TOWN OF HAMILTON

BY-LAWS

October 13, 2012

(Approved STM 10-13-2012 by AG
Updated 11-19-2012)

TOWN OF HAMILTON
BY-LAWS
INDEX

CHAPTER	TITLE	PAGE
I	Town Meeting	10
II	Rules and Procedures of Town Meetings	11
III	Selectmen	12
IV	Board of Public Works	15
V	Collection of Taxes	16
VI	Finance Committee	18
VII	Legal Affairs	19
VIII	Town Contracts	20
IX	Acceptance of Streets	21
X	Ways	21
XI	Police Regulations	23
XII	Street Numbering	26
XIII	Criminal and Non-Criminal Disposition	27
XIV	Disposal of Refuse and Garbage	28
XV	Swimming Pool Fencing	28
XVI	Open Container Law	29
XVII	Conservation	29
XVIII	Dog By-laws	32
XIX	Disability of Fire Fighters	35
XX	Building Permit and Related Fees	35
XXI	Schedule of Fees	36
XXII	Fire Apparatus Access	439
XXIII	Solicitor/Canvasser	40
XXIV	Trees	42
XXV	Outdoor Water Use By-law	45
XXVI	***Deleted at STM October 2009***	49
XXVII	Community Preservation Committee	49
XXVIII	Right to Farm	51
XXIX	Stormwater Management	53
XXX	Illicit Discharge Detection and Elimination	62
XXXI	Historic District By-Law	71
XXXII	Hamilton Affordable Housing Trust	75

STM October 13, 2012
AG Approved

TOWN OF HAMILTON

BY LAWS

BY LAWS OF THE TOWN OF HAMILTON ADOPTED UNDER ARTICLE 20 OF THE WARRANT FOR THE ANNUAL TOWN MEETING HELD MARCH 3, 1952, AND AS AMENDED ON THE FOLLOWING DATES:

DATE	ARTICLE	CHAPTER	DESCRIPTION	SECTION
March 4, 1957	Article 21	I	Set Town Meeting Date/Time	1
March 2, 1959	Article 29	X	Firing of Firearms	7
March 7, 1960	Article 22	VI	Establish Board of Appeals	4
July 25, 1960	Article 6	X	Selling Door to Door	
March 6, 1961	Article 30	X	Privacy	
March 4, 1963	Article 24	III	Inspector of Gas	
March 4, 1963	Article 25	IX	Horseback Riding Trails	7
March 2, 1964	Article 19	III	Removal of Gravel	
March 1, 1965	Article 27	III	Removal of Gravel	
May 3, 1965	Article 5	IX	Transportation cover for dirt	8
March 7, 1966	Article 20	III	Removal of Gravel	5
	Article 21	X	Non-operating Vehicles	10
March 10, 1969	Article 24	III	Board of Public Works	1
November 18, 1969	Article 7	XIII	Contract –Disposal of Refuse	
March 2, 1970	Article 33	V	Finance Committee	
	Article 32	VIII	Acceptance of Streets	
March 1, 1971	Article 41	VII	Town Contracts	3
March 6, 1972	Article 21	II	Ballot Vote/Capital Expenditures	8
April 13, 1972	Article 2	X	Alcoholic Beverages	11
May 7, 1974	Article 36	IX	Winter Parking	9
May 5, 1975	Article 24	IX	Snow / Leaves	10
June 30, 1975	Article 2	1	Set Annual Town Meeting – May	1
May 10, 1976	Article 19	IX	Parking Town Property	9
May 19, 1977	Article 12	V	Finance Committee	
May 14, 1979	Article 14	XIV	Open Container	
	Article 28	X	Swimming Pool	12
May 12, 1980	Article 32	XI	Street Numbering/Subdivision	11
	Article 31	III	Town Property	3
	Article 33	VIII	Acceptance of Streets	
May 18, 1981	Article 24	XVII	Dog By-law	
May 17, 1982	Article 36	III	Emergency Center Advisory Committee	6
May 14, 1984	Article 12	I	Election Time	1
	Article 24	III	Alarms	8

DATE	ARTICLE	CHAPTER	DESCRIPTION	SECTION
May 13, 1985	Article 41	V	Finance and Advisory Committee	
May 12, 1986	Article 21	I	Reduce Quorum	3
May 19, 1987	Article 12	III	Chairman/Clerk	9
	Article 34	XVII	Local Dog Program	3,4,5,6
May 16, 1988	Article 18	XIX	Disability of Fire Fighters	
May 15, 1989	Article 3	III	Executive Secretary	10
	Article 20	IV	Collection of Taxes	2
	Article 21	XIX	Building Permit Fees	
	Article 24	XVIII	Dog Licensing	4
	Article 26	X	Schedule of Fees	
	Article 27	I	Annual Town Meeting	1
	Article 28	III	Selectmen (Emergency Center)	8
October 30,1989	Article 5	XI	Depot Square Parking	9
May 7, 1990	Article 39	XVIII	Dog By-law	2,4,7,8
	Article 40	XVIII	Leash Law –DEFEATED	9
	Article 42	XVI	Disposal of Garbage	
May 6, 1991	Article 12	XVIII	Dog By-law	
May 7, 1991	Article 25	XXII	Fire Apparatus	1-5
October 15,1991	Article 12	III	Salaries	11
May 5, 1992	Article 19	X	Police Regulations – Business Hours	11
	Article 21	X	Police Regulations – Jet Ski	12
May 3, 1993	Article 24	III	Video	6
	Article 8	II	Rules and Procedures – DEFEATED	9
May 9, 1994	Article 27	IV	Public Works Engineer/Supervisor	1-2
	Article 35	X	Ways	11-12
	Article 36	XIV	Disposal of Refuse and Garbage	1,2,3,4,5
May 8, 1995	Article 12	III	Number of Selectmen - NO ACTION	
	Article 13	III	Appoint Town Clerk	
	Article 15	III	Appoint Treasurer/Collector	
February 13, 1996	Article 2	IV	Director of Public Works	2
May 6, 1996	Article 3	II	Town Meeting	9
	Article 24	X	Billboard	2
	Article 34	VII	Legal Affairs	5

DATE	ARTICLE	CHAPTER	DESCRIPTION	SECTION
May 5, 1997	Article 1-3	II	Rules and Procedures	10
	Article 7-5	III	Adult Entertainment	14
	Article 7-4	IV	Board of Public Works	1,2
	Article 7-2	V	Collector of Taxes	3
	Article 7-4	X	Ways	4,11,12
	Article 7-4	XIV	Disposal Refuge and Garbage	Pre-1
	Article 7-1	XX	Building	1,2,3
	Article 7-3	XXIV	Trees	1-14
	Article 4-2	XXV	Water Restrictions	1-10
May 4, 1998	Article 4-3	I	Town Meeting - DEFEATED	3
	Article 4-2	I	Town Meeting	1,2
	Article 4-4	IV	Interim Board of Public Works	3
	Article 4-4	XI	Police Regulations	5
	Article 4-4	X	Excavation/Backfilling	11,12
	Article 4-5	XIV	Disposal of Refuse	1,2,3,4,5
	Article 4-6	X	Plowing Sanding Private Ways	12
November 16, 1998	Article 15	IX	Director of Public Works	
	Article 20	XVIII	Dogs	4
May 4, 1999	Article 4-2	II	Local Debt -DELETED	8
	Article 8-1	III	Salaries	11
	Article 4-4	III	Financial Director	15
	Article 4-3	IX	Street Acceptance	
	Article 4-1	XVIII	Kennels	4
November 8, 1999	Article 4-1	XI	Noise	13
	Article 4-3	III	New Position Designation	10
May 15, 2000	Article 3-3	XXV	Water Ban Change	4
	Article 5-2	III	Health Agent Contract	10
	Article 5-3	I	Quorum	3
	Article 5-4	VI	Finance & Advisory Appointments	1,2,3,4
October 30, 2000	Article 3-2	II	Stabilization Appropriations Process	5
May 7, 2001	Article 2-1	III	Strong Fire Chief	10
	Article 4-1	XVII	Conservation	Parag, 4
	Article 2-3	III	Intradepartmental Line Item Transfer **Not Accepted by Attorney General**	
May 3, 2004	Article 4-2	XII	Amendment to Street Number	12
	Article 3-3	XXVI	Outside Irrigation/Outside Water By-law - Not Accepted by the Attorney General as written **Amended at Selectmen Meeting on Sept. 20, 2004**	New

DATE	ARTICLE	CHAPTER	DESCRIPTION	SECTION
January 31, 2005	Article 9	V	Permit Denials	3B
	(Amended Article 4-1)		(Amended from ATM 5-3-04 Missing Text)	
May 2, 2005	Article 3-1	XXV	Water Use Restriction -- Amended Version - Amended	Amended
	Article 4-5	XXVII	Community Preservation Committee	New
October 17,2005	Article 9	XXV	Penalties	8
May 1, 2006	Article 3-1	III	Selectmen-ECO Sup & Rec Director	10
May 7, 2007	Article 4-1	XXVIII	Right to Farm	New
	Article 4-2	I	Quorum Requirement Change	Sec. 3
	Article 4-3	XIII XIII VII	Penalties for Violation Criminal & Non-Criminal Disposition Legal Affairs	Delete Replace Delete Sec 5
October 22, 2007	Art2007/10 2-1	XXIX	Stormwater Management	New
	Art2007/10 2-2	XXX	Illicit Discharge Detection and Elimination	New
	Art2007/10 2-3	XIV	Disposal of Refuse and Garbage PAYT	Replace Sec 5
	Art2007/10 2-4	XIV	Disposal of Refuse and Garbage Prohibited Materials	Replace Sec 4
	Art2007/10 2-5	X	Ways (Parking Ban)	Replace Sec 9
	Art2007/10 2-6	XVIII	Dog By-law (fees)	Replace Sec 4
	Art2007/10 2-7	XXI	Schedule of Fees (Increase-Births-Deaths-Marriages)	Amend
May 4-5, 2009	Art2009/5 4-1	I	Time of Town Meeting	Sec 2
	Art2009/5 4-3	X	Simplify Excavation of Public Ways	Sec 11
	Art2009/5 4-4	XXXI	Historic District By-law	Add
	Art2009/5 4-5	III	Revoke Acceptance of MGL 48 S57G	Delete **S57G**
	Art2009/5 4-6	XXI	Sealer of Weights & Measurers Fees	Add
	Art2009/5 4-7	III	Increase Members BOS to 5 **Not Accepted by Attorney General**	Amend Sec 1
October 21, 2009	Art2009/10 4-1	XXI	Sealer of Weights & Measurers Fees	Increase (some fees)
	Art2009/10 4-2	III	Selectmen	S15(b) replace w/Town Mgr
		XXIV	Tree	S13 replace w/Town Mgr
		XXX	Illicit Discharge Detection & Elemenation	S8.B17 replace w/Town Mgr

	Art2009/10 4-5	XXV	Water By-law amendment to comply with DEP	Delete XXV Replace XXV **Delete XXVI not replaced**
	Art 2009/10 5-3	IV	Board of Public Works Water MGL C40,S42G-I	Add Sec. 3
May 8, 2010	Art 2010/5 4-5	XX	Building Permit and Related Fees Stretch Energy Code	Add Sec. 5
	Art 2010/5 4-6	VI	Finance and Advisory Committee	Amend Sec 4
October 30, 2010	Art 2010/10 4-2	III	Selectmen	Amend Sec 4, 10 & 15 Delete Sec 12
		IV	Board of Public Works	Amend Sec 2 & 3
		V	Collector of Taxes	Amend Sec 1
		VII	Legal Affairs	Amend Sec 1 & 3
		VIII	Town Contracts	Amend Sec 1
		IX	Acceptance of Streets	Amend
		X	Ways	Amend Sec 9
		XVIII	Dob Bylaws	Amend Sec 4
		XIX	Disability of Fire Fighters	Amend
		XXVIII	Right to Farm	Amend Sec 5
		XXX	Illicit Discharge Detection and Elimi nation	Amend Sec 5 & 11
	Art 2010/10 4-3	XXXII	Hamilton Affordable Housing Trust	New
May 14, 2011	Art 2011/5 4-1	X	Ways	Delete Sec 9
	Art 2011/5 4-2	XIV	Disposal of Refuse and Garbage	Replace
October 22, 2011	Art 2011/10 4-1	II	Consent Motion group of articles	Add to Sec 1
	Art 2011/10 4-2	I	Town Meeting	Replace Sec 2 b and c
October 13, 2012	Art 2012/10 4-1	VIII	Town Contracts	Add Sec 4

(BY AMEND)
STM October 13, 2012 AG Approved

CHAPTER I

TOWN MEETING

SECTION 1: Manner in which Town Meetings are to be called.

a. WARRANTS: Every town meeting shall be called pursuant to a warrant issued by the Board of Selectmen which shall state the time and place at which the meeting is to convene and the subjects which are to be acted upon.

b. NOTIFICATION: The Board of Selectmen shall cause attested copies of the warrant for each town meeting to be posted, one at the Town Hall, one at each of the Post Offices, and one at the Police/Fire Station in Hamilton at least seven (7) days before the Annual Town Meeting in the Spring and fourteen (14) days before any special town meeting and the regularly scheduled Town Meeting in the Fall of each year;. Such posting shall be deemed to be the legal notification of such meeting, and the legal service of such warrant.

SECTION 2: Time of Meetings

a. GENERAL: The town shall meet in regular meetings twice each calendar year,and in special meetings, at such times as the Board of Selectmen may direct, or as otherwise provided by law.

b. MEETING DATES: "The Spring Town meeting, which shall be the Annual Town Meeting for purposes of General Laws, Chapter 39, Section 9, shall include the adoption of an annual budget and other warrant articles, and shall meet, except for the election of Town Officers, on the first Saturday of April in each year at 9:00 in the morning, unless the Selectmen vote to establish another date in order to suit the public convenience for reasons the Selectmen shall determine including, but not limited to, conflicts with the observance of holidays. That date must be a Saturday. If the business of the Annual Town Meeting is not completed on the first day, it may be adjourned from time to time. A regular Fall Town Meeting shall meet at a time designated by the Board of Selectmen, usually the third Saturday in October."

c. ELECTION OF TOWN OFFICERS: The election of town officers shall be held on the first Thursday after the opening of the Annual Town Meeting. The Selectmen may upon the recommendation of the Town Clerk change the date of the election to either of the next two succeeding Thursdays. The polls for the election of said town officers shall be opened at 7:00 o'clock a.m. and shall close at 8:00 o'clock p.m.

SECTION 3. Quorum

Seventy-five (75) legal voters shall constitute a quorum at the Annual Town Meeting. Seventy-five (75) legal voters shall constitute a quorum at all other Regular and Special Town Meetings.

CHAPTER II

RULES AND PROCEDURE OF TOWN MEETINGS

SECTION 1. All articles in the warrant shall be taken up in the order of their arrangement, unless otherwise decided by a two-thirds vote, except that unanimous consent shall be required for inclusion of an Article in a "Consent Motion" group of Articles that will be taken up by the meeting for voting on the group.

SECTION 2. In case of motions to amend, or to fill out blanks, the one expressing the largest sum of the longest time shall be put first, and an affirmative vote thereon shall be a negative vote on any smaller sum or shorter time.

SECTION 3. The report of a committee shall be deemed properly before a meeting if a request for its acceptance is included in an article of the warrant and a copy is published in the Annual Report or is filed with the Town Clerk fifteen days prior to the meeting. A vote to accept a final report shall discharge the committee but shall not be equivalent to a vote to carry out its recommendations. A vote on recommendations included in a committee report shall only be in order under an article to that effect in the warrant. A vote to accept a report of progress shall continue the committee under its original authority unless otherwise specified.

SECTION 4. If an article of the Warrant has once been acted upon and disposed of, it shall not be again considered at the meeting except by a two-thirds vote.

SECTION 5. No money shall be appropriated from the Stabilization Fund except by a 2/3 vote at a Town Meeting.

SECTION 6. Only registered voters of the Town shall be admitted and entitled to vote at any annual or special meeting provided that upon prior request the Moderator may admit to the meeting persons who are not registered voters and in his discretion may permit them to speak on a subject. Any person so permitted to speak at a meeting shall announce his full name and address to the meeting.

SECTION 7. Motions at Town Meeting shall be made orally, but the Moderator may require any motion also to be submitted in writing. Unless otherwise directed thereby the Moderator shall appoint all committees created by the vote of the Town.

SECTION 8. The conduct of all Town Meetings not prescribed by law or by the foregoing rules shall be determined by the rules of practice contained in **Town Meeting Time,** A Handbook of Parliamentary Law, Second Edition.

SECTION 9. On matters requiring a two-thirds vote, either by statute or these By-Laws, a count need not be taken and the vote need not be recorded unless the vote declared is immediately questioned by seven or more voters as provided in General Laws, Chapter 39, Section 15.

CHAPTER III

SELECTMEN

SECTION 1. Except as otherwise provided by law and by these by-laws, the Selectmen shall have and may exercise all the powers of the Town and shall have general direction and management of its property and affairs. Unless otherwise provided by law, the Selectmen shall have the power to acquire and dispose of personal property for the Town.

SECTION 2. The Selectmen shall determine that all elected boards and appointed committees are organized within a reasonable time and that notification thereof to the Town Clerk has been given. Copies of all contracts and other commitments of the funds of the Town shall be filed with the Town Accountant under Massachusetts General Laws, Chapter 41, Section 57. All town vehicles, and such other Town property as the Selectmen designate, shall be marked with the words "Town of Hamilton" provided, however, that the Selectmen may permit a police vehicle to be unmarked.

SECTION 3. The Selectmen are authorized and empowered to sell at auction property taken by foreclosure, as provided in General Laws, Chapter 60, and to execute and deliver deeds therefore, after first giving notice of the time and place of such sale by placing an advertisement in a newspaper of general circulation in the Town at least fourteen (14) days before the sale. The Selectmen or their appointee authorized to hold such auction may reject any and all such bids which they deem inadequate.

SECTION 4. Pursuant to Ch. 114 of the Acts of 2009, the Town Manager shall appoint each year an inspector of gas piping and gas appliances in buildings, whose qualifications and duties shall be those as set by and consistent with G.L. c. 143, § 3O. The Board of Selectmen may by regulation establish fees therefore.

SECTION 5. No person shall remove any soil, loam sand or gravel from any parcel of land in the Town not in public use unless removal is authorized by a permit issued by the Board of Selectmen after a public hearing.

SECTION 6. The Selectmen are authorized and empowered after public notice and hearing to grant, suspend or revoke a license to keep and operate mechanical and electronic games and amusement devices including automatic amusement devices as defined in General Laws, Chapter 140, Section 177A. Each application for a license shall contain the following information: i) the identity of the applicant, ii) address and description of the premises, iii) location of the game or device on the premises, iv) identity of the person from whom the game or device is to be purchased, rented or otherwise obtained, v) description of the game or device including name of manufacturer, model and serial number, vi) terms of the agreement governing the acquisition and installation of the game or device on the premises, and vii) any other information which the Selectmen deem necessary and proper for the full

protection of the patrons and the public. The Selectmen are authorized and empowered to impose conditions on the grant of any license hereunder. Licenses shall expire on December 31 of each year. The annual fee for a license for any game or device licensed hereunder, or for any renewal thereof, shall be $100. The license fee may be prorated on the basis of the number of months in which the license is to be in force but shall not be refundable. No commercial establishment shall have more than two amusement devices of the type regulated by this section, except that this limit shall not apply to private clubs or organizations.

SECTION 7. The Board of Selectmen may make Rules and Orders for the regulation of parking by permit or otherwise on Chebacco Road in the vicinity of the town beach and may set penalties for violation thereof.

SECTION 8. The Emergency Communications Center Operations Board with the approval of the Board of Selectmen, or if such committee shall not be appointed, the Board of Selectmen, is authorized to establish rules, regulations, and schedules of fees for the installation, operation, and maintenance of fire and intrusion alarm systems, including medical alert systems. No person shall install, operate or maintain a fire, intrusion, or medical alert alarm system which is connected by direct line to the Emergency Center, or which incorporates a telephone dialing device programmed to dial a local police, fire, emergency, or private alarm service telephone number automatically, or which uses exterior audible signals at the alarm location, or which otherwise is intended to cause, directly or indirectly, the dispatch of emergency personnel, unless such person first obtains a permit from the Emergency Communications Center Operations Board, or the Board of Selectmen, and thereafter complies with applicable rules and regulations and pays any applicable fees. No person shall intentionally transmit any false fire, intrusion or medical alert alarm. Repeated transmission of false fire, intrusion or medical alert alarms after notice of a system malfunction from the Emergency Communications Center Operations Board, or the Board of Selectmen, shall constitute an intentional transmission of a false fire, intrusion or medical alert alarm. Violation of this by-law shall be punishable by a fine of up to but not more than one hundred dollars ($100.00) for each offense.

SECTION 9. Annually following Town Elections, and following any election of a new member to the Board, the Board of Selectmen shall organize the Board by electing a member to serve as Chairman and a member to serve as Clerk. The Chairman shall preside over all meetings of the Board and oversee the general direction of the Board. The Clerk shall, on a day-to-day basis, and, in the absence of the Board of Selectmen, perform those functions that are deemed necessary for the orderly operation of the Town.

SECTION 10. The Selectmen are authorized and empowered, in accordance with Ch. 114 of the Acts of 2009 to appoint a Town Manager, and execute a contract for employment therewith. The Town Manager is authorized and empowered to appoint and remove any of the following: a Town Accountant, Treasurer/Collector, Finance Director, Emergency Center Supervisor, Recreation Director, a Director of Public Works, a Chief of Police, and a Fire Chief, and to execute employment contracts with said officials, the terms of which may with the concurrence of the Board of Selectmen vary from the Personnel By-law and policies. All appointments and removals of department heads by the Town Manager shall be subject to confirmation by the Board of Selectmen. All other appointments shall be made by the Town Manager in consultation with the respective department head, board, commission or committee.

SECTION 11. The Town of Hamilton shall publish no later than April 1st of each year, all gross wages, salaries, and other compensations paid to all employees by the Town of Hamilton and by the Hamilton-Wenham Regional School District. Copies of the above information shall be made public and available at the Hamilton Town Hall.

SECTION 12. (Deleted at Special Town Meeting on October 30, 2010 -- Article 2010/10 4-2)

SECTION 13. The Planning Board of the Town shall consist of seven (7) members.

SECTION 14. Adult Entertainment License - No person shall establish, maintain, or operate an adult entertainment use as defined below without a license issued by the Board of Selectmen after public hearing. The Selectmen may establish the form and content of the application for such a license. The Selectmen may make rules and regulations for the conduct of such use and may establish conditions upon the grant of any license hereunder. An adult entertainment use shall mean: An establishment, a building or portion thereof, or a use of land having a substantial or significant portion of its business activity, stock in trade, or other matter or materials for sale, rental, distribution, or exhibition which is distinguished or characterized by sexual conduct or sexual excitement as defined in Section 31 of Chapter 272 of the General Laws, or a depiction, description or representation thereof, or emphasis thereon. For definition of the terms "substantial or significant portion", "adult bookstore", "adult cabaret", "adult motion picture theater", "adult paraphernalia store", and "adult video store" see the Hamilton Zoning By-Law provision which are incorporated herein by reference.

SECTION 15. Pursuant to G.L. Ch. 43C, Sec. 11 as accepted by the Town Meeting, the Selectmen may provide for a consolidated Department of Municipal Finance, to be organized as set forth in this Section.

a) The Department of Municipal Finance may include the Offices and Functions of Town Accountant, Treasurer, Collector, Treasurer-Collector, Information Systems Coordinator, and Assessors, with all their related staff.

b) The Finance Director shall report to the Town Manager.

c) The Finance Director may serve ex-officio as the Accountant, Auditor, Comptroller, Treasurer, Collector, or Treasurer-Collector of the town, provided however, that no Finance Director shall serve ex-officio as both: 1) Accountant, Auditor, or Comptroller; and 2) Treasurer, Collector or Treasurer-Collector.

d) The term of any employment contract with the Finance Director shall be for a term of not less than three or more than five years, subject to removal as provided in the employment contract. The position may be full time or part-time.

e) The job descriptions and compensation of each position in the Department of Municipal Finance shall be set by the Town Manager in consultation with the Finance Director pursuant to the Hamilton Personnel By-law and policies.

f) The Town Manager shall appoint all personnel under the Finance Director's direction and control, other than those in elected positions, in consultation with the Finance Director.

g) The Town Manager shall oversee and coordinate all financial functions and reporting of the Town performed by the various offices within the Department, including but not limited to:

1) Maintenance of all accounting records and other financial statements,
2) payment of all obligations, including bills, payroll and benefits,
3) receipt of all funds due, including tax and Town service billings,
4) monitoring the expenditure of all funds in all Town Departments and programs, including periodic reporting to appropriate agencies on status of accounts, and preparation of tax recap,
5) supervision of all data processing facilities and networks,
6) preparation of the annual Town budget, and regional/joint program budgets, including coordination with all Town Departments and the Finance and Advisory Committee,
7) management of independent audits,
8) long range economic planning and projection,
9) determination of long and short-term cash needs of the Town for operating and capital obligations, and borrowing as necessary.
10) determination of investment strategies to maximize safety and yield for Town funds,
11) administration of tax liens and tax-title takings,
12) supervision of staff within the Department of Municipal Finance,
13) and any other matters relating to municipal finance as may be determined necessary from time to time by the Selectmen.

CHAPTER IV

BOARD OF PUBLIC WORKS

SECTION 1. The Selectmen shall have and may exercise all the powers of the Town with respect to the construction, maintenance, and operation of the public works of the Town and shall, without limiting the generality of the foregoing, have all the powers and duties now or from time to time vested by general law or special act in the following boards, departments, and offices: road commissioners, surveyors of highways, water commissioners, street commissioners, park commissioners, cemetery commissioners, and tree warden.

SECTION 2. Subject to confirmation by the Board of Selectmen, the Town Manager is authorized and empowered to appoint, supervise, evaluate, and remove a Director of Public Works who shall direct public works operations of the Town.

SECTION 3. Assessments for extension of water system.
A. The Board of Selectmen, water commissioners or other officers in charge of the town water supply, shall levy special assessments to meet in whole or part of the cost, thereafter incurred, of laying pipes in public or private ways for the conveyance or distribution of water to inhabitants of the town; and the

owners of land benefitted, by abutting or more remote means, shall pay a proportionate part of the cost not already assessed of extending water supply to their land.

B. The amount chargeable against each parcel of land benefitting shall include cost of pipes, material, labor and incidental expenses which amount shall be ascertained, assessed and certified by the Board of Selectmen, water commissioners or other officers in charge of water supply.

C. The assessment may be made by fixed uniform rate based on estimated average cost of all water pipes therein and laying thereof, according to frontage of such land on any way in which a water pipe IS laid, according to the area of land within a fixed depth from such a way, according to valuation for tax purposes last annual assessment or according to two or all of such measures.

D. When the Board of Selectmen, water commissioners or other officers in charge of water supply determine to lay pipes in public or private ways and assessments may be made hereunder, they shall forthwith cause to be recorded at the Southern Essex Registry of Deeds, Salem, Massachusetts, a statement of their action, specifying ways in which the pipes are to be laid and shall describe such land as does not abut upon such way which is to be assessed for such improvement, and which shall designate as the owner of each parcel upon which a lien is to be imposed the person who was liable for assessment therefor on the preceding January first, under the provisions of M.G.L. Ch. 59.

E. All assessments imposed under this section on any land abutting or included in the description shall constitute a lien on such land from the time the statement is recorded. M.G.L. Ch. 80, providing for apportionment, reassessment, etc., of betterments shall be applicable.

F. The assessment shall not be in excess of benefit to the land assessed and, if found so, shall be abated.

G. The Board of Selectmen, water commissioners or other officers in charge of water supply shall, if the order for assessment is on land not built upon, extend the time of payment of assessment, with interest, until such land is built upon or for a fixed time. The assessment so extended and interest shall be paid within three months after land is built upon or at the expiration of such fixed period.

CHAPTER V

COLLECTION OF TAXES

SECTION 1. The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town including the collection of water accounts, excepting interest on investments or sinking of trust funds. If it shall seem advisable to the Town Collector that suit or suits should be instituted and prosecuted in the name of the Town, in connection with the collection of any of said accounts due to the

Town, he shall so advise the Town Manager, who shall recommend to the Board of Selectmen whether to institute and prosecute the same.

SECTION 2. Payments of municipal charges and bills shall be due thirty days after mailing, and if such charges and bills remain unpaid when due, interest shall accrue thereon at the rate then charged on tax bills under the provisions of Section 57 of Chapter 59.

SECTION 3. Denial or Revocation of License or Permit for Nonpayment of Local Taxes, Fees or Other Charges:

A. The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay 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 or with respect to any activity, event or other matter which is the subject of such license or permit and which activity , event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality at the date of issuance of said certificate.

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

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

E. This By-law shall apply to the following licenses and permits only:

1) Variances
2) Special Permits
3) Building Permits
4) Occupancy Permits
5) Site Plan Reviews
6) Alterations to a Non-Conforming Use
7) Comprehensive Permits
8) Zoning Permits (required by the ZBA)
9) Flexible Subdivision Plans
10) Business Certificates
11) Alcohol Licenses
12) Board of Health Permits

CHAPTER VI

FINANCE COMMITTEE

SECTION 1. There shall be a Finance and Advisory Committee consisting of five registered voters. Members shall serve without compensation for a term described below. No member during service on the Committee shall be an officer of member of any other board of the Town, or a member of any other committee requesting or considering an appropriation or expenditure of money, or the disposition of any property of the Town.

SECTION 2. Member terms are three fiscal years except in the first year after this By-law amendment becomes effective, two members shall be appointed for one year, two for two years and one for three years. Member terms shall expire on the last day of the fiscal year. The members will be divided into groups having staggered terms so that the terms of two members will expire at the end of each fiscal year, except when the term of only one member expires. Any member may resign by written notice to the Town Clerk, and any member shall cease to be a member if he or she shall remove from the Town.

SECTION 3. The Moderator shall appoint the members of the Committee. Two of the members to be appointed to three-year terms shall be nominated by the Board of Selectmen. If the Selectmen's nominee should decline appointment or resign before expiration of the term, or if the Moderator should decline to appoint a member from the Selectmen's nominee(s), the Selectmen shall provide the Moderator with additional nominee(s) until the vacancy has been filled. The Committee shall annually choose a chairman and such other officers, as it may deem appropriate.

SECTION 4. The duties of the Finance and Advisory Committee shall include the following:

(a) To review the annual budgets of each department and officer of the Town in such detail as the Finance and Advisory Committee may determine;
(i) At the start of the budget process and after consultation with the Board of Selectmen (BOS), Town Manager and Finance Director, the Finance Committee, in conjunction with the Town Manager, will develop expense and capital budget guidelines based on projected revenue and a calendar of events for the budgeting process.
(ii) In cooperation with the Town Manager and Finance Director, review and advise in the preparation of the annual budget.
(iii) After conferring with the Town Manager, recommend to the BOS the allocation of the Levy Limit increase and the forecasted increase in revenue from new growth that will be divided between the Town operating budget and the Hamilton Wenham Regional School District (HWRSD) budget.
(iv) Review, analyze and recommend to the BOS and at Town Meeting, budgets developed by the Town Manager for the town, HWRSD, and joint Hamilton/Wenham programs.

(b) To review at any time and from time to time during the year at the discretion of the Finance and Advisory Committee the operation of and the books, accounts and records of any department or officer of the Town;
(i) Review with the Town Manager all changes to revenues, borrowing and expenditures during the fiscal year and advise the BOS according to the Finance Committee's statutory role to provide recommendations on all Town financial matters.
(ii) Approve Reserve Fund Transfers and recommend to the Town Manager and the BOS the use of the Stabilization Fund and Municipal Relief transfers in the General Fund and Enterprise Fund(s).
(iii) Together with the Town Manager and Finance Director, meet annually with the Town's auditors to review the annual financial statements and Management Letter.
(iv) Review and recommend all financial policies and procedures.

(c) To report to all Town Meetings recommended action to be taken by the meeting on all Articles in the Warrant, except with respect to elections or appointments.
(i) Deliver an annual report to the Town Meeting of the Town's financial condition.

(d) In cooperation with the Town Manager, the Finance and Advisory Committee will coordinate financial relationships and agreements with the Wenham Finance and Advisory Committee, the Hamilton Wenham Regional School Committee, the Capital Management Committee, the Budget Process Committee and the Hamilton Board of Assessors.

CHAPTER VII

LEGAL AFFAIRS

SECTION 1. The Board of Selectmen shall have authority to prosecute, defend and compromise all litigation to which the Town is a party. The Town Manager shall coordinate with Town Counsel on all legal matters affecting town government, compliance, claims, litigation, and administrative proceedings and oversee prosecution, defense and settlement of all claims and actions.

The Town Counsel shall draft all bonds, deeds, leases, obligations, conveyances, and other legal instruments, and do every professional act which may be required of him, by vote of the Town or by any board of Town Officers. Also, when required by said boards or any committee of the Town and confirmed by Town Manager, he shall furnish a written opinion on any question that may be submitted to him, and he shall at all times furnish legal advice to any officer of the Town who may require his opinion upon any subject concerning the duties incumbent upon such officer by virtue of his office.

He shall prosecute all suits ordered to be brought by the Town or Board of Selectmen, and shall appear at any court in the Commonwealth in defense of all actions or suits brought against the Town or its officers in their official capacity and shall try and argue any and all causes in which the Town shall be a party, before any tribunal, whether in law or equity, in the Commonwealth, or before any board of referees or commission, and shall appear at any and all hearings on behalf of the Town whenever his services may be required.

SECTION 2. The Selectmen shall consider all claims made against the Town and may authorize the payment of any amount not exceeding five hundred dollars ($500) in settlement of any such claims, and to effect such settlement. The Selectmen may authorize the necessary payment from the Town Treasury of any funds not otherwise appropriated.

SECTION 3. Subject to confirmation by the Board of Selectmen, the Town Manager shall annually appoint Town Counsel and appoint special counsel to assist the Town Counsel whenever in his or her judgment necessity therefore arises. The Town Counsel shall be paid such salary as the Town votes.

SECTION 4. There shall be established a Board of Appeals under the subdivision Control Law, so-called, as provided in section 81Z of Chapter 41 of the General Laws, such Board of appeals to be the existing Board of Appeals under the Protective (Zoning) By Law.

CHAPTER VIII

TOWN CONTRACTS

SECTION 1. No officer or Board of the Town shall make any contract on behalf of the Town in which such officer or any member of such board is directly or indirectly financially interested, except in competitive contracts.

SECTION 2. No Town Officer or Board of Town Officers having the power or authority to appoint any Town officer or agent shall appoint himself or any member of such board to any salaried office or position; but this shall not prevent any Town Officer from being chairman or clerk of the board of which he may be a member.

SECTION 3. No contract in the amount of $10,000 or more with a contractor employing six or more persons, shall be entered into by the Town directly or through any agency of the Town unless the contractor certifies in writing to the Town that the contractor is in compliance with Massachusetts General Laws, Chapter 151B, and sets forth affirmative action which the contractor provides for equal employment opportunities for all qualified persons without regard to race, color, religion, sex or national origin.

SECTION 4. The Town, by and through the selectmen in their capacity as Water Commissioners, is authorized to enter into contracts or extend aid to any other municipality or its water district with regard to the operation, administration, repair and maintenance of its water supply system, subject to such terms and conditions as are acceptable to the selectmen. Contracts under this section may not exceed twenty (20) years, or such maximum term as permitted under G.L. c. 40, § 39H. All other requirements of G.L. c. 40, § 39H shall apply to contracts or aid extended under this section. ***Article 2012/10 4-1 STM 10-13-2012***

CHAPTER IX

ACCEPTANCE OF STREETS

No new street shall be accepted by the Town unless at least fifteen days prior thereto there shall have been filed with the Town Clerk a plan of survey of such street, satisfying the requirements for boundaries and measurements and otherwise in accordance with Section 23 of Chapter 82 of the General Laws. No new street shall be accepted without the prior approval of the Planning Board and the Director of Public Works, based on street acceptance procedures to be adopted and amended from time to time by the Selectmen with the advice of the Director of Public Works, the Town Manager and the Planning Board.

CHAPTER X

WAYS

SECTION 1. No person except Officers of the Town in their lawful performance of their duties and those acting under their orders, shall obstruct any sidewalk or street or any part thereof, or break or dig the ground of same, without first obtaining a written license from the Selectmen therefore.

SECTION 2. No persons shall throw, place or cause to be thrown or placed upon any street or sidewalk of the Town any dirt, ashes, stones or other object or obstruction or any rubbish or other noxious matter,

except that garbage cans or other containers may be placed upon the sidewalk so as to obstruct the same for not more than one (1) hour or for not more than ten (10) minutes after being notified by a police officer or the Selectmen to move it.

SECTION 3. No person shall ride a bicycle or horse on the sidewalk. No person shall coast on or across any sidewalk or street except as may be designated by the Selectmen.

SECTION 4. The Board of Selectmen shall be entitled to remove or cause to be removed to a convenient public garage any vehicle interfering with removing or plowing snow, and the cost of such removal and storage charges, if any, resulting there from shall be paid by the owner of the vehicle.

SECTION 5. Any person desiring to erect or repair or take down any building on land abutting any street or way which the Town is required to keep in repair, and who desires to make use of any portion of a sidewalk or street for the purpose, shall petition the Selectmen for authority. As a condition to granting such petition, Selectmen may require petitioner to execute a satisfactory written agreement to indemnify and save harmless expense on account of the existence of any obstruction or excavation and make such reasonable regulation with respect to guards and the like as the Selectmen may determine. If any obstruction or excavation is more than a temporary condition, the person petitioning shall place a good temporary walk around the obstruction or excavation, and at the completion of the work shall restore the street or sidewalk to its former condition as determined by the Surveyor of Highways.

SECTION 6. No way, which is open for public use but has not become a public way, shall be given a name unless the name is first approved by the Board of Selectmen.

SECTION 7. On Town ways riders of horses shall ride single file and keep to either portion of the traveled way, and so far as possible, on bridle paths and dirt shoulders if the same are provided along the way.

SECTION 8. No person shall operate upon any of the ways or streets in the Town a motor vehicle carrying sand, gravel, soil, loam, waste or other dust-emitting material without covering said material.

SECTION 9. Deleted at the Annual Town Meeting - Article 2011/5 4-1 on May 14, 2011.

SECTION 10. The removal of leaves or snow from private property onto a public way is prohibited.

SECTION 11. Excavation and Back-filling on Public Ways and Sidewalks
"No person shall excavate or fill a public way or sidewalk in the Town without first obtaining a permit from the Director of Public Works. The Director of Public Works shall issue regulations setting forth the procedures deemed necessary for the safe operation of any such work."

SECTION 12. Plowing and Sanding of Private Ways

1. The Town will not plow or sand a road with less than four (4) homes built thereon.

2. A road under the control of an Association must have a favorable vote of the majority of its members to ask the Town to plow and sand its roads. An Association must contact the Town in writing with a request. The Town shall be provided with the name and phone number of the contact person answerable for the Association. A road not controlled by an Association must have a signed petition from a majority of its property owners requesting plowing and sanding services from the Town.
3. There shall be no speed bumps or other such devices in place during the winter season. The road shall not be gated, blocked, or made inaccessible.

4. Dirt roads must be graded off before the winter season and maintained throughout the winter season so as not to make plowing dangerous to the driver or destructive to the Town's equipment. All dirt roads will be inspected by the Town prior to the winter and throughout the season. Potential problems will be addressed in writing. If these issues are not corrected in a timely manner, a second letter will be sent by certified mail to all affected property owners, terminating the Town's services until such time as corrections are made. The Town shall not be responsible for loss of gravel or loam or buildup from sand.
5. Paved roads will be clear of obstructions and defects. Catch basins and storm drains will be at road level. Large portholes will be filled and curbing left intact so as to not interfere with plowing. Lawn or property markers shall be installed if the boundary between the road and the lawn is not clearly identified.
6. The roads will be maintained under the standards, time frames and method as carried out on Town-accepted roads.
7. Brush, tree branches and trees will be properly pruned so as not to interfere with the driver or equipment while plowing.
8. A road must have a surveyed plan on file with the Town Clerk, Registry of Deeds or the Planning Board, and be laid out properly according to those plans.

CHAPTER XI

POLICE REGULATIONS

SECTION 1. No person shall distribute or display any posters, handbills, placards, pamphlets or other advertising matter or operate any sound truck or other noisy device or make any solicitation for the sale of goods in any public street or way or place of the Town or in any public building without first obtaining a permit therefore from the Selectmen.

SECTION 2. No billboard, sign or other advertising device except signs affixed to stores, signs offering land for sale or rent and signs of professional establishments, and no roadside stands except for the sale of produce made or raised by the vendor shall be erected or maintained on public or private property within view of a public way without obtaining a permit therefore from the Selectmen.

SECTION 3. No person shall be a collector of or a dealer in junk, old metals or secondhand articles, or a keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles unless licensed therefore by the Selectmen.

SECTION 4. The Selectmen may issue appropriate regulations in accordance with the law for the operation of taxi cabs and other vehicles for hire and for stands therefore within the Town. No person shall operate taxi cabs or other vehicles for hire or establish a stand therefore in violation of such regulations.

SECTION 5. No person shall loaf or loiter upon any public way or in any alley or square or on any property of the Town after having been requested by a Police Officer to move. Three or more persons shall not stand together or near each other in any such public place or in any private area left open between the curbing and a building facing thereon so as to obstruct free passage for pedestrians, and any person so standing shall move on at the request of the Police Officer.

SECTION 6. No person shall fire or discharge any firearm or explosive of any kind within the limits of any highway, park or other public property, except with the written permission of the Board of Selectmen , or hunt or discharge any firearm on any private property except with the written permission of owner or legal occupant thereof; provided, however, that this by-law shall not apply to the lawful defense of life or property, nor to any law enforcement officer acting in the discharge of his duties. Any person violating this by-law shall be punished by a fine of not more than twenty ($20.00) dollars for each offense.

SECTION 7. Unless otherwise licensed no persons shall sell or attempt to sell or solicit the sale of goods, subscriptions or contributions from door to door in the Town, except between the hours of 8:00 A.M. and 8:00 P.M., and then only after registration of the names of all solicitors with the Chief of Police and after the issuance of a written permit therefore by or on the order of the Chief of Police upon determination of the identity and character of the business or organization with which said person is connected. *

SECTION 8. No person shall commit any wanton or malicious act on the premises of another or invade the privacy of any person on such premises by looking in the window of any house, or spying upon any person. Nothing contained in this section shall abridge or in any way limit the right of a Police Officer to enter upon private property in the performance of his official duties.

SECTION 9. No person in charge or control of any real estate within the Town, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, non-operating, wrecked or junked motor vehicle to remain on such property longer than 60 days without a valid windshield sticker, so-called, issued and displayed in accordance with the requirements of Massachusetts General Laws, Chapter 90, Section 7A as amended, and the rules and regulations of the Register of Motor Vehicles, unless a permit therefore has been obtained from the Board of Selectmen. The Board shall not issue such a permit unless it finds that such vehicle on said premises will not constitute a hazard to the safety or welfare of the inhabitants of the Town, nor will otherwise nullify or substantially derogate from the intent or purpose of this by-law. No such permit shall be required, however, for a vehicle in an enclosed building, nor for a vehicle on the property of a lawful business of farming enterprise necessary to such

operation, nor for motor vehicles at the place of business of a holder of a class license under Sections 58 and 59 of Chapter 140 of said General Laws. Any person who continues to violate the provisions of this by-law after 30 days following receipt by him of notice of such violation from the Police Department, shall be liable for a penalty not exceeding twenty ($20.00) dollars for each offense. Each day that any violation is allowed to continue after said 30 day period shall constitute a separate offense.

SECTION 10. No person shall have any alcoholic beverage in his possession within the limits of any Town Park or recreation area or any other Town or School area except public way. Any person violating this by-law shall be punished by a fine of not more than twenty ($20.00) dollars for each offense.

SECTION 11. No retail or commercial establishment, except automatic tellers and restaurants, shall be open to the public between the hours of 11:00 P.M. and 5:00 A.M.

SECTION 12. The operation of jet skis, surf skis, wet bikes, or other so-called 'personal watercraft' in or upon
that portion of Chebacco Lake which is situated in the Town of Hamilton is prohibited. Violation of this by-law shall be punishable by a fine of not more than one hundred ($100.00) dollars for each offense.

SECTION 13. Noise By-law

ITEM 1. It shall be unlawful for any person or persons conducting a business activity, including pickups, deliveries and trash hauling related to a business activity, to create, assist in creating, continue, or allow to continue any excessive, unnecessary, or unusually loud noise which either annoys, disturbs, injures, or endangers the reasonable quiet, comfort, repose, or the health and safety of others within the Town of Hamilton.

Exemptions: The following shall not be deemed a violation of this by-law.

i. Noise generated by any police, ambulance, fire, public works, or utility activities and/or vehicles, while engaged in necessary emergency business.

ii. Noise generated by vehicles, equipment or tools used in construction, maintenance or repair between the hours of 7:00 a.m. and 9:00 p.m.

ITEM 2. Penalties: The first violation of this by-law shall be punished by a fine of not less than one hundred dollars ($100.00). The second violation of this by-law within 12 months after the first violation shall be punished by a fine of not less than two hundred dollars ($200.00). Further violations within 12 months after the last violation shall be punished by a fine of three hundred dollars ($300.00). Each such act, which either continues or is repeated more than one-half (1/2) hour after issuance of a written notice of violation of this by-law, shall be a separate offense and shall be prosecuted as a separate offense. If the violation occurs on the premises or rental property, which is non-residential, then the owner must also be notified in writing that this violation has occurred.

This By-law shall be enforced by the Hamilton Police Department. Any person aggrieved by the imposition of a fine under this by-law may, within twenty (20) days of the imposition of the fine, request a hearing before the Chief of Police, who may set aside the fine.

ITEM 3. Other Remedies:

a. If the person or persons responsible for an activity which violates Item 1 cannot be determined, the person in lawful custody and/or control of the premises, including, but not limited to, the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation.

b. If the person or persons responsible for any activity which violates Item 1 can be determined, any person or persons who violates Item 1 of this by-law may be arrested without a warrant, provided that the violation occurs in the presence or view of an officer authorized to serve criminal process.

ITEM 4. Severability: If any provision of this by-law is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the by-law shall not be invalidated.

*See Chapter XXIII Solicitor/Canvasser

CHAPTER XII

STREET NUMBERING

SECTION 1. All principal buildings in the Town shall be numbered as provided in the following regulations:

SECTION 2. The numbering shall correspond with the numbering on the street (or one of the streets, if more than one) on which the lot with the building thereon abuts.

SECTION 3. The numbering shall begin at the end of the street as may be determined by the Board of Selectmen.

SECTION 4. On all streets the numbers shall run in consecutive order alternating from one side to the other, the odd numbers being on the right hand side of the street, the street running in the direction of increasing numbers.

SECTION 5. Each 40 feet of street frontage in residential type districts, each 10 feet frontage in business type districts, and each 20 feet of frontage in camp type districts shall be given a number, which shall be the number belonging to the buildings included in or embracing the frontage.

SECTION 6. All measurements of frontage shall be made on the center line of the street; no allowances are to be made for entering or intersecting streets, parks, cemeteries or other areas.

SECTION 7. Where two or more residences or establishments have their principal entrances within the same 40 foot frontage, the number shall be determined by the Board of Selectmen.

SECTION 8. In the case of incomplete streets, no numbers shall be assigned to the buildings until such time as the completion of the street will permit the assignment of permanent numbers conforming to these regulations.

SECTION 9. All principal buildings or establishments now existing or hereafter erected to which a number has been assigned shall have the number conspicuously placed in such manner that it will be visible from the street, using figures at least three inches in height. Whenever the building stands back more than seventy-five (75) feet from the street line, the number shall be conspicuously placed at or near the street upon a post, or in some appropriate manner and location so as to be easily legible from the street.

SECTION 10. It shall be unlawful for any person to remove, alter, or deface any number assigned and displayed as aforesaid, or to retain an improper number, or to substitute and display any number other than the one designated by virtue of these regulations.

SECTION 11. The Planning Board shall assign numbers in accordance with this Chapter upon approval of a subdivision plan.

SECTION 12. No permit, certificate, or license from the Town or any of its departments shall be issued to any building or establishment unless the same has a street number conspicuously placed in accordance with Section 9 of this by-law.

CHAPTER XIII

CRIMINAL AND NON-CRIMINAL DISPOSITION

Section 1: Criminal Complaint
Whoever violates any provision 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).

Section 2: Non-criminal Disposition
Whoever violates any provision of these by-laws may alternatively be subject to enforcement action by a non-criminal disposition as provided in M.G.L. Ch. 40, Sec. 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.

In addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, a municipal official or board identified as an enforcing person in any specific by-law shall also be enforcing person with regard to this section. Each day on which any violation exists shall be deemed to be a separate offense.

Section 3: Penalties Enumerated
In the absence of a specific schedule of penalties as provided for in a specific by-law, all violations to be enforced by the procedures of M.G.L. Ch. 40, Sec. 21D shall be subject to the following penalty:

General Schedule of Non-criminal Penalties:

First Offense – Fifty Dollars ($50.00)
Second Offense - One Hundred and Fifty Dollars ($150.00)
Third and Each Succeeding Offense - Three Hundred Dollars ($300.00)

CHAPTER XIV

DISPOSAL OF REFUSE AND GARBAGE

The Board of Selectmen, acting as the Board of Public Works, (the Board) shall be responsible for the collection and disposal of all refuse, recycling, organic waste and garbage.

Section 1: Except as otherwise provided by law and these By-laws, through the issuance of regulations, the Board shall have and may exercise all the powers of the town with respect to the collection and disposal of all refuse, recycling, organic waste and garbage, including the collection from time to time of such solid waste materials as metal goods, leaves and yard waste and household hazardous wastes.

Section 2: The Board shall establish policies and procedures for the management of solid waste, recyclables, and other materials in a manner that conforms with all federal, state, and local regulations. Information about all waste management policies and procedures and a listing of materials prohibited from collection at street side by the town's regular refuse collection contractor may be obtained from the Town Website or the Department of Public Works. Costs for such services shall be established in accordance with Section 3.

Section 3: The Board of Selectmen may establish and amend charges for any services provided under this Chapter. Such charge shall be limited to the costs associated with such collection and/or disposal services.

CHAPTER XV

SWIMMING POOL FENCING

Every outdoor pool intended or used for swimming or bathing, having a depth at any point of more than 18 inches, shall be enclosed by a fence or wall not less than four feet in height above grade level with a self-latching and self-closing gate. All gates shall be securely closed when not in actual use. The enclosure shall be constructed with openings no larger than two inches horizontally by four inches vertically.

If a picket fence is constructed, the space between the pickets shall not exceed four inches . A side wall of an above ground swimming pool not less than four feet in height above grade level shall be deemed to comply with the height and gate requirements of this by-law provided the pool is equipped with a retractable ladder. The Building Inspector may permit substitute devices, structures or terrain so long as the degree of protection afforded is not less than the protection afforded by the wall, fence, gate and latch described herein. A building or structure may form a part of such enclosure. The Building Inspector may allow temporary fencing and gates during construction of a pool. A decision of the Building Inspector may be rescinded, amended or modified on appeal to the Board of Selectmen . Violation of this by-law shall be punishable by a fine not to exceed fifty ($50.00) dollars for each violation. Each day in which there continues to be a violation of this by-law shall constitute a separate violation of the by-law.

CHAPTER XVI

OPEN CONTAINER LAW

Unless granted a permit by the Board of Selectmen, no person shall drink any alcoholic beverage as defined in Chapter 138, Section 1 of the Massachusetts General Laws, or possess any open container containing any alcoholic beverage, while in or on any public way or way to which the public has the right of access, public parking area, public beach or land, public park or playground, school grounds, or any public place or place to which members of the public have access as invitees or licensees. In the event of a violation of this by-law, the alcoholic beverage shall be seized and safely held until final adjudication of the charge at which time it shall be returned to the person entitled to its lawful possession. Whoever violates this by-law shall be subject to a fine of fifty ($50.00) dollars.

CHAPTER XVII

CONSERVATION

APPLICATION: THE PURPOSE OF THIS BY-LAW IS TO PROTECT THE WETLANDS AND FLOODPLAINS OF THE TOWN OF HAMILTON BY CONTROLLING ACTIVITIES DEEMED TO HAVE SIGNIFICANT EFFECT UPON WETLAND VALUES INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING: PUBLIC OR PRIVATE WATER SUPPLY, GROUNDWATER, FLOOD CONTROL, SOIL EROSION CONTROL, STORM DAMAGE PREVENTION, WATER POLLUTION, FISHERIES, WILDLIFE, RECREATION AND AESTHETICS (COLLECTIVELY, THE "VALUES PROTECTED BY THIS BY-LAW").

REQUEST FOR WRITTEN DETERMINATION OF APPLICABILITY; WITHIN TWENTY ONE DAYS AFTER RECEIPT OF A WRITTEN REQUEST, THE COMMISSION SHALL MAKE A WRITTEN DETERMINATION WHETHER THIS BY-LAW IS APPLICABLE TO ANY LAND OR WORK THEREON. WHEN THE PERSON REQUESTING A DETERMINATION IS OTHER THAN THE OWNER, NOTICE OF THE DETERMINATION SHALL BE SENT TO THE OWNER AS WELL AS TO THE REQUESTING PERSON.

No person shall remove, fill, dredge, alter or build upon or within one hundred feet of any bank, fresh water wetland, flat, beach, marsh, meadow, bog, swamp, or lands bordering on any estuary, creek, river, stream, pond or lake, or any land under said water or any land subject to storm flowage, flooding, inundation, or within one hundred feet of the one hundred year storm line, other than in the course of maintaining, repairing or replacing, but not substantially changing or enlarging, an existing or lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph, and other telecommunication services without filing written notice of intent to so remove, fill, dredge, alter or build, including such plans as may be necessary to describe such proposed activity and its effect on the environment and without having received and complied with conditions issued pursuant to this by-law.

Such notice shall be sent by certified mail to the Hamilton Conservation Commission (the "Commission"). Fees, to defray costs and expenses of reviewing submissions, shall be set by regulation of the Commission pursuant to this By-law. Plans included should conform to applicable regulations of the Department of Environmental Quality Engineering, and to such regulations as may be promulgated by the Commission. No such notice shall be sent before all permits, variances and approvals required by local by-law with respect to the proposed activity which are obtainable at the time of such notice have been obtained. Copies of such notice of intent shall be sent at the time of filing by certified mail to the Hamilton Board of Selectmen and Hamilton Planning Board and the Hamilton Board of Health.

Hearing: The Commission shall hold a public hearing on the Notice of Intent within twenty-one days or receipt of the completed filing. Notice of the time and place of the hearing shall be given by the Commission at the expense of the applicant not less than five days prior to the hearing, by publication in a newspaper of general circulation in Hamilton and by mailing a notice to the applicant, Hamilton Board

of Selectmen, Hamilton Planning Board, Hamilton Board of Health and to such other persons as the Commission may by regulation determine.

Permit and Conditions: If, after the public hearing, the Commission determines that the area which is the subject of the application is significant to the values protected by this by-law, the Commission shall, within twenty-one days of such hearing, issue or deny a permit for the work requested. If it issues a permit after making such determination, the Commission shall impose such conditions as it determines are necessary or desirable for protection of those values, and all work shall be done in accordance with those conditions. If the Commission determines that the area which is the subject of the application is not significant to the interests protected by this by-law, or that the proposed activity does not require the imposition of conditions, it shall issue a permit without conditions within twenty-one days of the public hearing. Due consideration shall be given to possible effects of the proposal on all values to be protected under this by-law, permits shall expire one year from date of issuance, unless renewed prior to expiration, and all work shall be completed prior to expiration.

Emergency Projects: This by-law shall not apply to any Emergency Project as defined by General Laws Chapter 131, Section 40, mosquito control work under the provisions of clause (36) of Section 5 of Chapter 40, Chapter 252 or of any special act, or to work performed for normal maintenance or improvement of lands in agricultural use as of the effective date of this by-law.

Entry: The Commission, its agents, employees, Officers, and auxiliary members may enter upon land as to which a written determination or a Notice of Intent has been filed and may make such examinations and surveys as deemed necessary by the Commission.

Pre-Acquisition Violation: Any person who purchases, inherits or otherwise acquires Real Estate upon which work has been done in violation of the provisions of the By-Law or in violation of any permit issued pursuant to this By-law shall forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless commenced within three years following the date of acquisition of the Real Estate by such person.

Regulations: After due notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this by-law. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this by-law.

Burden of Proof: The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed by the application will not harm the interests protected by this by-law. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this by-law shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions, or in the Commissions discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

Security: The Commission may require, as a permit condition, that the satisfactory performance and observance of other conditions be secured by one or both of the following methods:

(A) By bond, deposit of money, negotiable securities or such other evidence of financial responsibility as is satisfactory to the Commission, in an amount determined appropriate by the Commission.

(B) By a Conservation restriction, easement or other covenant running with the land, executed and properly recorded, or registered in the case of registered land.

The amount of security required hereunder shall not exceed the estimated cost of the work required to restore affected lands and properties to their original condition if the work is not performed as required. Such bond or other security shall be released upon issuance of a certificate of compliance.

Definitions: The following definitions shall apply in the interpretation and implementation of this by-law:

(A) the term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town by-laws, administrative agencies, public or quasi-public corporations or bodies, the Town of Hamilton, and any other legal entity, its legal representatives, agents or assigns.

All other terms and definitions shall be understood and applies in the manner set forth in General Laws, Chapter 131, Section 40, in applicable regulations promulgated by the Department of Environmental Quality Engineering, and as further defined by the Commission by regulation or amendment.

Enforcement: A person who violates any provision of this by-law or any other provision of a permit issued hereunder, shall be punished by a fine of not more than $300. Violation of each provision of this by-law and each provision of a permit issued hereunder shall constitute a separate offense. As an alternative to initiating criminal proceedings in a specific case, the Commission may elect to utilize the non-criminal disposition procedure established by General Laws Chapter 40, Section 21D which is incorporated herein by reference in its entirety.

CHAPTER XVIII

DOG BY-LAW

SECTION 1.

1.01 The Animal Control Officer is authorized to require owners or keepers of dogs to prevent such dogs from becoming a public nuisance. The Animal Control Officer is further authorized to require owners or keepers of dogs to restrain their dogs from running at large. Excessive or untimely barking, worrying or otherwise threatening or harming persons or domestic animals, chasing vehicles, trespassing upon school grounds, or trespassing upon private property or public property in such a manner as to foul or otherwise damage property shall be deemed a violation of this by-law.

1.02 No person owning, harboring, or otherwise having custody or control of a dog, shall permit such dog to be at large in the Town of Hamilton at any time, except that it be on the premises of another person with their consent. Any owner, harborer, or person having custody or control of a dog which is not on either premises of the owner or the premises of another person with their consent shall control and restrain such dog by a leash of appropriate length. Disposition of complaints or violations of this by-law will be in accordance with General Laws, Chapter 140, Section 173A.

1.03 Notwithstanding the provisions of Section 1.02 of this By-law an General Laws, Chapter 140, Section 173A, the final disposition of each case shall be in accordance with the following schedule as ordered by the Animal Control Officer:

FIRST OFFENSE:	PUNISHABLE BY A $10.00 FINE
SECOND OFFENSE:	PUNISHABLE BY A $30.00 FINE
THIRD AND SUBSEQUENT OFFENSES:	PUNISHABLE BY A $50.00 FINE
FIRST OFFENSE, DOMESTIC ANIMAL KILLING ANOTHER DOMESTIC ANIMAL:	PUNISHABLE BY A $100.00 FINE.

A PUBLIC HEARING SHALL BE HELD BY THE BOARD OF SELECTMEN ON EACH COMPLAINT.

SECOND OFFENSE, DOMESTIC ANIMAL KILLING ANOTHER DOMESTIC ANIMAL: PUNISHABLE BY THE MAXIMUM FINE PERMISSIBLE PER MASSACHUSETTS GENERAL LAWS, CHAPTER 40, SECTION 21, AND DESTRUCTION OF THE DOG OR PLACEMENT WITH ANOTHER OWNER.

A PUBLIC HEARING SHALL BE HELD BY THE BOARD OF SELECTMEN ON EACH COMPLAINT.

1.04 The owner of any dog picked up in the Town of Hamilton and impounded at the Town Dog Pound shall be charged a pick-up fee of $15.00 in addition to boarding fees charged in accordance with State Law.

SECTION 2.

If the Animal Control Officer determines that a female animal in heat (even when confined to the property of the owner or keeper) is attracting other animals to the area, which condition causes disturbance or damage to neighboring property or public areas, he may require the owner or keeper to place and keep said animal while in heat in a kennel or to remove it from the area so that the nuisance is abated.

SECTION 3.

Notwithstanding the provisions of Section 137 of Chapter 140 of the General Laws or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in the Town of Hamilton, shall be conducted in the office of the Town Clerk of said Town.

SECTION 4.

Notwithstanding the provision of Section 139 of said Chapter 140 or any other provision of law to the contrary, the annual fees to be charged by the Town of Hamilton for the issuance of licenses for dogs shall be:

Males and Females	**Fifteen Dollars**
Neutered Males and Spayed Females	**Fifteen Dollars**
All Dogs Whose Registered Owners are Older Than 60 as of January 1 of the Year of Licensure	**Ten Dollars**
All Dogs Whose Registered Owners are Older than 70 as of January 1 of the Year of Licensure	**No Fee**

For kennels, if not more than four dogs are kept in said kennel, Fifty Dollars; if more than four but not more than ten dogs are kept in said kennel, One Hundred Dollars; and if more than ten dogs are kept in said kennel, One Hundred Fifty Dollars, said kennels to require Special Permit as per the Hamilton Zoning By-Laws, Section V.A. 11d.

For Previously licensed dogs, the Town will charge a late fee, in addition to the license fee, as follows:

On or after June 1, a late fee of $10	**Total Due = $25, per dog**
On or after June 16, a late fee of $25	**Total Due = $40, per dog**
On or after August 1, a late fee of $50	**Total Due = $65, per dog**

The owner, or keeper, of a dog registered in Hamilton shall cause it to wear around its neck or body, a collar or harness to which shall be securely attached a tag in a form as prescribed by the Town Clerk and available at the Town Clerk's Office.

SECTION 5.

Notwithstanding the provisions of Section 147 of said Chapter 140 or any other provision of law to the contrary, all money received from the issuance of dog licenses by the Town of Hamilton, or recovered as fines or penalties by said Town under the provisions of Chapter 140 relating to dogs, shall be paid into the treasury of said Town and shall not thereafter be paid over by the Town Treasurer to Essex County.

SECTION 6.

Notwithstanding the provisions of Chapter 140 or any other provision of law to the contrary, whoever suffers loss by the worrying, maiming or killing his livestock or fowls by dogs, outside the premises of the owners or keepers of such dogs, shall, after investigation provided in Section 161, be paid from the treasury of said Town as provided in Section 161.

SECTION 7. DEFINITION OF NUISANCE

Animal behavior which constitutes a nuisance includes, but not limited to, the following: molesting passerby or passing vehicles (including bicycle), attacking persons or domestic animals, trespassing on school grounds or other public property, damaging public or private property, barking, whining, or howling in an excessive continuous, or untimely fashion.

SECTION 8. DUTIES AND POWERS OF ANIMAL CONTROL OFFICER

The Animal Control Officer shall attend to all complaints, and other matters pertaining to dogs, and shall take whatever legal action is authorized by law.

SECTION 9. ABANDONED AND ABUSED DOGS

The Animal Control Officer shall confine any animal found to be without adequate care, or found in unsanitary or unsafe conditions, or that has been abused, abandoned, or neglected. Any such animal shall be confined for not less than 3 days.

CHAPTER XIX

DISABILITY OF FIRE FIGHTERS

Whenever a call fire fighter is disabled because of injury or incapacity arising out of and in the course of his employment as a call fire fighter and is thereby unable to perform the usual duties of his regular occupation at the time such injury or incapacity was incurred, he shall receive from the town for the period of such injury or incapacity compensation at the rate payable to a permanent member of the police force for the first year of service therein, provided that no such compensation shall be payable for any period after such fire fighter has been retired or pensioned in accordance with law or for any period after a physician designated by the Town Manager determines that such incapacity no longer exists, and provided further that no such compensation shall be payable if, and to the extent that, any insurance which is in effect provides coverage for such compensation and unless and until all rights under such insurance in favor of the insured shall have been exercised, determined and satisfied.

CHAPTER XX

BUILDING PERMIT AND RELATED FEES

SECTION 1. The Massachusetts Building code, as from time to time amended, is adopted as a By-law of the Town.

SECTION 2. The BOCA National Building Code and the CABO One & Two Family Dwelling Code, as from time to time amended, are adopted as By-Laws of the Town as provisions subsidiary to the Massachusetts Building Code. To the extent there is conflict between these subsidiary codes and the Massachusetts Building Code, the later shall have application.

SECTION 3. The Inspector of Buildings may require that a certified plot plan be submitted to the Inspector of Buildings upon completion of the foundation of any structure in the Town. The plan shall be 1"-20' scale or in the case of a subdivision, shall mirror the site plan scale previously approved. The plan shall show lot dimensions, foundation location, front, rear and side yard dimensions. Each plan shall have the following certification endorsed thereon: "I hereby certify that the location of the foundation is shown as constructed and complies with the Zoning By-laws and applicable building codes of the Town." The plan shall be certified by and bear the seal of a land surveyor registered in the Commonwealth.

SECTION 4. Local building Permit fees shall be as set by the Hamilton Building Inspector with the approval of the Board of Selectmen. A schedule of current fees shall be available in the Building Inspector's Office.

SECTION 5. Stretch Energy Code
The Stretch Energy Code, Appendix 120.AA of the Massachusetts Building Code, 780 CMR, including amendments or modifications thereto, is adopted as a By-law of the Town.' a copy of which is on file with the Town Clerk.

CHAPTER XXI

SCHEDULE OF FEES

DESCRIPTION	FEE
For filing & indexing assignment for the benefit of creditors.	$10.00
For entering amendment of a record of the birth of a child born out of wedlock subsequently legitimized.	$10.00
For correcting errors in a record of birth.	$10.00
For furnishing certificate of a birth.	$10.00

For furnishing an abstract copy of a record of birth		$ 4.00
For entering delayed record of birth.		$10.00
For filing certificate of a person conducting business under any title other than his real name.		$25.00
For filing by a person conducting business under any title other than his real name of a statement of change of his residence. Or of his discontinuance, retirement or withdrawal from, or change of location of, such business.		$10.00
For furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business.		$ 5.00
For recording the name and address, the date and number of the certificate issued to a person registered for the practice of podiatry in the Commonwealth.		$20.00
For correcting errors in a record of death.		$10.00
For furnishing a certificate of death.		$ 10.00
For entering notice of intention of marriage and issuing certificates thereof.		$25.00
For entering certificate of marriage filed by persons married out of the Commonwealth.		$ 5.00
For issuing certificate of marriage.		$10.00
For correcting errors in a record of marriage.		$10.00
For recording power of attorney.		$10.00
For recording certificate of registration granted to a person to be engaged in the practice of optometry, or issuing a certified copy thereof.		$20.00
For recording the name of the owner of a certificate of registration as a physician or an osteopath in the Commonwealth.		$10.00
For recording order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in number or wires and cable or attachments under the provisions of Section 2 of Chapter 166.	Flat add'l	$40.00 rate $10.00 sts

For examining records or papers relating to birth, marriage or deaths upon the application of any person, the actual expense thereof, but not less than.	$ 5.00
For copying any manuscript or record pertaining to a birth, marriage or death.	$ 5.00
For receiving and filing a complete inventory of all items to be included in a "closing out sale", etc.,	$10.00 1st page $ 2.00 add'l pages
For filing a copy of written instrument or declaration of trust by trustees of an association or trust, or any amendment thereof as provided by Section 2, Chapter 182.	$20.00
For recording deed of lot or plot in a public place of cemetery.	$10.00
Recording any other documents.	$10.00 1st page $ 2.00 add'l pages
Voter's Certificate.	$ 5.00

FY 10 Sealer Of Weights and Measures Fees

Fees and Adjusting Charges authorized by Section 56, G.L., Chapter 98 as amended

	Type of Device	Unit	Number of Devices	Fee Charged per Device
Balances & Scales	Scales, 0 - 10	lbs		
	RX Balance	lbs		$25
	Scales, 11-100	lbs		$35
	Scales, 100 – 1000	lbs		$45
	Scales, 1,000 - 5,000	lbs		$50
	Scales, 5,000 - 10,000	lbs		$100
	Scales, Over 10,000	lbs		$145
Weights	Avoirdupois	each		$25
	Metric	each		$25
	Apothecary	each		$25
	Troy	each		$25
Liquid MeasuringMeters	Inlet 1/2" or less Oil, grease			
	Inlet 1/2" to 1"			

	Gasoline			$35
	Inlet more than 1" Vehicle Tank Pump Vehicle Tank Gravity Bulk Storage			 $65 $145
	Company Supplies Provider			
Pumps	Each Stop on Pump			
Other Devices	Scanners			$250
	Taxi Meters			
	Odometer - Hubodometer			
	Fabric Measuring			
	Wire - Rope - Cordage			
Linear Measure	Yard Sticks			
	Tapes			
Misc.	Propane meters			$50
	Milk tanks			
	Coin operated amusement devices			$10
	Reverse vending machines used for recycling soft drink containers			$10
	Price scanning systems			3 or<3 $150 4 or > $250

* List is not all inclusive

CHAPTER XXII

FIRE APPARATUS ACCESS

SECTION 1. It shall be unlawful to obstruct or block a private way with a vehicle or other means as to prevent access by fire apparatus or equipment to any building.

SECTION 2. It shall be unlawful to obstruct or park any vehicle in any fire lane to be designated by the Chief of the Hamilton Fire Department and posted and marked as such. Said fire lanes shall be a distance of twelve (12) feet from the curbing at a sidewalk for a mall, shopping center, nursing home or school. Where no sidewalks with curbing exist, the distance shall be eighteen (18) feet from the building.

SECTION 3. The building owner of record shall provide, install and maintain signs and/or markings as provided in Section Two of this by-law.

SECTION 4. This by-law shall be enforced by the Police Department of the Town of Hamilton in accordance with the provisions of M.G.L. Chapter. 90 Sec. 20A1/2, except where uniformed security Officers are employed by the owner of said building or buildings, in which case said security Officers may be charged with enforcement of this by-law.

SECTION 5. This by-law shall pertain to all buildings in the Town of Hamilton except for buildings used for residential use, but limited to four units or less.

CHAPTER XXIII

SOLICITOR/CANVASSER

SECTION 1. License Required

It shall be unlawful for any solicitor or canvasser as defined in this by-law to engage in such business within the Town of Hamilton without first obtaining a license therefore in compliance with the provisions of this by-law. The provisions of this by-law shall not apply to any person exempted under Chapter 101 of the General Laws, or to any person exempted by any other General Law, nor shall this by-law be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries.

SECTION 2. Definition

A solicitor or canvasser is defined as any person who, for himself, or for any other person, firm or corporation travels by foot, automobile or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or take orders for retail sale of goods, ware merchandise, or services, including without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all house improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment on such retail sale.

SECTION 3. Application

Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under the penalties of perjury, containing the following information:

a. Name of applicant.

b. Address of applicant (local and permanent home address).

c. Applicant's height, weight, eye and hair color.

d. Applicant's social security number.

e. The length of time for the right to do business is desired.

f. A brief description of the nature of the business and the goods to be sold.

g. The name and home office address of the applicant's employer. If self-employed it shall so state.

h. A photograph of the applicant which picture shall be submitted by the applicant and be 2" X 2" showing the head and shoulders of the applicant in a clear and distinguishing manner.

i. If operating a motor vehicle: the year, make, model, motor number, registration number, state of registration, vehicle's owner and address.

j. At the time of filing the application, each applicant shall pay a fee of Five ($5.00) Dollars.

SECTION 4. Investigation and Issuance

1. Upon receipt of the application, The Chief of Police shall investigate the applicant's reputation as to morals and integrity.

2. After an investigation of the applicant's morals and integrity, but within 7 business days of the filing of the applicant, the Chief of Police shall endorse on such application his approval or disapproval. Failure of the Police Chief to act on said permit within 7 business days of the applicant's filing shall constitute approval. If disapproved, the applicant shall have the right of appeal to the Board of Selectmen in writing within 7 days of the denial by the Chief of Police. The Board of Selectmen must act upon the appeal at one of their next two regularly scheduled meetings. Failure to so act shall be deemed approval.

3. Such license when issued shall contain the signature of the Chief of Police or the Board of Selectmen and shall show the name, address, and photograph of said licensee, the date of issuance and the length of time the same shall be operative, as well as the license number. The Police Department shall keep a record of all licenses issued for a period of six (6) years. Solicitors and canvassers when engaged in the business of soliciting or canvassing are required to display an identifying badge issued by

the Police Department, by wearing said badge on an outer garment. Each licensee is required to possess an individual license.

SECTION 5. Duty Police to Enforce/Transfer
The police Officers of the Town of Hamilton shall enforce this by-law. No license shall be transferred.

SECTION 6. Revocation of License
The Chief of Police is hereby vested with jurisdiction over the revoking of licenses. Any person aggrieved by such revocation may appeal to the Board of Selectmen within 7 business days, and a hearing will be scheduled for one of the next two regularly scheduled meetings of the Board of Selectmen.

SECTION 7. Expiration of License
Each license issued under the provisions of this by-law shall continue in force from the date of its issue until the thirty-first day of December following, unless sooner revoked.

SECTION 8. Renewal of License
A license issued under the provisions of this by-law may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information as is required to obtain an initial license.

SECTION 9. Misrepresentation
1. No solicitor or canvasser, licensed or exempted from license, may misrepresent, in any manner, the buyer's right to cancel as stipulated by Chapters 93, 93A and 255D of the General Laws.

2. No solicitor or canvasser, licensed or exempted from license, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office, or other establishment with the purpose of making a sale of consumer goods or services.

SECTION 10. Trespassing
It shall be unlawful for any canvasser or solicitor to enter the premises of a resident or business who has displayed a "no trespassing" or "no soliciting" sign or poster. Further, it shall be unlawful for canvassers or solicitors to ignore a resident or business person's no solicitation directive or remain on private property after its owner has indicated that the canvasser or solicitor is not welcome.

SECTION 11. Penalty
Any person violating any provision of this by-law shall, upon conviction thereof, be punished by a fine not to exceed Fifty ($50.00) Dollars for each and every offense.

CHAPTER XXIV

TREE BY-LAW

SECTION 1. PURPOSE

The purpose of this By-law is to establish regulations regarding the planting, maintenance and removal of trees, shrubs and other plants on public property and trees on private property that may cause a hazard to the public in the town right of way.

SECTION 2. DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

Street trees - trees of a diameter of 1 1/2 inches or more, shrubs, bushes and all other vegetation (on land lying) growing between property lines on either side of all streets, avenues, or ways within the Town.

Park Trees - trees of a diameter of 1 1/2 inches or more, shrubs and bushes and all other woody vegetation in public parks having individual names and all (area) public property owned by the Town and to which the public has free access such as a park.

Public Property - Town owned lands.

Tree Topping - the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

(Sight Distance) Vision Clearance - that are included within the street which will materially obstruct the view of a driver of a vehicle approaching a street intersection. This area is measured at points which are twenty (20) feet distant from their point of intersection along said street lines.

SECTION 3. LISTING OF TREES ACCEPTABLE FOR PLANTING

The Tree Warden shall develop and maintain an up to date listing of trees considered most desirable for planting along streets in the following three size classes based on mature height:

small	(under 20 feet)
medium	(20 to 40 feet)
large	(over 40 feet)

List of trees not suitable for planting will also be developed and maintained current by the Tree Warden.

SECTION 4. SPACING BETWEEN STREET TREES

Street trees shall be planted no closer together than the following:

small size class	30 feet
medium size class	40 feet
large size class	50 feet

An exception may be made to the above planting spacing (designed or approved by a landscape architect) if authorized by the Tree Warden.

SECTION 5. PLANTING NEAR CURBS AND SIDEWALKS

Street trees may be planted no closer to any curb or sidewalk than the following:

small size class	2 feet
medium size class	3 feet
large size class	4 feet

An exception may be made to the above spacing for special plantings if authorized by the Tree Warded.

SECTION 6. PLANTINGS NEAR STREET CORNERS AND FIRE HYDRANTS

No tree shall be planted (within 35 feet) to obstruct visual clearance of any street corner, measured from the point of nearest intersecting curbs or curb lines nor within 10 feet of any fire hydrant.

SECTION 7. PLANTING NEAR OVERHEAD UTILITIES

No street tree other than those species listed as small trees in Section 3 of this ordinance may be planted under or within 10 feet of any overhead utility wire.

SECTION 8. TRIMMING STREET TREES BY UTILITY COMPANIES

Public utility companies shall notify the Tree Warden in writing prior to trimming any tree located on Town owned property for the purpose of maintaining safe line clearance. All such work shall be performed in accordance with accepted arboricultural standards set forth by the National Arborist Association.

Any Town trees that are pruned by utility companies will have up to two inspections a day by a Tree Warden at $35.00 per inspection.

SECTION 9. PLANTING, MAINTENANCE AND REMOVAL

The Town shall have the right to plant, maintain, and remove trees, plants and shrubs within the lines of all Town owned streets, alleys, avenues, lanes, squares and other public (grounds) property that may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public (grounds) property.

The Tree warden may remove or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees within the roads layout by (adjacent) abutting property owners providing the Tree Warden grants approval and that the selection and location of said trees are in accordance with the provisions of this ordinance.

SECTION 10. TOPPING OF TREES

Unless otherwise authorized by the Tree Warden, it shall be unlawful as a normal practice for any person or firm to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Tree Warden.

SECTION 11. HARMING TOWN OWNED TREES

It shall be unlawful for any person or firm to trim, prune or remove any Town owned tree on public property without the approval of the Tree Warden or to harm a Town owned tree by removing or otherwise damaging the bark and by attaching signs or any other item to any part of the tree using nails or other device that punctures the bark.

SECTION 12. REMOVAL OF TREE STUMPS

Stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

SECTION 13. INSTALLATION OF TREE LIGHTS

With the approval of the Town Manager and the Tree Warden, decorative lights may be installed in Town owned trees on public property for periods which will not interfere with the proper growth and maintenance of the trees and when the occasion for the lights is deemed appropriate.

Unless otherwise authorized, holiday lights shall be installed no earlier then November 15 and removed no later than March 15.

SECTION 14. PENALTY

Any person, firm or corporation violating any applicable provision of this ordinance shall be fined not more than two hundred ($200) dollars for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

CHAPTER XXV

OUTDOOR WATER USE BY-LAW

SECTION 1. Authority

This By-Law is adopted by the Town under its police powers to protect public health and welfare and its power under G.L. Ch.40, Sec. 21 et. seq. and implements the Town's authority to regulate water use pursuant to G.L. Ch. 41, Sec. 69B.

SECTION 2. Purpose

The purpose of this By-law is to protect, preserve and maintain the public health, safety and welfare by creating a balance between the needs of the environment, our ground water supply, the citizens of Hamilton and Hamilton's public water distribution system, and by addressing concerns about lower ground water levels and the potential demand on its water sources during the dry summer months, while recognizing the therapeutic, esthetic and environmental benefits that gardening and landscaping bring to our community. The provisions of this By-law are applicable only to the use of water supplied by the Town's public water system or withdrawn from the same water sources as the Town's public water system and do not apply to the use of recycled water, storm water run-off, gray water or water from cisterns or rain barrels that derive their water directly from precipitation.

SECTION 3. Definitions

Nonessential Outdoor Water Use shall mean those uses that are not required:

1. for health or safety reasons;
2. by regulation;
3. for the production of food and fiber;
4. for the maintenance of livestock; or
5. to meet the core functions of a business.

Person shall mean any individual, corporation, trust, partnership or association, agency or authority, or other public or private entity and any officer, employee, group or agent of such persons.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Board of Selectmen pursuant to Section 4 of this By-law.

Water Users shall mean all persons who use water supplied by the Town's public water system or withdrawn from the same water sources as the Town's public water system, irrespective of such person's legal responsibility for payment for the use of such water.

SECTION 4. Water Ban

The Town, through the Board of Selectmen, shall have the authority to regulate the use of any automatic or other sprinkler during prescribed daylight hours in an effort to promote water conservation, without declaring a State of Water Supply Conservation pursuant to Section 5 of this By-law.

SECTION 5. Declaration of a State of Water Supply Conservation

The Board of Selectmen may declare a State of Water Supply Conservation upon their determination that there exists or impends a shortage of water, and that conservation measures are appropriate to ensure that an adequate supply of water is available to all users, including fire-fighting operations; that the Town's water withdrawal volumes remain within the limits of any applicable Registration Statement submitted by the Town to the Massachusetts Department of Environmental Protection pursuant to G.L. Ch.21G, Sec. 5 and any applicable water withdrawal Permit issued to the Town pursuant to G.L. Ch.21G, Sec. 11; and that any conditions set forth in such Permit are satisfied. Public notice of a State of Water Conservation shall be given in accordance with Section 7 of this By-Law before any restrictions, conditions or requirements limiting the use of water may be enforced pursuant thereto.

SECTION 6. Restricted Water Uses

A declaration of a State of Water Supply Conservation shall be accompanied by the imposition of one or more of the following restrictions, conditions or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required by Section 7.

A. Odd/Even Day Nonessential Outdoor Water Use: Nonessential outdoor water use by water users with odd-numbered addresses is restricted to odd-numbered days. Nonessential outdoor water use by water users with even-numbered addresses is restricted to even-numbered days.

B. Nonessential Outdoor Water Use Days: Nonessential outdoor water use is permitted only on the days per week specified in the public notice of the State of Water Supply Conservation.

C. Nonessential Outdoor Water Use Ban: Nonessential outdoor water use is prohibited at all times.

D. Nonessential Outdoor Water Use Hours: Nonessential outdoor water use is permitted only during daily periods of low demand, to be specified in the public notice of the State of Water Supply Conservation.

E. Filling Swimming Pools: Filling of swimming pools is prohibited.

F. Washing Vehicles: Washing of vehicles is prohibited.

G. Washing Buildings: Washing of buildings' exterior, surfaces, parking lots, driveways, and sidewalks prohibited.

H. Outdoor Sprinkler Use: the use of lawn and garden sprinklers of all types, including the use of drip irrigation hoses or other devices that use subsurface application is prohibited. Hand watering is permitted.

SECTION 7. Public Notice of a State of Water Supply Conservation

Notice of any declaration of a State of Water Supply Conservation, including the accompanying restrictions, conditions or requirements limiting the use of water imposed by the Board of Selectmen shall be published in a newspaper of general circulation within the Town, sent by mail, posted on the Town's Web site, or provided by such other means reasonably calculated to reach and inform all water users of the State of Water Supply Conservation. Notification of the State of Water Supply Conservation shall also be provided to the Massachusetts Department of Environmental Protection.

SECTION 8. Termination of a State of Water Supply Conservation- Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Selectmen, upon their determination that there no longer exists or impends a shortage of water or that the previously imposed restrictions, conditions or requirements limiting the use of water conservation are no longer essential. Public notice of the termination of a State of Water Supply Conservation shall be given in the same manner used pursuant to Section 7 for notice of its declaration.

SECTION 9 Summer Irrigation/Outdoor Water Use

This section is applicable only to the use of water supplied by the Town's public water system and shall be in effect from May 1 to September 30 each year; provided, however, that this time period may be extended by vote of the Board of Selectmen, as it deems necessary in light of weather conditions, the need to protect the Town's water supply, applicable regulations of the Department of Environmental Protection, demands on the Town's pumping equipment or other circumstances that the Board deems relevant.

In the event that any provision of this section conflicts with any restrictions, conditions or requirements limiting the use of water imposed by the Board of Selectmen pursuant to Section 7 of this By-law, the applicability of such provision shall be suspended for so long as such conflict continues.

It is unlawful to engage in nonessential outside water use through a sprinkler or lawn irrigation system between 8:00 am and 8:00 pm.

All water hoses shall be controlled by a nozzle, sprinkler or other device to regulate the flow of water leaving the hose. No use of an open-ended hose is permitted with the exception of filling or topping of swimming pools.

All outside spigots shall be retrofitted with an antisiphon device.

All existing automatic underground irrigation systems shall have rain sensors wired into them to prevent unnecessary watering.

Nothing in this section shall be construed to prohibit watering through drip irrigation hoses or other devices that use subsurface application and prevent the water from being evaporated through contact with the atmosphere..

SECTION 10. Penalties

Any person violating this By-law shall be subject to a penalty, which shall inure to the Town, in the amount of $50.00 for the first violation and $100.00 for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with G.L. Ch. 40, Sec. 21D. Each day of violation shall constitute a separate offense.

SECTION 11. Severability

If any portion or provision of this By-law shall be found invalid for any reason by a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible and the balance of the By-law shall be deemed to be amended to the minimum extent necessary to provide the Town substantially the benefits set forth in this By-law.

CHAPTER XXVI

Deleted at the Special Town Meeting - Article 2009/10-4-5 on October 17, 2009.

CHAPTER XXVII

COMMUNITY PRESERVATION COMMITTEE

Section 1 – Establishment, Membership, Terms

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to G.L. c. 44B, the Community Preservation Act. The Committee shall act pursuant to G.L. c. 44B, § 5. The composition of the committee, the method of selecting its members, and each member's length of term is as follows:

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

One member of the Historical Commission as designated by the Historical Commission for an initial term of one year and thereafter for a term of three years.

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

One member of the Board of Selectmen, acting in its capacity as the Board of Park Commissioners, as designated by the Board of Selectmen for an initial term of one year and thereafter for a term of three years.

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

Four citizens at large to be appointed by the Board of Selectmen for initial terms of two years and thereafter each for a term of three years.

Any member who serves as a representative of an appointing committee who ceases during his or her term to be a member of the appointing committee shall also cease to be a member of the Community Preservation Committee. Any member may be removed with or without cause by the appointing committee. Any vacancy during the pendency of a term shall be filled by the appointing committee for the remainder of the term. Members may be eligible for reappointment.

Should any of the Commissions, Boards, or Committees who have appointment authority under this by-law chapter be no longer in existence for any reason, the appointment authority for that Commission, Board, or Committee shall devolve upon the persons acting in the capacity of or performing the duties of the former Commission, Board or Committee. If there are no such persons acting in the capacity of or performing the duties of any such Commission, Board, or Committee, then the appointment shall be the responsibility of the Board of Selectmen.

All initial appointments shall be made within twenty days of the effective date of this by-law. Thereafter, all vacancies, whether at the end of a member's term or otherwise, shall be filled within twenty days of the creation of the vacancy.

Section 2 – Duties

1. The Committee shall study the needs, possibilities and resources of the town regarding community preservation. The Committee shall consult with existing municipal boards, including but not limited to the Conservation Commission, the Historical Commission, the Planning Board, the Board of Selectmen in its capacity as the Board of Park Commissioners, the Housing Authority and the Open Space Committee, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation , notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

2. The Committee shall make recommendations to the town meeting for the: acquisition, creation and preservation of open space pursuant to Article XCVII of the Constitution of the Commonwealth and the Hamilton Open Space Plan prepared pursuant to M.G.L.A. c.40 sec. 8C; for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this by-law. With respect to community housing, the Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

3. The Committee may include in its recommendation to the town meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation. Recommendations for the expenditure of funds shall include the Committee's anticipated administrative and operating expenses.

CHAPTER XXVIII

RIGHT TO FARM BY-LAW

Section 1 Legislative Purpose and Intent

The Purpose and Intent of this By-Law is to state with emphasis that farm preservation occurs under the right to farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter

128 Section 1A. We the citizens of Hamilton restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

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

Section 2 Definitions

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

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

- Farming in all its branches and the cultivation and tillage of the soil;
- Dairying;
- Production, cultivation, growing, and harvesting of any agricultural, aqua cultural, floricultural, viticultural, horticultural commodities; composting;
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- Raising of livestock including horses;
- Keeping of horses and;
- Keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purpose, including bees and fur-bearing animals.

By way of example and not limitation "farming" shall encompass activities including, but not limited to, the following:

- Operation and transportation of slow-moving farm equipment over roads within the Town;
- Control of pests, including, but not limited to, insects, weeds, predators, and disease organism of plants and animals;
- Application of manure, fertilizers and pesticides;
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agriculture output or services of the farm;
- Processing and packaging of the agricultural output of the farm and the operation of a farmers market or farm stand including signage thereto;
- Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- On-farm relocation of earth and the clearing of ground for farming operations.

Section 3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Hamilton. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include

the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of the Right to Farm By-Law are intended to apply exclusively to those commercial agriculture and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm By-Law shall be deemed as acquiring any interest in land, or as imposing any new land use regulation, but neither does it supersede or overrule any other requirements or restrictions on the use of land for the purposes covered hereby, whether by state, regulation or local by-law.

Section 4 Disclosure Notification

The Agricultural Commission will provide to local realtors and make available at Town Hall in the Town Clerk's Office the disclosure notification below. The Town encourages sellers of property to make this information available to buyers.

"It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances."

The notification language required by this Section shall be included in the Town's Annual Report in the Report of the Agricultural Commission. In addition to the above, the notification language required by this Section shall be posted in Town Hall with a current list of active agricultural sites provided by the owners/operators of these sites. Owner/operators who wish to notice their activities for the upcoming year will submit their names and a description of their operations to the Town Clerk on a form available at the Town Clerk's Office by November 1 of each year.

Section 5 Resolution of Disputes

To enhance the prompt resolution of disputes that may arise between those engaged in the agricultural uses protected under this Bylaw and those who claim that the use or enjoyment of their properties is adversely affected by such uses, the following dispute resolution procedure is established as a means by which owners and tenants may attempt to resolve the dispute in a prompt, effective, and amicable manner.

Any owner or tenant who wishes to complain that farming or a farming activity is adversely affecting the use or enjoyment of the owner's or tenant's real property may file a grievance with the Town Manager, The Zoning Enforcement Officer, the Board of Health, or the Conservation Commission, depending upon the nature of the grievance. Such Board, Commission, or official may forward the grievance to such other Board, Commission, or official whose jurisdiction may be more appropriate to address the grievance. A Board, Commission, or official may refer the grievance to the Agricultural Commission, which shall then undertake such efforts as it deems reasonable and appropriate to facilitate an agreement

to resolve the grievance. The Agricultural Commission shall file a report with the referring Board, Commission, or official within 30 days after receipt of the referral, unless the referring Board, Commission, or official establishes a different deadline or the parties to the dispute agree to a different deadline. Nothing herein shall impair or limit any other remedy available to an aggrieved party, suspend the time within which any such remedy must be pursued, or impair or limit the authority of the Board of Health or any other government body or official to respond to cases of imminent danger or public health risk.

Section 6 Severability Clause

If any part of this Bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Bylaw. The Town of Hamilton hereby declares the provisions of this Bylaw to be severable.

CHAPTER XXIX

STORMWATER MANAGEMENT

1. PURPOSE AND INTENT:

The purpose and intent of this bylaw are to:

A. protect water resources

B. require practices that mitigate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities;

C. promote infiltration and the recharge of groundwater;

D. ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;

E. encourage the use of Low-Impact Development practices such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable;

F. comply with state and federal statutes and regulations relating to stormwater discharges;

G. establish the Town of Hamilton as the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

2. DEFINITIONS

ABUTTER: The owner(s) of land abutting the legal boundaries of the land on which the land-disturbing activity is proposed.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act M.G.L. c. 131, §40, and its implementing regulations.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a Stormwater Management Permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: The Planning Board, the Zoning Board of Appeals, and/or their respective employees or agents designated to enforce this by-law.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
CLEARING: Any activity that removes the vegetative surface cover.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of clearing land surface by digging up roots and stumps

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 roof tops.

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LOW IMPACT DEVELOPMENT: A set of strategies that seek to maintain natural systems during the development process. The idea is to create homes and businesses that are integrated into the landscape, not imposed on it. Natural areas and important features are protected, and stormwater is managed with a distributed network of swales and rain gardens, rather than a centralized system of pipes and ponds.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 §40 and Massachusetts Clean Waters Act M.G.L. c. 21, §26-53. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

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 Hamilton.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a point source discernible, confined and discrete conveyance into waters of the Commonwealth.

OWNER: A person with a legal or equitable interest in property.

PERMIT AUTHORITY: The Planning Board or the Zoning Board of Appeals, as outlined in Section 5.

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.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL: Any earth, sand, rock, gravel, or similar material.

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit. See Section 6 and Planning Board Rules and Regulations. A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

3. AUTHORITY

A. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR §22.34

B. Nothing in this Bylaw is intended to replace the requirements of any other bylaw that has been made or may be adopted by the Town of Hamilton.

4. APPLICABILITY

A. This bylaw shall apply to all activities that result in disturbance of one or more acres of land that drains to the Municipal Separate Storm Sewer System. A permit from the Permit Authority shall be required for any construction activity including clearing, grading and excavation, that results in a land disturbance that will disturb equal to or greater than one acre of land, or will disturb less than one acre of land but which is part of a larger common plan of development or sale which will

ultimately disturb equal to or greater than one acre of land, draining to the Town's Municipal Separate Storm Sewer System.

B. Construction activities that are exempt are:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations 310 CMR 10.04 and MGL Chapter 40A, §3;

2. Maintenance of existing landscaping, gardens, or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 100 cubic yards of soil material, or alteration of drainage patterns;

3. The construction of fencing that will not substantially alter existing terrain or drainage patterns;

4. Normal maintenance of Town owned public land, ways, and appurtenances;

5. Repair or maintenance of an individual subsurface septic disposal system, and related elements such as pipes, etc., provided that the post-repair condition drainage is equal to the pre-repair condition.

6. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw section.

7. Maintenance, reconstruction or resurfacing of any public or private way; and the installation of drainage structures or utilities within or associated with such ways that have been approved by the appropriate authorities provided that written notice be filed with the Planning Board fourteen (14) days prior to commencement of activity;

5. RESPONSIBILITY FOR ADMINISTRATION

A. For the purpose of this Bylaw section, as noted in B. below, the term Permit Authority shall indicate the Planning Board or the Zoning Board of Appeals, as appropriate. Any powers granted to or duties imposed upon the Permit Authority may be delegated in writing by the Permit Authority to its employees or agents.

B. To the extent that the Zoning Board of Appeals is the Permit Authority under M.G.L. Chapter 40B and for certain activity, development, construction or reconstruction under the Zoning Bylaw for which the Applicant must also seek a Stormwater Management Permit, then the Zoning Board of Appeals shall also be the Permit Authority in that instance.

C. For all other applications which fall under the purview of this bylaw, the Planning Board shall be the Permit Authority.

D. Applications, plans and accompanying data under this bylaw may be filed simultaneously with and may be incorporated into those plans and documents required in other permitting processes.

E. Planning Board Rules and Regulations. The Planning Board shall adopt, and may periodically amend Rules and Regulations to effectuate the purposes of this Bylaw section. Failure by the Planning Board to promulgate such Rules and Regulations shall not have the effect of suspending or invalidating this bylaw. The Rules and Regulations shall include but shall not be limited to: the size, quantity, and distribution of plans; filing fee; required details for Stormwater Management Plan; Operation and Maintenance Plan; and Inspection and Site Supervision, etc.

F. Stormwater Management Manual

1. The Permit Authority will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy to execute the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Regulations, stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

2. Stormwater Credit System. The Permit Authority may adopt a Stormwater Credit System as part of the regulations authorized by this Bylaw section. This credit system will allow applicants the option to use better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure of the Permit Authority 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 Bylaw.

6. PERMITS AND PROCEDURES

A. Application.

A completed application for a Stormwater Management Permit (SMP) shall be filed with the Permit Authority. The Stormwater Management Permit Application package shall include:

1. a completed Application Form with original signatures of all owners;

2. a list of abutters, certified by the Assessors Office (abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water);

3. Stormwater Management Plan and project description;

4. Operation and Maintenance Plan;

5. payment of the application and review fees;

6. one (1) complete copy filed with the Town Clerk, by the Applicant, which shall serve to establish the filing date.

7. A full electronic copy submitted by e-mail or on a CD.

See Stormwater Management Permit Rules and Regulations for additional filing requirements.

B. Entry. Filing an application for a permit grants the Permit Authority or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, after proper notification to the Applicant at least 24 hours in advance.

C. Public Hearing

1. If an application is filed concurrently for a Definitive Subdivision Plan approval, for a project under the Zoning Bylaw, or for a 40B filing, the public hearing and decision requirements shall follow the requirements of the particular application.

2. To the extent possible, required hearings of the Permit Authority shall run concurrently with the Stormwater Management Permit hearing, and every effort shall be made to handle the permitting process expeditiously.

3. If an application is filed independently of other filings, the Permit Authority shall hold a public hearing within sixty (60) days of the receipt of a complete application and shall take final action within sixty (60) days from the time of the close of the hearing unless such time is extended by agreement between the applicant and the Permit Authority. Notice of the public hearing shall be given by publication in a newspaper of local circulation, public posting, and by certified mail at the Applicant's expense to abutters at least fourteen (14) days prior to the hearing date. The Permit Authority shall make the application available for inspection by the public during business hours at the Hamilton Town Hall.

D. Information requests.
The applicant shall submit all additional information requested by the Permit Authority to issue a decision on the application.

E. Waivers

1. The Permit Authority may waive strict compliance with any requirement of this bylaw or the Rules and Regulations of the Planning Board, where

    a. Such action is allowed by federal, state and local statutes and/or regulations

b. It is in the public interest
c. It is not consistent with the purpose and intent of this bylaw.

2. Any Applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purpose or objectives of this bylaw.

3. All waiver requests shall be discussed and voted on at the Public Hearing for the project.

4. If in the Permit Authority's opinion, additional time or information is required for review of a waiver request, the Permit Authority may continue the hearing to a date certain announced at the meeting. In the event the Applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

F. Actions by the Permit Authority may include:

1. Approve the Stormwater Management Permit Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this by-law;

2. Approve the Stormwater Management Permit Application and issue a permit with conditions, modifications or restrictions that the Permit Authority determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this by-law;

3. Disapprove the Stormwater Management Permit Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this by-law.

G. Failure of the Permit Authority to take final action. Failure of the Permit Authority to take final action upon an Application within the time specified above shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without the Permit Authority's action, the Stormwater Management Permit shall be issued by the Town Clerk.

H. Vote required. A simple majority of the Permit Authority shall be required in order to grant a Stormwater Management Permit.

I. The Permit Authority shall enforce all violations of the Stormwater Management Permit approval and conditions. See Section 12. below for enforcement of violations of this bylaw section which do not fall under a valid Stormwater Management Permit.

J. Appeals A decision of the Permit Authority shall be final. Further relief of a decision by the Permit Authority made under this bylaw shall be reviewable in the Superior Court in an action filed within 60 days of filing a Decision with the Town Clerk, in accordance with M.G.L. Ch. 249 §4.

7. FINAL REPORT

Upon completion of the work, the Applicant shall submit a report (including certified as-built construction plans, as outlined in Subdivision Regulations, Section IV.B.8.a), from a Registered Professional Engineer (P.E.), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

8. CERTIFICATE OF COMPLETION

The Permit Authority will issue a letter certifying completion upon receipt and approval of the Final Report and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.

9. EMPLOYMENT OF OUTSIDE CONSULTANTS

The Permit Authority may employ outside consultants, at the Applicant's expense, under the terms of the Zoning Bylaw, and Planning Board Rules and Regulations, to assist in its permit decision, including but not limited to plan review, drainage and stormwater analysis; to determine conformance with this Bylaw section and other requirements; and for construction inspection, etc.

10. PERFORMANCE GUARANTEE

A. The Permit Authority may require the Applicant to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Permit Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Permit Authority may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Permit Authority has received the Final Report as required by Section 7 of this bylaw and issued a Certificate of Completion.

B. The Planning Board Rules and Regulations shall establish reasonable criteria for assessing the Performance Guarantee.

11. DURATION OF STORMWATER MANAGEMENT PERMIT

A Stormwater Management Permit is granted for a period of three years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

12. ENFORCEMENT of VIOLATIONS Which do not Fall under a Stormwater Management Permit

A. In any instance where a SWM Permit has not been applied for or granted, a disturbance of earth equal to or greater than one acre of land shall constitute a violation of this bylaw section. The Planning Board, or an authorized agent of the Planning Board, shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders

1. The Planning Board or an authorized agent of the Planning Board may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:
   (a) a requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the land-disturbance permit;

   (b) maintenance, installation or performance of additional erosion and sediment control measures;

   (c) monitoring, analyses, and reporting

   (d) remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.

2. If the enforcing person determines that abatement or remediation of erosion and sedimentation 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 may, at its option, undertake such work, and the property owner shall reimburse the Town expenses.

3. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Hamilton, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning 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 Planning 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, as provided in M.G.L. Ch. 59, §57, after the thirty-first day following the day on which the costs were due.

C. Criminal Penalties Any person who violates any provision of this Bylaw, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Hamilton.

D. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch.. 40 §21D and General Bylaw Chapter XIII, *Penalties for Violation* in which case the Planning Board shall be the enforcing person. The penalty for the 1st violation shall be $100.00. The penalty for the 2nd violation shall be $200.00. The penalty for the 3rd and subsequent violations shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. Appeals. The decisions or orders of the Planning Board shall be final. Further relief shall be to a court of competent jurisdiction.

F. 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.

13. SEVERABILITY

If any provision, paragraph, sentence, or clause of this by-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.

CHAPTER XXX

ILLICIT DISCHARGE DETECTION AND ELIMINATION BY-LAW

1. PURPOSE

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. The objectives of this By-Law are:

1. to prevent Pollutants from entering the town's municipal separate storm drain 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.

2. DEFINITIONS

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

AUTHORIZED ENFORCEMENT AGENCY: The Board of Selectmen, as the Board of Public Works, with the Director of Public Works as its Designated Agent.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.) as hereafter amended.

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.

GROUNDWATER: Water beneath the surface of the ground.

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.

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.

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.

MUNICIPAL SEPARATE STORM DRAIN SYSTEM (MS4) or MUNICIPAL STORM SEWER 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 Hamilton.

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.

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

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.

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:

1. paints, varnishes, and solvents;

2. oil and other automotive fluids;

3. non-hazardous liquid and solid wastes and yard wastes;

4. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations;

5. pesticides, herbicides, and fertilizers;

6. hazardous materials and wastes; sewage, fecal coliform and pathogens;

7. dissolved and particulate metals;

8. animal wastes;

9. rock, sand, salt, soils;

10. construction wastes and residues; and

11. noxious or offensive matter of any kind.

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.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

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.

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 M.G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

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.

3. APPLICABILITY

This By-Law shall apply to flows entering the municipally owned storm drainage system.

4. AUTHORITY

A. This By-Law 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 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

B. Nothing in this By-Law is intended to replace the requirements or authority of any other By-Law, state, federal, or superseding authority.

5. RESPONSIBILITY FOR ADMINISTRATION

The Town Manager shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Town Manager may be delegated in writing by him to the Designated Agent or to another authorized agent.

6. REGULATIONS

The Board of Selectmen 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.

7. 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 drain 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 Designated Agent.

8. 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(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. Plowing, sanding, and salting, and other measures during snow and ice conditions;

13. Discharge from street sweeping;

14. Dye testing, provided verbal notification is given to the Designated Agent at least 7 days prior to the time of the test;

15. 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

16. Discharge for which advanced written approval is received from the Designated Agent as necessary to protect public health, safety, welfare or the environment.

17. Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Town Manager, the Board of Selectmen or the Board of Health.

9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

The Designated Agent 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 Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

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.

B. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal Fire and Police Departments and the Designated Agent. In the event of a release of non-hazardous material, the reporting person shall notify the Designated Agent no later than the next business day. The reporting person shall provide to the Designated Agent written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter.

C. 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.

11. ENFORCEMENT

A. The Town Manager shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Civil Relief. If a person violates the provisions of this By-Law, regulations, permit, notice, or order issued thereunder, the Board of Selectmen 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 Town Manager may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) 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 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 Town Manager 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 Town Manager, 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 M.G.L. Ch. 59 §57 after the thirty-first day at which the costs first become due.

F. Criminal Penalties. Any person who violates any provision of this By-Law, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Hamilton.

G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Hamilton may elect to utilize the non-criminal disposition procedure set forth in M. G.L. Ch. 40 §21D and General By-Law Chapter XIII, in which case the Board of Selectmen shall be the enforcing person. The penalty for each violation shall be $100.00 for the first offense, $200.00 for the second violation, and $300.00 for the third violation. 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 Town Manager may enter upon privately owned property for the purpose of performing his duties under this By-Law and regulations and may make or cause to be made such examinations, surveys or sampling as the Town Manager deems reasonably necessary.

I. Appeals. The decisions or orders of the Town Manager 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.

SECTION 12. SEVERABILITY

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.

SECTION 13. TRANSITIONAL PROVISIONS

Property owners shall have 90 days from the effective date of the By-Law to comply with its provisions or petition the Board of Selectmen for an extension provided good cause is shown for the failure to comply with the By-Law during the specified period.

CHAPTER XXXI

TOWN OF HAMILTON
ADOPTION OF
HISTORIC DISTRICT BY-LAW

1. There is hereby established a Historic District, hereinafter called "The District" under the provisions of General Laws, Chapter 40C, as amended, bounded and described as set forth in the copy of the by-law on file with the Town Clerk.

The metes and bounds are shown on a map entitled "Hamilton Historic District, Established 1972" filed with the Town Clerk and to be recorded with the Essex South District Registry of Deeds. Said map is designated as the map required for filing in accordance with the fourth paragraph of Section 3 of said Chapter 40C, as amended. The sources of said map are Assessors Maps #40 and #49 on file with the Board of Assessors of Hamilton.

2. There is hereby established a Historic District Commission, hereinafter called "The Commission", under the provisions of General Laws, Chapter 40C, as amended, consisting of seven members and three alternate members, appointed by the Board of Selectmen. Before making any appointment the Board of Selectmen shall in writing request the names of two nominees from the Hamilton Historical Society, two nominees from the Chapter of the American Institute of Architects covering Hamilton, and two nominees from the Board of Realtors covering Hamilton. One appointment shall be made from the two nominees named by each such organization. If any such organization shall fail to name two nominees within thirty days of such request, the Board of Selectmen may make the appointment without nomination from such organization. The remaining appointments may be made without nomination from any independent organization. At least one member so appointed shall be a resident of or owner of property within the Historic District. When the Commission is first established two members shall be appointed for a term of one year, two shall be appointed for a term of two years, and three shall be appointed for three years. Their successors shall be appointed in like manner for terms of three years. The filling of vacancies in the membership of the Commission, the designation of alternate members to serve as required, and the election of Officers shall be in accordance with the provisions of General Laws, Chapter 40C, as amended.

3. The authority of the Commission shall not extend to the review of any of the categories of buildings, structures, or external architectural features in the District set out in items one through seven of Section 8a of Chapter 40C, as amended.

4. The Commission shall have all the powers and perform all the duties conferred and impaired on Historic District Commissions by the General Laws of the Commonwealth.

5. In accordance with Section 14 of General Laws, Chapter 40C, as amended, the Commission shall have the powers and duties of a Historical Commission, as provided by General Laws, Chapter 40, Section 8D.

6. The Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of General Laws, appropriation, employ clerical and technical assistants or consultants and may accept money gift and expend same for such purposes.

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

I hereby certify that upon motion made by Harold A. Daley duly seconded, it was unanimously voted at the Annual Town Meeting of the Town of Hamilton to adopt the foregoing by-law, March 6, 1972.

ATTEST: Francis H. Whipple - Town Clerk

PROPOSED BY-LAW
FOR HISTORIC DISTRICT
HAMILTON, MASSACHUSETTS
Preamble

The purpose of this by-law is to promote the educational, cultural, economic, and general welfare of the public in keeping with the provisions of the General Laws of the Commonwealth, Chapter 40C, as amended, throughout the preservation and protection of the distinctive outward appearance and characteristics of buildings and places significant in the history of the town, through the maintenance of the appearance and settings of such buildings and places, and through the encouragement of design and construction compatible therewith.

1. There is hereby established a Historic District, hereinafter called "The District", under the provisions of General Laws, Chapter 40C, as amended, bounded and described as follows: Beginning at the SE corner of properly, now or formerly of Stephen Vernon (Parcel 2 - Map No. 49) and running NW 430 degrees ± to the SW corner of said parcel., then turning and running 327' ± to the NW corner of said parcel; then turning SE and running 201' ± along said parcel 2 to the westerly boundary of parcel 3; then turning and running NE 163,66' to the NW corner of said parcel 3; then turning and running NE 144' ±; then turning NE and running across parcel 4 (Map No. 49) a distance of approximately 300' ± along a line that is 50' west of the westerly sideline of Bay Road and to that point where said line intersects the southerly boundary of parcel 5; then following the bounds of parcel 5,115' ± to the NW 66' to the NE and 500' ± to the NW and to the intersection of the shoreline of Cutler's Pond; then turning northerly and running across the Pond a distance of approximately 267' ± to the intersection of the shoreline and the westerly boundary of parcel 7; then following the bounds of parcel 7, 127' ± to the NE and 429.50' southeasterly to the SW corner of parcel 8; then running 82.5' to the NW corner of parcel 8; then running E 106.5' ± to the SW corner of land owned now or formerly by Ockenga (as shown on Plan No. 250 of 1969 s recorded in the Essex South District Registry of Deeds); then running NE 339.7' ± to the NW corner of the property owned now or formerly by Ockenga (as shown on said plan); then running SE 37.4' ± (as shown on said plan) to the SW corner of parcel 10 of Map No. 49; then running in a straight line through the NW corner of parcel 10 to the boundary of Cutler Road and parcel 14 of Map No.49 being a total length of approximately 156' ±; then running W along the

boundary of Cutler Road and parcel 14 of Map No. 49 a distance of approximately 360' ± to the SW corner of parcel 14; then running NE 268.13' to the MW corner of parcel 14 on Map No. 49; there continuing NE 91.35' ± to the NE corner of parcel 13 Map No. 49; then running NE across parcel 32 (now or formerly of Proctor) of Map No. 40 (this course is not a property boundary and is approximately 506' ±) to a point on the boundary between parcels 32 and 33 of Map No. 40 that is 400' ± from the NE corner of parcel 32; then turning northerly and running across parcel 33 a distance of 712' ± to the SW corner of parcel 36 (Map No., 40); then turning and running SE 308' ± to the NW corner of parcel 35; then following the bounds of parcel 35, 156.60' southerly and 90' ± easterly to the westerly sideline of Bay Road; then following said sideline southerly on various courses totaling 998.5' ±, then running E across Bay Road approximately 50' ± to that point where the boundary between parcel 31 of Map No. 40 and parcel 15 of Map No. 49 (now or formerly of Pirie) intersects the sideline of Bay Road, then continuing easterly 125" ± along the northerly boundary of parcel 15; then turning and running SW across parcel 15 a distance of 231' ± to that point on the northerly boundary of parcel 16 that is 125' east of the easterly sideline of Bay Road; then running 234" ± to the NE corner of parcel 16; then running 127" to the SE corner of parcel 16 of Map No. 49; then running on many courses to include all parcel 17 of Map No. 49 and returning to a point which lies on the boundary between parcels 18 and 9, that is 975.84' west of the NE corner of parcel 19; then turning southerly and running 172' ± across parcel 19 to that point on the boundary between parcels 19 and 21 that is 354' east of the SE corner of parcel 20, then turning west and running 354' to the SE corner of parcel 20, then turning south and running approximately 135' ± to that point on the boundary between parcels 21 and 22 that is 320' ± east of the easterly sideline of Bay Road; then turning SE and running 346' ± to the NE corner of parcel 22; then continuing along the boundary between parcels 21 and 22 on three courses of 235', 150' ±, and 75' ± respectively to the NE corner of parcel 23 of Map No. 49; then running SW 125" ± to the SE corner of parcel 23; then running SW 179' along the boundary between parcels 21 and 24 of Map No. 49 to the SE corner of parcel 24; then running NW along the boundary between parcel 24 and Paddock Lane to a point approximately 150' ± from the sideline of Bay Road; then running SW across Paddock Lane approximately 40' ± to the NE corner of parcel 29 of Map No. 49; then continuing SW 105' ± to the SE corner of parcel 29; then running NW 150' to the SW corner of parcel 29; then crossing Bay Road to the SE corner of parcel 3 of Map No. 49 (this course is not a property boundary and is approximately 108' ± long); then following the boundary between parcel 2 of Map No. 49 and Bay Road a distance of approximately 380" ± to the point of origin.

The foregoing metes and bounds are shown on a map entitled "Hamilton Historic District, Established 1972" filed with the Town Clerk and with the Essex South District Registry of Deeds. Said map is designated as the map required for filing in accordance with the fourth paragraph of section 3 of said Chapter 40C, as amended. The sources of said map are Assessors Maps No. 40 and No. 49 on file with the Board of Assessors of Hamilton.

2. There is hereby established a Historic District Commission, hereinafter called "The Commission", under the provisions of General Laws, Chapter 40C, as amended, consisting of seven members and three alternate members, appointed by the Board of Selectmen. Before making any appointment the Board of Selectmen shall in writing request the names of two nominees from the Hamilton Historical Society, two nominees from the Chapter of the American Institute of Architects

covering Hamilton, and two nominees from the Board of Realtors covering Hamilton. One appointment shall be made from the two nominees named by each such organization. If any such organization shall fail to name two nominees within thirty days of such request the Board of Selectmen may make the appointment without nomination from such organization. The remaining appointments may be made without nomination from any independent organization. At least one member so appointed shall be a resident of or owner of property within the Historic District. When the Commission is first established, two members shall be appointed for a term of one year, to shall be appointed for a term of two years, and three shall be appointed for three years. Their successors shall be appointed in like manner for terms of three years. The filling of vacancies in the membership of the Commission: the designation of alternate members to serve as required, and the election of Officers shall be in accordance with the provisions of General Laws, Chapter 40C, as amended.

3. The authority of the Commission shall not extend to the review of any of the categories of buildings, structures, or external architectural features in the District set out in items one through seven of Section 8a of Chapter 40C, as amended.

4. The Commission shall have all the powers and perform all the duties conferred and imposed on Historic District Commissions by the General Laws of the Commonwealth.

5. In accordance with Section 14 of General Laws, Chapter 40C, as amended, the Commission shall have the powers and duties of a Historical Commission, as provided by General Laws, Chapter 40, Section 8D.

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

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

I hereby certify that the foregoing by-law and map were adopted by the Town of Hamilton under Article 17 of the Warrant for the Annual Town Meeting held March 6, 1972, and approved by Robert H. Quinn, Attorney General on October 25, 1972, Published in the Hamilton-Wenham Chronicle December 20, 27, 1972 and January 3, 1973.

ATTEST: Francis H. Whipple - Town Clerk

CHAPTER XXXII

HAMILTON AFFORDABLE HOUSING TRUST

SECTION 1: Authority/establishment

Pursuant to G.L. c. 44, § 55C, there is hereby established an affordable housing trust fund to be known as the Hamilton Affordable Housing Trust Fund ("Trust"), which shall be subject to the supervision of the board of selectmen of the town of Hamilton. Said Trust shall be governed by a board of trustees.

SECTION 2: Purposes

The Board of Trustees of the Hamilton Affordable Housing Trust shall:

A. Exercise its powers and perform its duties for the purpose of investigating and implementing alternatives for the provision of and providing affordable housing for persons of low and moderate income (as defined in G.L. c. 44 § 2), and

B. Receive and expend funds for the acquisition, rehabilitation, renovation, construction, financing or refinancing of property within the Town of Hamilton for the purposes of providing affordable housing and to further provide mechanisms to ensure such use.

SECTION 3: Composition

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

SECTION 4: Term of Office

Upon establishment of the Trust, the Board of Selectmen shall forthwith appoint (2) Trustees whose initial terms shall expire on the first June 30 after appointment and (3) Trustees whose initial terms shall expire on the second June 30 after appointment. Thereafter, the Trustees shall be appointed for a two (2) year term commencing on July 1 and ending on June 30 or until such time as a successor is appointed, should said appointment be delayed.

SECTION 5: Organization

The Trustees shall annually elect one Trustee to serve as Chairperson. Sub-committees and/or ad hoc task related committees may be created by a majority vote of the Trustees to carry out the purposes of the Trust.

SECTION 6: Filling of vacancies

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

SECTION 7: Meetings, quorum

Meetings of the Trust shall be held at the call of the Chairperson or any two (2) Trustees. Four (4) Trustees shall constitute a quorum and a majority vote of the full membership shall be required to approve any motion.

SECTION 8: Powers and duties

In addition to the powers and duties specified in G.L. c. 44, § 55C, the Board of Trustees shall have the following additional powers and duties:

A. To establish criteria and/or qualifications for affordable housing recipients and make expenditures in accordance with the Trust's above-stated purposes.

B. To enter into an agreement with the Town of Hamilton, wherein the Board of Trustees shall undertake to make to the Town, annual payments in lieu of taxes in connection with any real property acquired and owned by the Board; entering into such agreement shall not be mandatory but shall be at the discretion of the Board of Trustees.

SECTION 9: Powers Reserved by the Board of Selectmen

The Board of Trustees shall not have the following powers which are reserved and remain with the Board of Selectmen, for the purposes of this bylaw only and not all property acquisitions, and are subject to approval by a majority vote of the Board of Selectmen:

A. The acquisition or disposition of real property.

B. The expenditure of trust funds for the acquisition of real property.

C. The borrowing of money and the mortgaging and pledging of trust assets.

SECTION 10: Treasurer-Collector as custodian

The Treasurer-Collector shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds. He or she shall invest the funds in the manner authorized by M.G.L. c. 44, §§ 55, 55A and 55B. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust.

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