of the Massachusetts General Laws, and this bylaw, shall be required to pay an additional fee of twenty-five (\$25.00), payable to the Town of Bolton. If still unlicensed, uncollared, and untagged after June 1st the Board of Selectmen shall, by June 11th, issue a warrant directing the Animal Control Officer to seek out, catch, and confine all such dogs; and to enter and prosecute a complaint in district court against the owners or keepers, if known, of said dogs, in accordance with said Chapter 140, Section 151A.
- 1.9.1.6 Every holder of a kennel license shall maintain the kennel in a sanitary and humane manner, and shall keep a record of all dogs kept in the kennel, including their license numbers.
- 1.9.1.7 The Board of Selectmen, the Chief of Police, or the Animal Control Officer, or their designees, may at any time inspect, or cause to be inspected, any kennel licensed under these kennel provisions, and if, in their judgment, the kennel is not being maintained in a sanitary or humane manner, or if records are not properly kept as required by this bylaw or other applicable law, or if the kennel is in violation of any provision of this Section 1.9.1, the Board of Selectmen shall by order revoke or suspend, and, in the case of suspension, may reinstate, such license.
- 1.9.1.8 Deleted May 5, 2008, Article 10
- 1.9.1.9 Violations of Section 1.9.1 and Section 1.9.4 or Massachusetts General Laws Chapter 140, Section 136A through 174D shall be subject to impoundment of the

animal by the Animal Control Officer, and/or a fine upon the owner or keeper of a dog or livestock so found to be at large, dangerous or a public nuisance; and/or by criminal or non-criminal disposition as provided in said Chapter 140, Sections 151A, 157, and 173A. Such fines shall not be more than twenty-five dollars (\$25.00) for the first offense, no more than fifty dollars (\$50.00) for the second offense and not more than the maximum allowed by law for subsequent offense(s). Any violation resulting in impoundment shall also require payment to the Town of Bolton of a pick-up fee of ten dollars (\$10), plus normal boarding fees.

- 1.9.2 No person shall hawk or peddle fish, fruit or vegetables within the limits of the Town, except as otherwise authorized by law, without obtaining a license therefore from the Selectmen upon payment of a fee at a rate to be set annually by the Selectmen.
- 1.9.3 No dealer in junk, old metals or second hand articles, shall collect or keep such articles in the Town of Bolton except as otherwise authorized by law, without a license from the Board of Selectmen. The Selectmen, after notice, and hearing, may revoke any such license for cause. The fee for such license shall be at a rate set annually by the Selectmen.
- 1.9.4 No livestock, including but not limited to horses, swine, sheep, goats, cattle, or llamas shall be allowed to run at large in any roadway of the Town.
- 1.9.5 No person shall tie a horse or other animal to any tree, nor to any structure protecting such tree, in the public streets of the Town.
- 1.9.6 (Moved to 2.4.2 on 6/12/78)
- 1.9.7 No person shall place or pile any wood, lumber or other material within the limits of the highway or sidewalks without a written permit from the Selectmen, and then only for a limited period.
- 1.9.8 No person except officers of the Town and their duly authorized agents in the lawful performance of their duties, shall break up or dig up the ground in any highway of the Town, or set up any post, pole, fence, tree, structure, or any other obstruction, without a written permit from the Selectmen.
- 1.9.9 Any project involving major construction and/or taking of public or private property shall be explained to the inhabitants of the town through a Public Hearing. Such Public Hearing shall be called by the Selectmen by posting notices thereof in three public places including the outside of the Town Hall at least seven days before the time of said hearing.
- 1.9.10 Unregistered motor vehicles which are unfit for use, permanently disabled, or have been dismantled or are otherwise inoperative, shall not be stored, parked, or placed upon any land in the Town unless the same shall be within a building or in an area

unexposed to the view of the public or abutters or are in an area properly approved for the keeping of the same by licensed junk dealers or automobile dealers.

- 1.9.11 The penalty for violation of the provisions of this Article shall not be less than Ten Dollars (\$10.00) nor more than Twenty Dollars (\$20.00) for each offense. Each day that each violation continues shall constitute a separate offense.
- 1.9.12 (Moved to 2.5.2.2 on 6/12/78)
- 1.9.13 The Selectmen shall from time to time establish regulations as necessary to insure safe and proper operation and conduct at the Town Beach, such regulations to be enforced by the Police Department and failure to comply shall be subject to fines under this Division.
- 1.9.14 No person shall use or operate a motorized recreation vehicle including motorcycles, trail bikes, minibikes, snow vehicles, all-terrain vehicles, and similar types, on public or private property, within the confines of the Town of Bolton, except with the consent of the owner thereof or his duly authorized representative. In the case of public land, consent shall be obtained from the appropriate Town Board.
- 1.9.15 The practice of going in and upon private residences of the town by commercial agents, selling agents, solicitors and canvassers, transient vendors and itinerant merchants for the purpose of soliciting orders for services or for the sale of goods, wares, and merchandise by means of samples, lists, catalogues or otherwise, without having been requested or invited to do so by the owner or occupant of said private residences, is prohibited and hereby declared a nuisance.

The provisions of this Bylaw shall not apply to officers or employees of the Town, County, State or Federal governments; hawkers and peddlers registered by the State and the Town under appropriate laws and regulations, candidates for public office or political parties recognized by the Commonwealth; religious organizations for the purpose of spreading the teachings of their religious beliefs, but not for the purpose of selling or soliciting; and nonprofit, charitable organizations upon registration by the President or Treasurer with the Chief of Police. Such registrations must be renewed yearly.

- 1.9.16 Gas Inspector
The Board of Selectmen shall appoint each year an Inspector of Gas Piping and Gas Appliances whose duty shall be the enforcement of the rules and regulations adopted by the board established under Section 12H of Chapter 25 of the General Laws.
- 1.9.17 Plumbing Inspector
The Inspector of Buildings in accordance with the provisions of Chapter 142, Section 11 of the General Laws, shall appoint annually an Inspector of Plumbing, who shall carry out his duties as set forth in said statute.

- 1.9.18 Inspector of Buildings
The Board of Selectmen shall appoint each year an Inspector of Buildings. His responsibilities are described in Section 2.1.2 Administration.
- 1.9.19 Hunting, Trapping and Firearms Regulations
- a) No person shall fire or discharge any firearms, or set traps, on any property without the written consent of the owner or legal occupant.
 - b) No person shall fire or discharge any firearm, hunt, or set traps, on any public property without the written consent of the officials, or their agent for this purpose, charged with the management of the particular public property. For the purposes of this bylaw, regulations promulgated by state agencies having jurisdiction over public property within the Town of Bolton specifically authorizing hunting, fishing thereon shall constitute written consent.
 - c) This Bylaw shall not apply to the lawful defense of life and property nor any Law Enforcement Officer in the performance of his duties.
- 1.9.20 Fire Protection Systems
Pursuant to Section 98 of Chapter 143 of the General Laws, the Selectmen may adopt regulations relative to fire protection systems with the approval of the Fire Chief after consultation with the Planning Board.
- 1.9.21 The Town of Bolton may use employees of the Highway Department as flag persons for traffic control during any road maintenance or repair project being performed by the Town.
- 1.10 REMOVAL OF SOIL, LOAM, SAND AND GRAVEL
- 1.10.1 The removal of soil, loam, sand or gravel from any parcel of land not in public use in the Town of Bolton, except as hereinafter provided, shall be allowed only after a written permit therefore is obtained from the Board of Selectmen after a Public Hearing of which due notice is given.
- 1.10.2.1 The Board of Selectmen shall fix a reasonable time for the hearing for a removal permit and shall cause the notice of the time and place of such hearing thereof and of the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the Town. Such publication to be not less than seven (7) days before the day of the hearing, or by posting such notice in a conspicuous place in the Town for a period of not less than seven days before the day of such hearing, and also send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the Board to be affected thereby including the abutters notwithstanding that the abutting land is located in another city or town, as they

appear on the most recent tax lists. The publication required by this section shall contain the following printed in bold face type:

- a) the name of the petitioners;
- b) the location of the area or premises which are subject of the petition; and
- c) the date and place of the Public Hearing.

- 1.10.2.2 No permit shall be required for the removal of soil, loam, sand or gravel from any parcel of land when incidental to and in connection with the construction of a building on the parcel. No permit shall be required by a home owner or farmer for the transfer of loam, sand, or gravel from one part of his own lot to another part thereof for the improvement of his own lot. Nor shall any permit be required for removal of loam, sand or gravel in connection with the improvement or construction of any road over a lot provided such loam, sand or gravel so removed is used on said lot to improve the same and is not contrary to the regulations of this Bylaw as adopted. No permit shall be required by quarries operating at the time this Bylaw is adopted so long as the sale of soil, loam and gravel is not involved.
- 1.10.2.3 A permit shall be issued without hearing by the Board of Selectmen for the removal of sand or gravel from any lot within the Town wherein the removal operation can be proven by the owner to said Board to have been in continuous operation since October 10, 1956.
- 1.10.2.4 All permits in force as of the effective date of this Bylaw, are subject to said Bylaw and the holders thereof are required to submit applications for permits in accordance with the terms of this Bylaw for hearings to be held at least one (1) week prior to the anniversary date of the presently issued permit. Permits will be granted as recited in this Bylaw for a period not to exceed three years and all procedures shall be followed as set forth in this Bylaw concerning hearings prior to the issuance of permits.
- 1.10.3 In issuing a permit under this Bylaw, the Board of Selectmen may impose such conditions not specifically provided therein as it may deem necessary for the adequate protection of the neighborhood and the Town. Any conditions imposed by the Board shall be attached to and made a part of the permit. The Board may, in its discretion, require a bond, certified check, or other security for compliance with such conditions or as evidence of good faith as to the completion of any proposed construction. The Board may, after a Public Hearing on proof of violation of any condition, revoke any permits so issued. No permit shall be issued under the provisions of this Bylaw for a period of more than three years.
- 1.10.4 Sand and gravel may be removed from any parcel of land except within 300 feet of a street or way, and the Board shall issue a permit therefore provided, however, that the Board shall impose such reasonable conditions as to the disposition of topsoil and the re-establishment of ground levels and grades as it may deem necessary.

- 1.10.5 Soil or loam may be removed and sold from any parcel of land within such parcel determined by the Board to be unsuited to agricultural use, and the Board may issue a permit for such removal, provided, however; that the Board shall in making such decision, obtain the recommendations of the appropriate Soil District Supervisor and the County Extension Director or Agent or their successors, and their recommendations shall be made a part of the records of the Board. In issuing a permit, the Board may impose reasonable conditions as to the re-establishment of ground levels and grades.
- 1.10.6 Notwithstanding the provisions of the above, the Board may issue a permit for the removal of soil or loam from any parcel of land in the Town where such removal is necessarily incidental to and in connection with the construction of a road or other facility involving a permanent change in the use of the land. The Board shall issue no such permit unless it is reasonably satisfied that the construction will be completed and evidence thereof shall be made part of the records of the Board.
- 1.10.7 Sand or gravel may be removed from any parcel of land within such parcel lying within 300 feet of any street or way, provided a permit therefore has been issued by the Board after satisfactory evidence that such removal will not be seriously detrimental or injurious to the neighborhood provided further that the Board shall impose reasonable conditions as to the method of removal, the re-establishment of ground levels and grades and the planting of the area to suitable cover, as it may deem necessary.
- 1.10.8 The penalty for violation of the provisions within this division (or article) shall be as follows. For each offense: Fifty Dollars (\$50.00); and each day that each violation continues shall constitute a separate offense.

1.11 PROTECTION OF GROUNDWATER

In order to protect, preserve, and maintain the existing and potential groundwater supply and groundwater recharge areas within the Town of Bolton, no person shall alter the quality of any surface water or groundwater without first filing with the Board of Health and obtaining and complying with a groundwater alteration permit. For the purposes of this Bylaw, the following activities are allowed without permit:

- a) Application of fertilizer and pesticides in accordance with manufacturers' recommended procedures or standards approved by state, federal, or local agency.
- b) Non-injection sewage disposal (e.g. typical domestic septic systems) in accordance with Title 5 of the State Environmental Code.
- c) Construction of single family dwellings, additions and accessory buildings.

This Bylaw should in no way be interpreted to limit or restrict the authority of the Board of Health.

1.11.1 Permit

The Board of Health shall issue and improve regulations which shall govern filing procedures and other matters related to carrying out the requirements of this Bylaw.

The Board of Health shall, within 21 days of receipt of all required information, determine at a public meeting whether the proposed alteration will have a significant effect on the groundwater quality, groundwater recharge or groundwater elevation. If the Board of Health determines that insufficient information has been provided by the applicant or that additional technical consultation is required it may delay the determination until the required information and/or consultation can be provided.

1.11.2 Performance Standards

Any alteration subject to the permit requirements of this Bylaw shall comply with the following minimum performance standards.

- a) All hazardous material shall be retained in product-tight containers and removal and disposal off-site shall be directed by the Board of Health. No hazardous material shall be present in wastes disposed of on-site.
- b) Process wastes from operations other than personal hygiene and food for residents, patrons, and employees shall be treated so that contaminant levels in groundwater resulting from such disposal will not exceed background levels of individual constituents. Process wastes shall be disposed of in a separate location from wastes generated from personal hygiene and food for residents, patrons, and employees or from building and parking area drainage.
- c) All chemicals, fuel, fertilizers, pesticides or other potentially contaminating substances shall be stored and handled in such a way that will prevent the release of leachate to (surface or) groundwater. Storage and handling measures shall include protection from vandalism, accidental damage or corrosion.
- d) All underground tanks shall meet the initial and periodic inspection requirements as promulgated in Board of Health underground tank regulations. Underground tanks of 300 gallons or less shall not be inspected more than once every four years.
- e) All runoff from artificial impervious surfaces shall be recharged where possible on the site, diverted toward areas covered with vegetation for surface infiltration. Dry wells shall be used only where the above methods are infeasible, and shall be preceded by grit chambers to facilitate removal of contaminated solids. No discharge directly into surface waters without

intervening mitigative measures, including trapped catch basins and oil absorbents, will be allowed.

- f) New commercial earth removal operations shall be limited to a minimum of 4 feet above maximum ground water and exposed land shall be returned to its natural vegetative state as of the date of implementation of the Bylaw when excavation is complete.
- g) An erosion and sedimentation plan shall be provided to control the effects of construction to maximize on-site recharge.

1.11.3 The Board of Health, its agents, offices and employees may enter upon the land on which an alternative is proposed in response to a filing or application, and/or for the purposes of carrying out its duties under this Bylaw, and may make or cause to be made such examination or survey as it deems necessary.

1.11.4 This Bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the residents of Bolton and ordered or performed by an administrative agency of the town, state or federal government.

1.11.5 Appeal from this Bylaw shall be to the Superior Court within 15 days of the issuance of a decision by the Board of Health.

1.11.6 Fine for violation of this Bylaw shall be Fifty Dollars (\$50.00) for each offense, each day of violation to be a separate offense.

1.11.7 The invalidity of any section(s) or provision(s) of this Bylaw shall not invalidate any other provision or section thereof.

1.11.8 Definitions

- a) Alter: As used in this Bylaw shall mean the undertaking of any activity or construction which will change the existing drainage patterns, recharge characteristics or recharge, ground or surface water constituents, either temporarily or permanently, or which, through production, storage, or transportation of toxic or hazardous substances in any amounts beyond those necessary for normal household use, may foreseeably result in accidental introduction of those substances into ground or surface waters.
- b) Hazardous Material: A material or combination of material, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:
 - l) Cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating illness; or

- 2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- c) Maximum Groundwater Elevation: The height of the groundwater table when it is at its maximum level of elevation as stated in State Environmental Code, Title 5.
- d) Person: As used in this Bylaw shall include: Any individual, group of individuals, association, partnership, corporation, company, business, organization, trust estate, the commonwealth or political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representatives, agents or assigns.

1.12 COUNCIL ON AGING

The Council on Aging shall consist of nine registered voters of the Town and shall be appointed by the Board of Selectmen for terms not to exceed four years for any member. Said terms shall be staggered so that not more than three appointments shall be made in any calendar year. Members can be re-appointed for consecutive terms. Failure to attend seven (7) out of the regularly scheduled ten (10) monthly meetings may result in termination of membership on the Council.

- 1.12.1 The duties of said Council on Aging shall be to:
 - a) identify the total needs of the community's elderly population;
 - b) educate the community and enlist support and participation of all citizens concerning these needs;
 - c) design, promote or implement services to fill these needs, or coordinate present existing services in the community;
 - d) promote and support any other programs which are designed to assist elderly programs in the community.
- 1.12.2 Said Council on Aging shall coordinate with the Commonwealth of Massachusetts Office of Elderly Affairs and shall be cognizant of all state and federal legislation concerning funding, information exchange, and program planning which exists for better community programming for the elderly.
- 1.12.3 Said Council on Aging shall give an annual report to the Board of Selectmen with a copy of that report directed to the Commonwealth of Massachusetts Office of Elderly Affairs.

1.13 STREET NUMBERING

- 1.13.1 All houses, businesses and structures shall properly display at the front thereof, in a position easily observed from the street on a year round basis, the proper number of the building assigned by the Town. Assignment of numbers shall be obtained from the Building Inspector at the time the building permits are approved. Owners of houses, businesses and structures without numbers at the time of passage of this bylaw shall obtain the proper number from the Building Inspector as soon as possible.
- 1.13.2 In cases where a house, business or structure is not visible from the street, or the distance is too great for a reasonable size number to be easily seen from the street, a sign, no larger than twelve (12) inches by twelve (12) inches with numbers not less than three (3) inches in height and one and one quarter (1.25) inches in width, shall be posted at the street end of the driveway, and on the same side of the street, in such a way as to be seen by emergency vehicles approaching from either direction. This sign may be substituted by numbers not less than three (3) inches in height and one and a quarter (1.25) inches in width on both sides of the mailbox only if the mailbox is located at the end of the appropriate driveway and on the same side of the road.
- 1.13.3 In cases where more than one house, business or structure shares a common or shared driveway, or the buildings are not visible from the street, or the distance is too great for a reasonable size number to be easily seen from the street, a sign shall be posted at the street end of the driveway on the same side of the street in such a way as to easily be seen by emergency vehicles approaching from either direction. This sign shall designate the range of numbers for which the driveway serves.
- This sign may not exceed the twelve (12) inch by twelve (12) inch dimension in order to accommodate the full set of numbers in a way easily seen from emergency vehicles. The numbers shall not be less than three (3) inches in height and one and a quarter (1.25) inch in width. The owner(s) will be notified by the Building Inspector by letter if this is necessary. Each driveway branching off of the common or shared driveway, and all subsequent branchings, must have additional sign(s), dimensioned and visible as outlined above, at that immediate junction indicating which number(s) are served by that driveway.
- 1.13.4 In all cases each figure shall be at least three (3) inches in height and shall be clearly visible. Said numbers shall contrast with their background. Numbers placed on signs must be placed at a height of not less than three (3) feet from ground level and not exceed five (5) feet from ground level. Signs must be kept clear of brush and other obstacles that would limit visibility of said sign by emergency vehicles.
- 1.13.5 In cases where a house, business or structure remains unnumbered, or where the numbering may have been lost or destroyed as to be illegible, the owner shall replace

the numbering within twenty (20) days after official notification by the Board of Selectmen.

- 1.13.6 Any violation of Section 1.13.5 beyond the twenty (20) day limit will result in a fine of not more than \$10.00 per day. No permit or Certificate of Compliance of any kind (i.e. occupancy, building, electrical, Smoke Detector Certificate of Compliance) shall be issued by the Town to the owners if their building, dwelling, business or structure is in violation, and does not have a number visible in compliance with this bylaw.

1.14.1	Authorization.....	22
1.14.2	Administration of Personnel Bylaw.....	22
1.14.3	Equal Employment Opportunity.....	22
1.14.4	Sexual Harassment.....	22
1.14.5	Harassment.....	23
1.14.6	Alcohol and Drug Free Workplace Policy.....	23
1.14.7	At-Will Employment.....	23
1.14.8	Definition of Employee Categories.....	23
a)	BENEFITS-ELIGIBLE EMPLOYEE.....	23
b)	NON-BENEFITS- ELIGIBLE EMPLOYEE.....	24
c)	TEMPORARY EMPLOYEE.....	24
d)	SEASONAL EMPLOYEE.....	24
e)	EXEMPT EMPLOYEE.....	24
f)	NON-EXEMPT EMPLOYEE.....	24
1.14.9	Recruitment and Appointment Policy.....	24
1.14.10	Overtime/Compensatory Time.....	24
1.14.11	Interruption of Service.....	24
1.14.12	Fringe Benefits.....	25
a)	Vacation Time.....	25
b)	Sick Leave.....	26
c)	Personal Leave.....	26
d)	Bereavement Leave.....	27
e)	Holidays.....	27
f)	Jury Duty.....	27
g)	Military Leave.....	28
h)	Leave of Absence.....	28
i)	Longevity Pay.....	28
j)	Insurance Benefits.....	29
k)	Workers' Compensation/Injured on Duty.....	30
l)	Pension.....	30
m)	Educational Assistance.....	30
n)	Mileage Reimbursement.....	31
1.14.13	Personnel Records.....	31
a)	Contents of Records.....	31
b)	Confidentiality and Access to Records.....	32
c)	Location of Records.....	32
d)	Release of Information.....	32
1.14.14	Performance Reviews.....	32
1.14.15	Grievance Procedure.....	32
1.14.16	Rules and Regulations.....	32
1.14.17	Severability Clause.....	33

1.14.1 Authorization

Pursuant to the provisions of the Massachusetts General Laws (M.G.L.) Chapter 41, Sections 108A and 108C and other enabling acts, the town establishes plans that authorize a Classification Plan classifying positions in the service of the town into groups and classes doing substantially similar work or having substantially similar responsibilities, except for the following:

1. those under the control of the school district
2. those covered by collective bargaining agreement
3. those filled by popular election; and
4. those with individual contracts with the town.

1.14.2 Administration of Personnel Bylaw

This Personnel Bylaw shall be administered by the Town Administrator under the general direction of the Board of Selectmen. The Board of Selectmen may establish policies and procedures as necessary for the administration of this Personnel Bylaw. The Town Administrator shall periodically review the Bylaw and make recommendations to the selectmen for any changes, as appropriate.

It shall be the responsibility of the Town Administrator to research and recommend to the Board of Selectmen the appropriate agencies for the review of the town's Classification and Compensation Plans at reasonable intervals.

1.14.3 Equal Employment Opportunity

The provisions of this bylaw shall be applied equally to all employees covered by the Classification Plan without discrimination as to race, sex, color, handicap, national origin, military status, religion, age (as defined by law), ancestry, sexual orientation (as defined by law) and genetic information consistent with federal and state law.

The town of Bolton is an equal opportunity employer. All employment decisions are made on a non-discriminatory basis as defined by the M.G.L. Chapter 151B, Section 4, Item 1 (Unlawful Practices) as well as without regard to political beliefs, military status, or any other factors which cannot lawfully be the basis for an employment decision.

1.14.4 Sexual Harassment

Sexual harassment is a form of behavior which adversely affects the employment relationship. It is prohibited by state and federal law. Sexual harassment of

individuals occurring in the workplace or in other settings in which individuals of the town may find themselves in connection with their employment is unlawful and will not be tolerated by the town. The town also condemns and prohibits sexual or other harassment by any applicant, client, vendor or visitor.

In accordance with the M.G.L. Chapter 151B, Section 3A, the town has established a Sexual Harassment policy which shall apply to all elected officials, department heads, and town employees, a copy of which is detailed in a separate policy. This policy shall be issued annually to all town employees and new hires, and is available upon request from the Town Administrator.

1.14.5 Harassment

Harassment on the basis of race, color, religious creed, national origin, sex, ancestry, sexual orientation (as defined by law) or on the basis of age (as defined by law), disability, genetic information, or military status (hereafter referred to as “protected class harassment”) is a form of behavior that adversely affects the employment relationship.

In accordance with the M.G.L. Chapter 151B, Section 4, the town has established a Harassment Policy which shall apply to all elected officials, department heads, and town employees, a copy of which is detailed in a separate policy. This policy shall be issued to all town employees and new hires, and is available upon request from the Town Administrator.

1.14.6 Alcohol and Drug Free Workplace Policy

Employees shall not manufacture, distribute, dispense, possess or use a controlled substance while in the employ of the town. The possession or use of alcohol while at work or the reporting for work under the influence of alcohol is prohibited.

The town is authorized to establish an Alcohol and Drug-Free Workplace policy, a copy of which is detailed in a separate policy.

1.14.7 At-Will Employment

Employees of the town of Bolton covered by the Classification Plan shall serve “at will” and may be terminated by the town or may terminate their employment at any time, with or without notice, absent a limiting statute or contractual agreement between the town and the employee.

1.14.8 Definition of Employee Categories

The following are the definitions of Employee Categories for positions covered by the Classification Plan:

- a) BENEFITS-ELIGIBLE EMPLOYEE is an employee who works 20 hours or more on a regular basis throughout the year.
- b) NON-BENEFITS-ELIGIBLE EMPLOYEE is an employee who works fewer than 20 hours per week throughout the year.
- c) TEMPORARY EMPLOYEE is an employee who works a schedule of hours on a short-term basis.
- d) SEASONAL EMPLOYEE is an employee who works temporarily during a specific season.
- e) EXEMPT EMPLOYEE is an individual who is paid on a salary basis at a rate not less than \$455 per week and is employed as a bona fide executive, administrative, or professional employee, and is not entitled to overtime compensation under the federal Fair Labor Standards Act or state law if she/he meets the following criteria:
 - 1) Executive - primary duty is to manage a department;
 - 2) Administrative - primary duty is office or non-manual work directly related to management policies, or directly assisting an executive; or
 - 3) Professional - primary duty requires advanced knowledge acquired by specialized study, work is intellectual and the result is not standardized.
- f) NON-EXEMPT EMPLOYEE is an employee, whether paid a salary or hourly wage, whose primary duty is not executive, administrative, or professional in nature. A non-exempt employee is entitled to overtime pay under certain conditions.

1.14.9 Recruitment and Appointment Policy

The town is authorized to establish a Recruitment and Appointment Policy, a copy of which is detailed in a separate policy and which is available upon request from the Town Administrator.

1.14.10 Overtime/Compensatory Time

Payment for overtime shall be in accordance with the terms of the Fair Labor Standards Act of 1938 as amended. If an assignment requires actual work in excess of 40 hours per week, such overtime work must be authorized in advance by the Department Head. Non-exempt employees shall be paid one and one-half times their regular hourly rate for hours actually worked beyond 40 in the workweek. Compensatory time may be taken in lieu of overtime pay, at the rate of time and one-half, only by mutual agreement of both employee and supervisor prior to overtime hours being worked. If such agreement is made, then compensatory time should be taken within a reasonable time of being earned. Supervisory, administrative, professional, and managerial employees are exempt employees under the Fair Labor

Standards Act and are not eligible for overtime pay. An employee is eligible to be paid for any unused compensatory time upon termination or retirement.

1.14.11 Interruption of Service

Any regular employee who leaves town service while in good standing may be rehired by the appointing authority and, upon successful completion of one year's service, will be given credit for prior time actually employed by the town.

1.14.12 Fringe Benefits

a) Vacation Time - All benefits-eligible employees shall be entitled to paid vacation in accordance with the following schedule:

<u>SERVICE</u>	<u>VACATION</u>
Less than 5 years year (up to 59 months)	2 weeks per (10 days)
5 years to less than 10 years (60 months to 119 months)	3 weeks per year (15 days)
10 years to less than 20 years (120 months to 239 months)	4 weeks per year (20 days)
20 years plus (240 months plus)	5 weeks per year (25 days)

Based on the above schedule, an employee shall accrue 1/12 of eligible yearly vacation time per month. Vacation earned is posted on the first day of each month following the completion of the previous month's employment (e.g. a 40 hour-per-week employee eligible for two (2) weeks vacation per year would earn .83 vacation days per month or 10 days divided by 12 months). Vacation, however, may not be taken during the first 90 days of employment. The accrual of vacation benefits shall be based on actual service in the employ of the town.

An employee shall request and receive approval for vacation leave from his or her Department Head in writing.

Benefits-eligible employees (those who work an average of at least 20 hours per week) are entitled to vacation leave in the same proportion that the

employee's service relates to full-time service, excepted on a prorated basis. Temporary, seasonal, and non-benefits-eligible employees are not entitled to accrue vacation days with pay.

Employees are required to take vacation on a regular basis to allow for the proper rest from the rigors of work. With prior approval of the Department Head and Town Administrator, and after validation of available earned days by the Town Treasurer, employees may be allowed to carry over no more than five (5) days of unused vacation into the following fiscal year.

A benefits-eligible employee who has accrued vacation under this policy, and whose employment ends for any reason prior to usage of such vacation, shall be paid for any accrued vacation time remaining.

At the Department Head level, the Board of Selectmen shall have the authority to consider prior relevant employment when establishing vacation time.

b) Sick Leave

All benefits-eligible employees shall accumulate sick leave at the rate of one and one quarter day for each month of employment (15 days per fiscal year). Unused sick leave may be accumulated up to a maximum of 120 working days. Sick leave is intended for use in time of illness only and as such carries no "buy-back" or "cash-in" valuation.

New employees are entitled to sick leave after completing one month of service.

Benefits-eligible employees who do not work an average of 40 hours per week are entitled to sick leave and may accumulate sick leave on a pro-rated basis.

Sick leave is generally for protection of employees against loss of pay due to personal illness. However, sick leave may be used by an employee for illness of a dependent child, spouse, or other immediate relative, with the approval of his or her Department Head.

In the event that any employee exhausts his or her accumulated sick time, each benefits-eligible employee of the town of Bolton, with the permission of his or her Department Head, may donate up to six (6) days of his or her sick time accumulated to that employee in a given fiscal year. The affected employee must first exhaust all personal, vacation time, and sick leave in order for this to occur.

For an illness or injury that exceeds five (5) consecutive days, the employee shall provide the Department Head with medical certification of such illness. Department heads may verify the use of sick leave by employees.

Accrued sick leave may be used for maternity leave purposes.

c) Personal Leave

All benefits-eligible employees, on each July 1 (beginning of the fiscal year) shall receive three (3) paid personal leave days which may be taken during the following 12 months as requested by the employee and approved by the Department Head.

Benefits-eligible employees who work a minimum of 20 hours per week shall receive personal leave days in the same proportion that the employee's service relates to full-time service (i.e. on a prorated basis). Personal days may not be carried over into the next fiscal year, or paid in wages to the employee if not used.

d) Bereavement Leave

All benefits-eligible employees may be granted up to three days of Bereavement Leave for the purpose of arranging for and attending the funeral of a member of the employee's immediate family, as defined as the employee's spouse or partner, mother, father, mother-in-law, father-in-law, sister, brother, child, grandchild, grandparent, or other relative residing in the employee's household. An employee may be granted up to one day of Bereavement Leave for the purpose of attending the funeral of an aunt, uncle, niece, nephew, or other close relative. The Department Head shall have the discretion and authority to approve an employee's request for bereavement leave.

e) Holidays

All benefits-eligible employees whose compensation is based on a weekly rate, will receive one day at regular straight-time compensation (on a pro-rated basis for benefits-eligible employees working less than 40 hours) for the following holidays:

One-Half Floating Day
New Year's Day
Martin Luther King Day
Presidents' Day
Patriots' Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans' Day
Thanksgiving Day

Day after Thanksgiving Day
Christmas Day

Each holiday will be observed by the town of Bolton on the day designated by state law.

f) Jury Duty

In the event that an employee is summoned for jury duty, he or she will be excused from work after providing his or her Department Head with a copy of the jury duty notice. An employee shall report for work when not required to report to court on his or her regularly scheduled work day. An employee who is summoned for jury duty shall be paid at his or her regular straight time wages for jury duty during scheduled work, for up to the first three days of jury duty. After three days of jury duty, the employee shall be paid the difference between his or her wages and the jury fees. In order to receive jury duty pay, the employee must present a statement of jury service to his or her Department Head, who shall submit the request to the Town Treasurer with the corresponding payroll. Paid jury duty after 30 days of such service is subject to the approval of the Town Administrator. The town will comply with any applicable state and federal law or regulation regarding jury duty.

g) Military Leave

All town employees are covered under Massachusetts General Laws, Chapter 149, Section 52A. An absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of his or her employment normally to be anticipated in his or her particular situation.

For military service, the town shall provide such leave as required by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

h) Leave of Absence

The town abides by all federal and state laws regarding employee leaves of absence, including, but not limited to, Family and Medical Leave Act (FMLA), Massachusetts Maternity Leave Act (MMLA), and Small Necessities Leave Act (SNLA), copies of which are detailed in separate policies. These policies shall be issued to all Town employees and new hires, and are available upon request from the Town Administrator.

If an employee is in need of a leave of absence, he or she shall consult with his or her Department Head, who shall bring such request to the Town Administrator for review of the options available.

i) Longevity Pay

All benefits-eligible employees who work an average of 40 hours per week shall receive longevity payments according to the following schedule:

Length of Service	Annual Amount
10 years	\$250
15 years	\$350
20 years	\$450
25 years	\$550

Benefits-eligible employees who do not work an average of 40 hours per week shall receive longevity payments on a pro-rated basis.

On an annual basis the selectmen should review any benefits-eligible employee who has accumulated over 20 years of service to the town and may award a meritorious award up to \$100 for this service.

This amount shall be paid in one lump sum in the first pay period following the anniversary of the employee's date of hire. The date of hire shall be considered the date when the employee began working for the town at least 20 hours per week on a continuous basis.

Temporary, seasonal, and non-benefits-eligible are not entitled to longevity pay.

Longevity pay shall be paid annually and shall be based only on actual service for the prior year.

j) Insurance Benefits

1. Health Insurance

a. Benefits-Eligible Employees

Health insurance is offered in accordance with Chapter 32B of the Massachusetts General Laws. The town contributes to the cost of the health insurance premium at a rate as set by the Board of Selectmen. Health insurance is offered at the time of employment and during the annual open enrollment period. Benefits-eligible employees, working a minimum of 20 hours per week, totaling a minimum of 1040 hours on a fiscal year basis, are

entitled to join the town's health insurance plan. The town currently offers a variety of health insurance programs.

Open enrollment is offered once a year. At that time, employees shall have the opportunity to change their current benefits plans and coverage. Employees will be notified by the Treasurer's office of the dates of the open enrollment period and when changes will become effective. Active benefits-eligible employees 65 years of age or over may remain on the current active health plan until retirement. However, at age 65, Medicare-eligible employees must apply for Medicare coverage through Social Security and defer Part B coverage until retirement.

Under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), an employee or his or her eligible dependents may be entitled to continued coverage in the town's group health insurance plan in the event the employee resigns or is terminated or an event occurs that renders the employee no longer eligible for health insurance benefits. Under such COBRA coverage, the employee will be required to pay the full cost of his or her monthly insurance premium, plus a 2% administration fee, for the employee and his or her dependents. Specific information is available from the Town Treasurer's office.

b. Benefits-Eligible Retired Employees

Retired employees under the age of 65 on the town's health insurance plans will be covered on active health plans until age 65. Retirees must enroll in Medicare if eligible to do so, and then will be required to enroll in one of the senior plans offered if they choose to remain covered by the town. It is the town's intention to cover the cost of Medicare Part B for any retiree or employee who was hired prior to May 7, 2007. Retired employees not eligible for Medicare will remain on their current active plan upon providing proof they are ineligible for Medicare.

2. Basic Life Insurance

The town of Bolton offers basic life insurance coverage to employees upon hire, with the town sharing equally the cost of the premium with employees. Retirees may continue their coverage at reduced coverage and cost.

k) Workers' Compensation/Injured on Duty

Police and Fire uniformed employees are covered under the provisions of M.G.L Chapter 41, Sections 100 and 111F, and are entitled to the rights and benefits of these laws. All other employees are covered under the

Massachusetts Worker's Compensation Law, M.G.L., Chapter 152, and are entitled to the benefits and provisions of the law.

l) Pension

All benefits-eligible employees are required to join the Worcester Regional Retirement System, with payroll deductions made in accordance with state law and date of hire.

m) Educational Assistance

All benefits-eligible employees who have worked with the town at least one year are eligible for reimbursement for tuition and registration fees for work-related courses which serve to improve their knowledge and skills and enhance their job performance with the town.

Approval for a particular course must be requested by the employee to his or her Department Head prior to enrollment in the course. The Department Head shall submit the request to the Town Treasurer who shall approve the request contingent upon available funds in the current year's Educational Assistance budget.

Reimbursement shall be made upon successful completion of the course or program, with a minimum grade of "B" or equivalent. The employee must provide the Department Head with proof of successful course completion, including grade received, and proof of course payment, which shall be submitted to the Town Treasurer for processing.

The town may require the employee to sign an agreement to remain in employment with the town for a period of up to two years after the completion of the course, or else be required to reimburse the town for such reimbursement.

n) Mileage Reimbursement

When employees have prior approval from their Department Head to use their personal vehicle for town business, they may be reimbursed for that business travel at the approved per-mile rate set by the Treasurer based on the U.S. General Services Administration's Privately Owned Vehicles Reimbursement Rates. The Treasurer will notify all departments of any changes in this rate. Reimbursement will be paid to and from the work site location, not from the employee's home.

1.14.13 Personnel Records

The Town Administrator shall be responsible for maintaining and administering personnel records as may be required by law, and as necessary for effective personnel management.

a) Contents of records

The Town Administrator shall maintain or cause to be maintained a personnel record for each employee in compliance with Massachusetts General Laws, Chapter 149, Section 52C. A personnel record shall not include information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of such other person's privacy.

Without limiting the applicability or generality of the foregoing, all of the following written information or documents regarding an employee shall be included in the personnel record for that employee: the name, address, date of birth, job title and description; rate of pay and any other compensation paid to the employee; starting date of employment; the job application of the employee; resumes or other forms of employment inquiry submitted to the town in response to the town's advertisement by the employee; all employee performance evaluations, including but not limited to, employee evaluation documents; written warnings of substandard performance; lists of probationary periods (if any); waivers signed by the employee; copies of dated termination notices; any other documents relating to disciplinary action regarding the employee. A personnel record shall be maintained in typewritten or printed form, or may be handwritten in indelible ink.

b) Confidentiality and Access to Records

Personnel records shall be confidential and access to an employee's records shall be limited to the Appointing Authority, the Town Administrator, who shall be charged with administering the personnel system, and the Town Treasurer on a need-to-know basis. Appointing authorities and/or the employee's Department Head may directly access a report contained in an employee's personnel file upon request to the Town Administrator. Any employee may upon written request to the Town Administrator review his or her personnel file. Such review shall be in the presence of the Town Administrator. An employee may also obtain a copy of his/her personnel file upon five (5) days written notice.

c) Location of Records

A central file for all employees covered under the Personnel Bylaw shall be located at Town Hall. On behalf of the town, the Town Administrator shall maintain custody of all personnel records.

d) Release of Information

Unless written authorization is received from an employee, except to verify employment dates, job title, and/or gross salary, no other information concerning an employee shall be released.

1.14.14 Performance Reviews

Appointing authorities and/or Department Heads shall from time to time conduct performance reviews of their employees.

1.14.15 Grievance Procedure

A grievance is a dispute between an employee and the appointing or supervisory authority arising out of an application for the benefits under this bylaw. The town has established a Grievance Procedure, a copy of which is detailed in a separate document. This procedure shall be issued to all town employees and new hires, and is available upon request from the Town Administrator.

1.14.16 Rules and Regulations

Subject to the approval of the Board of Selectmen, the Town Administrator may, from time to time, issue rules and regulations concerning the administration of this Personnel Bylaw.

1.14.17 Severability Clause

Each provision of this bylaw shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

1.15 HOUSING AUTHORITY

1.15.1 Purpose

For the creation, development and management of housing and housing programs in the Town of Bolton.

1.15.2 Membership

There will be 5 members, 4 of whom are elected by the town. The fifth is appointed by the Executive Office of Communities and Development (EOCD). At creation of authority, members will be appointed by the Board of Selectmen, these individuals will serve until members are elected at the next town election. Terms are as follows:

Individual receiving highest # of votes: 5 year term

Individual receiving 2nd highest # of votes: 4 year term

Individual receiving 3rd highest # of votes: 2 year term

Individual receiving 4th highest # of votes: 1 year term

The individual appointed by EOCD will serve an initial term of 3 years.

As terms expire, successor will be appointed or elected in same way, but for a term of five years. Membership is restricted to residents of the town. Vacancies, aside from the expiration of terms will be filled/appointed by the Board of Selectmen until new members can be elected at the next town election.

1.16 LICENSES AND PERMITS OF DELINQUENT TAXPAYERS

1.16.1 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.

1.16.2 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, 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.

- 1.16.3 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.
- 1.16.4 The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty eight in the business or activity conducted in or on said property.
- 1.16.5 This section shall not apply to the following licenses and permits: open burning, S 13 of C 48; bicycle permits, S 11A of C 85; sales of articles for charitable purposes, S 33 of C 101; children work permits, S 69 of C 149; clubs, associations dispensing food or beverage licenses, S 21E of C 140; dog licenses, S 137 C 140; fishing hunting, trapping licenses, S 12 of Ch 131; marriage licenses, S 28 of C 207; theatrical events, public exhibition permits S 181 C 140.
- 1.17 DEMOLITION DELAY BYLAW
 - 1.17.1 Intent and Purposes

The purpose of this bylaw is to establish a procedure for reviewing requests to demolish significant buildings in order to preserve, when possible, the historical, cultural and architectural heritage of Bolton.
 - 1.17.2 Definitions
 - 1.17.2.1 Building- a structure capable of being used to shelter persons, animals, materials or equipment.
 - 1.17.2.2 Commission- the Bolton Historical Commission

- 1.17.2.3 Demolition- any voluntary act of pulling down, destroying, burning, removing, or razing of a building in whole or in part; commencing the work of destruction; or allowing the same to be done by others.
- 1.17.2.4 Applicant- person or persons filing an application for review under this bylaw. If the person submitting the application is not the owner, the owner will be required to indicate his/her assent to the filing of the notice or application.
- 1.17.2.5 Significant building- any building which is historical by reason of its age (in whole or in part seventy-five (75) or more years) *and* is determined by the Commission to be either (1) associated with a person or event contributing to the cultural, political, economic, social or architectural history of the town, commonwealth or the United States of America; or (2) historically or architecturally important (in terms of period, style, construction, or association with an architect or builder), either by itself or in the context of a group of buildings.
- 1.17.2.6 Preferably preserved significant building- any significant building for which it is determined after hearing to be in the public's interest to preserve or rehabilitate rather than demolish under this bylaw.
- 1.17.2.7 Demolition permit- any permit (demolition, alteration, building) issued by the Building Inspector, as required by the State Building Code, which authorizes the demolition of a building (excluding interior demolition).
- 1.17.2.8 Building Inspector- Bolton Inspector of Buildings or person(s) otherwise authorized to issue demolition permits.
- 1.17.2.9 Day- any calendar day, including Saturdays, Sundays and holidays.
- 1.17.3 Procedure
 - 1.17.3.1 No demolition permit shall be issued for a significant building without first fully complying with the provisions of this bylaw.
 - 1.17.3.2 A written demolition permit application shall be filed with the Building Inspector.
 - 1.17.3.3 If the demolition permit application is for a building which is seventy-five (75) or more years old, the building's historical significance will be determined by the Commission within fourteen (14) days of the Commission's receipt of the application. The Commission will notify the Building Inspector and applicant in writing of this initial determination. If the building is not determined to be significant, the Building Inspector may issue a permit to demolish in accordance with all applicable procedures.

- 1.17.3.4 If the building is determined to be significant, the Commission shall hold a public hearing within thirty (30) days of this initial determination to further determine whether the demolition of the building will be detrimental to the historical, cultural or architectural heritage of the town. Notice of the time, place and purpose of the hearing shall be given twice in a local newspaper, the first notice at least fourteen (14) days before and the second notice at least seven (7) days before such hearing and by posting a notice in the Town Hall for a period of at least fourteen (14) days before such hearing and by mailing a notice of hearing to the applicant.
- 1.17.3.5 A determination shall be made by the Commission within seven (7) days of the close of the public hearing. The applicant, Building Inspector and the Town Clerk shall be provided with a copy of the determination.
- 1.17.3.6 If the Commission determines the demolition of the building in question is not detrimental to the historical, cultural or architectural heritage of the town, the applicant may apply for the necessary permits to begin work.
- 1.17.3.7 If the Commission determines the demolition of the building in question is detrimental to the historical, cultural or architectural heritage of the town, the building shall be deemed a preferably preserved significant building and no further demolition permits may be applied for or issued for a period of six (6) months from the date of such determination.
- 1.17.3.8 During the six (6) month period, the Commission will invite the applicant (and owner of record, if different from applicant) to participate in an investigation of alternatives to demolition. If acceptable alternatives are agreed upon by the Commission and the applicant, the Commission will file a copy of said agreement with the Building Inspector and Town Clerk and the applicant may apply for necessary permits to begin work. Work shall only be done in accordance with the terms of the agreement unless and until new permit applications are filed and processed hereunder.
- 1.17.3.9. If the Commission is satisfied that there is no feasible alternative to demolition, the Commission may so advise the applicant, Building Inspector and Town Clerk in writing, at any time during this six (6) month period, and the Building Inspector may issue a permit to demolish in accordance with all applicable procedures.
- 1.17.4 Emergency Demolitions
- 1.17.4.1 Nothing in this bylaw restricts the demolition of a significant building determined by the Building Inspector to present a danger to public safety which only demolition can prevent. Such a determination shall be made in accordance with the applicable provisions of the State Building Code and after consultation with the Commission Chairperson or designee. Whenever an emergency demolition permit is issued under the provisions of this section, a written report must be filed with the Commission describing the condition of the building and the basis for the determination.

1.17.5 Enforcement and Remedies

1.17.5.1 The Commission and the Building Inspector are each authorized to enforce the provisions of this bylaw.

1.17.5.2 The Building Inspector shall not issue a permit pertaining to any property on which a significant building has been demolished voluntarily in whole or in part without first fully complying with the provisions of this bylaw for a period of two (2) years from the date of demolition.

1.17.5.3 The provisions of this bylaw may be enforced by a non-criminal disposition pursuant to Section 1.1.5 of the Administrative Bylaws of the Town of Bolton.

1.17.6 Administration

1.17.6.1 The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw.

1.17.6.2 The Commission is authorized to adopt a schedule of fees to cover the costs associated with the administration and review of any application which is filed under this bylaw.

1.17.7 Severability

1.17.7.1 If any provision of this bylaw is determined to be invalid or unconstitutional by any court, every other section shall continue in full force and effect.”

1.18 WETLANDS BYLAW

1.18.1 Purpose

The purpose of this Bylaw is to conserve and protect the resource areas, the resource interests, and natural resource services, in the Town of Bolton by regulating activities deemed by the Conservation Commission (“Commission”) likely to have a significant or cumulative adverse effect upon resource interests. Protected resource interests include, but are not limited to: flood control, storm damage prevention, public and private water supplies, ground water, water quality, prevention of pollution and sedimentation, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, adjoining land areas and recreation deemed important to the community. Natural resource services may be classified as either ecological service --the physical, chemical, or biological functions that one resource provides for another; or public service --the public uses of natural resources or functions of natural resources that benefit the public. This Bylaw is intended to utilize the Home Rule authority of the Town of Bolton to conserve and protect additional resource areas, with additional standards and procedures stricter

than those of the Wetlands Protection Act, (M.G.L. Ch. 131, Section 40) and Regulations thereunder, (310 CMR 10.00).

1.18.2 Jurisdiction

Unless excepted in Section 1.18.3 or pursuant to a Wetlands Bylaw Permit, no person shall commence to remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter the following resource areas: any freshwater wetlands; marshes; wet meadows; bogs; swamps; vernal pool habitat, including but not limited to state certified vernal pools; banks; fresh water seeps; reservoirs; lakes; rivers; streams and creeks, whether perennial or intermittent; riverfront areas which are (a) lands within two hundred feet (200') of perennial rivers or streams; beaches; lands under water bodies; lands subject to flooding or inundation by ground water or surface water; and land within twenty-five feet (25') of the above resources areas, except for riverfront areas (collectively the "wetland resource areas" protected under this bylaw) and adjacent upland resource areas (collectively the "adjacent upland resource areas" protected under this bylaw). This 25-foot prohibition, however, shall not apply to crossings essential to access upland areas. Said resource areas shall be protected whether or not they border surface waters.

Adjacent upland resource areas shall include all lands within seventy-five feet (75') of wetland resource areas enumerated above, except for perennial streams and rivers for which the adjacent upland resource area extends for two hundred feet (200') from the top of the bank.

Except as expressly permitted by the Commission or as provided in this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter a wetland resource area, or an adjacent upland area, as described above.

Where a proposed activity involves work within a resource area, the Commission shall presume that the area is significant to protect the resource interests, enumerated in Section 1.18.1.

Where the proposed activity involves work within the riverfront area, the Commission shall presume the area is significant to protect the riverfront area and its resource interests. This 200-foot presumption does not apply to the redevelopment of those portions of riverfront areas regarded as "previously developed" or "degraded" or to "paths". Orders of Conditions for redevelopment and paths are granted at the discretion of the Commission.

These presumptions are rebuttable and may be overcome by a preponderance of the evidence showing that the resource area does not play a role in the protection of one or more of these interests. In the event that the presumption is deemed to have been overcome as to the protection of all the resource interests, the Commission shall make a written determination to this effect, setting forth its grounds.

Where the applicant provides information that the resource area at the site of activity does not play a role in the protection of an interest, the Commission may determine that the presumption for that interest has been rebutted. Where the applicant provides information that site of the activity plays a partial role in the protection of an interest, the Commission may determine that the presumption for that interest has been partially rebutted and the presumption of significance is partially overcome.

1.18.3 Applicability, Limitations, and Exceptions

Where the presumption set forth in Section 1.18.2 is not overcome, the applicant shall prove by a preponderance of the evidence that there are no practicable and substantially equivalent economic alternatives to the proposed project with less adverse effects on the interests identified in Section 1.18.1. Further, the applicant shall prove that the work including proposed mitigation will have no significant adverse or cumulative adverse effect on the resource areas or resource interests. In the event that the Commission finds that the applicant has failed to make either of said proofs, it shall make a written determination setting forth its grounds in an Order of Conditions that shall impose conditions that will protect the interests which make the resource area significant or shall in a written determination deny the activity as it cannot be conditioned to protect the interests of the Bylaw and/or its regulations.

To prevent the loss of resource areas, applicants shall be required to avoid, where feasible, altering a resource area; minimize alteration of a resource area; and, where alteration is unavoidable, complete full mitigation. Replication of resource areas may be required as a form of mitigation.

Exceptions to the Bylaw shall be limited to: maintaining, repairing or replacing, adding to, but not substantially changing or enlarging, an existing single-family residential structure, septic system or appurtenance; maintaining landscaping and gardens accessory to an existing single-family residential structure; lands lawfully in agriculture (commercial and non-commercial) at the time the work takes place; forest cutting (as defined in 310 CMR 10.04, 'Agriculture'(b) 14); maintaining or repairing, but not substantially changing or enlarging, an existing structure in a resource area, such as drainage structures, culverts, bridges, driveways or roadways; maintaining or repairing, but not substantially changing or enlarging, fire protection water holes, artificial ponds; clearing of water courses, conservation and outdoor recreation; existing orders and filings before the Commission prior to the effective date of this Bylaw; public utilities (as defined in 310 CMR part 10.53 section (3)(d)); projects carried out under the direction of the U.S. Natural Resource Conservation Service; and emergency projects necessary for the protection of the health and safety of the public and subject to the provisions and conditions of 310 CMR part 10.06.

No activities other than the excepted activities shall commence without receiving and complying with a permit issued pursuant to this Bylaw. No work proposed in any Wetlands Bylaw Permit application shall be undertaken until the Wetlands Bylaw

Permit issued has been recorded in the registry of deeds, or if the land is registered land, filed in the appropriate land court, and until the holder of the Wetlands Bylaw Permit certifies in writing that the Wetlands Bylaw Permit has been recorded. Such certification shall include the book and page or instrument number and date.

1.18.4 Applications for Wetlands Bylaw Permit and Requests for Determination

Any person desiring to know whether a proposed activity is excepted or an area is subject to this Bylaw may request a determination from the Commission by filing a Request for Determination of Applicability (RFD). Such a Request for Determination of Applicability shall include information and plans as required by the Commission.

Written application shall be filed with the Commission to perform activities within the resource areas protected by this Bylaw. The Wetlands Bylaw Permit application shall include such information and plans as deemed necessary by the Commission to describe proposed activities and their effects on the resources areas. Where appropriate, the Commission may accept the Notice of Intent and plans filed under the Wetlands Protection Act and the Regulations as the Wetlands Bylaw Permit application and plans under this Bylaw.

At the time of a request for determination or a Wetlands Bylaw Permit application, the applicant shall pay a filing fee specified in the Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act (G.L. Ch 131 Section 40) and Regulations (310 CMR 10.00). The fee shall be deposited in a dedicated account, for use only for wetland protection activities. Town, county, state and federal projects are exempt from the filing fee.

The Commission is authorized to require the applicant to pay for the reasonable costs and expenses borne by the Commission for specific expert engineering or for other outside consultant services in order to reach a final decision on the application.

The Commission may require that the applicant's performance and observance of the Order of Conditions, including mitigation, be secured wholly or in part by one or more of the methods set forth in the regulations. This security shall be in addition to any security required by any other town or state board, agency or official.

1.18.5 Notice and Hearings

Wetlands Bylaw Permit applications shall be filed with the Commission subject to the provisions and conditions of 310 CMR part 10.00 and the Commission may, in an appropriate case continue a public hearing for good cause and may combine its hearing under this Bylaw with the hearing conducted pursuant to the Wetlands Protection Act, M.G.L. Ch 131, Section 40 and Regulations, 310 CMR 10.00.

1.18.6 Wetlands Bylaw Permits, and Certificates of Compliance

Within 21 days of the close of the hearing the Commission shall issue or deny a Wetlands Bylaw Permit for the activities requested. If a Wetlands Bylaw Permit is issued, the Commission shall impose conditions, which the Commission deems necessary or desirable to protect resource areas, resource interests and natural resource services, and all activities shall be done in accordance with those conditions.

Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

Wetlands Bylaw Permits issued hereunder shall expire three years from the date of issuance and may be renewed by the applicant for additional one year periods only where a written request for renewal is received by the Commission not less than 30 days prior to the expiration of the Wetlands Bylaw Permit and that good cause has been shown for said extension and that there is no likely significant or cumulative adverse effect upon any of the resource area or resource interests.

Notwithstanding the above, a Wetlands Bylaw Permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

If the activity has been completed in accordance with said Wetlands Bylaw Permit, the Commission shall, within 21 days after a request, issue a Certificate of Compliance evidencing such determination, which may be combined with the Certificate of Compliance under the Wetlands Protection Act. A Certificate of Compliance may specify conditions, which will continue to apply for a fixed number of years or permanently and shall apply to all owners of the land. The Certificate of Compliance shall be recorded in the Registry of Deeds, or if the land is registered land, in the appropriate land court, and the Commission notified in writing by the holder of the Wetlands Bylaw Permit that the Certificate of Compliance has been recorded. Such notification shall include the book and page or instrument number and date.

Violations of this Bylaw, submission of false information or new information that substantially alters the likely impact of the project on the resource areas may cause the Commission to revoke or modify a Wetlands Bylaw Permit or determination issued under this Bylaw after notice to the holder of the Wetlands Bylaw Permit or determination, notice to the public, abutters and town boards, pursuant to Section 1.18.5 and a public hearing.

Appeal from this Bylaw shall be to the Superior Court.

1.18.7 Regulations

After public notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purpose of this Bylaw effective when voted and filed with the Town Clerk. Failure to promulgate such rules and regulations or a legal declaration of their invalidity by court of law shall not act to suspend or invalidate the effect of this Bylaw.

1.18.8 Definitions

Except as otherwise provided in this Bylaw or in regulations of the Commission, the definitions of terms in this Bylaw shall be as set forth in the Wetlands Protection Act, M.G.L. Ch 131 Section 40, and Regulations 310 CMR 10.00.

1.18.9 Enforcement

The Commission shall have the authority to enforce this Bylaw, its regulations, and Wetlands Bylaw Permit issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this Bylaw, its regulations and/or Wetlands Bylaw Permits may be ordered to restore the property to its original condition, pay damages and take other action deemed necessary to remedy such violations, or may be fined, or both.

Any person, who violates any provisions of this Bylaw or regulations, Wetlands Bylaw Permits or administrative orders issued thereunder, may be served with a Notice of Violation enumerating the alleged violations. As an alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch 40, Section 21D.

The violator shall pay any and all costs including reasonable attorney fees incurred by the Town. The fine for a violation of this Bylaw shall be Three Hundred Dollars (\$300.00) for each offense; each day of the violation shall be a separate offense. Enforcement will be done in accordance with Step Enforcement Policy Against Alleged Violations of the Wetlands Protection Act and other-Local By-laws under the jurisdiction of the Bolton Conservation Commission, dated May 2, 2005.

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

1.18.10 Severability

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

1.19 DISCHARGE OF SNOW OR ICE ONTO PUBLIC WAYS

No person other than an employee in the service of the Town of Bolton, or an employee in the service of an independent contractor acting for the Town of Bolton, shall pile, push, or blow snow or ice onto a public way that is plowed and sanded by the Town.

Whoever violates this provision shall be punished by a fine of one hundred dollars (\$100). This provision is to be enforced by the Police Department.

1.20 TOWN ADMINISTRATOR

- 1.20.1 The Board of Selectmen may appoint a Town Administrator for a three-year term in accordance with Mass. Gen. Laws Chapter 41, Section 23A. The Town Administrator shall be appointed on the basis of executive and administrative qualifications and shall be especially fitted by education, training and previous experience in public administration to perform the duties of the office. The Town Administrator, under the direction and supervision of the Board of Selectmen, shall be responsible for handling the day-to-day administrative affairs of the Town and for implementing the policies set forth by the Board of Selectmen. The Town Administrator shall act for the Board of Selectmen in any matter that it may assign to the Town Administrator. With the approval of the Board of Selectmen, the Town Administrator may perform other duties as may be requested by any other Town Officer, Board, Committee or Commission. The administrator shall be responsible for coordinating and implementing general office operating policies that shall apply to all elected and non-elected employees as may be agreed upon by the Board of Selectmen and other boards. The Town Administrator shall receive such compensation for all services performed as the Board of Selectmen shall determine; said compensation shall not exceed the amount appropriated therefore by the Town. The Board of Selectmen may remove the Town Administrator at its discretion.

1.21 AGRICULTURAL PRESERVATION BYLAW

1.21.1 Legislative Purpose and Intent

The purpose and intent of this Bylaw is to state with emphasis the Right to Farm granted to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9; Chapter 111, Section 125A; and Chapter 128 Section 1A. We the citizens of Bolton restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General Bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Bolton by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This Bylaw shall apply to all jurisdictional areas within the Town.

1.21.2 Definitions

The word "FARM" shall include any parcel or contiguous parcels of land, or water bodies used for the purpose of agriculture, or accessory thereto.

The words "AGRICULTURE" or "FARMING" or their derivatives shall include, but not be limited to the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- 4-H or The National FFA Organization projects; and
- keeping and/or raising of livestock which includes but is not limited to horses, poultry, swine, cattle, sheep, goats, ratites (such as emus, ostriches and rheas), camelids (such as llamas and alpacas), and other domesticated animals, including bees and fur-bearing animals

"FARMING" shall encompass activities including, but not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;

- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

1.21.3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Bolton. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this Bylaw are intended to apply to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Agricultural Preservation Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

1.21.4 Agricultural Commission

For the furtherance of the goals of this Bylaw, there is hereby established an Agricultural Commission, to consist of five (5) members, appointed by the Board of Selectmen, at least three (3) of whom shall be representative of the Bolton farming community and one (1) from the non-farming, residential community. The term of appointment shall be for three (3) years, timed to coincide with the Town's fiscal year. At the time said Commission is first appointed, one member shall be appointed for one (1) year, two members for a term of two (2) years, and two members for a term of three (3) years; all subsequent appointments shall be made for terms of three (3) years. The appointing authority shall fill any occurring vacancy based on the unexpired term being vacated.

The Agricultural Commission shall be authorized:

- To act as a spokesperson for the Bolton farming community;
- To present written or oral testimony in the context of public hearings before any Town Board or Committee;
- On its own initiative, to advise any Town Board or Committee on matters pertinent to the particular area of jurisdiction of that Board or Committee, insofar as the issue relates to the interests of agriculture;

- To advise the Board of Selectmen and/or any other Town Board on any Town-wide issues relating to agriculture which, in the opinion of the Agricultural Commission, require a concerted Town action or response;
- To respond to any request for information or advice from any Town Board or Committee;
- To provide public information or public education services regarding agriculture and the practice of agriculture in Bolton, or in general;
- To provide education and information for farmers in residential areas on how to minimize their impact on their neighbors;
- To serve, at the written request of any Town Officer, Board, or Committee, as an arbitrator or negotiator in the resolution of disputes relating to agricultural issues, provided that no order or decision on the particular matter in question has already been issued by any Town entity legally authorized to do so; and that any resulting decision or recommendation shall be strictly advisory, and shall have no legal standing or definitive nature beyond the voluntary agreement of the parties to abide by it;
- To promote farming business and agriculture in Town, to create awareness through education, and the promotion of agriculture and its benefits to Bolton.

The Agricultural Commission, *per se*, is specifically not authorized:

- To acquire or hold property, real or personal;
- To act as an agent or representative of any individual or entity in any matter pending before any Town or State agency;
- To interfere with, litigate, or serve in any way as a conduit, agent, or forum for appeals relating to any decision made by a legally authorized Town Officer or agency.

1.21.5 Disclosure Notification

Right to Farm Notification

"It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform residents that Bolton is a Right to Farm community where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Residents and property owners are also informed that the location of their property within the Town may be impacted by agricultural operations including the ability to access water services for such property under certain circumstances."

A copy of this disclosure notification shall be posted by the Town to residents and property owners each fiscal year by mail in the Town census and in one or more of the following forms: annual report, official Town website, transfer station, or library.

1.21.6 Resolution of Disputes

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Board of Selectmen may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon timeframe.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon timeframe.

1.21.7 Severability

In the event that any part of this Bylaw is, for any reason, held to be unconstitutional, invalid, or void by any court or agency of competent jurisdiction, it shall not be construed to affect the validity or the continuation and implementation of all other elements of this Bylaw.