

**TOWN OF LONGMEADOW BY-LAWS  
 UPDATED TO INCLUDE AMMENDMENTS THROUGH 2009 ANNUAL TOWN MEETING  
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## ARTICLE ONE

### GENERAL PROVISIONS

#### Chapter 100

##### Title, Authority, Amendments

###### **1-101. Title.**

These By-Laws are the By-Laws of the Town of Longmeadow, Commonwealth of Massachusetts.

###### **1-102. Home Rule Charter.**

By vote of the Town on May 18, 2004, and pursuant to Article LXXXIX (89) of the Amendments of the Massachusetts Constitution and Chapter 43B of the General Laws of the Commonwealth (the Home Rules Procedures Act), the town adopted a Home Rule Charter as the governing framework of the town. That charter is incorporated in these By-Laws by reference.

###### **1-103. Authority.**

These By-Laws are in effect by reason of their having been adopted by the Town Meeting of the Town of Longmeadow and approved by the Attorney General of the Commonwealth.

###### **1-104. Amendment.**

These By-Laws may be amended as authorized by the General Laws of the Commonwealth.

###### **1-105. Citation Form.**

In documents of the Town of Longmeadow, these By-Laws are cited in the following form: By-Laws 1-102; By-Laws 3-410; By-Laws 4-506; etc. In a writing that is not a document of the Town of Longmeadow, these By-Laws are cited in the following form: Longmeadow By-Laws 1-102; Longmeadow By-Laws 3-410; Longmeadow By-Laws 4-506; etc. The Home Rule Charter referenced in Section 1-102 above is cited in these By-Laws as HRC 3-3; HRC 4-3; HRC 5-3; etc. Massachusetts General Laws appearing in these By-Laws are cited as MGL.

###### **1-106. Penalties.**

A penalty provided for the violation of these General Bylaws shall be for each violation. In the case of a continuing violation, each day in which the violation occurs shall be considered a separate violation. Whoever violates any provision of these General Bylaws shall, unless otherwise provided in these General Bylaws, pay a fine of twenty-five dollars (\$25) on the first offense, and a fine of one-hundred dollars (\$100) on the second offense and subsequent offenses for each violation.

#### Chapter 200

##### Definitions

###### **1-201. Charter.**

The word "Charter" shall mean the Longmeadow Home Rule Charter, described in Section 1-102 together with any and all amendments thereto.

**1-202. Charter Terms.**

Terms appearing in the Charter and also appearing in these By-Laws shall have the meaning ascribed to them in the Charter.

**1-203. Commonwealth.**

The term "Commonwealth" means the Commonwealth of Massachusetts.

**1-204. Department.**

The word "department" includes an officer, board, committee and commission.

**1-205. Head of Department.**

The term "head of department" means the person who has responsibility for supervision of the day-to-day activities of the department.

**1-206. Occupant.**

As applied to a building or to land, the word "occupant" includes a person who occupies the whole or a part of a building or land, either alone or with others, regardless of whether the person occupies the building or the land as a tenant or as an owner.

**1-207. Officer.**

The term "officer" includes a person who is elected at the annual town election and a person who is a head of a department.

**1-208. Owner.**

As applied to a building or to land, the word "owner" includes a part-owner, joint owner, tenant in common, joint tenant, and tenant by the entirety of the whole or of a part of the building or the land.

**1-209. Person.**

The word "person" includes a corporation, an unincorporated business entity, a partnership, and a joint venture.

**1-210. Street.**

The word "street" includes a public way, highway, town way, alley, square, lane, court, crossroad, sidewalk, and a part of a public place that forms a traveled part of a highway or public way.

**1-211. Town Manager.**

"Town Manager" means that person who is the chief administrative officer of the town who is responsible to the Select Board and for the proper administration of all town affairs assigned to the town manager under the Charter. HRC 5-2

**1-212. Vote of the Town.**

The term "vote of the town" includes a vote on an issue that is taken at a meeting of the town at which a quorum is present and a vote of eligible voters in a town election.

## **Chapter 300**

### **Rules for Interpretation**

#### **1-301. Singular and Plural/Gender.**

A word in the singular includes the plural and a word in the plural includes the singular, HRC 8-6. Words importing the masculine gender shall include the feminine gender and words importing the feminine gender shall include the masculine.

#### **1-302. Severability.**

The provisions of any By-Law are severable. If the application of any such provision of any By-Law is held invalid, the application of the By-Law and its provisions shall not affect the validity of the remainder of the By-Law.

#### **1-303. Construction.**

Section 1-301 does not apply to a provision of these By-Laws if application of the section creates a meaning that is inconsistent with, or repugnant to, the context in which the need for interpretation exists.

#### **1-304. Specific Provisions.**

If any specific provision of a By-Law conflicts with any provision expressed in general terms, the specific provision shall prevail. HRC 8-3

#### **1-305. Relation to Massachusetts General Laws.**

If a conflict exists between a provision in these By-Laws and a provision in the General Laws of the Commonwealth, the provision in the General Laws is the controlling provision.

#### **1-306. Relation to Charter.**

If any conflict exists between a provision in these By-Laws and a provision in the Charter, the provision in the Charter is the controlling provision.

## **Chapter 400**

### **Provisions of General Applicability**

#### **1-401. Powers.**

An officer of the Town has the powers given that person under the Charter and these By-Laws and those which are given to said officer by the General Laws of the Commonwealth.

#### **1-402. Acting Officer.**

If a power has been given to an officer of the Town, and if that office is vacant, the person, if any, who has authority to act as that officer also has authority to exercise the power.

## **Chapter 500**

### **Noncriminal Disposition of Certain Violations**

#### **1-501. Violations Covered.**

*Violations of Subsections 1-501(a) and (d) below shall be subject to non-criminal disposition procedures pursuant to General Laws Chapter 40, Section 21D and violations of*

***Subsections 1-501 (b) and (c) below shall be subject to the non-criminal disposition procedures contained in General Laws Chapter 148A.***

(a) Any violation of an order of the Longmeadow Board of Health relating to public health which is authorized by the general laws, any special law applicable to the Town of Longmeadow, the provisions of the state sanitary code or other state regulation, or any Longmeadow ordinance, by-law, rule or regulation;

(b) Any violation of an order of the Longmeadow Building Commissioner relating to public safety which is authorized by the general laws, any special law applicable to the Town of Longmeadow, the provisions of the state building code or other state regulation, or any Longmeadow ordinance, by-law, rule or regulation;

(c) Any violation of an order of the Chief or Fire Safety Officer of the Longmeadow Fire Department relating to public safety which is authorized by the general laws, any special law applicable to the Town of Longmeadow, the provision of the state fire prevention code or other state regulation, or any Longmeadow ordinance, by-law, rule or regulation; or;

(d) Any violation of any other Longmeadow ordinance or by-law or any rule or regulation of any Longmeadow officer, board or department.

**1-502. Amount of Penalty.**

The penalties for the infractions set forth in section 1-501 above shall be as specifically set forth in the respective order, ordinance, by-law rule or regulations which is violated but, if no such penalty is provided, the penalty shall be as set forth in Article One, Chapter 100, Section 1-105 of these by-laws.

**1-503. Enforcement Procedure.**

The violations set forth in Section 1-501 above shall be disposed of in keeping with the "civil infractions" procedures set forth in Massachusetts General Laws, Chapter 90G.

**Chapter 600**

**Savings Provisions**

**1-601. Savings Clause.**

These By-Laws do not affect any act that has been done, any right that has accrued, any penalty that has been incurred, any suit, prosecution or proceeding that is pending, or the tenure of office of a person who holds office at the time that these By-Laws take effect.

*(Reserved for Future Enactments)*

**Chapter 700 (1-701 et seq.)**

**Chapter 800 (1-801 et seq.)**

**Chapter 900 (1-901 et seq.)**

**ARTICLE TWO**

**TOWN GOVERNMENT**

**Chapter 100**

**Provisions Applicable to Article Two**

**2-101. Compensation Limitation.**

A person who serves on a committee of the Town is not entitled to receive compensation for his services unless the compensation has been voted by the Town.

**2-102. Annual Reports.**

The Town Manager, each Town officer, board, committee and department shall prepare an annual report and submit that report in writing to the Select Board.

**Chapter 200**

**Select Board**

**2-201. Executive Authority.**

The executive powers of the Town shall be vested in the Select Board, as provided in the Charter. Without limiting the foregoing, and as also provided in the Charter, from and after December 1, 2004, the Select Board shall be the Water and Sewer Commission, and each Select Person shall be a Water and Sewer Commissioner [HRC 3-2(b); 9.5(f)].

**2-202. Member.**

A person becomes a member of the Select Board by being elected at a town election.

**2-203. Term of Office.**

The term of office of a Select Person is three (3) years, (except as may otherwise be provided in the Charter for those members elected at the Special Election held on October 5, 2004) and until his successor has been elected and has qualified for the position. [HRC 9-5(a)]

**2-204. Vacancy.**

If a vacancy occurs in a position on the Select Board, the vacancy is filled according to Massachusetts General Laws, Chapter 41, Section 10.

**2-205. Office Limitation.**

A person who is a Select Person shall not hold any other office in the Town by appointment of the Select Board except as provided in these By-Laws.

**2-206. Organizational Meeting.**

Within fifteen (15) days after the annual election of the Town, the persons who hold the position of Select Person shall meet and organize as the Select Board.

**2-207. Town Manager.**

The Select Board shall appoint a Town Manager, as provided in the Charter. The Town Manager shall have such powers and duties as are provided for in the Charter [HRC 5].

**2-208. Annual Select Board Report.**

The Select Board shall prepare an annual report and shall include in that report:

- (a) A statement of the expenditures of the Board in as much detail as is practicable, and
- (b) A clear and concise account of the activities of the Board during the year.

**2-209. Annual Town Report.**

The Select Board shall compile and publish in one volume an annual town report. The Select Board shall include in the annual town report:

- (a) The annual report of the Town Manager, each Town officer, board, committee, department and commission (except that the Select Board may omit from the printing of the annual report of an officer, board, committee or commission such financial data relating to the activities of that officer, board, committee, department or commission as is reflected in the report of the Finance Director);
- (b) A complete list of the elected Town officers, with their salaries or compensation, or both;
- (c) The organization of each board, committee or commission and the expiration of the term of office of each member;
- (d) A complete list of the appointees for the year, with their salaries or compensation, or both, including the salaries or compensation of the Town Manager, department heads, Superintendent of Schools, the Fire Chief and the Chief of Police (but otherwise the salaries or compensation of the school, fire and police department and other department personnel shall be given in the aggregate);
- (e) A copy of the warrant for the next annual town meeting (except that the Select Board may choose to print the warrant for that meeting as a supplement that is not bound in the same volume with the annual town report);
- (f) The municipal jury list, as long as applicable;
- (g) A statement, in detail, of the votes cast by the Town at the last preceding town elections and at the town meetings that have occurred during the year; and
- (h) Such other matters as are determined by the Select Board or required by law.

**2-210. Administrative Organization.**

A complete and current listing of all town departments shall be made available in the Annual Report in the Town Manager's office.

**2-211. Administration of Personnel.**

- (a) The Select Board, and the Town Manager, responsible to the Select Board, shall have the authority provided in the Charter regarding overall personnel policies, procedures and compensation and the responsibility for the administration thereof in accordance with the Charter, those policies, procedures, and with law.
- (b) This program does not affect or apply to employees for whom the School Committee is the Employer, but otherwise affects and covers all exempt and non-exempt employees of the Town, except as may be provided in the Charter.

## **Chapter 300**

### **Town Management**

#### **2-301. Appropriation Required.**

A person shall not spend Town funds or incur liability on behalf of the Town if there has not been an appropriation that is sufficient to meet the expenditure or liability together with all prior unpaid liabilities that are payable from the appropriation.

#### **2-302. Diversion Prohibited.**

A person shall not spend Town funds for a purpose that is not within the purposes for which those funds were appropriated unless the proposed expenditure is approved by a vote of the Town.

#### **2-303. Surplus Personal Property.**

After receiving prior approval in writing from the Town Manager, a Town officer, board, committee or commission has authority to dispose of excess or surplus personal property of the Town by sale, exchange, trade or donation. If disposal of surplus property produces a monetary asset of any kind, the agency that disposed of the property shall deliver the asset received from the property to the Town Treasurer. The Town Treasurer shall deposit the asset in an appropriate Town account. In all aspects the disposal of surplus property shall be in accordance with Massachusetts General Laws, Chapter 30 B.

#### **2-304. Town Records.**

(a) A person who is a Town officer or a member of a board, committee or commission shall turn over to his successor in office all books, papers, documents, and other property in his custody that belong to the Town.

(b) An officer, board, committee or commission shall turn over to the Town Clerk any book, paper or document that belongs to the Town and that is not necessary for current use by the officer, board, committee or commission.

#### **2-305. Litigation of Claims.**

The Select Board shall prosecute or defend any claim of or against the Town, except as otherwise required by statute.

#### **2-306. Compromise of Claim.**

The Select Board has authority to compromise and settle a claim against the Town if the cost of the settlement to the Town does not exceed Five Thousand (\$5,000) Dollars.

#### **2-307. Town Counsel.**

The Select Board shall, annually, within a reasonable time after the organization of the Select Board following the annual election, appoint some member of the Bar *to be Town Counsel*. The Town Counsel receives for his services a salary and such other compensation that is recommended by the Select Board and appropriated by the Town. The Town Counsel is subject to removal by the Select Board at any time.

#### **2-308. Special or Associate Counsel.**

Except as such authority is conferred upon another officer of the Town by a provision of the General Laws of the Commonwealth, the Select Board has authority to employ special counsel to

assist the Town Council whenever, in their judgment, necessity for special counsel exists. The Town Council has authority from time to time, with the approval of the Select Board, to engage the services of a special or associated counsel to assist him in the performance of the duties of Town Council. Any compensation of special or associate counsel is subject to approval by the Select Board.

**2-309. Duties of the Town Counsel.**

(a) The Town Counsel shall draft all legal instruments and do every act of professional legal service that is required of him by the Select Board or by a vote of the Town.

(b) The Town Counsel shall at any time furnish legal advice to an officer, board, committee or commission that requires the opinion of the Town Counsel upon any subject concerning the work of the office from which the request comes.

(c) When requested by an officer, board, committee or commission, the Town Counsel shall furnish a written opinion on any legal question that is submitted to him concerning the work of the officer, board, committee or commission.

(d) The Town Counsel shall have charge of all suits brought by the Town and shall defend all actions or suits brought against the Town or against an officer, board, committee or commission of the Town in his or its official capacity.

(e) The Town Counsel shall represent the Town or an officer, board, committee or commission of the Town in any proceeding to which it is a party before any court, government agency or body, arbitration or mediation panel or board of referees.

**2-313. Town Clerk.**

The Town Clerk shall have such powers and duties as are required of town clerks under Massachusetts law and, in addition, such other powers and duties as may be assigned him or her by the Charter, Town Manager, and/or Finance Director. Unless otherwise controlled by statute or directed by the Town Manager and/or the Finance Director, the Town Clerk's duties shall include the following:

(a) To receive and preserve all original documents relating to the affairs of the Town;

(b) To notify or cause to be notified each person who is elected by the Town or appointed to a committee;

(c) To furnish each board, committee and commission with a copy of each vote affecting that board, committee or commission;

(d) To create and with the approval of the Select Board to establish procedures that are designed to make the records of the Town secure;

(e) Subject to procedures for the security of documents, to make the documents of the Town available for public inspection and reading;

(f) Subject to procedures for the security of documents, to establish circumstances under which documents may be taken from his office;

- (g) Subject to procedures for the security of documents, to propose, and with the approval of the Select Board and the Finance Director and Town Manager, establish written criteria for the destruction of documents that are no longer needed for public purposes;
- (h) To receive and preserve copies of the annual reports of Town officers, boards, committees and commissions;
- (i) To index all records and reports that relate to the affairs of the Town;
- (j) To maintain a set of the By-Laws of the Town that reflects all changes that have occurred since the Bylaws were adopted;
- (k) To include in the By-Laws reference to any change, addition or limitation of the By-Laws that results from federal or state legislation or administrative regulation;
- (l) To prepare, on or before August 1 of each year, a current form of the By-Laws and distribute a copy to each officer, board, committee or commission of the Town; and
- (m) To make copies of the current form of the By-Laws available for purchase by the public through the Town office or the Town library or both.

**2-314. Town Treasurer.**

The Town Treasurer shall have all the powers and duties set forth in Chapter 41, Sections 35 through 37 of the General Laws of the Commonwealth and such others as may be required by the Town Manager and/or the Finance Director.

**2-315. Security Plan.**

The Finance Director shall develop and, with the approval of the Town Manager and Select Board, shall implement a plan for the security of the monetary assets of the Town and town safes or vaults. The Director of Finance and Administration shall develop a coordinated system of security for the monetary assets and the documents of the Town.

**2-316. Annual Audit**

(a) The Town shall at least once a year have an audit of the financial records and accounts of the Town performed by an independent auditor. The audit shall be addressed and delivered to the attention of the Select Board.

(b) The Select Board shall cause proposals for the retention of an independent auditor to be sent out at least ninety (90) days prior to the commencement of a fiscal year for the Town, and the Select Board shall hire the independent auditor for the period desired prior to the commencement of that fiscal year. The retention may cover a multi-year period. The proposal shall contain such other terms and conditions as the Select Board deems appropriate for the hiring of an independent auditor for the Town and the performance of the audit, taking into account the advice and counsel of the Audit Committee regarding the proposal. The proposal shall also take into account any laws, regulations and By-Laws as may be applicable to such audits and generally accepted audit standards for towns such as Longmeadow. Contracts for the services of the independent auditor for the Town shall be re-bid on a competitive basis at least once in every five (5) fiscal year period.

(c) The Select Board shall have the sole and exclusive responsibility and authority to retain, direct, discharge and replace the independent auditor, taking into account advice and counsel of the Audit Committee. No person or entity shall serve as independent auditor for the Town for a period of more than five (5) consecutive fiscal years except under new contracts awarded in a competitive bidding process.

(d) The independent auditor shall be required to meet during the performance of the audit with the Select Board or Audit Committee as either may request. The Audit Committee shall give advice and counsel to the Select Board during the audit process and on the sufficiency of and matters contained in any audit delivered to the Select Board.

**2-317. Accountant.**

The Town Manager shall appoint a Town Accountant to hold office for three (3) years and until his successor is qualified. The Town Accountant shall not perform any function of his office until he has sworn to faithfully perform his duties. The Town Accountant shall perform the duties and possess the powers of Town Auditor as defined in Sections 50 through 53 inclusive of Chapter 41 of the General Laws of the Commonwealth. He shall cooperate with the independent auditor in the annual audit of the financial records and accounts of the Town. The Town Accountant shall, in addition, have all of the powers and duties as set out in Sections 55 through 61 of Chapter 41 of the General Laws of the Commonwealth, and such others as may be required by the Town Manager and the Finance Director.

**2-318. Balance Requests.**

Upon request from an officer, board, committee or commission of the Town, the Town Accountant shall inform the officer, board, committee or commission of the balance in his hands of any appropriation to of the officer, board, committee or commission.

**2-319. Licenses and Permits; Unpaid Fees.**

(a) The Department of Finance and Administration shall be responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission, or division hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees assessments, betterment 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 the law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such 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, betterment or other municipal charges, payable to the municipality as of 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 provisions of the law.

This section shall not apply to the following licenses and permits: open burning, Sections Thirteen of Chapter Forty-eight; bicycle permit, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section 21E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, and trapping licenses, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

*(d)The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.*

## Chapter 400

### Property Records and Assessment

#### **2-401. Board of Assessors.**

The Board of Assessors shall maintain records that show the number of assessed polls, the value of real estate and personal property assessed, the number and assessed value of motor vehicles, and the rate of taxation and the basis of its computation, and have such others as may be required by the Town Manager and the Finance Director.

#### **2-402. Tax Records.**

The Department of Finance and Administration shall maintain records that show the amount committed to him for collection, the amount of interest collected, the amount paid to the Treasurer, the amount of abatements and discounts, the amount of uncollected taxes and street, sewer, sidewalk, and other assessments in detail that remain uncollected for each year and cash on hand. The Collector shall have such powers and duties as are required of collectors of taxes under Massachusetts law and such other duties as may be required by the Town Manager and/or Finance Director.

#### **2-403. Delinquent Accounts.**

The Department of Finance and Administration shall maintain records that show each tax or assessment that is delinquent and the identity of the taxpayer against whom the tax or assessment has been levied.

## **Chapter 500**

### **Public Health and Safety**

#### **2-501. Board of Health.**

Under the provisions of Chapter 41, Section 21 of the General Laws of the Commonwealth, the Town has elected to have a Board of Health that is appointed by the Select Board.

A member of the Board of Health has a three-year term of office. The initial appointments of members were to terms of one, two, and three years; and the term of one member expires each year. If a vacancy occurs in a position of member of the Board, Select Board shall appoint a person to serve for the balance of that term.

#### **2-502. Board of Health Records.**

The Board of Health shall maintain records that show:

- (a) Complaints made to the Board of Health;
- (b) Nuisances reported and nuisances abated;
- (c) Those diseases required by state regulation to be reported to the local Board of Health;
- (e) Deaths and causes of deaths; and
- (f) Licenses issued or terminated.

#### **2-504. Wells.**

A person shall not dig, bore, drive or drill a well if he does not have a permit to do so from the Department of Public Works. A person shall not install a new well or convert from a public to a private water system without first obtaining a permit from the Board of Health. A person shall not connect a well to a water system that is also connected to the water system of the Town of Longmeadow.

#### **2-505. Well Water.**

A person shall not use water from a well for domestic water purposes until the owner of the property on whose land the well is located has provided to the Board of Health of the Town of Longmeadow an analysis of a water sample, certified by a testing agency acceptable to the Board of Health, that shows that the water provided by the well is free from pathogenic bacteria or other disease producing organism and does not contain a chemical or mineral substance that is capable of causing unfavorable physiological effects upon a person who consumes the water.

#### **2-507. Fire Chief.**

The Town Manager, subject to the approval of the Select Board, shall appoint a Fire Chief.

#### **2-508. Fire Department.**

The Fire Department shall maintain records that show:

- (a) A statement of the property and apparatus that is in the possession of the Fire Department and the condition of that property and apparatus;
- (b) A listing of the calls made during the year;
- (c) An estimate of property damage and loss during the year;
- (d) A statement of the fire prevention activities of the department during the year; and
- (e) Other information that demonstrates the activities of the department during the year.

**2-509. Ambulance Fee.**

A person who is transported in the Town Ambulance shall pay a fee as set by the Select Board from time to time, and the Select Board has authority to waive the ambulance fee if financial hardship of the user is demonstrated to the Select Board. The Town shall not provide ambulance service that is not an emergency or to a medial facility. The Fire Department provides the ambulance service and shall coordinate all patient billing activities.

**2-510. Forest Fire Warden.**

The Forest Fire Warden shall maintain records that show the property loss caused by forest fires during the year and shall from time to time offer to the Town Manager recommendations concerning the prevention of forest fires. Insofar as is practicable, the Forest Fire Warden and the Fire Chief shall offer to the Town Manager a coordinated plan for fire prevention.

**2-511. Chief of Police.**

The Town Manager, subject to the approval of the Select Board, shall appoint a Chief of Police.

**2-512. Police Department Records.**

The Police Department shall maintain records that show:

- (a) A statement of the property that is in the possession of the Police Department and the condition of that property;
- (b) A statement of the activities of the department, including the number of offenses reported (on the basis of established categories of offenses), the number of arrests and the disposition of the offenses for which arrests were made;
- (c) A statement of the activities of the department relating to crime prevention; and
- (d) Other information that demonstrates the activities of the department in the course of the year.

**2-513. Constables.**

The Town Manager shall annually appoint, for a term of one (1) year, at least two (2) and not more than four (4) constables each of whom must be a resident of the Town of Longmeadow.

**2-514. Sealer of Weights and Measures.**

The Sealer of Weights and Measures shall maintain records that show the activities of his department, including receipts and expenditures, a statement of the standard of weights and measures used in the Town and on the number and results of inspections made year to year.

## Chapter 600

### Public Works and Services

#### **2-601. Water and Sewer.**

**(a) Water and Sewer Commissioners.** The Water and Sewer Commissioners shall have exclusive jurisdiction over all water supplies, water service pipes (to and including the water meters), water mains, fire hydrants, sewers and drains, connection pipes leading from private properties to sewers and drains.

**(b) Right of Passage.** The Water and Sewer Commissioners shall have the authority to exercise any right that the Town has to enter upon and pass over premises where the Town has an easement of way for the construction or maintenance of pipes, mains, sewers or drains that are within the jurisdiction of the Water and Sewer Commissioners.

**(c) Rules and Regulations.** The Water and Sewer Commissioners shall have the authority to make rules and regulation to regulate the introduction, supply and use of water, to regulate the fee to be charged for the installation or maintenance of water meters, to determine and assess water rates and sewer usage rates, and to regulate the collection, transmission and treatment of waster water.

**(d) Limitation on Use.** When, in the opinion of the Water and Sewer Commissioners, an emergency exists as a result of drought, hurricane, conflagration or other disaster, the Commissioners have the authority upon notice to the consumers by publication to establish special rules and regulations concerning the use of water during the existence of an emergency, including limits on the quantity of water used, the manner in which water is used or the purpose for which water is used.

**(e) Building Code.** Water shall not be supplied to a building unless the pipes and fixtures of the building conform to the *State Building Code*.

**(f) Water Service.** The Department of Public Works shall install and maintain in proper working condition a water meter on each service and shall charge for water by measure. The DPW shall require a separate connection for each estate.

**(g) Water Meter Fee.** A fee shall be charged for the initial installation of a water meter and water service; and the Commissioners have the authority to charge a fee for the replacement or the repair of a water meter.

**(h) Water Statements.** At least semi-annually, and at such other appropriate times, a statement shall be issued, to a water user or the owner of premises. The user at a premises may request and receive a copy of the statement.

**(i) Interim Statement.** Upon request of a water user, the Department of Public Works may provide an interim meter reading; and the Water and Sewer Commissioners have the authority to establish an appropriate service charge for the interim meter reading.

**(j) Billing and Record Keeping.** The Finance and Administration Department shall keep and maintain the books, accounts and records of the Water and Sewer Commissioners, the collection of monies due the Town and the preparation of such reports as the Commissioners or Town Manager requires.

**(k) Water Records.** The Finance and Administration Department, in conjunction with the Public Works Department and Water and Sewer Commission, shall maintain records that show:

- (i) The receipts and expenditures of the Commissioners;
- (ii) The names of all persons who use water, the address at which the water is used, the nature of the use;
- (iii) The number of water users;
- (iv) The amount charged for water service;
- (v) The number and amount of rebates;
- (vi) The number of cases in which water has been shut off; and
- (vii) Such other information as the Commissioners may require.

**(l) Abatement.** The Water and Sewer Commissioners have authority to make an abatement on a charge for water in an appropriate case.

**(m) Non-Payment.** If a bill for water services remains unpaid for thirty (30) days after the bill is due, the Department of Finance and Administration shall send a notice to the delinquent; and, if the bill remains unpaid for fifteen (15) days thereafter, the Department of Finance and Administration shall inform the Water and Sewer Commissioners, who have the authority to cause the water supply to be turned off. If the water supply has been turned off at a water use location, the Commissioners shall not cause the water to be turned on again until the amount due, together with Five (\$5) Dollars for the notice and Twenty-five (\$25) Dollars for the restoration of service have been paid.

**(n) Violation of Water Regulations.** A person shall not violate a rule or regulation established by the Water and Sewer Commissioners.

**(o) Water Report.** The Water and Sewer Commissioners shall include in their annual report:

- (a) A statement of receipts and expenditures during the year;
- (b) Statistics that reflect the quantity of water and sewer service during the year;

(c) Additions to and withdrawals of water, sewer and drainage systems during the year; and

(d) The number of new and replacement fire hydrants installed during the year.

**2-602. Public Works -- Streets.**

The Director of Public Works shall cause to be maintained records that show the repair and maintenance of the streets, including a record of the expenditure of monies by the department and a listing of the streets and ways that were accepted or abandoned by the Town during the year

**2-603. Tree Warden.**

The town shall have a Tree Warden located with in the Public Works Department. The Tree Warden shall be appointed annually by the Town Manager. The Tree Warden shall have all duties as are provided for under MGL Chapter 87 and other such duties as the Town Manager and Director of Public Works assign.

(a) The Tree Warden shall maintain records that show the activities of his office, including a record of receipts and expenditures. He shall from time to time make recommendations to the Select Board and Town Manager regarding the care of trees in the Town.

(b) Harming Trees. A person shall not trim, cut down or remove a tree or shrub from land that is owned or controlled by the Town of Longmeadow unless he has first obtained written authorization from the Tree Warden.

**2-604. Park and Recreation Department.**

The Director of the Parks and Recreation Department shall maintain records that show the activities of the department, including the receipts and expenditures of the department, and that lists and describes the property that is under the Department's jurisdiction.

**2-605. Recycling.**

(a) **Appointment.** The Select Board shall appoint a Recycling Commission consisting of not less than three (3) nor more than seven (7) members and shall include as one of the members the Director of Public Works (or the person who is acting in that capacity).

(b) **Recycling Commission Term of Office.** The term of office on the Recycling Commission is three (3) years. The Select Board shall appoint the original members to terms of one (1), two (2) or three (3) years, to establish a pattern in which approximately one-third of the members are appointed each year. A member of the Commission serves until his successor has been appointed. The Select Board has authority, after a public hearing, to remove a member of the Commission for cause.

(c) **Recycling Plan.** The Recycling Commission shall create and propose to the Select Board a plan for recycling paper, metal, glass and such additional materials as appear to be appropriate. The Commission has authority to propose that the plan be established for the Town individually or for the Town in agreement with other cities and towns. The Commission shall include in the plan curbside collection of recyclable materials. The commission shall, in preparation of the plan, assume participation by all residents in the Town. The plan becomes effective upon approval by the Board of Health and the Select Board.

**(d) Mandatory Separation of Recycling Materials.**

**(1) Recycling Program.** There is hereby established a program for the mandatory separation of certain recyclable material from trash or rubbish by the residents of the Town of Longmeadow.

**(2) Definitions.** Recyclables are hereby defined as discarded materials which may be reclaimed and which are considered by the Recycling Commission as saleable or recyclable. For the purposes of this bylaw recyclables shall include the following: aluminum, glass, ferrous metal cans, plastic containers, corrugated, mixed paper, other material determined to be recyclable by the Recycling Commission.

**2-628. Temporary Repairs to Private Ways**

Section 1. Temporary Repairs:

The Town Manager can authorize temporary repairs to private ways costing less than \$2000.00, providing that:

1. The temporary repairs may include grading, filling and scraping of a gravel roadway but not more that two (2) times annually.
2. Drainage shall not be included
3. The majority of the abutters petition the Town Manager for the repairs to be made.
4. The Town Manager receives an advisory report from the Director of Public Works containing a recommendation on the proposed work, such report shall include whether the repairs are for the protection of the health and safety of the general public using these roads.
5. The private way must have been opened to the public use for six (6) years or more.
6. No Betterments shall be charged for repairs in excess of \$2,000.00.
7. No cash deposits will be required for work performed under this section.

Section 2 Liability:

The Town shall not be liable for any damages to persons or property caused by such repairs, nor shall M.G.L. c84 s25 apply to such repair.

Section 3 Indemnity Agreement:

The Town Manager shall require an indemnity agreement to be executed by all the petitioners indemnifying the Town for all claims and damages which my result from making such repairs.

**Chapter 700**

**Wetlands Control**

**2-701. Wetlands Control.**

**(a) Purpose.** The purpose of this by-Laws is to protect the flood plains and wetlands of the Town of Longmeadow by controlling activities deemed to have a significant effect upon wetland values which include but are not limited to the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution control, fisheries, shellfish, wildlife, recreation and threatened or endangered species (collectively, the "interests protected by this by-Laws").

No person shall remove, fill, dredge, alter or build upon or within one hundred (100) feet of any bank, freshwater wetland, beach, flat, marsh, wet meadow, bog, swamp or upon or within

one hundred (100) feet of any brook, creek, river, stream (intermittent or otherwise), pool or lake, or upon or within one hundred (100) feet of any land under said waters or upon or within one hundred (100) feet of any land subject to flooding or inundation, or within one hundred (100) feet of the 100-year storm line, other than in the course of maintaining, repairing or replacing but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, sewer, telephone, telegraph and other telecommunication services, without filing written application with the Longmeadow Conservation Commission for a Permit so to remove, fill, dredge, alter or build upon, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a Permit issued to this By-Law. The provisions of this Section shall not apply to work performed for maintenance of land in agricultural use.

**(b) Application.** Application for a Permit may be identical in form to a Notice of Intent filed pursuant to Massachusetts General Laws, Chapter 131, Section 40, and shall be sent by certified mail or hand delivered the Longmeadow Conservation Commission. The Commission shall set a filing fee by regulation; such filing fee shall be payable to the Town of Longmeadow. Application must be filed concurrently with or after application for all other variances and approvals required by Zoning by-Law, the Subdivision Control Law or any other by-Law or Regulation have been obtained. No filing fee is required when the Town of Longmeadow files an application for a Permit. Copies of the application shall be set at the same time by certified mail or hand delivered to the Town Manager, the Planning Board, the Board of Health, the Building Commissioner, the Director of Public Works, the abutters and the *Department of Environmental Protection (“DEP”) or any successor agency*. The Conservative Commission may require other forms of filing. Upon written request of any person, the Commission shall, within twenty-one (21) days of receipt of this request make a written Determination of Applicability as to whether this By-Law applies 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.

The Commission, its agent, officers and employees, may enter upon the land upon which the proposed work is to be done in response to a request for a prior Determination or for the purpose of carrying out its duties under this By-Law and may make or cause to be made such examination or survey as deemed necessary.

**(c) Hearing.** The Commission shall hold a public hearing on the application for a Permit within twenty-one (21) days of its receipt. 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 (5) days prior to hearing, by publication in the Springfield Newspapers and by mailing a notice to the applicant, the Town Manager, the Board of Health, the Planning Board, the Building Commissioner, the Director of Public Works, the abutters and the *Department of Environmental Protection (“DEP”) or any successor agency* and to such other persons as the Commission may by regulation require. Notice published for a hearing under the Wetlands Protection Act may be expanded to include the Town's Wetlands By-Law.

**(1) 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 interests protected by this By-Law, the Commission shall, within twenty-one (21) 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 to desirable for protection of those interests, and all work

shall be done in accordance with those conditions or it may deny the application. 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 (21) days of the public hearing. Permits shall expire one (1) year from the date of issuance, unless renewed prior to expiration, and all work shall be completed prior to expiration. A request for renewal shall be made in writing to the Conservation Commission at least two (2) weeks prior to date of expiration.

**(2) Denials.** The Conservation Commission is empowered to deny permission for any removal, dredging, filling or altering of subject lands within the Town if, in its judgment, such denial is necessary to preserve the interests described in this By-Law of either or both the subject lands and contiguous lands.

Due consideration shall be given to possible effects of the proposal on all values to be protected under this By-Law and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.

**(3) Emergency projects.** The notice required in this By-Law shall not apply to emergency projects necessary for the protection of health or safety of the citizens of Longmeadow and to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town.

**(d) Pre-Acquisition Violation.** Any person who purchases, inherits or acquires real estate upon which work has been done in violation of the provisions of this 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; however, that no action, civil or criminal, shall be brought against such person unless commenced within three (3) years following the date acquisition of the real estate by such person.

**(e) 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 the By-Law.

**(f) Burden of Proof.** The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in 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 Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

**(g) Definitions.** The following definitions shall apply in the interpretation and implementation of this By-Law:

**(1) "Person".** 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 Longmeadow, and any other legal entity, its legal representatives, agents or assigns.

**(2) “Alter”.** The term “alter” shall include, without limitation, the following actions when undertaken in areas subject to this by-Law:

- (a) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;
- (b) Changing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns and flood retention characteristics;
- (c) Drainage or other disturbance of water level or water table;
- (d) Dumping, discharging or filling with any material which may degrade water quality;
- (e) Driving of piles, erection of buildings or structures of any kind;
- (f) Placing of obstructions whether or not they interfere with the flow of water;
- (g) Destruction of plant life, including cutting of trees and shrubs;
- (h) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water.

**(3) “Banks”.** The term “banks” shall mean that part of land adjoining any body of water which confines the water.

**(4) “Freshwater Wetlands”.** The term “freshwater wetlands” as used in this By-Laws shall mean wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provides a significant part of the supporting sub state for a plant community for at least five (5) months of the year; emergent or submergent plant communities in inland waters; that portion of any bank which touches any inland waters.

**(5) “Agricultural Practices”.**

- (a) The term “land in agricultural use” shall mean any qualifying wetland within a farm which is qualified or eligible to be qualified under the Farmland Assessment Act, Massachusetts General Laws, Chapter 61A, Sections 1-5;
- (b) The term “qualifying wetland” shall mean only areas which are seasonally flooded basins of flats or inland freshwater meadows;
- (c) The term “normal maintenance of land in agricultural use” shall have the same meaning as the definition contained in regulations of the Department of Environmental Protection found at 310 CMR 10.04(b). *(Revised at Annual Town Meeting April 25, 2006, Article 29; approved by the Attorney General August 31, 2006)*

**(6) Additional Definitions.** The Commission may adopt additional definitions not inconsistent with sub-section (g), in its regulations promulgated pursuant to sub-section (e) of this By-Law.

**(h) Security.** The Commission may require, as a Permit condition, that the performance and observance of other conditions be secured by one or both of the following methods:

(1) By a bond or deposit of money or negotiable securities in an amount determined by the Commission to be sufficient and payable to the Town of Longmeadow;

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

**(i) Enforcement.** Any person who violates any provision of this By-Law or of any Condition of a Permit issued pursuant to it shall be punished by a fine of not more than Three Hundred (\$300) Dollars. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This By-Law may be enforced pursuant to Massachusetts General Laws Chapter 40, Section 210, by a Town police officer or other officer having police powers. Upon the request of the Commission, the Select Board and Town Counsel shall take such legal action as may be necessary to enforce this By-Law and Permits issued pursuant to it. When the Conservation Commission determines that an activity is in violation of this By-Law, the regulations or a final order, the Commission may issue an enforcement order.

## **Chapter 800**

### **Advisory, Policy, and Regulatory Agencies**

#### **2-801. Planning Board.**

The Planning Board shall have such power and duties as provided in section 3-6 of the Charter, these By-laws and MGL. The Planning Board shall develop recommendations concerning the layout and improvement of property in the Town with the idea of providing adequate facilities for future growth. The Planning Board shall maintain records that show the activities of the Board and the basis for the recommendations concerning the use and development of property within the Town of Longmeadow.

#### **2-802. Council on Aging.**

The Select Board shall appoint a Council on Aging to carry out programs designed to meet the problems of the aging in coordination with programs of the Massachusetts Commission on Aging established under Section 73 of Chapter 6 of the General Laws. The Council shall consist of as many members for such terms of office as the Select Board determine. The Council is responsible to the Select Board and council members shall serve without compensation.

#### **2-803. Cultural Council.**

(a) The Town has accepted the provisions of General Laws Chapter 10, Section 58 and has established a Cultural Council under that statute. This Bylaw does not undertake to restate fully the provisions of Section 58.

(b) The Cultural Council shall consist of nine (9) persons who are appointed by the Select Board and who have three year terms of office, but a person is not eligible to be appointed to

more than two consecutive terms. If a vacancy occurs in the term of a member, the Select Board shall appoint a person to be a member of the Council for the remainder of the term. A member serves without compensation but is entitled to be reimbursed for expenses actually and necessarily incurred in the discharge of council duties. Upon adoption of the amendment to this section, the Council shall organize itself so that three of its members shall have three terms, three of its members shall have two year terms and three of its members shall have one year terms.

(c) A person is not eligible to be a member of Council if he or she has not demonstrated scholarship or creativity in, or distinguished service to, the arts and humanities. A person is not eligible to be a member of the Council if he or she is an elected public official.

(d) Each year the Council shall elect from among its members a Chairman, Secretary and Treasurer. The Council is authorized to establish administrative units; but the Council is forbidden to use more than five percent (5%) of the funds received from the State Arts Lottery Fund for administrative purposes, including the expenses of members of the Council.

(e) The Council has the responsibility to promote and encourage the arts. Subject to the regulations and guidelines of the Massachusetts Cultural Council, the Town Cultural Council has authority:

(1) To receive, obligate and disburse funds received from the State Arts Lottery Fund and other funds allocated to the Cultural Council;

(2) To receive grants, contributions and gifts from all sources and to obligate and disburse those funds for the same purposes as Arts Lottery funds are used;

(3) To enter into contracts, subject to approval as to form by the Town Counsel; and

(4) To do any act that is necessary or desirable to carry out the purposes of Chapter 10, Sections 56 through 58.

(f) The Treasurer of the Town is the custodian of funds received by the Cultural Council, regardless of the source of the funds. The Treasurer has the authority to invest those funds to the extent that they are not then needed for the purposes of the Council in such investments as are authorized under the provisions of General Laws *Chapter 44, Section 55*.

(g) The Town is obligated to establish for the funds administered by the Council a revolving account that is separate from the other accounts of the Town. The Council is authorized to expend the funds that it administers, including interest earned on those funds, without appropriation by the Town or the Select Board; but funds that are not expended within twelve (12) months after receipt shall be segregated and shall be subject to further appropriation by the Select Board for the purposes provided in General Laws, Chapter 10, Sections 56 through 58 inclusive.

(h) The Treasurer of the Town has a duty to submit a report on the revolving fund annually to the Select Board and to the Massachusetts Bureau of Accounts and Massachusetts Cultural Council.

#### **2-804. Conservation Commission: Resource Development.**

(a) The Town has accepted the provisions of General laws Chapter 40, Section 8C and has established a Conservation Commission under that statute. This By-Law does not undertake to restate fully the provisions of Section 8C.

(b) The Conservation Commission consists of seven (7) members who have a three (3) year term of office and who are appointed by the Select Board. The terms of office of approximately one-third of the members of the Commission expire each year. If a vacancy occurs in the term of a member, the Select Board appoints a person to be a member of the Commission for the remainder of that term.

(c) The Commission has the responsibility to promote and develop the natural resources of the Town and protect the watershed resources of the Town. To that end, the Commission has a duty to conduct research concerning the land and water resources of the Town and to seek to coordinate the activities of unofficial organizations that have similar purposes.

(d) The Commission has a duty to keep accurate records of its meetings and its actions. The Commission has a duty to deliver to the Select Board an annual report of its activities and actions.

(e) The Commission is authorized:

(1) To adopt rules and regulations for its, meetings, activities and actions;

(2) To prepare and distribute maps, charts, plans, pamphlets and books that are necessary to its work; and

(3) To create a conservation and passive recreation plan.

(f) To the extent necessary to pursue the goals of this section, the Town is authorized to acquire, hold, manage and contrgift of the interest, it may purchase the interest, or within limits stated in the General Laws, Chapter 40, Section 8C, it may use its power of eminent domain. An interest that can be acquired in land or water includes but is noeasemen an easement and a right arising out of contract. The Commission is authorized to maintain and improve the land or water area and is directed to seek to conserve and to prevent improper use of open spaces in land and water by controlling the use of land and water.

(g) The Commission has authority to adopt rules and regulations governing the use of land and water under its control and to include those rules and regulations penalties for violation of the rules and regulations.

## **2-805. Longmeadow Historic District Commission.**

(a) The purpose of this By-Law is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings, their architecture and places significant to the encouragement of design compatible therewith.

(b) There is hereby established under the Historic District Act, General laws, Chapter 40C, as amended by Chapter 359 of the Acts of 1971, with all the powers and duties of an historic commission a Longmeadow Historic District commission consisting of seven (7) members to be appointed by the Select Board, all being residents of Longmeadow, including one (1) member, where possible from two (2) nominees, one of whom shall be submitted by the

Chapter of American Institute of Architects covering Longmeadow, and one (1) member, where possible from two (2) nominees of the Board of Realtors covering Longmeadow. Two or more of the foregoing shall be residents of the Historic district established in Longmeadow pursuant to the Historic District Act. When the Commission is first established, one member shall be appointed for a term of one (1) year, three shall be appointed for a term of two (2) years and three shall be appointed for a term of three (3) years, and their successors shall be appointed in like manner for terms of three (3) years.

The Select Board may appoint one alternate member for a term of one (1) year and two alternate members may be appointed for a term of three (3) years, and their successors shall be appointed in like manner for terms of three (3) years. No member may serve on the Commission for more than two consecutive three year terms, nor more than three consecutive terms if either of the first two terms is for less than three years.

(c) There is hereby established under the provisions of the Historic District Act, as amended, an historic district to be known as the Longmeadow Historic District, bounded as shown on a map entitled "Plan Showing Longmeadow Historic District, Longmeadow, Massachusetts", dated May 1, 1973, prepared by the Town Engineer, attached to and made part of the by-Laws, a copy of which is on file with the Town Clerk.

(d) The Historic District Commission established hereunder shall have all the powers and duties of an historical commission as provided in Section 80 of Chapter 40, of the Massachusetts General Laws.

(e) The Commission shall have all of the powers and duties of an historic district commission and all of the powers and duties of an historical commission and may in the exercise of any of the powers and duties accept money gifts and expend the same and, subject to appropriation or receipt of such gifts, employ clerical and technical assistance or consultants and the aforesaid powers and duties may include, but not be limited to, the following:

(1) To conduct a survey of Longmeadow buildings and sites for the purpose of determining those of historic significance, architecturally or otherwise, and pertinent facts about the, acting in collaboration with the Planning Board, conservation Commission and the Longmeadow Historical Society to the extent each may from time to time be able to undertake such work and to maintain, and from time to time revise, detailed listings of historic sites and buildings in Longmeadow and data about them appropriately classified with respect to national, state or local significance, to period or field of interest, or otherwise;

(2) To propose, from time to time as they deem appropriate, the establishment, in accordance with the provisions of the Historic District Act, if additional historic districts and changes in historic districts;

(3) To determine an appropriate system of markers for selected historic sites and buildings not already sufficiently marked, to arrange for preparation and installation of such markers and to arrange for care of historic markers;

(4) To arrange for preparation and publication of maps and brochures and descriptive material about Longmeadow historic sites and buildings, arrange for convenient walks or tours, or otherwise;

(5) To cooperate with and advise the Planning Board, Board of Park Commissioners, the Department of Public Works and other town departments in matters involving historic buildings, sites and historic district boundaries.

(6) To cooperate with and enlist assistance for Longmeadow from the Massachusetts Historical Commission, the National Register, the National Park Services, the National trust for Historic Preservation, the Society for the Preservation of New England Antiquities and other agencies, public and private, concerned with historic buildings and sites.

(7) To advise owners of historic buildings in Longmeadow on matters of preservation.

(f) The Commission may recommend to the Select Board, from time to time as needed, appointment of advisory committees of historians and persons experienced in architecture or other arts or in historic restoration or preservation to assist in a manner comparable to the National Park service Advisory Board or Consulting Committee.

(g) The Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of Chapter 40 Section 8D, the Historical Commission Act; or this By-Law, as the case may be.

#### **2-806. Housing Authority.**

The Longmeadow Housing Authority exists by reason of the acceptance of Chapter 121B of the General Laws by the Town at a special meeting on March 5, 1984. These By-Laws do not undertake to restate the provisions of Chapter 121B.

#### **2-807. Park Recommendations.**

The Park Commissioners shall, from time to time, prepare and submit to the Select Board a statement of existing park programs and goals and recommendations for future development of parks and parks policy.

#### **2-808. Community Preservation Committee**

##### **(a) Establishment**

There is hereby established a Community Preservation Committee, consisting nine (9) voting members pursuant to MGL Chapter 44B. The composition of the committee, the appointment authority, and the term of office for the committee members shall be as follows: one member of the Conservation Commission as designated by the Commission for a term of three years; one member of the Historical Commission as designated by the Commission for a term of three years; one member of the Planning Board as designated by the Board for a term of three years; one member of the Parks and Recreation Commission as designated by the Commission 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 Authority for an initial term of two years and thereafter for a term of three years; four members to be appointed by the Select Board, two members to be appointed for a term of one year and thereafter for a term of three years, and two members to be appointed for a term of two years and thereafter for a term of three years, with the recommendation that one of these four members be from the Finance Committee. Should any of the Commissions, Boards,

Authorities or Committees who have appointment authority under this Section be no longer in existence for whatever reason, the appointment authority for that Commission, Board, Authority, or Committee shall become the responsibility of the Select Board.

**(b) Duties**

(1) The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Parks and Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

(2) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing and for 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 section. With respect to community housing, the Community Preservation Committee shall recommend,

wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. Recommendations to the Town

Meeting shall include their anticipated costs.

(3) The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation 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.

**(c) Requirement for a Quorum and Cost Estimates**

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote.

**(d) Approval by Legislative Body**

After receiving such recommendations from the Community Preservation Committee, the Town Meeting shall then take such actions and approve such appropriations from the Community Preservation Fund as set forth in Section 8, Chapter 44B of the Massachusetts General Laws, and such additional

appropriations as it deems appropriate to carry out the recommendations of the Community Preservation Committee.

**(e) Amendments**

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

**(f) Severability**

In case any section, paragraph or part of this Section 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.

**(g) Effective Date**

Following Town Meeting approval, this Section shall take effect immediately upon approval by the Attorney General of the Commonwealth. Each appointing authority shall have ten days after approval by the Attorney General to make their initial appointments as described in subsection (a). Should any appointing authority fail to make their appointment within that allotted time, the Select Board shall make the appointment from the membership of the appropriate appointing body.

**(h) Deadlines for Applications**

The Community Preservation Committee shall establish a deadline for applications for exemptions to coincide with the application deadline for personal exemptions.

**Chapter 900**

**School Committee**

**2-901. School Records.**

The School Committee shall have such authority, powers and duties as are provided for in the Charter and maintain records that show:

- (a) The year's work in the schools of the Town;
- (b) The school calendar for the year;
- (c) A tabulation of membership, attendance and truancy for each school;
- (d) A statement of expenditures for the year;
- (e) A list of teachers, specifying for each one the date of employment, colleges attended, degrees attained and positions within the school system; and
- (f) The aggregate of the salaries and compensation of the teachers in the school system.

**2-902. School Recommendation.**

The School Committee shall, from time to time, propose to the Select Board and to the Town such recommendations and suggestions concerning educational policy and development as the Committee thinks appropriate.

## ARTICLE THREE

### TOWN PROCEDURES

#### Chapter 100

##### Provisions Applicable to Article Three

#### **3-101. Presiding Officer.**

Each board, committee or commission shall elect a Chair, if a one is not otherwise provided by these By-Laws.

#### **3-102. Clerk.**

Each board, committee or commission shall elect a Clerk, if a clerk is not otherwise provided by these By-Laws.

#### **3-103. Records.**

The Chair and the Clerk shall cause to be recorded each vote, resolution or other act of a board, committee or commission. A board, committee or commission has authority to enter in full upon its records a report or document that it believes of sufficient importance. The Chair and the Clerk shall cause the record of each meeting of a board, committee or commission to be completed as soon as practicable following the meeting.

#### **3-104. Town Meeting Action.**

The Moderator and the Town Clerk shall cause each vote, resolution or other act of a Town Meeting to be recorded.

#### **3-105. Town Meeting Record.**

The Moderator and the Town Clerk shall cause the record of each meeting of the Town to be completed as soon as practicable following the meeting.

#### Chapter 200

##### Town Elections

#### **3-201. Annual Election.**

The annual election of Town Officers is held after the annual meeting, the exact date to be determined by February first of each year by the Select Board.

#### **3-202. Voting Hours.**

The polls shall be open from 8:00 o'clock in the morning until 8:00 o'clock in the evening. The hour of opening may be earlier if ordered by the Select Board. For elections in which state officers are to be elected, the Select Board shall order the polls to be open such additional time as shall be necessary to meet the requirements of General Laws, Chapter 54, Section 64.

#### **3-203. Elective Officers.**

The officers of the Town that are elected at the annual election are as follows:

- (a) Moderator, elected for three (3) years;

(b) Five (5) Select Persons, elected for three (3) years (except for those members elected at the Special Town Election of October 5, 2004, as provided in the Charter

(c) Seven (7) members of the School Committee to be elected for three (3) years, three (3) to be elected in one year and two (2) to be elected in each of the next two years;

(d) Five (5) members of the Planning Board, to be elected for five (5) years, one (1) to be elected each year.

(e) Four (4) members of the Housing Authority who shall be voters of the town. Four members shall be elected for terms of five (5) years, so arranged that as nearly as possible one term shall expire each year, and a fifth member shall be appointed by the Commonwealth as provided by law.

**3-204. Term of Office.**

The term of office of a Town officer who is elected by the voters begins the day following the Town Election. An Elected town officer shall be entitled to exercise the privileges and duties of office only after being duly sworn.

**3-205. Election to a New Term.**

A Town office that is filled by election is voted upon at the election in May next preceding the expiration of the term of the incumbent.

**3-206. Vacancy.**

If a vacancy occurs in an office that is filled by election, the vacancy is filled pursuant to the provisions of the General Laws of Massachusetts and these By-Laws to the extent these By-Laws are not inconsistent with MGL.

**3-207. Public Forums.**

The Town will hold periodic open meetings/forums to promote dialogue among voters, Town Officials and Town Department Heads on an on-going basis so that the voters can participate and make informed decisions.

**Chapter 300**

**Town Meetings**

**3-301. Annual Town Meeting.**

The annual meeting of the Town is held on the last Tuesday in April, at 7:30 o'clock in the evening. *If, in the opinion of the Select Board, the town meeting warrant contains subject matter that requires additional time for deliberation, the Select Board may vote to schedule the town meeting at an earlier time, provided that annual town meeting cannot be scheduled before 6:30 o'clock in the evening.*

**3-302. Notice of Business.**

An item of business is out of order at a Town Meeting if it is not within the scope of an article designated for action at the meeting in the warrant that was published before the meeting.

**3-303. Warrant.**

(a) Massachusetts General Laws, Chapter 39, Section 10 and the Charter specify what a Town Meeting Warrant must include, who is to issue it and when it must be issued.

(b) The law of the Commonwealth establishes the right of the citizen to include an article in the warrant for a meeting following an established procedure, as provided in Massachusetts General Laws, Chapter 39, Section 10.

**3-304. Issuance of Warrant.**

A Constable of the Town, pursuant to the order and direction of the Select Board, shall post notice of the date, time, and place of the Town Meeting on the town bulletin board, the town Website and in at least one other public place in the town.

**3-305. Special Meeting.**

The law of the Commonwealth gives a citizen the right to demand a calling of a Special Meeting of the Town by following an established procedure, as provided in Massachusetts General Laws, Chapter 39, Section 10. A Special Town Meeting may also be called by order of the Select Board.

**3-306. Unlawful Meeting.**

If a Town Meeting is not properly called, the Select Board shall call the meeting for a time as soon thereafter as is practicable.

**3-307. Admission to Meeting.**

At a Town Meeting held for the transaction of Town business, a person is not eligible to be admitted to the floor of the meeting if a person's name is not upon the list of voters of the Town. The Moderator has authority to direct a police officer or constable of the Town to exclude or remove a person who is not eligible to be admitted to the floor of the meeting.

**3-308. Attendance by Non-Voters.**

The Moderator has authority to admit to a Town Meeting a media representative or any person whose knowledge, in the opinion of the Moderator, can assist the voters in better understanding a question that is before the Meeting.

**3-309. Audio and Video Equipment.**

The Moderator has authority to permit or prohibit the use of audio and video equipment for the purpose of news coverage and the authority to regulate the use of equipment if it is permitted.

**3-310. No Smoking.**

Smoking is not permitted within a room in which a Town Meeting is held.

**3-311. Opening Prayer.**

The annual meeting of the Town is opened with prayer.

**3-312. Rules of Procedure.**

The conduct of the meeting shall be as provided in the Charter.

**3-313. Order and Decorum.**

The Moderator has the duty to preserve order and decorum in a Town Meeting and to this end he has authority to direct a police officer or constable of the Town to do any act that he believes is appropriate.

**3-314. Points of Order.**

The Moderator is authorized to speak on points of order in preference to other persons and has authority to decide each question of order.

**3-315. Order of Motions.**

The Moderator shall put all motions in the order in which they are moved, unless a specific motion is previous in its nature.

**3-316. Precedence of Motions.**

When a question is before a Town Meeting, the Moderator shall not receive a motion that does not relate to that question, except a motion to adjourn or some other motion that is privileged in its nature.

The Moderator shall not receive a motion relating to the question except:

- (a) A motion to lay on the table;
- (b) A motion for the previous question;
- (c) A motion to postpone to a time set;
- (d) A motion to commit or re-commit;
- (e) A motion to postpone indefinitely; or
- (f) A motion to amend.

These motions have precedent in the order in which they are here arranged.

The Moderator shall permit debate upon the merits of the main question upon a motion to postpone indefinitely or upon a motion to amend.

**3-317. Motion to Cut Off Debate.**

The Moderator shall not receive a motion to cut off debate on any motion that is before a meeting until at least five (5) voters have spoken for, and five (5) voters have spoken against, the pending motion; but if fewer than five (5) voters have asked to speak for or against the pending motion, the Moderator may receive a motion to cut off debate after the voters who have asked to speak, not to exceed five on either side, have had an opportunity to do so.

**3-318. Limits on Speech.**

Except when the Moderator has recognized a voter for the correction of an error or to state an explanation, a voter is not entitled to speak more than two (2) times on one question until others who have not spoken have had an opportunity to do so, and a voter is not entitled to speak more than three (3) times on one question, without first obtaining leave of the meeting to do so.

**3-319. Written Motion.**

The Moderator has the authority to require that a motion be reduced to writing.

**3-320. Speaker Identification.**

A person who speaks at a Town Meeting shall stand, address the Moderator, and identify himself or herself by name and address.

**3-321. Use of Names.**

The Moderator is authorized to refer to a person by name for the purpose of identification or recognition; but otherwise, one person shall not refer to another person by name in a Town Meeting.

**3-322. Debate Question.**

A person who desires to ask of another person a question relating to debate shall put the question to the Moderator.

**3-323. Vote on Reconsideration.**

If a vote has been taken at a Town Meeting, the vote is not reconsidered at that meeting or at any adjournment of that meeting, unless two-thirds (2/3) of the voters present cast an affirmative vote on the motion to reconsider the issue. And, if reconsideration is sought at any adjournment of that meeting, the mover of reconsideration must inform the session at which the principal vote was taken of his intent to seek reconsideration at the adjournment.

**3-324. Counting Votes.**

If a vote is taken in a Town Meeting and if the decision of the Moderator is doubted by seven (7) or more voters, the Moderator shall request the house to be seated and shall appoint tellers. The Moderator shall announce that only those voters who occupy seats on the floor of the meeting are eligible to be counted on the vote; but the Moderator has authority to instruct the tellers to count the votes of specific voters who are unable to obtain seats on the floor of the meeting. The Moderator shall cause the question before the meeting to be distinctly and clearly stated and, in sequence, the Moderator shall request those who choose to vote in the affirmative and those who choose to vote in the negative to rise and stand in their places until they are counted by the tellers. The tellers shall carefully count the standing voters and shall report to the Moderator. The Moderator shall announce the number of voters in the affirmative and in the negative. If a two-thirds vote for an action at a Town meeting is required by statute, the moderator, in accordance with General Laws Chapter 39, Section 15, as amended, may dispense with the requirement of taking a count of the vote if the moderator, in his discretion and without taking a count, determines that two-thirds of those voting supported this action.

**3-325. Order of Articles.**

The Moderator shall present to a Town Meeting the articles in the warrant in the order in which the articles appear in the warrant; but the meeting may direct a different order of business by an affirmative vote of two-thirds (2/3) of the voters present.

**3-326. Quorum.**

Fifty (50) voters constitute a quorum for the transaction of business at a Town Meeting; but less than a quorum may adjourn a meeting to a stated time or without day. This section does not apply to a meeting or a part of a meeting that is devoted exclusively to the election of a Town officer.

**3-327. Adjournment Without Day.**

If a motion would have the effect of dissolving a Town Meeting, the motion is not in order until each article in the warrant for the meeting has been considered and acted upon.

**3-328. Adjournment With A Time Certain.**

If a Town Meeting is adjourned to a time certain, the Town Clerk shall give as much notice of the time and place to which the meeting has been adjourned as is practicable under the circumstances.

**3-329. Town Meeting Committees.**

Unless otherwise directed by the Town Meeting, the Moderator has authority to appoint a committee that is established by vote of the Town Meeting. Prior to making an appointment, the Moderator shall consult with such Town officials as he thinks appropriate as a means to provide each committee with members having the best available expertise, knowledge, background and experience to accomplish the purposes for which the committee has been established. The Moderator shall announce committee appointments no less than fourteen (14) days and no more than twenty-one (21) days following the adjournment of the Town Meeting that established the committee.

**3-330. Referendum Permitted.**

Referendum shall be permitted on articles voted on at Town Meeting in accordance with the Charter.

**Chapter 400**

**Budgets, Finance Committee, and Appropriations**

**3-401. Budget Timing.**

At least 60 days before town meeting, the town manager shall submit to the Select Board a total town proposed budget for the next fiscal year. After adoption of the proposed budget by the Select Board and at least 30 days before town meeting, the town manager shall forward the proposed budget to the finance committee.

**3-402. Finance Committee and Vacancies.**

The Finance Committee consists of seven (7) members. The eligibility to serve, appointment, and term of the members, and the powers and duties of the Finance Committee shall be as provided in the Charter.

Vacancies shall be filled in the same manner as original appointments to the Finance Committee. If a vacancy occurs for a reason other than expiration of a term of a member, the person appointed shall serve for the balance of the unexpired term.

**3-403. Finance Committee: Town Meeting Articles; Recommendations.**

The Finance Committee shall consider each proposed article for a Town Meeting that involves the expending, appropriating, raising or borrowing of money in excess of One Hundred (\$100) Dollars and shall prepare a report on each article. The Select Board shall include in the warrant for a meeting the recommendation of the Finance Committee on each matter in the warrant that is within the jurisdiction of the Committee. In case of emergency, the report may be given at Town Meeting.

The Finance Committee may have the Town Manager and any department head appear before it respecting any matter under its jurisdiction. Similarly, the Town Manager and a head of a department may appear before the Finance Committee to be heard with respect to the budget and other matters relating to his or her department.

**Chapter 500**

**Appointment to Boards, Commissions and Committees**

**3-501. Authority.**

The Charter (Sections 4-5, and 9-5-k) provides for the inclusion in these by-laws of procedures governing the appointment of persons to boards, commissions and committees of the Town. This Chapter 500 sets forth those procedures and is intended to be all-inclusive.

**3-502. Town Boards, Commissions and Committees.**

The boards, commissions and committees to which this By-Law applies are the following:

- (a) Audit Committee
- (b) Cultural Council
- (c) Board of Assessors
- (d) Finance Committee
- (e) Board of Health
- (f) Historic District Commission
- (g) Capital Planning Committee
- (h) Park and Recreation Commission
- (i) Conservation Commission
- (j) Council on Aging
- (k) Recycling Commission, and
- (l) All other boards, commissions and committees, as shall have been specifically provided for in the Charter or these By-Laws or which have been created by the Select Board, School Committee, or a Town Meeting pursuant the Charter, these By-Laws or Massachusetts General Laws.

**3-503. Definitions.**

The following terms used this Article Two, Section 500, have the meanings as noted:

- (a) “Applicant” means a person resident in the Town and eligible to vote in Town elections who is making application for appointment to a board, commission or committee.
- (b) “Application Form” means the official form approved by the Select Board for use by Applicants in making application for an appointment to a board, commission or committee.
- (c) “Appointing Authority” means the person or persons, and board[s], having authority under the Charter, these By-Laws or the General Laws to make appointments to a Town board, commission or committee.
- (d) “Town Bulletin Board” means the bulletin board located outside the offices of the Select Board in Town Hall located at 20 Williams Street and maintained for the posting of town notices and business and the Web Site.

- (e) “Web Site,” as provided in the Subsection 8.7(n) of the Charter, means the electronic site officially owned and maintained by the Town and containing information concerning town business.

**3-504. Town List.**

The Select Board shall maintain a current list of all Town boards, commissions and committees. The list shall include a brief description of the purpose of each board, commission or committee, the names of all members of such boards, commissions and committees, the expiration date of the terms of such members and any vacancies on such boards, commissions and committees. This list shall be published in the Annual Report, posted on the Town Website, and be available for inspection upon request at the offices of the Select Board.

**3-505. Notice of Openings and Vacancies – Posting: Applications – Where Obtained.**

Whenever an opening or vacancy occurs on a Town board, commission or committee, the Appointing Authority shall post or cause to be posted a notice of the vacancy on the Bulletin Board and the Website for a minimum of 15 days (inclusive of the day of posting). Such notice shall include a brief description of the board, commission or committee, as the case may be, the term of the appointment, the fact that Applications can be obtained from the office of the Select Board, the Select Board’s address, and the date by which Applications must be received. The Appointing Authority shall also place or cause to be placed at Town expense a notice or news article of the vacancy containing the foregoing information in at least one newspaper having wide circulation in the Town. If an opening or vacancy occurs, it shall be filled.

**3-506. Applications – Where and When Filed.**

An Applicant wishing to file an Application shall do so only in the Office of the Select Board. Such filing must be made on or before the date appearing in the notice of the vacancy posted on the Bulletin Board. The Office of the Select Board shall stamp the date and time of receipt on each Application received. An Application filed after the expiration of the filing period stated in the notice or in a place other than the Office of the Select Board shall not constitute an effective filing for any purpose. An Applicant may submit with his or her Application such additional information relating to their qualification for the position applied for as they wish.

**3-507. Acknowledgement of Applications and Consideration of Applicants.**

- (a) The Office of the Select Board, if the Select Board shall be the Appointing Authority, shall promptly acknowledge receipt in writing, by U.S. Mail or e-mail, to each Applicant of an Application. If the Select Board is not the Appointing Authority, the Office of the Select Board shall forthwith deliver copies of each Application to the relevant Appointing Authority which shall promptly acknowledge receipt in writing, by U.S. mail or e-mail, to each Applicant of an Application. The letter of acknowledgement shall include the date, time and place of a public interview of the Applicant to be conducted by the Appointing Authority.
- (b) A person currently serving on a board, commission or committee whose term is expiring and who wishes to be considered for reappointment must file an Application. No person may be considered for appointment or reappointment to a board, commission or committee who has not filed an Application as provided above.
- (c) Each Applicant and Application shall receive due consideration, taking into account the qualifications of the Applicant as set forth in the Application, any additional information submitted by an Applicant, the public interview described in Subsection 3-507(d) below, and the requirements of the position applied for.

- (d) The Appointing Authority shall conduct a public interview of each Applicant. The time, date and place of the interview shall be posted on the Town Bulletin Board.

**3-508. Appointments: Commencement of Term.**

The Appointing Authority may make an appointment to a board, commission or committee only at a public meeting of the Appointing Authority held at least 7 days, but no more than 28 days, after the last Applicant interview for an open or vacant position. The term of an Applicant receiving an appointment shall not commence until (i) the Applicant has filed a written acceptance of the appointment with the office of the Select Board; and, (ii) the Applicant has been sworn into office if required for the position appointed to by the Massachusetts General Laws or these By-Laws.

**3-509. Associate Members.**

The Appointing Authority shall have the authority to appoint up to two (2) “associate members” to the Audit Committee, Cable Advisory Committee, Conservation Commission, Recycling Commission and Board of Health. The procedures set out in this chapter shall apply to appointment of associate members. The terms for all associate members shall be for one year commencing on July 1. Associate members shall have a purely advisory role and shall not have any voting rights and shall not be counted for purposes of determining whether a quorum is present

*(Reserved for Future Enactment)*

**Chapter 600 (3-601 et seq)**

**Chapter 700 (3-701 et seq)**

**Chapter 800 (3-801 et seq)**

**Chapter 900 (3-901 et seq)**

## ARTICLE FOUR

### CONDUCT AFFECTING PUBLIC FACILITIES

#### Chapter 100

#### Provisions Applicable to Article Four

#### **4-101. *(Reserved for Future Enactment)***

#### Chapter 200

#### Streets

#### **4-201. Numbering of Buildings.**

The Select Board has authority to regulate the numbering of buildings on or near the line of public or private ways. The Select Board has authority to, and if requested in writing to do so by a majority of the residents or owners of real estate on or near a public or private way shall, order in writing that the owners of the buildings along the public or private way place on their buildings the numbers that the Select Board has assigned for each building or subdivision of a building. If the owner of a building receives such an order from the Select Board, he shall comply with the order within ten (10) days.

#### **4-202. Street Excavation.**

No person other than the Department of Public Works or its agents shall excavate in a street without a permit in writing from the Director of Public Works. The Director of Public Works may require, as a condition of a permit, that the person who proposes to engage in excavation give to the Town a bond sufficient to insure the restoration of the street to the satisfaction of the Director of Public Works.

#### **4-203. Obstruction of Street.**

A person shall not place in or upon a street in the Town any material in such a manner as to obstruct or impede the free use of the street for public travel unless the person has a written license from the Select Board. The Select Board has authority to grant a license to obstruct a street for any purpose that appears to the Select Board to be reasonable, including an excavation or obstruction that is appropriate for erecting, repairing, altering, moving or removing a building. If the Select Board issues a license for the obstruction of a street, they shall specify in the license the length of time the license is in force.

#### **4-204. Safety Precautions.**

If a person receives a license or permit to obstruct or excavate in a street, the person:

- (a) Shall keep a suitable railing around the area that is obstructed or excavated so long as the area is unsafe or inconvenient for traveling; and
- (b) Shall keep at or near the area that is so obstructed or excavated such lighted lanterns as are sufficient to warn travelers from one hour before sunset to one hour after sunrise.

#### **4-205. Additional Requirements.**

The Select Board has authority to impose upon a license or permit to obstruct or excavate in a street a condition, term or limitation that is appropriate with respect to erecting a barricade, maintaining a light or taking any other precaution for the safety of travelers.

**4-206. Indemnification of Town.**

As a condition to receiving a license or permit to obstruct or excavate in a street, the Select Board has authority to require that the person who is to receive the license or permit execute a written agreement and furnish a bond to indemnify and save harmless the Town against all damage or cost by reason of any claim for damages or by reason of any process, civil or criminal, that arises out of the existence of the obstruction or excavation.

**4-207. Materials on Public Way.**

A person shall not place on a public way:

- (a) Ice or snow on a portion of a public way that has been cleared or plowed for travel;
- (b) Rubbish or filth of any kind;
- (c) Lawn clippings;
- (d) Leaves, except that a person is permitted to place leaves in any area identified by the Director of Public Works for the purposes of Town collection of leaves between October 1 and December 15;
- (e) Any noxious liquid or solid matter or substance; or
- (f) Any concrete, bituminous material or other similar material.

**4-208. Upsetting Containers.**

A person shall not willfully or knowingly tip over or upset a container of ashes, rubbish, leaves or other material that appears to have been placed in the vicinity of a public way or a private way to which the public has access for purposes of collection.

**4-209. Puncture or Cutting Materials.**

A person shall not place, discard or scatter on a public or private way to which the public has access a material that has the capacity to puncture or cut the tire of a vehicle or to impede the passage of a vehicle over the said public way or the private way to which the public has access.

If, as a result of the operation of a motor vehicle on a public way or a private way to which the public has access, broken glass or other debris is thrown, discarded or scattered on the surface of the way, the person who was operating the vehicle shall remove the material from the surface of the way as soon as practicable.

**4-210. Explosive Devices.**

Except by written permission of the Select Board or in the exercise of a duty required or justified by law, a person shall not fire a weapon, explosive device or an implement for discharging a missile on a public way or a private way to which the public has access.

**4-211. Games.**

A person shall not engage in a game, exercise or amusement on a public way or a private way to which the public has access if the game, exercise or amusement interferes with the safe or

convenient use of the way or if the game, exercise or amusement disturbs the safety of a person or property or of the peace or quiet of a person.

**4-212. Flying Objects.**

A person shall not in a public way or a private way to which the public has access throw or shoot a ball, stone, arrow, snowball, stick, brick or other hard substance in a way that interferes with the safe or convenient use of the way or disturbs the safety of a person or property the peace or quiet of a person.

**4-213. Human Obstruction.** -- Deleted by Attorney General, 8/7/85

**4-214. Burning in the Streets.**

A person shall not create or maintain a fire within the limits of a public way.

**4-215. Hitchhiking Prohibited.**

A person shall not while within the limits of a public way solicit transportation in a motor vehicle for himself or for another person by any verbal or visual sign or signal, except for a sign or signal to a motor vehicle that is operated for the carriage of passengers for hire.

**4-216. Overnight Parking.**

A person shall not leave a vehicle unattended on a public way for more than one hour at any time between the hour of 1:00 A.M. and 6:00 A.M. local time, regardless of whether local time is standard time or daylight savings time when the offense occurs.

**4-217. Commercial Parking.**

A person shall not park a vehicle that is used for commercial purposes on a public way for more than one hour. This section does not apply to a vehicle during the time that the person who is using the vehicle is rendering a service to a household or business establishment or during the time that the vehicle is being used for a pickup from or delivery to a household or business establishment.

**Chapter 300**

**Sidewalks and Tree Belts**

**4-301. Tree Belt.**

(a) The Select Board has authority upon such terms as they prescribe, to permit or license an owner or occupant of real estate abutting on a street to lay out and maintain a lawn on that portion of the street that is contiguous to the estate and outside the traveled portion of the street.

(b) The owner of any real estate in the Town which abuts on any public or private way within the Town where there is a tree belt shall keep said tree belt mowed and free and clean of all litter, debris, noxious woods and brush, and shall maintain the same in a clean and sanitary manner.

**4-302. Sidewalk Definition.**

A regulation relating to a sidewalk applies to any walk that is under the control of the Town regardless of the dimensions of the walk or the material used in its construction.

**4-303. Materials on Sidewalks.**

A person shall not place on a sidewalk or a way to which the public has access:

- (a) Ice or snow on a portion of a public way that has been cleared or plowed for travel;
- (b) Rubbish or filth of any kind;
- (c) Lawn clippings;
- (d) Leaves, except that a person is permitted to place leaves in any way identified by the Director of Public Works for the purpose of Town collection of leaves between October 1 and December 15;
- (e) Any noxious liquid or solid matter or substance; or
- (f) Any concrete, bituminous material or other similar material.

**4-304. Upsetting Containers.**

A person shall not knowingly or willfully tip over or upset a container of ashes, rubbish or other discarded material on any sidewalk or way to which the public has access.

**4-305. Congregation of Persons.** -- Deleted by Attorney General 8/7/85

**4-306. Obstruction.**

A person shall not place on a sidewalk or way to which the public has access an obstruction that hinders the free or safe use of the sidewalk or way by a pedestrian unless the person has placed the obstruction there by order of the Select Board or with the written permission of the Select Board.

**4-307. Temporary Walk.**

If a person erects, alters, repairs or moves a building or engages in any other conduct that obstructs a sidewalk or way to which the public has access or renders the sidewalk or way impassable, the person shall place a good temporary walk around the obstruction.

**4-308. Safety Precautions.**

If a person receives a license or permit to obstruct or excavate in a sidewalk, the person shall:

- (a) Keep a suitable railing around the area that is obstructed or dug up so long as the area is unsafe or inconvenient for traveling; and
- (b) Keep at or near the area that is so obstructed or excavated such barricades with flashers as are sufficient to warn travelers from one hour before sunset to one hour after sunrise.

**4-309. Accessway.**

The Select Board has authority to permit installation in a sidewalk or a street of a passageway for access or for light or air on such terms and conditions as are reasonable; but the Select Board shall not permit the accessway to extend more than three and one-half (3 ½) feet into a sidewalk or from the edge of the sidewalk or street, and the Select Board shall require that the way of access be made secure by suitable platform, grate or other covering.

**4-310. Snow Removal.**

- (a) A person who is a resident or an owner of property on which or adjacent to which there is a hard surfaced sidewalk that is under the control of the Town shall clear the sidewalk of ice

and snow within twenty-four (24) hours after the precipitation ceases to fall. If the sidewalk becomes covered with ice that cannot be readily removed, the resident or owner shall place sand or ashes on the sidewalk to render the walk safe for pedestrians. A violation of this section is punishable by a fine of Twenty-Five (\$25) Dollars.

(b) A person who is a resident or an owner of property, including business or commercial property as well as residential property, on which or adjacent to which there is a fire hydrant shall clear the hydrant of ice and snow within 24 hours after precipitation ceases to fall so that the fire hydrant is readily visible to fire department personnel. If the fire hydrant is located on a property line, the abutting property owners shall be jointly liable for removing the snow and ice.

**4-311. Falling Snow or Ice.**

The owner of a building or person who has the care of the building shall not permit an accumulation of ice or snow on the building that can fall upon a sidewalk or street. If necessary, to prevent snow or ice from falling from the building onto a sidewalk or street, the person shall erect on the building a barrier or other suitable structure.

**4-312. Flowing Water.**

A person who owns or has care of a building shall not permit water from the eaves or guttering of the building to be discharged upon a sidewalk or street or permit any drain, sluice, gully or conduit upon his land to discharge water upon a sidewalk, tree belt or traveled way within a public way or private way to which the public has access.

**4-313. Shrubbery.**

A person who is a resident or any owner of property on which or adjacent to which there is a sidewalk that is under the control of the Town shall cut back bushes or trees that grow over the sidewalk to allow clearance up to seven (7') feet above the surface of the sidewalk.

**4-314. Shrubbery at Intersections.**

A person shall not erect a structure or permit a plant to grow in a way that obstructs the view of a street intersection for a distance of twenty-five (25') feet from the point at which the nearest edges of the two streets intersect. If the point from which the distance is measured cannot be readily determined, the Building Commissioner shall determine the area of unobstructed view required for the safety of the public. The Building Commissioner shall file with the Planning Board a plan that shows the area of unobstructed view determined by him.

## **Chapter 400**

### **Parks and Common Land**

#### **4-401. Protection of Trees.**

A person shall not trim, cut down or remove a tree or shrub from land that is owned or controlled by the Town of Longmeadow unless he has first obtained written authorization from the Tree Warden or his deputy.

#### **4-402. Climbing Prohibited.**

A person shall not climb a tree, public sign or guide on a public way or in a public place in the Town unless he has first obtained permission to do so from the Chief of Police. This paragraph does not apply to an employee of the Town, to an employee of a telephone, telegraph, electric light company, or of a cable television franchise, while acting within the scope of his employment.

#### **4-403. Town Dump.**

A person shall not deposit material in a disposal area that is maintained by the Town unless the material has been collected within the Town of Longmeadow. A person who deposits material in a disposal area that is maintained by the Town shall conform to the regulations prescribed for the disposal area by the Select Board.

## **Chapter 500**

### **Public Facilities**

#### **4-501. Fire Hydrants.**

A person shall not except by permission of the Director of Public Works or by a member of the Fire Department, open, molest or deface a fire hydrant.

*(Reserved for Future Enactments)*

**Chapter 600 (4-601 et seq)**

**Chapter 700 (4-701 et seq)**

**Chapter 800 (4-801 et seq)**

**Chapter 900 (4-901 et seq)**

**ARTICLE FIVE**

**CONDUCT AFFECTING HEALTH AND SAFETY**

**Chapter 100**

**Provisions Applicable to Article Five**

**5-101. *(Reserved for Future Enactment)***

**Chapter 200**

**Motor Vehicles**

**5-201. Fire Lane.**

(a) An owner or operator of a vehicle shall not stand or park the vehicle within the limits of a private way that furnishes access to a building for fire apparatus if the fire lane is marked by a sign or other labeling that says "Fire Lane -- No Parking". An owner or operator of a vehicle who violates this section is subject to a fine and to the procedures established under General Laws Chapter 90, Section 20A ½.

(b) The Select Board, upon the recommendation of the Fire Chief, shall designate "Fire Lanes" within the limits of any private way, parking area or driveway for the access of fire apparatus or other emergency vehicles onto commercial property or multiple dwelling property. The owner of record of any area designated as a "Fire Lane" shall provide and install signs on one or both sides of the Fire Lane, at the discretion of the Fire Chief, not more than fifty (50) feet apart that shall read "FIRE LANE - NO PARKING - NO STANDING". The size, color and design of said sign shall first be approved by the Fire Chief. No vehicle shall be left within the limits of any Fire Lane denoted by signs as aforesaid. The registered owner of any vehicle in violation of this section shall be subject to a fine and the procedures established pursuant to General Laws, Chapter 90, Section 20A ½.

**5-202. Handicap Parking.**

An owner or operator of a vehicle shall not stand or park the vehicle in a parking space that is reserved for handicapped persons unless the vehicle bears a distinctive plate authorized by General Laws Chapter 90, Section 2, for a disabled veteran or handicapped person, or has affixed to the rear window of the vehicle a temporary permit that has been issued by the Board of Health and that bears the international symbol for the handicapped.

An owner or operator of a vehicle who violates this section is subject to a fine and to the procedures established under General Laws Chapter 90, Section 20A ½.

**5-203. Temporary Permit.**

If a physician certifies in writing that a person has a temporary disability, the Board of Health has authority to issue to that person a temporary permit bearing the international symbol for the handicapped. The permit is limited to a duration of six (6) months but is renewable by the Board, if necessary, with the written certification of the physician.

The Board of Health shall revoke a temporary handicap permit issued by it if the vehicle to which the permit is affixed is used for special handicapped parking privileges when the vehicle is not operated by or is not carrying as a passenger the person for whose handicap the permit was issued. If

the owner or operator of a vehicle for which a temporary handicap permit has been issued stands or parks the vehicle in a space reserved for handicapped persons when the vehicle is not being operated by or is not carrying as a passenger the person for whose handicap the permit was issued, he is subject to a fine and to the procedures established under General Laws Chapter 90, Section 20A ½.

**5-204. Other Obstruction.**

A person who, by the use of an object other than a vehicle, blocks a parking space that has been reserved for use by handicapped persons is subject to a fine of Fifty (\$50) Dollars for each offense.

**5-205. Hanging on Vehicle.**

Except insofar as the person has been granted a permit by the Select Board for this conduct, a person shall not ride on, hold on to or hang on to a moving vehicle or a portion of the load of a vehicle in a manner that any part of his body protrudes beyond the limits of the vehicle or of the load of the vehicle while the vehicle is on a public way or a private way to which the public has access.

**5-206. Grass Covered Area.**

Except insofar as the person has a permit from the Select Board for this conduct, a person shall not drive a vehicle on the turf or grass-covered area that adjoins the paved or hardened portion of a public way or a private way to which the public has access.

**5-207. Towing: Snow Removal.**

For the purpose of removing or piling snow or removing ice from a public way or a private way to which the public has access, the Director of Public Works has authority to remove to a convenient place, including a public garage, any vehicle that interferes with the snow or ice removal process. If the Director of Public Works removes a vehicle for this purpose, he shall:

- (a) Keep a record of the registration number of each vehicle and the place to which it is removed;
- (b) Immediately inform the Police Department that the vehicle has been towed; and
- (c) Within forty-eight (48) hours after the removal of the vehicle, send notice by mail to the owner of the vehicle at his address as recorded at the Registry of Motor Vehicles of the place to which the vehicle has been removed. If the owner of the vehicle is not known or is not on the record of the Registry of Motor Vehicles for this Commonwealth, the Director of Public Works shall, within forty-eight (48) hours after removal of the vehicle, publish in a newspaper published and having a general circulation in Hampden County notice of the removal, the registration number, if any, the type of vehicle, and the place to which the vehicle was removed.

A person is not entitled to repossess a vehicle that has been removed under this section until he has:

- (a) Furnished to the Police Department satisfactory evidence of his identity and of his ownership or right to possession of this vehicle; and
- (b) Paid the reasonable costs, not exceeding the maximum charges allowed by the *Department of Telecommunications and Energy, or any other successor agency* for this area, of removing the vehicle to the place of storage and all reasonable charges, if

any, for storage, together with the costs of publication or the sending of any notice required under this section.

**5-208. Vehicle Maintenance.**

Except for emergency or temporary repairs, a person shall not repair, wash or clean a vehicle in or on a public way of the Town.

**5-209. Street Storage.**

A person shall not occupy any part of a public way for the storage of a vehicle.

**Chapter 300**

**Animals**

**5-301. Vicious Animals.**

A person shall not keep a vicious animal within the Town.

**5-302. Public Property.**

Except insofar as a person has a permit from the Select Board for this conduct, a person shall not drive or ride an animal on a sidewalk, tree belt or park that is under the control of the Town.

**5-303. Tethering of Animals.**

A person shall not tie or fasten an animal to a lamp post, hydrant, tree, shrub, fence or other object or tie or fasten an animal so near to a tree, shrub or vine that the animal can damage it.

**5-304. Frightening of Animals.**

A person shall not by noise, gesture or other means wantonly or intentionally frighten an animal.

**5-305. Unrestrained Animal.**

A person shall not permit an animal to roam unrestrained except on property under the control of the person. If a person permits an animal to roam unrestrained on property under his control, he shall keep the property sufficiently fenced to keep the animal from emerging from the property.

**5-306. Control of Dog -- Public Facilities and Property.**

A person who owns or keeps a dog shall not permit the dog to be on school grounds between the hours of 7:00 A.M. and 4:00 P.M. on any day that the school is in session, or within one hundred (100') feet of any public swimming pool or public wading pool during the time that the swimming pool or wading pool is available for use.

A person who violates this section is subject to a fine of Twenty-Five (\$25) Dollars.

**5-307. Dog Control -- Private Property.**

A person who owns or keeps a dog shall not permit the dog to be upon the land of another person without the permission of the other person if the owner or keeper of the dog does not restrain the dog by a chain or leash that does not exceed six (6') feet in length.

**5-308. Prima Facie Evidence.**

The presence of a dog on the land of a person other than the owner or keeper of the dog when the dog is not restrained by a chain or leash that does not exceed six (6') feet in length is prima facie

evidence that the owner or keeper of the dog has violated the preceding section. The penalty for the violation is Twenty-Five (\$25) Dollars for each offense, subject to the provisions of Chapter 140, Section 173A of the General Laws.

**5-309. Dog Exercise Area.**

The Select Board has authority to designate times and places on Town property where the owner or keeper of a dog may exercise or train the dog without a chain or leash so long as the dog is under the supervision or control of the owner or keeper.

**5-310. Catching a Dog.**

If a dog is at large or is on the property of a person other than the owner or keeper of that dog without the permissions of the property owner and without being restrained by a chain or leash that does not exceed six (6') feet in length, the Animal Control Officer shall take possession of the dog and confine it. The Animal Control Officer shall, as soon as practicable, notify in writing the licensed owner or keeper of the dog that the owner or keeper has ten (10) days within which to recover the dog.

**5-311. Confinement of Dog.**

If the Animal Control Officer takes possession of a dog, he shall confine it in a place suitable for the care and detention of dogs, or he may place the dog in the care of the holder of a kennel license, whichever has been designated by the Select Board.

**5-312. Reclaiming Dog.**

A person is not entitled to reclaim a dog that has been confined by the Animal Control Officer until:

- (a) A person has acknowledged that he is the owner or keeper of the dog;
- (b) He has undertaken responsibility for the dog; and
- (c) He has paid the expense of maintaining the dog in confinement, including, but not limited to, the cost of feeding, medical care, medicines and the necessary dog license.

**5-313. Disposition of Dog.**

If a dog has been confined by the Animal Control Officer, and if the dog remains unclaimed more than ten (10) days after notice has been given to the owner or the keeper of the dog, the Animal Control Officer shall dispose of the dog in a manner provided by law.

**5-314. Prosecution.**

The Animal Control Officer has a duty to seek and prosecute a complaint against the owner or keeper of a dog that the Animal Control Officer has taken into custody; but, if the owner or keeper of the dog has not been convicted of a violation of these provisions within the twelve (12) months next preceding the confinement of the dog, the Animal Control Officer has authority to waive prosecution.

**5-315. Animal Control Officer.**

The Select Board shall appoint a person to serve as animal control officer for the Town. The person so appointed shall serve either full-time or part-time as determined by the Select Board. The Select Board has authority to appoint such assistants as are necessary to enforce and administer the dog control law and any regulations dealing with the control of dogs and other animals issued by the Longmeadow Board of Health or other Town agency or department.

**5-316. Equipment.**

The Select Board shall provide to the animal control officer and his assistants proper equipment for the administration and enforcement of the dog control law and a vehicle that is suitable for the conveyance of dogs.

**5-317. Dog As Nuisance.**

If a person makes a complaint in writing to the Select Board that a dog owned or kept within the Town is a nuisance, the Select Board shall take action as provided in Chapter 140, Section 157 of the General Laws. If the person who files the complaint knows the identity of the owner or keeper of the dog, he shall provide that information to the Select Board.

**5-318. Definition: Dog As Nuisance.**

A dog is a nuisance for the purpose of these By-Laws if the dog:

- (a) Has a vicious disposition;
- (b) Engages in excessive barking;
- (c) Chases cars;
- (d) Runs in packs with other dogs;
- (e) Breaks or damages shrubbery;
- (f) Damages gardens;
- (g) Bites or threatens to bite a person or persons; or
- (h) Enters unrestrained onto the property of persons other than the owner or keeper of the dog.

**5-319. Dog License Penalty.**

A penalty of Fifteen Dollars (\$15) shall be imposed after written notification to dog owners of an annual fee in addition to any other basic license fee, for any dog license purchased more than sixty (60) days after the due date, said penalty to be retained by the Town.

**5-320. Dogs on Athletic Fields.**

Dogs, except for seeing eye dogs or hearing aid dogs, whether or not under the control of their owners shall not be permitted at any time on any athletic field under the jurisdiction of the School committee. This section shall supersede the provisions of Section 5-306 with respect to athletic fields which are on school grounds.

**5-321. Dog License Fees.**

The annual fee charged by the Town for issuance of licenses for dogs shall be \$20.00 for each male or female dog, but \$10.00 for each dog which has been spayed or neutered and these fees shall apply regardless of the number of dogs being licensed by an individual resident.

**5-322. Removal of Dog Waste.**

- (a) It shall be unlawful for any person owning, keeping, walking, in possession, custody or control of any dog to allow or permit such dog to defecate upon any public or private property, other than the property of the dog's owner or with the permission of the property

owner, unless such person shall remove all feces deposited by such dog before leaving such property.

(b) The provision of this section shall not apply to a guide dog accompanying any blind person.

(c) Any violation of this section shall constitute an infraction and shall be punishable by a fine of twenty-five (\$25.00) on the first offense, fifty dollars (\$50.00) on the second offense and subsequent offenses for each violation.

(d) This section may also be enforced by the non-criminal disposition procedure set forth in Article One Chapter 500.

(e) The Animal Control Officer and any Police Officer of the Town are authorized to enforce the provisions of this section.

(f) For the purposes of Article 5-322, feces may not be disposed of in the public storm drain system due to concern for the pollution of brooks, streams, and wetlands. Feces may only be disposed of by:

- (1) utilizing the public sewer systems; or
- (2) sealing in a plastic bag and disposing in the regular trash; or
- (3) utilizing a dog waste septic tank disposal system; or
- (4) burial; or
- (5) other methods approved by the public health department.

## Chapter 400

### Recreational Equipment

#### **5-401. Coasting.**

A person shall not coast or slide upon or across a sidewalk that is under the control of the Town. Except at such places and at such times as the Select Board may designate, a person shall not coast or slide upon a public way or private way to which the public has access.

#### **5-402. Motorized Recreational Vehicles.**

A person shall not operate a motorized vehicle upon property that is under the control of the Town, other than upon public ways, and except in such places and at such times as the Select Board or other municipal authority designates.

#### **5-403. Motorized Scooters.**

*Except as permitted by General Laws Chapter 90, Section 1E* no person shall operate a motorized scooter, motorized skateboard, or other similar motorized motor vehicle on any public way, sidewalk, playground, or on any property owned by the Town. The following vehicles shall be exempt from the provisions of this by-law:

- (a) Vehicles licensed by the Commonwealth of Massachusetts as a motor vehicle;
- (b) Vehicles used by handicapped persons; and
- (c) Landscaping equipment.

## Chapter 500

### Land and Buildings

#### **5-501. Projection into a Public Way.**

A person shall not allow a gate or door belonging to premises under his control to swing over or into a public way.

#### **5-502. Excavation.**

A person shall not excavate within six (6') feet of a street within the Town without erecting and maintaining a suitable fence or railing to protect travelers from injury.

#### **5-503. Swimming Pools.**

If a person has a swimming pool on property that is subject to his control, he shall enclose the pool by a fence which complies with the regulations contained in the Massachusetts State Building code.

## Chapter 600

### Civil Defense

#### **5-601. Department of Civil Defense.**

There is hereby established a Department of Civil Defense (hereinafter called the "department"). It shall be the function of the department to have charge of civil defense as defined in Section 1, Chapter 639, Acts of 1950 and to perform civil defense functions as authorized or directed

by said Chapter or by any and all executive orders or general regulations promulgated thereunder, and to exercise any authority delegated to it by the governor under said Chapter 639.

**5-602. Director of Civil Defense.**

The department shall be under the direction of a director of civil defense (hereinafter called the "director") who shall be appointed as prescribed by law. The director shall have direct responsibility for the organization, administration and operation of the department, subject to the direction and control of the appointing authority, and shall receive such salary as may be fixed from time to time by the appointing authority. The director may, within the limits of the amount appropriated therefor, appoint such experts, clerks and other assistants as the work of the department may require and may remove them, and may make such expenditures as may be necessary to execute effectively the purposes of Chapter 639, Acts of 1950.

The director shall also have authority to appoint district coordinators and may accept and may receive, on behalf of the Town: services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil defense offered by the Federal government or any agency or officer thereof or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The director shall cause appropriate records to be kept of all matters relating to such gifts, grants or loans.

**5-603. Civil Defense Advisory Council.**

There is hereby appointed a Civil Defense Advisory Council (hereinafter called the "council"). Said council shall serve without pay and shall consist of the director of civil defense, such other department heads and such other persons as the authority appointing said director may deem necessary. Such member of said council as said appointing authority shall designate shall serve as chairman of said council. Said council shall serve subject to the direction and control of the appointing authority and shall advise said appointing authority and the director on matters pertaining to civil defense.

**5-604. Police Aid to Other Cities and Towns in Event of Riots or Other Violence Therein.**

The Police Department is hereby authorized to go to aid another city or town at the request of said city or town in the suppression of riots or other forms of violence therein.

**5-605. Termination of By-Law.**

This By-Law shall remain in force during the effective period of Chapter 639, Acts of 1950 and any act in amendment or continuation thereof or substitution therefor.

**5-606. Definition.**

All references to Chapter 639, Acts of 1950, as now in force, shall be applicable to any act or acts in amendment or continuation of or substitution for said Chapter 639.

**Chapter 700**

**Dangerous Materials**

**5-701. Explosive or Inflammable Materials.**

A person shall not keep, store, sell or make other commercial use of petroleum, a petroleum product or any explosive or inflammable fluid or material if he does not have a license to do so.

**5-702. Land Storage.**

If a person uses land for the keeping, storage, sale or other commercial use of an explosive or inflammable fluid or material, he shall pay a fee for the license as follows:

Not more than 1,000 gallons or	8,000 pounds	\$15.00
Not more than 5,000 gallons or	40,000 pounds	\$25.00
Not more than 10,000 gallons or	80,000 pounds	\$35.00
Not more than 30,000 gallons or	240,000 pounds	\$45.00
Not more than 100,000 gallons or	800,000 pounds	\$55.00
Not more than 200,000 gallons or	1,600,000 pounds	\$80.00
More than 200,000 gallons or	1,600,000 pounds	\$110.00

(NOTE: Pursuant to Section 5-704 the Select Board has subsequently changed to above fees to \$45.00, 75.00, 105.00, 135.00, 165.00 and 240.00 respectively.)

**5-703. Vehicle Storage.**

If a person uses a vehicle for the keeping, storage, sale or other commercial use of an explosive or inflammable fluid or material, he shall pay for the license as follows:

Not more than five vehicles	\$1.00
Not more than twenty-five vehicles	\$4.00

**5-704. Change of Fees.**

The Select Board has authority to change the license fees.

**Chapter 800**

**Demolition Delay For Structures Of Historical Or Architectural Significance**

**5-801. Declaration of Policy**

Finding that the economic, cultural and aesthetic standing of the Town of Longmeadow can best be maintained and enhanced by due regard for the historical and architectural heritage of the Town and by striving to discourage the destruction of such cultural assets, it is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of structures of historical and architectural significance, located within the Town of Longmeadow, is a public necessity, and is required in the interest of the prosperity, civic pride and general welfare of the people.

**5-802. Purposes**

The purposes of this general bylaw are to:

- (a) Designate, preserve, protect, enhance and perpetuate those structures and sites within the Town that reflect outstanding elements of the Town's cultural, artistic, social, economic, political, architectural, historic or other heritage;
- (b) Foster civic pride in the vestiges and accomplishments of the past;
- (c) Stabilize or improve the aesthetic and economic vitality and values of such structures and sites;

- (d) Protect and enhance the Town's attraction to residents, tourists and visitors;
- (e) Promote the use of historical or architectural structures and sites for the education and welfare of the people of the Town;
- (f) Promote good urban design including the perpetuation of related private open spaces;
- (g) Promote and encourage continued private ownership and utilization of such buildings and sites now so owned and used, and
- (h) Provide owners of significant structures with time to consider alternatives to demolition.

**5-803. Definitions**

Definitions of the following words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated:

- (a) Commission – The Longmeadow Building Demolition Committee.
- (b) Demolition - Any act of pulling down, destroying, removing, dismantling, or razing a structure or building or commencing the work of total or substantial destruction with the intent of completing the same. Substantial portion is defined as 25% of the volume of the structure or building, or 25% of the roof structure.
- (c) Demolition Permit- A permit issued by the Building Commissioner under the State Building Code for the demolition of a building or structure.
- (d) Significant Structure - A structure or site found by the Longmeadow Building Demolition Committee to contribute to the historical or architectural heritage or resources of the Town pursuant to this Bylaw.
- (e) Structure - Any edifice, object or building of any kind that is constructed or erected and requires more or less permanent location on the ground or attachment to an object with permanent location on the ground, not including wheels.

**5-804. Procedure**

- (a) Upon receipt of any application for a demolition permit for a structure built prior to 1901, as designated by the Historical Commission, the Building Commissioner shall within five (5) days transmit a copy thereof to the Longmeadow Building Demolition Committee.
- (b) Within thirty (30) days of the Historical Commission's receipt of a copy of the application for a demolition permit, the Historical Commission shall hold a public hearing on such application, and shall make a determination as to whether the structure is a significant structure under one or more of the criteria set forth in the by-laws. The Historical Commission shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the owner by certified mail, and by posting and by publication once in a local newspaper,

and notification of abutters within 300 feet of the property lines. The Historical Commission may conduct a site visit prior to the hearing.

(c) If, within thirty (30) days of the Historical Commission's receipt of a copy of an application for a demolition permit no public hearing has been held, or no finding by the Historical Commission has been filed with the Building Commissioner the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.

(d) If after holding a public hearing the Historical Commission shall determine that the structure is not a significant structure because it fails to meet one or more of the criteria set forth here, or if the Historical Commission shall determine that the structure is a significant structure meeting one or more of the criteria set forth, but that the proposed would not be detrimental to the historical or architectural heritage or resources of the Town, then the Historical Commission shall notify the Building Commissioner in writing of its findings within fourteen (14) days of said determination. Upon receipt of such notification, or upon expiration of said fourteen (14) days without such notice, the Building Commissioner may issue a demolition permit subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations.

(e) If, after such hearing, the Historical Commission determines that the structure is a significant structure and that the proposed demolition would be detrimental to the historical or architectural heritage or resources of the Town, then it shall file written notice with findings, of its determination to the applicant and the Building Commissioner, and no demolition permit shall be issued until nine (9) months after the date of such determination by the Historical Commission.

#### **5-805. Standards For Designation as a Significant Structure**

The Historical Commission shall determine that a structure be designated as a significant structure if it meets one or more of the following criteria:

(a) It is listed on, or is within an area listed on, the National Register of Historic Places, is eligible to be listed on the National Register of Historic Places or is the subject of a pending application for listing on said National Register.

(b) The Historical Commission determines that the structure meets one or more of the following three criteria:

1. Historical Importance. The structure meets the criteria of historical importance if it:

A. Has character, interest or value as part of the development, heritage or cultural characteristics of the Town of Longmeadow, the Commonwealth of Massachusetts or the nation.

B. Exemplifies the cultural, political, economic, social or historic heritage of the community.

2. Architectural Importance. The structure meets the criteria of architectural importance if it:
  - A. Embodies those distinguishing characteristics of an architectural type.
  - B. Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town.
  
  - C. Contains elements of architectural design, detail, materials or craftsmanship which represents a significant innovation.
  
3. Geographic Importance. The structure meets the criteria of geographic importance if:
  - A. The site is part of, or related to, a square, park, or other distinctive area.
  
  - B. The structure, as to its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, village center, or the community as a whole.

**5-806. Demolition**

Notwithstanding the above provisions, the Building Commissioner may issue a demolition permit for a significant structure under any of the following circumstances:

- (a) If at any time, after inspection, the Building Commissioner shall determine that the structure poses an imminent threat to the public health or safety of the community, and so advises the Historical Commission in writing.
  
- (b) The Historical Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is or will be willing to purchase, preserve, rehabilitate or restore such, and so advises the Building Commissioner in writing.
  
- (c) The Historical Commission is satisfied that the owner has made continuing bona fide and reasonable efforts to locate a purchaser who would be willing to preserve, rehabilitate and restore the subject building but that such efforts have been and will continue to be unsuccessful, and so advises the Building Commissioner in writing.

**5-807. Emergency Demolition**

- (a) If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the Building Commissioner.
  
- (b) Upon receipt of any application for an emergency demolition permit, the Building Commissioner shall within ten (10) days transmit a copy thereof to the Longmeadow Building Demolition Committee.

(c) As soon as is practicable, but within fourteen (14) days after receipt of such an application, the Building Commissioner shall inspect the building or structure with a team consisting of the Commissioner, Town Engineer, Fire Chief, Historical Commission Chair and two (2) other members of the Historical Commission selected by the Chair, or the designees of said officials.

(d) Within ten (10) days after inspection of the building or structure, and after consultation with other members of the inspection team, the Building Commissioner shall determine:

1. Whether the condition of the building or structure represents a serious and imminent threat to public health and safety.
2. Whether there is any reasonable alternative to the immediate demolition of the building, or structure which would protect public health and safety.

(e) If the Building Commissioner finds:

1. That the condition of the building or structure poses a serious and imminent threat to public health and safety.
2. That there is no reasonable alternative to the immediate demolition of the building or structure, then the Commissioner may issue an emergency demolition permit to the owner of the building or structure.

OR

3. That the condition of the building or structure does not pose a serious and imminent threat to public health and safety.
4. That there are reasonable alternatives to the immediate demolition of the building or structure which would protect public health and safety, then the Commissioner(s) may refuse to issue an emergency demolition permit to the owner of the building.

(f) Upon issuing an emergency demolition permit under the provisions of this section, the Building Commissioner shall submit a brief written report to the Historical Commission describing the condition of the building and/or the basis for his/her decision to issue an emergency demolition permit. Nothing in this section shall be inconsistent with the procedure for the demolition and/or securing of buildings and structures established by M.G.L. Chapter 143, Sections 6-10.

#### **5-808. Enforcement and Remedies**

The following enforcement and remedies shall apply under this bylaw:

(a) The Historical Commission is authorized to adopt rules and regulations to carry out its duties and functions under this bylaw.

(b) The Historical Commission and the Building Commissioner are each authorized to institute any and all proceedings in law or equity they shall deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.

(c) No building permit shall be issued with respect to any premises upon which a significant structure has been demolished in violation of this bylaw for a period of two (2) years from the date of the completion of such demolition. Any owner of a building subject to this bylaw that demolishes a building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of \$100. Each day the violation exists shall constitute a separate offense.

**5-809. Severability**

If any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect to the extent that the overall purposes of this article can still be met.

*(Reserved for Future Enactments)*  
**Chapter 900 (5-901 et seq)**

**ARTICLE SIX**

**CONDUCT AFFECTING THE COMMUNITY**

**Chapter 100**

**Provisions Applicable to Article Six**

**6-101. *(Reserved for Future Enactment)***

**Chapter 200**

**Property Care and Maintenance**

**6-201. False Burglar Alarm.**

If a person has for his home or business a burglar alarm system that results in a police call to the person's home or business, the person is liable for a fee of Twenty-Five Dollars (\$25) for a "false alarm" after one "false alarm" in any calendar year. The person shall be liable for a fee of Fifty Dollars (\$50) for the third and all subsequent "false alarms" in any calendar year.

**6-202. Fee Collection.**

If a person becomes liable for the "false alarm" fee, the Town Collector shall send to the person a bill for the fee. If the person fails to pay the fee within thirty (30) days after the sending of the bill, the Police Department shall cause the burglar alarm system to be disconnected so that the system no longer gives notice to the police upon being triggered. The Collector has authority to collect a "false alarm" fee that accrued before the discontinuance.

**6-203. Regulations.**

The Select Board, after consultation with the Police Department, is authorized to issue regulations to carry out the purpose of this bylaw.)

**6-204. Fire Alarms Systems.**

(a) No owner or occupant of any home or business shall install a so-called "fire alarm" designed to summon the Fire Department without first obtaining a permit from the Fire Chief or his designee. All owners or occupants with fire alarms in place on the effective date of this bylaw shall obtain a permit within three months of the effective date. All owners or occupants shall give written notice to the Fire Department within thirty (30) days of the alarm's being disconnected, removed or substantially altered.

(b) If a person has for his home or business a fire alarm system that results in the Fire Department's call to the person's home or business, the person is liable for a fee of Twenty-Five Dollars (\$25) for a "false alarm" after one "false alarm" in any calendar year. The person shall be liable for a fee of Fifty Dollars (\$50) for the third and all subsequent "false alarms" in any calendar year. A "false alarm" is defined as the triggering of the alarm by any cause other than a condition which the alarm system is intended to report (such as smoke or fire).

(d) The Select Board, after consultation with the Fire Department, is authorized to issue regulations to carry out the purpose of this bylaw.

## Chapter 300

### Commercial Activities

#### **6-301. Junk Dealer License.**

A person shall not collect, deal in or keep a shop for the purchase, sale or barter of junk, old metals or secondhand articles if he does not have a license to do so.

#### **6-302. Licensing Authority.**

The Select Board has authority to issue a license to a person to collect, deal or keep a shop for the purchase, sale or barter of junk, old metals or secondhand articles and, to this end, to adopt standards for the identification of persons who are eligible to receive such a license. Subject to the General Laws of the Commonwealth, the Select Board also has authority to identify the circumstances under which such a license can be revoked.

#### **6-303. Badge or Emblem.**

The Select Board has the authority to design a badge or emblem and to require a person who holds a license to collect, deal in, or keep a shop for junk, old metals or secondhand articles to display the badge or emblem when engaged in collecting, transporting or dealing in junk, old metals or secondhand articles.

#### **6-304. Inspection.**

Any article of merchandise or any place, vehicle or receptacle used for the collection, storage or sale of junk, old metals or secondhand articles is subject to inspection at any time by the Select Board or by a person authorized by the Select Board.

#### **6-305. Record of Transactions.**

A person who keeps a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall keep a book in which he records each purchase of such an article, a description of the article, the name, age and residence of the person from whom the purchase was made, and the day and hour when the purchase was made. This record book is subject to inspection by the Select Board or by a person authorized by them at any time.

#### **6-306. Exhibit of Sign.**

A person who keeps a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall put in a suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon.

#### **6-307. Sidewalk Sales.**

Except in accordance with a written permit from the Select Board and except as provided in Section 17 of Chapter 101 of the General Laws, a person shall not in any street or from any point immediately adjacent to a sidewalk sell or offer for sale any goods or articles to a person who is on any sidewalk that is under the control of the Town.

#### **6-308. Booths or Carts.**

Except in accordance with a written permit from the Select Board, a person shall not sell or offer to sell food, fruit, merchandise or other things from a table, stall, booth, cart or other structure in a public way or public place or upon a sidewalk that is under the control of the Town.

#### **6-309. Failure to Exhibit License.**

If a person who sells goods or merchandise has a permit or license that is required by these By-Laws and if the person fails, neglects or refuses to exhibit his permit or license when demanded of him by a Select Person, Commissioner, Inspector, Sealer of Weights and Measures, Police Officer or any person authorized by the Select Board, the person is subject to the same penalty as if he had no license.

**6-310. Tag Sale.**

A person shall not conduct a "tag sale", "garage sale", "barn sale" or "house sale" if he does not have a permit for the sale from the Building Commissioner of the Town.

The Building Commissioner shall not issue the permit:

- (a) If the person who desires the permit has not applied for the permit at least by noon on the last regular office day prior to the proposed sale.
- (b) If the applicant has failed to indicate the hours during which the sale is to be conducted;
- (c) If the sale is to extend beyond one (1) day; or
- (d) If the applicant fails to pay the fee established by the Select Board for the issuance of the permit.

The Building Commissioner shall not issue more than two (2) permits per year to the occupant of a dwelling unless the Select Board specifically authorizes the additional permits.

A person who holds a permit for a sale under this section is authorized to exhibit on the day of the sale in front of the affected dwelling a sign up to four (4') feet square that advertises the sale. A person shall not exhibit other signs advertising the sale.

**6-311. Licensing of Solicitors and Canvassers.**

(a) Purpose. This section, adopted pursuant to M.G.L. c. 43B, section 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for persons intending to engage in door-to-door canvassing or solicitation in the Town of Longmeadow in order to (1) protect its citizenry from disruption of the peaceful enjoyment of the residences and from the perpetration of fraud or other crimes; and (2) to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

**(b) Definitions.** The following definitions shall apply in the interpretation and implementation of this Bylaw:

**(1) "Soliciting"** shall mean and include any one or more of the following door-to-door activities;

(a) selling or seeking to obtain orders for the purchase of goods or services for any kind of consideration whatever;

(b) selling or seeking to obtain prospective customers for application to purchase insurance of any kind;

(c) seeking to obtain subscriptions to books, magazines, periodicals, newspapers, or any other type of publication;

(d) seeking to obtain gifts or contributions money, clothing, or any other valuable thing for the support or benefits of any association, organization, corporation or project;

(e) seeking to obtain information on the background, occupation, economic status political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly or in part for commercial purposes.

**(2) “Canvassing”** shall mean and include any one or more of the following door-to-door activities;

(a) person-to-person distribution of literature, periodicals, or other printed materials, but shall not include placing or dropping off printed materials on the premises;

(b) seeking to enlist membership in any organization;

(c) seeking to present, in person, organizational information

**(3) “Residence”** shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

**(4) “Registered solicitor”** shall mean any person who has obtained a valid certificate of registration from the Town as required by this Bylaw.

**(c) Registration.** Every person or organization intending to engage in commercial soliciting or canvassing door-to-door in the Town of Longmeadow must register with the Police Department at least three (3) days in advance by filing a registration application form with the Chief of Police.

(1) Organization application forms shall include the following information:

(a) The name and the address of the organization applying for registration, and the names and address of the organization applying for registration, and the names and addresses of the organizations’ principal officers.

(b) The name, title and telephone number, IRS taxpayer identification number of the persons filing the application form.

(c) The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Longmeadow.

(d) A list of the names, addresses, dates of birth of all individuals who will be employed in solicitation or canvassing by the applicant.

(e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).

(f) Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation.

(2) Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under 6-311 (c) (1). Individual registration forms shall contain the following information:

(a) Names and address of the present place of residence and length of residence at that address; if less than three years residence at a present address, the address of residence(s) during the past three years.

(b) Date of birth.

(c) Name and address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization.

(d) Name and address of employer during the past three years if other than listed in 6-311 (c).

(e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).

(f) Name of the last three communities (if any) in which the applicant has solicited or canvassed door-to-door.

(g) Social Security Number. (Optional)

(h) Recent passport-sized photograph of the applicant to be affixed to the registration card.

(i) Make, model and registration number of any vehicle to be used by the applicant while soliciting or canvassing.

**(d) Registration Fee.** Each applicant for registration or re-registration shall pay a fee of \$5.00 to the Town.

**(e) Registration Cards.**

(1) The Police Chief, after a review, shall furnish each person engaged in solicitation or canvassing with a registration card which shall contain the following information:

(a) The name of the person.

(b) A recent photograph of the person.

(c) The name of the organization (if any) which the person represents.

(d) A statement that the individual has been registered with the Town of Longmeadow Police Department but that registration is not an endorsement of any individual or organization.

(e) Specific dates or period of time covered by the registration.

(2) Persons engaged in solicitation or canvassing must carry the registration card at all times and present the card to any person solicited or upon the request of any police officer.

(3) Registration cards are valid only for the specific dates or time period specified thereon and in no case for longer than 90 days.

(4) The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this by-law within the previous two year period, or an individual who at any time has been convicted of murder, manslaughter, rape, robbery, arson, burglary/breaking and entering, assault, larceny.

**(f) Exceptions.**

(1) Registration shall not be required for officers or employees of the Town, County, State or Federal governments when on official business.

(2) Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.

(3) Registration shall not be required for individuals seeking to engage in exclusively noncommercial communication.

**(g) Duties of Solicitors:**

(1) It shall be the duty of every solicitor or canvasser, upon going into any residential premises in the Town of Longmeadow, to first examine any notice which may be posted prohibiting solicitation. If such a notice is posted, the soliciting or canvasser shall immediately and peacefully depart from the premises.

(2) Any solicitor or canvasser who has gone onto any residential property or gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

(3) Immediately upon going onto any residential property or gaining entrance to any residence, each registered solicitor or canvasser must do the following:

(a) Present his registration card for inspection by the occupant.

(b) Request that the occupant read the registration card.

(c) Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of that organization.

(4) It shall be the duty of every organization employing solicitors or canvassers to notify the Police Department daily as to what area(s) of the Town they will be operating in.

(h) **Restrictions on Methods of Solicitation:** It shall be unlawful for a solicitor or canvasser to do any of the following:

(1) Falsely represent, directly or by implication, that the solicitation or canvassing is being done on behalf of a governmental organization.

(2) Solicit or canvass at any residence where there is a posted sign prohibiting solicitation, without express prior permission of an occupant.

(3) Solicit or canvass any residence without express prior permission of an occupant, before 9:00 a.m. or after 8:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation.

**(i) Penalty.**

(1) Any person or organization who, after being advised and given a copy of this By-law, violates any of the provisions of the By-law shall be subject to a fine not to exceed \$300.00 for each offense.

(2) Any person or organization who for himself, itself, or through its agents, servants or employees violates any provision of sub-sections 6-311 (a) or 6-311 (h) of this By-law, or who knowingly provides false information on the registration application, or who is found, after investigation by a police officer, to have conducted himself or itself in a threatening, abusive, or illegal fashion, shall have his, her, or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

**(j) Appeals.** Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Select Board. Such appeal must be filed within 5 days after receipt of the notice of denial or revocation. The Select Board shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Select Board fails to make determination within 30 days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

**(k) Severability.** Invalidity of any provision of this section shall not affect the validity of the By-law as a whole.

#### **6-312. Sale at School.**

A person shall not sell or offer to sell to a school pupil food or any article that is suitable for or intended for human consumption or use within the limits of a public way or within one hundred (100) yards from the nearest boundary of a public school grounds between the hours of 8:00 A.M. and 4:00 P.M. on a day that the school that the pupil attends is in session.

#### **6-313. Recycling Program.**

A person who is not an authorized agent of the Longmeadow Recycling Commission shall not pick up material left at curbside in front of a residence in the Town in connection with the Town's recycling program. This section does not apply to a person who is an occupant of the residence or a person designated by the resident.

**6-314. Billboards, Signs and Other Advertising Devices.**

No billboard, sign or other advertising device shall be posted, erected, displayed or maintained in the Town of Longmeadow on any public way or on private property within public view from any highway, public park or reservation except as the same shall be permitted under the provisions of the statutes of the Commonwealth of Massachusetts and rules and regulations adopted thereunder, or as may be permitted under the provisions of this section as set forth in the following subparagraph thereof:

- (a) A sign may be erected and maintained in any zone as shown on the zoning map of the Town, showing name and street number only, which is affixed to the dwelling or attached to a suitable support. In the case of a street number, the class of profession. Such sign shall not exceed one (1) square foot in area, or two (2) feet in linear dimension buildings thereon, may be displayed but may not exceed four (4) square feet in area.
- (b) An owner of premises in a business zone as shown on the zoning map of the Town, or his lessee or tenant, may erect and maintain a single sign affixed to a structure, or the portion thereof devoted to the business transacted thereon, whose length shall not exceed two (2') feet less than the width of said structure, or said portion as the case may be, and whose height shall not exceed three (3') feet; affixed at a height determined by the Building Commissioner. Any sign or other advertising device which shall be painted or otherwise placed upon said structure, without the use of a separate board or other removable construction, shall be deemed to be so affixed under the provisions of this subparagraph. Said sign may advertise or indicate either the person occupying the premises in question or the business transacted thereon, but shall not make reference to a specific item or items for sale within the premises may be displayed in the windows, or at any point within the area normally devoted to the service of customers, but in no case shall such sign, or any item, be displayed or stored outside the building, except in the case of a business devoted to the service of motor vehicles, and then only in the manner and to the extent approved by the Select Board.
- (c) The Board of Appeals may, in its discretion, in appropriate cases and subject to appropriate conditions and safeguards, permit an owner, lessee or tenant to display, under the provisions and limitations of subparagraph (b) hereof, a sign or signs in addition to the single sign therein permitted.
- (d) The Select Board shall have the right to authorize or direct the installation, on any public way or on any land owned by the Town, such signs as they deem appropriate for the purpose of controlling traffic.
- (e) A temporary sign relating to (i) a candidate for public office, or (ii) an issue which will be voted on at a town meeting or election, or (iii) some other issue which may be of general concern, interest or controversy or (iv) a scheduled function, event or activity sponsored by a non-profit organization, may be erected by the owner of property in any zone or by permission of such owner, but subject to the limitations set forth in subsection (c).

(i) Temporary signs relating to candidates for office shall be limited to candidates for Town Offices or candidates for other offices whose name will appear on a ballot for an election within the Town.

(ii) Temporary signs permitted by subsection (e) (i), as limited by section (e) (i), or signs permitted by section (e) (ii) may be erected no sooner than sixty (60) days prior to the election or meeting at which the candidates or issue will be voted on and must be removed no later than two (2) days after such election or meeting.

(iii) There shall be no limitation on temporary signs permitted by section (e) (iii) except as set forth in section (e) (v).

(iv) Temporary signs permitted by section (e) (iv) may be erected no sooner than fourteen (14) days prior to the date of the function, event or activity and must be removed no later than two (2) days after such function, event or activity.

(v) Signs permitted by any provision of this by-law (A) shall be no greater than four (4) square feet in area, (B) shall not, in the aggregate at any one time, total more than sixteen (16) square feet in area, (C) shall not be artificially illuminated, and (D) shall not be higher than three (3) feet above ground level.

(f) For purposes of this by-law, decorative flags suspended from residences shall not be treated as signs.

#### **6-315. Vending Machines.**

(a) No vending machines, including but not limited to, newspaper vending machines, shall be placed in any area under the care and control of the Town:

(b) *Disapproved by Attorney General 8/17/87.*

(c) The provisions of this section shall be severable so that the failure of the Attorney General to approved either Sub-section (a) and (b) shall not affect the validity of the other sub-section.

#### **6-316. Retail Sales.**

(a) No retail, commercial operation or place of business shall be open for the transaction of retail business between the hours of 12:01 a.m. and 6:00 a.m., unless after an application and hearing before the Select Board, the Select Board determines that it is in the interest of the public health, safety and welfare to allow such retail, commercial operation or place of business to operate during such hours or during a portion of such hours.

(b) This bylaw shall not apply to the retail, commercial operation of facilities operated by innholders and/or common victualers and/or taverns where a license has been duly issued for the operation of the same which otherwise restricts or describes the hours of operation of such facilities.

(c) For the purpose of this bylaw, facilities operated by innholders shall include, but not be limited to: an inn, hotel, motel lodging house and public lodging house or any similar establishment for which a license is required under Chapter 140 of the General Laws; the term facilities operated by a common victualer shall include a restaurant and any other similar establishment which provides food at retail for strangers and travelers for which a

common victualer's license is required under said Chapter; and the term "tavern" shall include an establishment where alcoholic beverages may be sold with or without food in accordance with the provisions of Chapter 138 of the General Laws.

(d) The Select Board shall give public notice of any request whereby a retail, commercial operation or place of business seeks to be open for the transaction of retail business between the hours of 12:01 a.m. and 6:00 a.m. or any portion thereof, shall hold a public hearing within thirty (30) days of receipt of any such request and may grant the request for operation during all or any part of such hours with or without any conditions and may be imposed by the Select Board to ensure public health, safety and welfare.

## **Chapter 400**

### **Public Order and Decency**

#### **6-401. Game, Exercise or Amusement.**

A person shall not engage in a game, exercise or amusement in a public way or a private way to which the public has access if the game, exercise or amusement interferes with the safe or convenient use of the public way or the game, exercise or amusement disturbs the safety of a person or property or the peace and quiet of a person.

#### **6-402. Flying Objects.**

A person shall not throw or shoot a ball, stone, arrow, missile, snowball, ice, stick, brick or other hard substance in a public way or private way to which the public has access, if the throwing or shooting of the object interferes with the safe or convenient use of the public way or disturbs the safety of a person or property or the peace or quiet of a person.

#### **6-403. Explosive or Dangerous Material.**

A person shall not fire a weapon, discharge a missile or discharge an explosive or dangerous material in a public way. This section does not apply to an activity for which a permit has been given by the Select Board or to an activity that is required or justified by law.

#### **6-404. Firearms.**

(a) A person shall not discharge a firearm, rifle or shotgun within the limits of the Town. This section does not apply to lawful defense of a person or property, or to an activity for which permission has been given by the landowner or resident and by the Select Board. For the purpose of this by-law, a firearm shall be defined as any instrument used in the propulsion of shot, shell, bullets, or ball by the use of gunpowder.

(b) Hunting by any means or trapping of wildlife is prohibited within the limits of the Town except on a property owner's or resident's own property or on another owner's or resident's property with the written permission of the owners or residents. A copy of such written permission shall be placed on file with the Police Department. This section shall not be construed to permit hunting by means of a firearm within the limits of the town.

#### **6-405. Advertising Circular.**

A person shall not distribute a handbill, circular or other advertising device on a public way or any place to which the public has access unless the handbill, circular or other advertising device is given in hand or placed within the door of a store, office, business house or residence or vehicle.

**6-406. Curfew.** -- Deleted by Attorney General 8/7/85

**6-407. Unnecessary Noise.**

A person shall not create any unreasonably loud, disturbing or unnecessary noise in the Town.

An unreasonably loud, disturbing or unnecessary noise includes, but is not limited to:

(a) Motor vehicles. The sounding of a horn or signal device on an automobile, motorcycle, bus or other vehicle for the purpose of making an unreasonably loud or harsh sound, or for an unnecessary and unreasonably long time; the sounding of a horn or signal device while the vehicle is not in motion, except as a danger signal if another vehicle is approaching and appears to be out of control; the sounding of a horn or signal device if the vehicle is in motion when the sounding of the horn or signal device is not connected to its use as a danger signal.

(b) Radios, Phonographs or Musical Instruments. The playing of a radio, phonograph or musical instrument in a manner or with such a volume particularly during the hours between 10:00 P.M. and 8:00 A.M., that the instrument is likely to annoy or disturb the quiet, comfort or repose of a person in a dwelling, hotel or other kind of residence.

(c) Churches, Schools, Hospitals and Courts. The creation of a noise on any street adjacent to a church, school, institution of learning, court or place of public meeting, while the same is in session, or adjacent to any hospital or nursing home, if the noise is excessive and tends unreasonably to interfere with their use.

(d) Peddlers and Hawkers. The shouting and crying of a peddler, hawker or vendor that disturbs the peace and quiet of the neighborhood.

(e) Drums, Loudspeakers. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by the creation of noise.

(f) Heavy Equipment. The operation of a bulldozer, power shovel, roller or other heavy equipment after the hour of 9:00 P.M. and before the hour of 7:00 A.M.

(g) Sound Trucks. The use of a sound truck or other advertising sound vehicle.

**6-408. Whistle or Siren.**

A person who is not authorized to do so shall not sound, within the limits of the Town, a whistle or siren horn in a way that imitates the whistle or siren horn used by the Fire Department, Police Department or Water Department of the Town.

**6-409. Peeping Toms.**

A person shall not enter upon the premises of another person with the intention of looking into the windows of a house or spying in any manner upon a person or persons. This section does not apply to a law enforcement officer who is in the performance of his duties.

**6-410. Indecent Exposure.**

A person shall not swim or bathe in a pool or in a body of water in the Town so divested of clothing as to be indecently exposed to the view of a person who is lawfully passing or is lawfully located in a public place, on a public way or in a place to which the public has access.

**6-411. Alcohol -- Minors.**

A person who is below the age established by the General Laws for the purchase of alcoholic beverages shall not have in his possession any such beverage while on a public way or in a public building or in a place to which the public has access.

**6-412. Alcohol -- Possession.**

A person shall not on a public way, in a public place or in a place to which the public has access, have in his possession an opened container of an alcoholic beverage. A person who violates this section is subject to a fine of not less than Twenty-Five (\$25) Dollars and not more than Fifty (\$50) Dollars.

**6-413. Alcohol -- Consumption.**

A person shall not consume an alcoholic beverage in a public building or on public property, including a park, cemetery, school, house, school ground or public square or on a public way or private way to which the public has access, or on a parking area regulated under the provisions of General Laws Chapter 90, Section 18. A person who violates this section is subject to a fine of not less than Twenty-Five (\$25) Dollars and not more than Fifty (\$50) Dollars.

**6-414. Alcohol -- Exception.**

The two preceding sections do not apply to an activity which has been licensed or permitted by the Select Board under the applicable provisions of the General Laws.

**6-415. Video Game Prohibition.**

A person shall not keep, operate or permit another person to operate a mechanical or electronic device, whether coin-operated or not, that uses or tests the skill of a player. This section includes, but is not limited to, an automatic amusement device as defined in Chapter 140, Section 177a(2) of the Massachusetts General Laws. This section applies to a device that is located in or on property that is owned, leased or under the control of the person. This section does not apply to private in-home use, coin-operated juke boxes, pool, billiard, bowling and athletic training devices. A violation of this section is punishable by a fine of Two Hundred (\$200) Dollars for each offense.

**6-416. Permit for Procession or Gathering.**

(a) A person shall not participate in a procession or gathering on a public way, on public land, or in a public area if the Police Department has not issued a permit for the procession or gathering.

(b) This section applies to a procession or gathering of persons, animals or vehicles or any combination of them.

(c) This section applies to a way, land or area that is available for use by members of the community regardless of whether the way, land or area is owned by a public body and includes a way, land or area to which members of the public have access.

(d) The Police Department does not have a duty to decide whether to issue a permit for a procession or a gathering if it does not have a written application for the permit that contains:

1. The name, address and telephone number of the person who is the applicant;

2. The name, address and telephone number of the organization that is the sponsor or the procession or gathering;
3. The date and time of the procession or gathering;
4. An estimate of the number of persons, animals and vehicles that will participate in the procession or gathering;
5. The area and the time at which the procession will form or the gathering will assemble;
6. The route of the procession; and
7. An estimate of the degree to which the way, land or area affected by the procession or gathering will be occupied by the participants in the procession or gathering.

(e) The Police Department has a duty to issue a permit for a procession or gathering unless the Department finds that:

1. The Department received the application less than seventy-two (72) hours before the time for the formation of the procession or the assembly of the gathering; or
2. The Department has reason to believe that the number of participants or the degree to which the way, land or area will be occupied by the participants has been grossly and unreasonably underestimated in the application; or
3. The procession or gathering has principally a business or mercantile purpose or is designed for private profit; or
4. The size or nature of the procession or gathering requires the assignment of so great a number of police officers to the areas contiguous to the procession or gathering that the occurrence of the procession or gathering will deny reasonable police protection to the Town; or
5. The time, route or size of the procession or gathering will deny to a substantial number of persons, animals or vehicles who are not participants in the procession or gathering the use of the way, land or area, or of area contiguous to the way, land or area, during the formation or assembly and the occurrence of the procession or gathering.

(f) If the Department fails to issue a permit for a procession or gathering for a reason stated in the previous paragraph, the Department has the duty, on request from the applicant, to discuss with the applicant the question whether a change in the date, time, place, route or number of participants can overcome the reason for the failure to issue the permit. If one or more changes in the arrangements for a procession or gathering overcome the reason for the failure to issue the permit, and if the applicant assures the Department in writing that those changes will be observed, the Department has a duty to issue the permit.

(g) The Police Department has authority to issue a special permit for an occasion of extraordinary public interest that is expected not to be annual or become customary even

though, under the circumstances, a reason stated in this section for not issuing a permit for a procession or gathering exists.

## **Chapter 500**

### **Injury to Property**

#### **6-501. Obscene Inscription.**

A person shall not make an indecent figure or write an obscene word upon a fence, building, sidewalk, crosswalk, receptacle or other surface visible from any place to which the public has access.

#### **6-502. Defacement.**

A person shall not deface or injure a public playground, landscaped area, flower bed, grass area, guide board, sign, post or signaling device for the direction of traffic, lamp post or lamp, or lantern, building, fence, monument or other thing.

## **Chapter 600**

### **Bylaw Governing Discharges To The Municipal Storm Drain System**

#### **6-601. PURPOSE**

- A. Increased and contaminated stormwater runoff is a major cause of
- (1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
  - (2) contamination of drinking water supplies;
  - (3) alteration or destruction of aquatic and wildlife habitat; and
  - (4) flooding.
- B. 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.
- C. The objectives of this by-law are:
- (1) to prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
  - (2) to prohibit illicit connections and unauthorized discharges to the MS4;
  - (3) to require the removal of all such illicit connections;
  - (4) to comply with state and federal statutes and regulations relating to stormwater discharges; and
  - (5) to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

#### **6-602. DEFINITIONS**

For the purposes of this by-law, the following shall mean:

**AUTHORIZED ENFORCEMENT AGENCY:** The Town of Longmeadow, Director of Public Works, appointed pursuant to Section 6-3(c) of the Town Charter, (the DPW DIRECTOR), 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.

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

**DEPARTMENT OF PUBLIC WORKS (the DPW):** The Longmeadow Department of Public Works.

**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, subsection 1, 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 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 Longmeadow.

**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, accumulations and floatables;
- (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;
- (11) and 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 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.

**6-603. APPLICABILITY**

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

**6-604. AUTHORITY**

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

**6-605. RESPONSIBILITY FOR ADMINISTRATION**

The DPW DIRECTOR shall administer, implement and enforce this by-law.

**6-606. REGULATIONS**

The Select Board, by majority vote, may adopt, and periodically amend, rules and regulations relating to the procedures and administration of this bylaw after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general circulation at least seven (7) days prior to the hearing date. Failure by the Select Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

**6-607. PROHIBITED ACTIVITIES**

- A. **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.
- B. **Illicit Connections.** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the DPW.

**6-608. EXEMPTIONS**

- 1. Discharge or flow resulting from fire fighting activities;
- 2. 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:
  - (a) Waterline flushing;
  - (b) Flow from potable water sources;

- (c) Springs;
- (d) Natural flow from riparian habitats and wetlands;
- (e) Diverted stream flow;
- (f) Rising groundwater;
- (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- (h) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (i) Discharge from landscape irrigation or lawn watering;
- (j) Water from individual residential car washing;
- (k) 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;
- (l) Discharge from street sweeping.
- (m) Dye testing, provided verbal notification is given to the DPW DIRECTOR prior to the time of the test;
- (n) 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
- (o) Discharge for which advanced written approval is received from the DPW as necessary to protect public health, safety, welfare or the environment.
- (p) Discharge from well drilling operations when hay bales and/or silt fencing, or other such sediment separation devices have been utilized.

#### **6-609. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

The DPW 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.

#### **6-610. NOTIFICATION OF SPILLS**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a

release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments the Longmeadow Conservation Commission, Building Commissioner, Department of Public Works and appropriate state and federal regulatory authorities. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

#### **6-611. ENFORCEMENT**

The DPW DIRECTOR shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

**A. Civil Relief** If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the DPW DIRECTOR 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.

#### **B. Orders**

1. The DPW DIRECTOR 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.
2. 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.
3. 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 DPW DIRECTOR 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 DPW DIRECTOR 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 G.L. Ch. 59, § 57 after the thirty-first day at which the costs first become due.

**C. Criminal Penalty** Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than Three Hundred Dollars (\$300.00). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**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 G.L. Ch. 40,

§21D and Sections 1-501, 502 and 503 of the General Bylaws of the Town, in which case the DPW DIRECTOR shall be the enforcing person. The penalty for the 1st violation shall be One Hundred Dollars (\$100.00). The penalty for the 2nd violation and subsequent violations shall be Two Hundred Dollars (\$200.00). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- E. 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 DPW DIRECTOR, his agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW DIRECTOR deems reasonably necessary.
- F. Appeals** The decisions or orders of the DPW DIRECTOR may be appealed to the Town Manager by the party who is subject of the decision or order. A written notice of the appeal shall be filed with the Town Manager within 30 days of receipt of the order or decision being appealed from. The Town Manager shall hold a hearing within 30 days of receipt of the notice of appeal and shall issue a decision within 30 days of conclusion of the hearing.. Further relief from a decision by the Town Manager shall be to a court of competent jurisdiction.
- G. 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.

#### **6-612. 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.

#### **6-613. TRANSITIONAL PROVISIONS**

Residential property owners shall have 14 days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

### **CHAPTER 700**

#### **STORMWATER MANAGEMENT AND LAND DISTURBANCE BYLAW**

##### **6-701. PURPOSE**

- A. The harmful impacts of soil erosion and sedimentation are:
  - 1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
  - 2. contamination of drinking water supplies;
  - 3. alteration or destruction of aquatic and wildlife habitat;
  - 4. flooding; and,
  - 5. overloading or clogging of municipal catch basins and storm drainage systems.
- B. The objectives of this bylaw are to:

1. protect water resources;
2. require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities;
3. promote infiltration and the recharge of groundwater;
4. 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;
5. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
6. comply with state and federal statutes and regulations relating to stormwater discharges; and,
7. establish the Town's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

**6-702. DEFINITIONS**

**ABUTTER:** The owner(s) of land abutting the activity.

**AGRICULTURE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act 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 soil erosion and sediment control permit for proposed land-disturbance activity.

**AUTHORIZED ENFORCEMENT AGENCY:** The Town of Longmeadow, Director of Public Works appointed pursuant to Section 6-3(c) of the Town Charter (the DPW DIRECTOR), designated to enforce this by-law.

**CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC):** A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

**CONSTRUCTION AND WASTE MATERIALS:** Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

**CLEARING:** Any activity that removes the vegetative surface cover.

**DEPARTMENT OF PUBLIC WORKS:** The Longmeadow Department of Public Works.

**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.

**EROSION AND SEDIMENTATION CONTROL PLAN:** 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.

**ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS:** Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

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

**MASSACHUSETTS ENDANGERED SPECIES ACT:** (G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the “taking” of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

**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 G.L. c. 131 §. 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. 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 Longmeadow.

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

**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.

**PRE-CONSTRUCTION:** All activity in preparation for construction.

**PRIORITY HABITAT OF RARE SPECIES:** Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

**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.

**STABILIZATION:** The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

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

**STRIP:** Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

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

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

**WETLAND RESOURCE AREA:** Areas specified in the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 and in the (city or town’s) wetland bylaw/ordinance.

WETLANDS: Tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps and bogs.

**6-703. AUTHORITY**

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 122.34

**6-704. APPLICABILITY**

This bylaw shall apply to all activities that result in disturbance of land that drains to the municipal separate storm sewer system that is maintained by the Department of Public Works (DPW). Except as authorized by the DPW in a Land Disturbance Permit or as otherwise provided in this bylaw, no person shall perform any activity that results in disturbance of an acre or more of land or any activity that could adversely affect the storm sewer system. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.4, are exempt. In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the above activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

**6-705. RESPONSIBILITY FOR ADMINISTRATION**

A. The DPW DIRECTOR shall administer, implement and enforce this bylaw.

**B. Waiver.** The DPW DIRECTOR may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where:

- (1) such action is allowed by federal, state and local statutes and/or regulations,
- (2) is in the public interest, and
- (3) is not inconsistent with the purpose and intent of this by-law.

**C. Rules and Regulations.** The Select Board, by majority vote, may adopt, and periodically amend, rules and regulations relating to the procedures and administration of this bylaw after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general circulation at least seven (7) days prior to the hearing date. Failure by Select Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

**6-706. PERMITS and PROCEDURE**

**A. Application** A completed application for a Land Disturbance Permit shall be filed with the DPW DIRECTOR. A permit must be obtained prior to the commencement of land disturbing activity that may result in the disturbance of an area of one acre or more. Activities that affect smaller areas, but could adversely affect the storm sewer system, may also require a permit subject to the discretion of the DPW DIRECTOR. The Land Disturbance 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;
3. three (3) copies of the Erosion and Sediment Control Plan as specified in Section 7 of this bylaw;
4. payment of the application and review fees; and,
5. one (1) copy each of the application Form and the list of abutters filed with the Town Clerk.

**B. Entry.** Filing an application for a permit grants the DPW DIRECTOR or his agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

**C. Other Boards.** The DPW DIRECTOR shall notify the Town Clerk of receipt of the application, and shall give one copy of the application package to the Conservation Commission, Building Department, and/or Planning Board as appropriate.

**D. Public Hearing.** The DPW DIRECTOR shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the close of the hearing unless such time is extended by agreement between the applicant and the DPW DIRECTOR. Notice of public hearing shall be given by publication in a local paper of general circulation, by posting and by first-class mailings to abutters at least seven (7) days prior to the hearing. The DPW DIRECTOR may elect to waive the public hearing if he determines after review that the proposed activity on the site will not have a significant negative impact with respect to the storm water collection system and site run off. The cost of the publication, mailing and other costs related to the hearing shall be borne by the applicant.

**E. Information requests.** The applicant shall submit all additional information requested by DPW DIRECTOR to issue a decision on the application.

**F. Action by the DPW may:**

1. Approve the Land Disturbance 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 Land Disturbance Permit Application and issue a permit with conditions, modifications or restrictions that the DPW DIRECTOR 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 Land Disturbance 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 DPW 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 DPW DIRECTOR action, the Land Disturbance Permit shall be issued by the DPW DIRECTOR.

**H. Fee Structure.** Each application must be accompanied by the appropriate application fee as established by the Select Board. Applicants shall pay review fees as determined by the Select Board sufficient to cover any expenses connected with the review of the Land Disturbance Permit Application before the review process commences. The DPW DIRECTOR is authorized to retain a Registered Professional Engineer or other professional consultant to advise the DPW on any or all aspects of the Application.

**I. Project Changes.** The permittee, or their agent, must notify the DPW DIRECTOR in writing of any change or alteration of a land-disturbing activity authorized in a Land Disturbance Permit before any change or alteration occurs. If the DPW DIRECTOR determines that the change or alteration is significant, based on the design requirements listed in Section 7.B. and accepted construction practices, the DPW DIRECTOR may require that an amended Land Disturbance Permit application be filed and a public hearing held. If any change or alteration from the Land Disturbance Permit occurs during any land disturbing activities, the DPW DIRECTOR may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

#### **6-707. EROSION AND SEDIMENT CONTROL PLAN**

**A.** The Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements listed in Section 7.B. below.

**B. The design requirements of the Erosion and Sediment Control Plan are:**

1. Minimize total area of disturbance;
2. Sequence activities to minimize simultaneous areas of disturbance;
3. Minimize peak rate of runoff in accordance with the Massachusetts Stormwater Policy;
4. Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
5. Divert uncontaminated water around disturbed areas;
6. Maximize groundwater recharge;
7. Install, and maintain all Erosion and Sediment Control measures in accordance with the manufacturers specifications and good engineering practices;
8. Prevent off-site transport of sediment;
9. Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);
10. Comply with applicable Federal, State and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
11. Prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species from the proposed activities;
12. Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site;
13. Properly manage on-site construction and waste materials; and
14. Prevent off-site vehicle tracking of sediments.

**C. Erosion and Sedimentation Control Plan Content.** The Plan shall contain the following information:

1. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
2. Title, date, north arrow, names of abutters, scale, legend, and locus map;
3. Location and description of natural features including:
  - (a) Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps;
  - (b) Existing vegetation including tree lines, canopy layer, shrub layer and ground cover, and trees with a caliper twelve (12) inches or larger, noting specimen trees and forest communities;

(c) Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.

4. Lines of existing abutting streets showing drainage and driveway locations and curb cuts;
5. Existing soils, volume and nature of imported soil materials
6. Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed;
7. Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed;
8. Drainage patterns and approximate slopes anticipated after major grading activities (Construction Phase Grading Plans);
9. Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;
10. Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;
11. Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;
12. Stormwater runoff calculations in accordance with the Department of Environmental Protection's Stormwater Management Policy;
13. Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;
14. Description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
15. A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed;
16. Plans must be stamped and certified by a qualified Professional Engineer registered in Massachusetts or a Certified Professional in Erosion and Sediment Control and
17. Such other information as is required by the DPW DIRECTOR.

#### **6-708. INSPECTION AND SITE SUPERVISION**

##### **A. Pre-construction Meeting**

Prior to starting clearing, excavation, construction, or land disturbing activity the applicant, the applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with the DPW DIRECTOR, to review the permitted plans and their implementation.

##### **B. DPW Inspection**

The DPW DIRECTOR or his designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the land disturbance permit as approved. The Permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of the DPW DIRECTOR, shall be maintained at the site during the progress of the work. In order to obtain inspections (as deemed necessary

by DPW DIRECTOR and specified in the permit), the permittee shall notify the DPW DIRECTOR at least two (2) working days before each of the following events:

1. Erosion and sediment control measures are in place and stabilized;
2. Site Clearing has been substantially completed;
3. Rough Grading has been substantially completed;
4. Final Grading has been substantially completed;
5. Close of the Construction Season; and
6. Final Landscaping (permanent stabilization) and project final completion.

### **C. Permittee Inspections**

The permittee or his/her agent shall conduct and document inspections of all control measures) no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures.

### **D. Access Permission**

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the DPW DIRECTOR his agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys or sampling as the DPW DIRECTOR deems reasonably necessary to determine compliance with the permit.

### **6-709. SURETY**

The DPW DIRECTOR may require the permittee to post before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the DPW DIRECTOR to ensure that the work will be completed in accordance with the permit. If the project is phased, the DPW DIRECTOR 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 DPW DIRECTOR has received the final report as required by Section 10 and issued a certificate of completion.

### **6-710. FINAL REPORTS**

If required in the individual permit, upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.), surveyor, or Certified Professional in Erosion and Sediment Control (CPESC), 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.

### **6-711. ENFORCEMENT**

**A.** The DPW DIRECTOR shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

#### **B. Orders**

1. The DPW DIRECTOR 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 of Longmeadow may, at its option, undertake such work, and the property owner shall reimburse the Town's 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, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW DIRECTOR 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 DPW 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 G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

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

**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 G.L. Ch. 40, §21D and Sections 1-501, 502 and 503 of the general bylaws of the Town in which case the DPW DIRECTOR shall be the enforcing person. The penalty for the 1st violation shall be One Hundred Dollars (\$100.00). The penalty for the 2nd violation and subsequent violations shall be Two Hundred Dollars (\$200.00). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**E. Appeals** The decisions or orders of the DPW DIRECTOR may be appealed to the Town Manager by the party who is subject of the decision or order. A written notice of the appeal shall be filed with the Town Manager within 30 days of receipt of the order or decision being appealed from. The Town Manager shall hold a hearing within 30 days of receipt of the notice of appeal and shall issue a decision within 30 days of conclusion of the hearing. Further relief from a decision by the Town Manager 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.

#### **6-712. CERTIFICATE OF COMPLETION**

The issuing authority will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.

#### **6- 713. 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 800**

#### **BY-LAW GOVERNING POST-CONSTRUCTION STORMWATER MANAGEMENT OF NEW DEVELOPMENTS & REDEVELOPMENTS**

#### **6-801. PURPOSE**

A. Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the Town of Longmeadow's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater,
2. contamination of drinking water supplies,
3. erosion of stream channels;
4. alteration or destruction of aquatic and wildlife habitat; and
5. flooding.

Therefore, this bylaw establishes stormwater management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be born by abutters, townspeople and the general public.

B. The objectives of this by-law are:

1. To require practices to control the flow of stormwater from new and redeveloped sites into the Town's storm drainage system in order to prevent flooding and erosion;
2. To protect groundwater and surface water from degradation;
3. To promote groundwater recharge;
4. To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;
5. To ensure adequate long-term operation and maintenance of structural stormwater best management practices so that they work as designed;
6. To comply with state and federal statutes and regulations relating to stormwater discharges; and
7. To establish the Town's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

#### **6-802. DEFINITIONS**

**ALTERATION OF DRAINAGE CHARACTERISTICS:** Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge, change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

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

**THE DPW – The Town of Longmeadow Department of Public Works (DPW)**

**THE DPW DIRECTOR:** The Town of Longmeadow Director of Public Works appointed pursuant to Section 6-3(c) of the Town Charter.

**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.

**DISTURBANCE OF LAND:** Any action that causes a change in the position, location, or arrangement of soil, sand rock, gravel of similar earth material.

**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.

**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 G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. 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 Longmeadow.

**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.

**OUTSTANDING RESOURCE WATERS (ORWs):** Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

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

**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.

**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.

**STORMWATER MANAGEMENT PLAN:** A plan required as part of the application for a Stormwater Management Permit. See Section 7.

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

**TSS:** Total Suspended Solids.

### **6-803. AUTHORITY**

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 122.34.

### **6-804. APPLICABILITY**

**A.** No person may undertake a 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 is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land draining to the Town of Longmeadow municipal separate storm sewer system without a permit from DPW. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site.

#### **B. Exemptions**

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
2. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling
3. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
4. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
5. As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the activities identified in Section 4 that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

### **6-805. ADMINISTRATION**

**A.** The DPW DIRECTOR, shall administer, implement and enforce this bylaw.

**B. Rules and Regulations.** The Select Board, by majority vote, may adopt, and periodically amend, rules and regulations relating to the procedures and administration of this Stormwater Management By-law, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date. Failure by the Select Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

### **6-806. PERMITS and PROCEDURE**

**A. Filing Application.** The site owner or his agent shall file with the DPW, three (3) copies of a completed application package for a Stormwater Management Permit (SMP). Permit issuance is required prior to any site altering activity. While the applicant can be a representative, the permittee must be the owner of the site. The SMP 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;
3. three (3) copies of the Stormwater Management Plan and project description as specified in Section 7.A.;
4. three (3) copies of the Operation and Maintenance Plan as required by Section 8 of this bylaw;
5. one (1) copy of the application form, the Stormwater Management Plan, the Operation & Maintenance Plan, and the list of abutters filed with the Town Clerk; and
6. payment of the application and review fees.

**B. Entry.** Filing an application for a permit grants the DPW DIRECTOR, or his agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit

**C. Other Boards.** The DPW shall notify the Town Clerk of receipt of the application, and shall give one copy of the application package to the Department of Planning and Community Development.

**D. Fee Structure.** The DPW shall obtain with each submission an Application Fee established by the Select Board to cover expenses connected with the public hearing and application review of the Stormwater Management Permit and a technical Review Fee sufficient to cover professional review. The DPW DIRECTOR is authorized to retain a Registered Professional Engineer or other professional consultant to advise the DPW DIRECTOR on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.

**E. Public Hearing.** The DPW DIRECTOR shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the close of the hearing unless such time is extended by agreement between the applicant and the DPW DIRECTOR. Notice of public hearing shall be given by publication in a local paper of general circulation, by posting and by first-class mailings to abutters at least seven (7) days prior to the hearing. The DPW DIRECTOR may elect to waive the public hearing if he determines after review that the proposed activity on the site will not have a significant negative impact with respect to the storm water collection system and site run off. The cost of the publication, mailing and other costs related to the hearing shall be borne by the applicant.

**F. Actions.** The DPW's action, rendered in writing, shall consist of either:

1. Approval of the Stormwater Management Permit Application based upon determination that the proposed plan meets the Standards in Section 7 and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this by-law;
2. Approval of the Stormwater Management Permit Application subject to any conditions, modifications or restrictions required by the DPW DIRECTOR which will ensure that the project meets the Standards in Section 7 and adequately protect water resources, set forth in this by-law;
3. Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan, as submitted, does not meet the Standards in Section 7 or adequately protect water resources, as set forth in this by-law.

**G. Failure of the DPW DIRECTOR 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 action by the DPW DIRECTOR, the DPW DIRECTOR must issue a Stormwater Management Permit.

**H. Plan Changes.** The permittee, must notify the DPW in writing of any drainage change or alteration in the system authorized in a Stormwater Management Permit before any change or alteration is made. If the DPW determines that the change or alteration is significant, based on the Stormwater Management Standards in Section 7.B. and accepted construction practices, the DPW DIRECTOR may require that an amended application be filed and a public hearing held.

**I. Project Completion.** At completion of the project the permittee shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

#### **6-807. STORMWATER MANAGEMENT PLAN**

**A.** The application for a stormwater management permit shall consist of submittal of a Stormwater Management Plan to the DPW DIRECTOR. This Stormwater Management Plan shall contain sufficient information for the DPW DIRECTOR to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards as set forth in Part B of this section and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. It shall include:

1. A locus map,
2. The existing zoning, and land use at the site,

3. The proposed land use,
4. The location(s) of existing and proposed easements,
5. The location of existing and proposed utilities,
6. The site's existing & proposed topography with contours at 2 foot intervals,
7. The existing site hydrology,
8. A description & delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows.
9. A delineation of 100-year flood plains, if applicable
10. Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration.
11. The existing and proposed vegetation and ground surfaces with runoff coefficient for each,
12. A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths,
13. A description and drawings of all components of the proposed drainage system including:
  - a. locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization,
  - b. all measures for the detention, retention or infiltration of water,
  - c. all measures for the protection of water quality,
  - d. the structural details for all components of the proposed drainage systems and stormwater management facilities,
  - e. notes on drawings specifying materials to be used, construction specifications, and typicals, and
  - f. expected hydrology with supporting calculations.
14. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable,
15. Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization,
16. A maintenance schedule for the period of construction, and
17. Any other information requested by DPW DIRECTOR.

## **B. Standards**

Projects shall meet the Standards of the Massachusetts Stormwater Management Policy, which are as follows:

1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or water of the Commonwealth.
2. Stormwater management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.
3. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate the annual recharge rate from the pre-development or existing site conditions, based on soil types.
4. For new development, stormwater management systems must be designed to remove 80% of the average annual load (post development conditions) of Total Suspended Solids (TSS). It is presumed that this standard is met when:
  - Suitable nonstructural practices for source control and pollution prevention and implemented;
  - Stormwater management best management practices (BMPs) are sized to capture the prescribed runoff volume; and
  - Stormwater management BMPs are maintained as designed.
5. Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs (see Stormwater Management Volume I: Stormwater Policy Handbook). The use of infiltration practices without pretreatment is prohibited.
6. Stormwater discharges to critical areas must utilize certain stormwater management BMPs approved for critical areas (see Stormwater Management Volume I: Stormwater Policy Handbook).

Critical areas are Outstanding Resource Waters (ORWs), shellfish beds, swimming beaches, cold water fisheries and recharge areas for public water supplies.

7. Redevelopment of previously developed sites must meet the Stormwater Management Standards to the maximum extent practicable. However, if it is not practicable to meet all the Standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions.

8. Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.

9. All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed.

*When one or more of the Standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.*

### **C. Project Changes**

The permittee, or their agent, shall notify the DPW DIRECTOR in writing of any change or alteration of a land-disturbing activity authorized in a Stormwater Management Permit before any change or alteration occurs. If the DPW DIRECTOR determines that the change or alteration is significant, based on the design requirements listed and accepted construction practices, the DPW DIRECTOR may require that an amended Stormwater Management Permit application be filed and a public hearing held. If any change or deviation from the Stormwater Management Permit occurs during a project, the DPW DIRECTOR may require the installation of interim measures before approving the change.

## **6-808. OPERATION AND MAINTENANCE PLANS**

A. An Operation and Maintenance plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit, this Bylaw and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 are met in all seasons and throughout the life of the system. The DPW shall make the final decision of what maintenance option is appropriate in a given situation. The DPW DIRECTOR will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The Operation and Maintenance Plan shall remain on file with the DPW DIRECTOR and shall be an ongoing requirement. The O&M Plan shall include:

1. The name(s) of the owner(s) for all components of the system
2. Maintenance agreements that specify:
  - a. The names and addresses of the person(s) responsible for operation and maintenance
  - b. The person(s) responsible for financing maintenance and emergency repairs.
  - c. A Maintenance Schedule for all drainage structures, including swales and ponds.
  - d. A list of easements with the purpose and location of each.
  - e. The signature(s) of the owner(s).

### **B. Stormwater Management Easement(s).**

1. Stormwater management easements shall be provided by the property owner(s) as necessary for:
  - a. access for facility inspections and maintenance,
  - b. preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
  - c. direct maintenance access by heavy equipment to structures requiring regular cleanout.
2. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
3. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the DPW DIRECTOR.
4. Easements shall be recorded with the Hampden County Registry of Deeds prior to issuance of a Certificate of Completion by the DPW DIRECTOR.

### **C. Changes to Operation and Maintenance Plans**

1. The owner(s) of the stormwater management system must notify the DPW DIRECTOR of changes in ownership or assignment of financial responsibility.

2. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this by-law by mutual agreement of the DPW DIRECTOR and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

### **6-809. SURETY**

The DPW DIRECTOR may require the permittee to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the DPW DIRECTOR to ensure that the work will be completed in accordance with the permit. If the project is phased, the DPW DIRECTOR 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 DPW DIRECTOR has received the final inspection report as required by Section 10 and issued a Certificate of Completion.

### **6-810. INSPECTIONS**

The DPW DIRECTOR shall inspect the project site at the following stages if it deems it necessary:

- A. Initial Site Inspection: prior to approval of any plan.
- B. Erosion Control Inspection: to ensure erosion control practices are in accord with the filed plan.
- C. Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures.
- D. Final Inspection. After the stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system as installed. The DPW DIRECTOR shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to the DPW DIRECTOR which will issue a Certificate of Completion.

If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Stormwater Management Plan, it shall be corrected by the permittee before the performance guarantee is released. If the permittee fails to act the Town of Longmeadow may use the surety bond to complete the work. Examples of inadequacy shall be limited to: errors in the infiltrative capability, errors in the maximum groundwater elevation, failure to properly define or construct flow paths, or erosive discharges from basins.

### **6-811. WAIVERS**

**A.** The DPW DIRECTOR may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where:

- 1. such action is allowed by federal, state and local statutes and/or regulations,
- 2. is in the public interest, and
- 3. is not inconsistent with the purpose and intent of this by-law.

**B.** 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 by-law does not further the purposes or objectives of this bylaw.

**C.** All waiver requests shall be discussed and voted on at the public hearing for the project.

**D.** If in the DPW DIRECTOR's opinion, additional time or information is required for review of a waiver request, the DPW DIRECTOR may continue a 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.

#### **6-812. CERTIFICATE OF COMPLETION**

The DPW will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.

#### **6-813. ENFORCEMENT**

**A.** The DPW DIRECTOR shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

##### **B. Orders**

1. The DPW DIRECTOR may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include requirements to:

- a. cease and desist from construction or land disturbing activity until there is compliance with the by-law and the stormwater management permit;
- b. repair, maintain or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan.
- c. perform monitoring, analyses, and reporting;
- d. remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system.

2. If the enforcing person determines that abatement or remediation of adverse impacts is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Longmeadow may, at its option, undertake such work, and the property owner shall reimburse the Town's 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, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW DIRECTOR 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 DPW DIRECTOR 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 G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due.

**C. Criminal Penalty.** Any person who violates any provision of this by-law, or regulation, order or permit issued thereunder, shall be punished by a fine of not more than Three Hundred Dollars (\$300.00). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**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 G.L. Ch. 40, §21D and Sections 1-501, 502 and 503 of the general bylaws of the Town in which case the DPW DIRECTOR shall be the enforcing person. The penalty for the 1st violation shall be One Hundred Dollars (\$100.00). The penalty for the 2nd violation and subsequent violations shall be Two Hundred Dollars (\$200.00). Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**E. Appeals** The decisions or orders of the DPW DIRECTOR may be appealed to the Town Manager by the party who is subject of the decision or order. A written notice of the appeal shall be filed with the Town Manager within 30 days or receipt of the order or decision being appealed from. The Town Manager shall

hold a hearing within 30 days of receipt of the notice of appeal and shall issue a decision within 30 days of conclusion of the hearing. Further relief from a decision by the Town Manager 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.

**6-814. 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.