

TOWN OF HOLBROOK  
GENERAL BY-LAWS

As Amended:

STM Nov 16, 2022

**TOWN OF HOLBROOK  
BY-LAWS  
REVISED AND RENUMERED JUNE 2023**

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## HOLBROOK TOWN BY-LAWS

### GENERAL PROVISIONS – SECTION 1

Every town meeting shall be notified, by posting a copy of the warrant calling the same, in three public places in town, seven days at least before the day appointed for the Annual Town Meeting and fourteen days at least before the day appointed for a Special Town Meeting.

*Amended: ATM, April 5, 1982 Article 5*

#### Section 1-2

### TOWN MEETING RULES

Section I. Every town meeting shall be opened with a prayer and the playing of the National Anthem, whenever practicable.

Section 2. All motions, except those of a procedural nature or simple amendment, shall be submitted to the chair in writing.

**Section 3.** Town meetings shall be conducted in accordance with the rules of practice contained in "Town Meeting

Time-A Practical Handbook of Parliamentary Law."

*Amended: ATM June 8, 1981 Article 11*

Section 4. On matters requiring a two-thirds (2/3) vote by statute a count need not be taken unless the vote so declared is immediately challenged by seven or more voters as provided in Massachusetts General Laws Chapter 39, Section 15. *Amended: ATM May 12, 1997 Article 7*

#### Section 1-3

### TOWN MEETING AND ELECTION

**Date of Annual Town Election:**

The Annual Town Election shall be held on the first Saturday in April of each year."

*Amended: ATM May 2, 1994 Article 6, Amended: STM November 13, 2017 Article 28*

At the election, the polls shall be opened not later than seven o'clock in the forenoon and shall remain open until eight o'clock in the evening, as shall be specified in the warrant for the meeting.

*Amended: STM May 14, 2001 Article 1*

In any year in which presidential primaries are to be held, the Annual Town Election shall be held on a date to be announced by the Select Board. The announcement shall be made not later than December 31 of the year preceding the year in which such primary elections are to be held.

**Date of Annual Town Meeting:**

The Annual Town Meeting shall be held not earlier than twenty-one (21) days after the Annual Town Election and shall commence in the month of April or May.

The Select Board shall fix the time and place for said meeting on or before January 31 of said year.

*Amended: ATM April 5, 1982 Article 11*

**Article 16: Elected Officials Eligibility**

No one may hold more than 1 (one) Elected Position at a time with the exception of Town Meeting members who may hold 1 (one) additional elected position.

If a candidate is already an Elected Official, they shall resign from their Board, Committee, or Commission seat if elected to a different elected Board, Committee or Commission seat with the exception of Town Meeting Members.

*Adopted: STM November 16, 2022*

**Section 1-4  
COMMITTEE REPORTS**

No action shall be had, at a Town Meeting on the report of any committee previously chosen, unless the same shall be specially notified in the warrant for calling such meeting.

*Adopted March 21, 1872 Article 2*

**Section 1-5  
MEETING OF TOWN BOARDS**

Each Board Committee shall meet at least once during each calendar year.

The Select Board and School Committee shall post up in some conspicuous place at their official room, a notice of the time of their respective meetings Amended ATM April 5, 1982 Article 8, Amended ATM May 3, 1993

*Article 19*

**Section 1-6  
DISTRIBUTION OF TOWN REPORTS**

It shall be the duty of the Select Board to have available for distribution to one member of each dwelling in the town who shall apply therefor at the offices of the Select Board, or at their designated places, a copy of the Town Report. Such report shall be available for distribution at least seven days before the Annual Town Meeting.

*Amended: ATM March 11, 1968 Article 11*

**Section 1-7  
SELECT BOARD RETAIN COUNSEL**

The Select Board shall have full authority, as agents of the town, to employ counsel, and appear for and defend suits brought against it, unless otherwise specially ordered by a vote of the town.

**Section 1-8  
SELECT BOARD TO CONVEY LAND**

Whenever it shall be necessary to execute any deed conveying land, or any other instrument required to carry into effect any vote of the town the same shall be executed by the Select Board or majority of them, in behalf of the town, unless the town shall otherwise vote in any special case.

**Section 1-9  
THE OPEN MEETING LAW FOR TOWN AGENCIES**

The Town Clerk will permanently display a legible copy of the latest version of the "ATTORNEY GENERAL'S OPEN MEETING LAW GUIDE" promulgated by the Massachusetts Attorney General's Office in a prominent place accessible to the public, in all offices and rooms in town buildings, including school department property, where meetings of town boards, commissions and committees are held for the purpose of conducting town business.

*Adopted: STM May 16, 1983 Article Amended May 3, 2011 Article 28*

**Section 1-10**  
**UNPAID TAXES BY LICENSEES**

M.G.L. Chapter 40, Sec. 57

Any licensing authority for the Town of Holbrook may deny any application for, or revoke or suspend any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges. Said By-Law shall provide that: (a) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector, provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen 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 re-issued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate. (c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law. (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 sixty-eight in the business or activity conducted in or on said property. This section shall not apply to the following licenses and permits: open burning: section thirteen of chapter forty-eight; bicycle permits: section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred one; children work permits, section sixty-nine of chapter one hundred forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred forty; dog licenses, section one hundred thirty-seven of chapter one hundred forty; fishing, hunting, trapping license, section twelve of chapter one hundred thirty-one; marriage licenses, section twenty-eight of chapter two hundred seven and theatrical events, public exhibition permits, section one hundred eighty-one of chapter one hundred forty. Adopted: *ATM May 12, 1986 Article 7*

**FINANCIAL - SECTION 2**

**Section 2-1**  
**FINANCIAL YEAR**

The financial year of the town shall begin with the first day of July of each year, and end on the last day of the following June. *Amended: ATM April 1, 1974 Article 8*

**Section 2-2**  
**TREASURER - TAX COLLECTOR**

The Town Treasurer acting as Collector of Taxes, under authorization granted in accordance with Section I, Chapter 41 of the General Laws, is further authorized and empowered under the provisions of Section 38A, Chapter 41 of the General Laws, to collect, under the title of Town Collector, all accounts due the town and is responsible to collect these accounts and to account for their collection. *Amended: ATM March 9, 1970 Article 20*

**Section 2-3**  
**COLLECTION OF TAXES**

Section 1. The assessment of taxes shall be completed and a list of the same delivered to the Collector of Taxes as provided by Chapter 59, Section 53 of the General Laws. *Amended: STM January 9, 1989 Article 23*

Section 2. All taxes which may be assessed for real estate and personal property shall be sent out and paid as provided by Chapter 59, Section 57, of the General Laws. *Amended: STM January 9, 1989 Article 23*

Section 3. The Collector of Taxes is authorized to use all means for collecting the same which a Town Treasurer, when appointed Collector, may use. *Adopted: ATM March 14, 1966 Article 8*

Section 4. The Collector of Taxes shall annually make a complete and accurate report in writing to the Town of all fees collected by himself and members of his department showing the amount and name of the person who retained the fees. *Adopted: ATM March 14, 1966 Article 9*

Section 5. A lien fee of fifty dollars (\$50.00) will be added to the costs of those accounts certified by the Assessors as unpaid water charges which are added to real estate taxes under the provision of M.G.L. Chapter 40, Section 42C. *Adopted May 2, 1994 Article 9*

**Section 2-4**  
**PAYMENT BY TREASURER**

No monies of the Town shall be paid out of the treasury except on order of the Select Board. *Adopted ATM March 21, 1872 Article 2*

**Section 2-5**  
**FINANCE COMMITTEE**

Section 1. The Finance Committee shall, as prescribed by the General Laws of the Commonwealth of Massachusetts, consider any or all municipal matters for the purpose of making reports or recommendations to the town. Said committee shall consist of nine registered voters of the town. The first year three of whom shall be appointed for a term of one year, three for two years, and three for three years, and thereafter said members shall be appointed for term of three years. *Amended: ATM April 7, 1975 Article 5*

Section 2. No person shall serve as a member of the Finance Committee who is an elected or appointed official, board or committee member, or a full-time or part-time employee of the town, except a town meeting member or when a member of the Finance Committee serves ex-officio as a member of another committee authorized by a vote of the town, or membership as the Finance Committee's representative to the Capital Improvement Committee. *Amended ATM May 20, 2002 Article 7*

Section 3. The Moderator, following final adjournment of each Annual Town Meeting and no later than July 15th of each year, shall appoint three (3) members, whose terms shall commence on July 15th and run for three (3) years subsequent through July 14th of said third year. *Amended ATM May 1, 2013 Article 16*

Section 4. Interim vacancies on the Finance Committee shall be filled by the remaining members of the Finance Committee. The terms of office of all persons chosen to fill such interim vacancies shall expire on the July 14th succeeding. The Moderator, in addition to appointments under Section 3 hereof, shall appoint a successor to complete the term of said vacancy." *Amended ATM 5 I 13 Art. 16*

Section 5. If any member is absent from five consecutive meetings of the Finance Committee, except in case of illness, said committee may declare his position vacated. and proceed to fill the vacancy under the provisions of Section 4 of this Article. *Amended: ATM April 2, 1973 Article 21*

Section 6. The Finance Committee shall annually choose from its members a chairman, vice-chairman and secretary. The committee shall regulate its proceedings, and shall serve without pay except the secretary.

Section 7. The Select Board after drawing a warrant for town meeting shall immediately forward fifteen copies thereof to the Finance Committee, which shall consider all articles in the warrant and make such report, in print or otherwise to the town meeting as it deems to be in the best interest of the town.

Section 8. Each department head, board, or committee chairman shall, on or before January 1 each year, forward to the Finance Committee ten (10) copies of his/her budget request for the following fiscal year.  
*Amended: ATM May 12, 1997 Article 6*

Section 9. The report for each Annual Town Meeting shall be entitled "Report of the Finance Committee" and shall include all articles in the warrant, all budgets, and the recommendations of the Finance Committee thereon. Said report shall be printed separately from the Town Report under the jurisdiction of the Finance Committee and in the format it deems appropriate.

Section 10. It shall be the duty of the Finance Committee to cause to be distributed to each Town Meeting Member the "Report of the Finance Committee" at least seven days before the Annual Town Meeting.  
*Amended STM December 10, 1990 Article 16*

#### **Section 2-6** **BIDDING BY-LAW**

Every officer, either elected or appointed, or board in charge of a department and every committee of the town when authorized to purchase equipment, supplies and materials, services or real property shall comply with the provisions of The Uniform Procurement Act, Chapter 30B of the General Laws of Massachusetts. *Amended: STM May 1, 1995 Article 5*

#### **Section 2-7** **SELECT BOARD'S AUCTION**

The Select Board are authorized to sell after first giving notice of the time and place of the sale by posting such notice of sale in some convenient and public place, fourteen days at least before sale, obsolete or discarded equipment, furniture or fixtures owned by the town, provided that the Select Board or whomsoever they may authorize to hold such public auction, may reject any bid which they deem inadequate. *Adopted: ATM March 8, 1965 Article 13*

#### **Section 2-8** **TAX TITLE AUCTION**

The Select Board are authorized to sell after first giving notice of the time and place of sale by posting such notice of sale in some convenient and public place in the town and two (2) newspapers generally distributed within the town, fourteen days at least before sale, property taken by the town under Tax Title Procedure provided that the Select Board or whomsoever they may authorize to hold such public auction may reject any bid for good, sufficient and justifiable reasons.  
*Adopted ATM March 8, 1965 Article 14*



**Section 2-9**  
**DAMAGED TOWN PROPERTY INSURANCE**

All funds received by the town in payment for loss or damage to property owned by or controlled by the town, and all funds received by the town resulting from the sale of property, the sale of which arises from the damage to or destruction of said property, will be received by the Town Treasurer and will be placed in the account of the department responsible for the repair, maintenance or replacement of the property damaged or destroyed, to apply to the expense of repair or replacement of said property. *Adopted ATM March 14, 1966 Article 56*

**Section 2-10**  
**TOWN FEES**

Except as otherwise provided by law, all fees collected by an elected officer of the town or his deputy, on behalf of the town shall be paid into the Town Treasurer and a true return thereof shall be made to the Town Accountant stating the accounts upon which such sums were received. *Adopted: ATM March 10, 1969 Article 7*

**Section 2-11**  
**REPRESENTATIVE TOWN MEETING GOVERNMENT**

**Section 1. Precinct Organization and Caucuses**

Within thirty days following the Annual Town Election a caucus shall be held by the Town Meeting Members in each precinct for the purpose of electing a precinct chairman, precinct vice chairman and precinct clerk who shall serve for a term of one year until re-elected or their successors are elected. The first such caucus shall be called by the Town Clerk and succeeding caucuses by the incumbent precinct chairman unless such chairman has failed of re-election as Town Meeting Member in which case the incumbent vice chairman or clerk, in that order, shall call the caucus unless they too have failed of re-election as Town Meeting Members, in which case the Town Clerk shall call the caucus. Additional precinct caucuses may be held during the year as required. The precinct caucuses may consider any appropriate business which may come before it, including the filling of Town Meeting Member vacancies.

**Section 2. Record of Attendance by Town Meeting Members**

The Town Clerk shall maintain a record of attendance of all Town Meeting Members at each and every town meeting session and shall report to the town as follows: A. Annually the Town Clerk shall publish in the Finance Committee Report the attendance record by date of all Town Meeting Members.  
*Amended STM May 16, 1983 Article 3*

**Section 3. Notice of Meetings**

The written notification by the Town Clerk of a scheduled town meeting required by Mass. Chapter 43A, Section 5, shall also bear the following reminder. "Having had bestowed on you the honor of being a Town Meeting Member, you have an obligation to attend town meetings and represent the citizens of your precinct."  
*Adopted ATM April 4, 1977 Article 8*

**Section 2-12**  
**SINGLE AUDIT**

The Town will cause an audit to be made of its accounts and operations on an annual basis as of June 30, covering the year ended June 30, in accordance with generally accepted government auditing standards, and under the supervision of the Director of the Bureau of Accounts within the State Department of Revenue and in compliance with the Uniform Single Audit Act of 1996. *Adopted: ATM March 13, 1985 Article 8 Amended ATM May 10, 2017 Article 16*

**Section 2-13**  
**TURNOVER OF TOWN RECEIPTS**

Each department is required to expedite the turnover to the Treasurer of Town receipts it has collected.  
*Adopted ATM May 1, 1995 Article 28*

**Section 2-14**  
**ELIGIBILITY FOR GROUP INSURANCE**

In conjunction with the provisions of Massachusetts General Laws, Chapter 32B, only paid elected and appointed employees, who work twenty hours or more per week, performing specific duties for the town are eligible to participate in the town's group insurance programs. *Adopted STM June 12, 1995 Article 4*

**Section 2-15**  
**CAPITAL IMPROVEMENTS**

Section 1.

The Select Board shall establish and appoint a committee to be known as the Capital Improvement Planning Committee. This committee shall be composed of one member of the Select Board, one member of the Finance Committee, one member of the School Committee, and two citizens at large. The respective boards shall appoint its designee to the committee. The Town Administrator and Town Accountant shall be ex-officio staff members without the right to vote. The Committee shall choose its officers. The term of office shall be one year, commencing on July 1. To avoid any potential conflict of interest, no citizen at large member of the committee shall have any business dealings with the Town that may in any way benefit from the approval of any capital project, or be an employee of the Town or a member of any Town Board, Commission or Committee.

Section 2.

The committee shall study proposed capital projects and improvements involving major non-recurring tangible assets and projects that have an intended use of life of at least 3 years and cost more than \$10,000.00. Items that do not meet this criteria shall be considered in annual operating budgets or through other sources. All town departments, boards, committees and commissions shall, by February 1<sup>st</sup> of each year, give to the committee information relative to all anticipated projects requiring Town Meeting approval during the ensuing 6 years. The committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the town. The Town Administrator will be required to prepare a capital financial model to assist the committee in determining the town's ability to fund the capital improvement program. *Amended ATM May 29, 2007 Article 1 Amended ATM May 10, 2017 Article 15*

Section 3.

The Committee shall prepare a report prior to each Annual Town Meeting recommending a Capital Improvement Budget and in addition shall submit a report pertaining to any Special Town Meeting pertaining to any capital items. The Capital Improvement Program shall cover a period of 5 years. The report shall be submitted to the Finance Committee for its advisory recommendations and to the Select Board for its approval and inclusion on the Town Meeting Warrant. *Adopted ATM May 20, 2002 Article 6*

**Section 2-15A**  
**AUDIT/FINANCIAL MANAGEMENT COMMITTEE**

There shall be an Audit/Financial Management Committee consisting of six (6) members, including the Town Administrator who shall be the Chairman, a designee of the Board of Assessors, a designee of the School Committee, the Treasurer/Collector, the Town Accountant, and the Town Clerk, or their designees.

The committee shall compile financial data as requested to provide the Select Board, School Committee, Finance Committee and other policy/decision makers with timely and accurate information. *Amended STM October 23, 2007 Article 19*

**Section 2-16**  
**PROCUREMENT COMMITTEE**

There shall be a procurement committee consisting of nine (9) members, namely: one Select Board Member, one citizen of the town appointed by the Select Board, a designee from the Public Works Department, a designee from the School Committee, a designee of the Fire Department, a designee of the Police Department, the Town Accountant, the Building Inspector and another employee designated by the Select Board. The Select Board shall appoint the Chairman.

The purpose of the committee is to advise the Select Board and the School Committee on selected procurement for goods and services on a coordinated and cooperative basis in order to obtain the best quality, value and price from the widest range of qualified bidders or proposals. *Adopted: STM May 23, 2005 Article 28*

## **STREETS AND SIDEWALKS -SECTION 3**

### **Section 3-1**

#### **REMOVAL OF BUILDINGS AND OBSTRUCTION OF HIGHWAYS**

Section 1. No building shall be removed over a public street without the written permission of the Select Board, and the Select Board shall in no case grant permission to remove any building, which in its removal will cause the injury or destruction of any tree or shrub, the property of individuals, whether in the street or otherwise, unless the written consent of the owner or owners of said property be first obtained.

Section 2. Such written permission shall contain a condition that the owner of such building, or the person or persons removing the same, shall pay the town all damages, costs and expenses for which the town may be liable, or compelled to pay, by reason of said street being obstructed or encumbered.

Section 3. No person shall place, or cause to be placed, in any of the public streets, sidewalks, lands or upon any of the common lands of the town, without a written license from the Select Board, any manure, dirt, gravel, building materials, wood, coal, barrels, boxes, merchandise, or any rubbish of any kind whatever, and suffer the same to remain for twenty four hours; such license shall not be granted in case of persons building when the person whose land is built upon has sufficient adjacent land on which the materials may be deposited.

Section 4. (a) Whoever continues to stand, or sit or loiter in, or about any street, sidewalk, or any public way so as to obstruct the free passage of travelers or vehicles thereon, after being directed by a police officer to move on or disperse, shall be punished by a fine not exceeding twenty-five dollars.

(b) It shall be deemed to be a breach of the peace and it shall be the duty of any police officer of the town to order any person, so acting as to obstruct the free passage of travelers or vehicles, to move on and disperse, and if the person so ordered does not forthwith obey to remove such person, or to arrest and cause such person to be brought before a Trial Court of Massachusetts, East Norfolk Division, Quincy, Massachusetts, upon a complaint made for a violation of the provision of the preceding paragraph (a).

(c) The provisions of this By-Law are severable, and, if any of its provisions shall be held unconstitutional or invalid by any court of competent jurisdiction, the decisions of said court shall not effect or impair any of the remaining provisions. *Amended STM December 13, 1978 Article 11*

Section 5. No person shall use any indecent, profane or insulting language in any street or other public place in the town, or near any dwelling house or other building therein, or be or remain on a sidewalk or public passageway or way or ways to any public hall or church, court or public office, or upon any doorstep, portico or other projection from any such house or other building to the annoyance, disturbance, or obstruction of any person lawfully entitled to pass or resort thereto; and no person shall sit upon any wall, fence, bank or doorstep facing on any public place, not being the owner or occupant thereof, without the express consent of such owner or occupant; nor shall any person, by the noise, gesture, or other means, wantonly or designedly frighten or drive any horse, in charge of another, in any street, or public place in town; and for any offense against this By-Law each offender shall pay a fine of not more than fifty dollars (\$50.00)

Section 6. Coasting on any of the public streets of the town is prohibited except, upon such streets as the Select Board shall designate each year by Public Notice.

Section 7. Fast driving of horses, or other beasts of burden, carriage or draft, for the purpose of trial, or contest of speed, is prohibited (except) upon such street as the Select Board shall designate each year by Public Notice.

Section 8. No person shall play ball, or throw stones or snowballs or other missiles, in any street or public square.

Section 9. No person shall shoot with or use a bow and arrow in a street, and whoever shall be found in possession of toy pistols, crotches, rubber slings or other devices for throwing missiles of any kind, with intent to use the same to the injury of any person or property, or to the annoyance or discomfort of any person on any street, shall be liable to a penalty of not less than one dollar, nor more than twenty dollars (\$10.00).

Section 10. No person shall place in any drinking fountain, trough, or basin of water, set up or established in any street or public square in the town, for the use of man and beast, any dirt, stone, ashes, rubbish, offal, or filth of any kind.

Section 11. No person shall fasten or tie a horse or other animal to a tree in any of the main streets of the town or allow any horse or other animal owned by him or under his control, to stand so near any such tree that such tree may be gnawed or injured by such horse or other animal so allowed to stand, nor shall place a sign upon or around any tree on any street of the town, unless he is the owner thereof, or has the owner's consent.

Section 12. No person shall resort to or frequent any school house grounds or enclosure in the town to interfere with or annoy any person lawfully using or enjoying the same; nor shall any person resort to or frequent any cemetery or graveyard in the town and there engage in or be present in any game of cards or other sport, or lounge or loiter therein to the annoyance or interference of persons properly visiting or resorting to said place, under a penalty of not less than five, nor more than twenty dollars (\$10.00), for each offense.

Section 13. No person, unless required by law so to do, shall make any marks, letters or figures of any kind, or place any sign, advertisement or placard upon or against any wall, fence, post, ledge, stone, tree, sidewalk or structure in or adjacent to any street without permission of the owner thereof. *Amended STM December 13, 1978 Article 11*

**Section 3-2**  
**BICYCLES ON SIDEWALKS**

No person shall ride a bicycle or other wheeled vehicle unnecessarily on the sidewalk of any street within the town. Approved by the Superior Court, May 26, 1893.

**Section 3-3**  
**UNATTENDED**  
**VEHICLES**

No vehicle shall be left unattended within the limits of any private way furnishing means of access for fire apparatus to any building. Whoever violates this By-Law shall be punished by a fine not exceeding twenty dollars (\$20.00) for each offense. *Adopted: ATM March 9, 1964 Article 15*

**Section 3-4**  
**SNOW AND ICE REMOVAL**

No person shall lay, throw or place, or cause to be laid, thrown or placed any ice or snow on that portion of any street or sidewalk in the town which has been cleared or plowed for travel. No person shall cause water to be pumped or directed into the public sidewalks or streets in the town. Whoever violates this By-Law shall be punished by a fine not exceeding One Hundred dollars (\$100.00) for each offense. *Amended: ATM May 20, 2002 Article 35*

**Section 3-5**  
**UNATTENDED VEHICLES-PRIVATE WAYS AND FIRE LANES**  
(Pursuant to General Laws Chapter 40, Section 21, Paragraph 14)

Section 1 Fire Regulations: It shall be unlawful to obstruct or block a private way with a vehicle or any other means so as to prevent access by fire apparatus or equipment to any multiple-family building, stores, shopping centers, schools and places of public assembly.

Section 2, Fire Lanes: It shall be unlawful to obstruct or park a vehicle in any fire lane, such fire lanes to be designated by the Head of the Fire Department and posted as such. Said fire lanes to be a distance of twelve (12) feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk with curbing exists, the distance and location shall be established by the Head of the Fire Department.

Section 3. Any object or vehicle obstructing or blocking any fire lane or private way, may be removed or towed by the town under the direction of a police officer, at the expense of the owner and without liability to the Town of Holbrook.

Section 4. The owner of record of any building affected by these sections shall provide and install signs and read markings as provided in Section 2. Said signs shall be no less than 12" x 18" and shall read 'Fire Lane-No Parking - Tow Zone.'

Section 5. Any person violating any of the foregoing sections shall for each offense, be punished by a fine of fifteen dollars (\$15.00). Each day that such violation continues shall constitute a separate offense.

*Adopted STM November 28, 1983 Article 26*

**Section 3-6**  
**DESIGNATED PARKING SPACES FOR HANDICAPPED PERSONS**  
(Pursuant to Chapter 40, Section 21, Paragraph 23A)

Any person or body that has lawful control over a public or private way of improved or enclosed property used as off-street parking areas for business, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings or for any other place where the public has a right of access as invitees or licensee, shall reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by Section 2 of Chapter 90, according to the formula contained in such section. *Adopted ATM May 14, 1984 Article 6*

**Section 3-7**  
**FINES AND VIOLATIONS - DESIGNATED PARKING SPACES FOR HANDICAPPED PERSONS**  
(Pursuant to Chapter 40, Section 21, Paragraph 24)

No person or body shall leave an unauthorized vehicle within a parking space designated as reserved for vehicles owned and operated by disabled veterans or handicapped persons or in such manner as to obstruct a curb ramp designated for use by disabled veterans or handicapped persons as a means of ingress and egress to a street or public way. The penalty for violation shall be as follows: For the first offense \$15.00; for the second offense \$25.00; and for each subsequent offense the vehicle may be removed in accordance with the provisions of Section 120D of Chapter 268.

*Adopted ATM May 14, 1984 Article 7*

## Section 3-8

### FORESTRY - USE OF MOTOR VEHICLES

The use of motor vehicles, including but not limited to recreation vehicles, is prohibited within the Town Forest. Nothing in this By-Law shall be construed to prohibit vehicles necessary to protect and maintain the Town Forest.

*Adopted ATM May 8, 2000 Article 35*

### ANIMAL AND FOWL- SECTION 4

#### Section 4-1

#### PASTURING OF CATTLE

Section I. The town hereby adopts and avails itself of the provisions of Chapter 53 of the Public Statutes, relating to the pasturing of cattle or other animals in streets or ways.

Section 2. No persons shall be allowed to pasture any cattle or other animals upon any streets or ways in said town, either with or without a keeper, except within the limits of such way adjoining his own premises. And no person having charge of swine or a horse, cow or other grazing animal, shall permit the same to pass over or remain on any of the sidewalks within the limits of said town except for the purpose of crossing to and from premises adjoining the said sidewalks. Any violation hereof shall be subject to the same penalty as set forth in Section 13- I of these By-Laws. *Amended TM April 4, 1887 Article 12*

#### Section 4-2

#### SLAUGHTER OF ANIMALS

It shall be unlawful to slaughter any animals in the Town of Holbrook. Whoever violates this By-Law shall be punished by a fine not exceeding twenty dollars (\$20.00) for each offense.

*Amended ATM March 9, 1964 Article 22*

### REGULATIONS- MISCELLANEOUS-SECTION 5

#### Section 5-1

#### TRUANCY

Any child between the ages of seven and fifteen years, who may be found in any street or public place in the Town of Holbrook during school hours, and not giving a satisfactory reason for his or her absence from school shall be arrested by any truant officer of the town, and taken to the school to which he or she belongs, and delivered to the teacher thereof. Any child who may be found absent as aforesaid a third time, shall be deemed a habitual truant, and may be punished accordingly.

#### Section 5-2

#### MOTOR VEHICLE -TAXIS

No motor or other vehicle shall be set up and used for the conveyance of persons for hire from place to place within the Town of Holbrook unless the owner thereof is licensed by the Select Board. The fee for such license shall be an annual fee set by the Select Board. Rules and orders for the regulation of motor or other vehicle may be set by the Select Board who may set penalties for the violation thereof. *Amended ATM June 8, 1981 Article 10*

#### Section 5-3

#### JUNK COLLECTORS

By-Law for the licensing and regulation of collectors of junk, old metal, rags or second-hand articles, in the Town of Holbrook. Adopted at a town meeting held April 12, 1905, as follows:

Section 1. The Select Board may license suitable persons as junk collectors, to collect by purchase, or otherwise, junk, old metals, rags or second-hand articles from place to place in the Town of Holbrook. Persons so licensed, when engaged in collecting or transporting or dealing in junk, old metals, rags, or second-hand articles, shall display badges upon their persons, and upon the vehicles used for collection of the articles aforesaid; said badges shall have thereon the name of the licensee and the number of his license, in plain legible letters and figures, so that the same may be distinctively seen. Every vehicle or receptacle used for the collection of the articles aforesaid may be examined at all times by the Select Board or by any person by them authorized thereto.

Section 2. No collector of junk, old metals, rags or second-hand articles shall directly or indirectly either purchase or receive, by way of barter or exchange, any of the articles aforesaid, of a minor or apprentice, knowing or having reason to believe him to be such. *Adopted: ATM April 12, 1905 Article 2*

#### **Section 5-4** **HOUSE SOLICITING**

Section 1. It shall be unlawful for anyone to solicit from house to house, for the sale of any articles or thing, in the town, from sunset to sunrise, on any day or at any time on Sunday, or any legal holiday.

Section 2. No person shall sell, solicit or display goods, articles, wares or merchandise upon the public ways of the town unless duly licensed to do so by first having filed an application and having obtained a written permit from the Select Board, at a fee not to exceed \$100.00 annually. *Amended ATM April 2, 1973 Article 9*

#### **Section 5-5** **GAS STATION - GARAGE RULES**

Section 1. The Select Board shall from time to time make reasonable rules and regulations governing the operation of gasoline stations, garages and motor vehicle towing services.

Section 2. Nothing in the foregoing sections shall conflict with any provisions of the General Laws. *Amended ATM May 20, 2008 Article 18*

#### **Section 5-6** **STORAGE OF INFLAMMABLE AND EXPLOSIVE MATERIALS**

Regulations:

- (A) The fee for licenses issued pursuant to Chapter 148 of the General Laws regarding the storage of explosive and inflammable materials in storage tanks above or below ground, shall be four dollars (\$4.00) for each 1,000 gallons of storage capacity or any fraction thereof, for the original license, and two dollars (\$2.00) for each 1,000 gallons of storage capacity or any fraction thereof, for the annual renewal of same. All other storage licenses issued pursuant to said Chapter 148 will have a ten dollars (\$10.00) annual renewal and a twenty dollars (\$20.00) fee for the original license, except those licenses for which a maximum amount has been set by said Chapter 148 and is less than five dollars (\$5.00), and in those cases the license charge, both original and renewal, shall be the maximum amount permitted to be charged under said Chapter 148.
- (B) Any inflammable liquid or gasoline storage tank installed below the ground under license duly granted by the Select Board shall be tested for leakage at the expense of the owner upon installation. and according to the following schedule the date of which shall be determined by the license date or the date of installation whichever is later Day of installation; every five (5) years up to twenty (20) years; every three (3) years thereafter unless the Fire Chief determines that conditions indicate more frequent testing be done.
- Such testing will be done under the supervision of the Chief of the Fire Department using the Kent/Moore Test Method or equal. The tank or tanks shall be removed by the owner, at no expense to the town, if they fail the test, or at any time when they become a hazard because of leakage or otherwise in the opinion of the Chief of the Fire Department.
- (C) The fact of installation, maintenance and/or usage of such storage tanks under a license duly granted by the Select Board shall constitute an agreement on the part of the owner or owners of such tanks to save and hold harmless the Town of Holbrook from any and all reasonable and necessary expenses of removing the said tanks upon expiration of the license, or at any time when the same shall be required, in the opinion of the Chief of the Fire Department.
- (D) The fact of installation, maintenance and/or usage of such tanks under a license duly granted by the Select Board shall constitute an agreement on the part of the owner or owners to remove at the cost of the owner or owners such tanks upon the discontinuance and/or abandonment of that business necessitating or using such tanks whether or not such discontinuance and/or abandonment be less than the five years limitation above mentioned. Removal of such tanks under the provisions herein shall be within one hundred eighty (180) days of the date of discontinuance or abandonment.

- (E) Jurisdiction over any and all leakage of flammable liquid or other harmful and injurious matter into any main, line or other conduit below the surface of the ground, constituting a detriment to the public health and/or safety of the public, shall be vested with the office of the Chief of the Fire Department.
- (F) Upon satisfactory showing of such leakage into any such main, conduit, or line, the Chief shall cause to be sent, registered mail, notification of such leakage to all owners of land duly licensed for such storage of gasoline or other flammable or injurious material in the area defined as the source of such leakage and the particular main, line or conduit affected; (2) the defined area within which the source of leakage is located if ascertainable; (3) a demand upon the owner(s) of such licensed land within the defined area to take necessary action to test and confirm the absence of any such leakage from storage tanks upon the owner's particular land; (4) a reasonable time limit within which to effect such test, not to exceed seventy-two (72) hours; (5) notification of the intention of the Town to make such reasonable and necessary tests as are requested upon the failure of the owner to take action; (6) the amount of charge for such tests in the event the owner fails to comply with the demand.
- (G) The fact of installation, maintenance and/or usage of such storage tanks under license of the Select Board, with the actual or implied consent of the owner of such land, shall constitute an agreement on the part of the owner of such licensed land to take such action as requested above to discover the presence or absence of any such leakage; and shall further constitute an agreement on the part of the owner to hold and save harmless the town from any reasonable and necessary expenditures incurred by the town in testing the licensed land upon failure of the owner to comply with the notification of the Chief of the Fire Department.
- (H) Any tanks installed in a flood plain area will be in a concrete vault. *Amended ATM May 14, 1984 Article 5*

#### Section 5-7

#### PUBLIC CONSUMPTION OF ALCOHOL

- (A) DEFINITIONS: The following words in this section, unless the context otherwise requires, shall have the following meanings:
  - (1) PUBLIC WAYS: All ways to which the public has a right of access.
  - (2) PARK: Any public park under the care and control of the town.
  - (3) TOWN FOREST: Any town forest under the care and control of the town.
  - (4) PLAYGROUND: Any playground under the care and control of the town.
  - (5) BEACH: Any beach under the care and control of the town and beaches within the limits of the town to which the public has a right of access.
  - (6) PUBLIC PARKING AREAS: Any public parking area under the care and control of the town.
  - (7) PRIVATE PARKING AREAS: Any private parking area throughout the town to which the public has a general right of access.
- (B) No person shall drink or consume alcoholic beverages as defined in Chapter 138, Section 1 General Laws while on, in or upon the public ways and places set forth in (a) above, or place to which members of the public have access as invitees or licensees, or park, town forest, public parking areas or playground, or any beach under the care and control of the town or on any beach within the limits of the town to which the public has a right of access, or private land or place without the consent of the owner or person in control thereof.
- (C) EVIDENCE OF VIOLATION: Possession of an open can, bottle or other container, which upon analysis by the Department of Public Health, is determined to contain an alcoholic beverage as defined in Chapter 138, Section I of the General Laws, shall be prima facie evidence of drinking or consuming said alcoholic beverage. All alcoholic beverages being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person or persons summoned before the court.
- (D) ARREST: A police officer may arrest without a warrant anyone who, in his presence, violates this section. Whoever violates any provisions of this section shall be liable to a penalty of not more than fifty dollars (\$50.00) for each violation. *Amended STM December 13, 1978 Article 10*



**Section 5-8**  
**YARD SALES**

No yard, garage, porch or barn sale shall be held on any property in the Town of Holbrook without the property owner or occupant of said property first obtaining a permit from the Select Board. Not more than two yards, garage, porch, or barn sales, or any combination thereof, shall be held by any property owner or occupant of said property within a one year period, but the Select Board may grant more than two permits per year to a religious, educational or other charitable organization located in the Town of Holbrook.

Only articles and items owned by the property owner or occupant shall be sold at the yard, garage, porch or barn sale unless in the judgment of the Board the sole intent of the sale is to benefit a charitable organization located in the Town of Holbrook.

Each permit granted by the Select Board shall not be for more than two consecutive days of sale.  
*Adopted ATM April 3, 1978 Article 39*

**Section 5-9**  
**TOWING VEHICLES**

The Superintendent of Streets or other officer having charge of ways, for the purpose of removing or plowing snow, or removing ice, from any way, is hereby authorized to remove, or cause to be removed, to some convenient place, including in such term a public garage, any vehicle interfering with such work, and for imposing liability for the cost of such removal, and of the storage charges, if any, resulting therefrom, upon the owner of such vehicle. For each offense a penalty of twenty dollars (\$20.00) may be assessed which may be recovered before a District Court; said penalty fee shall inure to the town.  
*Adopted ATM April 5, 1982 Article 39*

**Section 5-10**  
**TEMPORARY REPAIRS ON A PRIVATE WAY**

The town may make temporary repairs on a private way including drainage in the following manner:

1. If the Select Board determines that the public necessity requires the same.

And further subject to the following:

2. That no temporary repair on any private ways and drainage shall be made unless three-fifths of all owners/abutters to any said private way petition for such repairs,
3. That the owners/abutters on any said private ways shall deliver a general release, releasing the town from any and all claims and will provide the town with a liability insurance policy in an amount and with a company satisfactory to the Select Board insuring the owners, the town, its servants, agents and contractors from any personal injury, loss of damage to property arising from any work done on said private way by the town. its agents, servants and contractors.
4. That the town shall not be liable for any damages caused by such repairs in said private way, including drainage.
5. That no repairs shall be made unless the town, at an Annual Town Meeting or a Special Meeting, appropriate the necessary funds which may be determined as the cost of said repairs.
6. The town shall determine if all repairs on said private way, including drainage, engineering and legal costs, shall be paid by the abutters in accordance with the same procedure for betterments as under the Betterment Act, said betterments shall include all engineering and legal expenses.
7. No private ways shall be repaired unless the said private way has been open to the public for a period of at least Twenty (20) years. Amended: STM June 20, 1994 Article 6

**Section 5-11**  
**FALSE ALARMS**

- A. Definitions PREAMBLE - It is determined that the number of false alarms being made to the Police Department hinders the efficiency and lowers department morale. This situation constitutes a danger to the general public, homeowners, businesses and the police. The adoption of this By-Law will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Holbrook.
1. The term "Burglar Alarm System" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire Alarm, systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this By-Law. The provision of Section C of this By-law shall apply to all users.
  2. The term "False Alarm" means (a) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents; (b) any signal or automatic dialing device transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery or burglary, or attempted threat. For the purposes of this definition, activation of alarm systems by acts of God, including but not limited to power outages, hurricanes, tornadoes) earthquakes, and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.
  3. The term "Automatic Dialing Devices" refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.
- B. Control and Curtailment of Signals Emitted by Alarm Systems.
1. Every alarm user shall submit to the Police Chief the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Police Department, to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of said premises to immediately notify the Holbrook Police Department of any changes in the list of authorized employees or other persons to respond to alarms.
  2. All alarm systems installed after the effective date of this By-Law which use of an audible horn or bell shall be equipped with a device that will shut off such bell or horn within fifteen (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Holbrook must have a shut-off device installed within six (6) months of passage of this By-Law.
  3. Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7:00 p.m. and 6:00 a.m. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph one(1) of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the Police Department shall endeavor to contact the alarm user, or members of the alarm user's family or those persons designated by the alarm user under paragraph one (1) of this section in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complaints and the time each complaint was made.
  4. No alarm system which is designated to transmit emergency messages or signals of intrusion to the Police Department will be tested until the Police Dispatcher has been notified.
  5. The provisions of this By-Law shall not apply to alarm devices on premises owned or controlled by the town, nor to alarm devices installed in a motor vehicle or trailer.

## C. Penalties

1. The user shall be assessed twenty-five (\$25.00) dollars as a false alarm service fee for each false alarm in excess of three (3) occurring within a calendar year. The Police Chief shall notify the alarm user either by certified mail or by service in hand by a police officer of such violation and said user shall submit payment within fifteen (15) days of said notice to the Town Treasurer for deposit to the General Fund.
2. The owner of a system which occasions six (6) or more false alarms within a calendar year or fails to pay the fine after said notice may be ordered to disconnect and otherwise discontinue the use of the same by the Select Board after a public hearing, *Adopted: ATM May 14 1984 Article 9*

### **Section 5-12** **HAZARDOUS MATERIAL**

#### **SECTION I: HAZARDOUS MATERIALS**

##### **Subsection I Authority**

This By-Law is adopted by the Town of Holbrook under its police powers to protect the public health and welfare, and its authorization under M.G.L Chapter 40, Section 21.

##### **Subsection 2 Purposes**

This By-Law is intended to protect the public health, safety and welfare, and the environment; as well as preserve and maintain the existing and potential groundwater supply, groundwater recharge areas, and surface waters within the town from contamination with hazardous materials.

##### **Subsection 3 Definitions**

The following definitions shall apply in the interpretation and implementation of this By-Law. Hazardous Materials means a product or waste or combination of substances which because of quantity, concentration, or physical or chemical, or infectious characteristics may reasonably pose, in the determination of the enforcing authority) a substantial present or potential hazard to the human health, safety, or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance which may create a special hazard in the event of a spill, leak, fire, or exposure; and all substances deemed a hazardous waste in M.G.L. Chapter 21C shall also be considered a hazardous material for the purpose of the By-Law. Contingency Plan means a document setting an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous materials which could threaten public health, safety, or welfare, or the environment. Discharge means the disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment. Materials Safety Data Sheet means the form containing data on physical characteristics, flammability, explosivity, reactivity, and the health and safety hazards of specific chemicals, as well as information relative to procedures recommended for spills and leaks of specific chemicals and special protections and precautions to be taken in the handling of specific chemicals. Reportable Discharge means all discharge greater than three gallons liquid volume or five pounds dry weight, or any discharge which would potentially threaten the public health and safety or the environment by entering surface water, groundwaters, or water recharge areas, or by emitting toxic fumes or gases into the air. Discharges which are in compliance with all Federal, State, and Local regulations, or which are permitted by governing Federal, State, or Local Agencies are not considered reportable discharges.

##### **Subsection 4 Severability**

Each provision of this By-Law shall be construed as separate to the end, that if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect

### **Subsection 5 Hazardous Materials not Subject to Regulations by this By-Law**

The following materials are not within the scope of authority of this By-Law: (1) Domestic Sewerage (2) Household Waste including garbage, trash and septage from single and multiple residences, hotels and motels (3) Wastes generated from the growing of agricultural crops and the raising of animals, including manure which are returned to the soil as fertilizer.

### **Subsection 6 Registration Requirement**

Every owner, or operator of a commercial or industrial establishment (including Municipal, State and Federal operations) which stores, transports, uses, handles, or otherwise manages hazardous materials (excluding fuel oil stored for the purpose of heating buildings located on site) totaling more than fifty gallons liquid volume or twenty-five pounds dry weight shall register with the Fire Department. Registration includes the following:

- 1) Submission of a map or written description locating areas where hazardous materials are sorted, handled, or in use, specifying approximate average quantities of materials in each location and the special handling required in a fire, leak, spill, or exposure. Areas must also be identified which store emergency equipment including medical supplies, along with a brief description of the capabilities of the equipment. This map or written description must also be posted in one of the following on site locations: (a) Guard Shack, (b) Fire Alarm Box, (c) Sprinkler Riser, (d) Other location acceptable to the Head of the Fire Department. The location of this posting must be specified during registration,
- 2) Submission of names, addresses, and telephone numbers of all qualified "Emergency Coordinators" who are individuals identified by owners or operators of commercial or industrial establishments which must register in accordance with this By-Law. "Emergency Coordinators" must be knowledgeable in the types of hazardous materials used in the establishment, proper storage and handling of those materials familiar with the establishment's emergency contingency plan, and authorized as on-site coordinator in the event of an emergency.
- 3) Keep on file at all times in an on-site location known and accessible to all "Emergency Coordinators", Material Safety Data Sheets on all hazardous materials manufactured, stored, or used at the establishment. These Materials Safety Data Sheets must be available to the Hazardous Waste Coordinator and the Head of the Fire Department during routine inspections, investigations, and in the event of an emergency.
- 4) Keep on file at all times in an on-site location known and accessible to all "Emergency Coordinators" an Emergency Contingency Plan which identifies "Emergency Coordinators" and details the area where, and ways in which, an emergency could come about, the techniques and procedures to be used for prevention and control of such emergencies, the emergency equipment available on site, outside agencies and organizations who should be notified and or may provide services in an emergency, an evacuation plan for personnel and an inventory of the types, approximate quantities, and method of storage, transportation, and disposal of all hazardous materials.

### **Subsection 6.1 Effective Date of Registration Requirement**

- (A) Registration required by Section 6 shall be initially submitted by January 1, 1985 and annually thereafter within thirty days of January 1 of each year. Records required in subsection to be kept on file at each establishment should be updated as frequently as necessary to ensure proper handling of hazardous materials and adequate procedures to minimize emergencies and the damage which would result from such emergencies.
- (B) Owners and Operators of commercial and industrial establishments who have not previously registered in accordance with Subsection 6 shall, if they meet registration requirements, register initially within thirty days of meeting such requirements and thereafter within thirty days of January 1 each year.

### **Subsection 6.2 Updating of Registration Information**

All information required under subsection 6 of this By-Law must be kept current to reflect substantial changes in quantities or types of hazardous materials on site.

### **Subsection 7 Hazardous Materials Generally**

All hazardous materials within the Town of Holbrook must be stored, handled, transported and used in such a way as to minimize discharges and to ensure maximum protection of the environment and the public health, safety and welfare,

**Subsection 7.1** All commercial and industrial establishments (including Municipal, State, and Federal operations) must provide adequate employee training programs to ensure proper use, storage, transportation and handling of hazardous materials.

**Subsection 7.2** Owners and operators of establishments registered in accordance with subsection 6 of this By-Law must keep sufficient records to detect significant loss of hazardous materials and provide best estimates of quantities of hazardous materials on site.

**Subsection 7.3** All locations where hazardous materials are stored or used in quantities that could cause a substantial hazard in the event of a spill, leak, fire, or exposure, shall be designated with legible warning signs of bright yellow, or other equally conspicuous color indicating the potential danger and how to overcome or avoid such danger.

**Subsection 7.4** All hazardous materials shall be held in product tight containers. All containers of hazardous materials which permit leakage or spillage shall be disposed of or repaired to its original product tight state.

**Subsection 7.5** Every owner of a commercial or industrial establishment (including Municipal, State, or Federal operations) shall comply with all Federal, State, and Municipal laws and regulations relative to hazardous materials.

### **Subsection 8 Aboveground Storage of Hazardous Materials**

- (A) Aboveground containers of hazardous materials shall be kept in an orderly manner, shall be adequately marked to identify the hazard, and shall be stored on a surface impervious to the material being stored. The storage area shall be enclosed by a permanent dike or impermeable construction. The volume of the area closed by the dike shall be equal to or greater than the capacity of the containers within the dike.
- (B) There shall be no storage of incompatible chemicals (those which react with one another to create a special hazard) in the same area.
- (C) Drainage and ventilation of storage areas containing hazardous materials shall be constructed and maintained so as to control spills, fumes, noxious gases and other potential sources of contamination.

### **Subsection 9 Underground Storage**

The following provisions shall apply to all underground liquid hazardous material storage systems.

**Subsection 9.1** Owners shall file with the Fire Department the size, type, age (if known), and location of each tank, and the type of hazardous materials stored in each, on or before January 1, 1985.

**Subsection 9.2** Owners of tanks for which evidence of installation is not available shall, at the order of the Hazardous Waste Coordinator, have such tanks tested. If either the Hazardous Waste Coordinator or the Head of the Fire Department determines that the tank is not product tight it shall be repaired or disposed of under the direction of the Hazardous Waste Coordinator.

**Subsection 9.3** All tanks shall be tested the day of installation and thereafter at intervals sufficient to prevent loss of hazardous materials and resulting contamination.

**Subsection 9.4** All newly installed tanks subject to this By-Law shall be protected from internal and external corrosion and shall be of a design approved by the Hazardous Waste Coordinator and the Head of the Fire Department.

**Subsection 9.5** All leaking tanks must be emptied by the owner or operator within twelve hours of leak detection; and repaired to a product tight condition or removed by the owner or operator in a time period to be determined by the Fire Department.

#### **Subsection 10 Effective Date**

All storage provisions contained in subsection 7.8 and 9 must be complied with by January 1, 1985.

#### **Subsection 11 Reporting Requirements**

Any person having knowledge of a reportable discharge of hazardous material shall immediately report the discharge to the Hazardous Waste Coordinator, and if involving flammable or explosive materials, to the Head of the Fire Department.

#### **Subsection 12 Protection of Public Water Supplies**

In order to protect and preserve existing drinking water sources, the following uses are prohibited within one thousand (1,000) feet of the head of the gravel packed well used as a source of municipal drinking water unless exempted by a variance in accordance with subsection 14 of this By Law.

- (A) Automotive service and repair shops, junk, salvage yards, and car washes.
- (B) Storage of road salts or other deicing chemicals
- (C) Use of chemicals for deicing unless deemed necessary for public safety.
- (D) The discharge of hazardous materials
- (E) Commercial or industrial uses which require registration in accordance with subsection 6 of this By-Law.
- (F) Commercial or industrial uses which discharge process waste waters on site, excluding discharges permitted in accordance with all applicable State and Federal regulations which are shown to contain no contaminants.
- (G) Commercial or industrial uses which re-charge stormwater to groundwater without passage through oil and grease traps and sediment traps, constructed, operated, and maintained to minimize groundwater contamination.

#### **Subsection 13 Permits Required**

- (A) A permit shall be required and obtained from the Select Board for all new commercial or industrial establishments requiring registration in accordance with subsection 6.2, prior to the operation of said establishment, to determine that the provisions of this By-Law have been met.
- (B) A permit shall also be required and obtained from the Select Board for all establishments requiring registration in accordance with subsection 6, who seek to install additional aboveground or underground hazardous material storage tanks.

#### **Subsection 14 Variances**

The Select Board in consultation with the Fire Chief and Hazardous Waste Coordinator may vary the application of any provision of this By-Law, unless otherwise required by law, in any case, when, in its opinion, the applicant has demonstrated that an equivalent degree of environmental protection required under this By-Law will still be achieved. The applicant at his own expense must notify all abutters by certified mail at least ten days before the Select Board's meeting at which the variance request will be considered. The notification shall state the variance sought and the reasons thereof. Any variance granted by the Select Board shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of reasons for denial. The Select Board may, as an alternative to denial of a variance, impose such conditions, as it deems necessary to contribute to the environmental protection required under this law.

#### **Subsection 15 Enforcement**

- (A) The Hazardous Waste Coordinator, Fire Chief or their agent(s) shall be the enforcing authority of the By-Law
- (B) The Hazardous Waste Coordinator, Fire Chief or their agent(s) may enter upon privately owned property for the purpose of performing their duties under this By-Law.

#### **Subsection 16 Penalty**

Any person who violates any provision of this By-Law shall be punished by a fine of not more than three hundred (\$300.00) 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 M.G.L. Chapter 40, Section 21 D, by a Holbrook Police Officer or other officer having police powers.

#### **Subsection 17 Fees**

Any person registering storage of hazardous materials, pursuant to subsection 6 shall pay the Town of Holbrook an annual registration fee of fifteen (\$15.00) dollars. Such a fee shall be due on the same date as the annual registration. Failure to pay shall constitute a violation and shall be subject to the penalties of subsection 16 of the By-Law  
*Adopted: ATM May 14 1984 Article 10*

### **Section 5-13 PRINTED MATTER VENDING MACHINES**

No person, firm, corporation, association, partnership, trust or other type of entity shall place, install, use or maintain any printed matter vending machine on any public property, without obtaining a written permit thereof from the Select Board.

A "printed matter vending machine" (hereinafter called "machines") shall mean any coin or token operated box, container, stand, rack, storage unit or other dispenser or device installed, placed, used, operated or maintained for the display and sale or distribution of newspapers, periodicals, or other printed matter for public use,

The application for the permit shall fully and specifically describe the printed matter vending machine by setting forth its size by height, depth, and width or any other relevant dimensions if varying in height, depth and width, the name and business address of the applicant, the exact date or dates said machines will be in place or in operation, the exact place where said machine will be located, the manner by which said machine shall be affixed or held in place, and the description of any object to which said machine shall be affixed. Further reasonable information which may affect the public safety, health, or order in the community may be requested from the applicant. An annual application fee, amount of which will be determined upon passage of this ordinance and annually thereafter by the Select Board, which fee will be reasonably related to the costs of processing said application, shall be paid for each machine licensed, The form of application shall be approved by the Town Counsel.

A certification of insurance indemnifying and saving harmless the Town of Holbrook from any loss or damage from all suits, actions and claims of any and every nature for or on account of any injuries or damage received or sustained by any person or company or other entity arising from the installation, use or maintenance of such machines shall be filed with the Select Board prior to their issuance of any permit hereunder, further said policy will directly provide for payment to any person or company or other entity injured thereby.

Within twenty (20) days of receipt of such completed application, the Select Board shall grant a permit or shall order a hearing within an additional ten (10) days, giving at least five (5) days written notice to the applicant.

Within ten ( 10) days next following the close of the hearing, the Select Board shall grant such permit or shall deny such application upon a finding that issuance of such a permit would lead to the creation of a nuisance or would endanger the public health, safety or order by: (a) unreasonably increasing pedestrian traffic in the area in which the machine is located: (b) endangering the public safety as follows: by reason of the machine's projecting onto, into, or over any part of the roadway of any public street; by reason of its being affixed to a site or location used for public utility purposes, public transportation purposes, or governmental use; or by reason of its being located in such a manner as to unreasonably interfere with or impede the flow of pedestrian or vehicular traffic, sidewalk or street cleaning and/or snow removal, and the ingress or egress from any residence, place of business or any legally parked or stopped vehicle; by reason of esthetic harm and defacement caused by its being affixed to poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects at or on near such location; no machine shall be chained, bolted or otherwise attached to property owned or maintained by the Town of Holbrook or within three (3) feet of any crosswalk; within fifteen (15) feet of any fire hydrant; within five (5) feet of any fire or police call box or other emergency facility; within five (5) feet of any driveway public or private; within three (3) feet ahead or fifteen (15) feet to the rear of any designated bus stop, taxi stand, or place marked for handicapped parking; within three (3) feet of any bus bench or shelter; at any location whereby the clear space for the passageway of pedestrians is reduced to less than four (4) feet; within three (3) feet of any display window of any building abutting the sidewalk or other public place in such a manner as to impede or interfere with the reasonable use of such window for display purposes: no machine shall be used for advertising signs or publicity purposes other than that which is essential to identify on no more than two (1) sides of the machine the printed matter offered for sale therein. No letter thereon shall exceed two square inches in size.

Each machine shall be maintained in a clean and neat condition and in good repair at all times, and it shall be of one color that does not unnecessarily contrast with the immediate surroundings except that the lettering may contrast with such one color. No reflectorized paint, day-glo, florescent, or scotch lite reflective materials or materials of like nature may be used on such machine.

The person who places or maintains such machine shall have his name or Massachusetts agent's name, address, and telephone number affixed thereto to a place where such information may easily be seen.

All persons who have placed or intend to place machines in the Town of Holbrook, shall have thirty (30) days from passage of the within ordinance, to comply with the said provisions or such additional time as the Select Board may allow in its discretion.

Notice of the denial of an application for permit shall be in writing and accompanied by a statement of the reason therefore. No application shall be denied if the anticipated harm is not significant or if the likelihood of its occurrence is Remote. The Select Board may impose conditions upon the permit but said conditions may only relate to compliance with the permit, applicable laws or ordinances or to public safety, health or order, or to steps required to be taken to guard against creation of a nuisance or to insure adequate safety and security for the public. No applicant having been denied a permit as aforesaid shall submit the same or similar application within one year of said denial without including in said new application facts showing the circumstances upon which the original denial was based having substantially changed.

Violation of the terms and conditions in this ordinance or in any permit granted hereunder shall be punishable by a fine of one hundred dollars and said violation shall be cause for cancellations. *Adopted: ATM May 14 1984 Article 11*



**Section 5-14**  
**INSTALLATION OF AUTOMATIC SPRINKLER SYSTEM: ENFORCEMENT**

In any city or town which accepts the provisions of this section, every building or addition of more than seven thousand five hundred gross square feet in floor area shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code. No such sprinkler system shall be required unless sufficient water and water pressure exists. For purposes of this section, the gross square feet of a building or addition shall include the sum total of the floor areas for all floor levels, basements and sub-basements measured from outside walls, irrespective of the existence of interior fire resistive walls, floors and ceilings.

In such buildings or additions, or in certain areas of such buildings or additions, where the discharge of water would be an actual danger in the event of fire, the head of the Fire Department shall permit the installation of such other fire suppressant systems as are prescribed by the state building code in lieu of automatic sprinklers. Automatic suppressant or sprinkler systems shall not be required in rooms or areas of a telephone central office equipment building when such rooms or areas are protected with an automatic fire alarm system. Sprinkler systems shall not be required in a one-story building having a fire resistance rating as prescribed in the state building code that is used solely for offices provided the building is protected by an automatic fire alarm system. This section shall not apply to buildings or additions used for residential purposes. *Adopted: ATM May 13, 1935, Article 6*

**Section 5-14A**  
**SECURED KEY ACCESS**

Any building other than a residential building of less than six (6) units which has a fire alarm system or other fire protection system shall provide a secure key box installed in a location accessible to the Fire Department in case of emergency. This key box shall contain keys to fire alarm control panels and other keys necessary to operate or service fire protection systems. The key box shall be a type approved by the Chief of the Holbrook Fire Department and shall be located and installed as approved by the Chief. Any building owner violating this By-Law, after receiving due notice by the Fire Department, shall be subject to a fine of fifty dollars (\$50.00) *Adopted STM, May 11, 1987 Article 15*

**Section 5-15**  
**DWELLING AND BUSINESS BUILDING NUMBERS**

- A. Each new dwelling or business building shall be numbered with numbers assigned by the Assessors, attached to the front of the building in a location which is clearly visible from street.
- B. Said numbers shall be a minimum of three inches in height and shall be a color indirect contrast to the surface to which it is attached.
- C. Upon the sale, rental, or transfer of a dwelling or business building in existence at the time of acceptance of this By-Law, a certificate of compliance shall be required from the Fire Department.
- D. This By-Law shall be enforced by the Fire Department and/or the Building Inspector.  
*Adopted: ATM May 14, 1990 Article 8*

**Section 5-1 SA**  
**JUNK VEHICLE BY-LAW**

Junk Cars: Trucks, Motor Vehicles. Contractor's Equipment or Similar Equipment.

- (a) No person or entity, corporate or otherwise, as owner or as one in control of premises, shall keep in the open in any area of the town of Holbrook, except land designated by the Select Board for public dumping purposes. any

junk automobile, truck, motor vehicle, contractor's equipment or similar types of equipment as defined in Paragraph (b) of this section.

- (b) For the purpose of this By-Law, a junk automobile, truck, motor vehicle, contractor's equipment or similar types of equipment shall be one which is worn out, cast off, or abandoned, and which is ready for dismantling or destruction, or which has been collected or stored for salvage or for stripping, in order to make one of parts thereof. Any parts from such vehicle shall be considered junk automobile, truck, motor vehicle, contractor's equipment or similar types of equipment under this By-Law.
- (c) This By-Law shall not apply to:
  - (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property,
  - (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer; or
  - (3) Unlicensed, operable or inoperable "antique motor cars", as defined in Paragraph (d) of this section, or parts thereof stored by a collector on private property, provided that the vehicles and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.
- (d) "Antique motor car" shall mean any motor vehicle over twenty-five years old, which is maintained solely for use in exhibitions, club activities, parades, or other functions of public interest and which is not used primarily for the transportation of passengers or goods over any way.
- (e) Any person or entity who violates this By-Law shall be liable to a fine of \$25,00 for each day such violation continues.
- (f) This section of the By-Law will be enforced by the Holbrook Building Inspector. *Adopted STM May 14, 1990 Article 25*
- (g) The storage of unregistered motor vehicles on residential property shall be limited to no more than one unregistered motor vehicle. In the case of death of the property owner(s), the heirs shall have ninety days to remove unregistered vehicles, The Building Inspector shall have the enforcement authority. Exemptions to this section are: an unregistered motor vehicle is stored in a building structure constructed to store motor vehicles; a recreation vehicle, camper or motor home that is being registered yearly for seasonal use on the road and unregistered when the seasonal use of travel is over for that year and all antique vehicles, *Adopted: STM May 19, 2003 Article 26*

**Section 5-16**  
**FIRE ALARM BY-LAW**

Holbrook Fire Department  
Fire Alarm By-Law

**Section 1: PREAMBLE**

Whereas, there has been an increase in recent years in the use of the fire alarm systems which operate by way of a master box:

Whereas, improper installation, defective equipment, lack of maintenance or other reasons cause fire alarm systems to malfunction;

Whereas, in addition to the financial cost, each malfunction requires that Holbrook Fire Department personnel respond, thus decreasing the number of Holbrook Fire Department personnel available to respond to an actual fire;

Whereas, the Holbrook Fire Departments responding to fire alarm malfunctions jeopardizes the safety of firefighters as well as the general public;

Now, therefore, be it ordered to be in the public interest as follows:

**Section 2: FIRE ALARMSYSTEMS**

Town of Holbrook by-laws are hereby amended by adding the following by-law to be entitled "Fire Alarm Systems".

**Section 3: DEFINITIONS**

When used in this by-law, unless a contrary intention clearly appears, the following words shall have the following meanings:

- A. "Fire Chief" - The Chief of the Holbrook Fire Department
- B. "Fire Alarm System" -Any heat-activated, smoke activated, flame-energy activated or other such automatic device capable of transmitting a fire signal directly to the Holbrook Fire Department by way of a master box.
- C. "Fire Alarm System Malfunction" -The transmittal of a fire alarm directly to the Holbrook Fire Department by way of a master box which alarm is caused by improper installation of a fire alarm system, a mechanically defective fire alarm system, lack of maintenance or other reasons that cause a fire alarm to sound even though there is no actual fire or situation that reasonably could evolve into a fire.
- D. "Master Box Owner"- An individual or entity who has on his/her business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the Holbrook Fire Department by way of a master box
- E. "Fire Alarm System Owner"-An individual or entity who owns the title to and or has on his business or residential premises a fire alarm system equipped to send a fire alarm signal to a central station operating company or directly to the Holbrook Fire Department.

**Section 4: CONNECTION OF A FIRE ALARM SYSTEM TO THE HOLBROOK FIRE DEPARTMENT BYWAY OF A MASTER BOX**

- A. Every master box owner whose fire alarm system on the effective date of this by-law is connected to the Holbrook Fire Department by way of a master box, shall pay the following fees:

Annual Fee	\$150.00
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- 7. Every master box owner whose fire alarm system is connected or disconnected after the effective date of this by-law to or from the Holbrook Fire Department by way of a master box, shall pay the following fees:

Permit Fee	\$ 25.00
Connection/Disconnection Fee	\$100.00
Annual Fee	\$150.00

- C. Before any fire alarm system is connected to the Holbrook Fire Department, the master box owner shall provide the Fire Chief the following information:

- 1. The name, address and home and work telephone numbers of the master box owners.
- 2. The street address where the master box is located.
- 3. The names, addresses and telephone numbers of the persons that own or operate businesses protected by the fire alarm system connected to the master box.
- 4. The names, addresses and telephone numbers of at least two other persons other than the master box owner who can be contacted 24 hours a day, who are authorized by the master box owner to respond to an alarm signal and who have access to the premises in which the master box is located.
- 5. Any other information as the Fire Chief may require.

If at the passage of this by-law, a fire alarm system has already been connected to the Holbrook Fire Department by way of a master box, the owner shall comply with the requirements of this section within sixty (60) days after the Holbrook Fire Department has sent him/her notice by first class mail of the requirements of this section.

Notwithstanding Section 13-1 of the Town of Holbrook By-Laws, if a master box owner fails to comply with this section, the Fire Chief may assess a fine of Fifty dollars (\$50.00) for each day of non-compliance; said fine to be recovered by Complaint before the District Court of East Norfolk.

**Section 5:**

**UPDATING INFORMATION**

Every master box owner shall be responsible for updating the information herein required to be provided to the fire Chief. If the information changes, the master box owner shall provide the fire Chief with the updated information and shall pay The fees. If any, required by this by-law.

Notwithstanding Section 13-1 of the Town of Holbrook By-Laws, if a master box owner fails to comply with this Section, the Fire Chief may assess a fine of fifty dollars (\$50.00); said fine to be recovered by complaint before the District Court of East Norfolk.

**Section 6:**

**FIRE ALARM SYSTEM MALFUNCIONS – FINES**

If there is a fire alarm malfunction as defined herein, the Fire Chief may assess a fine against the fire alarm system Owner for each such malfunction per fiscal year according to the following schedule:

A. First through third malfunction: No Charge

Upon recording of the third alarm by the Fire Department, the Fire Chief shall notify the owner of the building in writing and by certified mail of such fact and at this time inform the owner of the department policy with regards to charging for false alarms.

Fourth through the sixth malfunction: \$100.00

Seventh through the eleventh malfunction: \$200.00

Each malfunction after the eleventh: \$300.00

B. Private fire alarm systems connected to the Holbrook Fire Department by other automatic means or through a Central station system shall be subject to the above conditions.

C. Any fire alarm system malfunction which is the result of the failure of the property owner, occupant or their agents to notify the Holbrook Fire Department of repair, maintenance or testing of the internal fire alarm system within the protected premises shall cause a penalty to be assessed in accordance with section (A) above.

D. For the purpose of this regulation, a fire alarm system malfunction shall be defined as follows:

1. The operation of a faulty smoke or heat detection devise.
2. Faulty control panel or associated equipment.
3. A water pressure surge in automatic sprinkler equipment
4. Accidental operation of an automatic sprinkler system.
5. An action by an employee of the owner, or occupant of the protected premises, or a contractor employed by the owner or the occupant, causing accidental activation of the internal fire alarm system.

E. Property owners shall be billed once a month for the previous month's malfunction activity. All fines assessed Shall be paid to the Town Treasurer for deposits into the Fire Alarm System Reserve Account.

- F. If a bill is not paid within thirty (30) days, a second notice will be sent. If the bill is not paid after a thirty (30) day period, a final notice will be sent and or occupant that the master box will be disconnected and the building owner notified.

**Section 7: APPEAL PROCEDURE**

Any fire alarm system owner who is aggrieved by action taken by the Fire Chief under this by-law may, within ten (10) days of such action, file an appeal, in writing to the Select Board of the Town of Holbrook. After notice, the Board shall hold a hearing, after which it shall issue a decision in which it affirms, annuls or modifies the action taken by the Fire Chief giving its reason therefore.

The Board shall send its decision to the owner by first class mail within ten (10) days after the hearing. The decision of the Board shall be a final administrative decision. The owner shall have thirty (30) days from the date of the written decision to seek judicial review in the District Court of East Norfolk.

**Section 8: DEPOSIT IN THE FIRE ALARM SYSTEM ACCOUNT**

All fines and fees assessed herein shall be payable to the Town of Holbrook for deposit in the Fire Alarm System Reserve Account, with said fees being appropriated to maintain and upgrade the fire alarm system, or as otherwise appropriated for any lawful town use.

**Section 9: SEVERABILITY**

The provisions of this by-law shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

**Section 10: REGULATIONS AND ENFORCEMENT**

The Fire Chief may promulgate such regulations as may be necessary to implement this by-law. The Fire Chief is authorized to pursue legal action as may be necessary to enforce this by law.

*Adopted: ATM May 12, 1997 Article 15 Amended: ATM May 7.20 14 Article 12*

**Section 5-17  
DISTURBANCE/CONTRACTOR NOISE ABATEMENT**

No licensed contractor agent thereof shall perform any outside work, including but not limited to, construction, renovation, demolition, loading or unloading of materials, equipment operation, including the running of equipment motors between the hours of 7:00 p.m. to 7:00 a.m. Monday through Saturday and all hours on Sunday. No work shall be performed beyond the hours specified or on Sunday without the expressed approval of the Select Board and the issuance of a permit from said board. This By-law shall not apply to private homeowners, domestic equipment such as lawnmowers and power saws, or contractors providing emergency repairs, Violation of this by-law shall be subject to a fine of Three Hundred Dollars (\$300.00) for each violation. This by-law shall not apply to projects for, or on behalf of the Town. *Adopted: ATM May 14 2001 Article 9*

Pursuant to G.L. C40, s32: This by-law has become effective by reason of such failure of the Attorney General to act.

**Section 5-18**  
**DEMOLITION DELAY**

The Preservation of Historically Significant Buildings

A. Intent and Purpose:

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town of Holbrook which constitute or reflect distinctive features of the architectural, cultural, economic, political, or social history of the town, and to limit the detrimental effect of demolition or on the character of the town. Through this by-law, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate, or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes, and neighborhoods, this by-law promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes, the Historical Commission is authorized to advise the Building Inspector with respect to certain demolition permit applications.

B. Definitions:

Applicant - Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her consent to the filing.

Application - The application for the demolition of the building.

Building - Any combination of materials forming a shelter for persons, animals, or property,

Building Inspector - The person occupying the office of the Building Inspector or otherwise authorized to issue demolition permits.

Commission - The Holbrook Historical Commission or its designee.

Demolition - Any act of pulling down, destroying, removing, dismantling, or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

Demolition Permit - The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

Preferably Preserved - Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished.

Significant Building - Any building within the town which is in whole or in part one hundred (100) years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

The building is listed on or is within an area listed on the National Register of Historic Places; or

The building has been found eligible for the National Register of Historical Places; or

The building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the town or the Commonwealth; or

The building is historically or architecturally important (in terms of style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

C. Procedure:

No demolition permit for a building which in whole or part is one hundred (100) or more years old shall be issued without following the provisions of this by-law. If a building is of unknown age, it shall be assumed that the building is over a hundred (100) years old for the purposes of this by-law. Age can usually be determined by style, foundation material, trim, etc.

An applicant proposing to demolish a building subject to this by-law will file with the Building Inspector an application on a form provided by the Building Inspector containing the following information:

The address of the building to be demolished or significantly altered.

The owner's name, address and telephone number.

A copy of the owner's deed.

A description of the building.

The reason for requesting the demolition permit.

A brief description of the proposed reuse, reconstruction, structural change or replacement.

A photograph or photograph(s) of the building.

The estimated age of the building.

The Building Inspector shall within seven (7) days, forward a copy of the completed application to the Commission. The Commission shall, within fourteen (14) days after receipt of the completed application, make a determination on whether the building is significant. The Commission shall notify the applicant and the owner (if different than the applicant) of the time and place of its meeting to determine whether a building is significant.

Upon determination that the building is not significant, the Commission shall so notify the Building Inspector and/or applicant in writing. The Building Inspector may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Inspector, applicant and owner (if different than the applicant) in writing. No demolition permit may be issued at that time. If the Commission does not notify the Building Inspector within twenty-one (21) days of receipt of the application, the Building Inspector may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty (30) days of the written notification to the Building Inspector that the building is significant. Public notice of the time, place, and purpose of the hearing shall be posted in a conspicuous place in the Town Hall for a period of not less than seven (7) days prior to the date of said hearing, and the applicant, the owner (if different than the applicant), and the Building Inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen (14) days after the public hearing concludes whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

The conclusions and recommendations regarding whether the building shall receive preferably preserved status shall be sent to the applicant, the owner (if different than the applicant), and the Building Inspector. If the Commission does not so notify the Building Inspector, the applicant and the owner (if different than the applicant) within fourteen (14) days after the public hearing concludes the Building Inspector may proceed to issue the demolition permit.

The Commission may notify the Massachusetts Historical Commission and any other interested parties in an effort to obtain assistance in preservation funding or in finding an adaptive use of the building that will result in its preservation. The Commission may invite the applicant and the owner (if different than the applicant) to participate in an investigation of alternatives to demolition.

#### D Administration:

The Commission may adopt such rules and regulations as necessary to administrate the terms of this by-law.

#### E Emergency Demolition:

If, after an inspection, the Building Inspector finds that a building subject to this by-law is found to pose an immediate threat to the public health or safety due to its deteriorated condition and there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Inspector may issue an emergency demolition permit to the owner of the building or structure. The Building Inspector shall then prepare a report explaining the condition of the building and the basis for his decision, which shall be forwarded to the Commission.

#### F Enforcement:

The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they deem necessary and appropriate to obtain and enforce compliance with the requirements of this by-law or to prevent a threatened violation thereof. Any owner of a building demolished without first obtaining a demolition permit in accordance with the provisions of this by-law shall be subject to a maximum fine of up to three hundred (\$300.00) dollars per day. Each day the violation exists shall constitute a separate offense until the faithful restoration of the building is completed to the satisfaction of the Commission.

#### G Severability:

In case any section, paragraph, or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect. *Adopted STM January 16, 2013 Art. 12*

**Section 5- 19**  
**REGISTRATION AND MAINTENANCE OF ABANDONED OR FORECLOSED BUILDINGS, STRUCTURES**  
**AND PROPERTIES**

(A) Purpose: Enforcement Authority

The purpose of this by-law is to help protect the health, safety and welfare of the citizens by preventing properties from becoming abandoned, protecting property values and neighborhood integrity, protecting the town's resources, avoiding the creation and maintenance of nuisances and ensuring the safe and sanitary maintenance of buildings. Vacant or abandoned buildings are at an increased risk for fire, unlawful entry and other public health and safety hazards. This by-law will help secure the town's public welfare by requiring all property owners, including lenders, trustees, and service companies of foreclosed property, to properly maintain vacant or abandoned properties,

The Inspector of Buildings/Building Inspector of the Town has enforcement authority as to this by-law.

(B) Definitions

(1) Residential:

- a. "Abandoned" as applied to residential buildings means a building or structure which is not being used or occupied as intended and shows visible signs of substantial physical distress, including, but not limited to boarded up or broken windows or doors, fire damage, collapsed roofs, exposure to the elements, susceptibility to unauthorized entry, disconnected utilities, the accumulation of trash, junk and/or debris, or that appears to pose a risk to public safety, as determined by the Building Inspector. Abandoned does not include a building that is unoccupied while undergoing renovations for which a valid building permit exists, or while undergoing repairs due to fire or other casualty or that is temporarily vacant due to seasonal absences.

(2) Nonresidential:

- a. "Abandoned" as applied to any building other than residential building shall mean any building or structure which is not legally occupied or has been wholly vacant for sixty (60) consecutive days, and shows visible signs of substantial physical distress, including but not limited to, boarded-up or broken windows or doors, fire damage, collapsed roofs, exposure to the elements, susceptibility to unauthorized entry, disconnected utilities, the accumulation of trash, junk, and/or debris, or that appears to pose a risk to public safety, as determined by the Building Inspector. Abandoned does not include a building that is unoccupied while undergoing renovation for which a valid building permit exists, or while undergoing repairs due fire or other casualty or that is temporarily vacant due to seasonal absences.

(3) "Town" means the Town of Holbrook.



- (4) "Building Inspector" means the Building Inspector/Inspector of Buildings of the Town of Holbrook or his/her designee.
- (5) "Days" means consecutive calendar days.
- (6) "Foreclosed" means a property, placed as security for a real estate loan, as to which all rights of the mortgagor or his grantee in the property have been terminated as a result of a default of the loan.
- (7) "Local" means within twenty miles of the property in question.
- (8) "Mortgagee" means the creditor, including but not limited to service companies, lenders, in a mortgage agreement, or any successor in interest of the mortgagee's rights, interests or obligations under the mortgage agreement.
- (9) "Property" means any real, property or portion thereof, located in the Town of Holbrook, including but not limited to buildings or structures situated on the property.
- (10) "Property Enhancement Plan" (PEP): A plan which will detail the owner's action steps that address all violations of this by-law.
- (11) "Owner": a person or entity who, alone or severally with others:
  - i. Has legal or equitable title to property or has care, charge or control of any building, dwelling unit or parcel of land in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the holder of legal title; or
  - ii. Has legal right to possess an entire building on property; or
  - iii. Is a mortgagee in possession of any building on property; or
  - iv. Is an agent, trustee, receiver or other person appointed by the courts and vested with possession or control of a building on property; or
  - v. Is an officer or trustee of an association of unit owners of a condominium or cooperative which is or is on property.
- (12) "Legally Occupied": Occupied in accordance with the provisions of the Massachusetts State Building Code.
- (13) "Structure": A combination of materials for permanent or temporary occupancy of use, such as a building, bridge trestle, tower, framework. Retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, shelter, pier, wharf, bin, fence, sign, gasoline pump, recreational court, or the like.
- (14) "Building": Any structure used or intended for supporting or sheltering any use or occupancy; a structure enclosed within exterior walls or firewalls, built, erected and framed of a combination of any material, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property, For the purpose of this definition, "roof" shall include an awning or similar covering whether or not permanent in nature and the word "building" shall be construed where the context requires as though followed by the words "or parts thereof".

(C) Registration

- (I) Abandoned Property: If a building or structure on property is determined to be abandoned by the Building Inspector, his office shall issue a written notice to the Owner(s) of the property informing them of all conditions on the property which must be corrected in order to remove the determination as abandoned. Upon provisions of documentary evidence of correction of the conditions in such notice, the Building Inspector shall inspect the property and, so long as there is no other outstanding notice of abandonment for the property, the Building Inspector shall issue a certificate of compliance.

Not more than seven (7) days after the issuing of the notice of abandonment, the Owner(s) shall register the property with the Building Inspector on forms provided by the Building Department.

Any property registered under this by-law shall pay a registration fee if the property is registered for more than ninety (90) days in a calendar year.

On or before the October 15<sup>th</sup> of each calendar year, the town shall send a billing statement, setting forth the annual registration fee, to the owner of the abandoned building or structure. The annual registration fee shall be set by the Select Board pursuant to M.G.L. c. 40 §22F.

On or before November 15<sup>th</sup> of each calendar year the owner of any abandoned building or structure which has been registered under this by-law for a total of ninety (90) days in any calendar year shall pay to the town an annual registration fee of one hundred (\$100.00) dollars to provide for cost recovery for inspection services provided by the appropriate Town Departments. Willful failure to pay the annual registration fee shall be a violation of this by-law, and the full fee shall be deemed as assessment against the property and shall constitute a "municipal lien" on the property in accordance with M.G.L. c40, §58.

- (2) Upon a Mortgagee becoming an Owner of a Foreclosed Property, said Mortgagee/Owner shall register same within thirty (30) days.
- (3) All Owners of Abandoned and/or Mortgagee owned Foreclosed Property shall register such property with the Building Inspector on forms provided by the Building Department. If the Owner is a corporation or other entity with a principal place of business outside the Commonwealth, the owner shall appoint an in-state agent authorized to accept service of process and other documents under this by-law, such as a Property manager or real estate professional.
  - a. Each registration shall state the owner's and if applicable, agent's name, telephone number, residence or place of business and mailing address located within the Commonwealth of Massachusetts including name, street number, street name, city or Town, and zip code; the residence or place of business address shall not be a post office box and shall further include authorization for the Building Inspector, Police Chief, Fire Chief and Board of Health or their designees to periodically inspect the exterior and interior of said property pursuant to Section (E) hereof.
  - b. Each registration shall certify that the property has been inspected by the Owner and must identify whether the property is Abandoned or Mortgagee owned Foreclosed.
  - c. Each registration shall designate and identify a local individual or local property management company responsible for the maintenance and security of the registered property. Such identification must state the individual or company's name, direct telephone number, and residence or business address and local mailing address; the residence or business address shall not be a post office box.
  - d. If regardless of any determination as to abandonment, property has been foreclosed, the registration must be received by the Building Inspector within seven (7) days of the foreclosure.
  - e. All property registrations pursuant to this section shall be valid for one (1) calendar year from the date when the registration is received by the Building Inspector.
  - f. An annual application fee of one hundred (\$100.00) dollars shall accompany the registration form. Subsequent registration and fees shall be due within thirty (30) days after the date of the expiration of the previous registration. Willful failure to pay the annual registration fee shall be a violation of this by-law and the full fee shall be deemed an assessment against the property and shall constitute a "municipal Lien" on the property in accordance with M.G.L c 40 §58. Subsequent registrations shall certify whether the property remains abandoned and or remains in foreclosure, as the case may be.

g. Any owner that has registered a property under this section shall report any change in information contained in the registration within ten (10) days of the change.

h. Once a building is no longer vacant or abandoned or is sold in order for the property to be occupied, the owner shall provide proof of sale or written notice and proof of lawful occupancy to the Building Inspector, who shall notify the Police, Fire, Water, Sewer, and Health Department of the submitted registration of vacant or abandoned/ building as well as the re-occupancy of the building.

D. Maintenance and Security Requirements

- (1) Properties subject to this by-law must be maintained in accordance with the State Building Code as well as all state and local health, sanitary, and safety codes and regulations. The local owner or local property management company must inspect and maintain the property on at least a monthly basis for as long as the property is abandoned. The name and the 24-hour contact telephone number of the local owner or local property management company responsible for the maintenance must be posted on the front of the property so as to be clearly visible by the Building Inspector or *his/her* designee from the street.
- (2) In accordance with state law, including but not limited to Massachusetts General Laws Chapter 143 Sections 6-10 and 780 CMR 121.0; property that is abandoned must be safe and must be secure so as not to be accessible to unauthorized persons.
- (3) Compliance with this section does not relieve the owner of any applicable obligations set forth in code regulations, covenant conditions and restrictions, and/or homeowner's association rules and regulations.
- (4) A building owner and/or property manager shall submit to the Building Inspector a Property Enhancement Plan (PEP), which will detail the owner's action steps that address all violations of this by-law. The PEP must be approved by the Building Inspector. The adoption of a PEP shall not absolve the owner for financial penalties incurred prior to adoption.

E. Inspections

The Building Inspector, Police Chief, Fire Chief and the Board of Health, or their designees shall have the authority to periodically inspect the exterior and interior of any building subject to this by-law for compliance provided that reasonable efforts are made by the town officials to provide at least twenty-four (24) hour notice to the property owners or their designees, unless said official(s) shall deem that a safety emergency exists that shall require immediate response (M.G.L.c.148, sec 4). Findings are to be given to the Building Inspector to determine what actions need to be taken. The Building Inspector shall have the discretionary authority to recommend the immediate disconnection of utilities if a potential hazard is apparent that may be dangerous to life and limb is present.

F. Penalties

Violations of any portions of this by-law, including but not limited to failure to initially register with the Building Inspector, failure to properly designate the name of a local individual or local property management company responsible for the maintenance and security of the property, and failure to maintain and/or to secure property in compliance with this by-law, shall be punishable by a fine of one hundred (\$100.00) dollars per violation, with each day the violation continues constituting a separate violation. The Building Inspector or his designee shall enforce all provisions of this by-law and shall institute all necessary administrative or legal action to assure compliance. No enforcement action shall be instituted until at least seven (7) days following an order to remedy such violation, served upon an owner in person, by registered mail, return receipt requested, or by posting said notice at the site.

- (1) The penalties provided herein shall not be construed to restrict the town from pursuing other legal remedies available to the town, including but not limited to, a civil action in a court of competent jurisdiction seeking equitable relief to enforce this by-law.
- (2) The Building Inspector shall have the authority to waive or reduce any of the penalties at his or her discretion.

(3) In addition to any other remedies available to the town, this by-law may be enforced, in the discretion of the Building Inspector, by non-criminal disposition pursuant to Section 21 D of Chapter 40 of the Massachusetts General Laws. The non-criminal fine for each such violation shall be one hundred (\$100.00) dollars. The enforcing person for purposes of non-criminal disposition shall be the Building Inspector and each day a violation continues shall be considered a separate violation.

**G. Unsafe Buildings:**

If the Building Inspector determines any building to be unsafe, the Building Inspector may act immediately in accordance with the Massachusetts State Building Code to protect public safety. Furthermore, nothing in this by-law shall abrogate the powers and/or duties of municipal officials to act pursuant to any general statutory authority, including, without limitations, M.G.L. c. 139, §§ let seq. and M.G.L. c. 143, §§6 et seq.

**H. Appeals**

Any person aggrieved by a decision hereunder may appeal said decision to the Zoning Board of Appeals in the town within thirty (30) days of said decision.

**I. Applicability**

If any provisions of this by-law impose greater restrictions or obligations than those imposed by any general law, special law, regulation, rule, ordinance, order or policy, then the provisions of this by-law shall control.

**J. Regulatory Authority**

The Building Inspector shall have the authority to develop rules and regulations as he/she deems necessary to implement and enforce this by-law.

**K. Severability**

If any provision of this by-law is held to be invalid by a court of competent jurisdiction, then such provisions shall be considered separately and apart from this by-law's remaining provisions, which shall remain in full force and effect.

**L. Reporting**

The Building Inspector shall submit an annual report to the Select Board concerning the registration and maintenance of vacant and abandoned buildings and properties. The reporting may include any activity pursuant to this by-law. *Adopted STM, January 16, 2013 Art. 13*

**Section 5-20  
PUBLIC USE OF MARIJUANA**

- 1) No person shall smoke, ingest, or otherwise consume marihuana(marijuana) or tetrahydrocannabinol (THC) as defined in Massachusetts General Laws, Chapter 94C, Section, as amended, while in or upon any street, sidewalk, public way, foot path passageway, stairs, bridge, park, playground, beach, recreation, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town of Holbrook or any of its boards or officers, or in or upon any bus or passenger conveyance operated by a common carrier or in any place accessible to the public.
- 2) The term "place accessible to the public" as used herein shall mean and be construed to include any way or place to which members of the public have access as invitees or licensees.
- 3) Whoever violates Section 1 of this by-law shall be punished by a fine of Three Hundred Dollars (\$300.00) for each violation. *Adopted ST.M November 20, 2013 Amended ATM may 7 2014 Article 8*

**Section 5-21**  
**Plastic Bag Reduction**

**Use Regulations:** Disposable plastic checkout bags shall not be distributed, used, or sold for checkout or other purposes at any retail or grocery store within the Town of Holbrook, effective November 21, 2022. Nothing in this section should be read to preclude any establishment from utilizing recyclable paper bags at checkout or making reusable checkout bags available for sale to customers. Customers are encouraged to bring their own reusable shopping bags to stores. Retail or grocery stores are strongly encouraged to make reusable checkout bags available for sale to customers at a reasonable price.

**Definitions:**

**Checkout bag:** A carryout bag provided at the check stand, cash register, point of sale, or other point of departure for transporting food or merchandise from the Establishment.

Checkout bags shall not include:

1. Bags whether plastic or not in which loose produce, or products are placed by the consumer to deliver such items to the point of sale or check out area of the retail establishment.
2. Laundry or dry cleaner bags
3. Bags used to contain phone books, magazines, or newspapers
4. Bags used to contain or wrap frozen goods, meats, or fish, whether prepackaged or not, to prevent leakage or contain moisture

**Disposable plastic checkout bag:** any checkout bag made of plastic that does not meet the definition of "Reusable checkout bag," typically with plastic handles, and intended for transport of purchased products.

**Recyclable paper checkout bag:** Paper bags with or without handles that (1) are one hundred percent (100%) recyclable, (2) contain a minimum of forty percent (40%) postconsumer recycled paper content.

**Reusable checkout bag:** Sewn bags with stitched handles that (1) are specifically designed and manufactured for multiple reuses, (2) can comfortably carry 25 pounds over a distance of 300 feet, (3) can hold a minimum of 15 liters or quarts, (4) can be readily washed or disinfected by hand or Machine, and (5) is made of thick cloth, fabric or other durable materials.

**Grocery Store:** A retail establishment where more than fifty percent (50%) of the gross floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer home care and personal care products.

**Retail Store:** An establishment that offers the sale and display of merchandise within a building. Any retail establishment or non-profit that provides goods-including food and/or beverages-and/or services directly to consumers, with or without charges; sporadic, temporary, part-or-full-time; commercial, religious, educational, foundation-related, or governmental; whether on private, public, religious, or school property. "Retail establishment" shall mean any business facility that sells goods directly to consumers including, but not limited to, grocery stores, pharmacies, liquor stores, "mini marts", restaurants or retail stores and vendors selling clothing.

**ENFORCEMENT PROCESS:**

Enforcement of this bylaw shall be the responsibility of the Board of Health or his/her designee. The Board of Health shall determine the inspection process to be followed, incorporating the process into other town duties as appropriate. Any retail or grocery store distributing plastic grocery bags in violation of this bylaw shall be subject to penalty as follows:

First offense: \$25.00

Second offense: \$50.00

Third & each subsequent offense \$100.00

No more than one penalty shall be imposed upon a retail establishment within a seven-day Calendar period. *Adopted ATM May 18, 2022*

**REMOVAL OF SOIL LOAM, SAND OR GRAVEL**

**I. Definitions:**

- A. For the purpose of this By-Law "earth" shall include soil, loam, sand, gravel, clay, rock or other products, "Inspector" shall be the building inspector (or such person as may be appointed by the Select Board to carry out these duties). "Board" shall mean the Select Board.

**II. Earth Removal Procedure:**

- A. No earth shall be removed from any parcel of land without a written permit from the inspector, except as hereinafter provided.
- B. Any person wishing to remove such material from a property in the town shall file a formal application with the inspector, which application shall include the following specific information and supporting documentation.
  - I. The location of the proposed excavation.
  - 2. The legal name and address of the owner of the property involved.
  - 3. The legal name and address of the petitioner which address shall be used by the board for all correspondence hereunder.
  - 4. Names and addresses of all abutting property owners, including those across any streets.
  - 5. A plan of the land involved prepared by a registered land surveyor or registered professional engineer, showing topography by five-foot contours within 100 feet of the proposed excavation or to the property line.
  - 6. A plan of the land showing five-foot contours of the site as of the proposed completion of the excavation project.
- C. No permit for the removal of earth shall be issued by the inspector, except as provided below (B - Exemptions), until a public hearing has been held by the board, notice of which shall have been given at least fourteen days in advance in a paper commonly used for such notices in the Town of Holbrook, and the posting of copies thereof on the municipal bulletin boards and the mailing of the copies thereof to the abutters, and a favorable finding has been received in writing from said board.
- D. Any permit issued hereunder shall automatically expire upon the completion of the earth removal project for which it was issued or at such other time as may be specified in said permit but in no event to exceed two (2) years from the date of issuance.
- E. Approval of the renewal of a permit for a period not in excess of one year may be made by the board without hearing if the board, after a report from the inspector, finds that all conditions then applicable have been complied with and that the work has been carried on continuously and in good faith.

**III. Exemption:**

- A. No permit shall be required for the moving of earth on an individual parcel under the following circumstances:
  - I. Where necessary in construction of a building being built in accord with a permit issued by the inspector.
  - 2. Where necessary as part of the construction of a road whether public or private.
- B. The inspector, without reference to the board, may issue permits for the removal from the site of earth for the following purposes:
  - 1. Where necessary as part of farm, garden or nursery activities.  
As part of cemetery operation.
  - 3. ~~When incidental~~ to landscaping or similar activities for which building or zoning permits are not required.

4. When such earth is not necessary in connection with construction of a building being built in accord with a permit issued by the inspector, the amount to be removed to be limited to the volume of the foundations and basement of the building.
5. When such earth is not needed in connection with the construction of a private road.

C. Earth removal activities in lawful operation on any parcel of land at the time this By-Law is adopted may continue unless and until abandoned for more than twelve (12) consecutive months provided that such operation has not at the time of the adoption of this By-Law extended to within 300 feet of a street, way or abutter. However, unless specifically authorized by a new permit issued hereunder: (1) the depth of excavation shall not be increased below the grade of the lowest point excavated on the effective date of this By-Law; (2) the total area of excavation within the parcel shall not be increased by more than fifty (50) percent over its area on said effective date.

IV. General Limitations:

- A. In issuing any permit under the By-Law, the Select Board may impose such reasonable conditions not specifically provided for therein as it deems necessary, which conditions shall constitute a part of said permit.
- B. The board may require a bond with sureties or other securities to enforce performance of condition imposed by this By-Law or under this section.

V. General Administration:

- A. The inspector may enter upon the premises involved from time to time to inspect and ensure proper conduct of the work.
- B. Upon petition of the owner, permit-holder or abutters, the inspector or, upon its own initiative, the board may hold a new hearing and re-issue or modify the permit, subject to any regulations not in conflict with this By-Law.
- C. The Board may order the revocation of or suspension of a permit if the conditions established hereunder are not complied with; but the permit-holder in such situation shall not be relieved of his obligations thereunder.

VI. Violations:

- A. The inspector, if he concludes that there has been a violation of this By-Law, shall send to the offender, by registered mail, to the address stated on the initial application, and if applicable, a notice ordering a cessation of the improper activities.
- B. If a permit-holder or other offender persists in such violation the inspector shall seek the imposition of the penalties authorized by paragraph 17 of Section 21 of Chapter 40. G.L. through appropriate legal action; and the penalty for removing earth in violation of this By-Law shall be a fine of not more than fifty dollars for the first offense after such warning; not more than one hundred dollars for the second offense; and not more than two hundred dollars for any subsequent offense.
- C. If the offender holds a permit issued under the By-Law, such permit may be revoked.

VII. Fees:

- A. The board shall establish such fees for the issuance of permits, as it shall deem necessary for the administration of this By-Law including but not limited to the cost of advertising, clerical and policing expenses.
- B. Any fees received hereunder shall be transmitted to the Town Treasurer *Amended ATM February 24, 1959 Article 37*

## **BUILDING CODE-SECTION 7**

### **Section 7-1 BUILDING CODE**

The building code for the town of Holbrook being the BOCA (Building Officials Conference of America) Basic Building Code, Fourth Edition, 1965, with Supplement No. 1-1968, and modifications attached thereto, now on file and available for scrutiny in the office of the Town Clerk, as voted at the Town Meeting of March 9, 1970.

Amend BOCA (Building Officials Conference of America) Basic Building Code, Fourth Edition, 1965, with Supplement No. 1-1968, and modification attached thereto, by deleting item 6, of Section 50: Sprinkler or Fire Detection Systems: and substituting thereof the following:

Item 6. All new dwellings, excluding additions to existing dwellings, shall be protected by smoke detecting devices bearing the label of approval by a nationally recognized testing agency. Materials and equipment shall be installed in a neat and workmanlike manner in conformity with the requirements of N.F.P.A. Pamphlet and Massachusetts Electrical Code. All detection devices shall be connected to an effective alarm of a type specifically "approved" for fire alarm service so located that an alarm will be heard under the least favorable conditions liable to occur. All inspections and approval of such system to be made by the Wiring Inspector.

*Amended: ATM April 1, 1974 Article 19*

All new construction of residential dwellings up to and including six (6) units and all multi-unit residential dwellings over six (6) units with living quarters in the cellar area shall have installed a water retaining system as follows: A four (4) inch perforated pipe to be installed and imbedded in six (6) inches of crushed stone the complete perimeter of the inside foundation wall in a continuous loop. The crushed stone and pipe will then be covered with a vapor barrier before the cellar floor is poured. The foregoing requirements shall not apply to a dwelling which has a slab floor above finished grade.

*Amended: ATM April 1, 1974 Article 30*

### **Section 7-2 SWIMMING POOLS**

This By-Law governs the installation and use of swimming pools:

- No side yards shall be less than 10 feet
- Rear yards less than 10 feet
- Front yards not less than 25 feet or the setback on the street

Every person owning land on which there is situated a swimming pool, which constitutes an obvious hazard, shall erect and maintain thereon an adequate enclosure either surrounding the property or pool area, sufficient to make the pool inaccessible to small children. Such enclosure, including gates therein, must be not less than five feet high; all gates must be self-latching with latches placed four feet above the underlying ground and inaccessible from the outside to small children.

- a. Before commencing the installation of any swimming pool, a permit authorizing such work shall be obtained from the Building Department.
- b. Application for permits shall be accompanied by plans and calculations in triplicate and in sufficient detail showing the following:
  - I. Plot plan with dimensions all drawn to scale.
  2. Pool dimensions, depth and volume in gallons.
  3. Type, and size of filter systems, filtration and backwash capacities.
  4. Pool piping layout, with all pipe sizes and valves shown.
  5. The rated capacity and head at filtration and backwash flows of the pool pump in G.P.M. with the size and type of motor.

This By-Law shall only apply to any swimming pool, the capacity of which is 18 inches of water or more, at its deepest point.

*Adopted: ATM March 11 Article 16*

*Amended ATM March 9 1964 Article 11*



## **BOARDS, COMMISSIONS AND APPOINTIVE OFFICES - SECTION 8**

### **Section 8-1 PLANNING BOARD**

Section 1. A Planning Board of the Town of Holbrook shall be established in accordance with the General Laws of the Commonwealth of Massachusetts, Chapter 41, Section 81A.

Section 2. The Board shall consist of five (5) elected members. The first election of such members shall be at the first Annual Town Meeting following adoption of this article, and the Select Board of the town are authorized to act as a Planning Board until such time as a Planning Board is established and elected as provided by Chapter 41, Section 81A of the General Laws.

Section 3. At the time of the first election five members shall be elected, one each for five, four, three, two and one year terms respectively. As each term expires, a member shall be elected for a term of five years, one member to be elected each year.

Section 4. In case of a vacancy a new member shall be elected at the next Annual Town Meeting to fill the balance of the unexpired term.

Section 5. The duties of the Planning Board shall be as set forth in the General Laws, Chapter 41, Section 81A to 81Y, inclusive, and any amendments thereto, excluding therefrom Section 81U.  
*Adopted ATM February 24 1953 Article 17*

Section 6. In addition to and in no way in limitation of the duties and powers previously conferred upon the Planning Board, the Planning Board shall have all the powers and duties as set forth in Chapter 41, Section 81A to 81GG of the General Laws as amended. *Amended: ATM February 29, 1960 Article 47*

### **Section 8-2 CONSTABLES**

The Select Board shall annually appoint one or more constables from the registered voters of the Town of Holbrook, none of whom shall be elected by the voters.  
*Adopted: ATM February 23, 1954 Article 25*

### **Section 8-3 GAS INSPECTOR**

The Select Board of the Town shall annually appoint an inspector of gas piping and gas appliances in buildings, whose duty shall be the enforcement of rules and regulation adopted by the Board and who shall be paid a salary to be established under the Salary Administration Plan.  
*Amended: ATM May 14 1990 Article 7*

### **Section 8-4 COUNCIL ON AGING**

There shall be a Council on Aging in the town, as authorized by General Laws, Chapter 40, Section 8B, as amended, for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in coordination with programs of the Department of Elder Affairs.

The Council shall submit an annual report to the town and shall send a copy thereof to the Department of Elder Affairs. The Council may appoint such clerks and other employees as it may require.

The Council on Aging in the town shall consist of eleven (11) members appointed annually by the Select Board from the list of voters of the town.  
*Amended: ATM May 2, 1994 Article 31*

The Chairman of the council shall be elected annually by the council members at their first meeting held after the town election.  
*Amended: ATM May, 21 1979 Article 23*

ZONING BY-LAW SECTION 9

**Section 9-1**  
**ZONING BY-LAW**  
**PUBLISHED SEPARATELY**

**PERSONNEL BY-LAW SECTION 10**

**Section 10-1**  
**PERSONNEL BY-LAW**  
**PUBLISHED SEPARATELY**

**WATER AND SEWER - SECTION 11**

**Section 11-1**  
**WATER BETTERMENTS**

In accordance with the provisions of Section 420 of Chapter 40 of the General Laws, Betterments shall be levied for two thirds of the total cost incurred in connection with the laying of pipes in public and private ways for the conveyance or distribution of water to its inhabitants, according to the frontage of such land or any way in which a waterpipe is laid. *Adopted: STM July 9, 1962 Article 18*

**Section 11-2**  
**WATER COMMISSIONERS LEGAL COUNSEL**

The water Commissioners will be authorized and appointed to be Agents and Attorneys for the town, to prosecute, defend, compromise and settle any and all suits and proceeding in which the town may be in any way interested as a party or otherwise, so far as the same in any manner related to the taking of water of Great Pond, or in the construction of the Water Works, either jointly or separately, as authorized under Chapter 217, of the Acts of 1885. *Adopted: ATM march 14, 1966 Article 25*

**Section 11-3**  
**LATE WATER BILL PAYMENTS**

"All unpaid and past due town water bills as of December 31 of any year shall be committed to the Board of Assessors as a lien and added to the real estate tax bill with an additional penalty charge equal to 10% of the amount unpaid and past due." Amended: STM 11/13/2017 Art.30

**Section 11-4**  
**SEWER USE CHARGE, LATE PAYMENTS**

All sewer bills are due on the due date. If payment is not received within thirty (30) days of the due date, interest will accrue from the due date at the rate of fourteen percent (14%) per annum. "All unpaid and past due town sewer bills as of December 31 of any year shall be committed to the Board of Assessors as a lien and added to the real estate tax bill with an additional penalty charge equal to 10% of the amount unpaid and past due."  
*Adopted: ATM April 7, 1980 Article 14 Amended: STM October 23 2007 Art 6, Amended: STM November 13, 2017 Art 31*

**Section 11-5**  
**WATER RULES AND REGULATIONS**

The following rules and regulations shall be considered a part of the contract with every person supplied with water by the Holbrook Public Works Department.

- I. All applications for water service must be made at the office of the Public Works Department. The accepted applications shall constitute a contract between the Town of Holbrook and the applicant, obligating the applicant to pay for such water service upon application. No water service shall be installed until this fee is paid.
2. The Select Board /Board of Public Works shall establish all fees and charges for the use, maintenance and connection to the town water supply system. *Amended. STM May 20, 2002 Art.14*
3. All persons taking water shall keep in order the service pipe within their premises and shall be liable for damage resulting from their failure to do so. It shall be the responsibility of the owner on whose premises any water meter is installed by the Public Works Department to protect it from freezing or damage, and said owner shall be liable for replacement or repair of meter after the initial installation as determined by the Public Works Department.

4. No person except an employee of the Public Works Department shall turn on or off water from any main or service pipe without permission from the Superintendent or his designee.
5. No alterations or charges shall be made in any pipes, fittings or meters owned by the town, except by persons authorized by the Public Works Department, who shall have access at proper hours to all buildings and premises supplied with water by the town for the purpose of making repairs to any of said pipes or fixtures and for reading, repairing or changing watermeters.
6. The Public Works Department reserves the right to shut off the water at any time after giving 24hour notice, except in the case of emergency; e.g., a broken pipe.
7. No valves or devices of any sort shall be set on the street side of the meter, except the type valve approved by the Public Works Department.
  - I. No cross connection between pipes connected to a public water supply and an independent source of supply will be permitted (State Board of Health Regulation).
2. No person, except firefighters in the discharge of their duty, shall open any hydrant without permission from the Public Works Superintendent or his designee.
3. Hydrant use. Upon request and subject to the approval of the Public Works Superintendent, temporary water service for construction and other purposes may be provided from fire hydrants, Charges will be made at the current rates established by the Select Board for water use and for turning the water on and off.

A Fee of \$50.00 a year per hydrant will be charged for maintenance of hydrants on private property.

4. All persons or firms having private fire connection for sprinklers and private hydrants on the premises or in buildings are forbidden to use the water for any purpose excepting fires, unless permission of the Public Works Department is obtained, and only if the service is properly metered.
5. Property owners desiring to have a hydrant moved shall file a request with the Public Works Department. If the request is approved, the hydrant shall be moved at the expense of the property owner.
6. Any device using water for cooling in excess of a one-ton ice system shall be so constructed that:
  1. The water cannot flow therefrom into the source of supply or the town pipes or mains:
  2. Such system shall include a device enabling the re-use of the water supplied to such system;
  3. Such re-use devices shall be in operation whenever the system is in operation.
7. Customers requesting temporary discontinuance of service for any purpose shall be subject to the turn-on charges established by the Select Board and made a part of these Rules and Regulations.
8. The filling of swimming pools with town water shall be prohibited after June 1. Further restrictions may be imposed by the Select Board at any time for the maintaining of sufficient water supply.
9. The Public Works Department shall not be liable for damage caused by dirty water resulting from the opening or closing of gate valves, the use or flushing of hydrants or the breaking of any pipe or fixture.
10. All meters over 5/8 inch shall be furnished by the owner and shall be approved by the Public Works Department, and shall be outside reading type. All meters up to 5/8 inch shall be furnished by the town, unless otherwise determined by the Public Works Department, and shall be outside reading type.
11. All private wells must be registered and be in compliance with the Town of Holbrook Health Regulations, Chapter 5. The Public Works Department shall inspect such wells so that no cross connection shall be made between a private well and the town water supply. Each owner shall be issued a number, which will be on file in the Public Works Office and Police Department.
12. All residential, commercial, industrial and business properties shall be metered.
13. Use of water is confined to the premises named in the application.

21. (A.) All water bills are due on the due date. If payment is not received within thirty (30) days of the due date, interest will accrue from the due date at the rate of fourteen per cent (14%) per annum. *Amended: STM February 11, 2009 Art 9*
- (B.) The Town may shut off the flow of water from its mains or pipes to the premises of any customer who has failed or refused to pay the lawful charges of the Town for water previously consumed. The employees of the Public Works Department may, upon any business day between the hours of 8:00 AM and 4:00 PM, enter upon the premises of a customer whose payments are in arrears and close a valve, remove or disconnect a meter pipe or fitting, if necessary, for the purpose of shutting off the flow of water as above authorized, provided that the customer has been given thirty-six hours notice in person or by registered or certified mail directed to his last address furnished to the Town. If such address is different from the address of the premises affected a copy of such notice shall also be so mailed to the address thereof. Upon entering the premises to shut off water, the Town representative shall, before shut-off, state to an occupant, if present, that service is to be shut off.
- (C.) The Town shall not intentionally shut off the water service to any domicile occupied by a person who is seriously ill if the Town receives written notice from the Town Health Department or a registered physician verifying the fact of such illness. Such certificates must be renewed monthly during the course of such illness. The Town shall not intentionally shut off service to any domicile occupied by a child under the age of 12 months if the Town receives certification from the Town Health Department, Clergy, Registered Physician, Hospital or Government Official, or Birth Certificate. The Town shall not intentionally shut off service to any domicile in which all occupants are age 65 or older.
- (D.) The Town shall not shut off the flow of water to any residential building in which the occupant thereof is not the customer of record of the Town, without first complying with the notice provision of Paragraph (B.), and also providing notice to each affected dwelling unit in the manner prescribed by the Water and Sewer Department regulations. Such notice shall contain the following information:
- The amount then due and payable for such water service;
  - The date on or after which such service will be shut off, such date to be not less than fifteen nor more than thirty days after the day on which such notice is first given;
  - The date on which said notice is given; and
  - The right of the occupants of such building to pay the amount due or portion thereof as is prescribed by regulation and thereby avoid a cessation of service. Any employee of the Town may at any reasonable time enter the common hallways of such building to post or deliver said notice.
- (E.) Service may be terminated only if:
- A bill is not paid within 90 days from receipt; and
  - The Town, not earlier than 45 days after the rendering of the bill (i.e. first request for payment) renders a second request for payment, stating its intention to terminate on a date not earlier than 92 days after the receipt of the original bill; and
  - The Town renders a final notice of termination not earlier than 90 days after receipt of the bill. Such notice must be rendered at least 36 hours, but not more than 14 days, prior to termination; and
  - The bill remains unpaid on the termination date indicated on the notice.
- In no event shall service to a customer be terminated for failure to pay a portion of any bill which is subject of a dispute which has been made with the Town in accordance with any applicable regulations. However, a customer shall be responsible for and accordingly shall be subject to termination for non-payment of any portion of any bill which is not the subject of a dispute. All second requests and termination notices shall be accompanied by a brief explanation of customer rights.
- (F.) There shall be a fee of \$50.00 for the restoration of Water Service after service has been terminated pursuant to this bylaw. Said \$50.00 and unpaid Water and Sewer bill to be paid or a suitable payment plan entered into with the Town Treasurer prior to the reconnection of water service. *Amended: ATM May 15 2006 Art 22*
22. Applicants for water service requiring extension to the existing water system shall be subject to the Rules and Regulations applying to the installation of water mains in new developments and in unaccepted streets as set forth therein after.
- Deleted: STM/May 20, 2002/Art. 14.
24. There will be no water pipe in the town water system to be installed under 8inch diameter, unless otherwise determined by the Select Board.
25. Any person or organization requesting the use of town water for a car wash shall first obtain an application form supplied by the Public Works Department and available at the Public Works Office, which will require the signature of the person in charge of the property, allowing said car wash to be held before being submitted for final approval.
26. Deleted: STM/May 20, 2002/Art. 14.

27. Any service pipe installed on private property from the curb cock to the inside of the building being supplied water shall be left exposed until inspected and approved by the Public Works Department.
28. All hydrant locations shall be determined by the Public Works Department after consultation and recommendations of the Fire Department.
29. Deleted: STM/May 20, 2002/Art. 14
30. All apartments with meters shall be charged for each apartment with a minimum charge of the prevailing residential rate.
31. Deleted: STM/May 20, 2002/Art. 14.
32. Deleted: STM/May 20, 2002/Art. 14.
33. Violations of the aforementioned regulations with the exception of filling of swimming pools, shall be punishable as follows: First offense - a fine of \$20.00; Second offense - a fine of \$40.00; and for subsequent violation a fine of \$80.00. Violation of filling of swimming pools shall be punishable as follows: First offense- a fine of \$80.00; and subsequent violation a fine of \$ 160.00, *As Amended: ATM May 4, 1992 Article 33*

### **TRI-TOWN WATER EMERGENCY AND CONSERVATION BY-LAW**

#### **Section 1. Purpose**

This By-Law is intended to preserve, maintain and increase the water supply of the Tri-Town Water System.

Section 2, Whenever a declaration of a state of water supply emergency or resulting order is legally declared and imposed on the Town of Holbrook by an appropriate state or federal agency, or a water conservation emergency declared by the Tri-Town Board of Water Commissioners, (The Braintree Water and Sewer Commissioners, Holbrook Select Board /Board of Public Works, Town of Randolph, Board of Public Works), said Tri-Town Board of Water Commissioners is authorized to promulgate such reasonable rules and regulations as are necessary to implement said declaration or order of water conservation emergency.

#### **Section 3. Penalties for Violation**

Any person who is found after a hearing before the Braintree Water and Sewer Commission, Holbrook Select Board /Board of Public Works, Town of Randolph, Board of Public Works respectively to have violated any of said rules and regulations as promulgated by the Commissioner's attendant to a declaration of a state of water supply emergency or resulting order or water conservation emergency shall for each offense, be punished by a civil penalty of one hundred dollars (\$100.00). Each day such violation continues shall constitute a separate offense.

#### **Section 4. Administration of Penalties.**

The Braintree Water and Sewer Commissioners, Holbrook Select Board/ Board of Public Works, Town of Randolph, Board of Public Works, through its Department, shall be the exclusive administrator for processing receipted violations of the water usage restriction order.

There shall be one warning issued and recorded on an approved appropriate Department Administrative Form. Said warning shall be sent by certified mail to the site of the violation. Subsequent violations recorded shall be punished by civil penalties as stipulated in Section 3 of this By-Law. Subsequent violations shall be recorded on an approved Department Administrative Form which stipulates that a violation has been found and a civil penalty has been applied with mandatory payment of said civil penalty to be receipted by the appropriate department. *Adopted STM June 20, 1994 Article 8*

**Section 11-6  
SEWER BY-LAWS  
PUBLISHED  
SEPARATELY**

**Section 11-7**  
**WETLANDS PROTECTION BY-LAWS**

**Section 1. Purpose**

The purpose of this by-law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Holbrook by controlling activities likely to have a significant or cumulative effect upon the important public values of those areas, which include, without limitation, the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water pollution control, fisheries, wildlife habitat, agricultural, aquaculture, recreation values and the historic and natural scenic character of wetland resource areas, watercourses, lakes and ponds deemed important to the community (collectively, the "interests protected by this by-law").

**Section 2. Jurisdiction**

Except as permitted by the Holbrook Conservation Commission ("The Commission") or as provided in this by-law, no person shall remove, fill, dredge, build upon, degrade, or otherwise alter the following resource areas: any bank, freshwater wetland, marsh, wet meadow, bog, swamp, vernal pool, reservoir, lake, pond, creek, river or stream, or any land under said waters or any land subject to flooding or inundation by groundwater or surface water, or any land within 100 feet of any of the aforesaid resource areas (collectively, the "resource areas protected by this by-law").

**Section 3. Exceptions**

The application and permit required by this by-law shall not be required for 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/or used to provide electric, gas, water, telephone, telegraph and other telecommunication services, provided that written notice has been given to the Commission prior to the commencement of the work, and provided that the work conforms to performance standards and design specifications in any regulations adopted by the Commission.

The application and permit required by this by-law shall not be required for work performed for normal maintenance or improvement of land in agricultural use, provided that written notice has been given to the Commission prior to the commencement of work, and provided that the work conforms to the performance standards and design specifications in regulations adopted by the Commission.

The application and permit required by this by-law shall not apply to emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice (oral or written) has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this by-law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in the Wetlands Protection Act, G.L. c131, s40, and Regulations, 310 CMR 10.00, shall not apply under this by-law.

**Section 4. Application for Permits and Requests for Determination**

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

In no case shall more than 50% of the tree cover be removed for any 100-foot long section of Buffer Zone, except in case of hardship where the applicant can demonstrate that no reasonable alternative exists. Tree cover is measured, for purposes of this section, as the basal area of trees with a 5-inch or greater DBH (diameter at breast height).

*Adopted: STM June 19 2000 Article 13*

The Commission in an appropriate case may accept as the permit application and plans under this by-law the Notice of Intent and plans filed under the Wetlands Protection Act, G. L. c 131, s40, and Regulations, 310 CMR 10.00.

Any person desiring to know whether or not a proposed activity or an area is subject to this by-law may in writing request a determination from the Commission. Such a request for determination shall include information and plans as are deemed necessary by the Commission for the review of the proposed work.

At the time of a permit application or a request for determination the applicant shall pay a filing fee specified in the regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act, G.L. c131, s40, and Regulations, 310 CMR 10.00.

## **Section 5, Fees**

### **Section 5.1 Administrative Fee**

The Commission is authorized to include in any regulations adopted under this by-law a fee schedule imposing fees for permits, determinations, and certificates of compliance. Such fees must be based on reasonable estimate of the actual costs incurred by the Commission in carrying out its duties under this by-law, taking into account any fees provided under the Wetlands Protection Act. Failure to pay any fee required by regulations duly promulgated by the Commission shall be grounds for denial of the application.

### **Section 5.2 Consultant Fees**

The Commission is authorized to require the applicant to pay the reasonable costs and expenses borne by the Commission for specific expert engineering and consultant services deemed necessary by the Commission, to review any application. The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

<u>Project Cost</u>	<u>Maximum Fee</u>
Up to \$100,000	\$1,000.00
\$100,001-\$500,000	\$2,500.00
\$500,000 and over	\$5,000.00

Amended: STM/June 19, 2000/Article 11

The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro-rata for that portion of the project cost applicable to those activities within resource areas protected by this by-law. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

Such consultant services may include, without limitation, the delineation and survey of wetland resource areas, analysis of resource area values, hydrogeological and drainage analysis, evaluation of wildlife habitat studies, and legal services. The Commission is authorized to charge the applicant for said fee based upon its reasonable finding that the additional information acquirable only through outside consultants would be necessary for the making of an objective decision, and when the application or request for determination proposes any of the following:

- (a) the alteration of more than 2,500 square feet or more of any land under a water body or freshwater wetlands or land subject to flooding;
- (b) the alteration of 50 linear feet or more of the bank of any water body or waterway;
- (c) the alteration of 1,000 square feet or more of the buffer zone; or
- (d) the creation or elevation of any point source discharge, detention or retention basin, water control structure or wetland replication area.

Said fee may be requested of the applicant within thirty (30) days of the filing of the application, or from the last amendment thereto. In its request, the Commission shall identify the consultant it has selected and include an estimate of the charges for the proposed services. The applicant may appeal from the selection of the consultant to the Select Board within ten (10) days of receiving notice from the Commission of the same. The Select Board may set aside the selection of the consultant only if (1) the consultant lacks sufficient qualifications to perform the work or has a conflict of interest, or (2) the Commission lacked reasonable grounds to conclude that the criteria for the hiring of a consultant have been met.

Any fees paid to the Commission under this section shall be placed into a professional services conservation account, and may be expended by the Commission for the designated services without further appropriation. Any unused portion of said fee shall be returned to the applicant within thirty (30) days of the issuance of the permit or determination.

### **Section 5.3 Waiver/Non-Applicability of Fees**

No application or consultant fees shall be due from the Town of Holbrook in connection with any project performed by the Town or on its behalf.

### **Section 5.4 Offset User Fee Account**

The town hereby accepts G.L. c44, s53E for the purpose of administering the filing fee and professional services conservation account provision of this by-law. Amounts received as filing fees shall be deposited in the offset user fee account established hereunder, and may be expended by the Commission for the purposes of performing its duties under this by-law.

### **Section 6. Notice and Hearings**

Any person filing a permit application or a request for determination with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters and others deemed necessary at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall enclose a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. Amended: *ATM May 19, 2003 Article 32*

An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

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

The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or request for determination, unless an extension is authorized in writing by the applicant

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

The Commission in an appropriate case, may combine its hearing, under this by law with the hearing, conducted under the Wetlands Protection Act, G.L. c131, s40, and Regulations, 310 CMR 10.00. Notice of a hearing so combined shall not be considered defective solely because it fails to make reference to this by-law.

The Commission shall have authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearings, which may include receipt of additional information offered by the applicant and others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in Section 9: If the land is snow covered or frozen on the date of a scheduled inspection to an extent which, in the judgment of the Commission prevents adequate inspection, the action required by the Commission may be postponed until such time as the ground is free of snow and thawed and new inspection(s) can be scheduled and completed. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available. Amended: *STM June 19 2000 Article 12*

### **Section 7. Burden of Proof**

The applicant shall have the burden of proving by a preponderance of the credible evidence, that the work proposed in the permit application will not have unacceptable significant of cumulative affect upon the interests protected by this by-law. Failure to provide adequate evidence to the Commission supporting this burden, shall be sufficient cause for the Commission to deny such permit or to grant a permit with conditions. Amended: *ATM May 19, 2003 Article 31*



## **Section 8. Permits and Conditions**

If, after said hearing, the Commission determines that the activities which are the subject of the permit application are likely to have a significant or cumulative effect upon the interest protected by this by-law, the Commission, within 21 days of the close of the public hearing or such further time as the Commission and the applicant shall agree on, shall issue or deny a permit for the activities proposed. If it issues a permit, the Commission shall impose condition which it deems necessary or desirable to protect those interests, and all work shall be done in accordance with those conditions.

The Commission is empowered to deny a permit for failure to meet the requirements of this by-law; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the interests protected by this by-law; and where no conditions are adequate to protect those interests. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration of the original permit.

For good cause the Commission may revoke or modify a permit or determination issued under this by-law after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to Section 5 and 6, and a public hearing.

The Commission in an appropriate case may combine the permit or determination issued under this by-law with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act, G.L. c131, s40, and Regulations, 310 CMR 10.00.

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

## **Section 9. Coordination With Other Boards**

Any person filing a permit application or request for determination of applicability shall provide a copy thereof to the Planning Board, the Board of Health and Select Board. If a permit is required from the Board of Appeals, the applicant shall also furnish a copy to that Board.

The Commission shall, to the extent practicable, coordinate with any other Board reviewing the project, and having similar authority to recover its consulting fees from the applicant, in an effort to avoid duplication of consulting services.

## **Section 10. Security**

As part of a permit issued under this by-law, the Commission may require, in addition to any security required by any other town or state board, commission, agency or officer, that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- (a) by a proper bond or deposit of money or negotiable securities, sufficient in the opinion of the Conservation Commission to secure performance of the conditions and observance of the safeguards of such permit, to be released upon the issuance of a certificate of compliance for work performed pursuant to the permit; or
- (b) by a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Commission whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

## **Section 11. Regulations**

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

At a minimum these regulations shall define key terms in this by-law not inconsistent with the by-law and procedures governing the amount and filing of fees.

## **Section 12. Enforcement**

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this by-law, or cause, suffer, or allow such activity to continue or allow such fill or other alteration to be left in place, without the required authorization pursuant to this by-law.

The Commission, its agents, officers, and employees shall have authority, with prior approval from the property owner or pursuant to court process, to enter upon privately owned land 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 Commission deems necessary,

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

Upon request of the Commission, the Select Board and the Town Counsel shall have the authority to take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall have the authority to take legal action for enforcement under criminal law.

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

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

## **Section 13. Appeals**

A decision of the Commission shall be reviewable in the Superior Court, in action filed within 60 days thereof, in accordance with the General Laws Chapter 249, Section 4.

## **Section 14. Relation to Wetlands Protection Act**

This by-law is adopted under the Home Rule Amendment of the Massachusetts Constitution and The Home Rule Statutes, independent of the Wetlands Protection Act, G.L. c13 I, s40, and Regulations, 310 CMR 10.00, thereunder.

## **Section 15. Severability**

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof, nor shall it invalidate any permits or determinations which have previously been issued.

## **Section 16. Effective Date**

This by-law shall take effect pursuant to General Laws, Chapter 40, Section 32, and shall apply to all applications filed on or after that date and to any subsequent procedures related thereto.

## **Section 17. Definitions**

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

The term "person" shall include any individuals, group of individuals, associations, partnerships, corporations, companies, business organizations, trusts, estates, Commonwealth of Massachusetts when subject to town by-laws, any public or quasi-public corporation or body when subject to town by-laws or any other legal entity, including the Town of Holbrook or its legal representative, agents or assigns.

The term "freshwater wetlands" shall mean any area of at least 2500 square feet where surface water and/or groundwater, or ice provide a significant part of the supporting substrate for at least five months of the year and which supports a plant community dominated (at least 50%) by wetland plant species. Bogs, marshes, wet meadow, swamps and vernal pools are all freshwater wetlands. For the purposes of this by-law, freshwater wetlands do not need to border water bodies in order to be regulated.

The term "alter" means to change the conditions of any area subject to protection by this by-law and shall include but not be limited to one or more of the following actions upon areas described in this by-law:

- (a) the removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
- (b) the changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood storage retention areas;
- (c) the drainage, disturbance or lowering of the water level or water table;
- (d) the dumping, discharging or filling with any material which could degrade the water quality.
- (e) the driving of piling, erection of buildings or structures of any kind;
- (f) the dumping, discharging or filling with any material which may degrade water quality;
- (g) the placing of any object or obstruction whether or not it interferes with the flow of water;
- (h) the destruction of plant life, including the cutting of trees;
- (i) the changing of water temperature, biochemical oxygen demand and other natural characteristics of the receiving water;
- (j) any activities, changes or work which pollutes any body of water or groundwater;
- (k) the application of pesticides or herbicides in a freshwater wetland or within the 100' buffer zone of the freshwater wetland.

Except as otherwise provided in this by-law or in regulations of the Commission, the definitions of terms in this by-law shall be set forth in the Wetlands Protection Act, G.L. c131, s40, and Regulations, 310 CMR 10.00, thereunder, which are available for inspection

*Adopted: ATM May 2, 1994 Article 18*

*As Amended: STM June 19 2000*

*As Amended: ATM May 19, 2003*

#### **Section 11-8**

### **CONTROL OF BACKFLOW AND CROSS CONNECTION**

#### **PURPOSE**

- A. To protect the public potable water supply served by the Holbrook Public Works Department from the possibility of contamination or pollution by isolating such contaminants or pollutants that could backflow or back siphon into the public water system.
- B. To promote the elimination or control of existing cross connections, actual or potential, between its customers in-plant potable water system and non-potable water systems.
- C. To provide for the maintenance of a continuing program of cross connection control, which will effectively prevent the contamination or polluting of all potable water systems by cross connection.

## II.

### AUTHORITY

- A. As provided in the Federal Safe Drinking Water Act of 1974, (Public Law 93-523), and the Commonwealth of Massachusetts Drinking Water Regulations, 310 CMR 22.22, the water purveyor has the primary responsibility for preventing water from unapproved sources or any other substances from entering the public potable water system.
- B. Holbrook Public Works Department, Rules and Regulations, adopted May 13, 1985

## III.

### RESPONSIBILITY

- A. The Public Works Department shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back siphonage of contaminants or pollutants. If as a result of a survey of the premises, the Public Works Department determines that an approved backflow prevention device is required at the town's water service connection or as in-plant protection on any customer's premises, the Public Works Department, or its delegated agent, shall issue a cross connection violation form to said customer to install approved backflow prevention devices. The customer shall, within a time frame determined by the Public Works Department, install such approved device or devices at his own expense, and failure or refusal or inability on the part of the customer to install said device or devices within the specified time frame shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

### DEFINITIONS

- A. AIR GAP SEPARATION: The method of preventing backflow through the use of an unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.
- B. APPROVED: Accepted by the Reviewing Authority as meeting an applicable specification stated or cited in this regulation or as suitable for the proposed use.
- C. APPROVED BACKFLOW PREVENTION DEVICE OR DEVICES: A method to protect backflow approved by the Department for use in Massachusetts.
- D. ATMOSPHERIC VACUUM BREAKER: An approved backflow device used to prevent back siphonage, which is not designed for use under static line pressure
- E. AUXILIARY WATER SUPPLY: Any water supply of unknown or questionable quality on or available to the premises other than the supplier's approved public potable water supply.
- F. BACK PRESSURE: Pressure created by mechanical means or other means which causes water or other liquids or substances to flow or move in a direction opposite to that which is intended.
- G. BACK SIPHONAGE: A form of backflow due to reduced or sub-atmospheric pressure within a water system.
- H. BACKFLOW: The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply from any source other than the intended source.
- I. BACKFLOW PREVENTER WITH INTERMEDIATE ATMOSPHERIC VENT: A device having two independently operating check valves separated by an intermediate chamber with a means for automatically venting it to the atmosphere, in which the check valves are force loaded to a normally close position and the venting means is force loaded to a normally open position.
- J. BAROMETRIC LOOP: A loop of pipe rising at least 35 feet, at its topmost point above the highest fixture it supplies.
- K. CONTAMINANT: Any physical, chemical, biological, or radiological substance or matter in water.
- L. CROSS CONNECTION: Any actual or potential connection between a distribution pipe or potable water from a public water system and any Waste pipe, soil pipe, sewer, drain or unapproved source.

- M. **CROSS CONNECTION VIOLATION FORM:** A violation form designated by the Department, which is sent to the owner by the water supplier with copies sent to the Department, Plumbing Inspectors, and Board of Health delineating cross connection violations found on the owner's premises and a procedure for corrective action.
- N. **DEPARTMENT:** The Massachusetts Department of Environmental Protection.
- O. **DOUBLE CHECK VALVE ASSEMBLY:** A backflow prevention device which incorporates an assembly of check valve, with shut-off valves at each end and appurtenances for testing.
- P. **IN-PLANT PROTECTION:** The location of approved backflow devices in a manner which provide simultaneous protection of the public water system and the potable water system within the premises.
- Q. **OWNER:** Any person maintaining a cross connection installation or owning or occupying premises on which cross connections can or do exist.
- R. **PERMIT:** A document issued by the Department which allows a cross connection installation.
- S. **PERSON:** Any individual, corporation, company, association, trust, partnership, the Commonwealth, a municipality, district, or other subdivision or instrumentality of the United States.
- T. **PRESSURE VACUUM BREAKER:** An approved backflow prevention device designed to prevent only back siphonage and which is designed for use under static line pressure and which has necessary appurtenances for testing.
- U. **REDUCED PRESSURE BACKFLOW PREVENTER:** An approved backflow prevention device incorporating (1) two or more check valves, (2) an automatically operating differential relief valve located between the two checks, (3) two shut-off valves, and (4) necessary appurtenances for testing.
- V. **RESIDENTIAL DUAL CHECK:** An assembly of two spring loaded, independently operating check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter to act as a contaminant device.
- W. **PUBLIC WORKS DEPARTMENT:** The Town of Holbrook Public Works Department or its delegated agent.

V.

**ADMINISTRATION**

- A. The Public Works Department will operate an active cross connection control program, to include the keeping of necessary records, which fulfills the requirements of the Commonwealth's DEP's Cross Connection Regulations and is approved by the Department.
- B. The owner shall allow his property to be inspected for possible cross connections and shall follow the provisions of the Public Works Department's program and the Department regulations.

VI.

**REQUIREMENTS**

**A. PUBLIC WORKS DEPARTMENT**

- I. On new installations, the Public Works Department will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, and notify the owner of plan approval requirements by the appropriate reviewing authority,
- 2. For premises existing prior to the start of this program, the Public Works Department will perform surveys of the premises and review as-built plans and issue a cross connection violation form to the owner detailing any corrective action required, the method of achieving the correction, and the time allowed for the correction to be made. The time period allowed shall depend upon the degree of hazard involved.

3. The Public Works Department will not allow any cross connection to remain until it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to insure the satisfactory operations.
4. If the Public Works Department determines at any time that a serious threat to public health exists, the water service will be terminated immediately.
5. The Public Works Department shall have on its staff, or shall have a delegated agent, who is a backflow prevention device tester certified by the Commonwealth of Massachusetts.
6. The Public Works Department will begin initial premises inspections to determine the nature of existing or potential hazards, following the approval of this program by the Department, during calendar year 1998. Initial focus will be high hazard industries and commercial premises.

## **B. OWNER**

1. The owner shall be responsible for the elimination or protection of all cross connections on his premises.
2. The owner shall be responsible for applying for and obtaining all necessary approvals and permits for the maintenance of cross connections and installation of backflow prevention devices and applying annually for the renewal of each permit.
3. The owner shall be responsible for the elimination or protection of all cross connections on his premises.
4. The owner shall inform the Public Works Department of any proposed or modified cross connection and also any existing cross connections of which the owner is aware but has not been found by the Public Work's Department.
5. The owner shall not install a by-pass around any backflow preventer unless there is a backflow preventer of the same type on the by-pass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.
6. The owner shall install backflow preventers in a manner approved by the Department and by the Public Works Department.
7. The owner shall install only reduced pressure backflow preventers and double check valve assemblies approved by the Department.
8. Any owner of industrial, commercial, or institutional premises having a private well or other private water source must have a permit if the well or source is cross connected to the Public Works Department's System. Permission to cross connect may be denied by the Public Works Department. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained even if it is not cross connected to the Public Works Department's System.
9. The owners shall be responsible for the payment of all fees for permits, device testing, retesting in the case that the device fails to operate correctly, and second re-inspections for non-compliance with the Public Works Department or Department requirements.

## **VII. DEGREE OF HAZARD**

- A. The Public Works Department recognizes the threat to the public water supply system arising from cross connections. As such, the Public Works Department, whereas it is responsible for the quality of the public water supply, may require a containment device on the water service entrance to any customer who, as a result of unprotected cross connections, could contaminate the public water supply system.

## VIII. ENFORCEMENT

14. The Public Works Department shall not allow a cross connection to exist with the public water supply system unless it is considered necessary and all appropriate approvals and permits have been issued.

## IX. EXISTING IN-USE BACKFLOW PREVENTION DEVICES

- A. Any existing backflow preventer shall be allowed by the Public Works Department to continue in service unless the degree of hazard is such to supersede the effectiveness of the present backflow preventer or result in an unreasonable risk to the public health. Where the degree of hazard is increased as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure backflow preventer, or a reduced pressure backflow preventer must be installed in the event that no backflow device was present.

## X. PERIODIC TESTING

- A. Reduced pressure backflow preventers shall be tested and inspected at least semi-annually by the Public Works Department, and double check valve assemblies shall be tested and inspected at least annually by the Public Works Department.
- B. Periodic testing shall be performed by the Public Works Department's certified tester or his designated agent; who shall be a certified tester.
- C. The testing shall be conducted during the Public Works Department's regular business hours. Exceptions to this, when at the request of the owner, may require additional charges to cover the increase costs to the Public Works Department.
- D. Any backflow preventer which fails during a periodic test must be repaired or replaced by a licensed plumber. When repairs are necessary, upon completion of the repair, the device will be retested at the owner's expense to insure proper operation. High hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations a compliance date of not more than fourteen days after the test date will be established. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two devices is an effective means of the owner insuring that uninterrupted water service remains during testing or repair of devices and is strongly recommended when the owner desires such continuity.
- E. Backflow prevention devices will be tested more frequently than specified above in "A" in cases where there is a history of test failures and the Public Works Department feels that due to the degree of hazard involved, additional testing is warranted. Costs of the additional tests will be borne by the owner.

## XL RECORD AND REPORTS

- A. **RECORDS:** The Public Works Department will initiate and maintain the following:
  - I. Master files on customer cross connection tests and/or inspections.
  2. Master files on approved cross connection installations.
  3. Copies of lists and summaries supplied to the Massachusetts Department of Environmental Protection.
- B. **REPORTS:** The Public Works Department will submit the following to D.E.P.
  1. Initial listing of high hazard cross connections.
  2. Initial listing of low hazard cross connections.
  3. Annual update lists of items I and 2 above.
  4. Annual summary of cross connection inspections and surveys.

## ADDENDUM

### I, RESIDENTIAL DUAL CHECK

Effective the date of the acceptance of the Cross Connection Control Program for the Town of Holbrook, Massachusetts, all new residential buildings will be required to install a residential dual check device immediately downstream of the water meter. This device will be provided by the Public Works Department at a scheduled cost to the homeowner. Installation of this residential dual check device on a retrofit basis on existing service lines will be instituted at a time and at potential cost to the homeowner as deemed necessary by the Public Works Department.

The owner must be aware that installation of a residential dual check valve results in a potential close plumbing system within his residence. As such, provisions may have to be made by the owner to provide for thermal expansion within his closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves. *Adopted: STM February 23, 1998 Article 6*

#### Section 11-9

### STORMWATER MANAGEMENT BY-LAW

Part A: Illicit Discharges to  
The Municipal Storm Drain System

#### SECTION 1. PURPOSES

A. Increased volumes of stormwater and contaminated storm water runoff 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. alteration or destruction of aquatic and wildlife habitat; and
4. flooding.

The United States Environmental Protection Agency has identified land disturbance and polluted stormwater as major sources of water pollution. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Holbrook's water bodies and groundwater, and to safeguard the public health, safety, welfare and the natural resources of the town.

The objectives of this by-law are:

1. to prevent pollutants from entering the Town of Holbrook's municipal storm drain system;
2. to prohibit illicit connections and unauthorized discharges to the town;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to storm water discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

#### SECTION 2. DEFINITIONS

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

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

**DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

**GROUNDWATER:** Water beneath the surface of the ground.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted or approved before the effective date of this by-law.



**ILLCIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. 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 firefighting activities exempted pursuant to Section 7, subsection 4, 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 STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Holbrook.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

**STORMWATER 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 storm water.

**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 non-point 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. dissolve and particulate metals;
8. animal wastes;
9. rock, sand, salt, soils;
10. construction wastes and residues; and
11. noxious or offensive matter of any kind.

**PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

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

**STORMWATER:** Runoff from precipitation or snow melt.

**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 the 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, coastal 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.

### **SECTION 3. APPLICABILITY**

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

### **SECTION 4. AUTHORITY**

This by-law is adopted under the authority granted pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34, and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

### **SECTION 5. RESPONSIBILITY FOR ADMINISTRATION**

The Select Board as Public Works Commissioners shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Select Board may be delegated in writing by the Select Board to its employees or agents.

### **SECTION 6. REGULATIONS**

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

### **SECTION 7. PROHIBITED ACTIVITIES**

Prohibited activities are as follows:

1. **Illicit discharges:** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-storm water discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth.
2. **Illicit Connections:** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, unless permission is granted by the Public Works Department.
3. **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 Select Board as Public Works Commissioners.

### **SECTION 8. EXEMPTIONS**

Exemptions from the by-law are as follows:

1. Discharge or flow resulting from firefighting activities.
2. Discharge or flow that results from conditions that require immediate action and occurs during a state of emergency declared by any agency of the Federal or State Government, or by the Holbrook Select Board or Board of Health.

3. 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) Water 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;
  - (i) Water from individual residential car washing;
  - (k) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided test data is submitted to the town substantiating that the water meets the one ppm standard and the pool is drained in such a way as not to cause a nuisance or public safety issue, and complies with all applicable town by-laws;
  - (l) Discharge from street sweeping;
  - (m) Dye testing;
  - (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 Conservation Commission and the Department of Public Works as necessary to protect public health safety, welfare or the environment.

#### **SECTION 9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

The Department of Public Works 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 Department of Public Works may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

#### **SECTION 10: 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 Conservation Commission, the Department of Public Works and the Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Conservation Commission and the Department of Public Works no later than the next business day. The reporting person shall provide to the Conservation

Commission and the Department of Public Works written confirmation of all telephone, facsimile or in-person notification within three business days thereafter. If the discharge of prohibited materials is from 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.

## SECTION II: ENFORCEMENT

A. **Authorized Agents**: The Select Board as Public Works Commissioners, or an authorized agent of the Select Board, shall enforce this by-law, regulation, order, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

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

C. **Orders**: The Select Board, or an authorized agent of the Select Board, 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 municipal sewer system; (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.

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

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 Select Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Select Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, §. 57 after the thirty-first day at which the costs first become due.

D. **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 \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. **Non-Criminal Disposition**: As an alternative to criminal prosecution or civil action, the Town of Holbrook may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40 §21D and the Enforcement Appendix of the General By-Laws of the Town of Holbrook, in which case the enforcing person shall be as defined in the General By-Laws. The penalty for each violation shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

F. **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 Select Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys, or sampling as the Select Board deems reasonably necessary.

G. **Appeals**: The decision or orders of the Select Board shall be final. Further relief shall be to a court of competent jurisdiction.

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

## SECTION 12.

### SEVERABILITY

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

## SECTION 13. TRANSITIONAL PROVISIONS

Residential property owners shall have 180 days from the effective date of the by-law to comply with its provisions, or petition the Select Board for an extension with the reasons for failure to comply and a schedule for compliance.

## PART B; STORMWATER MANAGEMENT AND LAND DISTURBANCE

### SECTION 1: PURPOSE

- A. Increase volumes of stormwater and contaminated stormwater runoff, and soil erosion and sedimentation are the 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. 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 by-law are to:
1. Protect water resources;
  2. Require practices that eliminate soil erosion and sedimentation;
  3. Control the volume and rate of storm water runoff resulting from land disturbance activities to minimize potential impacts of flooding;
  4. Promote infiltration and the recharge of groundwater;
  5. 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;
  6. 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;
  7. Prevent pollutants from entering the municipal storm drain system;
  8. Ensure adequate long-term operation and maintenance of structural stormwater best management practices;
  9. Comply with state and federal statutes and regulations relating to stormwater discharges; and
  10. Establish the Town of Holbrook's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

### SECTION 2. 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.

**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 areas. 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.

**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.

2. Storm water discharge resulting from activities that are subject to jurisdiction under 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.

## SECTION 6. ADMINISTRATION

A. The Conservation Commission shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon, the Conservation Commission may be delegated in writing by the Conservation Commission to its employees or agents.

B. Waiver: The Conservation Commission may waive strict compliance with any requirement of this by-law or the rules and regulation 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 Conservation Commission may adopt, and periodically amend rules and regulations to effectuate the purposes of this by-law. Failure by The Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law

## SECTION 7. PERMITS and PROCEDURES

Permits are required prior to an activity disturbing an acre or more of land. The site owner or his agent shall file for the permit with the Conservation Commission; however, any permit will be issued to the owner.

A. **Application:** A completed application for a Land Disturbance Permit shall be filed with the Conservation Commission. 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. The Land Disturbance Permit Application package shall include:

1. A completed application form with original signatures of allowners;
2. A list of abutters, certified by the Assessor's Office;
3. Six (6) copies of submittal documents;
4. payment of the application and review fees; and
5. One(!) copy each of the application form and the list of abutters filed with the Town Clerk.

- B. **Fees:** Application fees shall be established by the Conservation Commission to cover various expenses connected with application review, and monitoring permit compliance. In addition, the Conservation Commission may also establish a professional review fee sufficient to cover a professional review based on the magnitude of the project and the potential environmental impacts. The Conservation Commission is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The applicant for a Land Disturbance Permit may be required to establish and maintain an escrow account to cover the costs of said consultant.
- C. **Information Requests:** The Conservation Commission may request such additional information as is necessary to enable the Commission to determine whether the proposed land disturbance activity will protect water resources and meet the objectives of this by-law.
- D. **Determination of Completeness:** The Conservation Commission shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application has been found to be complete.
- E. **Coordination with Other Boards:** On receipt of a complete application for a Land Disturbance Permit, the Conservation Commission shall distribute one (1) copy each to the Planning Board, Department of Public Works, Board of Health, and Building Department for review and comment. Said agencies shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission.
- F. **Entry:** Filing an application for a land disturbance permit grants the Conservation Commission, or its Agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- G. **Hearing:** Within twenty-one (21) days of receipt of a complete application for a Land Disturbance Penn it, the Conservation Commission shall hold a public hearing 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 Conservation Commission. Notice of the public hearing shall be given by publication in a local paper of general circulation, by posting and by certified mailings to abutters, at least seven (7) days prior to the hearing. The Conservation Commission shall be responsible for posting the notice at the Town Hall and for publishing the notice in the local newspaper. The applicant shall be responsible for payment of legal notice in newspaper, notifying abutting property owners, by certified mail, return receipt requested. Copies of the certified mail receipts shall be submitted to the Conservation Commission for verification prior to opening the public hearing.

H. **Action:** The Conservation Commission may:

1. Approve the 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 Application and issue a permit with conditions, modifications or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this by-law; or
3. Disapprove the 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. If the Conservation Commission finds that the Applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Conservation Commission may disapprove the application, denying a permit.

I. **Project changes:** The Permittee, or their Agent, must notify the agent of the Conservation Commission in writing of any change or alteration of a land-disturbing activity before the change or alteration occurs. If the agent of the Conservation Commission determines that the change or alteration is significant, based on the design requirements listed in Part II or Part III of the Regulations adopted by the Conservation Commission under this by-law, the agent of the Conservation Commission may require that an amended application or a full application be filed in accordance with this Section. If any change or alteration from the Land Disturbance Permit occurs during land disturbing activities the agent of the Conservation Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

#### **SECTION 8, 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 standards and contain the information listed in the Regulations, adopted by the Conservation Commission for administration of this by-law.

#### **SECTION 9, STORMWATER MANAGEMENT PLAN**

The Stormwater Management 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 best management practices for the permanent management and treatment of stormwater. The Storm water Management Plan shall contain sufficient information for the Conservation Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from storm water. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II. The Stormwater management Plan shall fully describe the project in drawings, and narrative. The Applicant shall submit such material as is required by the Regulations adopted by the Conservation Commission for the administration of this by-law.

#### **SECTION 10. OPERATION AND MAINTENANCE PLANS**

A. An operations and Maintenance Plan (O&M Plan) for the permanent storm water management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with this by-law and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Conservation Commission shall make the final decision of what maintenance is appropriate in a given situation. The Conservation Commission will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces) size of the site, the types of storm water management structures, potential need for on-going maintenance activities when making this decision, and require the submittal of certified annual reports as part of the O & M Plan. Once approved by the Conservation Commission, the operations and Maintenance Plan shall be recorded at the Norfolk County Registry of Deeds by the Permittee and recording information submitted to the Conservation Commission prior to start of work. The Operations and Maintenance Plan shall remain on file with the Conservation Commission and

shall be an on-going requirement. The Operations and Maintenance Plan shall conform to the requirements listed in the Regulations adopted by the Conservation Commission for the administration of this by-law. Stormwater management easements shall be provided by the property owner (s) in areas and as necessary to carry put the required maintenance.

#### B. Changes to Operation and Maintenance Plans

1. The owner (s) of the stormwater management system must notify the Conservation Commission or its Agent 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 Conservation Commission and the Responsible Parties. Responsible Parties shall include Owner(s), persons with financial responsibility, and persons with operational responsibility. Once the amended plan is signed, the Responsible Party shall file it at the Registry of Deeds at the expense of the current Owner(s) and a copy of the recording information submitted to the Conservation Commission.

### SECTION 11. INSPECTION

- A. **Board Inspection:** The Conservation Commission, or its designated agent, shall be notified one (1) week prior to the start of construction for inspection of the erosion and sediment control measures by the Commission. One (1) copy of the permit and approved plans shall be maintained at the site during the progress of the work. Subsequent inspections shall be at the discretion of the Commission or its designated agent.
- B. **Permittee Inspections:** The Permittee of 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. The Permittee or his/her agent shall submit monthly reports to the Conservation Commission or designated agent in a format approved by Conservation Commission. The Conservation Commission may require, as a condition of approval, that the Permittee's inspections be conducted by a person qualified in environmental monitoring and approved by the Commission.
- C. **Access Permission:** To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Conservation Commission, its agent, 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 Conservation Commission deems reasonably necessary to determine compliance with the permit.

### SECTION 12. SURETY

The Conservation Commission 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 Conservation Commission to ensure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission 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 Commission has received the final report and as-built plan as required by Section 13 and issued a certificate of completion.

### SECTION 13. FINAL REPORTS AND AS-BUILT PLAN

Upon Completion of the work, the Permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (PE), or Professional Land Surveyor (PLS), 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. In addition to a paper copy of the as-built construction plan, one digital file shall be submitted in Shapefile (.shp); AutoCad DWG format will be acceptable. The media shall be on CD, e-mail files shall not be accepted. The plan Vertical Datum shall reference the North American Vertical Datum of 1998 (NA VD88), and the plan shall contain a minimum of two benchmarks. The Horizontal orientation shall be tied and referenced to the Holbrook GIS horizontal control monuments (North American Datum of 1983, NAD83).



## SECTION 14. ENFORCEMENT

- A. The Conservation Commission, or an authorized agent of the Commission 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
  - I. The Conservation Commission, or an authorized agent of the Commission, 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 by-law 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 Holbrook 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 of Holbrook, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission 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 Conservation Commission 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 cost 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 \$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 of Holbrook may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch, 40, §21 D and the Enforcement Appendix of the General By-Laws of the Town of Holbrook, in which case the enforcing person shall be as defined in the General By-Law. The penalty for each violation shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Appeals. The decisions or orders of the Conservation Commission shall be final. Further relief shall be to a Court of competent jurisdiction.
- F. Remedies Not Exclusive. The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law,

## SECTION 15, CERTIFICATE OF COMPLETION

The Conservation Commission 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 by-law.

## SECTION 16, SEVERABILITY

If any provision, paragraph, sentence, or clause of this by-law shall be held invalid for any reason, all other provisions shall combine in full force and effect. *Adopted ATM May 29, 2007 Art. 24*

**Trash Fee**

All trash fee payments are due on the due date. If payment is not received within 30 days of the due date, interest will accrue from the due date at the rate of (14%) per annum. The Treasurer/Collector will add a \$10.00 demand fee to all payments that are not received within 30 days of the due date. All unpaid trash fees as of December 31 of any year that have not been paid by May 1 of the following year shall be committed to the Board of Assessors as a lien and added to the real estate tax bill with any additional penalty charge equal to 10% of the unpaid trash fee for the prior year, *Adopted: STM February 11, 2009*

**ANIMAL CONTROL REGULATIONS SECTION 12**

**Section 12-1**

**ANIMAL CONTROL LAWS**

**DOG LEASH LAW**

No person shall permit a dog owned or kept by him/her to run at large in any of the streets or public places in the Town or upon the premises of anyone other than the owner or keeper, unless the owner or occupant of such premises grants permission; and no dog shall be permitted in any public place or street within the Town unless the dog is held firmly on a leash or chain. The length of the leash or chain shall not exceed six (6) feet when off the property of the owner or keeper. An owner or keeper may use a leash of a greater length to restrain a dog on the property of the owner or keeper, provided the dog is securely confined to the premises of the owner or keeper.

It shall be the duty of the Dog Officer and every Police Officer to apprehend any dog found running around at large and to impound such dog in the Town Pound. The Dog Officer upon receiving any dog shall make a complete registry, entering the breed, color and sex of such dog and whether licensed. If licensed, the Dog Officer shall enter the name and address of the owner and the number of the license tag.

No later than three days after the impounding of any dog, the owner shall be notified or if the owner of the dog is unknown, written notice shall be posted for three days at one or more conspicuous places in the Town describing the dog and the place and time of taking. The owner of any dog so impounded may reclaim such dog upon payment of the license fee, if unpaid, and all costs and charges incurred by the Town for the impounding and maintenance of such dog.

The Dog Officer is hereby authorized to seek a complaint against the owner or keeper of a dog who is found to have violated the provisions of the by-law for which the following penalties shall be imposed:

1. A fine of \$25.00 for the first offense.
2. A fine of \$50.00 for the second offense.
3. A fine of \$75.00 for the third offense and each subsequent offense.
- 4.

Whenever a complaint is sought in the district court for violation of this section and the imposition of the fines of this section appropriate for the particular offense, then the procedures set forth in Chapter 140, Section 173A shall be followed.

**Section 12-2**

**COMPLAINT OF NUISANCE**

No person shall own or keep within the Town any dog which by biting, barking, howling or in any other manner disturbs the peace and quiet of any neighborhood or endangers the safety of any person or domesticated farm animal. If any person shall make a complaint in writing to the Dog Officer that any dog owned or harbored within the Town is a nuisance by reason of vicious disposition, excessive barking or other disturbance, the Dog Officer shall investigate such complaint and submit a written report to the Select Board with a recommended course of action. Said Dog Officer may levy the following fines for violation of this section of the by-laws:

1. First Offense \$25.00.
2. Second Offense \$50.00.
3. Third and subsequent offense \$75.00.

Notwithstanding the foregoing, if any person shall make a complaint in writing to the Select Board of a town, that any dog owned or harbored within their jurisdiction is a nuisance by reason of a vicious disposition or excessive barking or other disturbance, or that any such dog by such barking or other disturbance is a source of annoyance to any sick person residing in the vicinity such Select Board Member shall investigate or cause to be investigated such complaint, including an examination on oath of the complainant, and may make such order concerning the restraint or disposal of such dog as may be deemed necessary, as provided in Massachusetts General Laws (MGL) Chapter 140. Section I57.

In addition to the foregoing penalties, the Dog Officer is also authorized and empowered to muzzle, restrain or order the owner of a dog to restrain a dog pending a hearing before the Select Board as hereinafter provided, when the Dog Officer finds that a dog has (a) bitten or threatened any person, domesticated or farm animal; (b) chased any vehicle upon any way open to public travel in the Town; or (c) the owner has violated the provisions of this by-law for more than three times in any calendar year.

In addition to any other statutory authority contained in MGL Chapter 140, the Dog Officer may, with the approval of the Select Board, enter a complaint before the Board for the purpose of obtaining an order with respect to the control of disposition of a dog found to be uncontrollable or whose owner or keeper is unresponsive to any other penalties contained in the by-law,

#### Section 12-3

### **REGISTRATION AND LICENSE REQUIREMENTS**

In addition to the requirement that a dog shall be duly licensed as required by applicable law, the owner of a dog which is not licensed on or before June 30 in any year shall be subject to a fine of \$25.00 in addition to the license fee upon the complaint of the Dog Officer. The owner of any unspayed and unleashed female dog found by the Dog Officer, roaming at large in season (heat) off premises of the owner or keeper shall be subject to a fine of \$25.00.

#### Section 12-4

### **DISPOSAL OF ANIMAL WASTE**

- (b) Duty to Dispose: It shall be the duty of each owner, keeper or person who controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, street, park, public area or any private property of another.
- (c) Duty to Possess Means of Removal: No person who is the owner, keeper or controls such dog shall appear with such dog on any sidewalk, street, park, public area or any private property of another without the means of removal of any feces left by such dog.
- (J) Method of Removal and Disposal: For the purposes of this section, the means of removal shall be any tool, implement or other device carried for the purpose of picking up and containing such feces, unexposed to said person or to the public. Disposal shall be accomplished by transporting such feces to a place suitable and regularly reserved for the disposal of human feces or specifically reserved for the disposal of canine feces.
- (e) Fines for Violations: Fines for the violation of this section of the Town By-Laws shall be \$25.00 for the first offense in a calendar year, and fifty (\$50.00) for each subsequent offense.
- (f) Exemption: This section shall not apply to a guide dog accompanying any handicapped person.
- (g) Severability: The provisions of this section are severable and if any of the provisions of this section shall be held unconstitutional or otherwise invalid, by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. *Amended: ATM May 12, 1997 Article 14*

#### Section 12-5

### **RABIES VACCINATION**

The owner or keeper of any dog or cat six (6) months of age or older shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Department of Public Health. Such owner or keeper shall procure a veterinarian's certification stating that such dog or cat has been so vaccinated and setting forth the date of such vaccination and the duration of the immunity, or a notarized letter from a veterinarian that a certificate was issued, and a metal rabies tag bearing an expiration date indicating that such certificate is still in effect. Unvaccinated dogs or cats acquired or brought into Town shall be vaccinated within thirty (30) days after acquisition or entry into the Town or upon reaching the age of six (6) months, whichever comes later. A rabies tag shall be worn in the same manner as a dog license. Failure to vaccinate, to display the tag or to procure the certificate shall result in a fine in the amount of fifty (\$50.00) dollars. Cats shall not be required to wear the rabies tag. *Adopted: ATM May 11, 1998 Article 38*

## **BY-LAW REGULATIONS -SECTION 13**

### Section 13-1

#### a. Scope and Authority

This by law provides for non-criminal disposition of a violation of any rule or regulation of any town officer, board, or department, the violation of which is subject to a specific penalty. This by-law is enacted in accordance with MGL 40, s.21 D (herein called 21 D).

#### b. Enforcing Person

"Enforcing person" as used in this by-law shall mean any police officer, regular or special, of the Town of Holbrook with respect to any offense; Fire Official, the Building Inspector, Health Agent, Conservation Commission member, Department of Public Works Director; or any other official as the Town Administrator or Select Board may from time to time designate, each with respect to violations of by-laws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be the enforcing person with respect thereto.

c. Violation

An enforcing person taking cognizance of a violation of any by-law, rule or regulation may, as an alternative to institute criminal proceedings, give the offender a written notice to appear before the Clerk of the Norfolk District Court for non-criminal disposition of the violation, in accordance with 21D. The provisions of 21D are incorporated by reference herein.

d. Proceedings

Proceedings pursuant to this by-law and 21 D shall not be deemed to be criminal proceedings.

e. By-Law Penalty

Every violation of any of the foregoing By-Laws shall be punished by a fine as follows:

First Offense	Warning
Second Offense	\$100.00
Third Offense	\$200.00
Any Additional Offense	\$300.00

Each day the violations remain un-corrected constitutes a separate violation. *Adopted TM March 21, 1872 Art. 12 Amended*

f. Appeals - The offender may appeal to the jurisdiction of the enforcing person such as their Boards or Committees to show cause why the non-criminal disposition penalty shall be modified or withdrawn. The enforcing authority has the right to modify or withdraw the complaint based on evidence presented by the offender. All appeal hearings shall commence no later than 30 days after a written request is made,

Section 13-2  
By-Law Prosecution

It shall be the duty of the enforcing person to prosecute every violation of any foregoing By-Laws by the complaint before the District Court of East Norfolk.

Section 13-3  
Publication of By-Laws

The Select Board shall publish these By-Laws and make them available to any interested person. The fee for copies of the by-laws to be fixed by the Select Board in accordance with MGL C40 s. 22F. *General By-Laws as amended through ATM STM May 7 2014*

REGULATIONS OF THE BOARD OF HEALTH

Section 13-4  
Definitions

BOARD OF HEALTH: means the legally constituted Board of Health of the Town of Holbrook, Massachusetts, or its agents.

OPERA TOR: means the person in control of a particular establishment.

PERSON: means any person, company, corporation, trust, or any other entity.

SMOKING: means the lighting or having the possession of any lighted cigarette, cigar, pipe, or other tobacco product.

Section 13-5  
Authority

Under the authority Chapter 111: Section 31 Health regulations; summary publication; hearings; filing sanitary codes and related rules, etc. Local Boards of Health hereby may make any reasonable health regulations in regards to public health matters.

State law references- Public Health, generally, G.L. c.111. State Sanitary Code: adoption, enforcement and jurisdiction, G.L. c.111, Sec. 127A; State Sanitary Code, 105 CMR 410, et seq. Crimes against public health, G.L. c.270. Solid waste disposal, G.L. c. 16, Sec. 18.

Section 13-6

The Sanitary Codes and Environmental Codes of the Commonwealth are hereby adopted in its entirety with additions as adopted by the Board of Health if noted.

(A.) Sanitary Code: General Application and Administration

- 105 CMR 400, Chapter 1 of the State Sanitary Code
- 105 CMR 410 Minimum Standards of Fitness for Human Habitation
- 105 CMR 420 Housing and Sanitation Standards for Farm Labor Camps
- 105 CMR 430 Sanitation Standards for Recreational Camps for Children
- 105 CMR 435 Minimum Standards for Swimming Pools
- 105 CMR 440 Minimum Standards for the Developed Family Type Camp Grounds
- 105 CMR 445 Minimum Standards for Bathing Beaches
- 105 CMR 480 Storage Disposal Infectious Waste
- 105 CMR 520 Labeling
- 105 CMR 500 Good Manufacturing Foods
- 105 CMR 590 Minimum Sanitation Standards for Food Service Establishments
- 105 CMR 561 Frozen Dessert and Soft Serve
- 105 CMR 123 Training Facilities
- MGL chapter 270, section 22 Massachusetts Smoke-free Workplace Law
- 105 CMR 460.000 Lead Poisoning Prevention and Control Regulations
- 105 CMR 675.000 Requirements To Maintain Air Quality In Indoor Skating Rinks
- 310 CMR 19.000: Solid Waste Management
- 105 CMR 480.000 Storage and Disposal of Infectious Waste

(B.) Environmental Codes:

- 310 CMR 15 Title 5- Standard Requirements for Disposal of Septage
- The Massachusetts Hazardous Waste Management Act, Chapter 21C
- 310 CMR 30.000, Massachusetts Hazardous Waste Regulations
- 310 CMR 40.000, Massachusetts Contingency Plan
- 310 CMR 7.06-7.24, Air Pollution Noise Control Regs

(C.) Local Health Regulations:

- Smoking Regulations
  - Rubbish and Trash
  - Body Piercing Art Regulations
  - Smoking Regulations Distribution of Tobacco Product
  - Private Well Regulations Pool
  - Regulations Dumpster
  - Regulations
  - Massage Regulations, Vapor Pools, and Baths
  - Regulations Body Art Establishment and Practitioners
  - Regulation for the use of DNA Molecule Technology and Infectious Agents
- \*\*Where there is no specific town regulation found applicable or the town regulation is silent, regulation would be in compliance with state law.**

Section 13-7

Whoever violates any of provision of these regulations may be prosecuted in a court of competent jurisdiction.

Violation of any of the regulations of the Board of Health may be enforced by non-criminal disposition in the manner provided by General Laws, Chapter 40, Section 21 D and Section 1-4A (Non-Criminal Disposition) of the Town of Holbrook Bylaws. This does not limit the Town in any way from seeking criminal or civil remedies at a court of competent jurisdiction. The specific non-criminal disposition penalty which shall apply to a violation of these Board of Health regulations shall, unless specifically provided otherwise in these regulations, be as follows:

First offense within a twelve-month period	\$25.00
Second offense within a twelve-month period	\$50.00
Third and subsequent offenses within a twelve-month period	\$100.00

Each day any violation shall continue constitute a separate offense.  
State law reference- G.L. c. 40, sec 21D.

Person and its designees

(A.) Non-Criminal disposition penalty for violation of Sanitary Code. The non-criminal disposition penalty which shall apply to a violation of these Board of Health regulations shall be twenty-five (\$25) dollars, except that any violation defined as a "critical violation" in Chapter 10 of the State Sanitary Code "Minimum Sanitation Standards for Food Establishments," as adopted by Board of Health pursuant to this Section, shall be as follows:

First offense within a twelve-month period	\$100.00
Second offense within a twelve-month period .....	\$200.00
Third and subsequent offenses within a twelve-month period .....	\$300.00

Each day any violation shall continue shall constitute a separate offense.  
State law reference-G.L., c. 40, sec. 21D.  
Cross reference- 1-4A.

(B.) Non-Criminal disposition penalty for Smoking in a Workplace. The non-criminal disposition penalty which shall apply to a violation of these Board of Health regulations shall be twenty-five (\$25) dollars, except that any violation defined as "MGL chapter 270, section 22, Massachusetts Smoke-free Workplace Law" and "Distribution of Tobacco Product" as adopted by Board of Health pursuant to this Section, shall be as follows

First offense within a twelve-month period	\$100.00
Second offense within 1 year of first offense	\$200.00
Third and subsequent offenses within 1 year of first offense.	\$300.00

Each violation shall constitute a separate offense.  
State law reference- G.L. c. 40, sec. 21D.

Section 13-8  
Local Health Regulations

(A,) No person shall allow a dog or other animal which is under their control or ownership to defecate on any public property or property of another without immediately picking up after said animal and properly disposing of feces.

(B,) No person shall feed any water fowl on public land in the Town of Holbrook. No person shall distribute any food or scatter any foodstuffs upon or around any park, recreation area, playing field, beach, or any other public land. The fine for any violation of this section shall be \$10.00. (This regulation is also an Inhabitation Bylaw, Section 42)

Section 13-9  
Variances

The Board of Health may vary the application of any provision of these regulations to any particular case when in its opinion the enforcement thereof would manifest an injustice, provided that the decision of the Board of Health shall not conflict with the spirit of these regulations. The applicant for any variance shall pay for any advertising and/or mailings required for processing the variance.

Section 13-10  
Dumpsters

(A.) The dumpster must be located and placed in a manner approved by the Board of Health. A plan shall be submitted and approved showing the location of the dumpster and all businesses and buildings on the site. The dumpster is to be situated as not to cause a visual obstruction of traffic.

(B.) The dumpster shall be enclosed or screened in such a manner as to be not visible from public ways (except from above). Screening shall be approved by the Board of Health. Dumpsters meant for temporary use, i.e., less than 30 days, do not need to be screened.

(C.) The dumpster is not to be filled or emptied between 11p.m. and 6:30a.m. Extenuating circumstances will be determined on a case by case basis by the Health Agent. The business filing for an exemption must do so in writing and receive approval before the fact.

(D.) The dumpster must be of sufficient size and capacity to eliminate overflowing. The lids must be closed when the dumpster is not in use. The property owner and authorized agent of the business utilizing the service is responsible for ensuring that the dumpster is kept free from odors, rodents, flies, insects, scattered debris and all other nuisances.

(E.) The contractor shall have his/her name and telephone number conspicuously displayed on the dumpster.

(F.) The dumpster contractor shall have the dumpster deodorized, washed, and sanitized as needed or as directed by the Board.

(G.) The contractor shall prevent spillage during the emptying process, and also during the transporting of dumpster contents. In case of spillage, it is the responsibility of the property owner to clean the area.

(H.) These regulations shall apply to all dumpsters or similar units, whether for residential, commercial, industrial, or municipal use.

(I.) Violations of these regulations are subject to a fine of (\$50.00) per offense. Each day that the offense continues shall constitute a separate offense.

(J.) Permit all dumpsters shall be permitted by the Board of Health on an annual basis \$50.00/dumpster. Temporary permits shall be issued for all projects residential, commercial, industrial, or municipal  $\leq$  30 days cost of \$50.00.

TOWN OF HOLBROOK, MASSACHUSETTS NOISE ORDINANCE  
Section 13-11

(A.) General Prohibition and Definitions

No person shall make or cause to be made any unreasonable or excessive noise in the Town of Holbrook, by whatever means or from whatever source. As used herein, the following terms shall have the following meanings:

(a.) dBa shall mean A- weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standard Institute, "Specifications for Sound Level Meter (ANSI SIR 19711), properly calibrated, and operated on the "A" weighting network.

(b.) Loud amplification device or similar equipment shall mean a radio, television, stereo, tape player, cassette player, compact disc player, MP3 player, loud speaker, sound amplifier, electronic device, or any other similar apparatus or equipment operated in such a manner that it creates excessive noise,

(c.) Unreasonable or excessive noise shall mean:

1. Noise measured in excess of 50 dBa between the hours of 9:00p.m. and 7:00a.m., or in excess of 70 dBa at all other hours from the nearest property line; or

2. In the absence of an applicable noise level standard or regulation of the Air Pollution control commission, any noise plainly audible at a distance of three hundred (300) feet or, in the case of loud amplification devices of similar equipment, noise plainly audible at a distance of one hundred (100) feet from its source by a person of normal hearing.

(B.) Disturbing the Peace

It shall be unlawful for any person or persons in a residential area within the Town of Holbrook to disturb the Peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any loud amplification device, or from the playing of any band or orchestra, or from the use of any device to amplify the aforesaid noise, or from the making of excessive noise by a person or group of persons, or from the use of any device to amplify such noise provided, however, that any performance, concert, establishment, band, group, or person who has received and maintains a valid license or permit from any department, board or commission of the Town of Holbrook authorized to issue such license or permit shall be exempt from the provisions of this section. At no time shall it be allowed in the Town of Holbrook that a person or persons broadcast any loud amplification device from a private residence for the sole purpose of attracting attention of the passing public or as part of a decorative theme no matter the dBa level. It shall be unlawful for any person in any area of the Town of Holbrook to operate a loud amplification device or similar equipment in or on a motor vehicle, which is moving, standing, or stationary in, on or upon a public way. The fact that the noise exceeds the sound level standards as specified herein shall be deemed to be a violation of the provisions of the ordinance. The police or health agent, in response to each complaint, shall verify by use of the sounds level meter described herein that the noise complained of does exceed the limit described herein and if so, may thereupon issue the appropriate fines or seize the device of which the noise emanates.

(C.) Dogs

It shall be unlawful for any person or persons in a residential area within the Town of Holbrook to allow unreasonable barking from a dog in excess of thirty minutes on their property. In the case of multiple dogs on said property, unreasonable barking shall be limited to twenty minutes. If the owner of the dog or dogs in violation of this ordinance does not attempt to silence the dog or dogs, a fine shall be given at that time. This shall be enforced by the Animal Control Officer or the police department.

(D.) Motorcycles

It shall be unlawful for any person or persons in a residential area within the Town of Holbrook to leave a motorcycle, dirt bike, ATV or any other vehicle that is considered to be a recreational offroad vehicle in the idle position between the hours of 10:00p.m. and 6:00a.m.

(E.) Construction

It shall be unlawful for any person or persons in a residential area within the Town of Holbrook to operate machinery or create any noise associated with construction, demolition, alteration, repair, maintenance or upkeep of any residential property between the hours of 7:00p.m. and 7:00a.m. Monday thru Saturday, and 7:00p.m. and 8:00a.m. on Sundays. Exceptions shall be in an emergency situation or for the purpose of snow removal.

(F.) Exemptions

This ordinance shall not apply to:

1. Any public utility company, Police Department, authorized police emergency vehicles, Fire Department, authorized fire emergency vehicles, any Public Works Department, or any agency or department of the Town of Holbrook or the Commonwealth of Massachusetts.
2. Any alarm, siren, or mechanism used for the purpose of alerting persons to the existence of an emergency, or attempted crime.
3. Any lawfully permitted parade, including any spectators and participants on the parade route during said lawful parade.
4. Any patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnics permit is required and obtained by the State Fire Marshal or Fire Chief.
5. Any town-sanctioned fireworks display.
6. Any lawful outdoor event, race, festival, fiesta, carnival, sporting event, entertainment or concert that is in full compliance with a permit issued by the Town of Holbrook, provided that the noise created is limited to the days and hours set forth in terms of such permit.
7. Sound produced by church bells or church chimes when used as part of religious observances or service during the daytime hours.
8. Sound produced by activities conducted on public parks, public playgrounds, and public or private schools, including but not limited to, school athletic, band and school entertainment practice or events.
9. Any activity which has been specifically licensed or permitted by a Town of Holbrook department or board provided that the noise created is limited to the days, hours, and type set forth in such license or permit.

(G.) Fines and Penalties

Any person violating the provisions of this ordinance shall be punished by fine of fifty (\$50) dollars for the first offense, one hundred (\$100) dollars for the second offense occurring within twenty-four (24) hours of the first offense, and a fine of one hundred and fifty (\$150) dollars for the third offense and any subsequent offense thereafter occurring within twenty-four (24) hours of the first offense. Any violation of the provisions of this ordinance occurring more than twenty-four (24) hours after the first offense shall constitute a new and separate offense. The enforcing person, health agent or police officer shall make a record of the complaint, such record to include the following information (to the extent that it is available), name and address of person violation; name and address of landlord, if applicable; date; time; motor vehicle registration number, if



applicable: and location of the violation. If the violator refuses to give the above-noted information or if any information proves false, said person shall be punished by a fine of an additional twenty-five (\$25) dollars. As an alternative, a violation of this ordinance may, in the discretion of the enforcing person, be enforced by non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, Section 21 D. The issuance of a fine shall not preclude the town from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this ordinance, including but not limited to preliminary and/or permanent injunction(s). *As Amended: STM Nov. 13 2017 Art 28, 30 & 31*