BY-LAWS
OF THE
TOWN OF WAREHAM

REVISED: OCTOBER 23, 2017

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DIVISION I
ARTICLE I
TOWN MEETINGS

Section 1. **The spring Town Meeting shall be construed to be the Annual Town Meeting and shall be** held on the First Tuesday of April of each year and the polls shall be opened at 8:00 o'clock A.M. and shall be closed not earlier than 12:00 o'clock noon, for the election of town officers designated in the official ballots and for voting questions or matters that may be properly submitted to vote in the official ballot. This meeting will be adjourned until the fourth Monday of April at which time the general business of the town shall be transacted.

The Fall Town Meeting shall be held on the fourth Monday of October. (Article 14 of the October 21, 2002 Town Meeting; Approved by the Attorney General December 2, 2002).

The general business portion of the Spring and Fall Town Meetings shall be called to order at 7:00 o'clock P.M. and shall adjourn not later than 10:00 o'clock P.M., except that a meeting may be continued beyond 10:00 P.M. by a two-thirds vote of those present and voting. (Article 18 of December 5, 6, and 13, 1994 Special Town Meeting; Approved by Attorney General February 27, 1995).

All articles to be included in the Spring and Fall Town Meetings shall be submitted to the Finance Committee no later than 35 days before the date on which such meetings are scheduled to convene.

Section 2. Town meetings shall be legally called and all petitions for insertion of articles in any warrant shall be in accordance with Section 2-4 of Article 2 of the Wareham Home Rule Charter.

Articles at the Annual Spring and Fall Town Meeting and any Special Town Meeting shall be taken up in order as drawn by the Town Clerk by lottery. Articles which are contingent upon action upon another article or articles shall be acted upon in succession. Further, those articles which the Board of Selectmen certifies to the Moderator are of such financial or emergency nature as to warrant action early in the town meeting, shall be exempt from the lottery provided by this section. (Article 72 of the October 25, 2010 Town Meeting; Approved by the Attorney General March 10, 2011).

Section 3. Before calling a town meeting, the Selectmen shall post notices of their intention in at least one public place in each precinct within the town ten days before the time for closing the warrant.

Section 4. The number of voters necessary to constitute a quorum at town meetings, except such parts of town meeting as are devoted exclusively to the election of town officers, shall be zero. (Article 14 of the April 24, 2017 Town Meeting; Approved by the Attorney General on August 8, 2017)

Section 5. The duties of the moderator, and the government of the town meeting, not specially provided for by law, shall be determined by the rules of practice contained in Robert's Rules of Order Revised (Seventy-Fifth Anniversary Edition) and Town Meeting Time, so far as they are adapted to the conditions and powers of the town.

Also, in accordance with Massachusetts General Laws, Chapter 39, Section 15, whenever a two-thirds vote is required by statute, such a vote may be declared as such by the Moderator without a count and be recorded as such by the Clerk upon such declaration provided, however, that if seven or more voting members of Town Meeting doubt the vote, a counted vote shall be taken. (Article 12 of October 27, 2003 Town Meeting, which reconvened on October 28, 2003; Approved by the Attorney General on November 21, 2003).

Section 6. No person elected Selectman on or after January 1, 1973 shall hold any other elective Town office during his term of office as Selectman.

If a Selectman elected on or after January 1, 1973 holds any other Town elective office during his term of office as Selectman, the office held by him as Selectman shall thereupon become vacant.

DIVISION I
ARTICLE II
BOARD MEETINGS AND HEARINGS

Section 1. The Selectmen, Assessors, Board of Public Welfare, and any other regularly elected boards or committees shall cause to be posted at the Town Office building at a single designated location, electronically via the News & Announcements system (http://www.wareham.ma.us/subscriber.shtml), and on the Town's Website, a notice of the hour and place of their regular meetings.

The Selectmen shall hold regular meetings at least two times per month, and all other boards shall meet at least once a month. Each regularly elected board or committee shall keep records of its official meetings and the votes passed thereat. (Article 54 of April 27, 2009 Annual Town Meeting; Approved by Attorney General on July 20, 2009).

Section 2. Any appointed committee member failing to attend three consecutive meetings of his committee without justifiable cause may be dismissed after a hearing before the appointing authority. The vacancy shall be filled by the original appointing authority.

Section 3. Residency Requirements for Appointment to Multiple-Member Boards, Committees, Commissions and Authorities:

All persons appointed to multiple member boards, committees, commissions and authorities shall be residents of the Town of Wareham who are eligible to be or who are registered to vote in the Town of Wareham; provided, however, that this by-law shall not apply to appointments to those boards, committees, commissions or authorities whose charge or enabling legislation specifically allows for or requires appointment of non-resident members. If an appointed member of a multiple member board, committee, commission or authority shall remove from the Town, such member shall, after a hearing held by the Board of Selectmen, be deemed to have vacated his office. If an appointed member of a multiple member board, committee, commission or authority moves within the Town, notice shall be provided to the Board of Selectmen within 30 days of such move.

Applicants for appointment and reappointment to multiple member municipal boards, committees, commissions and authorities shall provide to the appointing authority proof of residence in the

Town. For purposes of this by-law, proof of residence shall include, but not be limited to, a driver's license, recent utility bill, rent receipt on a landlord's printed letterhead, lease, duplicate copy of a voter registration affidavit, or any other government-issued printed identification which contains the person's name and address. The appointing authority may require provision of additional evidence of residence. (Article 9 of October 23, 2006 Town Meeting, Approved by Attorney General February 6, 2007).

Section 4. Boards, Committees, Commissions holding adjudicatory hearings:

For all Boards, Committees, Commissions holding adjudicatory hearings in the Town of Wareham, the provision of Mass General Laws Chapter 39, Section 23D, which provides that a member of a board, committee or commission holding an adjudicatory hearing shall not be disqualified from voting in any matter solely due to the member's absence from one session of such hearing, provided that certain conditions are met, shall apply. (Article 2 of October 28, 2008 Town Meeting, Approved by Attorney General on January 15, 2009).

DIVISION I
ARTICLE III
TOWN COUNSEL, BOARDS' & COMMITTEES' RECORDS, ASSESSORS' LISTS

Section 1. The Selectmen shall annually in March appoint a Town Counsel, preferably a resident of the Town of Wareham, who shall be an Attorney and Counselor at law. He shall receive such compensation as the Selectmen may determine.

The Town Counsel shall act as the legal advisor and counselor for the Town. The Selectmen may, however, in any case at their discretion, employ additional or special counsel. It shall be the duty of the Town Counsel to advise and act for the Town Officers, Boards and Committees upon and in legal matters touching upon the duties of their respective offices. Each Board or Committee or Officer desiring legal advice or service shall consult the Selectmen before consulting the Town Counsel.

Section 2. 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 offices and shall not be removed therefrom. All Officers, Boards, Standing Committees, and Special Committees having charge of the expenditures of the Town shall annually report thereon in writing in such manner 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 Accountant for statements in detail of receipts and payments, and may make therein recommendations as they deem proper. The Town Clerk shall publish in his report his records of all town meetings and elections held during the year with the action taken under each article. The Selectmen shall list all elected and appointed officers, also all ways laid out and damages thereon. Such reports shall be submitted to the Selectmen for inclusion in the Town Report on or before the 31st day of July of each year. The Town Report shall be made available to the voters of the Town on or before September 30 of each year.

Section 3. The Assessors shall for the year 1963 and every third year thereafter, publish a list of the poll taxpayers and an itemized list of the valuation of the real estate and personal property with the amounts of these taxes thereon, including the fire district valuations and taxes.

DIVISION I
ARTICLE IV
INSURANCE POLICIES, TOWN ACCOUNTANT, TOWN FEES, PROCUREMENT, FINANCE COMMITTEE, CEMETERIES, COUNCIL ON AGING, HISTORIC DISTRICT COMMISSION, COMMUNITY HEALTH SERVICES

Section 1. The heads of all departments having buildings, furnishings or other town property under their charge shall keep the same reliably insured to an amount which they deem sufficient; they shall keep an account of all insurance policies taken out by them; and all `insurance policies shall be deposited with the Town Administrator. The Town Administrator in his report shall give a list of all insurance policies held by the town, which list shall include a statement of the property covered, the names of the companies, the amount and the date of expiration of each policy.

Section 2. The Town Accountant shall in his annual report give an itemized statement of all receipts other than from taxation; and an itemized report of all payments from the Town Treasury. He shall also publish a detailed statement of the town debt, the indebtedness incurred during the year and of votes of the town under which it was incurred; and all debts paid during the year, with a statement in detail of all interest paid during the year.

Section 3. All Town Officers, except Constables, shall pay all fees received by them by virtue of their office into the Town Treasury within 30 days of receipt of said fees or when such fees accumulate to a total of $250.00, whichever event occurs first.

Section 4. The Town Administrator, or his designee, acting as the Chief Procurement Officer shall be responsible for the procurement of materials, supplies, equipment and services pursuant to Massachusetts General Laws, Chapter 30B on behalf of all elected municipal and school officials and appointed boards, commissions, committees, and department heads authorized by the general laws, charter or by-law to make such purchases. The Chief Procurement Officer shall have the right to reject any or all bids or proposals, in whole or in part, as deemed in the best interest of the Town.

The Town may enter into a contract for the procurement of such materials, supplies, equipment and services for a term not to exceed five years on such terms and conditions as are deemed to be in the best interests of the Town.

The Town Administrator, acting as the Chief Procurement Officer, is authorized to promulgate administrative rules and regulations governing procurement procedures, not inconsistent with the provisions of the General Laws of the Commonwealth of Massachusetts. (Article 35 of April 22, 1991 Town Meeting, Approved by Attorney General August 27, 1991).

Section 5. There shall be a Finance Committee of nine members, who shall hold no other town office in or be a permanent employee of the Town. A committee consisting of the Moderator, the Chairman of the Board of Selectmen, and the Chairman of the Finance Committee, shall appoint three members annually for a term of three years. In the event a person shall have served two full consecutive terms, he or she shall be ineligible for re-appointment to the Finance Committee for a period of one year. Vacancies shall be filled by the Moderator, Chairman of the Board of Selectmen and Chairman of the Finance Committee, within thirty days after they occur, for the balance of the unexpired term.

Section 6. It shall be the duty of the Finance Committee to consider all matters of business included within the articles of any warrant for a town meeting, and it shall be the duty of the Selectmen, immediately upon drawing up a town meeting warrant, to transmit a copy of such warrant to the Finance Committee. The Finance Committee, after due consideration, shall report in writing such recommendations as it shall deem best concerning all matters contained in any town meeting warrant relating to the appropriation of money, or which would entail an expense upon the Town, and such report shall be printed and distributed to the voters present at the Town meeting considering said warrant. Said recommendations shall note the number voting in the affirmative and the number voting in the negative on each question.

The Finance Committee shall have authority at any time to investigate the books, accounts and management of any department of the Town and the books and accounts of the Town shall be open to the inspection of the committee or of any person authorized to act for said committee, except those prohibited by General Law. The members of the Finance Committee shall serve without pay for services, but may be reimbursed for actual expenses incurred in the discharge of their duties hereunder.

Section 7. On or before January 20th of each year, the Town Accountant shall transmit to the Finance Committee an itemized summary of the expenditures of the various officers, boards or committees for the preceding two years together with a list of itemized estimates of the requirements for the current year.

Section 8. The Town Treasurer shall accept in trust for the town such sums of money as may be paid to it for the perpetual care of cemetery lots, deposit the same in such depository or depositories as are authorized by law, and pay the interest or so much of it as may be necessary for the care and preservation of the lot designated in the deposit.

Section 9. The Cemetery Commissioners may cancel any cemetery billing which is considered uncollectible by the Commission.

Section 10. There shall be established a Council on Aging in accordance with Chapter 40, Section 8B of the Massachusetts General Laws consisting of 9 citizens of this Town appointed by the Board of Selectmen for terms not to exceed four (4) years for any member. Said terms shall be staggered so that no more than three (3) appointments shall be made in any calendar year. Members can be reappointed for concurrent terms. The Board of Selectmen may appoint two associate members. (Article 85 of October 25, 2010 Town Meeting; Approved by the Attorney General on March 10, 2011).

The duties of said Council shall be to:

1. Identify the total needs of the community's elderly population.
2. Educate the community and enlist support for participation of all citizens concerning these needs.
3. Design, promote and implement services to fill these needs and coordinate present existing services in the community.
4. Promote and support all other programs which are designed to assist the elderly in the community.

Said Council on Aging shall cooperate with the Executive Office of Elder Affairs and

shall be cognizant of all state and federal legislation concerning funding, information exchange, and program planning which exist for better community servicing for the elderly.

Said Council on Aging shall submit an annual report to the Board of Selectmen and a copy of said report to the Executive Office of Elder Affairs. (Article 24 of October 19, 1998 Town Meeting, reconvening October 20, 1998 and reconvened and voted on October 26, 1998; Approved by the Attorney General on January 4, 1999).

Section 11A. 1. There is hereby established an Historic District Commission under the provisions of the "Historic Districts Act", General Laws, Chapter 40C consisting of seven (7) members and three (3) alternate members, appointed by the Board of Selectmen, including one member, where possible, from two nominees, one of whom shall be submitted by the Massachusetts of State Chapter of American Institute of Architects, and one of whom shall be submitted by the Boston Society of Landscape Architects, and one member, where possible, from two nominees of the board of realtors covering Wareham. One or more of the foregoing shall be, where possible, a resident of an Historic District established in Wareham pursuant to the Historic Districts Act. When the Commission is first established, two members shall be appointed for a term of one year, two members shall be appointed for a term of two years, and three shall be appointed in like manner for three years, and their successors shall be appointed in like manner for terms of three years.

1. When the Commission is first established, one alternate member shall be appointed in like manner for a term of one year, one alternate member shall be appointed for a term of two years, one alternate member shall be appointed for a term of three years, and their successors shall be appointed in like manner for terms of three years.

2. There are hereby established two Historic Districts under the Provisions of the Historic Districts Act, General Laws, Chapter 40C, to be known respectively as Center Park District and Parker Mills District, bounded as respectively shown on the plan entitled "Proposed Historical District", dated January 4, 1971, and drawn by Walter E. Rowley & Associates, Scale 1" equals 100', said plan being on record with Town Clerk.

3. This Historic District Commission shall have all the powers and duties of historic district commissions as provided by the Historic Districts Act, General Laws, Chapter 40C, and of subsequent amendments thereto.

4. The Historic District Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of the Historic Districts Act, General Laws, Chapter 40C, and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend same for such purposes.

5. When taking action under the provisions of General Laws, Chapter 40C, Section II, the Historic District Commission shall make a determination within sixty (60) days after the filing of the application for a Certificate of Appropriateness, or such further time as the applicant may in writing allow. (Article 18 of the April 23 and 24, 1990 {and reconvened on June 11, 1990} Town Meeting; Approved by Attorney General October 1, 1990).

6. In case any section, paragraph or part of this By-Law be for any reason is declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect. (Article 49 of March 1, 1971 Special Town Meeting;

Approved by Attorney General June 23, 1971, and within district map).

Section 11B.1. There is hereby established an additional Historic District in the Town of Wareham under the provisions of the Historic Districts Act, General Laws, Chapter 40C, as amended, to be known as narrows Historic District, a tract of land on both sides of Main Street to include all of the following lots, Wareham Assessors Sheet 47 - 1117, 1119, 1120, 1121, 1122A, 1122B, 1123A, 1123B, 1124, 1125, 1126, 1127, 1128, and 1052; and Sheet 46 - 1003, 1007, 1008, 1019 and W-13; and two portions of Lot 1118, Assessors Sheet 47, one being all that portion between Lots 1117 and 1119 that lies within 115 feet of Main Street and between a line perpendicular to Main Street lying 20 feet northerly of the building known as the Tobey Homes and a line perpendicular to Main Street lying 20 feet southerly of said Homestead, the other being all that portion between Lots 1120 and 1121 that lies within 240 feet of Main Street. This tract is bounded as shown on the attached plan entitled "Narrows Historic District", dated April 22, 1986, said plan being on record with the Town Clerk.

1. The Narrows Historic District shall be administered as part of the duties of the present Historic District Commission, as established by Town By-Law under the provisions of the Historic Districts Act, General Laws, Chapter 40C, as amended. Except as specified in this By-Law, provision in the By-Law creating the Historic District Commission shall govern its actions in connection with the additional Narrows Historic District.

2. When requested, the Commission may issue a Certificate of Appropriateness on the basis of the fullest available description of the style and appearance of any proposed construction or alteration, contingent upon subsequent receipt of building plans in accord with said description. When requested to issue a Certificate of Hardship on proposed changes relating to that part of the Narrows Historic District that is within Zoning District Institutional F, the Historic District Commission shall give the fullest consideration to the special medical and financial needs of medical institutions within said district.

3. In case any section, paragraph or part of this By-Law for any reason is declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect. (Article 71 of April 28, 1986 Town Meeting; Approved by Attorney General October 8, 1986, and on the accompanying plan to the extent it is in conformity to the aforesaid vote).

Section 12A. The Wareham Visiting Nurse Agency is abolished as an agency of the Town in accordance with the provisions of Article 6.2 of the Charter of the Town.

Section 12B. The Board of Selectmen are authorized to enter into contracts for community health services upon such terms and conditions as they deem appropriate, which may include contracts in excess of three (3) years.

Section 12C. This By-Law shall take effect upon approval by the Attorney General in accordance with G.L. Chapter 40, Section 32 or upon the effective date of an agreement entered into by the Town for the provision of community health services, whichever occurs later. In the event that an agreement for the provision of community health services is not entered into by all necessary parties by March 31, 1996, this By-Law shall not take effect. (Article 1 of July 31, 1995 Town Meeting; Approved by Attorney General August 10, 1995).

DIVISION I
ARTICLE V
LAND SALE & SALE OF PERSONAL PROPERTY, BIDS

Section 1. The Selectmen may sell, after first giving notice of the time and place of sale by posting such notice of sale in some convenient and public place in the town fourteen (14) days, at least, before the sale, of property taken by the town under the tax title procedure, provided that the Selectmen may reject any bid which they deem inadequate.

Section 2. Any board or officer in charge of a department of the Town may, with the prior approval of the Selectmen in writing, sell or otherwise dispose of personal property within the control of the department which has become obsolete or is not required for further use by such department. The property of a value of $500.00 or more shall be sold, traded in, or otherwise disposed of on the basis of competitive bids. A list of all bids shall be published in the next annual Town Report.

DIVISION I
ARTICLE VI
FINANCIAL AND ORGANIZATIONAL MATTERS

Section 1. Annually, the Town Administrator shall maintain a Five Year Business Plan that includes revenues and expenditures.

Section 2. Capital Improvement is defined as the construction, renovation or improvement of all buildings and grounds the cost of which exceeds $50,000; sewer or storm water construction projects the cost of which exceeds $50,000; all new vehicles; all non-vehicular equipment the cost of which exceeds $25,000; and the acquisition of real estate the cost of which exceeds $25,000. (Article 25 of October 27, 1998 Town Meeting which reconvened on October 20, 1998 and reconvened and voted on October 26, 1998; Approved by Attorney General January 4, 1999).

Section 3. Town Organization Chart: The Town Administrator, in accordance with the Wareham Home Rule Charter Article 6-2 shall establish, publish, and post an organization chart of the executive departments similar to the annexed model. At times he/she may modify this chart as circumstances dictate in pursuit of the orderly and convenient conduct of the town's business. (Article 39 of October 15, 1990 Town Meeting which reconvened on October 16, 1990, October 17, 1990 and October 22, 1990; Approved by Attorney General January 9, 1991).

Section 4. Revolving Funds

DEPARTMENTAL REVOLVING FUNDS

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

2) Expenditure Limitations. A department head, board or committee may incur liabilities

against and spend monies from a revolving fund established and authorized by this by-law without appropriation subject to the following limitations:

a) Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund, (except for those employed as school bus drivers).

b) No liability shall be incurred in excess of the available balance of the fund.

c) The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Board of Selectmen and Finance Committee.

3) Interest. Interest earned on monies credited to a revolving fund established by this by- law shall be credited to the general fund.

4) Procedures and Reports. Except as provided in General Laws Chapter 44, § 53E½ and this by-law, the laws, Charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this by-law.

5) Authorized Revolving Funds.

a) Each revolving fund authorized for use by a town department, board, or committee,
b) The department or department head, board or committee authorized to spend from each fund,
c) The fees, charges and other monies charged and received by the department or department head, board or committee in connection with the program or activity for which the fund is established that shall be credited to each fund by the town accountant,
d) The expenses of the program or activity for which each fund may be used,
e) Any restrictions or conditions on expenditures from each fund; Any reporting or other requirements that apply to each fund, and
f) The fiscal years each fund shall operate under this by-law.

The Table establishes:

Revolving Fund	***Authorized to* Spend Fund**	**Revenue Source**	**Use of Fund**	**FY18 (current) Spending Limit**	**Disposition of FY 17(prior) Fund Balance**	**Spending Restrictions or Comments**
COA/ Transportation	COA Director	User Fees	Transportation	200,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	

COA/Social Programs/ Daycare	COA Director	User Fees, Fund Raising	Programs, supplies, equipment, contracted instructors and any other related expenses	50,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	
COA/ Activities	COA Director	User Fees, Fund Raising	Programs, supplies, equipment, contracted instructors and any other related expenses	50,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	
Library	Library Director	Fines, Fees, Fund Raising	Supplies, books	20,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	
Tremont Nail Factory Buildings and Grounds	Director of Municipal Maintenance	Rent, Fees, Charges, Fund Raising	Operating costs of buildings and grounds	50,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	
Hammond Rental	Director of Municipal Maintenance	Rent from former Hammond School	Operating costs of buildings and grounds	50,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	
Recycling	Chair of Recycling Committee with approval of Town Administrator	User Fees, Fund Raising	Programs, supplies, equipment, contracted instructors and any other related expenses	50,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	
Shellfish Propagation	Shellfish Constable and Town Administrator	Shellfish permits fees & 20% of all fees derived from shellfish permits	Shellfish Propagation and enhancement of shellfish resources	30,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	
Board of Health	Health Department	Fees from Rental Inspection program	Fund Rental Inspection Program	75,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	
Treasurer	Finance Director	Tax Title Collections	Necessary and related Tax Title Fees	150,000	Unencumbered balance from FY17 funds transferred to	

					FY18 revolving fund	
Code Enforcement	Building Commissioner	Fines, Fees and Funds from Enforcement	Fund Code Enforcement	100,000	Unencumbered balance from FY17 funds transferred to FY18 revolving fund	

(Article 6 Fall Town Meeting, October 23, 2017; Approved by Attorney General February 14,2018)

DIVISION I
ARTICLE VII
SURETY

Section 1. The Planning Board and/or Board of Appeals shall condition all development and subdivision approvals granted to any person, partnership, firm, corporation or other entity upon receipt of surety to the credit of the Town. Where the developer is responsible for construction and/or installation of public infrastructure.

The amount of surety referenced herein shall be in an amount sufficient to underwrite the cost of construction and installation of public or other infrastructure constructed or installed by or on behalf of the person, partnership, firm, corporation or entity to whom development or subdivision approval is or has been granted.

Surety shall not be acceptable by the Town unless it is underwritten by a third party independent of the person, partnership, firm, corporation or entity receiving development or sub-development approval. Such surety shall be subject to approval as to form and as to underwriter as may be acceptable to the Board of Selectmen.

No reductions or releases of third party surety shall be made unless approved by the Board of Selectmen upon recommendation by the Planning Board and/or Board of Appeals as appropriate.

All surety instruments shall be filed with the Town Clerk. (Article 39 of October 15, 1990 Town Meeting which reconvened on October 16, 1990, October 17, 1990 and October 22, 1990; Approved by Attorney General January 9, 1991).

DIVISION I
ARTICLE VIII
TOWN TREASURER/COLLECTOR

Section 1. Treasurer/Collector

The Town Administrator shall appoint a Town Treasurer/Collector for an indefinite term. The Town Treasurer/Collector shall have such duties as provided by Town Charter and Bylaws and the General Laws for treasurers and collectors, and by vote of Town Meeting.

Section 2. Transitional Provisions

Upon approval of this by-law by the Attorney General and after all requirements of

G.L. c. 40 § 32 have been met, the Town Administrator shall fill the position with a qualified person as set forth in Section 4-5 of the Town Charter and in a manner consistent with Section 4-2(b) of the Town Charter. The persons appointed to the positions of Town Treasurer and Town Collector shall continue to perform the duties of the office until an appointment to the combined position is made under Section 1 of this By-law, and at such time, the positions of Town Treasurer and Town Collector shall be abolished. (Article 3 of April 29, 2003 Town Meeting; Approved by Attorney General May 12, 2003).

DIVISION II
ARTICLE I
STREET RULES

Section 1A. No bale, box, barrel, bundle, bottle, cask, crate, package of merchandise or any other commodity; no boards, timber, cordwood, brick or stone, or article of furniture; no sign nor any implement whatever shall be suffered to remain in any street or sidewalk in such a way as to obstruct travel thereon or to impair or obstruct vision without a written permit from the Selectmen.

Section 1B. No person, unless required by law to do so, shall make any marks, letters, figures of any kind or place any sign, advertisement or placard (Political or otherwise) upon or against any wall, fence, utility pole, post, ledge, stone, tree, building or structure, abutting any way in the town without the permission of the owner thereof, nor upon any sidewalk or upon any property of the town without a written permit from the Selectmen.

The Selectmen may direct that no sign placed upon town property shall be permitted to remain longer than thirty (30) days on any application.

Section 2. No person shall leave any vehicle or material or place any obstruction in any sidewalk and suffer the same to remain there overnight without maintaining a sufficient light and suitable guards over or near the same throughout the night, nor to allow the same to remain after notice from a police officer, constable or Selectman to remove the same. When any building, wall, fence or other structure is to be erected or repaired, on land abutting any street and the person or persons doing or causing the same to be done, shall require the exclusive use of a part of such street for the deposit of material for such building or repairing, or of the rubbish occasioned thereby, he or they shall make application in writing to the Selectmen, who shall thereupon set off and allot such part of said street as they in their discretion may deem necessary and sufficient for the purposes, and no part of said street shall be used for the deposit of such materials or rubbish other than the part so set off and allowed. All rubbish and residue of materials shall be removed at the expense of the person or persons so building or repairing, within such convenient time as the Selectmen may direct, provided, nevertheless, that no part of any street shall be set off or allotted for a longer time than thirty days on any application; and during such time, such person or persons shall maintain suitable barriers around the part so set off and suitable lights thereon at night.

Section 3. No person shall deposit any rubbish, trash or garbage of any kind, on or along any public way or any property owned or leased by the Town of Wareham or any of its subdivisions, except in a proper container for pick up. Whoever violates this bylaw shall be liable to a penalty of not more than three hundred dollars ($300) for each offense. (Article 26 of April 26, 2010 Town Meeting; Approved by Attorney General October 5, 2010).

Section 4. All buildings abutting upon the line of any public street or way shall be kept provided with watertight metallic or wooden leaders for conducting the water from the roof to the ground, and all water shall be conducted from such buildings to the street gutter or sewer in such manner as not to flow upon the sidewalk.

Section 5. No person, except the owner, shall intentionally disfigure or mutilate any sign, fence or building, nor shall any person draw or write thereon, or upon any sidewalk, any obscene words or figures.

Section 6. No unauthorized person shall intentionally extinguish or light, or tamper with, any street lamp, or injure the posts, glass, or other fixtures of the same, or injure any pump, fountain, or water pipes, standing on any street, under a penalty of **not more than twenty ($20.00) dollars for each offense.**

Section 7. No person shall fire or discharge any firearm, gun or pistol in or across any street or within 500 feet of any dwelling in use without the occupant's permission. This section does not apply to the use of such weapons at any military exercise or review, under the authority of a commissioned officer of the militia nor in the lawful defense of the person, property, or family of any citizen, nor in performance of any duty required by law, nor to any person firing a salute by the permission of the Selectmen.

Section 8. No person shall fly a kite or throw stones, sticks or other missiles, or willfully frighten a horse, or kick at a football, or play at any game in which a ball is used, or shoot with or use a bow and arrow, blow gun, sling, air gun, spring gun, or other implements for propelling missiles, in any street. No person shall coast upon any street except such as may be designated by the Selectmen.

Section 9. No person shall propel, use or ride any vehicle other than a bicycle, velocipede, a baby carriage, or wheelbarrow upon any sidewalk, except as provided for in Chapter 85, Section 12 of the General Laws; and no person shall tie, fasten, lead, ride or drive any animal, except a cat or dog, on any sidewalk, except for the purpose of entering or approaching premises to which no other convenient access exists, or except for the purpose of clearing the sidewalk of snow.

Section 10. No person or persons shall, by grouping or otherwise, obstruct or impede a free passage on the sidewalks for foot passengers.

Section 11. No person shall robe or disrobe in a vehicle of any description on any street of the Town, and no person shall obstruct the view of the interior of any vehicle, except a trailer, by curtains, paper, paint or cloth of any kind, while on any street or property of the Town.

Section 12. The word "street" or "streets" wherever used in these By-laws shall be understood to include all public highways, roads, bridges, sidewalks, lanes, alleys, courts, and squares within the Town limits, as defined and bounded by layout lines of record, unless otherwise expressed.

Section 13. No person shall enter upon the premises of another or upon any public property with intention of peeping into the windows of a house or other building, or of spying in

any manner upon any person or persons therein.

Section 14. Whoever having arrived at the age of discretion profanely curses or swears, and whoever in a street or other public place accosts or addresses another person with profane or obscene language may be arrested without a warrant, and shall be punished be a fine of **not more than twenty ($20.00) dollars.**

Section 15. It shall be unlawful for any person though he or she has attained the age of twenty-one and the right to consume alcoholic beverages to consume or have in his or her possession opened alcoholic beverage containers on public highways, including vehicles, thereon or public places within the Town of Wareham. Whoever violates the provisions of this By-Law shall be fined in an amount **not exceeding twenty ($20.00) dollars for each offense.** (Article 43 of April 27, 2009 Annual Town Meeting; Approved by Attorney General on July 20, 2009).

Section 16. It shall be unlawful for any person to consume alcoholic beverages on public highways including vehicles thereon or public places not duly-licensed for such purposes within the Town of Wareham.

Section 16A. No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannibinol (as defined in G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This By-law may be enforced through any lawful means in law or in equity including but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, §21, or by non-criminal disposition pursuant to G.L. c. 40, § 21D, by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this By-law shall be **three hundred dollars ($300) for each offense.** Any penalty imposed under this By-law shall be in addition to any civil penalty imposed under G.L. c 94C, § 32L. (Article 42 of April 27, 2009 Annual Town Meeting; Approved by Attorney General on July 20, 2009).

Section 17. No person shall behave himself in a disorderly manner or use any indecent language in any public place.

Section 18. The Town may make temporary repairs on private ways which have been opened to public use. Such repairs shall include the filling of holes in the subsurface of such ways and repairs to the surface materials thereof. Materials for such repairs, where practical, be the same as, or similar to, those used for the existing surfaces of such ways, but may include surfacing the ways with bituminous materials, including but not limited to bituminous concrete.

Drainage as determined by the Director of Municipal Maintenance to be necessary as a result of the temporary repairs may also be done. Said temporary repairs shall be made only if petitioned for by fifty-one percent (51%) or more of the abutters along such ways and if the Board of Selectmen declare that they are required by the public necessity and convenience.

The cost of materials used to perform such temporary repairs, if any, shall be paid by the abutters by a deposit as hereinafter provided. Labor and equipment shall be provided by the Town. No temporary repairs shall be commenced unless and until a cash deposit equal in the amount to the estimated cost of such materials to be used to perform such temporary repairs, as determined by the Director of Municipal Maintenance to do the work, is paid over to the Town.

If the Board of Selectmen determine that betterments for reconstruction will be assessed they shall make such assessments upon the owners of the estates which derive particular benefit or advantage from such reconstruction on any such private way a sum equal, in the aggregate, to the total cost thereof, in the case of each such estate, in proportion to the frontage thereof on such way. Except as herein otherwise provided, the provisions of Chapter 80 relating to public improvements and assessments therefore shall apply to reconstruction of private ways made under the authority of this section.

The Town shall not be liable on account of any damage whatever caused by such temporary repairs and/or reconstruction and Section 25 of Chapter 84 shall not apply.

The Board of Selectmen may require an indemnity agreement executed by the said petitioning abutters indemnifying the Town for all claims and damages which may result from making such temporary repairs and/or reconstruction. (Article 20 of April 24, 2017 Town Meeting; Approved by the Attorney General on August 8, 2017)

Section 19. (a) Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for business areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers or for any other place where the public has a right of access as invitees or licensees, shall reserve park-spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by Massachusetts General Laws, Chapter 90, Section 2, according to the following formula:

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

Section 19. (b) Parking spaces designated as reserved under the provisions of paragraph (a) shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense": shall be near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them.

Section 20. No vehicle shall be left parked or standing in any areas designated for use by disabled veterans or handicapped persons as authorized by Section 19A, or in such manner as to obstruct a curb ramp designed for use by handicapped persons as means of egress to a street or public way.

The penalty for violation of this By-Law shall be as follows: For the first offense, **fifteen dollars**; for the second offense, **twenty-five dollars**; for each subsequent offense, the vehicle may be removed according to the provisions of the Massachusetts General Laws, Chapter 266, Section 120D.

Section 21. No person shall erect, place or maintain on a public way any item or material such as fencing, curbing, plantings, markers or any other material that may impede the use or maintenance of that way by the public.

Section 22. No person shall erect, place or maintain a fence, barrier or other obstruction, closer within 1 foot of a public way that may interfere with the use of or maintenance of that way or take any action relative there to.

Section 23. No person shall erect or maintain a fence or barrier that will obstruct a line of sight that will impede entry or exit onto a roadway. (Article 15 of April 25, 2016 Town Meeting; Approved by the Attorney General July on 26, 2016).

DIVISION II
ARTICLE II
JUNK/OLD METAL/SECOND-HAND DEALERS & SHOPS, AUTOMATIC AMUSEMENT DEVICE/VIDEO GAMES LICENSES

PREAMBLE: It is the intent of Sections 1 to 3 of this Town By-law to provide a mechanism for allowing, subject to reasonable and appropriate controls, certain types of activities having to do with collection, consignment, purchase, sale and bartering of Second Hand Articles in the Town of Wareham. Massachusetts General Laws (M.G.L.) Chapter 140, Section 54, allows the Town of Wareham to make rules and regulations regarding the issuance of licenses and to provide for the supervision thereof. Article II regulates Auctions, Auction Houses, Collection Containers, Flea Markets, and Second Hand Dealers and Vendors operating in the Town of Wareham. It does not regulate Auto Salvage Yards, Auto Recyclers, Junk Yards, Pawn Shops or Pawn Brokers, Recycling Centers, Yard, Garage or Estate Sales, and Yard Waste or Compost Facilities and does not supersede any provision of the Town Zoning By-Law.

Section 1.
A. General License Conditions:

1. No person(s), business entity or organization shall solicit for, be a collector of, consign, purchase, sell or barter Second Hand Articles unless duly licensed by the Board of Selectmen and unless such person(s), business, entity or organization complies with all license conditions applicable to Second Hand Articles.
2. Licenses shall be granted by the Wareham Board of Selectmen on such conditions and according to fee schedules determined by the Board of Selectmen. Licenses granted by the Board of Selectmen shall be signed by the Town Clerk upon pre-payment of the required fee. Annual Licenses shall run from May first (May 1) to April thirtieth (April 30) of the following year. Renewal applications are to be filed with the Selectmen's Office on or before April first (April 1).
3. Any person(s), business, entity or organization issued a License hereunder shall display the

License in a conspicuous place upon the premises at which Second Hand Articles are sold.
4. Hours of operation for Licensees shall be limited to the hours between 7 AM and 9 PM, unless the License expressly so provides.
5. The premises at which Second Hand Articles are sold and all portions thereof and all Articles shall be open and accessible to all persons authorized to enforce this Town By-Law.
6. No Articles shall be stored, displayed or offered for sale outside the premises in which the business is conducted or on a sidewalk or public way unless the License expressly so provides.
7. No Licensee hereunder shall purchase or otherwise acquire Second Hand Articles from a person under eighteen (18) years of age.
8. No Licensee hereunder shall purchase Second Hand Articles on their business premises from a private party until the seller provides a driver's license as a positive identification or, if the seller has no driver's license, then other suitable photo identification. For purposes of this section, a private party is defined as a person(s), business, entity or organization that has no valid State Sales and Use Tax Registration Number.
9. A Licensee shall retain on the Licensee's premises for a minimum of thirty (30) days all Second Hand Articles purchased on the premises from a private party and make them available for inspection by the Police Chief, Health Agent or Code Enforcement officer or their designees, at any time. All Licensees shall keep a report or record book in which the following information shall be recorded for each transaction with a private party by which a Licensee purchases or otherwise acquires any Second Hand Articles:

1. the date and time of purchase,
2. the name and address of the seller,
3. the type of identification given by the seller,
4. any identification number provided by the seller,
5. a description of the Article(s) purchased by the Licensee which may include, where applicable, size, brand name, model, serial number, inspection number, if any and,
6. the purchase price paid by the Licensee.

No entry in such record or book shall be changed, erased, obliterated or defaced.

B. Additional requirements: Collection Containers

1. Any person(s), business, entity or organization operating or storing Collection Containers in the Town of Wareham shall be required to obtain a License. Licenses shall only be granted for Collection Containers located in the Strip Commercial or General Commercial Districts as defined by the Wareham Zoning By-Law, as amended, or located on property owned by a charitable or religious entity or the Town of Wareham.
2. Each Collection Container shall have on its exterior surface the name, address and valid phone number of the owner/operator and a permit decal granted and issued by the Board of Selectmen and issued by the Selectmen's Office. Replacement of missing or defaced permit decals shall be the responsibility of the License holder. The fee for each decal shall be set by the Wareham Board of Selectmen.
3. The owner/operator of the Collection Container and the property owner where the Collection Container is located shall not permit Articles or any other items to be deposited or stored outside Collection Containers. The owner/operator of a Collection Container and the property owner where the Collection Container is located are each jointly and severally responsible for removal of all Articles and other items deposited in or around the Collection Container. Failure to remove Articles deposited outside a Collection Container after five (5) business days notification by the Chief of Police, Health Agent or Code Enforcement Officer or their designees, shall result in a fine to the owner/operator and/or property owner, disposal fees and/or removal of the Collection Container at the owner/operator's and/or property owner's expense. Fines and disposal fees shall

be determined by the Wareham Board of Selectmen, but in no event shall they exceed the maximum penalty permitted by M.G.L. Ch. 40, Section 21.

C. Additional Requirements: Flea Markets

1. The owner(s), business, entity or organization operating a Flea Market (the "operator") is required to have a License. Vendors in a flea market shall be acting under the Operator's License and are not required to have a separate License.
2. The Operator shall display the License in a conspicuous place at the Flea Market premises.
3. Outdoor Flea Markets shall not store or display Articles overnight unless the License issued to the Flea Market operator expressly so provides.
4. Flea Market Operators must provide access to sanitary facilities for all patrons.
5. Flea Market Operators must provide access to a receptacle for disposal of refuse for all vendors.

Section 2. Enforcement

1. The Board of Selectmen, at its pleasure, may suspend or revoke a License issued under this Town By-Law if it finds that the Licensee has violated or permitted a violation of any provision(s) of this Town By-Law, or any other provision of the Town of Wareham applicable to the operation of a Licensee's business or any condition of the License or if it finds that the Licensee's continued operation will derogate from the public health, safety or welfare.
2. The Wareham Board of Selectmen, Wareham Chief of Police, the Wareham Cod Enforcement Officer and the Wareham Health Agent and their designees, are authorized to enforce this Town By-Law.
3. A violation of any conditions of this Town By-Law shall result in a fine of not less than two-thirds (2/3) the cost of the License for each offense and each day that the violation continues shall constitute a separate offense.
4. The provisions of this Town By-Law may be enforced by non-criminal disposition as set out in M.G.L. Ch 40, Section 21D.

Section 3. Definitions

For the purposes of this Article II, the following words and terms shall have and include the following respective meanings.

1. Auction – A public sale in which Second Hand Articles are sold to the highest bidder.

2. Auto Salvage, Auto Recycler or Junk Yard – An entity engaged in the business of acquiring, storing, and owning, junk or salvages automobiles or vehicles for re-sale, in their entirety or as parts for repair, rebuilding or restoration or for metals recycling.

3. Collection Container – A mobile, portable or stationary container or structure used solely for the short-term collection or acquisition of Second Hand Articles and which is not used for storage or refuse.

4. Flea Market – A permanent or temporary site or activity where Second Hand Articles are sold and there are multiple Vendors.

5. Junk – Articles that are considered useless in their original intended form or are of little value, some of which may be recyclable. Examples: Used mattress, non-functioning electronic devices or appliances)

6. License – A business operating license required within the Town of Wareham and granted by the Board of Selectmen, to a person(s), business, entity or organization that collects, consigns, purchases, sells or barters Second Hand Articles.

7. Pawn Shop or A Pawn Broker – A person(s), business, entity or organization which lends money at a specified rate of interest on the security of moveable personal property which can be sold if the loan is not repaid within a specified period.

8. Recycling Center – A site where recyclable waste (i.e. metals, plastic, glass, paper and paperboard) is collected, sorted, or prepared for processing and/or sale.

9. Second Hand Articles – Items which have been previously used and can still be used in their original intended form. (Examples: antiques, furniture, used clothing) Pursuant to M.G.L. Ch 140, Section 55, the collection, purchase, sale, or barter of books, prints, coins, or postage stamps shall not be considered to be the collection, purchase, sale or barter of Second Hand Articles.

10. Second Hand Dealer – Any person(s), business, entity or organization that collects, consigns, purchases, sells, auctions, or barter Second hand Articles in the Town of Wareham.

11. Vendor – A person(s), business, entity or organization selling Second Hand Articles at a Flea Market under the License issued to a Flea Market Operator.

12. Yard, Garage, or Estate Sale – The sale of new or Second Hand Articles upon residential property where the Articles are personal property of the resident or where the seller is acting on behalf of such individual(s). Individuals or entities holding a License are prohibited from selling merchandise at yard, garage or estate sales, unless the License expressly so provides. (Article 10 of the October 26, 2015 Town Meeting; Approved by the Attorney General on February 2, 2016)

Section 4. The provisions of Article 11 are severable. If any provision of Article 11 is declared to be invalid or inapplicable to any particular circumstance, that invalidity or inapplicability will not effect the enforceability of the remainder of Article 11. (Article 40 of April 27, 1998 Town Meeting; Approved by Attorney General August 17, 1998).

Section 5. The Board of Selectmen acting as a licensing authority for the Town may grant an automatic amusement device or video game license under Chapter 140 of the General Laws. The annual fee for a license under this section for any automatic amusement device or video game license, or any renewal thereof, shall be one hundred ($100) dollars for each automatic amusement device or video game placed on the premises. (Article 40 of April 24, 1989 Town Meeting; Approved by Attorney General October 12, 1989).

DIVISION II
ARTICLE III
REGULATION OF PAWNBROKING ACTIVITIES

Section 1. The Board of Selectmen may license suitable persons to be pawnbrokers, pursuant to the law.

Section 2. The Board of Selectmen, shall license all persons as Pawnbrokers who maintain a shop; conduct business; or engage in the pawn broking of articles within the Town. The Selectmen in conformance with the law shall prescribe all fees and provisions of any such license.

Section 3. Every licensed pawnbroker, their employees and agents, shall record every pawn transaction in a ledger book provided by the Town, the format of which has been approved by the Chief of Police, the cost of which shall be borne by each licensee. The licensee shall require that every transaction be recorded immediately by printing in the ledger the date and time of any transaction, the identity of the employee making same, a complete description of the article received and the dollar amount paid for any such transaction. No entry made in said book shall be erased, obliterated or defaced.

The licensee shall obtain positive identification and record the full name, address, date of birth, social security number, complexion, height, and a vehicle registration number of the customer, who shall be required to sign the ledger avowing to the accuracy of the information listed. Every licensee shall also photograph, in color, any person pawning articles and keep the

photographs with said books as part of his records.

Section 4. Ledger books must be kept on the premises and shall be available for inspection by any police officer or an authorized agent of the licensing authority during normal business hours.

Section 5. The licensee shall cause to be delivered to the Wareham Police Department on a weekly basis, a copy of all transactions recorded in the ledger on the form provided. If, during the preceding week such pawnbroker has taken no articles in pawn, he/she shall make out and deliver to the Police Department a report of such fact.

Section 6. No license shall directly or indirectly purchase or receive by way of barter or exchange, any article from a minor, being under 18 years of age, unless said minor is accompanied by their parent or legal guardian who shall provide positive identification and whose information and signature shall accompany that of the minor in the ledger book. No licensee shall make a loan, directly or indirectly, to a minor.

Section 7. The holder of a pawnbroker's license shall display said license in a public area of the business for immediate inspection by a police officer or agent of the licensing authority when requested. Licenses shall display a suitable sign identifying the name and nature of the business, which must be clearly visible to all persons passing the establishment in the normal course of travel.

Section 8. Any police officer of the Town, the Selectmen or their agents, may enter upon the premises of any licensee during normal business hours and inspect all records, articles or inventory as permitted by M.G.L.. C. 140.

Section 9. The provisions of Article III are severable. If any provision of Article III is declared invalid or inapplicable to any particular circumstances, that invalidity or inapplicability will not affect the enforceability of the remainder of Article III. (Article 14 of October 25, 2004 Town Meeting; Approved by Attorney General December 23, 2004).

DIVISION II
ARTICLE IV
PROSECUTION FOR BY-LAW(S) VIOLATION

Section 1. Whoever violates any of the foregoing By-Laws shall, unless other provision is expressly made, be liable to a penalty of **not more than two hundred ($200.00) dollars for each offense.**

Section 2. Notwithstanding any other penalty or action for a violation of these bylaws, a statutory violation, or for any other reason, the Selectmen may, upon a public hearing, suspend or revoke any license so issued under Article II, as they may deem appropriate.

Section 3. It shall be the duty of the Selectmen, Constables or Police Officers of the town to promptly prosecute for all violations of the foregoing By-Laws.

DIVISION II
ARTICLE V
MOTOR VEHICLE GARAGES OR REPAIR SHOPS

(NOTE: Article IV deleted in entirety - Article 33 of April 25, 1988 Town Meeting; Approved by Attorney General July 28, 1988).

DIVISION III
ARTICLE I
HOUSE NUMBERING

Section 1. The Road Commissioners shall assign a number to every dwelling house, store, office factory or other building occupied for residential or business purposes which abuts on or faces a public or private way within the town. If a dwelling house is occupied by two or more families on the ground floor, or there are two or more front entrances to such dwelling house, a number shall be assigned for each front entrance or for each family occupying such dwelling. If a business establishment, hotel, lodging house, theater, or any other building used for business or residential purposes has one or more entrances abutting upon a public or private way, a number shall be assigned for each entrance. (Article 9 of the October 26, 2015 Town Meeting; Approved by the Attorney General on February 2, 2016)

Section 2. In the business district of Wareham Village on that part of Main Street lying between the Marion Road on the North and the private way leading to Pinehurst Beach on the South, one number shall be assigned or allowed for each twenty (20) feet of street frontage on each side of the street; and in the business district of Onset Village along Onset Avenue between Union Avenue on the North and Wareham Avenue on the South, one number shall be assigned or allowed for each twenty (20) feet of street frontage on each side of the street. Along all other streets of the town, except as provided in Section 5, forty (40) feet of frontage on the street line shall be the unit of space for assigning or allowing a number; but if an increase in the number of buildings or a change in the nature of their occupancy, of any street or portion thereof, in the opinion of the Road Commissioners requires lessening the space allowed for each number, the Road Commissioners shall have power to assign or allow numbers for a less space.

Section 3. The starting point for the assignment of numbers of any street shall be as far as practicable the point where such street begins or leaves a main or through street, a village or thickly settled district, or at a town line or some other well-identified point where such street has a starting point. Odd numbers shall be assigned or spaced on the right-hand side of the street proceeding from the starting point of the same, and even numbers shall be assigned or spaced on the left-hand side.

Section 4. If there are more buildings or entrances to a building to be numbered within a given space than are allowed for in originally spacing or assigning numbers, a letter, beginning with A and proceeding through the alphabet, shall be added to the number assigned for such space. (For example, the first building or entrance would be 1A, the next 1B, the next 1C, etc.)

Section 5. In the outskirts of the town, or districts where there are no defined streets either public or private, the Selectmen shall be allowed discretion in omitting the assignment of numbers; and in districts or portions of the town where other methods of assigning numbers are more practicable than that heretofore prescribed in this By-Law, the Road Commissioners shall have authority to prescribe other rules and regulations for the assignment of numbers; but the town may by vote direct the Road Commissioners as to method of assigning numbers in a particular district, provided such directions are not inconsistent with the terms of these By-Laws.

Section 6. Numbers already assigned to buildings in the Town of Wareham by the Selectmen under authority of a vote of the town passed at the annual town meeting held March 6,

1916, shall be legal and binding until changed by the Road Commissioners in accordance with these By-Laws.

Section 7. Upon assignment of a number to a building or entrance to a building, the Road Commissioners shall send by mail or deliver to the owner of such building or his authorized agent a written or printed notice informing him of the number or numbers assigned to each building and requiring him within thirty (30) days from the date of such notice to affix numbers of size and materials as the Road Commissioners may prescribe to said building or buildings at or near the entrance or entrances to which such numbers are assigned. The penalty for failure of an owner of a building to comply with this order shall be a fine of **not more than twenty ($20.00) dollars.**

DIVISION III
ARTICLE II
ANTI-NOISE REGULATION

Section 1. It shall be unlawful for any person or persons occupying or having charge of any building or premises **motor vehicle, boat or conveyance** or any part thereof in the town, other than that section of any establishment licensed under Chapter 138 of the General laws, to cause or suffer or allow any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise, where the noise is plainly audible at a distance of one hundred and fifty feet from the building, structure, vehicle or premises in which or from which it is produced. The fact that the noise is plainly audible at a distance of one hundred and fifty feet from the **building,** premises, **motor vehicle, boat, or conveyance** from which it originates shall constitute prima facie evidence of a violation of this By-Law.

It shall be unlawful for any person or persons being in control of a motor vehicle, boat or conveyance to cause any unnecessary, loud, excessive, or unusual noise in the operation of such vehicle, boat or conveyance. The fact that the noise is plainly audible at a distance of one-hundred and fifty feet from the motor vehicle from which it originates shall constitute prima facie evidence of a violation of this By-Law.

It shall be unlawful for any person or persons present or having charge of any building, premises, motor vehicle, boat or conveyance or any part thereof in the town, other than that section of any establishment licensed under Chapter 138 of the General Laws, to cause or suffer or allow, between the hours of 11:00 P.M. and 7:00 A.M., any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise. The fact that the noise occurs between 11:00 P.M. and 7:00 A.M. shall constitute prima facie evidence of a violation of this By-Law.

Section 2. It shall be unlawful for any person or persons being present in or about any building, dwelling, premises, shelter, boat or conveyance or any part thereof, other than that section of any establishment licensed under Chapter 138 of the General laws, who shall cause or suffer or countenance any loud, unnecessary, excessive or unusual noises, including any loud, unnecessary,

excessive or unusual noises in the operation of any radio, phonograph, or other mechanical sound making device, or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons, or in the use of any device to amplify the aforesaid noises, where the aforesaid noise is plainly audible at a distance of one hundred and fifty feet from the building, dwelling, premises, shelter, boat, or conveyance in which it is produced. The fact that the noise is plainly audible at a distance of one hundred and fifty feet from the building, dwelling, premises, from which it originates shall constitute prima facie evidence of a violation of this By-Law. Any person shall be deemed in violation of this By-Law, who shall make, or aid, or cause or suffer, or countenance, or assist in the making of the aforesaid and described improper noises, disturbance, breach of peace, and the presence of any person or persons in or about the building, dwelling, premises, shelter, boat, or conveyance or part thereof during a violation of this By-Law shall constitute prima facie evidence that they are countenancer to such violation.

Section 3. The owner of any building, dwelling, structure, premise, or shelter which is let, rented or leased, shall provide any and all tenants, lessees and sub-lessees with a copy of all sections of this By-law.

Section 4. This article shall not be applicable to fire signals or alarms or to sounds emanating from police, fire or other governmental or emergency vehicles.

Section 5. Any person violating the provisions of this By-law shall be punished by a fine not to exceed two hundred ($200.00) dollars for each offense. (Article 39 of April 25, 2011 Town Meeting; Approved by Attorney General: October 7, 2011).

DIVISION III
ARTICLE III
STREET NAMES

The naming of all ways open for public use shall be in accordance with Section 3A of Chapter 85 of the General Laws.

DIVISION III
ARTICLE IV
SIGNS

Section 1. Any sign as defined in Section V of the Zoning By-Law which refers to a use, announcement, produce, or direction that no longer is present on or pertinent to the premises on which it is located, shall be removed or neatly painted or covered over in a manner whereby the information thereon shall no longer be visible.

Section 2. All signs located on or visible from the streets of the Town shall be maintained in a safe and neat condition to the satisfaction of the Inspector of Buildings. A safe condition shall mean that no part of the sign shall protrude in such a manner as to be a hazard to pedestrians or vehicles, or have loose parts that may be dislodged by wind; and the structure, whether permanent or temporary, shall be affixed to an anchoring system firmly imbedded in the earth. Neatness shall mean that the sign and supporting structure shall be free of extensive peeling and/or rusting (corrosion), and plastic faces shall be intact.

Section 3. Failure to correct a violation of the provisions of Section 1, or Section 2,

above, within 14 days after notice thereof, shall constitute grounds for an order to remove the ding sign. Each day that the order to remove is not complied with shall constitute a separate offense and a fine of **not more than twenty ($20.00) dollars per day shall be levied.** An extension of 10 days may be granted where noncompliance is due to circumstances beyond the control of the owner or other person responsible for the sign.

DIVISION III
ARTICLE V
ALARM SYSTEM BY-LAW

A. **PURPOSE:** False alarms have a deleterious effect on the local law enforcement effort. They are costly and disruptive. Costly in the sense of the deployment of our people to non-bona fide calls; detrimental by subjecting our personnel and equipment to injury or other negative impacts when responding. They cause a drain on the allocation of personnel to designated areas by leaving certain other areas of the Town vulnerable. This is a situation that must be met, modified and dealt with in a manner consistent with the efficient and effective running of the Wareham Police Department by specific means as set forth herein.

B. **DEFINITIONS:** As used in this By-Law, the following terms shall have the meanings indicated:

Alarm System: An assembly of equipment and devices or a single device such as a solid state unit, arranged to signal the presence of a hazards requiring urgent attention to which police are expected to respond. Fire Alarm Systems and Alarm Systems which monitor temperature, smoke, humidity, or any other condition not directly related to the detection of an unauthorized intrusion into a premise or an attempted robbery at a premise, are specifically excluded from the provisions of this By-Law, unless monitored by the Department. Provisions of Section C of this By-Law shall apply to all users.

False Alarms: (A) The activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or his employees or agents: (B) Any signal or automatic dialing device transmitted to the Wareham Police Department requesting or requiring, or resulting in a response on the part of the Wareham Police Department, when in fact, there has been no unauthorized intrusion, robbery or burglary, or attempted threat. For the purpose of this definition, activation of alarm systems by acts of nature, including but not limited to: power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

Automatic Dialing Device: An alarm system which automatically sends, over regular telephone lines, by direct connection or otherwise, a prerecorded voice or coded signal, indicating the existence of the emergency situation that the alarm system is designated to detect.

C. **CONTROL AND CURTAILMENT OF SIGNALS EMITTED BY ALARM SYSTEMS:**

1. All alarms must be authorized by the Chief of Police prior to being connected to the Wareham Police Department.

2. Every alarm user shall submit, to the Police Chief, the names and telephone numbers of at least two other persons, in addition to the user, who are authorized to respond, after notification by the Police Department to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of said premises to immediately notify the Wareham Police

Department of any changes in the list of authorized employees or other persons to respond to alarms.

3. All alarm systems installed after the effective date of this By-Law which use an audible horn or bell, shall be equipped with a device that will shut off such bell or horn within 20 minutes after activation of the alarm system. All existing alarm systems in the Town of Wareham must have a shut-off device installed within six months after passage of this By-Law.

4. Any alarm system, emitting a continuous and uninterrupted signal for more than 20 minutes, which cannot be shut off or otherwise curtailed, due to the absence or unavailability of the alarm user or those persons designated by him under paragraph 2 of this section, and which disturbs the peace, comfort, or repose of a community, a neighborhood, or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such continuous and uninterrupted signal, the Wareham Police Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph 2 of this section, in an effort to abate the nuisance. The Police chief shall cause to be recorded the names and addresses of all complaints and the time each complaint was made.

5. Any alarm system which signals directly into the police station and which, for whatever reason(s), cannot be normally silenced or shut off, may be disconnected at the Police Department. In the event of any such occurrence, the owner shall be notified as soon as possible and said action shall be appropriately recorded by the Police.

6. No alarm system which is designated to transmit emergency messages or signals of intrusion to the Wareham Police Department will be tested until Police headquarters has been notified.

7. Provisions of this By-Law shall not apply to alarm devices or premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

(D) PENALTIES:

1. The user shall be assessed **$25.00** as a false alarm service fee for each false alarm in excess of three (3) occurring in a calendar year; **$35.00** in excess of four (4) occurring in a calendar year; and **$50.00** in excess of five (5) occurring in a calendar year. The Police Chief shall notify the alarm user, either by certified mail or by service in hand by a Police Officer of such violations. Said user shall submit payment within fifteen (15) days of said notice to the Police Department for deposit to the General Fund.

2. The user of a system, which occasions six (6) or more false alarms within a Calendar year, or fails to pay the fine(s) after said notice, may be ordered to disconnect and otherwise discontinue the use of same by the Police Chief.

3. All other violations of this By-Law may be subject to a fine of **not more than fifty ($50.00) dollars for each offense**. (Article 29 of October 15, 1990 Town Meeting which reconvened on October 16, 1990, October 17, 1990 and October 22, 1990; Approved by Attorney General January 9, 1991).

DIVISION IV
ARTICLE I
RULES AND REGULATIONS

Section 1. The Building Inspector shall appoint an Inspector of GAS FITTING whose duty shall be the enforcement of the rules and regulations adopted by the "Board of Examiners of Plumbers and Gas fitters" under Mass. General Laws Chapter 142.

Whoever violates said rules and regulations shall pay a fine of **not more than five hundred ($500.00) dollars for any one offense and each day during any portion of which violation is permitted to exist shall constitute a separate offense.**

PURPOSE:
The Town of Wareham's Waterways Regulations have been established in order to provide efficient utilization of harbor areas, to improve safety of moored vessels, and to provide adequate space for the enjoyment of all the users of the harbors. This shall be done by controlling the placement of moorings, establishing standards for mooring tackle, and by establishing regular, systematic mooring inspections.

Section 2 - Boat Regulations, Harbor Service Permit:

No person shall keep any vessel within the waters of the Town of Wareham, held by mooring or dock without first obtaining a Harbor Service Permit from the Harbormaster. This shall include all personal watercraft. No vessel may be anchored in the waters of Wareham for more than six (6) consecutive days without the consent of the Harbormaster Department. Anchoring shall be prohibited within all designated mooring areas. Anchorage may be at the discretion of the Harbormaster Department.

There shall be an annual fee for the harbor service permit which shall be assessed annually, with such fees being established by the Board of Selectmen in accordance with Massachusetts General Laws, Chapter 40, Section 22F.

The Harbormaster's office shall forward to each harbor service permit holder a bill indicating the due date of the fee. The bill shall be sent to allow 30 days for payment.

The Harbormaster shall issue a harbor service permit decal for the vessel listed on the permit and be displayed to identify that the annual fee has been paid. The harbor service permit shall be displayed in a location that is clearly visible at all times.

Applications for a harbor service permit may be obtained at the Harbormaster Department or on-line. A service fee will be charged for all harbor service permit applications submitted to the Harbormaster Department.

All fees collected by the Harbormaster Department shall be deposited in a receipt reserved for appropriation account to be used to defray the costs of operating the department.

Section 2A – Boat Regulations / Mooring Regulations

All moorings shall meet the minimum standards as set forth below prior to placement. These standards are set for normal weather conditions. In the event of gale winds or stronger and/or extreme tides, it is the mooring owner's responsibility to ensure certain precautions are taken. The

Town of Wareham Harbormaster Department realizes that mooring loads are variable, that it is impossible to say that all vessels of equal length require the same size mooring, and such standards cannot be applied to all vessels. The Harbormaster Department reserves the right to require a vessel owner to increase the minimum mooring standard for any vessel should they feel the minimum standard would be inadequate for the vessel because of unusual design, such as but not limited to, excessive weight, windage, or draft. Furthermore, the Town of Wareham shall not be held liable for any damage inflicted if a minimum standard mooring fails.

All approved installations shall require the mooring system be inspected by a town approved mooring inspector prior to placement. Once the mooring system is inspected, with the approval of the Harbormaster, the available space within the requested harbor location may be designated.

The harbor service permit number shall be permanently labeled on the mooring ball and on the winter stick for identification purposes. Any mooring ball or winter stick that is not identifiable by the harbormaster may be removed from the waterways.

Wintering of mooring gear

All winter sticks shall be removed prior to June 1st of each year and any mooring having a winter stick attached after June 15th of each year shall be considered abandoned, in which case the harbormaster may remove or order the removal of the mooring. The Harbormaster may contact one or more salvage companies, who then may treat the mooring and associated ground tackle as salvage.

A reinstatement fee of $75.00 shall be added to the Harbor Service Permit invoice if the owner would like to maintain the location after the winter stick and/or associated ground tackle is removed from the waters. The harbor service permit holder has ten days from the date of removal to contact the Harbormaster Department to reinstate the mooring. After the ten days, the harbor service permit will be revoked and the location will be issued to the next applicant on the waiting list for that area.

Any mooring that is not being used for the holding of a vessel shall be required to have a winter stick correctly attached prior to December 1st.

Permit and renewal process

Any harbor service permit not renewed prior to July 1st of each year, where the harbor service permit involves a mooring, shall be considered forfeited and any mooring, and associated ground tackle, in the waters of the Town of Wareham shall be considered abandoned. After July 1st an additional late fee of $25.00 shall be added to the harbor service permit invoice.

If the Harbor Service Permit involving a mooring remains unpaid by August 1st, the Harbormaster shall send a notice by certified mail, return receipt requested to the primary address listed on the Harbor Service Permit. The letter will advise the permit holder of the by-law violation.

If the letter ***has not*** **been responded to** within 10 days of the mailing, the mooring and all associated ground tackle shall be removed from the waterways. If the harbor service permit holder ***responds*** to the certified letter after the removal of the mooring, the permit holder may request to reinstate the mooring to the location in writing to the Harbormaster. An additional reinstatement fee of $125.00 shall be applied, in addition to the unpaid harbor service permit and the July 1st late fee.

All moorings that are permitted by the Harbormaster to be reinstalled shall be installed in the same fashion as a new mooring installation. The Harbor Service Permit holder shall be responsible for any and all storage, inspection and installation charges that may apply with the reinstallation by a town approved mooring installer.

In the event the certified letter has remained unanswered by September 1st, the harbor service permit shall be revoked and the location may be assigned to the next person on the mooring waiting list.

Mooring Specifications

The below listed specifications are minimum standards for **normal weather conditions.** Under storm conditions vessels should be removed from the waterways.

1. Unless otherwise approved by the Harbormaster, all new and replacement mooring anchors shall be of the type and minimum holding application listed below:

Length of Vessel	Mushroom Anchor	Pyramid	Helix
Under 12'	75 lbs.	75 lbs.	
12' to 15'	100 lbs.	100 lbs.	
15' to 20'	200 lbs.	200 lbs.	
20' to 25'	300 lbs.	300 lbs.	
25' to 28'	500 lbs.	500 lbs.	

28' and larger – Helical mooring required.

*Helical moorings may be used in lieu of any application. Helical moorings may only be installed by a town approved installer.

2. Helix Anchor

The following specifications shall be considered the minimum allowable specifications of a helix mooring system.

(a) The shaft must be a minimum of 1 1/2" thick and at least six feet in length.

(b) The shaft and helix must be of galvanized or other non-corrosive metal, such as stainless steel.

(c) The shaft must be designed to allow the bottom chain to swivel around the shaft and to be replaced when necessary.

(d) There shall be a minimum of 2 helixes attached to each shaft with the lower helix being a minimum of 8" in diameter and the top helix being a minimum of 8" in diameter.

(e) All chain and pennant specifications will remain consistent with the chain and pennant specifications.

(f) It shall be the responsibility of the Mooring Installer to assure that the proper size and length helix is used according to sub-soils within a given mooring area and for the vessel to be moored.

(g) The mooring installer shall record the position of the helix mooring by a GPS fix and record all the mooring specifications including the length of shaft, depth of mean high water, torque reading at set, all sizes and length of ground tackle. All information shall be filed with the Harbormasters Office within 10 days of work.

(h) All helix moorings shall be installed as close to flush with the bottom surface as possible with no more than 6" protruding above the bottom surface.

3. All mooring chain shall be manufactured of galvanized iron or stainless steel and shall be a minimum of size and length specified below: Any/all shackle(s) used shall be secured with stainless steel wire or plastic wire ties.

4. Navy / Anchor chain may be used to substitute all or a portion of the heavy chain requirements.

5. The use of Jaw Swivels and quick links are not allowed in the mooring system.

6. Effective January 1, 2016, it will be required that all concrete block style moorings be removed from the waterways and replaced with a system allowable under the Waterways Rules and Regulations. Harbor Service Permit Holders will have one calendar year to comply (ending January 1, 2017)

7. Concrete block style moorings not removed from the water after the deadline date of January 1, 2017 shall have the Harbor Service Permit Revoked and the Harbormaster shall order the immediate removal of the system from the waterways.

8. Any concrete block style mooring that fails a mooring inspection prior to January 1, 2016 shall be required to update the system with an allowable system as defined in the Waterways Rules and Regulations. Proof of removal of the concrete system must be provided to the Harbormaster prior to installing the updated system.

Chain Specifications

Length of Vessel	Heavy Chain	Light Chain	Navy Chain	Elastic Mooring System **
Under 12'		3/8"	2X maximum water depth	
12' to 15'	1/2"	3/8"		
15' to 25'	5/8"	1/2"		
25' to 35'	3/4"	5/8"		
35' to 45'	1"	3/4"		

45' and above - *To be determined by Harbormaster and installer specifications*

**In lieu of traditional chain moorings, an Elastic Environmental Mooring System may by permitted under the approval of the Harbormaster and the guidelines of the Manufacturers Specifications.

The length of the heavy chain shall be equal to 1.5 times the maximum depth of water at the mooring location. The length of the light chain shall be equal to the maximum water depth at the mooring location, except as specified above for boats under 12 feet in length.

Pennant Specifications

a. Pennants shall be 2.5 times the distance from the water line to the bow.
b. Pennants shall be constructed of nylon or polyester (Dacron) rope and shall be the minimum diameter as listed below:

Length of Vessel	
15' and under	3/8"
15' to 25'	1/2"
25' to 35'**	5/8" ** *see below*
35' to 45'	3/4"
45' to 55'	1"
55' and above ***	*see below*

* - *Stainless Steel Wire Rope may be substituted.*

** - *All Vessels Over 23' shall be required to have a double pennant. Vessels between 23' to 28' may use a single pennant if the minimum pennant diameter is upgraded to the next diameter line, with the approval of the Harbormaster.*
*** - *To be determined by Harbormaster and Mooring System Installer.*

c. The use of polypropylene rope for pennants is prohibited.
d. Pennants shall be periodically inspected for wear and/or damage.
e. The use of chafe gear on pennants **is required** and shall cover an area of one foot on either side of the bow chocks.

9. The Harbormaster reserves the right to move any mooring within the towns designated mooring fields or reorganize any mooring field in a manner that will be able to utilize space more efficiently. (Article 25 of October 22, 2013 Town Meeting; Approved by Attorney General on February 25, 2013).

Section 2B. WATERWAYS RULES AND REGULATIONS.

1. DEFINITIONS

Boat or Vessel: Watercraft of every description capable of being used as a means of transportation on the water, whether propelled by power, sail or manually.

CMR: Code of Massachusetts Regulations.

Diver: Any swimmer using snorkel tubes, self-contained underwater breathing apparatus, or other diving equipment.

Harbormaster: The Harbormaster of the Town of Wareham, duly empowered by the general laws of the Commonwealth, or any assistant Harbormaster duly appointed.

Harbors: The inner harbors of Wareham are defined as follows:

A. Wareham River - All of the waters north of an imaginary line from Quasuet Point of Hamilton Beach, due East to a point at Parkwood Beach.

B. Onset Bay - To include the federal channel from the tip of Burgess Point, to

all waters North and West of an imaginary line, running from Point Independence to Wickets Island, thence to federal channel buoy, can "13".

C. Cohasset Narrows and Buttermilk Bay - All of the Wareham waterways north of day mark G9, including Butlers Cove, to an imaginary line drawn from the north end of Jefferson Shores due east to the Bourne town line.

Headway Speed: The slowest speed at which a motorboat can be operated and maintain steerage, not to exceed six miles per hour (6 mph), except in the case of Personal Watercraft, for which headway speed shall mean the slowest speed at which a Personal Watercraft may be operated and maintain steerage. (To be considered operating at headway speed the operator of a Personal Watercraft shall be either kneeling or sitting).

M.G.L.: Massachusetts General Laws.

Person: Includes individuals, corporations, associations, societies, partnerships, trusts and any other legal entity.

Personal Watercraft: A small vessel which uses an inboard motor powering a water jet pump as its primary source of motor power and which is designed to be operated, by persons sitting, standing or kneeling on the vessel. The term includes but is not limited to, a jet ski, wet bike or surf jet, so-called.

Services: Services rendered by the Harbormaster, including:

A. Emergency response (24 hours)
B. Enforcement of laws, rules and regulations
C. Safety inspections
D. Pollution control
E. Search and rescue
F. Boating safety courses (in conjunction with Massachusetts Division of Law Enforcement)
G. Identification of boat owner in case of emergency
H. Assignment of mooring locations and maintaining records of mooring/dock assignments
I. Operation of town pump out facilities

Town/Wareham: The Town of Wareham.

Wareham Waterways: The navigable waters within the Town of Wareham, including all harbors, rivers, bays, lakes, ponds and waterways made temporarily non-navigable by reason of low tides, drought or seasonal weather or water conditions.

Waterskiing: The use of water skis, surfboards and the towing or manipulation of persons, water skis, surfboards or similar devices by a motorboat, such similar devices being any object used in the towing of a person or persons by motorboat, whether the person or persons ride in the device or hold onto it.

2. TOWN DOCKS, FLOATS, PIERS, MOORINGS, LANDINGS AND SHORELINES

A. The Town shall not be responsible for any loss or damage to boats or equipment at the public docks, floats, piers, moorings or landings. Boat owners and operators shall be responsible for any damage caused by themselves or their boats when made fast to any of the piers, docks, floats or moorings.

B. Except in an emergency, no boat shall be made fast to any public pier, float, mooring or dock for a period of time in excess of posted time limits without the permission of the Harbormaster.

C. No boat shall be permitted to moor in Wareham waters or to make fast to any public pier, dock or float, if the boat is determined by the Harbormaster to be unseaworthy, deteriorated, likely to cause damage to property, personal injury or which might become a menace to navigation. This shall not apply to boats in immediate distress as a result of a current emergency.

D. No person shall leave any boating or fishing equipment, fish or any other personal property upon any public pier, dock, float or landing for longer than is necessary to load or unload said property to and from any boat or vehicle.

E. There shall be no scaling or cleaning of fish or shellfish on any public piers, docks, floats or ramps.

F. No boat shall be left on or at any Town dock, pier, float or landing from December 1st to March 15th, unless specifically authorized by the Harbormaster. Any such boat shall be removed by the Harbormaster, if unable to locate owner. Any such boat unclaimed by July 1st of each year shall be considered abandoned and disposed of in accordance with the town's current disposal method.

3. **REFUELING OF VESSELS**

A. The refueling of boats shall be in accordance with M.G.L. Chapter 148 and 527 CMR 15.00.

B. The refueling of boats at any public pier, dock, float or ramp without the permission of the Harbormaster is prohibited.

C. The dispensing of fuel at any location not authorized under the provisions of M.G.L. Chapter 148 and 527 CMR 15.00 is prohibited. (Refueling of vessels, in or upon the waters of the Commonwealth, by portable containers, tanks, etc. is prohibited.)

D. The owner of any properly permitted vehicle used to refuel a boat shall have such liability insurance in the form and amount as may be required by the Town and spill containment equipment available in the event of the discharge of fuel into the water or onto the facility. Proof of insurance and availability of the containment equipment must be demonstrated to the Harbormaster before refueling is allowed to begin.

Exception - Personal watercraft and outboard motors with self-contained gas tanks may be re-fueled under the following conditions:

1. Only containers approved by the State Fire Marshall shall be used,

2. Containers shall not be left on the shore, dock, float or pier, and

3. The owner and the operator of the boat shall assume all liability for any damages and for the cleanup of any spill or the discharge of fuel into the water or onto the facility.

4. BOAT OPERATION

A. No vessel shall be operated at any time on the waters of the Town at a speed greater than is reasonable and proper having regard to the lives and safety of the public; the state of visibility; the traffic density; the maneuverability of the vessel; the state of wind, water and current; and the proximity of navigational hazards.

B. A vessel shall not be operated at more than headway speed:

1. When the operator's vision is obscured under a bridge or by bends or curves or in any other manner.

2. When the vessel is operated within three hundred feet (300') of a swimming beach, unless operating in an area designated for higher speed.

3. When the vessel is operated within one hundred fifty feet (150') of a mooring or anchorage area, marina, boat launching facility, raft or float.

4. When the vessel is operated in an area posted "Slow-No Wake".

5. In any inner harbor, except in areas designated for higher speeds.

C. Boat operator within sight of a diver's flag shall proceed with caution. No boat shall proceed at a speed exceeding three miles per hour (3 mph) within a radius of one hundred fifty feet (150') of a diver's flag.

D. No boat shall land on any swimming beach except in an extreme emergency, or in an area designated by the Harbormaster, and shall exercise extreme caution in doing so.

E. Small rowboats (dinghies) used for transportation to a moored boat shall not be left on any public swimming beach; except in areas designated by the Harbormaster. Such boats shall be carried to the most inward portion of the beach, before any grassy area, and secured upside down.

F. No boat or vessel shall be left on any beach or other property owned by the Town without permission of the Harbormaster.

G. NO DISCHARGE AREA: Effective January 22, 1992, the Environmental Protection Agency (EPA) declared Wareham coastal waters a federal "no discharge area", making the discharge of both treated and untreated boat sewage in this area illegal, and enabling federal, state and local enforcement officers to assess fines and other penalties for discharge violations.

5. BOAT OPERATIONS - FRESH WATER PONDS, LAKES AND RIVERS

The following regulations, in addition to applicable general regulations, apply to all fresh water ponds, lakes and rivers within the Town.

A. Headway Speed - Rescinded February 8, 2000 by Attorney General.

B. Use of Airplanes - No airplane adapted to land on water shall be allowed to operate from or upon any pond, lake or river in Wareham except upon an emergency basis.

C. Internal Combustion Engines - Restrictions.

A. The use of internal combustion engines of more than five (5) horsepower is prohibited on Blackmore Pond, Horseshoe Mill Pond, Tremont Pond and all waterways less than thirty (30) acres in size.

B. The use of internal combustion engines of more than fifty (50) horsepower is prohibited on Spectacle Pond and Dick's Pond (Silver Lake).

D. Floats, Rafts, Docks and Moorings - All floats, rafts, docks or moorings in or upon any pond, lake or river must have a permit issued by the Department of Environmental Protection and/or the Conservation Commission or the Harbormaster (in accordance with M.G.L. Chapter 91 Section 10A)*
* - The Harbormaster may authorize by permit the mooring on a temporary basis of floats, rafts, and docks held in place solely by the means of anchors or bottom moorings.

6. DIVERS

A. No person shall dive in Wareham waters without displaying an "Alpha" or red and white diver's flag which is clearly visible within a radius of three hundred feet (300').

B. No diver shall be further than one hundred feet (100') from the diver's flag at any time while on or under the surface of the water.

C. No person shall dive within the channels of the Wareham Waterways without the prior permission of the Harbormaster.

7. MOORINGS

A. Mooring location will be assigned only to boats consistently moored or docked in Wareham waterways.

B. Mooring placement may be authorized only by the Harbormaster.

C. Applications for Mooring Space.

1. The Harbormaster shall maintain a waiting list for mooring space, subject to the following provisions:

a) Application forms must be filled out completely, to include all information deemed necessary.

b) To remain on the waiting list, the applicant must reconfirm the application information in writing no later than July 1st of each year. Applications not confirmed by July 1st of each year shall be removed from the waiting list.

c) Applications for mooring space for commercial boats owned by a Wareham resident or real estate tax payer shall be given preference. All other applications shall be considered by the date of filing.

d) When a mooring space becomes available, the applicant shall have fourteen (14) days from the date of notification to install a mooring in that location or to hire a person to install the same. The Harbormaster may grant an extension of time for good cause shown. Failure to install a mooring within this time shall be considered a refusal and the space assigned to the next application on the waiting list.

D. Boats shall be moored only where assigned by the Harbormaster.

E. Changes of mooring location or boat ownership will be in accordance with the following procedures:

1. Boat owners wishing to transfer their mooring from one area to another must apply in writing to the Harbormaster.

2. The Harbormaster shall be advised immediately if there is a change of boat or boat size. Boat owners may retain the same mooring location if a boat is replaced with one of equivalent size.

3. The holder of a mooring assignment shall advise the Harbormaster when he ceases to have need for the mooring location.

4. Boats with a change of ownership have no entitlement to the mooring space previously assigned to that boat unless the boat becomes jointly owned and the previous owner retains a share in the boat.

5. The owner of a boat with an assigned mooring location may retain that location if, within two (2) years of the sale or transfer of ownership of that boat, the owner replaces it with another boat of equivalent size, as determined by the Harbormaster. If the replacement boat is not of equivalent size, a new application for a mooring location shall be filed with the Harbormaster, and a new location assigned if all requirements are met and a location is available.

F. The Harbormaster may inspect any mooring and order its immediate replacement or repair if it does not conform to the current requirements for moorings of the Town of Wareham.

1. All moorings in Wareham waterways shall be inspected at least once every three years by a qualified inspector, at the owner's expense.

   a) Such inspection shall be made by raising the mooring or, in cases where the Harbormaster determines the mooring to be of such weight that it cannot be conveniently raised, inspections may be made underwater.

   b) The Harbormaster will maintain a list of qualified inspectors. All inspectors must demonstrate to the Harbormaster knowledge of Wareham waterways and standards for moorings and associated ground tackle. Any inspector, performing underwater inspections or services, shall have a current Divers' Certificate. The Harbormaster may remove any inspector's name from the approved list may remove any inspector's name from the approved list of qualified Inspectors if it is determined by the Harbormaster, the Inspector has failed to exercise due diligence in performing the duties of an inspector.

   c) If the result of any inspection indicates that any chain, shackle or mooring has become damaged or worn by one-third (1/3) or more of its original size or diameter, such chain, shackle or mooring shall be replaced accordingly. Failure to make such replacement, within ten (10) days of the inspection, shall be grounds for revocation of the harbor service permit and removal of the mooring by the Harbormaster.

   1. Commencing on June 15, 2002 and every third year thereafter, no permit will be issued or renewed for a mooring space assigned to any vessel with an overall length of 32 feet or more unless the owner of the vessel provides the Harbormaster with a certificate from a qualified inspector that the mooring tackle meets the current specifications and has been inspected by him within the preceding twelve (12) months.

   2. Commencing on June 15, 2003 and every third year thereafter, no permit will be issued or renewed for a mooring space assigned to any vessel with an overall length of 23 feet or more but less than 32 feet unless the owner of the vessel provides the Harbormaster with a certificate from a qualified inspector that the mooring tackle meets the current specifications and has been inspected by him within the preceding twelve (12) months.

   3. Commencing on June 15, 2004 and every third year thereafter, no permit will be issued or renewed for a mooring space assigned to any vessel with an overall length less than 23 feet unless the owner of the vessel provides the Harbormaster with a certificate from a qualified inspector that the mooring tackle meets the current specifications and has been inspected by him within the preceding twelve (12) months.

H. Abandoned moorings and those whose owners cannot be identified shall be confiscated by the Harbormaster for disposal in accordance with the

towns current disposal method. The Harbormaster shall have the right to notify one or more salvage companies, who may then treat the mooring and associated ground tackle as salvage.

I. All winter sticks must be marked with the harbor service permit number, and painted a bright color. The stick must be anchored so that it will be vertical at all tides and clearly visible. Winter sticks should be installed on all moorings.

J. All mooring marker buoys shall be white styrofoam, rubber or plastic float with a blue stripe. The harbor service number shall be permanently affixed to the mooring buoy and be legible. Buoys shall be large enough to support the required tackle.

K. No mooring shall be set in any navigation channel.

8. OUTHAULS

A. No outhaul stakes shall be permitted on any public beach.

B. No outhauls shall be placed on privately owned shoreline areas without the permission of the owner.

9. WATERSKIING

A. Waterskiing within the inner-harbor "no wake zones" shall be limited to: Sunset Cove: An area in the center portion of Sunset Cove, excluding the mooring area.

B. The town considers waterskiing to be a dangerous recreational activity, that should only be attempted within strict compliance with M.G.L. Chapter 90B and other applicable Federal, State, and Town requirements.

10. MULTI - USE AREAS

Designated areas administered by the Harbormaster shall be kept free from additional moorings and permanent structures. Shall include but not be limited to:

A. Wareham River - An area approximately 500 feet off Swifts Beach, Swifts Neck, excluding the mooring areas and buoyed channels.

B. Onset Bay - An area south of an imaginary line between Onset Island and Wickets Island, excluding the mooring areas and buoyed channels.

C. Broad Cove - An area in the central portion of Broad Cove, excluding the mooring areas.

D. Sunset Cove - An area in the central portion of Sunset cove, excluding the mooring areas.

11. SAILBOARDS

Sailboards shall be operated at a safe distance away from any swimming area, pier or dock/float, or any moored or anchored vessel.

Sailboards shall not be operated within marked channels or fairways except for direct crossing of same.

12. BOATING ACCIDENTS

A. Reports - Accident reports must be filed pursuant to the provisions of M.G.L. Chapter 90B whenever any one or more of the following occurs onboard or involves any boat or vessel in or upon Wareham waterways:

1. Death of any person from whatever cause.

2. Disappearance of any person from onboard under circumstances which suggest the possibility of death or injury.

3. Injury to any person: or

4. Loss or damage to property of any kind, including the boat or vessel, in an amount equal to or greater than $500.00.

B. Time to file report - Whenever death or serious injury has or may result from a boating accident, a written report shall be submitted within forty-eight (48) hours. For every other boating accident, a written report shall be submitted within five (5) days.

C. Where to file report - Reports shall be submitted to the Division of Law Enforcement, and any other office as required by law. A copy shall also be sent to the Harbormaster.

13. MARINAS AND YACHT CLUBS

A. HARBOR SERVICE PERMIT REGULATIONS.

Marinas and Yacht Clubs shall be required to purchase the Harbor Service Permits for all their rented Moorings and Dock Slips. (excluding transient)

RATE: Residential Slip/Dock–Shall be the fee for all Moorings and Dock Slips

1. Harbor Service Permit Fees shall be paid by July 15th of each year. The Harbormaster shall provide (HSP- stickers) to each Marina and Yacht Club. The harbor service permit (decal) shall be affixed to the port side of the vessel and shall be clearly visible at all times.

B. MARINAS AND YACHT CLUBS WILL PROVIDE THE HARBORMASTER WITH A COPY OF THEIR RULES AND REGULATIONS.

It shall be a provision of such regulations that "Persons on boats lying at slips or docks shall use shore side sanitary facilities only". Marinas and Yacht Clubs

will inform all transient vessels of the Town of Wareham's regulations regarding Marine Sanitation Devices and of the EPA designation of Wareham coastal waters as a "No Discharge area."

C. Marinas and Yacht Clubs shall provide and promote pump-out services free of charge to all customers.

D. Marinas and Yacht Clubs will maintain a record of the use of pump-out stations and provide the Harbormaster with a copy of such on a monthly basis.

Information required:
1) Approximate Gallons Pumped
2) Name of Boat
3) Date of pump-out
4) Pump-out operator

14. ABANDONMENT

A. Except in a maritime emergency currently affecting those aboard or others in the immediate vicinity, no vessel, mooring or object shall be deliberately abandoned, sunk or otherwise placed in Wareham waterways where it may constitute a hazard. Any abandoned or sunk vessel, mooring or object so found and any vessel swamped, sunk, washed ashore or found may be ordered by the Harbormaster to be removed or relocated. If corrective action is not taken after seventy-two (72) hours notice to the owner, or if the owner is not known after notice has been posted for the same period at the Town Hall and the Harbormaster's Office, the Harbormaster may remove or relocate it at the expense of the owner. (M.G.L. Chapter 102).

B. A boat or vessel which, in the opinion of the Harbormaster, is not seaworthy, shall not be placed or kept in Wareham waterways/or the shoreline of the Town of Wareham. The Harbormaster, after written notice to the owner (if known), may remove such boat or vessel, at the expense of the owner.

C. No boat or vessel shall be left on the public shores or tied to a public dock/pier from December 1 through March 15 without authorization of the Harbormaster. Any such boat or vessel shall be considered abandoned if unable to locate the owner, and disposed of in accordance with the Town's current disposal method.

15. POLLUTION

The discharge of any raw sewage, garbage, rubbish, oil or debris in or upon any waters within the Town of Wareham or within twenty (20) yards of any such waters is prohibited (M.G.L. Chapter 270).

16. TEMPORARY FLOATS AND RAFTS

In accordance with M.G.L. Chapter 91 Section 10A the placement of temporary floats and/or rafts held by anchors or bottom moorings is subject to a written permit issued by the Harbormaster. All

such floats or rafts will be identified with permit numbers affixed to the land and open water sides of the float or raft in contrasting color and shall be a minimum of (3") inches in size.

17. PIERS AND DOCKS

A. Every pier and/or dock in or upon the waterways of the Town shall be licensed in accordance with applicable federal, state and local law or regulation.

B. No boat or vessel secured (tied) to any pier or dock shall be allowed to ground or rest on the ocean bottom. This shall not apply where the keel rests on the bottom in extreme low tide only.

18. BRIDGES

Diving or jumping from bridges over any waterway is prohibited.

19. CHANNELS AND FAIRWAYS

A. No vessel shall anchor or moor within a navigational channel or fairway.

B. No lobster pots, crab pots, eel pots, or nets, seines, trawls, traps, etc. are to be set in any navigational channel or fairway.

20. AIDS TO NAVIGATION

A. No vessel shall tie to any Aid to Navigation or anchor/moor in a position that would obscure the aid from the sight of passing vessels.

B. No person, company or corporation may install "Private" Aids to Navigation without a proper permit from the authority having jurisdiction of the particular waterway. A copy of the required permit shall be filed with the Harbormaster.

C. It is a criminal offense to cause any damage or hindrance to the proper operation of any Aid to Navigation. This includes, altering, moving, destroying, tying a boat to, or obscuring from the sight of passing vessels, any aid to Navigation.

21. PERSONAL WATERCRAFT

A. No person shall operate a personal watercraft except in a safe and prudent manner, having due regard for other waterborne traffic, posted speed, and wake restrictions. Negligent Operation– Shall include, but not be limited to:

1. Speeding in restricted areas.
2. Unreasonable jumping, or attempting to jump the wake of another vessel.
3. Following within 150 feet of a water skier.
4. Weaving through congested vessel traffic.
5. Crossing unreasonably close to another vessel.

6. Towing a water skier or any person in any manner from a personal watercraft.

B. Personal Watercraft Rentals— Shall be subject to the approval and all regulations set forth by the Board of Selectmen.

22. COMPATIBILITY WITH OTHER GOVERNMENTAL REGULATIONS

Nothing contained herein shall be held or construed to supersede or conflict with, or interfere with, or limit jurisdiction of the United States Government or Commonwealth of Massachusetts, or limit or conflict with their laws and/or regulations. In any case, the more restrictive rule or regulation shall apply.

23. ENFORCEMENT

The provisions of these regulations shall be enforced by the Harbormaster, Deputy Harbormaster and may be enforced by any Town of Wareham Police Officer.

24. PENALTIES

The Harbormaster, Deputy Harbormasters and any Police Officer of the Town of Wareham, as an alternative to initiating criminal proceedings, may issue non-criminal citations for violations of the above Waterways Rules and Regulations under the provisions of M.G.L. Chapter 40, Section 21D. The penalty for violations of such Rules and Regulations shall be:

First Offense.....$ 50.00
Second Offense.....$100.00
Each Subsequent Offense.....$250.00

Each day of violation shall constitute a separate offense.

25. SEVERABILITY CLAUSE

In the event that any provisions, section or clause of these regulations is hereafter found to be invalid, such invalidity shall not affect the validity of the remaining portions of these regulations. (Article 19 of the October 18, 1999 Annual Fall Town Meeting; Approved by Attorney General on February 8, 2000.)

Section 3. No person shall have more than one unregistered car or truck ungaraged on his premises in a residential district at any time unless authorized by the Board of Selectmen. In no event will an unregistered, unsightly car or truck be stored in the front yard. Whoever violates the said rules and regulations shall pay a fine of **not more than twenty ($20) dollars for any one offense** and each day during any portion of which a violation is permitted to exist shall constitute a separate offense.

Section 4. No person or persons shall demolish a building or structure by fire before obtaining a permit issued by the Board of Selectmen. The Board of Selectmen shall not issue a permit without first giving a seven day written notice to the abuttors by registered mail and by serving notice to the general public by placing a notice of intent in at least one issue of a newspaper having a circulation in the Town. Said published notice to be at the expense of the applicant.

Section 5. "No one shall solicit contributions and/or there shall be no solicitations by commercial salesman or their agents while going uninvited, house to house, in the Town of Wareham unless the said person or persons having first registered with the Board of Selectmen. Anyone intending to go uninvited from house-to-house to solicit contributions and/or to act as a commercial salesman, or their agents, shall first present themselves to the Board of Selectmen and give their full name, age, permanent and local address, if any, employer's name and address, and list all the products or commodities being offered for sale and/or the organization for which the contributions are to be solicited. The Board of Selectmen upon receipt of the above information and statement, under the pains and penalties of perjury, shall verify the above information and then shall grant to the person, or persons, written authorization to solicit. Whoever violates the said rules and regulations shall pay a fine of not more than twenty ($20) dollars for each alleged offense and each day, during any portion of which a violation is permitted to exist, shall constitute a separate offense."

Section 6. No person or persons shall discharge any firearms of any kind from all shores, banks, and waters of the Wareham River from the Narrows Bridge to the Tremont Nail Co., and from all shores, banks, and waters of the Agawam River from the Narrows Bridge to the downstream to the westerly end of Lot 1060 on Sheet 43, now or formerly the property of the Buzzards Bay Gas Company. Whoever violates the provisions of this By-Law shall be punished by a fine of **not more than fifty ($50.00) dollars.**

Section 7. No person or persons shall discharge any firearms of any kind from all Shores, banks and waterways of the East River, north from the Point Independence Bridge and from all shores, banks and waters of Broad Cove, Muddy Cove up to the Penn Central Railroad adjacent to Ocean Spray Plant located on Rts. 6-28. Whoever violates the provisions of this By-Law shall be punished by a fine of **not more than fifty ($50.00) dollars.**

Section 8. No person shall operate a motor vehicle, construction machinery, moped or recreational vehicle on any public salt or fresh water beach or marsh without a special permit issued by the Board of Selectmen upon hearing and findings that such operation of a motor vehicle, construction machinery, moped or recreational vehicle will not be injurious, noxious or offensive to the neighborhood and the Town. Any such permit shall be subject to review by the Conservation Commission. The foregoing requirement of a special permit shall not apply to District, Town, County, State or Federal Government or under emergency conditions as determined by the Chief of Police or his designee. Any persons violating the provisions of this section of the By-Laws **shall be punished by a fine of not more than two hundred ($200.00) Dollars for each offense.**

Section 9. Whoever intentionally attaches a Municipal Privilege Permit to a vehicle other than the vehicle to which the permit was issued shall be subject to the following fine(s):

First Offense $ 50.00 **Subsequent Offense(s) $200.00**
Second Offense $100.00

This section may be enforced by police officers and natural resources officers. (Article 54 of April 24, 1989 Town Meeting; Approved by Attorney General October 12, 1989).

Section 10. In order to preserve and protect public health and safety, no person or persons shall operate a marina or a boat yard without first obtaining a license issued by the Board of Selectmen. The application procedure and fee for such a license shall be established by the Board of Selectmen. No license shall be issued unless such marina or boat yard provides the following:

(1) Adequate facilities for the collection, treatment and disposal of sewage or other sanitary waste, as said Board of Selectmen may specify, including facilities for the purging out and cleaning of holding tanks, the contents of which shall be then disposed of in such manner as not to be discharged into or near any waters of the Commonwealth, unless such discharge is to the municipal sewerage system or to an adequate sewage treatment or disposal facility approved by the Board of Selectmen;

(2) Adequate and conveniently located dockside toilet facilities for the use of the occupants of watercraft; and

(3) Adequate and conveniently located trash receptacles or similar devices for the disposal of litter and refuse.

Any license issued under this section shall be for a term of one year and may be renewed annually, with the understanding that its application to the licensing of marinas shall not be inconsistent with similar duties imposed on the Division of Water Pollution Control by G.L. C 91 Bloom v. Worcester, 363 Mass. 136 {1973}). (Article 5 of October 19, 1987 Town Meeting; Approved by Attorney General December 28, 1987)

Section 11. Motorized Scooter: Regulation

Section 1. As used in this section a motorized scooter shall mean any two-wheeled device that has handlebars, is designed to be stood or sat upon by the operator and is powered by an electric, gasoline or alcohol fueled motor that is capable of propelling the device with or without human propulsion. A "motorcycle" or "motorized bicycle" as defined in Massachusetts General Laws, Chapter 90, Section 1, are not motorized scooters.

Section 2. No motorized scooter shall be operated upon any way, or in any place to which the public has right of access, or in any place which the public has right of access as invitees or licensees within the Town of Wareham, by any person under sixteen years of age. Every person operating a motorized scooter must possess a valid driver's license or a learner's permit. Motorized scooters may not be operated at a speed in excess of twenty-five miles per hour.

Section 3. No person shall operate a motorized scooter on any sidewalk, public property, off-street recreational bicycle paths, schools, playgrounds, parks, or beaches within the town.

Section 4. No owner, lessee or person who has a motorized scooter under his/her custody, care or control, shall allow or permit any person to operate a motorized scooter on any sidewalk, public property, off-street recreational bicycle paths, schools, playgrounds, parks, or beaches within the town.

Section 5. Every person operating a motorized scooter must wear a helmet that meets current DOT standards. No person operating a scooter shall permit any other person to ride as passenger on such scooter.

Section 6. No person shall operate a motorized scooter upon any way, or in any place to which the public has a right of access, or in any place which the public has right of access as invitees or licensees, within the Town of Wareham, between the hours of one-half hour after sunset and one-half hour before sunrise.

Section 7. Any person who violates any section of this regulation shall be subject to a fine not to exceed $100.00 for each offense.

Section 8. The provisions of this regulation are severable. If any provision of this regulation is declared invalid or inapplicable to any particular circumstances, that invalidity or inapplicability will not affect the enforceability of the remainder of this regulation.

DIVISION IV
ARTICLE II
STREET REGULATIONS GOVERNING CONSTRUCTION
RULES AND REGULATIONS FOR CONSTRUCTION WITHIN THE STREETS UNDER JURISDICTION OF THE TOWN OF WAREHAM
PERMITS

Section 1. Permits for any type of construction within the street layouts of the Town of Wareham, Massachusetts, must be granted only by the Board of Selectmen and/or his agent. "Streets" herein mean property line to property line.

A. Before a permit is granted, a plan and schedule of construction must be presented and discussed with the Board of Selectmen and his agent as to type of construction, and adherence to State and local safety regulations, and rules and regulations of type of construction involved.

Section 2. Longitudinal trenches in streets that are excavated over a predetermined length and width must be repaved curb to curb or edge of a roadway to edge of a roadway, with a minimum 1 1/4" in bituminous concrete overlay after material in trench backfill is replaced in kind, and all sags in roadway caused by settlement of trench are corrected by application of proper layers of bituminous concrete leveling courses; following the overlay white or yellow "Life Lines" as the case may be, shall be repainted by the holder of the permit.

BACKFILLING

Section 3. Under roads or other traffic areas, the trench shall be back filled in 6 inch layers with each layer compacted to the density of the surrounding soil. Pavement and base course materials removed during the excavation process shall be replaced with pavement and base course to match those removed. Modern compaction equipment over each succeeding layer of backfill must be used of the type such as the Vibratory "Jay" Tramp or "Groundpounder," so called. Approval of "tampering" equipment is required before permit is granted by the proper authorities. Temporary pavement shall be required when in the opinion of the authorities; the excavation is deep enough to warrant it. When isolated cross trenches are excavated within the streets, a minimum 8" reinforced concrete cap shall be constructed to the bituminous concrete – subgrade to conform to the Massachusetts Standard Specifications. All backfilling procedures shall conform to the Massachusetts Standard Specifications.

MAINTENANCE AND PROTECTION OF TRAFFIC

Section 4. The contractor or permit holder shall maintain traffic and protect the public from damage to person and property, within the limits of and for the duration of the project. Traffic shall be maintained over a reasonably smooth traveled way which shall be so marked by signs, delineation, and/or other methods that a person who has no knowledge of conditions can safely, and

with a minimum of discomfort and inconvenience, ride, drive, or walk over all or any portion of the highway under construction where traffic is to be maintained. Maintenance and protection of traffic over any streets during construction shall be considered as important and necessary as is the actual construction itself. Special attention shall be given to maintenance of a satisfactory traveled way over weekends, holidays, and during the winter season. Heavy construction equipment shall not be allowed to remain in streets during nonconstruction hours.

DETOURS

Section 5. Permission for traffic detours shall be granted only after formal request and after approval from the Fire Department and Police Department. Proper directional signs and proper detour arrows shall be used during a detour; all signs to meet the Massachusetts Standard specifications.

PENALTIES

Section 6. The Selectmen and/or their agent or agents shall have the authority to immediately revoke the permit upon any violation of the foregoing regulations.

DIVISION IV
ARTICLE III
EARTH REMOVAL REGULATIONS

Section 1. Purpose: To insure that permanent changes in the surface contours of land resulting from the removal and realignment of earth materials will leave land in a safe and convenient condition for appropriate reuse without requiring excessive and unreasonable maintenance or resulting in damage to public and private property, as well as to provide that earth removal activities shall be conducted in a safe manner with due regard to safety and with minimal detrimental effect upon environment of the district in which the activities are located.

Section 2. Definitions: For the purpose of this By-Law, "earth" or "earth materials" shall be considered to refer to and to include loam, sand, gravel, stone, ore, peat, humus, clay, rock, soil, or any combination of these.

Section 3. Required Permit & Exceptions: Except as provided otherwise in this By-Law, no earth shall be removed without the issuance of a permit from the Board of Selectmen, as the permit granting authority.

As part of and set forth in such permit shall be the restriction forbidding excavation to a depth below the mean grade of an adjacent serving street, in the immediate vicinity of the street.

This By-Law shall not apply to the moving of earth materials under the provision of a duly approved subdivision plan, to work necessary for the construction of streets and the installation of utilities, to such work in connection with the excavation and grading of land incidental to construction of a duly permitted structure, not to work performed in normal construction, maintenance or improvement of land in cranberry related activities or other agricultural use.

Section 4. Permit Procedures and Requirements:

(a) For all earth removal operations, a written permit must be obtained by the Board of

Selectmen. An application for a permit shall be accompanied by an original plan and nine copies to the Board of Selectmen, who shall give the applicant a dated receipt. Within four business days, the Board of Selectmen shall transmit one copy of the application and plans to each of the following: The Board of Health, the Building Inspector, the Conservation Commission, Municipal Maintenance Department, the Police Chief, the Town Clerk, the Town Administrator, and the respective Water Department. Each review board or position shall review the plan and application and within twenty-one days of receipt shall signify approval or objection, in writing, to the Board of Selectmen. Along with the application, the petitioner shall pay a fee, as determined by the Board of Selectmen, to cover advertising fees and expenses.

(b) Before granting any such permit, the Board of Selectmen shall give due consideration to the location of the place from which it is proposed to remove earth, to the general character of the neighborhood surrounding such location and to the effect of the proposed removal on such neighborhood, to the amount of noise, dust and vibration likely to result from the proposed removal, to the extent, depth and contour of the location and surrounding neighborhood from which such removal is proposed, to the general safety of the public on the public ways giving access to and in the immediate vicinity of such location, and to the use to which such location has been put prior to the application for a permit. A determination shall be made as to the existence of any other gravel pit in the close vicinity of the proposed location, the existence of which shall normally be considered an inhibiting factor in granting the proposed permit. No permit granted by the Board of Selectmen shall be valid for a period in excess of three years from its date of issue.

(c) Site Plans: Site plans shall be filed in triplicate with the Board of Selectmen for any land which is used or intended to be used for the extraction or removal of earth materials. Site plans of the removal areas shall be prepared by a registered professional engineer or a registered

land surveyor at a scale of 40 feet to the inch and shall be in accordance with and indicate the following:

1. Lot lines and ownership
2. Existing topography and proposed elevations at 2-foot contour intervals.
3. Names of abutters as found on the most recent tax list.
4. Adjacent public streets and private ways.
5. Proper provisions for safe and adequate water supply and sanitary sewerage and for temporary and permanent drainage of the site.
6. A location plan at a scale of 1"=1,500'.
7. Plan for regarding of all or parts of the slopes resulting from such excavation or fill.
8. Plan for replacement of at least six inches of topsoil over all excavated, filled, or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.
9. Hours of operation and plan for lighting, if night operation is contemplated.
10. Proposed lateral support to all adjacent property.
11. Proper provision for vehicular traffic, service roads, control of entrances and exits to highways.
12. The relation of future buildings, temporary buildings, and operations machinery to the removal areas.
13. Delineation of removal areas and depths.
14. Provision for a substantial fence enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of ten feet or more and create a slope of more than one foot in two feet. Such fence shall be located ten feet or more from the edge of the excavation or quarry,

and shall be at least six feet in height.

15. Method of earth removal.
16. Distance of excavation to street and lot lines.
17. Proposed disposition of boulders and tree stumps.
18. Cleaning, repair, and/or resurfacing of streets used in the removal activities which have been adversely affected by the removal activity.

(d) Land Restoration Plan(s): Land restoration plan(s) must be submitted to and approved by the Board of Selectmen subject to the regulations set forth in the following paragraphs:

1. The Board of Selectmen may require up to three approved alternative future land restoration plans be submitted for such land as is sued for the extraction of earth materials. It is recognized that land restoration of the removal areas is in the public interest.

2. Said land restoration plan and its implementation applies to the conversion of the abandoned site and its planned restoration. It is, therefore, required that any land restoration plan correspond to a situation which could reasonably occur in the immediate future (zero to five years), and be revised as necessary as the existing physical character of the removal area changes.

3. The land restoration plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one year of the abandonment of said operation.

(e) Reports, Fees and other Conditions:

1. Records showing the amount of earth removal shall be provided monthly by the permit holder, and quarterly reports, certified by a registered professional engineer, shall also be submitted to the Board of Selectmen or its designee. The method of measurement of materials removed shall be determined by the Town's engineer. The Board may require more frequent reports if it deems that circumstances warrant them. Reports to the Board by said engineer shall be at the permit holder's expense.

2. The permit holder shall be responsible for all spillage onto the public ways of the Town. If for reasons of safety, it becomes necessary for the Town to clean and remove such spillage, the cost shall be charged to the permit holder. The Town may halt all earth removal activities until such time that said expenses are reimbursed.

3. The permit holder shall be responsible for all damage to public ways from traffic occurring in connection with the permit, entering and exiting the site.

4. The Board of Selectmen shall require a bond or other security to insure compliance with its conditions of authorization unless, in a particular case, it specifically finds that such security is not warranted, and so states its decision, giving the specific reasons for its finding.

5. This permit is subject to a fee of $0.25 per cubic yard or more, as determined by the Board of Selectmen, payable to the Town of Wareham. Any inspections by the

Town's engineer to ensure that the work being done follows the approved plans shall be paid by the permit holder.

6. The Earth Removal Permit is not transferable without prior approval from the Board of Selectmen. Transfer of equity ownership or legal interest in the subject property shall be considered a transfer. The pledging of such, to secure a mortgage or other loan shall not be considered a transfer unless the lender should acquire ownership or interest by foreclosure.

7. The applicant agrees by acceptance of the permit to allow the Town or its representative free access to the site to conduct inspections to determine compliance with the conditions of the permit at any time without notice.

(f) Permits in Proposed Subdivisions: It is the intention of this section that the removal of earth materials in an amount in excess of five cubic yards from any parcel of land for which a definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the Town. Consequently, approval of a subdivision plan by the Planning Board shall not be construed as authorizing the removal of material in excess of five cubic yards from the premises.

(g) Renewal of Permit: In the renewal of any permit upon its expiration, the Board of Selectmen shall give full consideration to the manner in which the permit holder has lived up to his contractual obligations with the Town. Under no circumstances shall renewal of a permit be granted where there has been a history of repeated failure to live up to restrictions and requirements of the previous permit.

(h) Penalties: The penalty for the violation of this By-Law or for the removal of any earth materials within the Town without a permit hereunder, except as herein before provided, shall be as follows:

1. For the first offense, fifty dollars.
2. For the second offense, one hundred dollars.
3. For each subsequent offense, two hundred dollars and/or revocation of the earth removal permit at the discretion of the Board of Selectmen.
4. Each truck load, of any size, of earth removed from the original site hall constitute a separate offense under this By-Law.
5. In the event that an earth removal project has begun without a permit, the Town's engineer shall, at the property owner's expense, determine the number of cubic yards removed without a permit in order to assess the number of offenses.

Such penalties shall be in addition to the existing rights of the Town to enforce its By-Laws.

(i) Existing Operations: Any existing earth materials removal activity operating under a permit previously issued by the Board of Selectmen may be continued until the expiration of said permit, provided that such earth removal activity does not adversely affect the water table or the natural or engineered drainage of the Town, and provided that such earth removal activity does not create unreasonable noise, dust, fumes or other effects which are detrimental to the public health or welfare. Discontinuance of use for more than twelve (12) consecutive months shall be deemed to constitute abandonment.

(j) Validity: The invalidity of any section or provision of this section shall not

invalidate any other section of provisions thereof. . (Article 38 of April 24, 2006 Special Town Meeting; Approved by Attorney General July 27, 2006).

DIVISION IV
ARTICLE IV
DENIAL, REVOCATION OR SUSPENSION OF LOCAL LICENSES/PERMITS TO DELINQUENT TAXPAYERS

Acceptance of provisions of Massachusetts G.L. Chapter 40, Section 57 relative to the denial, revocation or suspension of local licenses and permits for failure to pay municipal taxes or charges and to adopt a By-Law pursuant to said Section 57 of Chapter 40 relative to the denial, revocation or suspension of licenses and permits to delinquent taxpayers in the following form:

Section 1. 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 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.

Section 2. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers or any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of the 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 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 licensing 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.

Section 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 the law.

Section 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 General Laws, Chapter Two hundred and sixty-eight A (268A), Section 1 in the business or activity conducted in or on said property.

Section 5. This article shall not apply to the following licenses and permits authorized by the following sections of the General Laws: open burning, section thirteen (13) of chapter forty-eight; bicycle permits, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, and public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty. (Article 16 of December 5, 1994 Special Town Meeting; Approved by Attorney General February 27, 1995).

DIVISION V

Rules and Regulations relating to the use of Public and Private Sewers and Drains, the Installation and Connection of Building Sewers, and the Discharge of Waters and Wastes into the Public Sewer System; and providing penalties and violations thereof: in the Town of Wareham, County of Plymouth, State of Massachusetts.

DIVISION V
ARTICLE I
DEFINITIONS

Unless the context specifically indicated otherwise, the meaning of terms used in this By-Law shall be as follows:

Section 1. BOD (denoting Bio-chemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

Section 2. Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning ten (10) feet (3 Meters) outside the inner face of the building wall.

Section 3. Building Sewer shall mean the extension from the building drain to the public sewer.

Section 4. Combined Sewer shall mean a sewer receiving both surface runoff and sewage.

Section 5. Garbage shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

Section 6. Industrial Wastes shall mean the liquid wastes from industrial manufacturing

processes, trade or business and distinct from sanitary sewage.

Section 7. Natural Outlet shall mean any outlet into a watercourse, ditch, lake or other body or surface or ground water.

Section 8. Person shall mean any individual, firm, company, association, society, corporation or group.

Section 9. Ph shall mean the logarithm of the reciprocal of weight of hydrogen ions in grams per liter of solution.

Section 10. Properly Shredded Garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particles greater than one-half (½) inch (1.27 centimeters) in any dimension.

Section 11. Public Sewer shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by pubic authority.

Section 12. Sanitary Sewer shall mean a sewer which carries sewage and to which storm surface and ground waters are not intentionally admitted.

Section 13. Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments together with such ground, surface, and storm waters as may be present.

Section 14. Sewage Treatment Plant shall mean any arrangement of devices and structures used for treating sewage.

Section 15. Sewage Works shall mean all facilities for collection, pumping, treating, and disposing of sewage.

Section 16. Sewer shall mean a pipe or conduit for carrying sewage.

Section 17. Slug shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, or more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

Section 18. Shall is mandatory; **May** is permissive.

Section 19. Storm Drain (sometimes termed "Storm Sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Section 20. Commissioners shall men the Board of Selectmen of the Town of Wareham, or their authorized deputy, agent or representative.

Section 21. Suspended Solids shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

Section 22. Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Section 23. Town shall mean the Town of Wareham.

DIVISION V
ARTICLE II
USE OF PUBLIC SEWERS REQUIRED

Section 1. The owner of all houses, buildings or property used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located, a public sanitary or combined sewer of the Town, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities and all other drains designed to carry sewage, directly with the proper public sewer in accordance with the provisions of the By-Law after reasonable notice in writing to do so by commissioners, said notice being not less than one (1) year.

An owner who, having received such notice to connect, and whose property subject to such notice is then being fully serviced by a Soil Absorption System (SAS) in full compliance with 310 C.M.R. 15.000, et seq. (Title V), and all other applicable regulations, and which SAS was first the subject of a Certificate of Compliance issued pursuant to said Title V no more than sixty (60) months prior to the date of such notice to connect, may upon the owner's written notice of intent received by the commissioners, postpone the required connection to the public sewer to a date no later than sixty (60) months subsequent to the date of such notice to connect. Such postponement shall not be deemed to postpone or otherwise affect the assessment or payment of sewer betterments applicable to such property (Article 12 of the October 25, 2004 Annual Town Meeting; Approved by Attorney General December 23, 2004).

Section 2. Sewer Construction in New Developments:

1. The Developer of any subdivision which is within a reasonable distance of an existing sewer shall connect the subdivision into the proper sewer. The cost of the sewer connection to the existing sewer will be borne by the Developer. A reasonable distance shall be determined by the size, nature, and location of the subdivision in relation to its proximity to the existing sewer.

2. When a Developer installs sewers in proposed streets or right-of-ways in anticipation of the extension of an existing sewer the cost of the building connections shall be borne by the Developer and such subdivisions will not be assessed by the Town.

3. The design of any proposed sewer construction under this section must be approved by the Commissioners prior to issuance of permit.

4. When the design of any proposed sanitary sewer includes any appurtenances, such as, but not limited to, pumps, grinder pumps, air ejector or packaged treatment systems, such appurtenance shall be subject to the prior approval of the Commissioners, provided all requirements contained in Section 2.5 are strictly adhered to.

5. All appurtenances as outlined in Section 2.4 shall be subject to the prior approval of the Commissioners or their duly authorized agent(s) prior to the submission of any plans for

the sanitary sewer. Requests for approval must contain all information regarding project flow, loadings and other information deemed necessary by the Commissioners to conduct their review. The request must also contain specifications and drawings indicating the type of equipment proposed

6. All sewer construction under this Article which includes any items defined by Section 2.4 shall provide for a reliable emergency power source to the equipment necessary for the continuation of service. In the case of installations of less than 500 gallons per day, sufficient storage capacity or a minimum of two (2) days use may be substituted for the emergency power source.

7. The owner of all such appurtenances, in order to assure the proper operation and long term maintenance of the same, shall be required to provide the Commissioners with a current signed agreement, on a yearly basis or longer term, with a reputable firm or person qualified in such operation and maintenance, to provide such maintenance. An annual report of the maintenance performed shall be submitted to the Commissioners by the owner or it's contractor on or before January 15th of each year. Under no conditions shall the Town assume any responsibility for the proper operation or maintenance of any privately owned system.

8. A fee, as set by the Commissioners, shall be charged for the connection of any appurtenances as outlined in Section 2.4. The fee shall be based on the proposed daily flow capacity of the facilities installed and any other factors related to the sewer service provided by the Town, including but not limited to Administrative expenses.

9. In developments served by any owner installed appurtenances, the owner shall apply for individual house connection permits as issued by the Town. The town shall issue said permits at no charge and shall fully inspect each connection, provided that the application complies with the provisions of this By-Law and other pertinent regulations and provided that the fee, as set in Section 2.8 has been paid in full. In the event that a connection is made solely by gravity means, then all normal permits and fees shall apply.

10. Any proposed development for commercial or industrial use shall be required, at the time of filing a proposal or request for approval, to specify the proposed use and type of discharge of the occupants or if unknown at the time of proposal, as soon as available thereafter. It shall remain the obligation of the owner and user of said units to report to the Commissioners any use or discharge which may require further treatment or study. Failure to provide accurate information regarding said use and discharge may be grounds to deny a proposal or request for approval or to commence an enforcement action or impose penalties pursuant to Article IX.

11. The Town reserves the right to full control of flow from any appurtenance installed into the public system. A shut-off device, approved by the Commissioners or their agent(s) shall be installed at the entry point to the public system. A shut-off key or similar device shall be provided to the Commissioners or their agent(s). The owner shall assure that the device is always operational and accessible. In the event that any shut-down of the system is required, then advance notice shall be given, if possible, to all affected systems prior to shut-down. The owner or their agent(s) shall provide the Commissioners or their agent(s) with the names and telephone numbers of two (2) separate contacts who have control over said appurtenances. Proper disposal of any sewage which backs-up or overflows shall remain the responsibility of the owner, with no costs or loss of revenue to be incurred by the Town or Commissioners. (Article 30 of Annual Town Meeting held on May 7, 1996; Approved by Attorney General July 30, 1996).

DIVISION V
ARTICLE III
BUILDING SEWERS AND CONNECTIONS

Section 1. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written a written permit from the Commissioners. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Commissioners at least forty-vie (45) days prior to the proposed change or connection.

Section 2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments, which may or may not produce industrial wastes. (Article 30 Annual Town Meeting held on May 7, 1996; Approved by Attorney General July 30, 1996).

In either case, the owner or his agent shall make application on a special form furnished by the Town. The Permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the Commissioners. The Board of Selectmen shall establish permit and inspection fees which shall be paid to the Town at the time the application is filed.

Section 3. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 4. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building sewer and other exceptions may be allowed only by special permission granted by the Commissioners together with a properly executed easement, where applicable, recorded with the Plymouth County Registry of Deeds.

Section 5. Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the Commissioners, to meet all requirements of this By-Law.

Section 6. The size, slope, alignment, materials of construction of a building sewer, and the methods used in excavating, placing of the pipe, jointing testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No.9 shall apply. No backfill shall be placed until the work has been inspected by the Commissioners.

Section 7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. No water operated ejector shall be used.

Section 8. No person shall make connection of roof downspouts, exterior foundation drain, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which is in turn connected directly or indirectly to a public sanitary sewer.

Section 9. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No.9. All such connections shall be made gas tight and watertight.

Section 10. The applicant for the building sewer permit shall notify the Commissioners when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Commissioners.

Section 11. All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in the manner satisfactory to the Town.

Section 12. Plumbers or Drain Layers shall report to the Board of Sewer Commissioners in writing in full description within twenty-four hours, the finding by them of all obstructions in connections or the presence therein, if found, of any substance prohibited by this regulation. Failure to do so report shall render the plumber and/or drain layer whether firm or corporation, liable to the penalty of a fine of **not more than Twenty ($20) Dollars** for each failure to so report. Finding substances prohibited by these regulations in the sewer connection of any building shall be prima facie evidence of violation of these regulations by both the owner and occupant of the premises, or either of them.

DIVISION V
ARTICLE IV
LICENSING OF DRAIN LAYERS

Section. 1. Plumbers and drain layers of established reputation and experience will be licensed by the Commissioners as master drain layers authorized to perform work, subject to compliance with the following requirements:

(a) The Board of Selectmen/Sewer Commissioners shall have the authority to establish license fees for sewer drain layers. (Article 12 of April 23, 1990 Town Meeting; Approved by Attorney General October 1, 1990).

(b) If approved by the Commissioners, applicants for licenses shall file with the Commissioners a proper and acceptable Performance and Guarantee Bond in the amount of $5,000.00 which shall remain in full force and effect for a period of one year from the date of application.

(c) Applicants for licenses, after approval by the Commissioners, shall file with the Commissioners a Certificate of Insurance in the sums of $50,000/$100,000 to over Public Liability and a Certificate of Insurance in the sum of $25,000 covering Property Damage. In addition, a Certificate of Insurance covering Workmen's Compensation shall be filed, all of which shall remain in full force and effect for a period of at least one year from the date of approval. Said insurance shall indemnify the Commissioners and the Town of

Wareham against any and all claims, liability or action for damages, incurred in or in any way connected with the performance of the work by a Master Drain Layer, and for or by reason of any acts or omission of said Master Drain Layer in the performance of his work.

(d) Applicants for licenses will be approved or disapproved within a period of thirty-one (31) days after filing the application.

Section 2. All licenses expire one year from the date of issuance thereof and no licenses are transferable. (Article 30 of Annual Town Meeting held on May 7, 1996; Approved by the Attorney General July 30, 1996).

Section 3. The Commissioners reserve the right to revoke any licenses if any provision of said license is violated.

Section 4. All licenses are required to give a full written report to the Commissioners within twenty-four (24) hours in the event that prohibited substances are found in a sewer or house drain during the course of the work.

Section 5. All licensees shall give written notification of the completion of the work with certification that all conditions of the Sewer By-Law have been complied with. The notification shall be filed with the Commissioners within twenty-four (24) hours after the completion of the work covered in each permit. This notification shall include a sketch of the work done. The sketch will show sufficient measurements to locate all components of the work installed.

DIVISION V
ARTICLE V
USE OF THE PUBLIC SEWERS

Section 1. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water of unpolluted industrial process waters to any sanitary sewer.

Section 2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to natural outlet approved by the Commissioners. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Commissioners to a storm sewer, combined sewer, or natural outlet.

Section 3. No person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids or gasses in sufficient quantity, either singly or by interaction with other wastes, so as to injure or interfere with any sewage treatment process, or which will constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant.

(c) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, fleshing, entails and paper dishes, cups, milk containers, etc.

Section 4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Commissioners that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming their opinion as to the acceptability of these wastes, the Commissioners will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°F-65°C).

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not in excess of one hundred (100mg/1) or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°F) and one hundred fifty degrees (150°F-0 and 65°C).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipment with a motor of three-fourth (3/4) horsepower (0.7 hp metric) or greater shall be subject to the review and approval of the Commissioners.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment plant exceeds the limits established by the Commissioners for such materials.

(e) Any waters or wastes containing phenols or other taste or odor producing substances, in concentrations which exceeds maximum limits which may be established by the Commissioners, after treatment of the composite sewage in order to meet the requirements of the State, Federal or other public agencies or jurisdiction for such discharge to the receiving waters.

(f) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Commissioners in compliance with applicable State or Federal regulations.

(g) Any waters or wastes having a pH in excess of 9.5.

(i) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate.)
(2) Excessive discoloration (such as, but not limited to, dye wastes and tanning solutions.)
(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

Section 5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the Commissioners may have a deleterious effect upon the sewage works, processes, equipment, or receiving water, or which otherwise create a hazard to life or constitute a public nuisance, the Commissioners may:

(a) Reject the wastes.
(b) Require pretreatment to an acceptable condition for discharge to the public sewers.
(c) Require control over the quantities and rates of discharge, and/or
(d) Require payment to cover the added cost of handling and treating the waste not covered by existing taxes sewer charges.

If the Commissioners permit the pretreatment of equalization of waste flows the design and installation of the plants and equipment shall be subject to the review and approval of the Commissioners and subject to the requirements of all applicable codes, By-Laws and laws.

Section 6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Commissioners they are necessary for the proper handling of liquid wastes containing grease in excessive amount, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Commissioners and shall be located as to be readily and easily accessible for cleaning and inspection.

Section 7. Where preliminary treatment of flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Section 8. When required by the Commissioners, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with

such necessary meters, and other measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Commissioners. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Section 9. All Measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this By-Law shall be determined in accordance with the latest edition of "Standard Methods for Examination of Water and Wastewater," published by the American Public Health Association and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works

and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample should be taken. Normally, but not always, BOD and suspended solids analysis are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.) (a) All industries discharging into a public sewer shall perform such monitoring of their discharges as the commissioners and/or other duly authorized employees of the Town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Commissioners. Such records shall be made available upon request by the Commissioners to other Agencies having jurisdiction over discharges to the receiving waters."

DIVISION V
ARTICLE VI
USAGE FEES

Usage fees will be determined by the Commissioners prior to each billing period for the following categories: Residential, commercial, industrial, nightsoil disposal and al other categories as may be found by the Commissioners to be necessary.

DIVISION V
ARTICLE VII
PROTECTION FROM DAMAGE

Section 1. No unauthorized person shall maliciously, willfully, or negligently, break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest and prosecution under the charge of malicious destruction to property, Chapter 266, Section 127, of the General Laws of the Commonwealth, or any other law, or By-Law that may be applicable.

DIVISION V
ARTICLE VIII
POWERS AND AUTHORITY OF INSPECTORS

Section 1. The Commissioners and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this By-Law. The Commissioners or their representatives shall have no authority to inquire into any

processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways of facilities for wastes treatment.

Section 2. The Commissioners and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly recorded easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repairs, and maintenance of any portion of sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly recorded easement pertaining to the private property involved.

DIVISION V
ARTICLE IX
PENALTIES

Section 1. The Commissioners or their agent(s) shall have the authority to enforce this By-Law and its regulations, permit or licenses issued thereunder by violation notices, administrative orders, enforcement orders, and/or civil and criminal court actions. The Commissioners or their agent(s) may issue a violation notice or administrative or enforcement order stating the nature of a violation and providing a period of time for the satisfactory corrections thereof. Failure to correct the violation within said period of time shall constitute a violation of the By-Law which may be punished as set forth herein.

Section 2. Any person who violates any provision of this By-Law shall be punished by a fine of $300.00. In addition, pursuant to General Laws, Chapter 83, 10, as same may be amended, any person who violates any provision of this By-Law or a regulation issued by the Town or Commissioners, shall be liable for a civil penalty of not more than five thousand dollars ($5,000.00). Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of this By-Law or regulation violated shall constitute a separate offense.

Section 3. Any person who violates any of the provisions of this By-Law or regulation, permit, license, notice or administrative or enforcement order issued thereunder shall be liable to the Commissioners and town for any expense, cost, loss, or damage, including but not limited to limited to administrative, attorneys' and engineering fees, incurred by the Commissioners or Town by reason of such violation.

Section 4. As an alternative to civil or criminal prosecution, the Commissioners or their agent(s) or the Town Police or any other person designated by the Town as having police powers, as enforcing persons under this By-Law, may enforce this By-Law or regulation, permit, license, notice or order issued thereunder, pursuant to the non-criminal disposition statute, General Law, Chapter 40, 21D and the Town's non-criminal disposition By-Law, Division IX, Article I, Section 2, of the Town's General By-Laws. Non-criminal enforcement of this By-Law may involve the following penalties:

First Offense:	**$200.00**
Second Offense:	**$250.00**
Third and subsequent Offenses:	**$300.00**

(Article 30 of Annual Town Meeting held May 7, 1996; Approved by Attorney General July 30, 1996).

DIVISION V
ARTICLE X
VALIDITY

Section 1. The invalidity of any section, clause, sentence, or provision of this By-Law shall not affect the validity of any other part of this By-Law which can be given effect without such invalid part or parts.

DIVISION VI
ARTICLE I
WAREHAM WETLAND PROTECTIVE BY-LAW

I. Purpose

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

II. Jurisdiction

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater or coastal wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; intermittent streams; creeks; beaches; dunes; estuaries; the ocean; lands under water bodies; lands containing shellfish; lands within one-hundred feet of any of the aforementioned resource areas (buffer zone resource area), rivers and riverfront areas, lands subject to flooding or inundation by groundwater or surface water; lands subject to tidal action, coastal storm flowage, or flooding; (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

III. Definitions

1. The following definitions shall apply in the interpretation and implementation of this bylaw.

   The term "aesthetics" shall include, without limitation, the relevant qualities to be protected under the bylaw which are due to those natural and natively scenic impressions of our shores, ponds, lakes, streams, rivers, and the lands bordering them.

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
C. Drainage or other disturbance of water, or water table;
D. Dumping, discharging, or filling with any material which may degrade water quality;
E. Placing of fill, or removal of material, which would alter elevation;
F. Driving of piles, erection, or repair of buildings, or structures of any kind;
G. Placing of obstructions or objects in water;
H. Destruction of plant life including cutting of trees;
I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater; or
K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

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

The term "erosion and sedimentation control" shall include both the ability of the Wetland Resource Area to perform these functions and the responsibility of the project applicant to propose a design that incorporates these controls into the plan to prevent damage to the resource area, buffer zone or abutting properties from erosion/sedimentation and water displacement caused by the project. Furthermore, each proposed project must be designed to prevent damage to the resource area due to scouring, propeller wash/shear, re-suspension of sediments and from increased wave energy. Projects shall be designed to cause no adverse effect on significant shellfish habitat and/or eelgrass beds.

The term "freshwater wetlands" shall include, without limitation, those areas within which saturated or inundated conditions exist other than salt marshes.

The term "Order of Conditions" means the permit to fill, dredge, remove or alter an area subject to protection under the Massachusetts Wetlands Protection Act. The Commission in an appropriate case may issue as the permit under this bylaw the Order of Conditions issued under the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00).

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

The term "rare species" shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the

Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.
The term "recreation" shall include, without limitation, the purposes for which the resource areas are used by the public such as navigation, fishing, hunting, shellfishing, swimming, water skiing, diving, walking, etc. A project must be designed so as to not impair the ability of the resource area to provide for these and other normal and customary public recreation uses.

The term "significant shellfish habitat" shall include those areas of Lands Containing Shellfish designated and mapped as significant shellfish habitat for commercial or recreational use by the Massachusetts Division of Marine Fisheries.

The term "vernal pool" shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundaries of such depressions regardless of whether or not the Site has been certified by the Massachusetts Division of Fisheries and Wildlife.

The term "Buffer Zone" shall include the area of land extending 100 feet horizontally outward from the boundary of the following resource areas: any freshwater or coastal wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; intermittent streams; creeks; beaches; dunes; estuaries; the ocean; lands under water bodies; and, land containing shellfish. (Article 27 of the April 26, 2010 Town Meeting; Approved by the Attorney General on October 15, 2010).

The term "No Activity Zone" shall include a portion of the buffer zone extending outward from the boundary of the resource area, in which no work, including the removal of vegetation, is allowed. (Article 27 of the April 26, 2010 Town Meeting; Approved by the Attorney General on October 15, 2010).

2. 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 (G.L. Ch. 131, §40) and Regulations (310 CMR 10.00).

IV. Conditional Exceptions

A. The application and permit shall not be required for:

1. Maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide, gas, water, sewer, telephone, telegraph, or other telecommunication services, provided that such activity does not substantially change or alter said structure or facility and provide that written notice has been given to the Commission prior to commencement of work, and that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

2. Normal road maintenance activities, i.e.; cleaning catch basins, road repair, street sweeping, etc., performed by the Wareham Municipal Maintenance Dept., or its agents.

3. Work performed during normal maintenance or improvement of land which is in agricultural use.

4. Emergency projects necessary for the protection of the health and safety of the public, provided that:
   a. the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof;
   b. advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement;
   c. the Commission or its agent certifies the work as an emergency project;
   d. the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency;
   e. within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw.

Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

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

V. Applications for Permits (Notices of Intent) and Requests for Determination

1. The Commission may accept as the permit application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act (G.L. Ch. 131, §40) and Regulations (310 CMR 10.00).

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

3. Individual projects (i.e. single family houses, separate condo buildings) on separate lots with Differing addresses shall require individual Orders of Conditions. In such instances, individual Notices of Intent shall be filed for each project, i.e. each single family dwelling on each buildable lot.

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

5. At the time of the permit application or RFD, or application for Certificate of Compliance, the applicant shall pay a filing fee specified in the regulations of the Commission. The fee is in addition to that required by the Wetland Protection Act (G.L. Ch. 131, §40) and the Regulations promulgated thereunder at 310 CMR 10.00, et seq. The fee shall be deposited into a dedicated account, for use only for wetlands protection activities, from which the Commission may withdraw funds without further appropriation.

   A. Upon receipt of a permit application or RFD, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the

reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.

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

C. Where specific conditions, arising from the land or the nature of the proposal, necessitates the assistance of outside consultants, the Conservation Commission may engage such consultant services to assist the Commission in analyzing the project to ensure compliance with the Massachusetts Wetlands Protection Act (G.L. Ch. 131, S40), this bylaw, their respective regulations, good design principals, and best available practices. In these instances the Commission will require the applicant to pay a review fee consisting of the reasonable costs to be incurred by the Commission for these services (The provisions for this language, G.L. Ch. 44, Sec. 53G, were adopted at the October 21, 2002 Town Meeting). The project shall not be segmented to avoid being subject to the consultant fee.

D. Funds received by the Commission pursuant to this section shall be deposited with the Town Treasurer who shall establish a special individual account for this purpose. Expenditures from this special account may be made at the direction of the Commission. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a review fee has been, or will be collected from the applicant. Failure of an applicant to pay all review fees shall be shall be grounds for denial of the application or permit.

E. Review fees may only be spent for services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Commission's review of a project, any excess amount of funds in the account, including any interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. The applicant must submit a written request for these funds. Upon request, a final report for said account shall be made available to the applicant, or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Commission with documentation establishing such succession in interest.

F. Any applicant may appeal the selection of the outside consultant to the Board of Selectmen, providing that such appeal is made within 14 days of notification of the Commission's appointment of the consultant. The grounds for such an appeal shall be limited to the claims that the selected consultant has a conflict of interest or does not possess the minimum required qualifications as may be set by the Commission. Minimum qualifications may be changed at the Commission's discretion depending upon the complexity and/or importance of the proposed project. The required time

limit for action upon an application by the Commission shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Commission shall stand.

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

VI. Notice and Hearings

1. Any person filing a permit application with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

2. Any person filing a Request for Determination of Applicability with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all direct abutters at their mailing addresses shown on the most recent applicable tax list of the assessors. The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

   a. When a person requesting a determination is other than the owner, the request shall be sent by the person requesting the determination to the owner.

   b. When a person requesting a determination is other than the owner, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

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

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

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

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

7. The Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant, or others, deemed necessary by the Commission, in its discretion, to come to a final decision on an application.

VII. Permits and Conditions (Orders of Conditions)

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

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

3. Lands within 200 feet of rivers, and lands within 100 feet of other resource areas, except the buffer zone resource area, lands subject to flooding or inundation by groundwater or surface water and lands subject to tidal action, coastal storm flowage or flooding, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within the 200-foot [or 100 foot] area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

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

4. To prevent wetlands loss, the Commission shall require applicants to avoid wetlands

alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation as specified in 310 CMR 10.55(4)(b), but only with adequate security professional design, and monitoring to assure success because of the high likelihood of failure of replication.

5. No person shall install a newly constructed septic system within one hundred fifty feet of any wetland as defined in Massachusetts General Laws, Chapter 131, Section 40. A variance to this setback may be granted based upon findings of the Wareham Board of Health determining that such a variance is appropriate, but said variance shall not allow the system to be within 100 feet of any wetland, as defined by G.L. Ch. 131, s40, to be in accordance with previous Town meeting vote (Article 76 of April 25, 1988 Annual Town Meeting; Approved by the Attorney General July 28, 1988). Any existing system which is replaced must be located in conformity with this section except where lot size would not allow sufficient distance from such a setback, or where other setback requirements could not be met. In such exceptions, the repaired system would have to be placed as far from said wetlands as would be reasonably possible under then regulations.

6. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

7. For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters, and a public hearing.

8. The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act (G.L. Ch. 131, §40) and Regulations (310 CMR 10.00).

9. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Plymouth County Registry of Deeds or, if the land affected is registered land, in the registry section of the Plymouth County Land Court, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

VIII. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

1. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed

pursuant to the permit.

2. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

IX. Enforcement

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

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

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

4. Upon request of the Commission, the selectboard and the town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

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

6. Any person who violates any provision of this bylaw, regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than $300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

7. As an alternative to criminal prosecution in a specific case, the Conservation Administrator and any Town of Wareham Police Officer may issue citations under the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D, which has been adopted by the Town in Division VIII of the general bylaws by Article 6 of the October 19, 1987, Town Meeting and approved by the Attorney General on December 28, 1987.

   The fines for violation of the provisions of this bylaw, permits, or administrative orders issued thereunder, pursuant to G.L. Ch. 40, §21D shall be up to $300.00 per offense.

X. Burden of Proof

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

XI. Appeals

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

XII. Relation to the Wetlands Protection Act

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

XIII. Severability

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

XIV. Regulations

After public notice and hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this Bylaw effective when voted and filed with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw. These Regulations shall be limited to administrative matters, including but not limited to procedures governing the amount and filing of fees, and the submittal requirements for applications. (Article 6 of the April 26, 2004 Town Meeting; Approved by Attorney General June 29, 2004)

XV. Inland Structures

A. Introduction

Inland, non-tidal freshwater, waterways and water bodies serve a variety of functions. Inland water bodies, in conjunction with banks, serve to confine floodwater within a definite channel or basin during the most frequent storms. These areas also provide significant habitat to a variety of plant and animal species.

The plant community composition and structure, hydrologic regime, topography, soil composition, and water quality of land under water bodies and waterways provide important food, shelter, and migratory and over wintering areas, and breeding areas for wildlife. Waterfowl and some mammals eat certain submerged rooted vegetation. Some amphibians, as well as some invertebrate species eaten by vertebrate wildlife attach their eggs to such vegetation. Some aquatic vegetation protruding out of the water is also used for nesting, and many species use dead vegetation resting on land under

water but protruding above the surface for feeding and basking. Land under ponds and lakes are vital to a large assortment of warm water fish during spawning periods. Soil composition is also important for hibernation for animals, which burrow their tunnels under water. Hydrologic regime, topography, and water quality not only affect vegetation, but also determine which species feed in the area.

The physical nature of land under waterways and water bodies is variable ranging from deep organic and fine sedimentary deposits to rocks and bedrock. The organic soils and sediments play an important role in the process of detaining and removing dissolved and particulate nutrients, such as nitrogen and phosphorus from the surface water above. They also serve as traps for toxic substances such as heavy metal compounds.

The Town's fresh water bodies are also important for various recreational activities enjoyed by many including swimming, boating, fishing, bird watching, etc.

B. Design specifications for inland dock structures

In order to prevent adverse impacts to these resource areas, any new dock structure proposed on any inland, non-tidal, freshwater waterway or water body shall adhere to the following standards:

1. Docks shall not extend out into a waterway or waterbody more than 40' from the edge of the waterway or waterbody.
2. Docks shall not be more than 4' wide.

Exceptions to the standard size criteria may be permitted by the Conservation Commission if sufficient information can be presented to demonstrate a need for deviations from these standards.

3. Pressure treated building materials, if used, shall be non-leaching materials. The use of creosote or CCA treated materials is prohibited. Alternative materials such as aluminum, pvc, etc., approved by the Conservation Commission may be used.
4. Seasonal structures shall be stored in an upland area in the off-season. Proposed storage area shall be identified by the applicant and approved by the Conservation Commission during the review process. A fixed or permanent structure may be permitted by the Conservation Commission if sufficient information can be presented to demonstrate the need for such a structure and that it meets all other criteria required by this bylaw.
5. Consideration shall be given for the ability of the dock to allow light penetration through to the bottom. Structures shall be constructed in such a way so as to minimize shading effects of the proposed structure to the maximum extent feasible. If deck planking is to be used then planks shall not be more than 6" wide and spaced at least ½" apart. Other alternative deck materials such as aluminum, vinyl, or fiberglass grating may also be used to allow greater light penetration. Height of the structure above the water shall also be to the maximum extent feasible to allow for angular light penetration.
6. Floating docks - A new floating dock system shall be permitted if it meets the following criteria. The bottom of the support floats for the dock are at least 12"above the bottom substrate and that the deck is at least 12" above the surface of the water. Styrofoam flotation material is prohibited. The proposed dock meets all other applicable requirements of this bylaw.
7. There shall be no storage of hazardous materials on the dock structure.

8. The site plan required for the construction of a new fixed freshwater dock structure shall be prepared and stamped by a registered professional engineer. Site plans for proposed seasonal docks will not have to be prepared by a professional engineer. In either case, site plans will have to provide adequate detail in terms of scale of the proposed structure and associated site, materials to be used, proposed location, water depths in the location of the proposed structure, property lines, and cross section detail of the proposed structure.

C. Additional Application Materials

The applicant shall supply the following additional information as part of their plan and application:

For seasonal structures, the winter.storage location for the structure and the methodology to be used for removing and installing the structure.

For all structures:

a. Information regarding the number, type, and size of watercraft that will utilize the proposed dock structure, including engine and engine horsepower.
b. Other resource areas that the structure might alter or that the structure might have to cross before getting to the open water, i.e. bordering vegetated wetland, beach.

9. Watercraft shall have a minimum of 12" of water between the lowest member of the vessel, including engine, and the bottom substrate. Mean pond levels shall be considered when determining clearances.
10. Proposed projects determined to adversely impact endangered species habitat shall not be permitted.
11. An Order of Conditions issued under this bylaw is subject to all applicable Federal, State, and local ordinances and regulations including but not limited to a valid Chapter 91 License issued under the Public Waterfront Act for those structures proposed within Great Ponds within the Town. A Great Pond shall mean any naturally existing pond of 10 acres or more in size. (Article 34 of the October 31, 2007 Town Meeting; Approved by Attorney General February 22, 2008)

XVI. Coastal Structures

A. Introduction

The construction maintenance and use of docks and piers are likely to have a significant or cumulative effect on the resource area values of storm damage prevention, shellfish, shellfish habitat, preventing pollution, water quality, wildlife habitat, recreation, and aesthetics. Further docks destroyed by storms pose a threat to nearby properties by increasing water borne debris.

Turbulence and prop dredging generated by boat traffic around docks and piers significantly increases turbidity levels in surrounding waters. High turbidity levels attenuate the sunlight necessary for photosynthetic processes responsible for the primary productivity and oxygen regeneration of the water. The suspended sediments settle on shellfish beds, smothering existing

shellfish and altering the quality of the sand bottom essential for spat settlement. Re-suspension of bottom sediments causes redistribution of sediments, alteration in sediment grain size distribution and causes changes in bottom topography relief, elevation and grade, including creation of depressions in the bottom. Re-suspension of sediments into depressions creates deep pockets of sediment which may not be able to physically support shellfish or which may become anoxic and therefore may not support shellfish. Re-suspension of sediments during the period of shellfish larval settlement hinders or prevents the effective settlement of shellfish larvae. Boat traffic generated from docks in areas where water depth is not adequate will add to this disruption. Construction of docks and subsequent boat activity causes re-suspension of nutrient laden sediment particles which may cause a release of sediment bound nutrients to the water column resulting in a bloom of vegetation, release of nutrients to the water column leads to eutrophication and anoxic bottom conditions. Anoxic sediments and anoxic bottom conditions create adverse impacts on benthic resources, including shellfish and fisheries.

While dock construction is typically the least environmentally destructive method of crossing a marsh, it may adversely affect the physical characteristics and functional value of the marsh. Marsh plants provide the major energy flow (detritus food chain) between the autotrophic and heterotrophic levels in a marsh estuarine system. Many species of sport and commercial fish and shellfish are dependent upon this system. Plants adapted to high ambient light intensity, such as marsh grasses, are ill adapted to the shaded conditions created by a dock. Shading may result in the reduction of plant biomass (decreased plant height, population density, leaf thickness) or alteration of species composition. Reductions in plant density result in the loss of sediment normally trapped by roots and culms. Tidal washout of sediment could result in localized depressions, which would trap water. Evaporation of this trapped water would elevate salt concentrations in these depressions. High sediment salt levels effectively preclude re-colonization by original vegetation. Localized tidal washout may lead to further vegetative regression, extension, and disruption of natural communities in the area. Propeller turbulence near or in areas of submerged aquatic vegetation, such as eel grass, or salt marsh damages vegetation, thereby increasing the rate at which organic detritus is produced. If this organic detritus does not completely decompose aerobically, then anoxic bottom conditions will ensue, which will adversely impact shellfish and fisheries.

Cumulative impacts of the construction, maintenance and use of docks threaten to decrease the productivity of the marsh ecosystem, to reduce its ability to absorb storm wave energy, and to reduce its contribution to groundwater and surface water quality. Docks and piers when placed in land containing shellfish have an adverse impact on the resource area value of aquaculture. The placement length and size of the floats can interfere with the harvesting of quahogs and scallops. Docks depending on their length can have an adverse impact on recreation by interfering with recreational boating activities. Not properly designed, docks can interfere with inter-tidal lateral access for recreational fishing and fowling. Any proposal that affects navigation is likely to have a significant or cumulative adverse effect on recreation. Depending on their height, length compatibility with surrounding environs and overall visibility, docks can create an adverse impact to the aesthetics of the area.

In order to prevent impacts to resource areas and interests protected under this by-law any dock or pier proposed within a coastal, or tidal, waterway shall adhere to the following standards:

B. Plan Requirements

The following information shall be included on the plans submitted with the Notice of Intent application:

1. A description of all materials to be used for the project and the methodology of construction, including the method of pile installation, the type of precautions that will be used to insure that the barge does not ground, and that other equipment will not adversely impact resource areas.
2. Identification of seasonal float storage locations on the site. A statement shall be included in the NOI indicating the location to be used for winter storage, and the methodology to be used for hauling seasonal floats.
3. Soundings within 75' of the proposed structure in sufficient density to allow the determination of water depths and elevation changes in the vicinity of the proposed pier and floats. Depths shall be measured from the top surface of the soft sediments.
4. Data shall be supplied to the Commission showing the time and date of the depth survey, the existing weather conditions, the state of the tide and the actual depths measured from the surface to the bottom. MLW and MHW shall be indicated on the plan and all information shall be derived from NGVD datum. An explanation of the calculations used must be included in the narrative.
5. Eel grass within 75' of the proposed structure. A site-specific survey shall be conducted to determine the presence or absence of eel grass, Zostera marina, in the project locus. The survey shall be conducted during the appropriate time of year, from July 1st – Nov 15th. Information relative to the date the study was conducted shall be included in the application.
6. Navigational channels within 100' of the proposed structure.
7. The location of any designated shellfish grants, relay areas, or designated recreational shellfish areas within 100' of the proposed structure.
8. The location of any other structures such as moorings, other piers, seawalls, etc., within 75' of the proposed structure shall be indicated on the plan.
9. The plan shall be stamped by a registered professional engineer.
10. Site locus shall be indicated on the plan.
11. Cross sectional details of proposed structures shall be submitted.
12. All wetland resource areas within 100' of the proposed project i.e.: coastal beach, salt marsh, coastal bank, shall be identified and clearly labeled on the site plan.
13. FEMA flood zone designations for the subject site.
14. Designation indicating if the site is estimated habitat of rare and endangered species according to the MA Natural Heritage and Endangered Species Program.
15. Title block information.
16. Map and lot, lot size, ownership information for the subject parcel.
17. Benchmark - Information to include the location of the benchmark and the elevation of the benchmark.
18. North arrow.

C. Design specifications for Coastal Residential dock and pier structures

The following design specifications and requirements shall be adhered to when designing a coastal residential dock or pier structure:

1. The deck of the pier shall not have a width of greater than 4' of passable area, measured from inside of piling to inside of piling.
2. Deck spacing - deck planks shall be at least ¾" apart with planks being no wider than 6".
3. Floats - Floats for the structure shall not exceed 300 sq feet in size and shall have a rectangular shape so as not to shade large areas of the bottom. The floats shall be constructed in such a way to allow for the

penetration of light through to the bottom. A minimum water depth of at least 24" at mean low tide shall exist between the bottom of the float and the bottom. The type of flotation material shall be described. The use of Styrofoam flotation material is prohibited .

4. Float storage- Seasonal floats shall not be stored in salt marsh, on coastal beaches, or coastal banks but rather in an upland area approved by the Conservation Commission.
5. Pressure treated building materials, if used shall be non-leaching materials. The use of creosote or CCA treated materials is prohibited. Alternative materials such as aluminum, fiberglass, etc., approved by the Conservation Commission may be used.
6. Information shall be submitted to the Commission detailing the proposed number, type, and style of the proposed watercraft to be used at the site. This information shall include the draft of the watercraft, including engine, at its maximum weight carrying capacity. There shall be a minimum of 24" of water between the lowest draft point of the watercraft to be used at the dock, including engine, and the bottom. Draft information shall be calculated based on max vessel load from the manufacturer.
7. Maximum length - Docks or piers shall not exceed 200 ft in total length beyond Mean High Water (MHW).
8. Eel Grass - In order to adequately prevent the disruption of eel grass beds no part of the dock or pier, or float system, shall be constructed in, above, or within 50' of eel grass beds.
9. Shellfish habitat evaluation. Piers shall not be allowed to be constructed within significant shellfish habitat as determined by the DMF and/or the Wareham Shellfish Constable. The absence of shellfish may not mean that productive shellfish habitat does not exist.
10. Salt marshes - In order to minimize the destruction of salt marsh the maximum width of salt marsh to be traversed as part of a pier proposal shall be 75'. The height of the deck above the salt marsh shall be 4-6' above the peat substrate.
11. Pile spacing - Piles shall be spaced as far apart as possible so as to reduce the number of piling sets to be installed. Piling sets shall not be closer than 15' apart except where it is deemed necessary by the Conservation Commission to adequately protect wetland resource areas.
12. No pier project shall be allowed that would adversely impact endangered species or endangered species habitat.
13. There shall be no storage of hazardous materials on the structure.
14. An Order of Conditions issued under this by-law is subject to all applicable federal, state, and local ordinances and regulations including but not limited to a valid Chapter 91 License issued under the Public Waterfront Act.
15. Standards 1 and 3 shall not apply to commercial structures proposed in areas zoned for such uses. These projects shall be considered by the Conservation Commission on a case-by-case basis.
16. For site review purposes the proposed location of the pier shall be marked in the field as follows:

A stake shall be placed at the site to identify the centerline location of the landward end of the proposed structure. The stake shall be labeled "Pier Centerline Landward End". A floating buoy shall be placed in the water to mark the furthest seaward end, including any floats, of the proposed

structure. These markers shall be put in place at the time of the filing of the Notice of Intent. (Article 35 of the October 31, 2007 Town Meeting; Approved by Attorney General February 22, 2008)

XVII. Buffer Zone

A. Residential Construction

A 30-foot No Activity Zone shall be required for all new residential structures in developments of three units or less, additions, accessory structures (including, but not limited to, garages, sheds, and pools), associated construction (including, but not limited to, driveways and septic systems), and site work (including, but not limited to, landscaping and grading) within the Buffer Zone. In the event that there are multiple resource areas at a given site with associated Buffer Zone, the 30-Foot No Activity Zone shall be measured from the boundary of the resource area closest to the work.

Developments of four or more residential units shall be subject to the requirements for commercial/industrial development in Subsection B.

B. Commercial/Industrial Development and Residential Construction of Four Units or More

A 50-foot No Activity Zone shall be required for all new commercial and industrial developments (including, but not limited to, strip malls, office buildings, retail stores, automotive uses, warehouses, and industrial buildings), and developments of four or more residential units, that will alter 2500 square feet or more of Buffer Zone. In the event that there are multiple resource areas at a given site with associated Buffer Zone, the 50-foot No Activity Zone shall be measured from the boundary of the resource area closest to the work. For commercial/industrial developments and developments of four or more residential units that will alter less than 2500 square feet of Buffer Zone, the Conservation Commission may permit a No Activity Zone less than 50 feet in width, but not less than 30 feet in width.

C. Exceptions

1. The Conservation Commission may waive or reduce the No Activity Zone requirements listed above for:

a. Redevelopment of sites that are currently paved or altered with other impervious surfaces within Buffer Zone.

b. Projects involving work necessary to access buildable upland (including access roads, driveways, and utilities) as long as there is no other means of accessing said buildable upland, and said work meets all the other requirements of the Massachusetts Wetlands Protection Act and this By-law;

c. If in its judgment such a reduction is necessary to accommodate a project that will have an overall benefit to the public and/or to the environment (such

as a sewer expansion project, or a wildlife enhancement project);

d. If in its judgment such a reduction is necessary to accommodate reasonable access, by path, or other least intrusive means of access, to other portions of a property or the shoreline, as long as there is no other alternative means of accessing the other portions of the property, and that such alteration does not exceed a 5' naturally surfaced path, or an elevated boardwalk, not to exceed 3' in width, within the 5' pathway. Such alterations may require wetlands replication.

2. The No Activity Zone requirements set forth in this Section shall not apply to:

a. Structures or site work that is defined as the normal maintenance or improvement of Land In Agricultural Use under 310 CMR 10.04, "Agriculture".

b. Projects requiring Chapter 91 Licenses, freshwater dock projects, repairs of existing Chapter 91 Licensed structures, or other coastal engineering structures deemed by the Conservation Commission to be necessary to protect the interests of the Massachusetts Wetlands Protection Act and this By-law.

c. Projects involving the repair, but not expansion of, existing and lawfully located buildings and structures, including roads, culverts, utilities, septic systems, or storm water drainage structures.

3. Any exceptions grated under this Section shall not be permitted for a change of use and any disturbance allowed under this Section shall be restored to the greatest extent possible prior to a change of use under a new application to the Conservation Commission. (Article 20 of April 25, 2016 Town Meeting; Approved by the Attorney General on July 26, 2016).

DIVISION VII
ARTICLE I
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT AUTHORITY

Section 1. There shall be established in the Town of Wareham a Department of Community Development and a Community Development Authority in accordance with Chapter 270 of the Acts of 1977.

DIVISION VII
ARTICLE II
COMMUNITY PRESERVATION COMMITTEE

Chapter – 1 Establishment

There is hereby established a Community Preservation Committee, consisting of seven (7) voting

members pursuant to MGL Chapter 44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

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

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

One member of the Planning Board as designated by the Board for a term of three years.

One member of the Housing Authority as designated by the Authority for an initial term of two years and thereafter for a term of three years.

One member of the Open Space Committee as designated by the committee for an initial term of one years and thereafter for a term of three years.

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

Notwithstanding the terms of office set forth above, in the event that a person no longer serves in the position or on the board designated above, such person shall be deemed to have vacated his or her position on the committee.

Should any of the Commissions, Boards or Committees who have appointment authority under this Chapter be no longer in existence for whatever reason, the appointment authority for that Commission, Board or Committee shall become the responsibility of the Board of Selectmen.

Chapter – 2 Duties

The community preservation committee shall study the needs, possibilities and resources of the Town regarding community preservation. The committee shall consult with existing municipal Boards, including the conservation commission, the historical commission, the planning board, the recreation commission and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.

The community preservation committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation

of historic resources, for the acquisition and preservation of land for recreational use, for the creation, preservation and support of affordable housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and affordable housing that is acquired or created as provided in this section. With respect to affordable housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

The community preservation committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with

Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

In every fiscal year, the community preservation committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for: (a) open space (not including land for recreational use); (b) historic resources; and (c) community housing.

Chapter – 3 Requirement for a quorum and cost estimates

The Community preservation committee shall comply with the provisions of the Open Meeting Law, G.L. c. 39, §23B. The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

Chapter – 4 Amendments

This bylaw may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL Chapter 44B.

Chapter – 5 Severability

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

Chapter 6 – Effective Date

Provided that the Community Preservation Act is accepted at the 2002 Annual Town Election, this bylaw shall take effect upon approval by the Attorney General of the Commonwealth, and After all requirements of G.L. c. 40, §32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments. (Article 14 of the Fall Annual Town Meeting held October 15, 2001; Approved by the Attorney General on November 30, 2001).

DIVISION VII
ARTICLE III
WAREHAM AFFORDABLE HOUSING TRUST

§1 Authority/establishment:

Pursuant to the authority of Chapter 491 of Legislative Acts of 2004, codified as G.L. c.44, s.55C and the Town of Wareham's Home Rule Charter, there is hereby created an affordable housing trust fund to be known as the Wareham Municipal Affordable Housing Trust Fund (hereinafter: "Trust Fund")

§2 Purposes:

The purpose of the Trust Fund shall be:

A. To receive, hold, invest, and/or expend funds for the acquisition, rehabilitation, renovation, construction, financing or refinancing of property within the Town of Wareham so that such property will be substantially available as residential property for low and moderate income persons and to further provide mechanisms to ensure such use; and

B. To utilize funds for temporary consulting services that allows the Town of Wareham to provide or preserve real property in the Town so that such property will be substantially available as residential property for low and moderate-income persons and to further provide mechanisms to ensure such use.

§3 Composition:

The Trust Fund shall have five (5) Trustees at all times. At least one of the Trustees shall be a member of the Board of Selectmen. The Board of Selectmen shall appoint the remaining Trustees. In making the appointments, the Board of Selectmen shall endeavor to provide a broad-based membership including legal, banking, financial and real estate professionals, other members of the local business community and affordable housing advocates.

§4 Term of Office:

The Trustees shall be appointed for a two (2) year term commencing on July 1 and ending on June 30 or until such time as a successor is appointed, should said appointment be delayed.

§5 Organization:

The Trustees shall annually elect one Trustee to serve as Chairperson. The Chairperson may establish sub-committees and/or ad hoc task related committees to carry out the purposes of the Trust Fund. The members of the sub-committees may select chairpersons of the sub-committees.

§6 Filling of vacancies:

In the event of a vacancy in the position of Trustee, the appointment shall be made in the same manner as the original appointment.

§7 Meetings, quorum:

Meetings of the Trust Fund shall be held on a regular basis. The Chairperson or any two (2) Trustees may call Special meetings. Notice of any meeting of the Trust Fund shall be filed with the Town Clerk and posted in accordance with M.G.L, Ch. 39, §23, the Open Meeting Law. Four (4)

Trustees shall constitute a quorum but a majority vote of the full membership shall be required to approve any motion.

§8 Powers and duties:

The Wareham Municipal Affordable Housing Trust Fund shall have the responsibility to support the construction and preservation of affordable housing in order to secure rental and home ownership opportunities for our community's low and moderate-income individuals and families in the future.

The Trust Fund shall have the powers and duties specified in G.L. c.44, s.55C if provided that it

shall have no ability to borrow money, or mortgage or pledge trust assets without prior Town Meeting approval.

It shall have the following additional powers and duties:

A. To establish criteria and/or qualifications for recipients and expenditures in accordance with Trust Fund's above-stated purposes.
B. To employ consultants, legal counsel and full or part-time staff, to contract for administrative and support goods and services, and to expend up to ten (10) percent of Trust Fund's receipts for these purposes.

§9 Treasurer-Collector as custodian:

The Town of Wareham Treasurer-Collector shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds. He or she shall invest the funds in the manner authorized by Sections 55, 55A and 55B of Chapter 44 of the General Laws. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust. (Article 23 of the April 24, 2006 Town Meeting; Approved by the Attorney General August 24, 2006)

DIVISION VII
ARTICLE IV
Community Events Committee
General Bylaw

Section 1. There is hereby established in the Town of Wareham a Community Events Committee, consisting of seven members. The composition of the Committee, the appointment authority and the term of office for the committee members shall be as follows:

One member appointed by the Wareham Community Economic and Development Authority, to serve for an initial term of two years, and, thereafter, for a term of three years;

One member appointed by the Wareham Finance Committee (non-voting member), to serve for an initial term of two years, and, thereafter, for a term of three years;

One member appointed by the Town Administrator (non-voting member), to serve for a term of three years;

One (1) member appointed by the Wareham Board of Selectmen, to serve for an initial term of one year, and, thereafter, for a term of three years;

Three (3) citizens at-large appointed by the Board of Selectmen, one to serve for an initial term of one year, and, thereafter, for a term of three years, and two, each to serve for a term of three years.

Nothing herein shall be construed as prohibiting an appointing authority from appointing one of its own members. In the event that a vacancy shall occur on the Committee, the respective appointing authority shall make an appointment for the unexpired term. If any of the appointing authorities hereunder cease to exist, the Board of Selectmen shall appoint in place of such appointing authorities individuals qualified to serve on said Community Events Committee, as appointees at-large.

Section 2. The Community Events Committee mission is to sponsor and encourage community

events, projects, activities, services, programs, and public improvements which are of mutual interest to the visitors and residents of the Town of Wareham and which strengthen the Town by fostering community involvement and spirit.

Section 3. The Committee is hereby authorized to expend for the purposes set forth in this bylaw all moneys that are made available to it by the community events fund, by gifts or grants, or by transfer of funds authorized by law. Any and all contracts for supplies, services, programs, and projects authorized hereunder shall be awarded and executed by the Town Administrator on the recommendation of the Community Events Committee, subject to compliance with applicable procurement laws of the Commonwealth. (Article 27 of the April 23, 2007 Town Meeting; Approved by the Attorney General June 25, 2007).

DIVISION VIII
ARTICLE I
ENFORCEMENT OF BY-LAWS

The Harbor Master/Shellfish Constable or their deputies, taking cognizance of a violation of a specific By-Law, rule or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received. Any notice and enforcement of such violation shall be in accordance with the provisions of M.G.L. Chapter 40, Section 21D, and further that the Town voted to adopt the following schedule of non-criminal violation penalties:

NON-CRIMINAL VIOLATION FINES

The fines for violations of the provision of the Rules and Regulations pertaining to the Harbor, the taking of Shellfish, Eels, or Sea worms, Herring, or Smelt shall be as follows:

First Offense	**$ 50.00**
Second Offense	**$100.00**
Subsequent Offense(s)	**$250.00**

(Article 31 of the April 28, 1997 Town Meeting; Approved by the Attorney General July 24, 1997).

DIVISION VIII
ARTICLE II
RULES AND REGULATIONS RELATIVE TO ANIMAL CONTROL IN THE TOWN OF WAREHAM

SECTION 1: DEFINITIONS:

The following words and phrases shall have the following meanings:

BEACH - Any town-owned part there of; including parking lot, pier, grass, dune, sand, shore, and water.

MARSH - Town-owned area of low-lying wet land.

ANIMAL CONTROL OFFICER - any officer appointed under the By-laws in the Town of Wareham for the enforcement of these Rules and Regulations.

KEEPER - any person , corporation or society, other than the owner, harboring or having in his possession any dog.

KENNEL - one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

SMALL KENNEL - a kennel maintained for a collection of four or five dogs.

HOBBY KENNEL - a kennel maintained for a collection of six to ten dogs or for breeding dogs for show or sport, or which sells dogs from less than four litters per year, not to exceed ten dogs on the premises over the age of three months.

COMMERCIAL KENNEL - a kennel maintained as a business for the boarding and grooming of dogs, or which sells dogs born and raised on the premises from more than four litters per year, or a kennel of 11 or more dogs.

LICENSE PERIOD - the time between January First and the following December Thirty-First, both dates inclusive.

LIVE STOCK OR FOWL - animals or fowl kept or propagated by the owner for food; also deer, elk, cottontail rabbits and northern hares, pheasants, quail, partridge and other birds and quadrupeds determined by the Department of Fisheries, Wildlife and Environmental Law Enforcement to be wild and kept by, or under, a permit from said Department in proper houses or suitable enclosed yards. Such phrases shall not include dogs, cats or other pets.

POOPER SCOOPER - a device manufactured for the express purpose of picking up dog feces or any sanitary means of collecting feces including but not limited to plastic containers, rubbish bags, and garbage bags.

SECTION 2: RESTRAINT AND CONTROL/LEASH LAW:

No dog owned or kept in the Town of Wareham shall be allowed to be off the premises of its owner or keeper or premises of other private property of which permission of use has been obtained from the owner of such property, except in the immediate restraint and control of some person by means of a chain or leash. The owner or keeper of any dog that is not so restrained or controlled off the premises of its owner or keeper or premises of other private property of which permission of use has been obtained from the owner of such property shall be punishable by a warning for the first offense and **$25.00 (twenty-five dollars)** for the second offense, to be deposited to the Town of Wareham General Fund. For subsequent

offenses, the schedule of fines provided in Massachusetts General Laws, Chapter 140, Section 173A, as amended from time to time, shall apply.

SECTION 3: BEACH/MARSH:

No dog shall be allowed upon any public salt water or fresh water beaches or marshes, either loose or on a leash. Seeing-eye dogs, when accompanied by the owner, shall be the only exception to this section of the by-law.

Any party in control of a dog in the absence of the owner or keeper, while the dog is off the owners' or keepers' property, shall be required to observe all rules and regulations pertaining to the owner or keeper as contained in these rules and regulations.

Any person who violates this regulation shall be fined minimum **$25 (twenty-five dollars)** for the first offense, **$50.00 (fifty dollars)** for the second offense, and **$100.00 (one hundred dollars)** for the third and subsequent offenses. (Article 7, October Special Town Meeting/Approved by Attorney General on December 12, 2005)

SECTION 4: DISPOSAL OF WASTE:

The dog owner or keeper shall keep control over the dog with a chain or leash at all times that the dog is off the owners' or keepers' property. The dog owner or keeper shall be required to have in his possession a means acceptable to, the Board of Health of the Town of Wareham, to pick up all feces and waste deposited by the dog on any public property in the Town of Wareham. All feces and waste collected shall be disposed of as directed by the Board of Health.

Any person who violates this regulation shall be fined **$50.00 (fifty dollars)** for each offense.

SECTION 5: APPLICATION OF RULES AND REGULATIONS:

Any party in control of a dog in the absence of the owner or keeper, while the dog is off the owner=s or keeper=s property, shall be required to observe all rules and regulations pertaining to the owner or keeper as contained in these rules and regulations.

Seeing-eye dogs, when accompanied by the owner, shall be the only exception of this by-law.

SECTION 6: LICENSES AND TAGS:

The owner or keeper of a dog kept within the Town of Wareham subject to these Rules and Regulations shall cause the dog(s) to be licensed when it attains the age of six (6) months and annually thereafter. Licensing period shall begin January 1st through the following December 31st, both dates inclusive.

The Town Clerk shall issue dog licenses and tags on a form prescribed and furnished by the Town of Wareham. Licensure may be conducted by mail. The applicant for the license should enclose the license fee, current rabies certificate, spay/neuter certificate, if applicable, and a self-addressed, stamped envelope.

The Town Clerk shall record on each license issued, the name of the owner or keeper of each dog so licensed, and the name, registered number and description of each dog, and rabies vaccination certification. The owner or keeper of any dogs so licensed shall state upon the license form the breed, color, weight, age and special markings of the dog. Each tag shall include the license number, a statement that the dog is licensed in the Town of Wareham, and the year of issuance of the license.

The owner or keeper shall cause said dog to wear around its neck or body a collar or harness to which he shall securely attach the tag issued. In the event that any tag is lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the Town Clerk at a cost of **$5.00 (five dollars)**, to be deposited to the Town of Wareham General Fund.

For any dog which moves into the Town of Wareham, any license duly recorded in another jurisdiction within the Commonwealth shall be valid until the expiration of the license, at which time the owner or keeper will cause the dog to be licensed in the Town of Wareham The owner or keeper of a dog licensed in another jurisdiction is required to notify the Town Clerk within 30 days that the dog shall be housed in the Town of Wareham, stating the address, and providing the name of the town where the dog is currently licensed.

The fees for licensing of dogs shall be:

$10.00 for any neutered or spayed animal, upon submission of a certificate from a registered veterinarian
$13.00 for any animal not spayed or neutered

Any person Seventy (70) years of age or older, upon proof of age, shall be exempt from the annual fee for one dog, per household, per year.

The owner of a kennel license, age Seventy (70) years of age or older, shall be excluded from this exemption. This exemption shall take effect on January 1, 2005. (Article 22 of the April 26, 2004 Annual Town Meeting; Approved by Attorney General on May 28, 2004). (Article 13 of the October 25, 2004 Annual Fall Town Meeting, acceptance of Massachusetts General Law, Chapter 140, §139)

Licensing fees are due and payable to the Town Clerk from January 1st to December 31st of each calendar year. No fee shall be charged for a dog specially trained to lead or serve a blind or deaf person upon the presentation to the Town Clerk of a certificate of such training.

A license fee shall not be refunded because of a subsequent death, loss, spaying, or removal of such dog from the Town of Wareham.

The provisions of this section shall not apply to institutions licensed under Chapter 49A of the General Laws, to pet shops licensed under Section 39A of Chapter 129 of the General Laws, to any person operating a licensed kennel and where otherwise provided by law.

The Town Clerk shall receive the fees specified in this section for the issuance of licenses and tags and shall deposit them into the Town of Wareham General Fund. The Town Clerk shall certify under the penalties of perjury to the amounts of money thus received and deposited.

SECTION 7: KENNEL LICENSES:

Any owner or keeper of four or more dogs, three months of age or over, shall obtain an application for a kennel license from the Building Inspector. Upon approval of the application by the Building Inspector or the Board of Appeals, the applicant will submit the written approval to the Town Clerk, indicating the location of the kennel. Kennels are defined and classified in Section 1 of these Rules and Regulations.

The kennel license shall be on a form prescribed and furnished by the Town of Wareham and shall specify the name of the owner, the name of the kennel, the name of the keeper, the location of the kennel and the maximum number of dogs that are allowed to be kept on the premises at any one time.

Failure of the Building Inspector or the Board of Appeals to give written approval to a kennel at the proposed location of such kennel will cause a kennel license not to be issued at such location by the Town Clerk.

The fees for each classification of kennel license shall be as follows:

Small Kennel License: **$40 (thirty dollars) per year**
Hobby Kennel License: **$70 (sixty dollars) per year**
Commercial Kennel License: $160 (one hundred sixty dollars) per year

(Article 78 of the October 25, 2010 Annual Fall Town Meeting: approved by the Attorney General on March 10, 2011)

A kennel license shall be obtained in lieu of any other license required for any dog which may be kept in such kennel for any portion of the period for which the license is issued. The owner or keeper of such kennel shall renew the license prior to the commencement of each succeeding license period.

While at large, each dog in a kennel shall wear a collar or harness to which shall be securely attached a tag upon which shall appear the number of the kennel license, the town issuing such license, and the year of issuance. Such tag shall be in a form prescribed and furnished by the Town of Wareham and shall be issued by the Town Clerk along with the kennel license.

If a kennel owner desires to increase the capacity of his kennel during a license period, he shall obtain an application from the Building Inspector to request modification. Upon written approval from the Building Inspector or the Board of Appeals, the applicant shall submit written proof to the Town Clerk, who shall issue a new license in accordance with the modification. The owner shall pay full price for the new kennel license most recently approved. (Article 78 of the October 25, 2010 Annual Fall Town Meeting: approved by the Attorney General on March 10, 2011)

The Town Clerk shall issue, without charge, upon written application to and approval from the Building Inspector or the Board of Appeals, a kennel license to any domestic charitable corporation incorporated in the commonwealth exclusively for the purpose of protecting animals from cruelty, neglect or abuse.

A veterinary hospital shall not be considered a kennel unless it contains an area for the grooming or selling of dogs, or for the boarding of dogs for other than medical or surgical purposes, in which case it shall apply in writing to the Town Clerk of Wareham,

submitting approval from the Building Inspector or the Board of Appeals for the required kennel license.

All holders of kennel licenses shall notify the Town Clerk in writing, of the sale of any dog or pup, including a description of the animal, the age, color, identifying marks, sex and whether the dog has been spayed or neutered. A copy of such notice shall be forwarded by the kennel owner to the Town Clerk in the town where the new owner of the dog resides.

Any and all license holders in the business of selling and/or boarding dogs for profit, in accordance with Massachusetts General Laws, Chapter 110, Section 5, must register with the Town of Wareham by acquiring a business certificate from the office of the Town Clerk. (Article 78 of the October 25, 2010 Annual Fall Town Meeting: approved by the Attorney General on March 10, 2011)

SECTION 8: KENNEL INSPECTION AND REGULATION:

The Board of Selectmen, the Chief of Police, the Animal Control Officer within his jurisdiction or person appointed under Chapter 147, Section 10, of the General Laws, shall at any time inspect or cause to be inspected any kennel and if, in his judgment, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by the law, the Board of Selectmen of Wareham shall by order revoke or suspend said kennel license. In the case of suspension of said license, the Board of Selectmen may reinstate such kennel license and impose conditions and regulations upon the operation of said kennel.

Any person maintaining a kennel after the license has been suspended or revoked, shall be punished by a fine of **$50.00 (fifty dollars)** per day, which fines shall be returned by the court to the Town of Wareham General Fund. (This section of the by-law in no way imposes requirements on the jurisdiction of the courts of the Commonwealth).

SECTION 9: PENALTIES FOR FAILURE AND/OR TARDINESS TO LICENSE:

Whoever violates any provision of Section 6 or Section 7 of these Rules and Regulations shall be fined **$50.00 (fifty dollars)** for each violation, which shall be paid to the Town of Wareham General Fund.

If the dog, incurring any violation, was unlicensed at the time of such violation, an additional **$50.00 (fifty dollars)** fine shall be imposed and paid to the Town of Wareham General Fund, and the owner or keeper of such dog will be required to immediately procure all delinquent licenses and tags, as well as the current license and tag. Late fees for the licensing of dogs are as follows:

	Non-altered	Altered
April 1st to May 31st:	**$23.00**	**$20.00**
June 1st to July 31st:	**$33.00**	**$30.00**
August 1st to December 31st:	**$50.00**	**$50.00**

Proof that a dog has been altered (spayed/neutered) must be submitted at the time of payment of the license fee. Certification from a licensed veterinarian is required. Late fees for the licensing of kennels:

Small Kennels:	
April 1st to May 31st:	**$ 50.00**
June 1st to July 31st:	**$ 70.00**
August 1st to December 31st:	**$ 90.00**
Hobby Kennels:	
April 1st to May 31st:	**$ 80.00**
June 1st to July 31st:	**$100.00**
August 1st to December 31st:	**$120.00**
Commercial kennel:	
April 1st to May 31st:	**$170.00**
June 1st to July 31st:	**$190.00**
August 1st to December 31st:	**$210.00**

Exclusion from the above fines include new and/or first time dog and kennel licenses. (Article 78 of the October 25, 2010 Annual Fall Town Meeting: approved by the Attorney General on March 10, 2011)

SECTION 10: RABIES:

The owner or keeper of a dog or cat which has reached the age of six months shall cause that dog or cat to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Department of Public Health.

Upon vaccination, a rabies tag is provided by the veterinarian and may be secured to a collar or harness of the dog or cat.

The Board of Health of Wareham will provide free of charge to the dog officer, a rabies vaccination upon request of such officer.

Unvaccinated dogs acquired or brought into the Town of Wareham shall be vaccinated within thirty days or immediately upon reaching the age of six (6) months. Vaccinated dogs shall be revaccinated periodically in accordance with rules adopted and promulgated by the Department of Public Health.

Violations of the provisions of this Section shall be punished by a fine of **$50.00 (fifty dollars)**, which shall be paid to the Town of Wareham General Fund.

SECTION 11: DISPOSITION OF FEES AND FINES:

The Town Clerk shall issue said licenses and tags, receive the money there from and pay it into the General Fund of the Town of Wareham no later than the first Monday of each month.

The Town Clerk shall make a record in books kept therefore and to be furnished by the Town of Wareham of each license issued, of the name and address of the owner or keeper of such dog so licensed, the registered number and description of each dog, and such books shall be open to public inspection during the usual office hours of the Town

Clerk. All license forms, tags, record books, and all standard operating forms shall be paid for from the dog license proceeds and/or fines deposited into the General Fund.

The Town Clerk shall, within thirty days next succeeding January 1st of each year, report to the Board of Selectmen and/or their designee all license books and tags furnished for the preceding year, including all stubs and void licenses, unused license blanks and all licenses and tags taken up in accordance with Sections 6 and 7.

SECTION 12: ANIMAL CONTROL OFFICERS:

The Town Administrator shall, from time to time, appoint one or more animal control officers who shall receive an annual salary which shall be set by the Board of

Selectmen, who may be police officers or constables, who shall serve at the pleasure of the Board of Selectmen, upon approval of the Board of Selectmen.

No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture and no Animal Control Officer or any representative shall sell any animal to any licensed animal dealer registered with the United States Department of Agriculture. Whoever violates the provision of this Section shall be punished by a fine of **not less than $100.00 (one hundred dollars) nor more than $300.00 (three hundred dollars).**

The Town Administrator of Wareham may enter into a contract with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, to perform the duties of animal control officers.

SECTION 13. ANIMAL CONTROL OFFICERS DUTIES:

An Animal Control Officer shall attend to all complaints, except as assigned to the Chief of Police, or other matters regarding dogs in the town.

An Animal Control Officer shall, at least twice in each year, inspect every premises holding a kennel license and shall issue a written report of the conditions of said kennel to the Board of Selectmen and the Board of Health of Wareham, stating his opinion as to the maintenance, humane and sanitary conditions, and if records are properly kept by the owner or keeper of said kennel.

An Animal Control Officer shall be responsible for the supervision of and the maintenance and care of the animal control shelter in his Town, unless the Town otherwise contracts with a licensed animal control shelter in another municipality.

An Animal Control Officer shall be responsible for maintaining records of all animals that become the subject of any action. He shall record each complaint and the nature thereof and what action, if any, was taken by him or any other authority of the Town.

An Animal Control Officer shall maintain records of each dog confined under his care and custody for any reason whatsoever, stating the reasons for such

confinement, the breed and color of the dog, the date the dog came under the control of the Animal Control Officer, the final disposition of the dog and the date of this disposition.

An Animal Control Officer shall examine any premises to be used as a proposed kennel and must submit a written report to the Building Inspector stating his opinion as to whether or not such a site would be suitable for the type of kennel license requested.

SECTION 14: VIOLATIONS/ NON-CRIMINAL DISPOSITION:

A violation of any provision of this article may be dealt with as a non-criminal offense in accordance with the provision of General law, Chapter 40, Section 21D, and shall be subject to the specific fine or penalty listed in each provision. If no specific fine or penalty is listed, the fine or penalty shall be **$50.00 (fifty dollars)** for each offense.

In addition to police officers, who shall in all cases be considered enforcement personnel for purposes of non-criminal enforcement, a duly appointed Animal Control Officer shall be the enforcement officer with respect to the provisions set forth in this article. (Article 18 of the October 18, 1999 Annual Fall Town Meeting; Approved by Attorney General on February 8, 2000).

SECTION 15:

I. Definitions

Dog: All animals of canine species.

Domestic Animal: An animal designated as domestic by regulations promulgated by the Massachusetts Department of Fish and Game.

Owner: Any person or persons, business, association, society, or corporation owning , keeping, harboring or having possession of a dog.

Controlling Person: A person of seventeen (17) years old or older having sufficient size, strength and ability to maintain proper control of the dog while on a leash.

Owner's Property:

1. Property owned or occupied by the dog owner.

2. Property not open to the general public where the owner or occupant has invited the dog, with or without its owner onto the property.

Attack: Aggressive physical contact initiated by an animal.

Secure Enclosure: A fence or other structure of at least one hundred (100) square feet in accordance with MGL Chapter 140 Section157 on suitable enclosures to reasonably prevent the entry of young children and other unauthorized persons and to confine the dog securely. Such enclosure shall have sides and top and shall be designed and constructed to prevent the dog from escaping. If the enclosure has no floor secured to the sides, the sides shall be embedded into the ground for not less than two (2) feet.

Muzzle: A device that prevents a dog from biting any person or animal. It may be constructed of strong material. A muzzle may not interfere with the vision or respiration of the dog that wears it, nor shall it cause any injury to the dog.

Dangerous Dog:

1. Any dog that has, without clear provocation, significantly bitten or attacked a human being resulting in significant physical injury or death.

2. Any dog that has, without clear provocation, inflicted severe physical injury or killed any other domestic animal.

3. Any dog that behaves in a manner a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

4. Any dog owned, kept or harbored currently or in the past for the purpose of dog fighting or any dog trained for fighting.

5. Any dog that has been deemed dangerous or vicious in any other jurisdiction.

At Risk Dog

1. Any dog that, when unprovoked, engages in any behavior that requires a defensive action by a human or other dog to prevent bodily injury.

2. Any dog that, when unprovoked, acts in a highly aggressive manner within a fenced yard or enclosure and appears, in the opinion of the Animal Control Officer, to be able to escape.

Hearing Authority: The Board of Selectmen or any person or persons designated by the Board of Selectmen who are in conformance with the definition of hearing authority in MGL Chapter 140 Section 136A.

II. Exceptions To Dangerous Or At Risk Classifications

No dog shall be determined dangerous:

1. for inflicting injury or damage on a person committing a crime or willful trespass upon
2. the premises occupied by the owner of the dog, or teasing, tormenting, abusing or assaulting the dog or committing or attempting to commit a crime;
3. for taking action to defend or protect the owner or other person from an attack or assault by another person or animal;
4. for attacking a domestic animal, which, at the time the injury was sustained, was teasing, tormenting, abusing or assaulting the dog;
5. for attacking a domestic animal while on the Owner's Property if, in the past, the domestic animal had been teasing, tormenting, abusing or assaulting the dog;
6. for protecting or defending itself, its offspring or other domestic animal from attack or assault, or reacting to pain or injury, if such reaction was not grossly disproportionate;
7. for attacking or injuring a person or domestic animal while performing its expected duties

as a military, correctional or police dog;

8. at the time of the attack or threat, the person or animal that was attacked or threatened by the dog had breached an enclosure or structure in which the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure including, but not limited to, a gated, fenced-in area if the gate was closed, whether locked or unlocked; provided, however, that if a person is under the age of Seven (7), it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing;

9. Solely based on growling or barking.

III. Dangerous and At Risk Dogs

1. The determination that a dog is dangerous or at risk under this section shall be made by the hearing authority. The hearing authority shall notify the owner in writing of any such determination; such notice shall include information on the hearing and appeal process.

2. Any confinement or other restrictions imposed by the determination shall remain in effect while a hearing or appeal is pending.

3. Within ten (10) days after an order by the hearing authority, the owner of a dog may bring a petition in the district court within the judicial district in which the order relative to the dog was issued or where the dog is owned or kept, addressed to the justice of the court, praying that the order be reviewed by the court or a magistrate of the court.

IV. Restrictions For Dangerous Dogs

If the hearing authority deems a dog a dangerous dog, the hearing authority shall order one or more of the following:

1. When not under direct control of a controlling person, the dog shall be contained within a building, vehicle, or secure and locked enclosure;

2. The dog may only leave owner's property accompanied by a controlling person on a leash of not more than four (4) feet having a minimum tensile strength of three hundred (300) pounds, used in conjunction with a muzzle;

3. Microchip or tattoo identification for the dog;

4. Behavior training for the dog from a trainer approved by the Animal Control Officer;

5. Spaying or neutering of the dog unless an owner of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the owner of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact;

6. Proof of insurance for the dog in an amount not less than $100,000, insuring the owner against any claim, loss, damage or injury to persons, domestic animals or property resulting from the dog's acts, whether intentional or unintentional;

7. Dog will be humanely euthanized.

V. Restrictions For At Risk Dogs

1. When not under direct control of a controlling person, the dog shall be contained within a building, vehicle, or secure enclosure.

2. The dog may only leave Owner's Property accompanied by a Controlling Person on a leash of not more than four (4) feet having a minimum tensile strength of three hundred (300) pounds.

3. With consideration given to recommendations from the Animal Control Officer, the hearing authority may order any or all of the following:
   a. Microchip identification;
   b. Behavior training from a trainer approved by the Animal Control Officer.

4. After two years of compliance, the dog shall no longer be considered At Risk

VI. By-Law Enforcement

By-Laws relating to dog control matters may be enforced by the Animal Control Officer or any Police Officer.

Seizure of Dangerous Dog. In the event that the Animal Control Officer or law Police Officer has cause to believe that a dangerous dog is being harbored or cared for in violation of this By-Law, or in violation of restrictions previously issued, the Animal Control Officer or law enforcement agent may order and affect the seizure and impoundment of the dog.

Violations and Dispositions
Any person authorized to enforce provisions of this By-Law may, in addition to any seizure of a dog pursuant to this By-Law, which may or may not occur, issue a citation to the owner of any dog violating the provisions of the By-Law. Any such citation shall include, in addition to the violation charged, the name and address of the owner of the dog, the date and time and location of the alleged offense, and the amount of the penalty due, if known. Said citation shall be on a form prescribed by and furnished by the Police Department.

If an owner of a dog is found in violation of an order of the hearing authority, the dog shall be subject to seizure and impoundment by the Animal Control Officer or Police Officer.

VII. Penalties For Violating The Restrictions Placed On Dogs Deemed To Be Dangerous Or At Risk

1st Offense: $50 fine.
2nd Offense within a 24 month period: $100.00 fine.
3rd Offense within a 24 month period: $200.00 fine.
4th or Subsequent Offense within a 24 month period: $300.00 fine.

VIII. Barking / Howling Nuisance

No person owning, keeping or otherwise responsible for a dog shall allow said dog, if unprovoked, to annoy another person by making a loud or continuous noise, where such noise would be found by a reasonable person to be disruptive to one's quiet and peaceful enjoyment Continuous and clearly audible barking or howling by a dog is prima facie evidence of a violation, if:

1. It occurs between the hours of 11:00 PM and 7:00 AM, or

2. It is in excess of twenty (20) minutes between 7:00 AM and 11:00 PM.

IX. Penalties for Barking / Howling Nuisance

If, upon written complaint, or observation by authorities, the Animal Control Officer or a police officer determines a barking / howling nuisance under this By-Law, said officer may issue a warning or citation based on the following schedule:

1st Offense: Warning
2nd Offense within any 12 month period: $25 fine.
3rd Offense within any 12 month period: $50 fine.
4th or Subsequent Offense within a 12 month period: $100 fine.

X. Effective Date

This By-Law shall take effect upon approval by the Attorney General.

XI. Severability

If any provision of this By-Law should be found invalid, the remainder of this By-Law shall remain in force. (Voted at the Spring Town Meeting, April 22, 2013, Article 28; Approved by the Attorney General on October 15, 2013)

DIVISION VIII
ARTICLE III
The Preservation of Historically Significant Buildings

Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the Town and to limit the detrimental effect of demolition on the character of the Town. Through this Bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the Town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this Bylaw promotes the public welfare by making the Town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

Definitions

APPLICANT - Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.
APPLICATION - An application for the demolition of a building.
BUILDING - Any combination of materials forming a shelter for persons, animals, or property.
DIRECTOR OF INSPECTIONAL SERVICES - The person occupying the office of Director of Inspectional Services or otherwise authorized to issue demolition permits.
COMMISSION - The Wareham Historical Commission or its designee.
DEMOLITION - Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with substantial destruction so that the Building will no longer exist as it has customarily.
DEMOLITION PERMIT - The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.
PREFERABLY PRESERVED - Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve-month demolition delay period of this Bylaw.

SIGNIFICANT BUILDING - Any building within the Town which is in whole or in part **seventy-five years** or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The Building has been found eligible for the National Register of Historic Places; or
- The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

Procedure

No demolition permit for a building which is in whole or in part **seventy-five years** or more old shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over **75 years** old for the purposes of this bylaw. An applicant proposing to demolish a building subject to this bylaw shall file with the Director of Inspectional Services an application containing the following information:

- The address of the building to be demolished.
- The owner's name, address and telephone number.
- A description of the building.
- The reason for requesting a demolition permit.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph or photograph(s) of the building.

The Director of Inspectional Services shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Director of Inspectional Services and applicant in writing. The Director of Inspectional Services may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Director of Inspectional Services and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Director of Inspectional Services within thirty (30) days of receipt of the application, the Director of Inspectional Services may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Director of Inspectional Services. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Director of Inspectional Services and applicant in writing. The Director of Inspectional Services may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Director of Inspectional Services and applicant in writing. No demolition permit may then be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Director of Inspectional Services in writing within twenty-one days of the public hearing, the Director of Inspectional Services may issue the demolition permit.

Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Director of Inspectional Services and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy, including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Director of Inspectional Services may issue a demolition permit or a building permit for a preferably preserved building within the six months if the Commission notifies the Director of Inspectional Services in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.

Following the six (6) month delay period, the Director of Inspectional Services may issue the demolition permit.

Administration
The Commission may adopt such rules and regulations as are necessary to administer the terms of his Bylaw.

The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Bylaw.

The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission.

The Commission may pro-actively develop a list of significant buildings that will be subject to this Bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

Emergency Demolition
No provision of this Bylaw shall be interpreted or applied so as to conflict with the provisions set forth under G.L. c.143 and the State Building Code, regarding emergency demolition procedures. The Commission may request the Applicant to provide the Director of Inspectional Services or any Board of Survey convened under 780 CMR 121.4-5 with an independent evaluation from a qualified structural engineer as to the structural soundness of the subject Building.

Enforcement and Remedies
Any person who violates this Bylaw by demolishing a building without first obtaining a demolition permit in accordance with the provisions of this Bylaw shall be punished by a fine of $300 or in accordance with the Town's Non-Criminal Disposition Bylaw, Division X, Article I. The enforcing person for non-criminal disposition under this Bylaw shall be the Commissioner, the Director of Inspectional Services or a police officer of the Town. Each day that the violation exists shall constitute a separate offense until restoration of the demolished building is completed. If a building subject to this Bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

Historic District Act
Any property requesting demolition that lies within Wareham historical Districts, shall apply to the Wareham Historical District Commission for a Determination and Certificate of Appropriateness. The Wareham Historical Commission, as regards to these properties, has no jurisdiction and does not issue demolition permits for these said properties.

Following a determination that the building is significant and preferably preserved, the Commission may recommend to Town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local Historic district. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

Severability

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect. (Article 7 of the October 26, 2009 Town Meeting; Approved by the Attorney General February 25, 2010).

DIVISION IX
ARTICLE I
INDICTMENT/COURT ACTION REGARDING VIOLATIONS

Section 1. Whoever violates any provisions of any By-Law, rule, regulation, or Ordinance of the Town, or any department, board, or commission, may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, **the maximum penalty for each offense or violation, brought in such manner, shall be three hundred ($300.00) dollars.**

DIVISION X
ARTICLE I
NON-CRIMINAL DISPOSITION

Section 1. Alternative method of enforcement. Any duly adopted by-law or zoning by- law of the Town of Wareham, or rule or regulation of its boards, commissions and committees and officers, may at the discretion of the town employee who is the appropriate enforcing person, be enforced by the method provided in G.L. c. 40, 21D. When enforced through the non-criminal disposition procedure, the penalty for a violation of any Town By-Law, Zoning By-law or rule or regulation shall be **Fifty Dollars ($50.00)** for the first offense, **one-hundred and fifty dollars ($150.00)** for the second offense, and **three hundred dollars ($300.00)** for the third offense. Each day on which any violation exists shall be deemed to be a separate offense. (Article 7 of the October 26, 2015 Town Meeting; Approved by the Attorney General on February 2, 2016)

Section 2. Enforcing person. "Enforcing person," as used in this by-law, shall mean: any Town of Wareham Police Officer with respect to any offense; as well as the Building Inspector and his designee, the members of the Conservation Commission and its designee, the Members of the Board of Health, its Health Agent or other designee, the Sealer of Weights and Measures and his designee, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of by-laws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

Section 3. In the event that a specific by-law already provided for non-criminal disposition, the provisions of that by-law will prevail over Division X, Article 1. (Article 13 of the October 21, 2002 Town Meeting; Approved by the Attorney General December 2, 2002).

DIVISION XI
ARTICLE I
POLICE DETAIL FOR CITIZENS

Section 1. Should police department personnel while on duty in service to the department be dispatched or be caused to respond to an incident involving criminal activity and/or disturbing the peace, trespassing, underage drinking or assault, at a particular property or location, the Police Chief is hereby authorized and empowered to assign to such property or location a member or members of the department to staff such paid police detail or details as the Police Chief deems appropriate to protect the health, safety and welfare of the inhabitants of the Town of Wareham.

Section 2. Such assignment of a detail shall only occur after the following procedures:

1. The department shall record the number of such incidents and after two such incidents in any twelve-month period, the Police Chief shall cause a copy of this bylaw

to be sent by regular and certified mail to the property owner or management company of record according to the most recent records of the assessor's office.

2. After the fourth such incident in any twelve-month period, the Police Chief, in his discretion, should notify the property owner by certified and regular mail of his decision to assign said detail commencing seven days after the date of such notice.

3. The property owner may request, in writing, a hearing before the chief of the department within said seven days to appeal the Police Chief's decision to assign a detail. The Police Chief shall promulgate rules, procedures and regulations relative to same.

Section 3. If, after termination by the Police Chief of a paid detail, police department personnel while on duty in service to the department are again dispatched or caused to respond to an incident at a particular property as described in subsection A of this section, within sixty days of such termination, the Police Chief is hereby authorized and empowered to again assign a paid detail to such property or location as he shall deem appropriate, following the procedure as set forth in subsection B of this section.

Section 4. For the purpose of this section, "paid police detail" shall mean one or more otherwise off-duty member or members of the Wareham police department assigned by the Police Chief, to a particular property or location for the purpose of presence, monitoring, patrol, supervision and otherwise acting to maintain the peace and good order of and at the property or location to which such member or members of the police department is or are assigned.

Section 5. Paid police details shall be of a minimum of four hours in duration.

Section 6. The member or members of the police department staffing such paid police details, shall be paid therefore at the rates set by the Town of Wareham or the Wareham police department, and such paid police details shall be subject to such other rules and regulations of the department, that pertain to police details other than as provided for under this section.

Section 7. The Police Chief or his designee shall keep an accurate record of the number of paid police details assigned to a particular property or location under this section and of the number of members of the department staffing such paid police details and the chief of the department or his designee shall forward such information to the office of the treasurer-collector.

Section 8. In addition to the other duties of the treasurer-collector, it shall be the duty of, and the treasurer-collector is hereby authorized and empowered to, bill to the record owner of the particular property or location the costs of such paid police details assigned thereto, pursuant to G.L. c. 40, s. 58. The costs shall, if unpaid, become an unpaid fee for purposes of G.L. c. 40, s. 58 and become a lien on the property.

Section 9. The owner of record of the particular property or location to which such paid police detail or details have been assigned under this section, who has been billed for the costs of such paid police details assigned thereto pursuant to this section, shall pay to the treasurer-collector all amounts so billed within thirty days of the date of such bill prepared and tendered by the treasurer-collector.

Section 10. All amounts so collected by the treasurer-collector shall be deposited into the general fund of the town and used to pay the member or members of the department for the service rendered in staffing the paid police details provided for pursuant to this section. (Article 22 of the April 25, 2011 Town Meeting; Approved by the Attorney General: October 7, 2011).

DIVISION XII
ARTICLE I
ENFORCEMENT

Section 1.

The Town Administrator or his/her designee(s) may act as enforcement officer for any Town By-Law. (Article 18 of the October 26, 2015 Town Meeting; Approved by the Attorney General on February 2, 2016)

DIVISION XII
ARTICLE II
CHAPTER 40U ADOPTION OF FINES

Section 1.
The procedure for the payment and collection of unpaid municipal fines, as set forth in Chapter 40U of the Massachusetts General Laws, are hereby adopted.

Section 2.
The Town Administrator shall appoint a Municipal Hearing Officer to conduct hearings of alleged violations of the By-laws and Regulations specified in this Chapter.

Section 3.
The following By-laws and Regulations and the specified penalties attached thereto shall be included within the procedure established under this Chapter. Each day a violation is committed or permitted to continue shall constitute a separate offense and may be penalized as such hereunder:

By-Law or regulation	Subject	Penalty
State Sanitary Code Chapter II; MGL, Chapter 111, section 31 and section 122; Town of Wareham Board of Health Regulations	Residential rental properties, Sanitary Code violations	$100 per offense, each day is considered a new offense
Town of Wareham Zoning By-Laws	Zoning and Code Enforcement	$300 per offense, each day is considered a new offense
Division VI, Article I Wetlands Protection By-Law	By-law, permits and/or administrative orders	$300 per offense, each day is considered a new offense
Division II, Article II	Junk/Old Metal/Second-Hand Dealer/Shop, Automatic Amusement Device/Video Game	$100 (2/3 of license cost) per offense, each day is considered a new offense

Section 4.
Notwithstanding the provisions of this By-law, the Town may enforce its By-laws and Regulations or enjoin violations thereof through any lawful process, including but not limited to through Non-Criminal Disposition as set forth in Division VIII and X of the Town's General By-laws, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

Section 5.
The invalidity of any section, provision, paragraph, sentence, or clause of this By-law shall not invalidate any other section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued. (Article 8 of October 24, 2017 Fall Town Meeting; Approved by the Attorney General on February 14, 2018)

TRUE COPY:

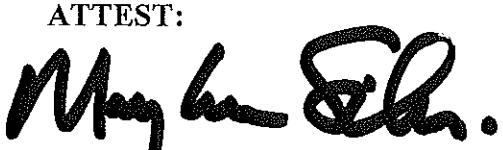
ATTEST:



MARY ANN SILVA
TOWN CLERK

THE FOREGOING BY-LAWS HAVE BEEN APPROVED BY THE ATTORNEY GENERAL AS REQUIRED BY LAW:

ATTEST:



MARY ANN SILVA
TOWN CLERK