

**TOWN OF CONCORD
MASSACHUSETTS**

PARADE BYLAW

Voted: That no street or way in the Town shall be used for any parade or other procession unless

1. a written statement shall have been filed with the Police Department at least two days prior to the date thereof, specifying the time of commencement and proposed route of such parade or other procession; and
2. a written permit shall have been issued by the Police Department approving the same.

Article 30, Town Meeting, March 1949

**TOWN OF CONCORD
MASSACHUSETTS**

PARKING METER REVOLVING FUND BYLAW

Voted: That the Town, acting under the provisions of Article II of the Amendments to the Constitution of the Commonwealth of Massachusetts, commonly called the Home Rule Amendment, adopt the following bylaw regarding a parking meter revolving fund in the Town of Concord.

Section 1.

The Town of Concord hereby establishes in the Town Treasury an individual revolving fund (hereinafter called "Parking Meter Fund") for its parking meter and traffic regulation operations. This Parking Meter Fund shall be kept separate from any monies or funds of the Town and shall be expended only for those purposes outlined below.

Section 2.

Fees shall be established and charged at such rates that the revenue from parking meters and parking meter fines shall not exceed in the aggregate the necessary expenses incurred for the acquisition, installation, replacement, maintenance and repair of parking meters and the regulations and enforcement of parking and other traffic activities incident thereto. The revenue from the fees will be credited to the Parking Meter Fund and the Town Manager shall have general authority to manage the Fund for its intended purposes.

Section 3.

This bylaw shall take effect upon its acceptance at a Town Meeting by a majority vote of the qualified voters of the Town present and voting thereon. The accumulated receipts of the meters for the preceding fiscal period will be retained and constitute the working capital to establish the Fund.

Section 4.

This bylaw supersedes any bylaw which is in conflict with it.

Article 65, Town Meeting, May 1975

**TOWN OF CONCORD
MASSACHUSETTS**

PEEPING BYLAW

Section 1.

No person, other than an officer of the law, acting in the performance of his legal duty, shall enter upon the premises of any person with the intention of peeping into a dwelling or spying upon any person therein.

Section 2.

Any person violating any of the provisions of this bylaw shall be punished by a fine for each offense as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended.

Article 42, Town Meeting, March 1952
Article 64, Town Meeting, April 2006

**TOWN OF CONCORD
MASSACHUSETTS**

PERMIT PARKING BYLAW

Section 1.

For the purposes of limiting noise and congestion, aiding the access of fire and emergency vehicles to buildings and property, and aiding in the removal of snow and ice from roads, the Board of Selectmen are hereby authorized to regulate or prohibit parking, and to establish a parking by permit only plan whereby the parking or standing of automobiles and other vehicles, of whatever nature, within the Town is to be restricted. Such plan shall be implemented in one or more defined zones of the Town as the Selectmen may determine, and the Selectmen may adopt regulations consistent herewith to implement such restricted parking zones. Parking or standing of vehicles within such zones shall be restricted to residents and owners of such zones and their authorized invitees and guests; and Town of Concord vehicles on official business.

Section 2.

Restricted parking zones may be established for one or more ways or areas, or any portion thereof, within the control of the Town, including private ways under the control of the Town provided that no less than eighty per cent of the owners of any property immediately abutting the affected portion of any private way shall first consent in writing to the parking restrictions to be imposed on such way.

Section 3.

Prior to establishing regulations to implement such restricted parking zones, including the establishment of a zone for any particular way or area, the Selectmen shall hold a public hearing, notice of which shall be published for two successive weeks in a newspaper of general circulation in the Town, final publication to be not less than three days prior to such hearing.

Section 4.

The Selectmen or their duly designated agent shall issue permits, in such form as the Selectmen shall determine, to persons authorized to park automobiles or vehicles within any such parking zone or zones, and the Selectmen may establish and charge such fee as they determine necessary to defray the cost of issuing such permits.

Section 5.

Upon the adoption of any restricted parking zone, the Selectmen shall cause the posting of suitable signs within such zone to give notice to the public of such restriction on parking or standing of vehicles. The Selectmen shall give notice of the intention to implement such

zone by publication for two successive weeks in a newspaper of general circulation in the Town, final publication to be not less than seven days.

Section 6.

The Selectmen are authorized to impose a fine for violation of regulations established for a restricted parking zone as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended, and to cause the towing or other removal of any vehicle parked or standing therein in violation of said regulations.

Section 7.

In the event any provision of this bylaw or of any regulation adopted by the Selectmen shall be held illegal or unenforceable, the remainder of this bylaw or regulation not held illegal or unenforceable shall remain in full force and effect.

Article 9, Town Meeting, November 1978

Article 64, Town Meeting, April 2006

Note:

The above permit parking system has been adopted on the following streets in the White Pond area: Mitchell Road (from Powder Mill Road to White Ave), White Avenue, Dover Street, Bolton Street, Fern Street, Eaton Street, Shore Drive, Darton Street, and Raymond Road.

**TOWN OF CONCORD
MASSACHUSETTS**

PLANNING BOARD BYLAWS

1932 PLANNING BOARD BYLAW

Voted: That the following bylaw relating to the duties and conduct of the Planning Board be and hereby is adopted.

Section 1.

The Planning Board shall consist of six members. The terms of the members shall be three years, but at the annual Town Meeting to be held in the year 1933, there shall be elected two members to serve for one year, two members to serve for two years, and two members to serve for three years; and thereafter, there shall be elected at the annual Town Meeting in each year such members as are necessary to fill vacancies.

Section 2.

Vacancies otherwise occurring in the board shall be filled as provided in M.G.L. Chapter 4, §11.

Section 3.

The Planning Board shall have access to public documents and information in the possession of any Town official or department.

Section 4.

All plans for laying out, extending, discontinuing, or changing the limits of any playground or public park, and every purchase of land for the site of any public building, and all plans for the location, erection, or alteration of public buildings, shall be submitted to said board for its opinion at least two weeks in advance of action by the board, department, or committee in charge of such work.

Section 5.

It shall be the duty of the Planning Board to investigate all petitions calling for a variation, modification, change, or extension of use under the Zoning Bylaw and to report its recommendations thereon to the Board of Selectmen, sitting as a Board of Appeals, at the public hearing held relating thereto. The Board of Selectmen shall cause the Planning Board to be notified of all such petitions when filed.

Section 6.

It shall be the duty of the Planning Board to conduct investigations respecting proposed amendments to the Zoning Bylaw appearing in the Warrant for any Town Meeting, and to present its recommendations to the Town for consideration at such Town Meeting. The Board of Selectmen shall cause the Planning Board to be notified of all such proposed amendments.

Article 17, Town Meeting, March 1932

1937 PLANNING BOARD BYLAW

Voted: To adopt the following bylaw.

Section 1.

A Planning Board is hereby established under the provisions of M.G.L. (Ter.Ed.) Chapter 41, §81A, as added by Chapter 211 of the Acts of 1936, to consist of five members to be elected by official ballot at the annual Town Meeting in the year 1938, one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years and thereafter their successors one at the annual Town Meeting in each year for terms of five years each.

Section 2.

In addition to the powers and duties provided for by law, said board shall have all the powers and duties of the present Planning Board under existing bylaws of the Town.

Section 3.

The existing Board of Appeals under the building and zoning bylaws shall be the Board of Appeals required by §81Z of said Chapter 41.

Article 20, Town Meeting, March 1937
See also M.G.L. Chapter 41, §70

1947 PLANNING BOARD BYLAW AMENDMENT

Voted: That the membership of the Planning Board be increased from five to seven members, the two additional members to be elected at the next annual Town Meeting, one for a term of four years and one for a term of five years and thereafter their successors to be elected for terms of five years each.

Article 26, Town Meeting, March 1948
See also M.G.L. Chapter 41, §§71-81Y and M.G.L. Chapter 40A, §6

NOTE:

§2 of the Town Charter (accepted by the Town in 1955 and effective March 12, 1956) changed the Planning Board from elected to appointed by the Board of Selectmen.

**TOWN OF CONCORD
MASSACHUSETTS**

POSTING OF SIGNS BYLAW

No person shall paint, put upon or in any manner affix to any fence, tree, pole, rock, or other object which is the property of another in any of the public places or ways in said Town any words, signs, placards, advertisements, or posters, without first obtaining the written consent of the owner of such fence, tree, pole, rock or other object.

Article 16, Town Meeting, March 1905

**TOWN OF CONCORD
MASSACHUSETTS**

PRIVATE DIGGING OF ROADS BYLAW

Voted: That the bylaw known as the "Private Digging of Roads" bylaw enacted under Article 16 of the 1923 annual Town Meeting be repealed in its entirety, and the following substituted in its place.

Section 1.

No public way shall be dug up nor opening made therein for any purpose, nor shall any material be dumped or placed thereon or removed therefrom, nor obstruction or structure placed thereon or removed therefrom, nor any alteration made, nor shall any tree be planted thereon or removed, without first obtaining a written permit from the Commissioners of Public Works (acting as the Road Commissioners), and then only in accordance with its regulations.

Section 2.

The permit shall require any person, public utility, contractor, or corporation to maintain suitable barriers and safety devices to protect travelers from injury; to save harmless the Town from any and all liability by reason of any act of omission or commission suffered or done by such person, public utility, contractor, or corporation; and to restore all disturbed portions of the way to its prior condition at the sole expense of the applicant.

Section 3.

No permit shall be issued until the applicant demonstrates compliance with provisions of M.G.L. Chapter 82, §40.

Section 4.

The Commissioners of Public Works shall require the applicant to:

1. Provide proof of liability insurance to limits established by the Town indemnifying the Town against any claims whatsoever arising from the application, and
2. Performance bond or deposit in lieu thereof in such form and penal sum and with such surety as commissioners deem proper to comply with the requirements of the permit.

Section 5.

The Commissioners of Public Works shall prepare and issue such written regulations including a schedule of fees which insure that the Town would not be adversely affected by the cost of maintenance caused by the applicant and such penalties as are appropriate to assure compliance with this bylaw.

Article 47, Town Meeting, April 8, 1992

TOWN OF CONCORD MASSACHUSETTS

PRIVATE WAYS IN WHITE POND WATERSHED— TEMPORARY REPAIRS BYLAW

The Department of Public Works is authorized to make temporary repairs to the publicly-traveled, currently improved private ways laid out or created prior to February 28, 1938 in the White Pond watershed area, said publicly-traveled, currently improved private ways being named Granby Street, Mitchell Road, White Avenue, Seymour Street, Tracy Street, Dover Street, Bolton Street, Darton Street, Eaton Street, Shore Drive and Fern Street.

Temporary repairs may be undertaken on a way subject to this bylaw, or to a contiguous portion of such a way which begins or ends at an intersection or conjunction with another way, only following the delivery to the Department of Public Works of a petition signed by the owner(s) of not less than sixty (60%) percent of the lots which abut such ways. The petition shall identify the requested repairs with reasonable specificity and may suggest an allocation of any associated betterment assessments among benefited parcels.

The specific type and extent of repairs to be made to any of the ways subject to this bylaw and the maximum cost of such repairs shall be proposed by the Department of Public Works and approved by the Public Works Commission at or following a public hearing. The Department of Public Works is authorized to include in its work proposal such repairs as may be reasonably necessary to improve the drainage of the ways and to mitigate storm water runoff into White Pond. Repairs undertaken pursuant to this bylaw shall be planned and made with due regard for the special character of the neighborhood and the character of the way in question, particularly the proximity of homes, driveways and landscaping to the road within the way. Repairs shall be undertaken at the earliest convenience of the Department of Public Works.

The Town of Concord is authorized to apportion, divide, reassess, abate and collect betterment assessments upon benefited parcels within a limited and determinable area based on a proportionate share of the cost of such repairs, all in accordance with Chapter 80 of the Massachusetts General Laws or in any other equitable manner provided by law. A cash deposit shall not be required for such repairs.

The repairs are required by public necessity, including but not limited to:

- i. the necessity of providing adequately drained ways so as to reduce ecologically harmful runoff into White Pond, an important natural resource to the Town of Concord;
- ii. the necessity of providing adequate, passable ways from public ways to residences, Town facilities and resources including the White Pond well and Town conservation land;
- iii. the relative ease of administration of the repair program given that the ten (10) private ways subject to this bylaw serve approximately 100 owners located in a distinct, densely populated neighborhood; and

- iv. the lack of reasonably achievable alternative means of accomplishing such repairs given the fact that the ways subject to this bylaw were laid out or created before the enactment of a subdivision control bylaw in the Town of Concord.

The liability limit of the Town of Concord on account of damages caused by such repairs shall be the same liability limit as may be provided from time to time under the law applicable to Town ways.

The ways subject to this bylaw, namely Granby Street, Mitchell Road, White Avenue, Seymour Street, Tracy Street, Dover Street, Bolton Street, Darton Street, Eaton Street, Shore Drive and Fern Street have been open to public use for a term of not less than 50 years.

This bylaw shall continue in full force and effect

- i. unless and until it is repealed; or
- ii. unless and until the Town of Concord adopts a bylaw governing repairs made by the Town of Concord to the private ways subject to this bylaw as well as to additional private ways in the Town of Concord, provided that any such successor bylaw shall by its terms specifically refer to and repeal or supersede this bylaw.

Article 18, Town Meeting, April 1996

**TOWN OF CONCORD
MASSACHUSETTS**

**PROGRESSIVE REMOVAL OF UTILITY POLES AND
OVERHEAD WIRES REQUIRED BYLAW**

VOTED: that the Town adopt a bylaw in accordance with M.G.L. Chapter 166, §22D, as follows.

Section 1.

Any utility having poles, overhead wires or associated overhead structures which are located upon, along or across any public or other way or ways within the Town shall, in accordance with the schedule and timing set forth below in this Section 1, remove such poles, overhead wires and associated overhead structures. Any utility in providing replacement facilities of any poles and overhead wires and associated overhead structures required to be removed shall install customer's service facilities.

Using existing conduit, Main Street from the intersection with Forest Ridge Road to the intersection with Harrington Avenue, by April 30, 2004;

Using existing conduit, Harrington Avenue from the intersection with Main Street to the intersection with Old Marlborough Road, by April 30, 2004;

Using existing conduit, Old Marlborough Road from the intersection with Harrington Avenue to the intersection with Old Road to Nine Acre Corner, by April 30, 2004;

Using existing conduit, Virginia Road from the intersection with Old Bedford Road to the Town line, by December 31, 2004;

Using existing conduit, Main Street from the intersection with Keyes Road to the intersection with Old Road to Nine Acre Corner by May 31, 2006;

Using existing conduit, the entire length of Stow Street by May 31, 2006;

Using existing conduit, the entire length of Everett Street by May 31, 2006;

Using existing conduit, Sudbury Road from the intersection with Main Street to the intersection with Stow Street by May 31, 2006;

For all other projects, 12 months after receiving notice by Certified Mail Return Receipt Requested from the Concord Municipal Light Plant,

Section 2.

Any utility which fails to remove any poles and overhead wires and associated overhead structures as required by this bylaw shall be punished by a fine of not less than one thousand dollars and not more than five thousand dollars for each consecutive fifteen-day period during which such failure continues.

Section 3.

Any utility may enter into, and from time to time amend, and perform a cooperation agreement with the Town, pursuant to M.G.L. Chapter 166, §22E. No utility which enters into a cooperation agreement under said §22E shall be deemed to have violated this bylaw during the term the payments provided in the cooperation agreement are to be made, so long as the utility shall not be in default under said cooperation agreement.

Section 4.

Commencing one (1) year from the original effective date of this bylaw, any utility affected hereby shall impose and collect a surcharge of two percent (2%) on its total billing to each customer located in the Town to apply towards the cost of construction required under this bylaw, provided said utility is not in violation of the provisions of this bylaw.

Section 5.

This bylaw implements M.G.L. Chapter 166, §22D, and shall be construed in a manner consistent with the definitions in §§22A and 22I of Chapter 166.

Article 29, Town Meeting, April 1987
Article 27, Town Meeting, April 2003

Note:

This bylaw became effective on January 1, 1989, in accordance with the provisions of M.G.L. Chapter 166, §22N. The utility surcharges of 2% became effective January 1, 1990.

**TOWN OF CONCORD
MASSACHUSETTS**

**PUBLIC CEREMONIES & CELEBRATIONS
COMMITTEE BYLAW**

Section 1.

There is hereby established a Public Ceremonies and Celebrations Committee to be appointed by and responsible to the Board of Selectmen and whose powers, duties and responsibilities are as hereinafter provided.

Section 2.

Immediately following the effective date of this bylaw, the Board of Selectmen shall appoint a Public Ceremonies and Celebrations Committee consisting of seven (7) members. The initial terms of office of the aforesaid committee members shall be for one, two, three, four and five years respectively as designated by said Board of Selectmen. Upon the expiration of each of the aforesaid terms, appointments to this committee shall each be for a term of five years. Members of this committee shall be registered voters of the Town of Concord and veterans as defined by §21 of Chapter 31 of the Massachusetts General Laws (Ter.Ed.) of the Commonwealth of Massachusetts. The committee shall have the power to fill vacancies in its own membership for the remainder of the calendar year then current at the expiration of which the Board of Selectmen shall fill the unexpired term, if any exists.

Article 39, Town Meeting, March 1952
Article 31, Town Meeting, April 1983

TOWN OF CONCORD MASSACHUSETTS

RECREATION COMMISSION REVOLVING FUND BYLAW

Voted: That the Town, acting under the provisions of Article II of the Amendments to the Constitution of the Commonwealth of Massachusetts, commonly called the Home Rule Amendment, adopt the following bylaw regarding a Recreation Commission revolving fund in the Town of Concord.

Section 1.

The Town of Concord hereby establishes in the Town Treasury an individual revolving fund (hereinafter called "Recreation Fund") for its Recreation Commission (hereinafter called "Commission"). All receipts of the commission from wholly or partially self-supporting recreation and park services of the Town shall be credited to the Recreation Fund. The Recreation Fund shall be kept separate from any other monies or funds of the Town, and shall be expended only for those purposes outlined below.

Section 2.

The money in the Recreation Fund will be used solely for the maintenance and support of recreation and park facilities and services of the Town, including purchase of equipment and salaries of employees.

Section 3.

Expenditure of money from the Recreation Fund may be made by the Town Manager without further appropriations. The Town Accountant shall submit annually a report of the Recreation Fund to the Selectmen, the Finance Committee, and the Recreation Commission.

Section 4.

Nothing in this bylaw shall prevent the Town from appropriating funds for purposes of public recreation or entertainment as now or hereafter authorized by law. Nothing in this bylaw shall prevent the Town from accepting gifts or grants of money or property for purposes of public recreation or entertainment.

Section 5.

This bylaw shall take effect upon its acceptance by a majority vote of the qualified voters of the Town present and voting thereon at the annual Town Meeting or any special Town Meeting called for the purpose. The receipts of the department for the year in which this bylaw is accepted will be retained by the department and will constitute the working capital to establish the fund. This bylaw supersedes any bylaw which is in conflict with it.

Article 3, Town Meeting, June 1979

**TOWN OF CONCORD
MASSACHUSETTS**

REFUSE DISPOSAL BYLAW

No person shall put in any of the public places or ways in said Town any ashes, filth, rubbish, glass, wood, timber, stones or other articles.

Article 16, Town Meeting, March 1905
(see also M.G.L. Chapter 270, §16)

**TOWN OF CONCORD
MASSACHUSETTS**

REGULATION OF VEHICLES BYLAW

VOTED: to adopt the following bylaw for the regulation of vehicles.

Section 1.

Upon the approach of any vehicle or apparatus of the Fire, Police or Light Department of the Town of Concord, answering an alarm of fire, or emergency call, and sounding a bell or siren, the driver of any vehicle other than a vehicle of the aforesaid departments, or an ambulance of any health department or hospital on an emergency call, shall drive as close as possible to the right curb and stop, and shall not follow within six hundred (600) feet of the said vehicle or apparatus of said Fire, Police, or Light Departments. No vehicle, except by direction of the Fire Chief or officer of the said Fire Department shall approach or park within six hundred (600) feet of a fire at any time.

Section 2.

No person shall stop any vehicle on any street in front of or opposite to and within fifty (50) feet of any fire station.

Section 3.

Any person who shall violate any of the provisions of this bylaw, or who shall fail or refuse to comply therewith, shall be liable to a fine of not more than fifty dollars (\$50.00) for each offense.

Article 12, Town Meeting, March 1924
Article 63, Town Meeting, April 2006

**TOWN OF CONCORD
MASSACHUSETTS**

SALE OF REAL PROPERTY BYLAW

No sale of land, building or other real property owned by the Town, or any department thereof, the value of which in the opinion of the Selectmen amounts to \$1,000.00 or more, shall be made unless prior to the Town Meeting at which such sale is authorized:

- a. a written appraisal of the property has been made by one or more competent appraisers and copies of the appraisal delivered to the Selectmen and Planning Board and;
- b. the Selectmen have received from the Planning Board its written recommendations on the disposition of the property, and unless subsequent to the Town Meeting at which such sale is authorized, an advertisement has been published in a local paper at least 30 days in advance of the date of sale.

Article 23, Town Meeting, March 1960
(see also MGL, Chapter 30B and APP#34, Rental and Sale of Town Property, 8/27/82)

**TOWN OF CONCORD
MASSACHUSETTS**

SALE OF TOBACCO TO MINORS BYLAW

A Town bylaw regulating the sale, vending, and distribution of tobacco within the Town as follows:

Section 1. DECLARATION OF POLICY AND PURPOSE

whereas: cigarette smoking is the chief avoidable cause of death in this country, and

whereas: medical and scientific evidence demonstrates that tobacco usage is addictive and causes serious health problems, and

whereas: the Surgeon General has concluded that cigarettes and other forms of tobacco are habit-forming in the same sense as are drugs such as heroin and cocaine, and

whereas: most cases of tobacco use begin during childhood and adolescence, now

therefore: this bylaw needs to protect the public health by further restricting the sale, vending, and distribution of tobacco in Concord.

Section 2. DEFINITIONS

For the purpose of this bylaw, the following words shall have the following meanings:

- A. *BUSINESS AGENT*: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.
- B. *EMPLOYEE*: Any individual who performs services for an employer.
- C. *EMPLOYER*: Any individual, partnership, association, corporation, trust or other organized group of individuals, including Concord or any agency thereof, which uses the services of one (1) or more employees.
- D. *MINOR*: Any individual who is under the age of eighteen (18).
- E. *PERMIT HOLDER*: Any person engaged in the sale or distribution of tobacco products directly to consumers who applies for and receives a tobacco sales permit or any person who is required to apply for a tobacco sales permit pursuant to this bylaw, or his or her business agent.
- F. *PERSON*: An individual, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale or distribution of tobacco products directly to consumers.
- G. *SELF SERVICE DISPLAY*: Any display from which customers may select a tobacco product without assistance from an employee or store personnel, excluding vending machines.
- H. *TOBACCO PRODUCT*: Cigarettes, cigars, chewing tobacco, pipe tobacco bidis, snuff or tobacco in any forms.

- I. *VENDING MACHINE*: Any automated or mechanical self service device, which upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

Section 3 – PERMITS

- A. No person shall sell or otherwise distribute tobacco at retail within the Town of Concord without first obtaining a tobacco sales permit issued annually by the Concord Board of Health. Only owners of establishments with a permanent, non-mobile location in the Town of Concord are eligible to apply for a permit and sell tobacco products in the specified location in Concord.
- B. As part of the tobacco sales permit application process, the applicant will be provided with this bylaw. Each applicant is required to sign a statement declaring that the applicant has read said bylaw and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding both state laws regarding the sale of tobacco and this bylaw.
- C. Each applicant is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco sales permit can be issued.
- D. The fee for a tobacco sales permit shall be determined by the Concord Board of Health annually. All such permits shall be renewed annually by June 1st.
- E. A separate permit is required for each retail establishment selling tobacco.
- F. Each tobacco sales permit shall be displayed at the retail establishment in a conspicuous place.
- G. No tobacco sales permit holder shall allow any employees to sell cigarettes or other tobacco products until such employee reads this bylaw and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the bylaw and applicable state laws.
- H. A tobacco sales permit is non-transferable. A new owner of an establishment that sells tobacco must apply for a new tobacco sales permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
- I. Issuance of a tobacco sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this bylaw.
- J. A tobacco sales permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

Section 4 – PROHIBITED ACTS

- A. No person shall sell tobacco products or permit tobacco products to be sold to a minor; or not being the minor's parent or legal guardian, give tobacco products to a minor. Each person selling or distributing tobacco products shall verify the age of the purchaser by means of government-issued photographic identification containing the bearer's date of birth that

the purchaser is 18 years old or older. Verification is required for any person under the age of 27.

- B. All tobacco vending machines are prohibited.
- C. No person shall distribute, or cause to be distributed, any free samples of tobacco products
- D. No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.
- E. All self service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked. The only exception is self service displays that are located in facilities where the retailer ensures that no person younger than eighteen (18) years of age is present, or permitted to enter, at any time.

Section 5 – POSTING

In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Concord Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

Section 6 – VIOLATIONS AND PENALTIES

- A. Violations of the bylaw may be enforced as provided by the provisions of Town bylaws relating to “Town Bylaws, Violations of,” including the use of non-criminal disposition.
- B. Except when otherwise provided by law, prosecutions for offenses under this bylaw shall be made by a constable, police officer, chief sanitarian of the Board of Health or their Agent(s). Any citizen who desires to register a complaint pursuant to the bylaw may do so by contacting the Concord Board of Health or its designated agent(s) and the Board shall investigate.
- C. Fines for violations shall be in accordance with Appendix A of the Town’s Non-Criminal Disposition Bylaw.
- D. It shall be the responsibility of the permit holder and/or his or her business agent to ensure compliance with Section 4A of this bylaw pertaining to his or her distribution of tobacco. The violator shall receive:
 - 1. In the case of a first violation, a fine of one hundred dollars (\$100)
 - 2. In the case of a second violation within 24 months of the date of the current violation, a fine of two hundred dollars (\$200) shall be assessed and the tobacco sales permit shall be suspended for seven (7) consecutive business days.

3. In the case of three or more violations within a 24 month period, a fine of three hundred (\$300) shall be assessed and the tobacco sales permit shall be suspended for thirty (30) consecutive business days.
- E. Refusal to cooperate with inspections pursuant to this bylaw shall result in the suspension of the tobacco sales permit for thirty (30) consecutive business days.
 - F. The Concord Board of Health shall provide notice of the intent to suspend a tobacco sales permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision, and the reasons therefore in writing. After the hearing, the Concord Board of Health will suspend the tobacco sales permit if the Board finds that a sale to a minor occurred. For purposes of such suspensions, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products shall be removed from the retail establishment upon suspension of the tobacco sales permit. Failure to remove all tobacco products shall constitute a separate violation of this bylaw.
 - G. All other violations of this bylaw will be subjected to fines of fifty (\$50) dollars per violation.

Section 7. SEPARABILITY

Each part of these regulations is constructed as separate to the extent that if any section, item, sentence, clause, or phrase is held invalid for any reason, the remainder of the regulations shall continue in full force and effect.

Article 51, Town Meeting, May 1991
Amended by Article 47, Town Meeting, April 1995
Amended by Article 66, Town Meeting, April 2002
Amended by Article 66, Town Meeting, April 2010

TOWN OF CONCORD MASSACHUSETTS

SEWER DEPARTMENT REVOLVING FUND BYLAW

Voted: That the Town, acting under the provisions of Article II of the Amendments to the Constitution of the Commonwealth of Massachusetts, commonly called the Home Rule Amendment, will adopt the following bylaw regarding a Sewer Department Revolving Fund in the Town of Concord.

Section 1.

The Town of Concord hereby establishes in the Town Treasury an individual revolving fund (hereinafter called "Sewer Fund") for its Sewer Department (hereinafter called "Department"). All receipts of the Department shall be credited to the Sewer Fund. This Sewer Fund shall be kept separate from any other monies or funds of the Town, and shall be expended only for those purposes outlined below.

Section 2.

There shall be a fixed schedule of prices or rates established by the Public Works Commission acting as the Sewer Commissioners for sewer use which shall not be changed more often than once each year. Changes in the rates shall not be made unless the proposed new rates are first published in newspapers in general circulation in Concord and considered at a public hearing held for this purpose. The schedules of prices and rates shall be established to yield a zero balance after the payment of all operation and maintenance expenses, principal and interest on outstanding debt, and accrued depreciation reserve not to exceed two per cent of the cost of the plant per annum. The cost of the plant will be determined by the Town Manager and approved by the Sewer Commissioners and be based upon the capitalization of all land structures, treatment facilities, collection and transmission systems, machinery and equipment, and all other classifications comprising the total Department. If a surplus exists then the schedule of prices or rates will be revised to maintain a zero balance. The sewage discharged by the Town of Concord in its public buildings, shall be charged for in accordance with the prices of the fixed schedules.

Section 3.

The income from user fees and jobbing services shall be received by the Town Collector, and shall be used by the department to pay the annual expenses of the plant, to make payments on the indebtedness of the plant, and to set up the depreciation fund which will be kept and managed as a separate fund for reconstruction, renewals, extensions, improvements, major repairs, enlargements, additions or similar purposes. The general authority to manage and expend the fund for the ensuing year by the Town Manager will require approval by the Town at the annual Town Meeting. The accounting system to be used for keeping the department accounts will be the State system of accounts.

Interest earned on monies raised by the issuance of bonds and notes in anticipation of receipt of state or federal grants shall be received by the Town Treasurer and credited to said Sewer Fund to be expended in the same manner as other income of the fund.

Section 4.

Nothing in this act shall prevent the Town of Concord from appropriating funds for repairs, improvements, extensions or additions to the sewer system or indebtedness of the plant over and above those programmed under the revolving fund. These appropriations will be treated as special deposits on the department books and administered by the Town Manager for the specific purposes for which they were appropriated. Any balance after completion of a project will be returned to the General Fund of the Town by the department.

Nothing in this act shall prevent the Town of Concord by a two-thirds (2/3) vote at an annual Town Meeting from transferring funds from the accumulated depreciation fund of the department to reimburse the Town for funds which may be appropriated and used for department projects as outlined herein. The Department is expressly allowed to accept grants or gifts for Department projects.

Section 5.

This bylaw shall take effect upon its acceptance by a majority vote of the qualified voters of the Town present and voting thereon at the annual Town Meeting or any special Town Meeting called for the purpose. The receipts of the department for the fiscal period beginning July 1, 1976 will be retained by the department and will constitute the working capital to establish the fund. This bylaw supersedes any bylaw which is in conflict to it.

Section 6.

If this bylaw is accepted, it may only be revoked by the Town by a majority vote of the qualified voters of the Town present and voting thereon at the annual or any special Town Meeting called for the purpose three years after the year in which the bylaw is accepted.

Article 37, Town Meeting, May 1976
Article 35, Town Meeting, April 8, 1985

**TOWN OF CONCORD
MASSACHUSETTS**

SEWER IMPROVEMENT FUND BYLAW

Voted: That the Town adopt the following bylaw concerning a Sewer Improvement Fund, pursuant to the provisions of Article II of the Amendments to the Constitution of the Commonwealth of Massachusetts, commonly called the Home Rule Amendment.

Section 1.

The Town of Concord hereby establishes in the Town Treasury a separate revolving fund (the "Fund") for the purposes herein specified. The Fund shall be kept separate from any other monies or funds of the Town, and shall be expended only for those purposes herein specified.

Section 2.

The Public Works Commissioners, acting as Sewer Commissioners, shall assess a sewer improvement fee for all connections to the Town sewer system which will generate a sewage flow rate in excess of the flow rate contemplated for the relevant property in the Facilities Planning Study prepared by Camp, Dresser and McKee, dated May, 1984, or any amendments thereto approved by a Town Meeting or any subsequent study approved by appropriate authorities. The sewer improvement fee assessed shall equal the estimated cost of constructing, reconstructing, and expanding sewer lines, treatment plants, and other related facilities or reducing infiltration or inflow to handle an incremental amount of sewage equal to such excess flow.

Section 3.

There shall be a schedule of costs of constructing such sewer facilities as are described in Section 2 hereof, expressed in dollars per gallon of daily flow rate, established by the Commissioners, which schedule will not be established until the proposed schedule is first published in a newspaper in general circulation in the Town and considered at a public hearing held for such purpose.

Section 4.

All sewer improvement fees collected shall be deposited into the Fund. Monies deposited into the Fund shall be used only for the purposes set forth in Section 2 hereof, as may be determined by the Commissioners. The Commissioners are expressly allowed to accept grants or gifts for deposit into the Fund.

Section 5.

The sewer improvement fees imposed hereunder shall be in addition to any other fees permitted by law, including without limitation, sewer connection fees.

Article 25, Town Meeting, April 3, 1989

TOWN OF CONCORD MASSACHUSETTS

SIGN BYLAW

1. PURPOSE AND INTENT

The purpose and intent of this bylaw shall be to regulate, restrict and place such limitations on the size, location, type and illumination of all signs as will assure that they will (a) be appropriate to the land, building or use to which they are appurtenant; (b) be protective of property values and the safety of the public; and (c) not unnecessarily detract from the historic qualities and characteristics of the Town of Concord.

2. PERMIT REQUIREMENTS

a) **General.** Except as otherwise provided herein, no sign shall be erected, altered or relocated without a permit issued by the Building Inspector. Where multiple signs are to be attached to a building, the exact location of the signs on the building shall be subject to approval by the Building Inspector at the time the permit is issued, unless the sign is located in the Historic Districts or unless the sign permit is being issued pursuant to a decision of the Board of Appeals.

b) **Signs in Historic Districts.** Each application with respect to a sign within an Historic District must be accompanied by a certificate of appropriateness from the Historic Districts Commission, unless such sign is exempt from the requirement of such certificate under Section 6 of Statute 1960, Chapter 345.

c) **Applications.** The applicant must submit to the Building Inspector a completed sign permit application, together with all supporting materials specifying building and sign dimensions, colors, attachment methods, position of the sign, and any other such pertinent information the Building Inspector may require to insure compliance with this bylaw and any other applicable laws. A permit shall be issued only if the sign conforms to the provisions of this bylaw and all other applicable laws.

d) **Fees.** Fees for sign permits shall be paid in accordance with the schedule of fees for permits set forth in the Building Code.

e) **Nullification.** A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months from the date of the permit provided, however, that the Building Inspector may, in his or her discretion, issue extensions covering a period not to exceed one year from the date of issue of the original permit.

f) **Inspection.** Any sign may be inspected periodically by the Building Inspector for compliance with this bylaw and other requirements of law.

g) **Existing Signs.** Existing signs are defined as those erected before April 9, 1987, and are classified into one of four separate categories. These are:

- (1) Conforming signs which comply with all provisions of this bylaw in its most recently amended form.
- (2) Prohibited signs, as specified in Section 6.
- (3) Non-conforming signs, which do not comply with one or more provisions of this bylaw in its form, prior to the April 1987 Annual Town Meeting, but which are not described as prohibited signs in Section 6.
- (4) Non-conforming protected signs, which fully complied with this bylaw prior to the amendments approved by the April 1987 Annual Town Meeting.

h) **Removal of Existing Signs.** Non-conforming signs which are enlarged, reworded, redesigned, replaced, or altered in any way including repainting in a different color or relettering, shall comply immediately with all provisions of this bylaw; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five (35) percent of the replacement value of the sign at the time of replacement shall not be repaired or rebuilt or altered except to conform to the requirements of this bylaw.

i) **Removal of Signs.** The Building Inspector shall order the removal of any new sign erected or maintained in violation of this bylaw. Fourteen days notice in writing shall be given to the owner of such sign, or of the building, structure, or premises on which such sign is located, to remove the sign or to bring it into compliance with the bylaw.

3. ADMINISTRATION AND PENALTIES

a) **Enforcement.** The Building Inspector is hereby authorized and directed to enforce all of the provisions of this bylaw.

b) **Failure to Act on Permit.** If no sign permit has been issued within 30 days after the application therefor has been made, it shall be deemed to be denied.

c) **Board of Appeals.**

(1) **Right of Appeal.** Any applicant for a permit, any person who has been ordered by the Building Inspector to incur expense in connection with a sign, and any person dissatisfied with any refusal, order, or decision of the Building Inspector, may appeal to the Board of Appeals within 20 days from the date of such refusal, order, or decision. After notice given to such parties as the Board shall order, the Board of Appeals shall hold a public hearing. Applying the standards in clause (2) below, where applicable, and interpreting this bylaw, the Board shall affirm, annul or modify such refusal, order, or decision. The action of the Building Inspector may be annulled or modified only by a majority decision of the Board. If the action of the Inspector is modified or annulled, the Building Inspector shall issue a permit or order in accordance with the decision of the Board.

(2) **Variances in Specific Cases.** The Board of Appeals may vary the provisions of this bylaw in specific cases which appear to them not to have been contemplated by this bylaw, and in cases wherein its enforcement would involve practical difficulties

or unnecessary hardship, if, in each instance, desirable relief may be granted without substantially derogating from the intent and purpose of this bylaw but not otherwise. Any decision to vary the provisions of this bylaw shall be by majority and shall specify any variance allowed and the reasons therefor. Each decision of the Board of Appeals shall be filed in the office of the Town Clerk within thirty days after the hearing and a copy of the decision shall be sent by mail or delivered to the appellant and any other person appearing at the hearing and so requesting in writing. Failure to file such a decision within thirty days after the hearing shall not be deemed to be approval of any variance sought.

- (3) **Conditions and Safeguards.** The Board shall set forth appropriate conditions and safeguards whenever in its opinion they are desirable.

d) **Penalties.** Any sign owner or owner of property on which a sign is located who violates or permits a violation of this bylaw, shall be subject to fines as established under the Non-Criminal Disposition Bylaw, said fine to begin after the later of (1) the date of issuance of any written notice given by the Building Inspector or (2) the date of conclusion of any appeal therefrom. Each day the violation persists shall constitute a separate offense.

4. ILLUMINATION

a) Exterior illumination of signs shall be so shaded, shielded or directed that they shall not reflect or shine on or into neighboring premises or into any public street.

b) The intensity of such light shall be deemed acceptable if it does not exceed a factor of 3 above the ambient light intensity at any point on the ground when measured with an incident light meter and the following procedure:

- (1) The intensity of the sign illumination, in foot candles, is measured with all normal background and ambient illumination on.
- (2) With the sign turned off, the same measurement is repeated.
- (3) The ratio of the measurement in (1) to that in (2) shall not exceed 3.

c) No sign shall be illuminated between the hours of 11:00 P.M. and 7:00 A.M. except in those cases where the premises are open for business during such time or unless authorized by the Board of Appeals.

5. SIGNS PERMITTED IN ALL DISTRICTS

a) **Street Banners.** Street banners which are placed within the Town right-of-way at 100-200 Main Street, 1200-1300 Main Street, or 68-86 Thoreau Street providing notice of a public entertainment or advertising a charitable, religious or educational event, as may be specifically approved by the Town Manager, may be displayed in locations designated by the Town Manager for a period of time not to exceed 8 consecutive days, the first of which shall occur not more than 7 days prior to such entertainment or event. All said banners shall be removed within 24 hours after such entertainment or event.

b) **Temporary signs.** Permits for temporary construction and real estate subdivision signs located on the premises may be issued by the Building Inspector provided these signs shall

be appropriate to the use being made of the premises and shall conform to the requirements for signs in the district in which the temporary sign is located.

c) **Form Signs.** Permits for a sign consisting exclusively of a human, animal or product form with or without lettering of any kind may be issued by the Building Inspector only with the approval of the Board of Appeals, if a majority of said Board, after notice and a public hearing, shall find and rule that maintenance of such a sign will not be detrimental or injurious to the neighborhood and that granting of such a permit will not substantially derogate from the purposes of this bylaw. Any such permit may be revoked by a majority of said Board of Appeals at any time, after notice and a public hearing, whenever any condition attached to the granting of such permit shall be violated or whenever, in the opinion of a majority of said Board, maintenance of the sign would be detrimental or injurious to the neighborhood or would substantially derogate from the purpose of this bylaw.

d) **Religious and Educational Non-profit Institutions.** One sign, including bulletin or announcement board, identification sign or entrance marker is allowed for the principal entrance to the premises of a church, synagogue, or other religious institution, or school, museum, library, or other not-for-profit organization, not exceeding twelve (12) square feet in area. One additional sign, not exceeding twelve (12) square feet in area is also allowed if the establishment has frontage on a second public way. Up to nine (9) additional square feet of signage is also allowed to provide information to users on the site, provided that no single sign exceeds three (3) square feet.

e) **Restaurants.** In addition to other signs permitted by this bylaw, restaurants and other food service establishments may post an actual menu on the building where the premises are located near the main entrance door of the establishment without obtaining a permit under this bylaw.

6. PROHIBITED SIGNS

a) Signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located are prohibited. No such sign shall remain in place or on vacated premises for more than ninety days from the date the vacancy commenced.

b) Signs which contain or consist of pennants, ribbons, streamers, spinners, other moving devices, strings of light bulbs or other similar devices are prohibited.

c) Signs which have blinking, flashing or fluttering lights or other illuminating devices which have a changing light intensity, brightness or color, are prohibited.

d) Signs illuminated by other than a stationary white or off-white steady light are prohibited.

e) Signs which are pasted or attached to utility poles, trees, fences, or structures such as overpasses and bridges are prohibited. Signs pasted or attached to other signs are prohibited unless such subsidiary portions are an integral part of the total sign design.

f) Mechanically activated signs, other than rotating barber poles, are prohibited.

g) No free standing sign or part thereof shall be more than twenty (20) feet above ground level. No projecting or wall sign or part thereof may be higher than the wall to which it is attached. Roof mounted signs are prohibited, except that signs may be placed upon a Mansard roof or the roof of a porch provided the twenty (20) foot height limit is complied with.

h) Signs which are not permanently affixed to a building, structure, or the ground including, but not limited to those used in conjunction with gasoline service station and automobile dealerships, 'sandwich board' or A-frame signs (except when permitted under 8(h)), and signs mounted on a truck or trailer chassis with or without wheels whose primary function is as a sign and not for the transport of goods or merchandise, are prohibited.

i) Any new or existing sign not erected pursuant to and in accordance with the requirements of this bylaw, is prohibited.¹

j) Signs on a marquee or canopy are prohibited.²

k) A sign advertising businesses, services or activities located at different premises from the premises on which the sign is located, is prohibited, except street banners pursuant to Section 5a.

7. RESIDENCE DISTRICTS.

In a residence district the following signs only are permitted:

a) A sign of not more than two square feet in area, displaying the street number, the name of the occupant of the property and/or historical references, if any, without the need for a permit under this bylaw. Such sign may include identification of an accessory professional office or other accessory use approved by the Board of Appeals.

b) Signs pertaining to the lease or sale of a lot or building without the need for a permit under this bylaw, provided that such signs do not exceed a total area of nine square feet nor more than 3-1/2 feet in any dimension, until such time as all lots, apartments or houses have been rented or sold.

c) One contractor's sign, not exceeding 12 square feet in area (except as otherwise provided by law) maintained on the property while construction is in progress, and containing information relevant to the project. Such sign shall not require a permit under this bylaw and shall be removed promptly after completion of construction.

d) One sign identifying each public entrance to a subdivision or multi-family development such as apartments or town houses, of not more than nine square feet in area, nor more than

¹ See Section 2-H for guidelines pertaining to nonconforming signs.

² See Section 8-E for exception to lettering on awnings.

3-½ feet in any dimension. In addition, each family unit may carry a single sign of not more than one square foot, without time limit.

f) For gasoline service stations and farm stands, one identification sign not to exceed twelve (12) square feet in area except when the establishment fronts on Route 2, then twenty-five (25) square feet. In addition, product identification signs for gasoline service stations and farm stands may be maintained, provided the total of said signs does not exceed nine (9) square feet in area with no single sign to exceed three (3) square feet in area. Further, farm stands will be allowed to have additional signage for the specific purpose of advertising products grown on their property. These additional product signs may not exceed twenty-five (25) square feet each, except for farm stands on Route 2, which may have signs of fifty (50) square feet each. There shall not be more than two (2) such product signs per farm stand.

8. BUSINESS, LIMITED BUSINESS AND INDUSTRIAL DISTRICTS

a) **Total Sign Area.** Unless otherwise hereinafter provided, the total area of all signs erected on a lot shall not exceed one and one-half (1½) square feet in area for each horizontal linear foot of the building face(s) parallel to, or substantially parallel to, a street line. However, if the primary facade is on a parking area, then said facade shall be used to determine the amount of allowable signage.

b) **Principal Signs.** No more than two principal signs shall be allowed for each business establishment. A principal sign may be a flat wall sign, a projecting sign, or a freestanding sign.

- (1) The total area of all flat wall signs shall not exceed fifty (50) square feet on any one wall of the business establishment. Flat wall signs shall not project more than twelve (12) inches from the face of the wall. Subject to the approval of the Building Inspector, a flat wall sign may be located anywhere on any wall of a building, provided that it does not conceal any part of a window, and that its length does not exceed seven-eighths (7/8) of the facade of the business establishment.
- (2) A projecting sign shall not extend beyond the curb line or more than 50 inches, exclusive of any supporting structure from the building. A projecting sign shall not be less than 10 feet from the ground level at the base of the building, over a vehicular way, 10 feet over a sidewalk, or a lesser distance so long as public safety is not endangered nor more than 20 feet from the ground level to the top of the sign. Allowable area of a projecting sign will be computed as one-half (½) square foot for each horizontal linear foot of the facade of the establishment on which it hangs. Such sign shall not extend above the building, nor be more than twelve (12) square feet in area.
- (3) A freestanding sign shall not exceed fifty (50) square feet of area when the establishment fronts on Route 2, or more than twenty-five (25) square feet of area when the establishment fronts on a street other than Route 2. No more than one freestanding sign shall be permitted on a lot. A freestanding sign shall not extend over a public way.

c) **Secondary Signs.** If a business establishment consists of more than one building, or if a building has secondary frontage on a street or parking area, a secondary sign may be affixed to one wall of each building or to the second side. Secondary signs shall not exceed one square foot for each horizontal linear foot of secondary frontage on a street or parking lot, and said area shall be in addition to the allowed total sign area for each building under Section 8A, but the size of the sign shall not exceed the maximum size allowed under Section B.

d) **Directories.** Where there are three (3) or more businesses on a lot, or there are businesses without an entrance on the street frontage, a directory may be permitted for the purpose of traffic direction and control. The size of the directory shall not exceed nine (9) square feet plus one and one-half (1½) square feet per business establishment. Such a directory shall be included in the calculation of total permitted sign area for the lot.

e) **Awnings.** Retractable, fabric awnings projecting from the wall of a building for the purpose of shielding the doorway or windows from the elements may include signage on the valance. Such signage shall not be included in the calculation of the total permitted sign area for the lot, provided that no lettering or symbol is greater than six (6) inches in height. No awning may extend within two (2) feet of a curbline.

f) **Temporary Sale Signs.** In a business district, temporary signs, advertising special promotions or sale of merchandise, may be attached to or located only within the interior of a window or door, and shall not require a permit under this bylaw or be considered in calculating the total permitted sign area for the lot.

g) **Signs Painted on Windows.** In a business district, script describing a product or theme and not including the name of the business. Such signage shall not require a permit under this bylaw or be included in the calculation of the total permitted sign area for the lot, provided that no lettering or symbol is greater than six (6) inches in height.

h) **Sandwich Boards.** One "A" frame Sandwich Board sign per business premises shall be permitted (including within the public right-of-way (sidewalk only), except in conditions of snow or ice), in addition to the other signs permitted under this Section 8, such signs shall not require a permit under this bylaw, subject to the following conditions:

- (1) The sign shall only be displayed in front of the place of business, adjacent to the buildings only, and not along the curb.
- (2) The sign shall not exceed 24" in width and 48" in height.
- (3) The sign shall not protrude on the sidewalk in such a way as to obstruct pedestrian traffic or reduce the open sidewalk width to less than four feet.
- (4) The sign shall be free of sharp corners, protrusions and devices which could inadvertently cause injury.
- (5) Liability insurance coverage shall be carried, and evidence of same may be requested by the Building Inspector. Said insurance must cover personal injuries or property damage which may occur in such areas. Such liability insurance

coverage shall be extended to include the Town of Concord as an additional insured on the liability insurance policy in the amount of one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) per occurrence for any and all claims which may arise, for any reason, as a result of the placement of such sign. The business shall also require the insurer to give at least thirty (30) days written notice of termination, reduction or cancellation of the policies to the Town.

- (6) In response to specific safety concerns, the Police Department may prohibit sidewalk displays in designated areas during holiday parades or other specified times or days when sidewalk congestion is excessive.
- (7) The sign may be displayed only during business hours and must be removed from the sidewalk thereafter.

9. BYPASS DISTRICTS

In the Bypass District, the same restrictions on signs shall apply as in Business Districts. In addition, any nonconforming or prohibited sign, not authorized by the Massachusetts Highway Department under the provisions of Section 29 of Chapter 93 of the General Laws shall be removed.

10. INDUSTRIAL PARKS DISTRICTS

In Industrial Parks the same restrictions on signs shall apply as in Business Districts except that a directory sign not to exceed 50 square feet in area may be placed at each public entrance to such park and more than one freestanding sign for the purpose of traffic direction and control may be erected, and shall not be included in the total permissible sign area calculations for the lot(s) within the Park.

11. MEDICAL PROFESSIONAL DISTRICTS

a) **Total Sign Area.** Unless otherwise hereinafter provided, the total area of all signs erected on a lot shall not exceed one and one-half (1½) square feet in area for each horizontal linear foot of the building face(s) parallel to, or substantially parallel to, a street line. However, if the primary facade is on a parking area, then said facade shall be used to determine the amount of allowable signage.

b) **Principal Signs.** No more than two principal signs shall be allowed for each business establishment. A principal sign may be a flat wall sign, a projecting sign, or a freestanding sign.

(1) The total area of all flat wall signs shall not exceed fifty (50) square feet on any one wall of the business establishment. Flat wall signs shall not project more than twelve (12) inches from the face of the wall. Subject to the approval of the Building Inspector, a flat wall sign may be located anywhere on any wall of a building, provided that it does not conceal any part of a window, and that its length does not exceed seven-eighths (7/8) of the facade of the business establishment.

(2) A freestanding sign shall not exceed fifty (50) square feet of area when the establishment fronts on Route 2, or more than twenty-five (25) square feet of area when the establishment fronts on a street other than Route 2. No more than one freestanding sign shall be permitted on a lot. A freestanding sign shall not extend over a public way.

c) **Directories.** Where there are three (3) or more professional businesses on a lot, or there are businesses without an entrance on the street frontage, a directory may be permitted for the purpose of traffic direction and control. The size of the directory shall not exceed nine (9) square feet plus one and one-half (1½) square feet per business establishment. Such a directory shall be included in the calculation of total permitted sign area for the lot.

12. SPECIAL PROVISIONS

a) **Gasoline Service Station Signs.** In addition to the signs permitted in the foregoing sections, gasoline service stations may maintain product identification signs, provided the total area of said signs does not exceed nine (9) square feet with no single sign to exceed three (3) square feet.

The standard type gasoline pump bearing the name or type of gasoline and the price in usual size and form shall not be deemed a sign within the meaning of this Bylaw.

b) **Public Interest Signs.** Signs containing cautionary messages, such as "Beware of Dog" or "No Trespassing" shall be exempt from the permit requirements of this bylaw, provided they do not exceed two (2) square feet in area.

c) **Directional and Traffic Safety Signs.** Signs indicating "entrance", "exit", "parking", or similar traffic directional information, shall not exceed three (3) square feet in area per sign. Provided these signs are erected on the lot pursuant to a Town or State regulation, they shall not be counted in the maximum sign number and sign area requirements for the lot.

d) **Political, Ideological, Charitable Purposes or Religious or other Personal, Non-commercial Message.** Permanent displays or notices of events for charitable purposes require a permit from the Building Inspector and shall not exceed the maximum dimensional limitations for the district in which they are located. Except as provided in Section 5(d), temporary display of charitable ideas or expressions of political, religious, ideological ideas shall be exempt from the provisions of this bylaw, subject to the following:

- 1) No such sign shall be affixed to a tree or utility pole or otherwise erected in a public way.
- 2) Signs may be erected in the Town's right of way by a homeowner in front of his or her own home, provided: a) there is no protrusion into the public walkway or roadway; b) placement will not damage any plantings that are in the area; c) placement does not pose a hazard to passersby; d) posted signs include the contact information of the sign owner attached in a visible manner to the sign; and e) signs may not be posted for more than two weeks without approval in writing of the Town Manager.
- 3) Signs may be erected on other Town property only with the approval of the Town Manager consistent with the Town's APP #48 policy statement.

Temporary signs erected on Town property or right of way or other disapproved locations not meeting all of the foregoing conditions may be removed and stored at a Town facility awaiting the owner's retrieval for a period not to exceed 30 days, after which they may be discarded.

13. DEFINITIONS

a) "**Sign**" means any object, device, display or structure, or part thereof, which is placed outdoors or which is visible from the outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. "Sign" shall include, without limiting the generality of the foregoing, billboards, pennants, ribbons, streamers, moving devices, strings of lights, awnings, marquees, canopies, vending machines, and similar devices. "Sign" shall not include national or state flags, athletic scoreboards, official announcements or signs of U.S., Massachusetts or Town government (including any signs on Town property or the Town right-of-way) approved by the Board of Selectmen, or temporary holiday decorations customarily associated with any national, local or religious holiday.

b) "**Area of Sign**" - The area of a freestanding or attached sign shall include all lettering and accompanying symbols or designs, together with the background, whether open or enclosed, on which they are displayed. The area shall not include basic supporting framework and bracing.

The area of a sign painted directly upon a building shall include all lettering and accompanying designs or symbols, together with any background of a different color than the finished material of the building face on which the sign is painted.

The area of a sign consisting of individual letters or symbols attached to, or painted directly on, a building, wall, or window shall be the area of the smallest rectangle which encompasses all of the letters or symbols.

A double-faced sign shall be deemed to be one sign having an area equal to the area of one side.

c) "**Business Establishment**" means an independent economic unit, in a single physical location, where a business is conducted.

d) "**Temporary Signs**" (as opposed to 'permanent signs') are signs erected for a period not to exceed sixty (60) consecutive days.

e) "**Ghost sign**" means an advertisement that was installed prior to 1960. Such "ghost sign" shall be allowed by sign permit from the Board of Appeals to remain, to be stabilized or restored to the original condition when such sign is considered an important reflection of the everyday social and economic life of years past. Such signs shall not count toward the allowable square footage or allowable number of signs of a business or parcel of land.

f) Other terms shall, where applicable, have the meanings given to them in the Concord Zoning Bylaw.

14. INTERPRETATION AND CONFLICT CLAUSE

These regulations are not intended to interfere with, abrogate or annul any other bylaw, regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other regulation, bylaw, or other

provision of law, whichever provisions are more restrictive or impose higher standards shall apply.

15. SEVERABILITY CLAUSE

The invalidity of any section or provision of this bylaw, or its application to any sign, shall not invalidate any other section or provision, or application of this bylaw.

Article 31, Town Meeting, March 1971

Articles 15, 16, 18, 19, 20, Town Meeting, June 1973

Articles 49, 50, 51, 52, Town Meeting, May 1974

Articles 55, 56, 57, 58, 59, 60, Town Meeting May 1975

Article 52, Town Meeting April 1981

Articles 29, 30, 31, 32, 33, 34, Town Meeting, April 1986

Articles 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, Town Meeting, April 1987

Article 49, Town Meeting, April/May 1998

Article 56, Town Meeting, April 2010 (replaced previous Sign Bylaw)

TOWN OF CONCORD MASSACHUSETTS

SMOKE FREE WORKPLACE BYLAW

Section 1. Purpose

The Town of Concord does hereby find and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in food establishments; (2) to protect the right of non-smokers to breathe smoke-free air in such establishments; and (3) to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

Section 2. Authority

This bylaw is adopted by the Town of Concord under its Home Rule powers, its police powers to protect the public health, safety and welfare, and its authority under Massachusetts General Laws, Chapter 40, §21.

Section 3. Severability

Each section, paragraph, sentence, clause, phrase and any other portion of this bylaw shall be construed as separate to the end that if any portion thereof shall be held invalid for any reason, then the remainder of the bylaw shall remain in full force and effect.

Section 4. Definitions

As used in this bylaw, the following words shall have the following meanings, unless the context requires otherwise:

- 4.1 “Compensation” – money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.
- 4.2 “Employee” – an individual or person who performs a service for compensation for an employer’s workplace, including a contract employee, temporary employee, and independent contractor who performs a service in the employer’s workplace for more than a de minimus amount of time.
- 4.3 “Employer” – an individual, person, partnership, association, corporation, trust, organization, school, college, university or other educational institution or other legal entity whether public, quasi-public, private, or non-profit which uses the services of one (1) or more employees at one (1) or more workplaces, at any one (1) time, including the Town of Concord.
- 4.4 “Enclosed” – a space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by one (1) or more doors, including but not limited to an office, function room or hallway.
- 4.5 “Outdoor space” – an outdoor area, open to the air at all times and cannot be enclosed by a wall or side covering.

- 4.6 “Retail Tobacco Store” – an establishment which is required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Concord Board of Health.
- 4.7 “Smoking” – or “Smoke” – the lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.
- 4.8 “Smoking Bar” – an establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass General Law Ch., 270, Section 22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. “Smoking Bar” shall include, but not be limited to, those establishments that are commonly known as “cigar bars” and “hookah bars”.
- 4.9 “Workplace” – an indoor area, structure or facility or a portion thereof, at which one (1) or more employees perform a service for compensation for an employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space.
- 4.10 “Work space or work spaces” – an enclosed area occupied by an employee during the course of his employment.

Terms not defined herein shall be defined as set forth in MGL, Ch. 270, Section 22 and/or 105 CMR 661. To the extent any of the definitions herein conflict with MGL, Ch. 270, Section 22 and 105 CMR 661, the definition contained in this bylaw shall control.

Section 5. Prohibitions

- 5.1 It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed workplace.
- 5.2 Smoking is hereby prohibited in Concord in accordance with MGL, Ch. 270, Section 22 (commonly known as the “Smoke-free Workplace Law”).

Pursuant to MGL, Ch. 270, Section 22(j) smoking is also hereby prohibited in Tobacconist Shops (“Smoke Shops”), Smoking Bars, and Nursing Homes

Section 6. Enforcement

- 6.1 This bylaw shall be enforced by the Board of Health and its designees.
- 6.2 Any person may register a complaint to initiate an investigation and enforcement with the Board of Health, the local inspection department of the equivalent.
- 6.3 The Board of Health shall have the authority to enforce this bylaw through the use of violation notices, administrative orders, or civil and criminal court actions. Violations may result in fines and other lawful penalties listed in this bylaw.

Section 7. Penalties and Remedies

- 7.1 Violations are subject to a fine in accordance with Appendix A of the Town's Non-Criminal Disposition Bylaw
- 7.2 Each calendar day on which violation occurs shall be considered a separate offense.
- 7.3 Violations of Section 5.2 shall be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21 D of Chapter 40 of Massachusetts General without an enabling ordinance or bylaw. The disposition of fines assessed shall be subject to Section 188 of Chapter 111.
- 7.4 Violations of Section 5.3 may be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of Massachusetts General Law.
- 7.5 If an owner, manager or other person in control of a building, vehicle, or vessel violates this bylaw repeatedly, demonstrating egregious noncompliance as defined by regulation of the Department of Public Health, the Board of Health may revoke or suspend the license to operate and shall send notice of the revocation or suspension to the Department of Public Health.

Section 8. Severability

Each part of these regulations are constructed to be separate, such that if any section, sentence, item, clause, or phrase is held invalid for any reason, the remainder of the regulations shall continue in full force and effect.

Section 9. Conflict with other Laws and Regulations

Notwithstanding the provisions of Section 4 of this bylaw, nothing in this bylaw shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire, health, or other regulations.

Article 48, Town Meeting, April 1995
Article 68, Town Meeting, April 2003
Article 64, Town Meeting, April 2006
Article 67, Town Meeting, April 2010

NOTE:

The name of this bylaw was previously called "Smoking in Food Establishments Bylaw," with the name changed under Article 67 of the Annual Town Meeting of April 2010. Note also that Section 10 of this bylaw, approved at the April 2010 Annual Town Meeting, was subsequently disapproved by the Attorney General and has therefore been deleted.

**TOWN OF CONCORD
MASSACHUSETTS**

SMOKING IN PUBLIC PLACES BYLAW

VOTED: to enact a bylaw to limit smoking in certain public places as follows.

Section 1.

It shall be unlawful to smoke cigarettes, cigars, pipes or tobacco in any form in the Town of Concord in the following places:

- a. in any place of assembly, waiting room, auditorium, cafeteria, rest room, lobby, elevator, or corridor of any school operated by the Town of Concord;
- b. in school buses and other vehicles of public transportation, owned, leased or operated by the Town of Concord;
- c. in any public building at any meeting, notice of which is required to be posted and which is open to the public.

Section 2.

“No Smoking” signs shall be prominently posted, by the person in charge of the premises, in areas in which smoking is declared unlawful by Section 1.

Section 3.

Violations of this bylaw shall be punishable by a fine for each offense as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended.

Article 62, Town Meeting, May 1975
Article 64, Town Meeting, April 2006

**TOWN OF CONCORD
MASSACHUSETTS**

SNOW AND ICE DISPOSAL BYLAW

Voted: No person shall put any snow or ice in any public place or upon any part of a public street or sidewalk. Whoever shall violate this bylaw shall pay a fine as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Con-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended.

Article 43, Town Meeting, March 1963

**TOWN OF CONCORD
MASSACHUSETTS**

SNOW AND RECREATIONAL VEHICLES BYLAW

VOTED: that the Town acting pursuant to Massachusetts General Laws, Chapter 90B, as amended by §2 of Chapter 589 of the Acts of 1970, adopt a bylaw "Snow and Recreational Vehicles."

Section 1.

No person shall operate a snow vehicle or recreation vehicle, as defined in §20 of Chapter 90B of the M.G.L. on or within the limits of any park, playground or other public property except with the consent of the Board of Selectmen nor operate any snow vehicle or recreation vehicle on any private property except with the consent of the owner or legal occupant thereof.

Section 2.

Any person violating any provision of this bylaw shall be punished by a fine for each offense as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended.

Article 20, Town Meeting, March 1971
Article 64, Town Meeting, April 2006

**TOWN OF CONCORD
MASSACHUSETTS**

SOLICITING BYLAW

**Regarding Commercial Agents, Selling Agents, Solicitors and
Canvassers Who Do Business Door-to-Door in Concord**

VOTED: that the Town, acting under the provisions of Article II of the Amendments to the Constitution of the Commonwealth of Massachusetts, commonly called the Home Rule Amendment, and under the police powers granted to it by the General Laws of the Commonwealth, adopt the following bylaw regarding commercial agents, selling agents, solicitors and canvassers who do business door-to-door in the Town.

Section 1.

The practice of going in and upon private residences of the Town by commercial agents, selling agents, solicitors and canvassers, transient vendors and itinerant merchants for the purpose of soliciting orders for services or for sale of goods, wares and merchandise by means of samples, lists, catalogues or otherwise, without having been requested or invited to do so by the owners or occupants of said private residences, is prohibited and hereby declared a nuisance.

Section 2.

The provisions of this bylaw shall not apply to officers or employees of the town, county, state or federal governments; hawkers and peddlers registered by the state and the Town under appropriate laws and regulations; candidates for public office or political parties recognized by the Commonwealth; religious organizations for the purpose of spreading the teachings of their religious beliefs, but not for the purpose of selling or soliciting; and non-profit, charitable organizations upon registration by the President or Treasurer with the Chief of Police. Such registrations must be renewed yearly.

Section 3.

Violations of this bylaw shall be punishable by a fine for each offense as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended.

Article 40, Town Meeting, May 1977
Article 64, Town Meeting, April 2006

**TOWN OF CONCORD
MASSACHUSETTS**

SOLID WASTE DISPOSAL FUND BYLAW

VOTED: that the Town, acting under the provisions of Article II of the Amendments to the Constitution of the Commonwealth of Massachusetts, commonly called the Home Rule Amendment, adopt the following bylaw establishing a solid waste disposal fund in the Town of Concord.

Section 1.

The Town of Concord hereby establishes in the Town Treasury an individual revolving fund (the "Solid Waste Disposal Fund" or the "Fund") for its Solid Waste Disposal Department (the "Department"). All receipts of the Department shall be credited to the Solid Waste Disposal Fund. The Fund shall be kept separate from any other monies or funds of the Town, and shall be expended only for those purposes outlined in the bylaw.

Section 2.

There shall be a fixed schedule of prices or rates established by the Public Works Commission for solid waste disposal (the "schedule") which schedule shall not be established until the proposed schedule is first published in a newspaper in general circulation in the town and considered at a public hearing held for this purpose. No price or rate in the schedule shall be fixed at less than the cost of disposing of solid waste as such may be determined by the Town Manager and approved by the Public Works Commission. The schedule shall be established to yield a zero balance after the payment of all operation and maintenance expense, principal and interest on outstanding debt, if any, and an accrued reserve for replacement of plant and for sanitary landfill closure, including perpetual monitoring and leachate removal, the cost of which will be determined by the Town Manager and approved by the Public Works Commission, and shall be based upon the actual capitalization, land, structures, disposal systems, environmental monitoring, leachate removal, machinery and equipment, and anything else comprising the Department. Refuse disposed of by the Town from its public facilities and by the public school departments shall be charged for in accordance with the schedule beginning July 1, 1990.

Section 3.

The income from tipping fees, user charges, jobbing and any appropriation shall be received by the Town Collector, and shall be used by the Department to pay the annual expenses of the landfill facilities, to make payments on the indebtedness of the landfill facilities, and to set up the depreciation and sinking fund accounts which will be kept and managed as separate funds for reconstruction, renewals, extensions, improvements, major repairs, enlargements, additions or similar purposes. The general authority to manage and expend the fund for ensuing year by the Town Manager will require approval by the Town at the annual Town Meeting. The accounting system to be used for keeping the Department accounts will reflect on a monthly basis, the status of all accounts and the financial position of the Department.

Section 4.

Nothing in this act shall prevent the Town from appropriating monies for repairs, improvements, extensions, additions or maintenance of refuse disposal systems over and above those programmed under the Fund. Such appropriations will be treated as special deposits in the Department and will be administered by the Town Manager for the specific purposes for which they were appropriated. Any balance remaining after completion of the project will be returned to the General Fund by the Department. Nothing in this act shall prevent the Town by a two-thirds (2/3) vote at an annual Town Meeting from transferring accumulated monies in the Fund in order to reimburse the Town for monies which may be appropriated and used for Department projects as outlined herein. The Department is expressly allowed to accept grants or gifts for Department projects.

Section 5.

This bylaw shall take effect upon its acceptance by a majority vote of the qualified voters of the Town present and voting thereon at the annual Town Meeting or any special Town Meeting called for this purpose. This bylaw supersedes any bylaw which may be in conflict with it.

Section 6.

If this bylaw is accepted, it may be revoked by the Town only by a majority vote of the qualified voters of the Town present and voting thereon at the annual or any special Town Meeting called for this purpose three or more years after the year in which the bylaw is accepted.

Article 27, Town Meeting, April 1989

**TOWN OF CONCORD
MASSACHUSETTS**

TERMS OF OFFICE BYLAW

The terms of office of the moderator, the selectmen, and the members of the school committee shall be as stated in Section 1 of the Act passed by the General Court in the year 1952 entitled "An Act Establishing A Selectmen-Manager Form of Government for the Town of Concord." Said terms shall begin at noon on the day following the final adjournment of the annual Town Meeting succeeding their election, and shall extend to noon on the day following the final adjournment of the annual Town Meeting following the election of their successors.

Article 20, Town Meeting, March 1960
(see also Town Charter, Section 1)

**TOWN OF CONCORD
MASSACHUETTS**

TOURIST BYLAWS

LICENSING OF TOURIST VEHICLES BYLAW

No person shall use a carriage or other vehicle for the transportation of tourists for hire without first obtaining a license so to do from the Selectmen, which license shall be issued for a definite time, and shall be revocable by the Selectmen within that time.

Article 16 (Sub-Article 8), Town Meeting, April 1905

TOURIST GUIDE LICENSE BYLAW

No person shall, in any of the public places in said Town, solicit tourists to ride in carriages or other vehicles, to take meals, to employ guides, or to buy any articles without first obtaining a license so to do from the Selectmen, which license shall be issued for a definite time and shall be revocable by the Selectmen within that time.

Article 16 (Sub-Article 9), Town Meeting, April 1905

**TOWN OF CONCORD
MASSACHUSETTS**

TOWN COLLECTOR BYLAW

Voted: That the following bylaw be adopted, pursuant to §38A of Chapter 41 of the
M.G.L.:

- a. The Collector of Taxes shall collect under the title of Town Collector, all accounts due the Town, excepting interest on investments of the sinking or trust funds.
- b. If it shall seem advisable to the Town Collector that suit, or suits, should be instituted and prosecuted in the name of the Town, in connection with the collection of an account or accounts due the Town, he shall so advise the Board of Selectmen, who shall have authority as agents of the Town to institute and prosecute the same.
- c. All accounts due the Town when this section takes effect, and all accounts coming due thereafter shall forthwith be committed by the several boards and officials of the Town to the Town Collector for collection hereunder.

Article 20, Town Meeting, March 1935

**TOWN OF CONCORD
MASSACHUSETTS**

TOWN COUNSEL BYLAW

VOTED: to repeal the 1988 "Town Counsel Residency" bylaw in its entirety and adopt the following bylaw.

Section 1.

The Town Manager, subject to the approval of the Board of Selectmen, shall annually in May, and whenever a vacancy shall exist, appoint some competent lawyer who shall be admitted to the Massachusetts Bar to act as the Town Counsel. The term of office shall begin on the first day of June of each year and shall continue until a successor is appointed and qualified. Town Counsel may be removed by the Town Manager, subject to the approval of the Board of Selectmen, at the pleasure of the Town Manager.

Section 2.

With the approval of the Town Manager and the Board of Selectmen, the Town Counsel shall act as legal adviser to the Town and to all Town officers, boards and committees in connection with the performance of their public duties. Town Counsel shall prosecute, defend and compromise any and all suits, claims, actions and proceedings on behalf of or against the Town, its officers, boards and committees or in which the interest of the Town are or may be involved. Town Counsel when requested by the Town Manager, may represent the Town at any hearing in which it is or may become interested before any committee of the General Court. Nothing herein shall preclude the Town Manager, with the approval of the Board of Selectmen, from retaining special counsel whenever in the opinion of the Town Manager it is for the best interest of the Town, provided that the retention of special counsel is not prohibited by law and an appropriation when necessary is made or funds are otherwise available for such purpose.

Article 45, Town Meeting, April 1992

**TOWN OF CONCORD
MASSACHUSETTS**

TOWN MEETING BYLAWS

TOWN MEETING BYLAW – TWO-THIRDS VOTE COUNT

At any Special or Annual Town Meeting, on matters requiring a two-thirds vote by statute, a count of the vote need not be taken unless the vote as declared by the Moderator is immediately questioned by seven or more voters as provided in General Laws, Chapter 39, §15.

Article 4, Town Meeting, April 1997

TOWN MEETING NOTICE BYLAW

Notice of Town Meetings shall be given by posting an attested copy of the Warrant calling the same at the Concord Town House and in at least one public location in each precinct in Concord, at least seven days before the day appointed for an annual Town Meeting, and at least fourteen days before the day appointed for any special Town Meeting. A copy of the Warrant of any Town Meeting shall also be sent by mail or otherwise to every household in Concord, and upon request, to places of religious assembly in Concord, at least seven days before an annual Town Meeting, and at least fourteen days before a special Town Meeting, and the return of the officer that he has complied by this bylaw shall be conclusive that he has done so.

Article 16 (Sub-Article 1), Town Meeting, March 1905

Article 49, Town Meeting, April 1981

Article 30, Town Meeting, April 2004

(see also MGL Chapter 39, §10)

SPECIAL TOWN MEETING NOTICE BYLAW

That the Town vote to instruct the Board of Selectmen that any Warrant for a special Town Meeting shall be held open for at least 10 days except in case of an emergency or other compelling circumstances when the Selectmen shall state in writing that a situation exists which makes it undesirable to hold the Warrant open for the entire 10 day period. Public notice of the closing date of such Warrant shall be given promptly to the citizens of the Town.

Article 3, Town Meeting, June 1974

RECONSIDERATION OF A VOTE AT THE SAME TOWN MEETING

A vote at a Town Meeting which is properly subject to reconsideration or rescission later at the same Town Meeting may be reconsidered or rescinded thereat only on motion of any voter made:

- a) at the same session as the vote to be reconsidered or rescinded, at any time before final action has been taken on the article in the Warrant under which the vote to be reconsidered or rescinded was adopted, and on all other articles which by vote of the Meeting were considered together with said article, or within 20 minutes thereafter; or
- b) at an adjourned session, provided that notice that reconsideration or rescission will be moved thereat is given to the Moderator prior to the adjournment of the session at which the vote is taken; or
- c) at any time before final dissolution of the Meeting, with the consent of the Board of Selectmen or the Finance Committee.

Article 14, Town Meeting, March 1965

Article 17, Town Meeting, May 1974

TOWN OF CONCORD MASSACHUSETTS

TOWN RECORDS MANAGEMENT BYLAW

Whereas a new archival facility has been constructed at the Concord Free Public Library; and whereas the Town and the Library have agreed that certain Town records will be removed from the Town House and permanently stored in the new Library vault; and whereas proper records management is necessary to preserve those documents having legal, administrative, fiscal or historical value for use by Town officials and the public;

The Board of Selectmen, upon recommendation of the Director of the Concord Free Public Library, shall designate a Library employee as Municipal Archivist. The Municipal Archivist shall have the responsibility for the physical oversight of the Town Records stored in the Library vault, including access to the records.

Legal custody, with its concomitant responsibility for the preservation, maintenance, disposition and dissemination of records, shall remain with the officer in charge of the department or the clerk of the entity to which the records accrue, as provided in M.G.L. Chapter 66, §6. For the purpose of said §6, Town officers serving as staff to boards, committees and commissions shall have custody of the records of these entities; the clerks of Town entities without staff shall serve as records custodians. Upon dissolution of any such ad hoc board, committee or commission, the clerk of said entity shall surrender the records of that entity to the Town Clerk who shall make provision for the proper archival processing of said records.

Town officers having legal custody of municipal records shall be trained in records management techniques and procedures. The Town Clerk shall advise Town officers and clerks of boards, committees and commission having custody of Town records about current records management practices and procedures.

Public access to Town records in the Library vault shall be governed by the provisions of M.G.L. Chapter 66 and 950 CMR 32.00 (Public Records Access Regulations).

The Town Clerk and other departmental officers having legal custody of municipal records stored at the Library may deputize the Municipal Archivist to certify copies of such records. Such designation shall be recorded with the Town Clerk.

Town officers and clerks of unstaffed boards, committees or commissions, upon leaving office, shall surrender the records under their supervision to their successors and shall make oath before the Town Clerk that such records have been delivered; the Town Clerk shall make record of such oath as prescribed in M.G.L. Chapter 66, §14.

Article 42, Town Meeting, April 4, 1990
M.G.L. Chapter 66, §§6 and 14

**TOWN OF CONCORD
MASSACHUSETTS**

TRASH PICKUP BYLAW

No person shall put out trash for pickup within six feet of a traveled way or a Town right-of-way more than twenty-four (24) hours prior to the date of the scheduled or contracted pickup, and all empty containers must be removed within twenty-four (24) hours after said pickup.

Article 45, Town Meeting, April 1984
Article 63, Town Meeting, April 2006 (replaced entire text of 1984 bylaw)

TOWN OF CONCORD

MASSACHUSETTS

TREE BYLAW

No person shall tie any horse to any of the trees in any of the public places or ways in said Town, or affix any signs, placards, advertisements, or posters, to said trees.

Article 16, Town Meeting, March 1905

**TOWN OF CONCORD
MASSACHUSETTS**

UNDERGROUND FUEL STORAGE SYSTEMS BYLAW

VOTED: to enact the following bylaw relating to underground fuel storage systems.

Section 1. Authority, Purpose, and Definitions

1. Authority

This bylaw is adopted by the Town of Concord under its home rule powers, its police powers to protect the public health, safety and welfare, and its authority under Massachusetts General Laws, Chapter 40, §21, Chapter 111, §31, and Chapter 148, §§9 and 13.

1.2 Purpose

This bylaw is intended to control the use and maintenance of underground fuel storage systems used to store fuel oil in order to

- a) protect the groundwater, groundwater recharge areas, surface waters and the natural environment of the Town against contamination resulting from underground tank leaks due to tank corrosion, improper installation or other causes, and
- b) assure public health and safety through the proper management of fuel oil.

1.3 Definitions

- 1.3.1 ***“Effective Date”*** – means the date on which this bylaw is approved at Town Meeting.
- 1.3.2 ***“Fire Chief”*** – means the Fire Chief of the Town of Concord and shall include any designee of the Fire Chief.
- 1.3.3 ***“Fuel Oil”*** – means any liquid hydrocarbon product, other than gasoline, including without limitation home heating oil, number 2 fuel oil, and diesel oil.
- 1.3.4 ***“Owners or Operators”*** – means each and every person who alone or severally with others has legal title to any property on which is located any underground fuel storage system subject to this bylaw; or a tenant, licensee or person in possession, who has care, charge or control of any such property, in any capacity including without limitation as agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or agent, trustee or a person appointed by a court of competent jurisdiction; or a mortgagee in possession of such property. Each and every such person is bound to comply with the provisions of this bylaw as if he were an owner.
- 1.3.5 ***“Storage”*** – means the holding of any fuel oil for more than 24 hours.
- 1.3.6 ***“Storage System”*** – means one or more tank(s), and all connecting pipes, valves, or other devices appurtenant thereto.
- 1.3.7 ***“Underground Fuel Storage System”*** – means a system in which ten percent (10%) or more of the volume of tanks, connecting pipes, valves or other devices are buried below the surface of the ground unless otherwise specified by the Board of

Health. An underground fuel storage system shall not include (a) storage systems used to store motor fuel (including diesel) for commercial purposes, (b) a storage system situated upon or above the surface of the floor in an underground area, such as the basement of a home, or an underground vault having cement floor and cement sides.

Section 2. Registration of Existing Underground Fuel Storage System

- 2.1 Within six months of the effective date of this bylaw, the owner or operator of each underground fuel storage system shall file with the Fire Chief a form setting forth the size, type, age (with proof of age), contents and location of such system and pay a one-time registration fee to cover the administrative costs associated with the registration. This form shall be made available to the public by the Fire Chief. The age of the underground fuel storage system is to be measured from the date it was first installed. If the owner cannot document the age of the system to the satisfaction of the Fire Chief, it shall be presumed to have been installed seventeen years prior to the effective date of this bylaw. Upon satisfactory completion of the registration form and payment of the registration fee, the Fire Chief shall issue to the owner a registration tag, which shall be affixed by the owner to the fill pipe. Any changes in the information contained in the initial registration application, including any change in the use of the underground fuel storage system, shall be reported immediately by the owner to the Fire Chief.
- 2.2 Beginning six months after the effective date of this bylaw, each distributor of fuel oil who adds fuel oil to an underground fuel storage system without a registration tag shall notify the Fire Chief within 48 hours of such request of the existence and location of such system. It shall not be considered a violation of any provision of this bylaw for a fuel oil distributor to add fuel oil to an underground fuel storage system without a registration tag, provided the distributor notifies the Fire Chief in accordance with the provisions of this paragraph.

Section 3. Installation of Underground Fuel Storage System

- 3.1 In the absence of a variance granted by the Board of Health pursuant to Section 4, no underground fuel storage systems shall be installed in the Town of Concord after the effective date of this bylaw.

Section 4. Variances

- 4.1 The Board of Health may, after receiving comment from the Fire Chief, and after a public hearing, vary the application of this bylaw in accordance with the provisions of this section. Notice of the hearing shall be given by the Board of Health, at the applicant's expense, at least ten days prior thereto, by certified mail to all abutters to the property on which the tank is located, and also shall be given by publishing in a newspaper of general circulation in the town. The notice shall include a statement of the variance sought and the reasons therefor. Any grant or denial of a variance shall be in writing and shall contain a brief statement of the reasons for the grant or denial. If granted, a variance from the provisions of Section 3.1 regarding the time for removal will give an owner an additional three years to comply with the Bylaw's removal requirements. Only one three-year variance will be available for any underground fuel storage system.
- 4.2 In considering the variance request, the Board of Health shall take into consideration factors such as the type of the proposed underground fuel storage system, direction of the

groundwater flow, soil conditions, depth to groundwater, size, shape and slope of the lot, and proximity of existing and potential water supplies. No variance shall be granted unless the Board of Health finds that the variance, as granted, would result in substantially the same degree of environmental protection as required by this bylaw.

Section 5. Administration and Enforcement

5.1 This bylaw shall be administered by the Fire Chief.

5.2 Any owner or fuel oil distributor who violates any provision of this bylaw shall be subject up to a fine for each offense as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended. Each day during which such violation continues shall constitute a separate offense. Upon request of the Board of Health, the Town Manager may take legal action as may be necessary to enforce this bylaw.

Section 6. Severability

6.1 Each provision of this bylaw shall be construed as separate, to the end that if any part or sentence, clause or phrase shall be held invalid for any reason, the remainder shall continue in full force and effect.

Section 7. Conflict with APP #22

7.1 To the extent of any discrepancy between this bylaw and the relevant provisions of Administration Policy and Procedure #22, this bylaw shall control.

Article 43, Town Meeting, April 1993

Article 64, Town Meeting, April 2006

(see also APP #22, Storage of Inflammable Materials and Explosives, 6/19/80)

**TOWN OF CONCORD
MASSACHUSETTS**

UNREGISTERED MOTOR VEHICLES BYLAW

VOTED: that the Town adopt the following bylaw relating to the keeping of unregistered motor vehicles.

1. Except as may be provided herein, not more than one unregistered motor vehicle shall be placed, stored or kept on property except property used for business or industrial purposes. No unregistered motor vehicle shall be stored, placed or kept on a "paper street" or a private way. All privately owned unregistered motor vehicles shall be stored, placed and kept on private property.
2. Subject to the conditions herein set forth, the Board of Selectmen may issue a permit authorizing an applicant to place, store or keep more than one such motor vehicle on such property.
3. Any such permit may be issued by the Board of Selectmen only after said board has
 - a. held a public hearing on the application therefor, fourteen days' notice of the time, place and subject matter of which has been given at the expense of the applicant
 - (i) by publication in a newspaper of general circulation in the Town and
 - (ii) by registered or certified mail to the last known address of all owners of land abutting upon the property in question as appearing upon the assessors' most recent tax list, and
 - b. determined that the presence of more than one such motor vehicle on such property
 - (i) will not constitute a danger to the safety and welfare of the inhabitants of the Town, and
 - (ii) will not create or continue a condition detrimental and injurious to the neighborhood in which the property in question is located.
4. Each such permit that may be issued by said board
 - a. shall be issued as a personal privilege of the applicant and not as a grant attached to and running with the land, and
 - b. shall include a reasonable time limit but not for a period longer than five years, and
 - c. may specify a location on the property where such motor vehicle or vehicles will not be exposed to the view of abutting residents or the general public.

5. This bylaw does not apply
 - a. to motor vehicles in enclosed buildings, or
 - b. to motor vehicles on property where the principal business use is a farm, garden or nursery use provided such motor vehicle is necessary to the operation of such business.
6. The enforcing authority under this bylaw shall be the Concord Police Department.
7. The enforcing authority shall give written notice of any violation of this bylaw to the person committing the violation. Thirty days after receipt of such notice of violation, the person receiving the notice shall be liable to a penalty for each separate offense as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended. Each day of a continuing violation shall constitute a separate offense.

Article 52, Town Meeting, March 1966
Article 21, Town Meeting, March 1971
Article 64, Town Meeting, April 2006

TOWN OF CONCORD MASSACHUSETTS

WATER DEPARTMENT REVOLVING FUND BYLAW

VOTED: that the Town, acting under the provisions of Article II of the Amendments to the Constitution of the Commonwealth of Massachusetts, commonly called the Home Rule Amendment, will adopt the following bylaw regarding a Water Department Revolving Fund in the Town of Concord.

Section 1.

The Town of Concord hereby establishes in the Town Treasury an individual revolving fund (hereinafter called "Water Fund") for its Water Department (hereinafter called "Department"). All receipts of the Department shall be credited to the Water Fund. This Water Fund shall be kept separate from any other monies or funds of the Town, and shall be expended only for those purposes outlined below.

Section 2.

There shall be a fixed schedule of prices or rates established by the Public Works Commission acting as the Water Commissioners for water which shall not be changed more often than once each year. Changes in the rates shall not be made unless the proposed new rates are first published in newspapers in general circulation in Concord and considered at a public hearing held for this purpose. No price or rate in said schedule shall be fixed at less than production cost as it may be determined by the Town Manager and approved by the Water Commissioners. The schedules of prices and rates shall be established to yield a zero balance after the payment of all operation and maintenance expense, principal and interest on outstanding debt, and an accrued reserve for replacement not to exceed two percent (2%) of the cost of the plant per annum. The cost of the plant will be determined by the Town Manager and approved by the Water Commissioners, and be based upon the actual capitalization of all land, structures, reservoirs, transmission systems, distribution systems, machinery and equipment, and all other classifications comprising the total department. If a surplus exists then the schedule of prices or rates will be revised to maintain a zero balance. The water used by the Town of Concord in its public buildings shall be charged for in accordance with the prices of the fixed schedules.

Section 3.

The income from sales, jobbing and the above mentioned appropriation shall be received by the Town Collector, and shall be used by the department to pay the annual expenses of the plant, to make payments on the indebtedness of the plant, and to set up the depreciation and sinking fund accounts which will be kept and managed as separate funds for reconstruction, renewals, extensions, improvements, major repairs, enlargements, additions or similar purposes. The general authority to manage and expend the fund for the ensuing year by the Town Manager will require approval by the Town at the annual Town Meeting. The accounting system to be used for keeping the department accounts will be the Uniform System of Accounts, prescribed by the Department of Public Utilities for private water

companies, which will reflect on a monthly basis, the status of all accounts and the financial position of the department.

Interest earned on monies raised by the issuance of bonds and notes in anticipation of receipt of state or federal grants shall be received by the Town Treasurer and credited to said fund to be expended in the same manner as other income of the fund.

Section 4.

Nothing in this act shall prevent the Town of Concord from appropriating funds for repairs, improvements, extensions or additions to the water system over and above those programmed under the revolving fund. These appropriations will be treated as special deposits on the department books and administered by the Town Manager for the specific purposes for which they were appropriated. Any balance after completion of the project will be returned to the General Fund by the department. Nothing in this act shall prevent the Town of Concord by a two-thirds (2/3) vote at an annual Town Meeting from transferring funds from the accumulated sinking fund of the department to reimburse the Town for funds which may be appropriated and used for department projects as outlined herein. The department is expressly allowed to accept grants or gifts for department projects.

Section 5.

This bylaw shall take effect upon its acceptance by a majority vote of the qualified voters of the Town present and voting thereon at the annual Town Meeting or any special Town Meeting called for the purpose. The receipts of the department for the year in which this bylaw is accepted will be retained by the department and will constitute the working capital to establish the fund. This bylaw supersedes any bylaw which is in conflict to it.

Section 6.

If this bylaw is accepted, it may only be revoked by the Town by a majority vote of the qualified voters of the Town present and voting thereon at the annual or any special Town Meeting called for the purpose three years after the year in which the bylaw is accepted.

Article 38, Town Meeting, May 1974
Article 6, Town Meeting, April 1981
Article 36, Town Meeting, April 1985

TOWN OF CONCORD MASSACHUSETTS

WATER USE RESTRICTION BYLAW

Section 1. Authority

This Bylaw is adopted by the Town of Concord under its police powers to protect public health and welfare and its powers under Massachusetts General Laws, Chapter 40, §21 et seq and implements the Town's authority to regulate water use pursuant to Massachusetts General Laws, Chapter 41, §69B. This bylaw also implements the Town's authority under Massachusetts General Laws, Chapter 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

Section 2. Purpose

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

Section 3. Definitions

Person shall mean any individual, corporation, trust, partnership or association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under Massachusetts General Laws, Chapter 21G, §§15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 4 of this Bylaw.

Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

Section 4. Declaration of a State of Water Supply Conservation

The Town, through its Public Works Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Commission that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Supply Conservation shall be given under Section 6 of the Bylaw before it may be enforced.

Section 5. Restricted Water Uses

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 6.

- a) Odd/ Even Day Outdoor Watering – Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.

- b) Outdoor Watering Ban – Outdoor watering is prohibited.
- c) Outdoor Watering Hours – Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- d) Filling Swimming Pools – Filling of swimming pools is prohibited.
- e) Automatic Sprinkler Use – The use of an outdoor sprinkler system which turns on and off automatically is prohibited.

Section 6. Public Notification of a State of Water Supply Conservation: Notification of DEP

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under Section 5 shall not be effective until such notification is provided to the Massachusetts Department of Environmental Protection.

Section 7. Termination of a State of Water Supply Conservation: Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Public Works Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 6.

Section 8. State of Water Supply Emergency: Compliance with DEP Orders

Upon notification of the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Water Supply Emergency.

Section 9. Penalties

Any person violating the Bylaw shall be liable to the Town in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation which shall inure to the Town. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with §21D of Chapter 40 of the Massachusetts General Laws. Each day of violation shall constitute a separate offense.

Section 10. Severability

The invalidity of any portion or provision of this Bylaw shall not invalidate any other portion or provision thereof.

Section 11. In-Ground Irrigation System Restrictions

- a) All automatic lawn watering systems connected to the public water supply must be equipped with a timing device that can be set to make the system conform with the Town's time of use outdoor watering restrictions.
- b) All automatic lawn watering systems must be equipped with some type of moisture sensing device that will prevent the system from starting automatically when not needed.
- c) All automatic lawn watering systems must be installed with an approved backflow prevention device. Said device will be inspected initially and periodically thereafter by the Town.
- d) Any person or entity who now has, or who intends to install an automatic lawn watering system in the future, must notify the Water and Sewer Division of the existence of said system, or of their intention to install a new system prior to the actual installation. All systems, those currently in existence as well as any installed in the future, must comply with all Rules and Regulations of the Division.
- e) Any system not in conformance with the above rules may be disconnected from the public water supply system.

Article 28, Town Meeting, April 1995
Article 47, Town Meeting, April 2002

Town of Concord
TOWN OF CONCORD
MASSACHUSETTS

WETLANDS BYLAW

1. Purpose

The purpose of this Bylaw is to protect the Town of Concord's wetlands, water resources, flood prone areas, and adjoining upland areas including three major rivers, the Assabet, Sudbury, and Concord and their tributaries by prior review and regulation of activities deemed by the Concord Natural Resources Commission (the Commission) likely to have a significant or cumulative effect on resource area values. These resource area values include, but are not limited to, the following:

- public or private water supply
- groundwater
- flood control
- erosion and sedimentation control
- storm damage prevention
- water quality
- prevention and control of pollution
- fisheries
- wildlife habitat
- rare species habitat including rare plant and animal species
- agriculture

deemed important to the community (collectively, the "wetland resource area values protected by this Bylaw").

This Bylaw is subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant Bylaws of the Town of Concord.

2. Jurisdiction

Except as permitted by the Commission or as provided in this Bylaw or its Regulations hereunder, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas:

- 2.1 any freshwater wetland, marsh, wet meadow, bog, swamp, flat, bank, or beach bordering on any reservoir, lake, pond, perennial or intermittent stream, river, brook, or creek; and adjoining lands out to a distance of 100 feet known as the Buffer Zone;
- 2.2 any land under the aforementioned waterways and waterbodies;
- 2.3 any Certified Vernal Pool and adjoining lands out to a distance of 100 feet known as the Vernal Pool Habitat;
- 2.4 any perennial stream, river, brook, or creek; the land thereunder; and adjoining lands out to a distance of 200 feet known as the Riverfront Area, and;
- 2.5 any Land Subject to Flooding

(collectively the "resource areas protected by this Bylaw").

Concord Wetlands Protection Map

The Natural Resources Commission may refer to, and amend from time to time, a "Concord Wetlands and Certified Vernal Pool Protection Map" which shall be designed to illustrate the wetland resource areas (including Certified Vernal Pools) that may be jurisdictional under this Bylaw. The map is to be used as a general guide only. Field observations and/or engineering calculations shall control in determining jurisdiction under this bylaw.

3. Exemptions

The following exemptions shall apply and no application or permit is required for:

3.1 The following activities in the 100-foot Buffer Zone (which includes the 25-foot No-Disturb Zone) or the 200-foot Riverfront Area provided the activity is not within any other resource area; there is no regrading; no trees greater than 6 inches diameter breast height are removed; there is no alteration to additional resource areas; and erosion and sedimentation controls are used as needed or as determined by the Commission or agent of the Commission:

- a. Maintaining and repairing existing buildings and structures provided that:
 - i. the footprint remains the same;
 - ii. there is no additional alteration of any resource areas; and
 - iii. there is no heavy equipment or stockpiling within 50 feet of resource areas;
- b. Constructing, maintaining, and repairing unpaved pedestrian walkways for private use provided no use of fill material;
- c. Maintaining and repairing existing stonewalls;
- d. Maintaining and constructing new fencing provided that:
 - i. it is greater than 50 feet from the edge of the wetland boundary or 50 feet from the mean annual high water line of a perennial stream (whichever is farther);
 - ii. it does not constitute a barrier to wildlife movement (i.e. the fence is greater than 6 inches from the ground surface);
- e. Stacking cordwood;
- f. Conversion of lawns to decks, sheds, patios, and pools that are accessory to residential structures, provided the activity, including any discharge pipes, is located more than 50 feet from the mean annual high water line or bordering vegetated wetland (whichever is farther). The conversion of such uses, or other impervious surfaces accessory to existing single family houses to lawn or natural vegetation is also allowed;
- g. Activities, such as monitoring wells, exploratory borings, soil sampling, and surveying, that are temporary, have negligible impacts as determined by the Commission, and are necessary for planning and design purposes;
- h. Planting native species of trees, shrubs, or groundcover (excluding turf lawns).
- i. Vista pruning, provided the activity is located more than 50 feet from the mean annual high water line within a riverfront area or from bordering vegetated wetland, whichever is farther.

3.2 The following activities are exempt in any resource area and Buffer Zone:

- a. Routine mowing (including river meadows) and maintenance of lawns, gardens, and landscaped areas (including tree pruning), in existence on the effective date of this Bylaw or which are created after such date in accordance of the terms of this Bylaw;
- b. Work performed for normal maintenance or improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations as 310 CMR 10.00; and Removal of dead and dying trees, as confirmed by the Natural Resource Director or a certified arborist and documented to the Commission within 30 days of removal; and
- d. Fencing around existing vegetable gardens that is flush or below ground.

3.3 Emergency Projects

Permits shall not be required for 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 Bylaw, if deemed necessary by the Commission. 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.

3.4 Utilities and Roads

Permits 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 to provide electric, gas, water, sewer, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission 14 days prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in Regulations adopted by the Commission.

The applications and permits required by this Bylaw shall not be required for maintaining and repairing existing and lawfully located existing roads (excluding bridges and culverts) provided that:

- a. there is no increase in impervious surface;
- b. there is no additional alteration of resource areas;
- c. written notice has been given to the Division of Natural Resources 14 days prior to commencement of work;
- d. erosion and sedimentation controls are used as necessary.

4. **Definitions**

Except as otherwise provided in this Bylaw or the Regulations hereunder, the definitions of terms and the procedures in this Bylaw shall be as set forth in the Wetlands Protection Act (M.G.L. Ch. 131 §40) and Regulations (310 CMR 10.00), as now in effect. In addition, the following definitions shall apply in the interpretation and implementation of this Bylaw.

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

- 4.1 Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- 4.2 Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- 4.3 Drainage, or other disturbance of water level or water table;
- 4.4 Dumping, discharging, or filling with any material which may degrade water quality;
- 4.5 Placing of fill, or removal of material, which would alter elevation;
- 4.6 Driving of piles, erection or expansion of buildings or structures of any kind;
- 4.7 Placing of obstructions or dam-like objects in water;
- 4.8 Destruction of plant life including removal of trees and shrubs;
- 4.9 Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
- 4.10 Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- 4.11 Incremental activities that have, or may have, a cumulative adverse impact on the resource areas protected by this Bylaw.

The term "vernal pool" is defined as any confined basin or depression which has been certified by the Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression.

The term "vernal pool habitat" is the area within 100 feet of a Certified Vernal Pool, which provides essential habitat for vernal pool species to complete their life cycle.

The term "vista pruning" means the selective thinning of tree branches or understory shrubs to establish a specific "window" to improve visibility. Vista pruning does not include the cutting of trees which would

reduce the leaf canopy to less than 90% of the existing crown cover and does not include the mowing or removal of understory brush.

5. Applications and Fees

5.1 Application.

Written application shall be filed with the Commission to perform activities subject to this Bylaw. This application shall include the information and plans set forth in the Rules and Regulations of the Commission.

5.2 Request for Determination of Applicability.

Any person desiring to know whether a proposed activity or an area is subject to this Bylaw may in writing request a determination from the Commission. The Commission shall accept a Request for Determination of Applicability (RDA) under the Wetlands Protection Act as a request under this Bylaw. Such a request for determination shall contain information and plans specified by the Rules and Regulations of the Commission. The Commission shall issue its order or determination in writing within 21 days of the close of the public hearing thereon unless the applicant authorizes an extension in writing. If the Commission determines that a proposed activity is subject to this Bylaw and issues a positive RDA, the applicant may file for approval as outlined in §§ 6.0 – 7.0 of this Bylaw.

5.3 Request for Wetland Resource Area Approval.

Any person desiring to certify, for purposes of this Bylaw, the limits of resource areas on a site may file a request for approval of resource area boundaries. This application shall include such information and plans as are set forth in the Rules and Regulations of the Commission to describe and define the wetland resource areas. The Commission shall accept an Abbreviated Notice of Resource Area Delineation (ANRAD) under the Wetlands Protection Act (M.G.L. Ch. 131 §40) as similar request under this Bylaw.

5.4 Independent Consultants.

The Commission may, at the expense of the applicant, retain an independent consultant for the purpose of providing the Commission with data, analysis, or other information deemed by the Commission to be reasonably necessary or appropriate to assist the Commission in reviewing the application or rendering its decision, in conformity with the provisions of M.G.L. Ch. 44 §53G and Rules and Regulations of the Commission. This is intended only to assist in reviewing large or complex projects.

6. Notice and Hearings

6.1 Notice.

Any person filing a Notice of Intent, Abbreviated Notice of Intent, or Abbreviated Notice of Resource Area Delineation, or an amendment to any of the above permits with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, 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 shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person filing any application is other than the owner, the request, the notice of the hearing and the determination shall be sent by the Commission to the owner as well as to the person making the request.

6.2 Public Hearing.

The Commission shall conduct a public hearing on any application and a public meeting on the Request for Determination of Applicability, with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in Concord. The

Commission shall commence the public hearing within 21 days from receipt of a completed permit application unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information or plans required of the applicant or others as deemed necessary by the Commission. In the event that 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.

- a. In order to provide sufficient review time the Commission may continue a public hearing or public meeting if new information is submitted by the applicant, or applicant's agent, less than seven (7) business days before the scheduled public hearing or public meeting.
- b. The Commission may combine its hearing under this Bylaw with the hearing conducted under the Wetlands Protection Act (M.G.L. Ch. 131 §40) and Regulations (310 CMR 10.00).

7. Permits and Conditions

7.1 Administrative Approvals.

Activities considered minor in scope and that would predictably have no measurable or cumulative impact upon the resource areas protected by this Bylaw, may be reviewed and permitted by the Natural Resource Director.

7.2 Decision.

If the Commission, after a public hearing and consideration of the general and specific factors set forth below, determines that the activities which are subject to the application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this Bylaw, the Commission, within 21 days of the close of the hearing, unless the applicant authorizes an extension in writing, shall issue or deny a permit for the activities requested. The decision shall be in writing.

7.3 Factors.

In making such a determination, the Commission shall take into account the following factors:

- a. the extent to which the applicant has avoided, minimized and mitigated any such effect;
- b. any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt; and
- c. foreseeable future activities.

Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

7.4 Specific Factors.

a. Buffer Zone

In reviewing activities within the Buffer Zone, the Commission shall presume the Buffer Zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat.

b. Riverfront Area

In reviewing activities within the Riverfront Area, the Commission shall presume the Riverfront Area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this Bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this Bylaw. The Commission shall regard as

practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

c. Resource Area Loss

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

d. Certified Vernal Pools

The Commission shall presume that all areas meeting the definition of "vernal pools" under §4.0 of this Bylaw, including the adjacent Vernal Pool Habitat, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the area does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.00).

e. Setbacks

The Commission shall presume that any activity or alteration within 25 feet of any freshwater wetlands, marshes, wet meadows, bogs, swamps, springs, banks, beaches, reservoirs, lakes, ponds, and lands under water bodies, intermittent streams, brooks and creeks, and perennial rivers and streams, has a significant individual or cumulative impact upon the resource area values protected by this Bylaw and shall be prohibited.

- i. This presumption may be overcome where applicant can clearly demonstrate with credible evidence the proposed activity or alteration would have no individual or cumulative impact upon any of the resource area values protected by this Bylaw in accordance with the Regulations hereunder. Alternatively, the Commission may waive the setback if it determines that an applicant satisfies the waiver requirements in §7.7.
- ii. The following shall not be subject to this setback presumption: Routine maintenance, repairs and construction on legally preexisting structures so long as there is no expansion in the structure; continuation of a legally preexisting use; or the construction and maintenance of publicly maintained trails that restrict the use of motorized vehicles. Maintenance, repairs, and construction shall be subject to all other requirements under this Bylaw and its Regulations hereunder.

7.5 Conditions.

Upon the issuance of a permit, the Commission shall impose conditions it deems necessary or desirable to protect said wetland resource area values, and all activities shall be conducted in accordance with those conditions.

7.6 Denial.

Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw. The Commission may also deny a permit:

- a. for failure to submit necessary information and plans requested by the Commission;
- b. for failure to comply with the procedures, design specifications, performance standards, and other requirements in Regulations of the Commission; or
- c. for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this Bylaw.

7.7 Waivers.

The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its Regulations, provided that:

- a. the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said Regulations;
- b. that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and
- c. that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

7.8 Expiration of Permit.

A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (ORAD) shall expire three years from the date of issuance. The Commission may extend a permit for one or more periods of up to three years each, upon written request from the applicant made at least 30 days prior to the expiration of the permit.

Notwithstanding the above, the Commission in its discretion may (a) 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, and (b) extend such permit for one or more periods of up to five years each, upon written request from the applicant made at least 30 days prior to the expiration of the permit. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

7.9 Revocation of Permit.

For good cause the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this Bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §6.0, and after a public hearing.

7.10 Amendment of Permit.

Amendments to any permit shall be handled in the manner set out in the Wetlands Protection Act Regulations (310 CMR 10.00) and policies thereunder. For good cause, the Commission may also modify its determination of any resource area boundary delineation established in an ORAD at the time of issuance of any Order of Conditions for any activity or project on the same site; the issuance of an ORAD shall not be considered final action on such a boundary delineation request.

7.11 Recordation of Permit.

No work proposed in any application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Middlesex (South) Registry of Deeds or, if the land affected is registered land, in the registry section of the land court for the Middlesex (South) Registry of Deeds, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

8. Regulations

After public notice at least 14 days prior to public hearing, the Natural Resource Commission may promulgate such Rules and Regulations to effectuate the purpose of this Bylaw, effective when voted and approved by a majority vote of Town Meeting, and filed with Town Clerk. Failure by the Commission to promulgate such Rules and Regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.

9. Compliance

9.1 Scope.

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

9.2 Entry.

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

9.3 Enforcement.

The Commission shall have authority to enforce this Bylaw, its Regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under M.G.L. Ch. 40 §21D, and civil actions. Any person who violates provisions of this Bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

9.4 Legal Action.

Upon request of the Commission, the Town Manager, Board of Selectmen and Town Counsel may take legal action for enforcement under civil law.

9.5 Fines.

The Natural Resources Director or other designee of the Town Manager may issue a fine for each offense as specified in this Bylaw and in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended.

As long as any person in violation demonstrates a reasonable, good faith effort to comply with this Bylaw, the Natural Resources Director shall refrain from issuing fines. However, the Natural Resources Director shall resort to issuing fines when the violator ceases to demonstrate a reasonable, good faith effort toward achieving compliance. This provision does not preclude the Natural Resources Director from issuing fines and the Commission from simultaneously ordering mitigation or restoration of the affected resource area(s).

a. Fine Schedule

Any person who violates any provision of this Bylaw, Regulations, permits, or administrative permits issued hereunder, may be subject to the following fine schedule:

- i. \$100 per day for the first offense;
- ii. \$200 per day for the second offense;
- iii. \$300 per day for the third and subsequent offense.

Each day or a portion thereof during which a violation continues shall constitute a separate offense, and each provision of the Bylaw, Regulations, or permit violated shall constitute a separate offense, provided, however, that the accelerating penalty schedule for second, third and subsequent offenses set forth above shall not apply to continuing violations or violations of multiple bylaw provisions arising out of the same activity.

b. Appeals.

In addition to the appeal provisions under M.G.L. Chapter 40, §21D, persons fined may appeal in writing to the Commission within 21 days. The Commission shall vacate fines where compliance has been established or, their issuance is inconsistent with the interests of this Bylaw. The Commission shall suspend fines as long as the person in violation demonstrates a

reasonable, good faith effort toward obtaining compliance. The Commission may restore suspended fines at any time during an existing violation. This provision does not preclude the issuance of fines in conjunction with orders for restoration or mitigation.

10. Burden of Proof

Except where a higher burden of proof is specified in this Bylaw or Regulations adopted by the Commission, 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 or cumulative effect upon the resource area values protected by this Bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

11. Appeals

A decision of the Commission shall be reviewable in the superior court in an action filed within 60 days thereof, in accordance with M.G.L. Ch. 249 §4 as amended .

12. Relation to the Wetlands Protection Act

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

13. Severability

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

Provided that this Bylaw shall not be applicable to activity that is the subject of a Notice of Intent filed with the Commission pursuant to the provisions of said Wetlands Protection Act (M.G.L. Ch. 131 §40) before May 6, 2009.

Article 43, Town Meeting, April 29, 2009
Approved by Attorney General September 8, 2009