General By-Laws Town of Boylston, Massachusetts

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Approved - 04-May-2009 –Annual Town Meeting

GENERAL BY-LAWS OF THE TOWN OF BOYLSTON

ARTICLE I – GENERAL PROVISIONS

1.01 The following provisions shall constitute the Revised By-Laws of the Town of Boylston, and they shall be in lieu of all By-laws heretofore in force which shall be void and stand repealed when these By-Laws come into effect.

1.02 The repeal of any By-law shall not thereby have the effect of reviving and By-law theretofore repealed, and the invalidity of any Section or provision, or any position of any provision of these By-laws shall not invalidate any other Section or provision thereof.

1.03 The Selectmen shall publish the By-laws of the Town at least every five (5) years.

1.04 ENFORCEMENT

1.04 .01 CRIMINAL COMPLAINT

Whoever violates any provisions of these By-laws 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 violation or offense brought in such manner shall be three hundred dollars ($300.00).

Each day of violation shall constitute a separate offense.

The enforcing officers of these By-laws shall be the Selectmen unless another enforcing officer is specifically designated hereinafter.

1.04 .02 NON-CRIMINAL DISPOSITION

Whoever violates any provision of these By-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any Rule or Regulation of any Municipal Officer, Board or Department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following By-laws and Sections of By-laws to be included in the scope of this Subsection, that the specific penalties as listed here shall apply in such cases, and addition to the Board of Selectmen and Police Officers, who shall in all cases be considered enforcing people for the purpose of this provision, the Municipal personnel listed for each Section, if any shall also be enforcing personnel for such Sections. Each day on which any violation exists shall be deemed a separate offense.

1.05 The Board of Selectmen shall be the Licensing Authority in the Town, and shall perform all the duties of a License Board or Licensing Authority, in accordance with the General Laws of the Commonwealth.
The Board of Selectmen shall issue all Licenses which are to be issued by either a Board of Selectmen or a License Board, under the provisions of the General Laws, including Licenses relating to alcoholic beverages, amusements, exhibitions and shows, billboards, outdoor advertising, dairies, foodstuffs, hawkers, peddlers, itinerant merchants, junk dealers and junk collectors, milk and milk products, the slaughtering of animals, transient vendors, used cars, veterinarians, and any and all other matters requiring a license under the General Laws.

Those local officials empowered to do so under the General Laws of the Commonwealth, may set and establish fees from time to time as they may deem appropriate, so long as they are not in violation of said General Laws.

1.06 The Town may deny any application for, or revoke or suspend, any local License or Permit including renewals and transfers, issued by any Board, Officer, Department, for any person, corporation and/or business enterprise operated or controlled or having a direct or indirect business interest by any person or corporation who or which has neglected or refused to pay any local taxes, fees, assessments, betterments, or any other Municipal charges or billings, as follows:

(a) The Tax Collector or other Municipal Official responsible for records of municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each Department, Board, Commission, or Division hereinafter referred to as the Licensing Authority, that issues Licenses or Permits including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the Party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other Municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an Abatement of such tax or a pending petition before the Appellate Tax Board.

(b) The Licensing Authority may deny, revoke, or suspend any License or Permit, including renewals and transfers of any party whose name appears on said list furnished to the Licensing Authority from the Tax Collector; provided however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a Hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facia evidence for denial, revocation, or suspension of said License or Permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension.

Any findings made by the Licensing Authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law except for any appeal from such License denial, revocation or suspension. Any License or Permit denied, suspended or revoked under this Section shall not be reissued or renewed until the License Authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the Municipality as the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the Licensing Authority to issue a certificate indicating said limitations to the License or Permit and the validity of said License shall be conditioned upon the satisfactory compliance with said agreement.

(d) The Board of Selectmen may waive such denial, suspension or revocation if it finds that there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of Chapter 268A in the business or activity conducted in or on said property.

This Section shall not apply to the following Licenses and Permits: open burning, Section 13 of Chapter 48; bicycle permits, Section 11A of Chapter 85; sales of articles for charitable purposes, Section 33 of Chapter 101; children work permits, Section 69 of Chapter 149; dog licenses, Section 137 of Chapter 140; fishing, hunting and trapping licenses, Section 12 of Chapter 131; marriage licenses, Section 29 of Chapter 207; and theatrical events, public exhibition permits, Section 181 of Chapter 140.

SECTION 2 – CEMETERY PERPETUAL CARE FUNDS

2.01 Any funds, money or securities in the possession of the Town Treasurer for the preservation, care and improvement of burial lots or burial places in the Town, which funds are known as Cemetery Perpetual Care Funds, shall be invested by the Town Treasurer in accordance with the Rules and Regulations adopted by the Cemetery Commissioners under General Laws, Chapter 14, Section 19.

SECTION 3 – FEES

3.01 Fees authorized to be imposed and collected under the Town By-laws shall be imposed from time to time in amounts deemed appropriate by the Selectmen so long as they are not in violation of the General Laws of Massachusetts.

SECTION 4 – OFFICERS AND BOARDS AUTHORIZED BY TOWN MEETING VOTE

4.01 BOARD OF HEALTH
At the Annual Town Meeting of March 14, 1955, it was voted to establish a Board of Health consisting of three (3) members.

4.02 PLANNING BOARD
At a Special Town Meeting on November 24, 1952, it was voted by unanimous vote that the Town shall establish a Planning Board of five (5) members under the provisions of General Laws, Chapter 41, Sections 81a-81y.

4.03 PARKS AND RECREATION COMMISSION
At a Special Town Meeting on December 16, 1976, it was voted by unanimous vote to elect a Board of Parks and Recreation Commissioners consisting of five (5) members, said Board to have the powers and duties described in Chapter 45 of the General Laws including the power to acquire land for park and recreation purposes, conduct and promote recreation, physical education and similar activities.

4.04 EARTH REMOVAL BOARD
At a Special Town Meeting on July 30, 1973, it was voted by unanimous vote to establish an Earth Removal Board consisting of five (5) members:
One member shall be appointed by the Board of Selectmen.
One member shall be appointed by the Board of Health.
One member shall be appointed by the Planning Board.
One member shall be appointed by the Board of Appeals.
One member shall be appointed by the Conservation Committee.

4.05 TOWN ACCOUNTANT

At the Annual Town Meeting on March 9, 1953, it was voted by unanimous vote to have a Town Accountant, who will be appointed by the Selectmen for three (3) year terms under the provisions of Chapter 41 of the General Laws of the Commonwealth.

At the Annual Town Meeting on March 8, 1954, it was voted by unanimous vote that the Town shall follow the state Accounting System, as provided for in General Laws Chapter 44, Sections 35 and 38.

4.06 GAS INSPECTOR

There shall be an Inspector of Gas Piping and Gas Appliances in buildings, who shall be a Licensed Plumber or Licensed Gas Fitter, and who shall be appointed each year for a term of one year commencing July 1 each year.

This Inspector shall carry out the duties defined in Chapter 217 of the Acts of the General Court for 1963.

4.07 CAPITAL PROGRAM COMMITTEE

(a) The Town shall have a Capital Program Committee, constituted as follows:
Two people appointed by the Finance Committee.
One person appointed by the Planning Board.
One person appointed by the Board of Selectmen.
One person appointed by the other four members.
And the Town Treasurer and the Town Administrator, ex officios for a total of five (5) voting members.

(b) Members shall serve for terms of three fiscal years. Initially three terms shall be foreshortened so that, to the extent possible, an equal number of terms will expire each year.

(c) The Capital Program Committee shall review the capital plans of all town and regional governmental entities and coordinate the development of and propose a consolidated Town Capital Expenditure Program, which shall be included in the warrant for each Annual Town Meeting for approval by the voters. The Program shall be formulated and reformulated so as to reflect the relative priorities of the projects with respect to the availability and potential source of funds. The Program shall project the ensuing fifteen to twenty years of capital expenditures. The initial responsibility to plan for capital needs remains with each governmental entity, and shall not be supplanted by the Capital Program Committee, whose role is advisory to the Town.

(d) A capital expenditure to be reviewed by the Capital Program Committee is defined as an expenditure of at last ten thousand dollars ($10,000) or more as may be determined by the Committee from time to time, for equipment, construction, major maintenance, or land; or any combination or system of components thereof, or any enhancement or reconstruction thereof, with a life expectancy of three years or more. When a series of expenditures for components of a system, each component less than $10,000, but totaling or exceeding that amount in series, occurs within a proximate time frame, the components shall be a capital expenditure for purposes of this section.

(e) All town boards, commissions, committees, officials, and department heads shall submit their proposed capital expenditures to the Capital Program Committee for review.

(f) The Capital Program Committee shall make a recommendation to the Town regarding all capital expenditure proposed to Town Meeting. This recommendation, including sources of funds, shall be printed in the Warrant for the Town Meeting. The Finance Committee shall take no action in connection with a request for capital appropriation until the Capital Program Committee has been afforded an opportunity to act thereon.

(g) The Capital Program Committee shall recommend to the Town any use o the stabilization fund for projects on the Capital Expenditure Program, including, but not limited to architectural, design, and engineering fees.

(h) Appropriations for replacement or acquisition of equipment or machinery costing four thousand dollars ($4,000) up to ten thousand dollars ($10,000) shall be requested through articles for those purposes, but separate from the capital planning process.

ARTICLE II – LEGAL AFFAIRS

1.01 The Selectmen shall have the general direction and management o the property and affairs of the Town in all matters not otherwise provided for by Law, or these By-Laws.

1.02 The Selectmen shall be the agents of the Town to institute, prosecute, and defend any claims, actions or proceedings to which the Town is a party, or in which the interests of the Town are, or may be involved.

1.03 The Selectmen may at their discretion compromise or settle any claim or suit to which the Town is a party, which does not require payment by the Town of an amount in excess of one thousand dollars ($1,000).

1.04 No contract shall be awarded for the purchase of materials, supplies, equipment, and no purchase of the same shall be made where the cost thereof is in excess of four thousand dollars ($4,000).

SECTION 2 – APPOINTMENTS

2.01 All appointments by the Board of Selectmen shall be made as soon as is practicable after the final adjournment of the Annual Town Meeting. Such appointees shall hold office from July 1 of that year until June 30 of the following year unless:

(a) their term is for more than one year;
(b) the date of appointment shall be other than July 1 by State Law, or
(c) removed pursuant to the provisions of the Massachusetts General Laws.

2.02 A list of appointed officers, signed by the Board of Selectmen, shall be forwarded to the Town Clerk.

Anyone who is appointed, and does not appear before the Town Clerk within thirty (30) days of notification by the Board of Selectmen to be sworn in shall forfeit his or her position, and the same shall be deemed vacant.

2.03 The Selectmen shall annually in May after final adjournment of the Annual Town Meeting, appoint a person who is a member of the Bar in good standing to serve as Town Counsel for a term of one year from July 1, or until his successor is appointed and enters upon the performance of the duties required of that Office.

Special Counsel may also be appointed.

Legal Counsel shall act in accordance with Chapter 40, Section 5, Subsections 15 and 16A of the General Laws of the Commonwealth.

ARTICLE III – TOWN MEETINGS AND WARRANTS FOR TOWN MEETINGS

SECTION 1 – WARRANTS FOR TOWN MEETINGS

1.01 The Selectmen shall not less than ten (10) days before the date on which the Warrant for the Annual Town Meeting shall be closed for the insertion of any additional Articles, post notice of said closing date at the Municipal Office Building, the Post Office, the Public Library and such other place or places as deemed necessary and appropriate by the Selectmen.

1.02 Notice of every Town Meeting shall be given by posting an attested copy of the Warrant at the Municipal Office Building, the Post Office, the Public Library and such other place or places as deemed necessary and appropriate by the Selectmen.

Notice shall be posted over two (2) Sabbath days at least before the time of the Annual Town Meeting, and over two (2) Sabbath days and fourteen (14) days at least before the time of any Special Town Meeting.

1.03 At least seven (7) days before the day fixed in the Warrant for each Special Town Meeting, the Selectmen shall cause a notice of the subject matter of the Warrant to be mailed to each Postal Patron or Boxholder in Town.

SECTION 2 – TOWN MEETINGS

2.01 The Annual Town Meeting shall be held on the first Monday in May at seven o'clock (7:00) pm for the purpose of conducting all business of the Annual Town Meeting except for election of such officers and determination of such matters as by law are required to be elected or determined by election or official ballot; at such meeting the business to be conducted will included without limitation the raising and appropriation of money in anticipation of the payment of taxes, and the fixing of the salaries of Town Officers. The election of such officers, and the determination of such matters as by Law required to be elected or determined by official ballot, shall be considered on adjournment of the first meeting, which adjournment shall be held on the second Monday in May. The polls shall be open as stated in the warrant calling said meeting.

If the Selectmen determine that a portion of the annual town meeting will likely be continued to a second meeting date in addition to the meeting dates described above, this date shall be selected prior to the mailing of the warrant; however, failure to do so shall not affect the validity of any such meeting.
Meeting shall be such places as determined by the Selectmen.

2.02 Special Town Meetings may be held on any day, but Sunday, and no earlier than seven o'clock (7:00) p.m. On Saturday they shall not be held any earlier than two o'clock (2:00) p.m.

2.03 At any Annual Town Meeting a quorum of one hundred (100) Registered Voters shall be required for the transaction of any business.

At any Special Town Meeting a quorum of twenty-five (25) Registered Voters shall be required for the transaction of any business.

2.04 At any Town Meeting held for the transaction of Town business, no person whose name is not on the List of Voters shall be admitted to the floor of the hall except Town Counsel, Press Reporters and invited guests within the discretion of the Moderator.

It shall be the special duty of the Police and Town Tellers to enforce this By-law by use of a checklist.

The Moderator shall determine the bounds of the floor of the hall.

2.05 No person shall speak more than twice on any question, except to answer an inquiry, or to give information requested, without first obtaining leave of the Meeting and then not until others who have not spoken upon the question shall have spoken if they so desire.

2.06 Any Article that has been defeated at an Annual Town Meeting, or a Special Town Meeting shall not be presented to the Town again until the next Annual Town Meeting, except in accordance with Chapter 30, Section 10 of the General Laws of the Commonwealth.

2.07 No Article for the expenditure of money to be raised or borrowed in excess of five thousand dollars ($5,000) will be considered for presentation at a Special Town Meeting, except upon the request of the Selectmen, and in addition except in accordance with the provisions of Massachusetts General Laws, Chapter 39, Section 10.

SECTION 3 – MOTIONS MADE AT TOWN MEETINGS

3.01 Articles for the Warrant shall be acted upon in the order in which they stand, except that the Moderator may upon request and for reasons stated, entertain the Motion to take up an Article out of this regular order.

3.02 No Motion, the effect of which would be to dissolve a Town Meeting, shall be in order until every Article in the Warrant has been duly considered and acted upon.

This shall not preclude the postponement of action on or consideration of any Article to the adjournment of the Meeting to a stated time.

3.03 The Moderator may decline to put motions obviously frivolous, or tending to disorder before the meeting.

A motion shall be presented in writing if the Moderator requests it.

The Moderator shall be governed in his rulings by the provisions of these By-Laws.

3.04 When a question is before the Meeting, the following motions, namely:
(a) to adjourn
(b) to lay on the table
(c) for the previous question
(d) to postpone to a certain time
(e) to commit, recommit or refer
(f) to amend; or
(g) to postpone indefinitely

shall be received, and shall receive precedence in the foregoing order; and the first three (3) shall be decided without debate.

3.05 A motion to reconsider shall require a two-thirds affirmative vote. In the event that a matter is voted upon at a town meeting, a motion to reconsider may only be made on the subject vote at the same session, and no motion to reconsider shall be entertained at any subsequent date due to adjournment.

SECTION 4 – VOTES TAKEN AT TOWN MEETINGS

4.01 Majority, two-thirds (2/3) or other voting requirements for passage of measures shall be in accordance with the General Laws of the Commonwealth, unless otherwise specified in the By-Laws.

4.02 All votes on the appropriation of money in excess of one thousand dollars ($1,000) shall be taken in the first instance by ballot, unless said appropriation shall be recommended or approved by the Finance Committee.

4.03 All votes on motions shall be taken in the first instance by a voice vote. If the Moderator be in doubt he may call for a standing vote. If the Moderator is still in doubt, or if the vote as declared by the Moderator is immediately questioned by seven (7) of the voters present, the vote shall be taken by "yes" or "no" ballots.

Nothing in this Section shall be construed to prevent the taking of a vote by ballot in the first instance if a motion to that effect shall be duly made and carried by a majority of the voters present and voting thereon.

4.04 All Committees shall be appointed by the Moderator, unless otherwise specifically directed by the Meeting, and all Committees so appointed shall be directed to report within a definite time.

If a Committee does not report within the time stated, or at the first Annual Town Meeting held thereafter, it shall be considered discharged.

The Moderator shall not be a member of any Committee appointed by him.

ARTICLE IV – RECORDS AND REPORTS

1.01 Except as otherwise provided by Law, the Town Treasurer shall have the custody of Deeds, Bonds, Contracts, and other similar documents owned by the Town.

The Town Treasurer shall be responsible for the custody of all Insurance Policies and their renewal, subject to approval by the Selectmen.

1.02 The Bonds given by the Treasurer, Tax Collector, Town Clerk and Library Trustee Treasurer to the Town shall be in the custody of the Town Clerk.

Bonds, Security, Bank Books, and other items of value controlled or kept by other Town Boards or Commissions or Officials may be kept in the Town Vault, under the direction of the Town Clerk.

1.03 Each Officer, Board or Committee authorized to spend money shall, on or before June 15 of each year, transmit to the Town Treasurer, all unpaid bills outstanding as of this date.

The bills may be transmitted to the Town Accountant for the submission to the Town Treasurer.

SECTION 2 – BOARD, COMMISSION, OR COMMITTEE MEETINGS AND REPORTS

2.01 All elected and appointed Boards, Committees, Commissions and study Committees of the Town shall submit to the Town Clerk, on a form approved and promulgated by the Town Clerk, all Minutes of Meetings, Special or Regular, within thirty (30) days following a Meeting. Minutes of Executive Sessions shall be submitted immediately following the public announcements of such proceedings. Members in attendance will be included. A current copy of these Minutes arranged in an orderly fashion will be placed by the Town Clerk in the vestibule or other open location in the Municipal Office Building where they may be conveniently inspected by patrons of the building.

All of the foregoing shall be in conformity with Chapter 39, Section 23A of the Massachusetts General Laws, the Open Meeting Law, so called.

2.02 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, unless otherwise specified by law, be open to public inspection, in accordance with the General Laws of the Commonwealth.

2.03 The Chairman of each Study Committee, either established by the Town Meeting, or appointed by the Selectmen, shall upon the termination of the existence and work of this Committee, deposit with the Town Clerk the working papers and other materials including Meeting notes and Minutes, preliminary drawings and plans gathered and compiled by the Committee in the course of its work.

2.04 All elected or appointed Boards, Commissions, or Committees, now established, or hereinafter formed by election or appointment, shall keep an attendance record of all members at all Meetings and Hearings.

Said attendance record shall be made a part of the written Annual Report to the Board of Selectmen.

2.05 Except as the Laws of the Commonwealth may otherwise require, the Chairman of each Building Committee, or his designated representative shall upon the termination of the existence and work of this Committee:

a. provide the Town Department which is to operate and maintain the building with a complete, corrected, and final set of Plans of the finished structure, and shall relinquish to said Department all papers guaranteeing the structure or any feature thereof, materials used therein, or work done thereon.

b. Relinquish the remaining papers of said Committee to the Town Clerk, including an inventory indicating what papers, materials and records were deposited with the Town Department specified.

A copy of all Plans and drawings including wiring, plumbing, sewerage system, water lines, and general construction shall be given to the Town Clerk who will place these in the Town Vault for future use or reference.

SECTION 3 – ANNUAL REPORTS

3.01 The Selectmen shall cause their Annual Reports, together with the reports of all other Town Officers, Boards, Committees or Commissions to be submitted in duplicate to the Town Clerk not later than the fourth Monday in January each year.

The original will be kept on file with the Town Clerk, and the duplicate will be given to the Town Report Committee.

3.02 The Selectmen shall state in their Annual Report what actions have been brought against, and on behalf of the Town, what cases have been compromised or settled, and the terms thereof, and the current standing of all Suits of Law involving the Town or any of its interests. They shall give a summary of their activities and decisions during the past year.

3.03 The Annual Report shall contain, in addition to the reports of Officers, Boards and Committees a detailed report of all monies received into and paid out of the Town Treasury in the financial year preceding, showing separately payments made from all proceeds of Loans as Capital Outlays for permanent improvements, the report of the Tax Collector, of receipts, payments, and abatements; statements of all funds belonging to the Town, or held for the benefit of its inhabitants; a statement of the liabilities of the Town on Bonds, Notes, Certificates of Indebtedness or otherwise; and of indebtedness authorized but not incurred and the purpose thereof; a statement of the transfers made to or from any appropriations; abstracts of the records of the Town Meetings held since the publication of the last Annual Report, and such other matters as the Report is required by Law to contain, or as may be inserted by the Selectmen under the discretion granted to them by Law.

ARTICLE V – THE FINANCE COMMITTEE

1.01 There shall be a Finance Committee, appointed in accordance with Chapter 30, Section 16 of the General Laws, consisting of six (6) voters of the Town, no one of whom shall hold another Town Office, either by Ballot or by appointment.

Members of this Committee shall serve without salary, and shall be sworn to the faithful performance of their duties.

1.02 The Board of Selectmen, after the Annual Town Meeting, shall appoint two (2) members of said Committee to serve for a term of three (3) years.

1.03 The term of office for said members shall commence on July 1 of the year of their appointment. Said Committee shall meet at the call of the Moderator for the purpose of choosing its Chairman and Clerk. Thereafter the Meetings shall be called by the Chairman or Clerk.

The Moderator shall forthwith fill, by appointment, any vacancies which occur in this Board's membership, and said appointee shall serve for the remainder of his predecessor's term of office.

1.04 The Finance Committee shall consider matters relating to the appropriation, the borrowing, the transfer, and the expenditure of money by the Town, its indebtedness, the method of administration of its various Offices and Departments, property valuation and assessments, and other Municipal affairs, and may make recommendations to the Town or to any Town Boards, Officers, or Committees relative to such matters.

1.05 The Various Town Boards, Officers and Committees charged with the expenditure of Town money, shall at the request of the Finance Committee, but no later than January 25 of each year, prepare detailed estimates of amounts of money deemed necessary by them for the administration of their respective Offices or Departments for the ensuing Fiscal Year. There shall be explanatory statements of any reasons for any changes from the amounts appropriated for the same purpose for the current year.

They shall prepare estimates of all probable income which may be received by them during the ensuing year in connection with the administration of their Departments or Offices.

In the discharge of its duties, the Finance Committee shall have free access to all books, records and accounts, bills and vouchers on which money has been or may be paid from the Town Treasury. Officers, Boards and Committees of the Town shall upon request furnish the Finance Committee with facts, figures and any other information pertaining to their several activities.

1.06 The Finance Committee shall duly consider the detailed estimates (under Section 5.05) submitted to them, and may confer with Town Boards, Officers, and Committees, and may hold meetings as they deem advisable. The Committee shall thereupon approve or disapprove the amount in whole or in part of the appropriation so requested.

The Finance Committee shall furnish to the Selectmen, six (6) weeks prior to the Annual Town Meeting of each year, a report of all matters considered by it, with recommendations or suggestions relative thereto. The same shall be printed and mailed to every Postal Patron or Boxholder in the Town. The report of the Finance Committee, as published, shall contain a statement of the doings of this Committee during the year with such recommendations and suggestions as it may deem advisable on any matter pertaining to the welfare of the Town.

1.07 Articles in Town Warrants involving expenditures, transfer, or appropriation of money shall be considered by the Finance Committee, who shall approve or disapprove the same in whole or in part. They shall make a report to the Voters with such recommendations or suggestions as they shall deem advisable.

ARTICLE VI – PROTECTION OF PERSONS AND PROPERTY

1.01 No personal property of the Town shall be used for private purposes except in cases of emergency deemed to be so in the opinion of the Selectmen or Department heads of the Town except for services offered by the Selectmen to all inhabitants of the Town.

1.02 Whenever Town Officers, Town Employees, Water District Employees, private contractors, or any other person or persons perform work on the public ways of the Town, such as widening streets, constructing sidewalks, building pipe lines, constructing drains, or erecting pole lines, the bounds and monuments in the area of such work which indicate or mark private property lines or private property boundaries shall not be moved, covered or altered until new bounds or monuments have been set in the ground by qualified Engineers or Surveyors to establish the new points of such private property lines or boundaries.

Prior written approval for such work shall be obtained from the Police Chief, or his designee in each instance and the Police Chief shall have the power to impose reasonable conditions or restrictions in the interest of health and safety of the public.

1.03 A Police Chief of the Town of Boylston shall reside within ten (10) miles of the limits of the Town of Boylston.

SECTION 2 - CELLAR HOLES

2.01 The use or occupancy for residential or commercial purposes, or for human habitation of a building of which only the cellar has been constructed shall be prohibited.

SECTION 3 – ENCLOSURES AROUND SWIMMING POOLS

3.01 Whenever outdoor swimming pools are maintained on any premises, either public or private, the owner of said premises shall maintain a fence or enclosure around said outdoor swimming pool in a manner which must be approved by the Building Inspector.

This section shall be administered in conformity with the General Laws of the Commonwealth.

SECTION 4 – HOUSE TRAILERS

4.01 No house trailer may be parked within the Town of Boylston for a period longer than fourteen (14) days without first obtaining a permit from the Board of Selectmen, upon the recommendation of the Board of Health, and in compliance with the Zoning By-Laws.

4.02 No house trailer may be used for living purposes in Boylston except those already in use on January 1, 1957, except in compliance with the Zoning By-laws.

SECTION 5 – UNREGISTERED MOTOR VEHICLES

5.01 No person shall maintain more than one (1) unregistered motor vehicle, excluding farm vehicles, on any premises which are not in a building or under cover.

5.02 Interpretation of this By-Law is subject to, and shall not be construed to be in conflict with Section 8.01.

5.03 Per diem non-criminal penalty for violation of Unregistered Motor Vehicles; **$50**

SECTION 6 – EARTH REMOVAL BY-LAW

[Amended STM; 18-OCT-2004; Article 13]

6.01 The members of the Earth Removal Boards shall be appointed as specified in ARTICLE 1, Section 4, Subsection 4.04 of these By-laws.

6.02 No person, firm, or corporation shall remove any soil, loam, sand, gravel, stone or other earth material (herein called "earth") from any land in the Town not in public use without first obtaining a permit therefore from the Earth Removal Board, as provided in the following section. A permit shall be granted only by an affirmative vote of not less than four (4) members of the Board.

6.02.01 All site processing:
(a) Whether earth is removed from the site,
(b) Is removed from the site, mined and returned to the site
(c) Is removed from the location on the site and used elsewhere on the site, Is subject to the Earth Removal permitting process:
On item (c) The Board can waive the fees associated with section 6.07 – for the purpose of encouraging the onsite usage of earth instead of removing from the site

6.03 **EXEMPTIONS:** A permit shall not be required under this By-law for the removal of earth:

(a) In the course of excavation incidental to the construction of a new single family residential building for which all Permits required the Town By-laws or state laws and all pertinent regulations have been issued, nor to the installation of walks, driveways, or similar appurtenances to said building, provided the quantity of material removed shall not exceed that displaced by the portion of the building, walk, driveway, or similar appurtenance below finished grade;

(b) in the course of customary use of land from a farm, garden, or nursery; and

(c) in the course of excavation incidental to the construction of a septic tank, cesspool, leaching field, swimming pool, athletic courts, or cemetery excavations, provided the quantity of material removed does not exceed the displaced portion of the septic tank, cesspool, leaching field, swimming pool, athletic course, or cemetery excavations below the finished grade; or any other excavation of earth incidental to the construction of an addition to an existing commercial, industrial, or residential building provided the quantity of material removed shall not exceed that displaced by the portion of the building, walk, driveway, or similar appurtenance below finished grade, or incidental to the construction or installation of utilities or drainage or roadwork by the Boylston Water District, or the Town of Boylston.

6.04 An application for an Earth Removal Permit shall be in writing, and shall contain an accurate description of the portion of land from which earth is to be removed; shall state fully the purpose for the removal thereof, and shall include Plans and Water Table Level Readings of the land involved in such form as the Board may require. In addition, an application to remove any Earth (whether or not exemption is claimed) shall submit a registered engineer's or registered land surveyor's:

(a) Certified statement that the earth removal plans will not result in the removal of more than 100 cubic yards of earth in addition to exempt volumes; or

(b) Stamped plans, with two-foot contours of the parcel(s). These plans shall show existing contours plus the proposed contours at the conclusion of soil-removal operations for the particular calendar year, together with a calculation of the cubic yards of soil to be removed.

In addition, the owner shall submit with the original application for soil removal an engineered plan depicting the intended final contours of the site, together with corresponding calculations, when all soil removal operations will be complete.

No application for a permit to remove Earth shall be scheduled for hearing, unless and until the required contour plans and calculations accompany the application.

6.05 The Board may also make any reasonable Rules and Regulations

(a) For the issuance of Permits. The Board may charge reasonable fees for making an Application for Earth Removal.

(b) Upon receipt of an application for removal of earth from any land, the Board shall appoint a time and place for a Public Hearing, not later than forty-five (45) days after receipt of a completed application, notice of which shall be given to the applicant, and shall be published at least seven (7) days before such Hearing in a newspaper having a general circulation in the Town.

(c) This application shall be at the expense of the Applicant; the fees shall be determined by the Board of Selectmen, shall remain in effect until changed, and shall be payable to the Town Treasury.

[Amended TM; 04-MAY-2009; Article31

d) A completed application for removal of earth from a Priority Development Site (PDS) shall be submitted concurrently with any other permit application(s) required by the Zoning By-Laws or this By-Law, and shall be decided by the Board no later than one hundred eighty (180) days thereafter, unless such time is waived or extended as provided in G.L. c. 43D.

6.06 The Earth Removal Board shall exercise its powers with due regard for:

(a) the health, safety, and general welfare of the inhabitants of the Town;

(b) the conditions which might be detrimental to a neighborhood;

(c) substantial hardships to the applicant, financial or otherwise, and where desirable relief may be granted without substantial detriment to the public good, or to the intent and purpose of this By-law, and;

(d) wildlife and natural resources, including but not limited to the recharge of the water table or the condition of the surface water.

The Earth Removal Board may impose conditions on any Permit it grants under this By-law, including, but not limited to:

(a) method of removal

(b) type and location of temporary structures

(c) hours of operation

(d) depth and area of excavation

(e) distance of excavation from street and lot lines

(f) steepness of slopes excavated

(g) re-establishment of ground levels and grades

(h) provisions for permanent and temporary drainage

(i) disposition of boulders and tree stumps

(j) replacement of loam over the area of removal

(k) planting of the area to suitable cover

(l) inspection of the premises at any time by the Board or its representatives

[Amended STM; 16-OCT-2006; Article 2]

(m)erosion and sediment control measures

6.07 For all non-exempt operations exceeding 100 cubic yards, the owner of the land from which the earth is to be removed shall pay to the Town, for the costs and expenses associated with administering the application therefore and monitoring of the removal operation, one dollar ($1.00) for each cubic yard in excess of 100 so removed, as a non-refundable fee. Payment shall be made to the Town Treasurer before any earth removal permit may issue; or a cash or surety bond (as provided below) shall be provided to the Board and filed with the Treasurer to cover the total amount of the anticipated fees, which shall then be paid monthly. The Board may suspend or revoke an Earth Removal permit if fees are not paid on a timely basis. If more than the permitted quantity of earth is removed, the owner of the land shall pay to the Town a penalty in the amount of five dollars ($5.00) per each cubic yard in excess of the permitted quantity – not to exceed the maximum per diem penalties provided for in these By-laws and State laws amended from time to time.

6.08 The Earth Removal Board may require as a condition to the granting of Permit to remove earth that the applicant furnish a Performance Bond of cash, certified check, or a Surety Company to the Town as obligee in a penal sum to be fixed by said Board as it shall deem sufficient to cover the cost of the performance of all labor and material as shall be required to carry out all the conditions, limitations, and safeguards as may be imposed by said Board in connection with the removal of the particular substances for which the Permit is issued. No permit shall be issued under the provisions of this By-law for a period of more than one (1) year, though permits may be renewed without a hearing at the discretion of the Board.

6.09 The Board may suspend or revoke any permit it has issued at the discretion of the Board, or take any action which shall be necessary to enforce the provisions of this By-law, and the provisions of the General Laws, Chapter 40, Section 21, Paragraph 17.

The suspension or revocation of a permit shall not relieve the holder of the Permit of his obligations there under except at the discretion of the Board.

6.10 The Earth Removal Board shall record all decisions and proceedings handled by the Board in a book kept for that purpose, and shall file in the Office of the Town Clerk a copy of all its decisions, and said Town Clerk shall keep a proper index thereof.

SECTION 7 – DRIVEWAYS

7.01 PURPOSE
The purpose of this By-Law is to insure that driveways shall provide adequate access in the time of emergency for Fire, Police and other emergency vehicles. It is also to prevent the creation of a nuisance in the connecting public ways by the discharge of water, silt, or other matter on said public ways.

7.02 GENERAL REQUIREMENTS
All driveways hereinafter constructed, reconstructed or altered in the Town of Boylston shall be in conformity with this By-Law.

7.03 No driveway shall be constructed, reconstructed or altered for a distance of twenty (20) feet from where it enters upon a public street with a grade exceeding ten percent (10%) slope.

7.04 No driveway shall be constructed, reconstructed or altered so as to discharge water, silt or other matter on a public way.

7.05 No driveway shall be constructed, reconstructed or altered so as to block the flow of water in the gutter in a public way.

7.06 No person shall build or construct any connection between any private driveway in the Town of Boylston and any public Town road in the Town of Boylston without first obtaining a permit from the Board of Selectmen or the Planning Board.

7.07 PERMITS
No work shall commence until a Driveway Permit has been obtained.
[Amended TM; 04-MAY-2009; Article31
For a Priority Development Site (PDS), a completed application for a Driveway Permit shall be submitted concurrently with any other permit application(s) required by the Zoning By-Laws or this By-Law, and shall be decided by the appropriate Board no later than one hundred eighty (180) days thereafter, unless such time is waived or extended as provided in G.L. c. 43D.

7.08 The Board of Selectmen, or their Agent, shall issue permits for driveways serving single-family dwellings or one two-family dwelling.

7.09 The Planning Board, or their Agent, shall issue permits for driveways, serving any class of buildings other than one single-family dwelling, or one two-family dwelling.

7.10 SPECIFICATIONS
The Selectmen may appoint an Agent to issue permits provided for in Section 7.08, and may make reasonable Rules and Regulations regarding the construction of surfaces and drainage. It is not intended that driveways serving a single-family dwelling be paved unless the Selectmen, or their Agent, determine that paving is necessary to prevent discharge of silt on the public way.
[Amended STM; 16-OCT-2006; Article 2]
In such cases where paving is necessary, permeable paving (porous asphalt, pervious concrete, or paving stones) shall be used to the maximum extent practicable.

7.11 Driveways constructed under the provisions of Section 7.09 shall meet with the current Planning Board Rules and Regulations for roads adopted under the provisions of Massachusetts General Laws, Chapter 41, Section 81Q.

7.12 The Planning Board may waive the requirements for sidewalks, and any other requirements when it determines that they are not necessary, and it is in the best interest of the Town to do so.

7.13 Per diem non-criminal penalty for violation of Driveway By-Law **$50**. This will be enforced by the Board of Selectmen or their Agent.

SECTION 8 – STREETS AND SIDEWALKS

8.01 No person shall place, or cause to be placed in any public way, or in any other place in the Town any obstruction, ashes, tin cans, garbage, filth, offal, carrion, or any kind of rubbish, or any junk machinery or vehicles, or any other equipment deemed by the Selectmen to be unsightly or unhealthy.

8.02 No person shall saunter or loiter in a street in such a manner as to obstruct travelers, but nothing in this Section shall be construed to curtail, abridge, or limit the right of opportunity to any person to exercise the right of peaceful persuasion guaranteed by Section 24 of Chapter 149 of the General Laws, or to the United States Constitution, or the Constitution of the Commonwealth, or to curtail or abridge, or limit the intendment of any Statute of the Commonwealth of Massachusetts.

8.03 No person shall drink any alcoholic beverages as defined in Chapter 138, Section 1 of the Massachusetts General Laws, nor shall have in his possession any open containers or containers whose seal has been broken and recapped of such beverages while on, in or upon any public way or sidewalk, or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground, or private land or place without the consent of the owner or person in control thereof. The burden of providing such consent shall be on defendant.

All alcoholic beverages being used in violation of this By-law shall be seized and safely held until the final adjudication of the charge against the persons so arrested or summonsed before the Court.

A Police Officer witnessing a violation of this By-law shall have the right to arrest such person without a Warrant, and shall bring the person so arrested before the court within twenty-four (24) hours, Saturdays and Sundays and Holidays excepted.

The Selectmen may grant a One-Day License for the sale or consumption of alcoholic beverages on, or in public places owned by the Town.

8.04 No person shall make indecent figures, or write indecent or obscene words upon, or mar, disfigure, deface any fence, building, or other public place within the Town, and no person shall behave in a disorderly manner, nor shall any person willfully or negligently obstruct the free passage of foot-travelers on such sidewalk.

8.05 No person shall propel, drive, wheel, or draw a vehicle of any kind what-so-ever, except a child's or invalid's carriage drawn by hand upon or along any sidewalk in the Town, nor permit any horse, cattle, swine or sheep belonging to him, or under his care or keeping to go upon or along the same.

8.06 No person shall fasten a horse, or other animal to any public shade tree, pole, post or fence within the Town.

8.07 Coasting on any of the public streets of the Town is prohibited, except such streets, and for such periods of time as the Selectmen may designate each year by Public Notice. It shall be the duty of the Selectmen on or before the first of November each year to designate by Public Notice the streets, if any, upon which coasting may be allowed.

8.08 No person shall willfully place or cause to be placed, suffer to remain within the limits of any street, or upon any sidewalk so as in any manner to obstruct the travel thereon, any vehicle, coal, wood, stone, manure, gravel, building materials, barrels, boxes, merchandise, rubbish or obstruction what-so-ever.

8.09 No person shall place any advertisement or notice upon any shade tree, fence, guidepost, billboard, or pole belonging to, or under control of the Town, except by permission of the Selectmen.

No person shall place any advertisement or notice upon any building or structure belonging to, or under the control of the Town, except by permission of the Selectmen, or persons having control of such buildings or structures.

8.10 No person shall travel upon the public ways of the Town in any vehicle or equipment having wheels, treads, or runners which cause unusual damage to the roads. Such injuries to be determined by unanimous vote of the Selectmen.

Whoever violates the provisions of this Section shall be fined.

8.11 Per diem non-criminal penalty for violation of Streets & Sidewalks By-law $50.

SECTION 9 – STORMWATER CONTROL BY-LAW

[Amended STM; 16-OCT-2006; Article 2]

9.01 The Stormwater Control By-Law is hereby established in the Town of Boylston, Massachusetts. This By-law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the rules and regulations of the federal Clean Water Act found at 40 CFR 122.34.

This By-law shall take effect upon its approval by the Attorney General and publications as provided by Law, provided however, that any continuous legally permitted development activities in actual operation on that date may continue.

9.02 PURPOSE

.01 The purpose of this By-law is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, nonpoint source pollution associated with new development and redevelopment, and erosion and sedimentation associated with construction.

.02 Compatibility with Other Permit and By-law Requirements: This By-law is not intended to interfere with, abrogate, or annul any other by-law, rule or regulation, statute, or other provision of law. The requirements of this by-law should be considered minimum requirements, and where any provision of this by-law imposes restrictions different from those imposed by any other by-law, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

For projects within any resource area protected under law, including, but without limitation: the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, the Massachusetts Watershed Protection Act, or the BMP design and selection criteria given in the most current Massachusetts Stormwater Management Policy, as amended, shall be considered the more restrictive or more protective of human health and the environment, and shall take precedence over the Boylston Stormwater Control By-law. This By-law shall not take precedence over applicable state and federal statutes and pertinent rules and regulations adopted thereunder, unless this By-law is more restrictive.

9.03 DEFINITIONS

Terms that apply to issuance of a Stormwater Control Permit established by this By-law shall be defined and included as part of the Regulations promulgated and from thie to time amended under Section 9.05.02 of this By-law, the first version of which have been voted by the Conservation Commission as approved on the condition that this By-law enacted, and a copy of which is available at the Conservation Commission and the office of the Town Clerk. Terms not defined in said Regulations or pertinent statutes shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

9.04 SCOPE AND APPLICABILITY

.01 This By-law shall be applicable to the following activities:

(a) Any Subdivision as defined in the Town's Zoning By-laws or in Section IV of the Rules & Regulations Governing Subdivision of Land in Boylston, Massachusetts (and as amended) requiring a Definitive Plan;
(b) Any activities that result in a land disturbance greater than one acre within the Town of Boylston. Land disturbance shall mean any action that causes vegetation clearing; or a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material; and
(c) Any activities that result in a land disturbance less than one acre if the project is part of a larger common plan of development which eventually will disturb greater than one acre within the Town of Boylston. Plans that do not require approval under the Subdivision Control Law, hereafter referred to as "ANR lots", and meet one or more of the applicability criteria described herein are subject to the provisions of this By-law and shall obtain a Stormwater Control Permit.

.02 Exemptions: No person who meets the applicability of this by-law shall alter land within the Town of Boylston without having obtained a Stormwater Control Permit, with the following exceptions:

(a) The construction of a single-family or a two-family dwelling, or accessory uses customarily incidental to a single-family or two-family dwelling that disturbs less than one acre of land;
(b) In the course of customary Cemetery management operations;
(c) Maintenance of existing landscaping, gardens or lawn areas;
(d) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act 310 CMR 10.04 and MGL Chapter 40A Section 3;
(e) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this By-law;
(f) Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not permanently alter terrain, ground cover, or drainage patterns; and
(g) Emergency repairs to any stormwater management facility or practice, such that the original design location, size, and technology remain the same, that poses a threat to public health or safety, or as deemed necessary by the Conservation Commission.

.03 *[Amended TM; 04-MAY-2009; Article31]* Except as provided in Section 9.05.07. coordination with Other Town Permits. No Town Earth Removal Permit, Order of Conditions from the Conservation Commission, Building Permit, subdivision approval, special permit, variance or finding shall be issued for a project or activity that meets the Scope and Applicability of this By-law until the developer submits a complete Stormwater Control Permit application, the Conservation Commission issues a Stormwater Control Permit, and the developer certifies that all land clearing, construction, and development will be done pursuant to the approved Plans.

9.05 ADMINISTRATION

.01 Stormwater Authority. – The Conservation Commission is hereby designated as the Stormwater Authority. The Conservation Commission, or their agent, shall administer, implement and enforce this By-law. The Boylston Conservation Commission may appoint an Agent to issue Permits and sign Plans provided for in this By-law. The Conservation Commission may appoint the Building Inspector, or other, as its authorized Agent for site inspections and enforcement of this By-law.

.02 Stormwater Regulations. – The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, clerical, inspection, and/or consultant fees), procedures and administration of this Stormwater Control By-law after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. After public notice and public hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this By-law. Failure of the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this By-law.

.03 Stormwater Management Manual. – The Conservation Commission will utilize the Massachusetts Stormwater Management Policy and Handbooks, as amended from time to time, for criteria and information including specifications and standards for the execution of the provisions of this By-law. These include a list of acceptable stormwater treatment practices, with specific design criteria for each. Unless specifically altered in this Stormwater Control By-law, stormwater management practices that are designed, constructed, and maintained in accordance with the MA Stormwater Management Handbooks design and sizing criteria may be presumed by the Conservation Commission to be protective of Massachusetts water quality standards.

.04 Actions by the Stormwater Authority. – The Conservation Commission may take any of the following actions as a result of an application for a Stormwater Control Permit as more specifically defined as part of the Regulations promulgated as part of this By-law: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.

.05 Appeals of Action by the Conservation Commission. – A decision of the Conservation Commission shall be final. Further relief of a decision by the Conservation Commission made under this By-law shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 49 § 4.

.06 Low Impact Development (LID) Credit System. – The Conservation Commission may adopt, through the Regulations authorized by this By-law, a LID Credit System. This credit system will allow applicants the option, if approved by the Conservation Commission, to take credit for the use of "stormwater better site design practices" to reduce some of the requirements specified in the criteria section of the Regulations. Failure by the Conservation Commission to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this By-law.

[Amended TM, 04-MAY-2009, Article31

07 Priority Development Sites. For any project or activity located on a Priority Development Site (PDS) and requiring a Stormwater Control Permit, an completed application therefore shall be submitted concurrently with any other permit application(s) required by the Zoning By-Laws or this By-Law, and shall be decided by the Conservation Commission no later than one hundred eighty (180) days thereafter, unless such time is waived or extended as provided in G.L. c. 43D.

9.06 PERMIT PROCEDURES

Permit procedures and requirements, including permit submittals, right-of-entry, fee schedule, and public hearing process, shall be defined and included as part of the Regulations promulgated under Section 9.05.02 of this By-law.

9.07 PERFORMANCE STANDARDS

Criteria for erosion and sediment control and post-construction stormwater management, including stormwater and low impact development performance standards, shall be defined and included as part of the Regulations promulgated under Section 9.05.02 of this By-law.

9.08 WAIVERS

.01 The Conservation Commission may in its discretion and after due consideration decide to waive and exempt strict compliance with any requirement of the Town of Boylston Stormwater Control By-law or the Regulations promulgated hereunder, where it makes a written finding that such action is:

(a) Allowed by federal, state and local statutes and/or regulations;
(b) In the public interest; and
(c) Consistent with the purpose and intent of the Town of Boylston Stormwater Control By-law and its Regulations.

.02 Criteria for granting a waiver shall be defined and included as part of the Regulations promulgated under Section 9.05.02 of this By-law.

9.09 ENFORCEMENT

The Conservation Commission or its authorized agent shall enforce this By-law and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all criminal and civil remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for abatement and mitigation and compliance actions taken by the Conservation Commission. Further, any action by any person which violates any provision of the Town's Stormwater Control By-law or any application for a permit or a finding or waiver thereunder, shall and does hereby constitute irrevocable authorization by the applicant an any owner or successor in interest to them, for the Conservation Commission or its agents to enter and inspect the premises at any time, and to take action to abate or mitigate any potentially irreparable harm or damage to the public health, safety, environment and general welfare of the Town or the public. Enforcement shall be further defined and included as part of the Regulations promulgated under Section 9.05.02 of this By-law.

9.10 SEVERABILITY

The invalidity of any section, provision, paragraph, sentence, or clause of this By-law shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

SECTION 10 –

[Amended ATM; 07-MAY-2007; Article 36]

SECTION 11 – ANIMAL CONTROL

11.01 PIGS OR SWINE

No person or corporation, resident, or non-resident of the Town of Boylston shall keep or cause to be kept or pastured in said Town any pigs or swine without a Special Permit from the Board of Health. Before such Special Permit can be granted by the Board of Health, the Applicant for this Special Permit shall:

(a) notify all of the abutters by Certified Mail or Registered Mail of a Hearing which will be held at a date set by the Board of Health;
(b) place notice of such Hearing in a newspaper of general circulation in the Town at least seven (7) days before such Hearing.

A public Hearing shall be held by the Board of Health at a time and place specified in the notices sent to the abutters and published in the newspaper.

11.02 DOG CONTROL

The Annual Fee for every Dog License, except as otherwise provided by Law, shall be established by State Law.

No fee shall be charged for the license of a dog specifically trained to lead or serve a blind person, provided that the Massachusetts Commission for the Blind certifies that such a dog is so trained and actually in the service of a blind person (Chapter 40, Section 139).

11.03 DISTURBING THE PEACE
No Person shall own or keep in the Town any dog which by biting, howling or excessive barking or in any other manner disturbs the quiet of the public.

11.04 Complaints as to dangerous dogs shall be administered pursuant to, and in conformity with the provisions of Chapter 40, Section 157 of the General Laws.

11.05 The Dog Officer may restrain, or muzzle, or issue an interim order to restrain or muzzle for a period not to exceed fourteen (14) days, any dog for the following:

(a) for having bitten a person
(b) if found at large or unmuzzled as the case may be, while an order for the restraint of such dog is in effect
(c) if found in a school, schoolyard, or public recreation area unless said dog is on a leash or under control of the owner
(d) for having killed or maimed or otherwise damaged any other domesticated animal
(e) for chasing any vehicle upon a public way, or way open to public travel in the Town
(f) for any violation of Section 11.03.

.01 Upon restraining or muzzling or issuing an interim order to restrain or muzzle, the
Dog Officer shall submit in writing to the Selectmen a report of his action and the reasons therefore. Upon receipt of such report, the Selectmen may make such order concerning the restraint, muzzling or disposal of such dog as may be necessary.

.02 If the Selectmen fail to act upon the report during the period the dog is restrained or muzzled, upon the expiration of the period, the interim order is automatically vacated. The Dog Officer shall notify the owner of a dog when a complaint has been filed with the Selectmen, and the owner shall be notified as to when the Hearing shall take place.

11.06 KENNEL LICENSES FOR DOGS

On every application to the Town Clerk for a Kennel License, or for an increase in the number of dogs in a present Kennel, the Applicant must state such request in writing to the Town Clerk. The Town Clerk then notifies the Dog Officer and the Animal Inspector who both must inspect the property where the dogs are to be kept. The Town Clerk shall set a time and place for a Public Hearing when both the Dog Officer and the Animal Inspector can be present, at which both of their reports must be submitted in writing. The Town Clerk notifies the Applicant of the time and place and the Applicant at their own expense must notify the abutters by Certified Mail of the same. The Public Hearing shall be held at least seven (7) days after such notice by the Applicant to the Town Clerk.

11.07 APPEAL OF RESTRAINT OR MUZZLING
The owner or keeper of any dog that has been ordered to be restrained or muzzled, or has been restrained for any reason under 11.05 by the Dog Officer may file a request in writing with the Dog Officer that the Restraining Order be vacated, or that the dog be released, and after such investigation by the Dog Officer, such Officer may vacate such Order, or release such dog, if the Order or restraint was imposed by him.

11.08 Notwithstanding the provisions of Section 139 of Chapter 140 of the General Laws, or any other provisions to the contrary, the annual fee to be charged by the Town of Boylston for the issuance of Licenses for dogs shall be as follows:

(a) unspayed females: **$10**
(b) spayed females and males: **$10**

The Town of Boylston shall charge a late fee of **$10** for any dog the age of three (3) months old or older which is not licensed during the current licensing period.

11.09 Notwithstanding the provisions of Section 139 of Chapter 140 of the General Laws, or any other provisions to the contrary, the Town of Boylston shall retain the License money and monies collected as a result of late fees, and shall thereupon be responsible for all expenses which are otherwise paid out of the County Dog Fund.

11.10 In accordance with Section 151 of Chapter 140 of the general laws, the Board of Selectmen shall annually on May first designate one or more dog officers and assistant dog officers, who may be police officers or constables. The duly appointed dog officer(s), assistant dog officer(s) and the Town's police officers shall be the enforcement officers for purposes of enforcing the provisions of this Animal Control Bylaw or any applicable provision of the general laws, including Section 173A of Chapter 140. The non-criminal penalty for any violation of this Animal Control Bylaw or for a violation of the general laws concerning the control of dogs shall be Fifty Dollars ($50.00) per violation;

SECTION 12 – PERCOLATION TESTS AND DEEP HOLE TESTING

12.01 Percolation tests may be performed at any time during the year unless the Health Agent has cause to believe that the test during that time would not be indicative of the worst conditions.

12.02 Deep Hole Testing may only be performed during the wettest months of the year. This time period shall be from December 1 to April 15 of the following year unless:

(a) due to reasons of adverse or unusual weather conditions the dates may be amended for that year by the members of the Board of Health

(b) the site is of such good condition (I.e.: gravel so loose that the percolation rate is less than two (2) minutes per inch) a Deep Hole Test may be done at the discretion of the Health Agent. However, final approval of this test must come from the Board of Health itself.

SECTION 13 – FIRE LANES

13.01 It shall be unlawful to obstruct or park a vehicle in any Fire Lane, such Fire Lane shall be designated by the Board of Selectmen upon the recommendation of the Chief of the Fire Department, and marked or posted as such on the pavement or by signs on Town property at the expense of the Town, and on private property at the expense of the owner.

Any violations of the same shall be subject to the Tagging and Towing Regulations as set forth in the Town of Boylston's Traffic Rules and Orders, as approved by the State Department of Public Works on February 2, 1981.

SECTION 14 – TOWN LANDS

14.01 That all present and future Town owned lands shall be for the exclusive use of residents, property owners and tenants of property located within the Town.

14.02 That any business, company or corporation or other organization shall not use such land for the conduct of the business or any part of the business or activity associated with the business.

14.03 That a form of identification shall be provided for bicycles and motorized vehicles to assist the Police Department to insure that this policy will be carried out. The type of identification used will rest with the committee appointed by the Board of Selectmen.

14.04 That all present and future Town owned land shall be closed to the public at 10:00 p.m. except when said land is being used with the written permission of the Board of Selectmen.

14.05 Per diem non-criminal penalty for Town Lands violations: **$50**.

SECTION 15 – FALSE ALARMS

15.01 When Town Police or Fire personnel are called to respond to a security alarm or smoke or fire alarm in instances where there is no reasonable basis to conclude that a break in or a fire hazard has occurred respectively, there shall be imposed fines pursuant to the following schedule:

(a) for the third (3rd) and subsequent false alarm in any twelve (12) month period: **$100**.

(b) for the third (3rd) and subsequent false burglar alarm in any twelve (12) month period: **$30**.

This provision shall be enforced by, and the determination hereunder shall be made by, the Fire Chief and the Police Chief as the case may be.

Municipal buildings and users shall be exempt from the provisions of this Section.

SECTION 16 – UNDERGROUND STORAGE

16.01 TANK CONSTRUCTION
All underground storage tanks, except for the storage of water, and septage approved by the Board of Health, installed in the Town of Boylston shall be constructed on non-corrosive materials such as fiberglass reinforced plastic (FRP), or its equivalent, or a steel tank with external bonded non-corrosive material.

16.02 TANK INSTALLATION
All tanks shall be installed in accordance with pertinent State and Federal Regulations.

16.03 TANK TESTING
All new tank installations and existing tanks shall be tested by a Certified Testing Company using a Kent Moore Test, or its equivalent after twenty (20) years, at the owners expense, and every five (5) years thereafter.

16.04 UNDERGROUND PIPING

All underground piping used for the movement of any fluid other than water shall be constructed of similar non-corrosive materials unless otherwise approved by, and with the authority of the Board of Health.

16.05 TANK REMOVAL
All tanks deemed to be leaking shall be removed under the direction of the Fire Chief

Any tanks deemed not to be in use after a period of one (1) year shall be removed under the direction of the Fire Chief.

16.06 Per diem non-criminal Underground Storage Tanks By-law violation: **$50**.

SECTION 17 – ROAD OPENINGS

[Amended STM; 18-OCT-2004; Article 11]

17.01 Excavations or driveway openings on town roads, conditions, and enforcement.

No Town way shall be dug up, not opening made therein for any purpose, nor shall any material be dumped or placed thereon or removed therefrom, and no tree shall be planted or removed or obstruction or structure placed thereon or removed therefrom or changed without the written permit of the Board of Selectmen, and then only in accordance with any conditions which the Board of Selectmen may deem appropriate to impose, or in accordance with its rules and regulations, and the work shall be done under the Board of Selectmen's supervision and to its satisfaction (or that of its designee), and the entire expense of replacing and resurfacing the way at the same level and in as good condition as before, with materials equal in specifications to those removed, shall be paid by the persons to whom the permit was given or by whom the work was done.

[Amended TM; 04-MAY-2009; Article 31
In the event that a permit, as aforesaid, is required for work proposed on a Priority Development Site (PDS), an application therefore shall be submitted concurrently with any other permit application(s) required by the Zoning By-Laws or this By-Law, and shall be decided by the Board no later than one hundred eighty (180) days thereafter, unless such time is waived or extended as provided in G.L. c. 43D.

The Board of Selectmen may issue written orders to implement and enforce the provisions of this bylaw or the provision of any permit, regulation, order, or approval issued under this section, which may include provisions for cash or other security to insure proper performance, and which shall be in addition to the civil or criminal enforcement and penalty provisions in the Town's General Bylaws.

SECTION 18 – NON-CRIMINAL DISPOSITION OF BY-LAW

18.01 Pursuant to Massachusetts General Laws, Chapter 40, Section 21D, the Town of Boylston hereby provides for non-criminal disposition of violations of any By-law or Rules and Regulations of any Municipal Officer, Board or Department, the violation of which is subject to a specified penalty as further set forth in these By-laws.

18.02 Any person 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 shall, or, if so provided such By-law, may give the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof at any time during the office hours, not later than twenty-one (21) 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 acknowledgement that such notice has been received.

18.03 The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed, or delivered by the enforcing person, or by his commanding officer, or the head of his department, or by any such person authorized by such commanding officer or department head to the offender's last known address within fifteen (15) days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this Section shall be prima facia evidence thereof.

18.04 At, or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of such notice of such violation he has taken cognizance of during such tour which have already not been delivered or mailed by him as aforesaid. Such commanding officer or department head shall retain and safely preserve on copy an shall, at a time not later than the next court day after such delivery or mailing deliver the other copy to the Clerk of Court before which the offender has been notified to appear. The Clerk of each District Court shall maintain a separate docket of all such monies to appear.

18.05 Any person notified to appear before the Clerk of a District Court as herein before provided may so appear and confess to the offense charged, either personally, or through a duly authorized agent, or by mailing to such Clerk with the notice such specified sum of money not exceeding three hundred dollars ($300) as the Town shall fix as penalty for violation of the By-law, Rule or Regulation. Such payment, if mailed, be made out by postal note, money order or check. The payment to the Clerk of such sum shall operate as a final disposition of the case. An appearance under this paragraph shall not be deemed to be a criminal proceeding. No person so notified to appear before a Clerk of a District Court shall be required to report to any Probation Officer and no record of the case shall be entered in any Probation Record.

18.06 If any person so notified to appear desires to contest the violation alleged in the Notice to Appear, and also to avail himself or the procedure established pursuant to this Section, he may within twenty-one (21) days after the date of the Notice request a Hearing in writing. Such Hearing shall be held before a District Court Judge, Clerk, or Assistant Clerk as the Court shall direct, and if the Judge Clerk, or Assistant Clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specified sum of money fixed as a penalty as aforesaid, or such lesser amount as the Judge, Clerk or Assistant Clerk shall order, which payment shall operate as a final disposition of the case. If the Judge, Clerk or Assistant Clerk shall after hearing find that violation alleged did not occur, or was not committed by the person notified to appear, that Finding shall be entered in the docket which shall operate as final disposition of the case. Proceedings held pursuant to this paragraph shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any Probation Officer as result of such violation, nor shall any record of the case be entered in the Probation Records.

18.07 If any person so notified before the Clerk of a District Court fails to pay the fine provided hereunder within the time specified, or having appeared does not confess the offense before the Clerk, or pay the sum of money fixed as a penalty after a Hearing and Finding as provided in the preceding paragraph, the Clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate By-law, Rule or Regulation.

18.08 As used in this Section, the term "District Court" shall include within the limit of its jurisdiction, the Clinton District Court.

18.09 The Notice to Appear provided for herein shall be printed in such form as the Chief Justice of the District Court shall prescribe. Said Notice may also include notice of violations pursuant to Section 11C of Chapter 85; Sections 18A, 20A, or 20C of Chapter 90, Section 16A of Chapter 270, and Chapter 173A of Chapter 140.

18.10 Any fines imposed under the provisions of this Section shall inure to the Town of Boylston for such use as the Town may direct. This procedure shall not be used for the enforcement of Municipal Traffic Rules and Regulations.

SECTION 19 – ENTERTAINMENT LICENSING

19.01 The Town shall regulate each and every event of public entertainment, as hereinafter described, unless specifically exempted, as follows:

19.02 In order to prevent danger to and/or adverse effects upon the public health, safety, or order, the following licensing procedure is hereby adopted to regulate the use of any premises upon or within which any concert, dance, exhibition, cabaret, public show or any description, theatrical exhibition, public amusement, exhibition of every description, game, sport (unless specifically excluded), fair, exposition, play, entertainment or public diversion is to be conducted. For purposes of this By-law any of the foregoing events shall be included hereinafter in the term "public entertainment".

19.03 No public entertainment shall be conducted on any premises within the Town of Boylston for which the expected attendance or the number of tickets available for sale exceeds five hundred (500) unless a license for such public entertainment has previously been issued therefor by the Board of Selectmen, and in accordance with the provision of this By-law.

19.04 The foregoing provisions notwithstanding, the following events shall not be subject to the requirements of this By-law:
(a) All amateur athletic sporting events;
(b) All events sponsored or endorsed by the Town of Boylston.

19.05 Application for such a license shall be on such form as approved by the Board of Selectmen, and shall be accompanied by such security plans, pedestrian and vehicular traffic plans, and other documentation as said Board shall determine. Copies of any such application shall at the same time they are submitted to the Board be mailed by the applicant, postage prepaid or delivered to:
(a) Chief of Police, Town of Boylston
(b) Fire Chief, Town of Boylston
(c) Chairman, Boylston Board of Health
(d) Building Inspector, Town of Boylston

The foregoing public bodies or officials shall be requested to respond in writing with their recommendations and comments pertaining to such event to the Board of Selectmen within ten (10) days of receipt of said application.

19.06 The Board of Selectmen shall, within fifteen (15) days following receipt of such application make a written decision to deny or issue a license, and to impose such conditions as it deems appropriate and necessary, except as provided in Section 19.07.

19.07 In addition to the notice requirements of Massachusetts General Laws, Chapter 140, Section 183A; Chapter 140, Section 181; and/or Chapter 136, Sections 4 and 14, the Board may also in its discretion cause, upon the completion of time permitted in Paragraph 19.06 above, at the applicant's expense, notice of such Hearing to be published in a newspaper of general circulation within the Town of Boylston, such notice to be at least seven (7) days prior to said Hearing, such notice shall state the time, date, location and the nature of the public entertainment for which the application has bee submitted, together with such other information as the Board shall determine. Notice of such public entertainment shall also be posted in the Municipal Office Building at least seven (7) days prior to any such Hearing. The Board of Selectmen shall make a decision in writing within fifteen (15) days of said Hearing.

19.08 To the extent, if any, that any section of this By-law may be invalid, such invalidity shall not affect the validity or enforceability of the remaining sections.

19.09 In considering applications made pursuant to this By-law the Board of Selectmen shall consider only those issues regarding the public safety, health and order, and the creation of a nuisance as are authorized within the applicable provisions of Massachusetts General Laws, Chapter 140, Section 181, Chapter 140, Section 183A, and/or Chapter 136, Sections 4 and 14.

19.10 Subject to the foregoing provisions of this Section 19, the grant or denial of an application hereunder shall otherwise be in accordance with the applicable provisions of Massachusetts General Laws, Chapter 140, Section 181, Chapter 140, Section 183A, and/or Chapter 136, Sections 4 and 14.

19.11 The Board of Selectmen may from time to time establish and revise fees and application forms for the purposes of this By-law.

SECTION 20 – BURNING PERMITS, TIMES OF CONSTRUCTION ACTIVITIES, AND PENALTIES

[Amended STM; 29-SEP-2003; Article 7]

20.01 Any person that is directly or indirectly engaged in or allows open air burning without a burning permit issued by the Boylston Fire Chief or his designee, shall pay a fine of $100 per incident and shall be responsible to compensate the Town for the entire costs and expenses and damages caused by the fire and by public safety response and control of the same.

[Amended STM; 03-MAR-2008; Article 2]

20.02 The time for any construction activities within the Town shall be limited to the times as may be set forth in a condition of an approval or permit issued by a Town board or commission, in a Building Permit or in other permits as duly issued by the Town, provided in any event, that there shall be no construction activities on Sundays and legal holidays except in the circumstance of a bona fide emergency for which the Police Department, Building Inspector, Fire Department or Highway Department may issue an emergency exemption to the provisions of this By-law; if such an exemption is granted by one of the foregoing departments, it is the responsibility of the requester to notify the Police Department of such an exemption. Any and all other construction activities which are not limited to hours of operation as set forth in conditions issued by a Town board or commission or through some other permit shall be limited as follows: the hours of operation shall be limited to Monday through Friday, 7:00 A.M. to 7:00 P.M. and Saturday, 7:00 A.M. through 5:00 P.M. For purposes of this By-law, the term "construction activities" shall be deemed to include any work relating to, preparatory to or incidental to the mobilization of or implementation of construction activities and shall not include interior work of a building, provided such interior work does not cause a disturbance of the peace and tranquility of the surrounding neighborhood.

20.02 *continued*

Any person, company or property owner may seek a limited waiver from the time limitations for construction activity set forth herein by filing a written request for such a waiver with the Building Inspector. Any request for a waiver must be filed with the office of the Building Inspector at least five (5) business days prior to the proposed construction activity. Upon receipt of such a request the Building Inspector may, in his sole discretion, grant or deny a limited waiver from the time limitations for construction activity. The Building Inspector may grant a limited waiver, however, only upon a determination that either (i) there is no practical means or method for the requester to comply with the time limitations and compliance with the same will result in an unreasonable, significant financial hardship to the requester, or (ii) a waiver from time limitations will have no detrimental impact upon the surrounding properties or neighborhood, due to the nature of the proposed construction activity or the character of the neighborhood. Any waiver from the time limitations issued by the Building Inspector pursuant to this paragraph shall list the name of the requester, identify the property affected, define the proposed construction activity, include a specific date(s) or time period for the permitted construction activity to take place and include a date of expiration of the waiver. A copy of any waiver issued under this paragraph shall be filed with the office of the Town Clerk, with a copy to the Board of Selectmen and the Police Department.

Construction activities to be performed by the legal homeowner on their place of residence are exempt from the provisions of this By-law.

The Building Inspector and the Police Department are empowered to enforce the provisions of this By-law and may seek enforcement actions in accordance with Section 18 herein. Any person who directly or indirectly engages in or allows construction activities in violation of this By-law shall be subject to a fine of Three Hundred Dollars ($300) for every hour or portion thereof in which there is a violation.

Section 21 - PUBLIC CONSUMPTION OF MARIHUANA (or MARIJUANA) OR TETRAHYDROCANNABINOL

[Amended TM; 04-MAY-2009; Article18]

No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (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 by non-criminal disposition pursuant to G.L. c. 40, Sec 21D, by the Board of Selectmen 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, ***Sec 32L;***

SECTION 22 – STORM DRAIN BY-LAW

[Amended TM; 04-MAY-2009; Article32

22.01: Purpose

(a) Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

(b) Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Boylston's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

(c) The objectives of this by-law are:
   (1) to prevent pollutants from entering the Town of Boylston's municipal separate storm sewer system (MS4);
   (2) to prohibit illicit connections and unauthorized discharges to the MS4;
   (3) to require the removal of all such illicit connections;
   (4) to comply with state and federal statutes and regulations relating to stormwater discharges; and
   (5) to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

22.02: Definitions

(a) For the purposes of this by-law, the following shall mean:
   (1) AUTHORIZED ENFORCEMENT AGENCY: The Boylston Board of Health (the "Board"), its employees or agents designated to enforce this by-law.
   (2) BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
   (3) CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.
   (4) DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.
   (5) GROUNDWATER: Water beneath the surface of the ground.
   (6) ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law

(7) ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 8, of this by-law.

(8) IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

(9) MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Boylston.

(10) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

(11) NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

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

(13) POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

(A) paints, varnishes, and solvents;
(B) oil and other automotive fluids;
(C) non-hazardous liquid and solid wastes and yard wastes;
(D) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
(E) pesticides, herbicides, and fertilizers;
(F) hazardous materials and wastes; sewage, fecal coliform and pathogens;
(G) dissolved and particulate metals;
(H) animal wastes;
(I) rock, sand, salt, soils;
(J) construction wastes and residues; and
(K) noxious or offensive matter of any kind.

(14) PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
(15) RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
(16) STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.
(17) SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
(18) TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. ch.21C and ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
(19) WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.
(20) WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.
(21) WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

22.03: Applicability

(a) This by-law shall apply to flows entering the municipally owned storm drainage system.

22.04: Authority

(a) This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

22.05: Responsibility for Administration

(a) The Board shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board.

22.06: Regulations

(a) The Board may promulgate rules and regulations to effectuate the purposes of this by-law. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

22.07: Prohibited Activities

(a) Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

(b) Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

(c) Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Board.

22.08: Exemptions

(a) Discharge or flow resulting from fire fighting activities.

(b) The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
   (1) Waterline flushing;
   (2) Flow from potable water sources;
   (3) Springs;
   (4) Natural flow from riparian habitats and wetlands;
   (5) Diverted stream flow;
   (6) Rising groundwater;
   (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(b)(20), or uncontaminated pumped groundwater;

(8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
(9) Discharge from landscape irrigation or lawn watering;
(10) Water from individual residential car washing;
(11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
(12) Discharge from street sweeping;
(13) Dye testing, provided verbal notification is given to the Board or its agent prior to the time of the test;
(14) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
(15) Discharge for which advanced written approval is received from the Board as necessary to protect public health, safety, welfare or the environment.

22.09: Emergency Suspension of Storm Drainage System Access

(a) The Board may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Board may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

22.10: Notification of Spills

(a) Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Board. In the event of a release of non-hazardous material, the reporting person shall notify the Board no later than the next business day. The reporting person shall provide to the Board written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions

taken to prevent its recurrence. Such records shall be retained for at least three years.

22.11: Enforcement

(a) The Board or an authorized agent of the Board shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations, including the non-criminal disposition of violations in accordance with procedure set forth in G.L. c. 40, §21D.

(b) Civil Relief. If a person violates the provisions of this by-law, regulations, permit, notice, or order issued hereunder, the Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(c) Orders. The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this by-law or the regulations hereunder, which may include:
(1) elimination of illicit connections or discharges to the MS4;
(2) performance of monitoring, analyses, and reporting;
(3) that unlawful discharges, practices, or operations shall cease and desist; and
(4) remediation of contamination in connection therewith.

(d) If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Boylston may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

(e) Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, §57 after the thirty-first day at which the costs first become due.

(f) Criminal Penalty. Any person who violates any provision of this by-law, regulation, order or permit issued hereunder, shall be punished by a fine of not more than $ 300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

(g) Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Board may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and Section 1.04.02 of Article I and Section 18 of Article VI of the General By-Laws, in which case the agents identified in the Board, or other authorized agent of the Town, shall be the enforcing person. The penalty for each violation shall be $300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

(h) Entry to Perform Duties Under this By-Law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary.

(i) Appeals. The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.

(j) Remedies Not Exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

22.12: Severability

(a) The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this by-law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this by-law.

22.13: Transitional Provisions

(a) Residential property owners shall have 120 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

Appendix A – Changes voted to amend Boylston General By-Laws

2009 May 04,	Annual Town Meeting, Article 18-Add section 21 Public consumption of Marihuana (or Marijuana) or Tetrahydrocannabinol Article 21 – Add to section 11 Animal Control Article 31- Add Priority Development Sites Articles 32- Add Section 22 –Storm Drain By-laws
2008 March 03,	Special Town Meeting, Article 2 – Delete Section 20.02 and replace with wording from article.
2007 May 07,	Annual Town Meeting, Article 36 – Delete Section 10 - Self-Service Automated Fuel Dispensing Systems
2006 December 01,	New feature – will now be tracking changes made to Boylston General By-Laws in this appendix.
2006 October 16,	Special Fall Town Meeting, Article 2 – Add new section and other changes to support the Storm Water By-Law approval, Approved by Attorney General's office
2004 October 18	Special Fall Town Meeting, Article 11 – Delete and replace section 17.01 – Driveway and Town way, excavations and openings Article 13 – Delete and replace section 6 Earth Removal By-Law
2004 May 03,	Annual Town Meeting, Article 29 – Add $300 fine for construction activities in Section 20.02
2003 September 29,	Special Fall Town Meeting, Article 7 – Add Section 20 Burning Permits, Times of Construction Activities, and Penalties
2001 May 14,	Annual Town Meeting, Article 37 – Change section 2.01 Town Meeting held the first Monday Change section 2.02 Special Town Meeting Amend 3.05 – A motion to reconsider may only be made on the subject at the same session