

# ***TOWN OF LUDLOW***

## ***BYLAWS***



As amended through May 10, 2021

**TOWN OF LUDLOW**  
**COUNTY OF HAMPDEN**  
**COMMONWEALTH OF MASSACHUSETTS**

Herewith are the approved Bylaws of the Town of Ludlow arranged in two parts and according to subject as follows:

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# CHAPTER I

## REGULATING THE GOVERNMENT OF THE TOWN

**SECTION 1:** The following provisions shall constitute the General Bylaws of the Town of Ludlow, which shall be in lieu of all Bylaws, amendments, and changes heretofore in force; except Bylaws or other regulations relating to the use of land (CH.5) By-laws regulating the construction of building (CH.6) and regulating salaries (CH.7); said Chapters 5,6 and 7 are Bylaws presently in force and printed in separate booklets. The term "Annual Town Meeting" used in the By-Laws shall only apply to the Annual Town Meeting regularly held on the second Monday of May. The Fall Town Meeting held annually in October is classified as a "Special Town Meeting" **(amended October 6, 2003 art 2 )**

**SECTION 2:** The Selectmen shall insert in every Spring Annual Town Meeting Warrant an article calling for the report of all outstanding committees.

**SECTION 3:** After acceptance of these or any Bylaws by the Town and the Attorney General's Office, posting of same on the official bulletin board at the Town Hall, and posting on the bulletin boards on the exterior of the polling places in each of the Town precincts, also notice inserted once a week for three consecutive weeks in a newspaper having general circulation within the Town, stating that "such Bylaws have been posted according to the Bylaws and copies are available at the Town Clerk's Office" shall constitute necessary procedure for adoption unless otherwise specifically outlined in the General Laws. The Town Clerk shall certify that such procedure has been followed.

**SECTION 4:** The invalidation of any section or paragraph in these Bylaws shall not invalidate any other section or paragraph.

**SECTION 5:** Such repeal of the presently existing Bylaws as above mentioned is not to be effective until the effective date of these Bylaws which shall be 12:01 a.m. on the first day of the month following the certification date by the Town Clerk as required in "Section 3" of this chapter.

**SECTION 6:** The Annual Town election will be held on the fourth Monday in March on which day shall be held the Annual Election of Town officers and the determination of such matters as are required to be determined by ballot.**(amended 10/4/99)**

**SECTION 7:** The polls shall be opened not later than ten o'clock in the morning and shall not be closed earlier than eight o'clock in the evening. This provision shall also apply to all elections and primaries, unless otherwise provided by General Laws.

**SECTION 8:** The Annual Town Meeting shall meet regularly on the second Monday of May at 7:30 p.m. to consider and adopt an annual operating and capital budget, and to act upon such other business as may properly come before the meeting, except the election of officers and the determination of such matters as are required by law to be determined by ballot. The October Special Town Meeting shall meet regularly on the first Monday of October at 7:30 p.m. to consider and act on matters of planning, zoning, subdivision control, and all other matters of a bylaw nature, as well as to consider and act upon such other business as may properly come before the meeting. **(Added 10/4/99)**

**SECTION 9:** Notice of every Annual or Special Town Meeting shall be given by a constable of the Town by posting attested copies of the warrant on the bulletin boards as provided for in "Section 3" of this chapter at least seven days before the day fixed for the meeting and fourteen days before any Special Town Meeting.



**SECTION 10:** The Town Clerk shall deliver, by mail or otherwise, a copy of these Bylaws to each Town Meeting Member within seven (7) days of his election to such office for the first time, as shown on the records of the Town Clerk.

**SECTION 11:** Any article inserted in the warrant for a Town Meeting under which an appropriation of money may be made, other than the ordinary annual budget article, shall have appended to such article the name of the first person signing such request and the words "and others". Each article inserted in the warrant shall be accompanied by supporting documentation clearly explaining the purpose of the Article. The Town Clerk shall deliver, by mail or otherwise, a copy of all supporting documentation to each Town Meeting Member, concurrent with delivery of the warrant.

This provision shall not apply to articles which are placed on the warrant pursuant to petition provisions of Massachusetts General Laws, Ch. 39, S. 10.

**SECTION 12:** The time for filing of written requests with the Selectmen by ten (10) or more registered voters for insertion of subjects in the warrant for the Annual Town Meeting shall close not more than ninety (90) days before the time of holding said meeting.

- a. The Selectmen shall insert in the Warrant for every Special Town Meeting all subjects the insertion of which shall be requested by them in writing by one hundred registered voters or by ten percent of the total number of registered voters of the town, whichever is the lesser.
- b. The Selectmen shall call a Special Town meeting upon request in writing, of two hundred (200) registered voters or of twenty per cent of the total number of registered voters of the town, whichever number is the lesser; such meeting to be held not later than forty-five days after the receipt of such request, and shall insert in the warrant therefore all subjects the insertion of which shall be requested by said petition.

The written requests of registered voters for the insertion of subjects in Town Meeting Warrants shall not be valid unless the required number of registered voters not only sign their names but also state their residence, with street and number, if any. **(added Oct 6, 2003 art 4)**

Copies of all articles in the warrant for an Annual or Special Town Meeting shall be immediately forwarded by the Selectmen to the Finance Committee for their consideration.

**SECTION 13:** The Finance Committee shall be composed of nine (9) members, (amended from 15 to 9 members 10/07/02) the term of office to be three years. The terms of one-third of the members shall expire at the dissolution of the Spring Annual Meeting. The Moderator shall forthwith appoint sufficient members to fill the vacancies. The Moderator shall fill all vacancies caused by resignation of a Finance Committee Member. Upon notice to the Town Clerk by the Finance Committee that a member has missed three consecutive meetings, for reasons other than sickness, the Town Clerk shall certify to the Moderator that the member is presumed to have resigned.**(amended 10/07/02)**

**SECTION 14:** No action shall be taken at any meeting appropriating or involving the expenditure of money, the creation of a debt or the disposal of property of the Town, except under Ch. 11, S. 19 of these Bylaws, until the proposition has been referred to the Finance Committee, a public hearing held and a report made thereon.

**SECTION 15:** The Selectmen shall publish as early as possible a notice of their intent to call a Special Town Meeting. The notice shall state the intended date of the Special Town Meeting and the date on which the warrant for same shall be closed.

**SECTION 16:** No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant for such meeting has been disposed of.

**SECTION 17:** An elected officer of the Town shall hold only one elective office at any one time, unless provided otherwise in these Bylaws.

**SECTION 18:** All motions having to do with the expenditure of money shall be in writing if so directed by the Moderator.

**SECTION 19:** Deleted March 22, 1965.

**SECTION 20:** An amended amendment shall not be amended and no motion or proposition of a different subject from that under consideration shall be entertained under color of an amendment.

**SECTION 21:** All voting in Town Meeting shall be by show of hands. If the result is in doubt, or if a vote declared by the Moderator is immediately questioned by seven or more Town Meeting Members, the Moderator shall divide the meeting by taking a standing vote.

If a two-thirds (2/3) vote for an action at a Town Meeting is required by statute, the moderator in accordance with General Laws Chapter 39, Section 15, as amended, may dispense with the requirement for taking a count of the vote if the moderator, in his discretion and without taking a count, determines that two-thirds of those voting supported the action. **(added 10/2/00)**

**SECTION 22:** The Moderator may decline to entertain obviously frivolous motions.

**SECTION 23:** Any person who is employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking thereon.

**SECTION 24:** Immediately after the dissolution of any Annual or Special Town Meeting the Town Clerk shall release to the press a list of those Town Meeting Members absent from said Town Meeting, identifying them by name and precinct.

**SECTION 25:** The Moderator may direct to any person in the hall a specific request by a Town Meeting Member for information pertaining to the question under consideration.

**SECTION 26:** In conducting Town Meetings, when a motion for reconsideration is decided, that decision shall not be reconsidered. Notice of reconsideration and/or a motion for reconsideration may be made by any Town Meeting Member.

**SECTION 27:** The Moderator, while occupying the chair, shall not participate in any discussion during the meeting.

**SECTION 28:** Every voter speaking upon a subject in a meeting shall confine his remarks to the question before the meeting, avoid personalities and be seated when he has finished.

**SECTION 29:** No person shall speak more than twice upon a question except to correct an error or make an explanation without first obtaining leave of the meeting nor until others who have not spoken upon the question shall speak if they so desire.

**SECTION 30:** When a motion is readily susceptible of division it shall be divided and the vote upon each part taken separately, provided the Moderator deems it best or seven Town Meeting Members present so request.

**SECTION 31:** The duties of the Moderator and the government of the Town Meeting not specifically provided for by law, may be determined by rules of practice contained in "Town Meeting Time" by Johnson, Trustman and Wadsworth.

**SECTION 32:** All committees, except as otherwise provided by law or by bylaw or by vote of the Town, shall be appointed by the Moderator as soon as may be after the passage of the vote creating the committee. Unless otherwise provided, the first named member of a committee shall immediately call all members of the committee together for the purpose of organization, and each committee shall thereafter proceed with its duties and report to the Town at the next Spring Annual Town Meeting. All members of a committee which fails or neglects to make a report at such Annual Town Meeting shall by such failure be held to have resigned and without further action or vote new members shall be appointed by the original appointing power, unless other action is taken by express vote of the Town Meeting. The member of any committee who fails to attend any three consecutive meetings called by the committee may have his name certified to the Town Clerk by the remaining members of the committee. The Town Clerk shall notify the said member and the appointing authority that a vacancy exists by reason of absence. **(Amended 4/8/96 ATM)**

All committees shall file with the Town Clerk the minutes of all regularly called meetings, together with the names of all members in attendance, except any portion thereof held in "Executive Session". The minutes are to be filed within 10 days after being accepted by its committee.

**SECTION 33:** A vote to accept a report of a committee (except a vote of progress) shall unless otherwise provided, discharge the committee, but it shall not operate as an adoption of the recommendations of such committee without an express vote duly passed to that effect.

**SECTION 34:** Registered voters who are not Town Meeting Members shall conduct themselves under the following rules:

**Rule 1:** These rules shall be read by the Moderator to the assembled voters of the Town at every Annual Meeting, every Special Meeting and at any adjournment thereof, before any meeting shall proceed to the business of the Town Meeting.

**Rule 2:** Any voter who is not a Town Meeting Member may speak, subject to the same limitations and restrictions that apply to Town Meeting Members.

**Rule 3:** Any voter of the Town, not a Town Meeting Member, may present a motion or an amendment to a motion providing he reduce said motion or amendment to writing and hand it to a Town Meeting Member elected from the precinct in which the mover resides. It shall be the duty of the Town Meeting Member who receives such motion or amendment to a motion to present said motion or amendment to the meeting for its action; but he shall not be considered the sponsor thereof and shall be free to speak, vote and act as he may deem proper under the circumstances.

**SECTION 35:** The Town Meeting shall, by by-law, provide for the establishment of standing committees, a majority of the members of which shall be composed of persons elected to the Town Meeting. Such committees as Town Meeting deems expedient shall be created and said committees shall be assigned all articles, the subject matter of which comes under their jurisdiction, for a recommendation before final action is taken. All committees shall conduct open public hearings on matters assigned to them to provide the public with the opportunity to discuss their views concerning such matters. Committees established under these provisions shall consist of an odd number of persons appointed for fixed terms. **(Added 4/13/92 ATM)**

**SECTION 36: Display of flag, Pledge of Allegiance**

1. **Display of the Flag:** In all meetings of elected or appointed Town committees and Boards that are subject to the Massachusetts Open meeting Law, M.G.L. Ch. 39, s 23A-24, an American flag shall be displayed.

a. Such flag shall be a suitable size for the room so as to be visible by all persons attending the meeting, but in no instance shall it be smaller than two square feet in size. In design and construction it shall conform to the requirements of title 4, Sec 1 & 2 of the United States code, and Executive order 10834, of august 21, 1959.

b. Such flag shall be displayed with suitable dignity, and in accordance with official flag protocol, 4 U.S.C. s 5-8.

c. If the meeting is televised on Cable Access, the flag shall be placed so as to be within camera view.

2. **Pledge of Allegiance:** In all meetings of elected or appointed Town Committees and boards that are subject to the Massachusetts Open Meeting law, M.G.L. Ch. 39, s 23A-24, upon calling the meeting to order and prior to conducting any business, shall recite the Pledge of Allegiance to the Flag. The Pledge shall be delivered in the manner specified by 4U.S.C. s 4.

[see ATG disapproval of deleted underlined sections in permanent record book located in Town Clerk's office)

**(added 10/04/2004)**

## CHAPTER II

### Regulating the Conduct of Town Business

**SECTION 1:** The Town Clerk shall furnish for publication in the Annual Town Report an abstract of the official records of all Town Meetings held during the preceding year. The Town Clerk shall also furnish an abstract of the vital statistics for the preceding year.

**SECTION 2:** All meetings of every Town board, commission and committee, including the School Committee, shall be open to the public and to the press unless such board, commission, committee or School Committee shall vote to go into executive session.

**SECTION 3:** The Selectmen shall cause to be printed and ready for distribution at least seven (7) days before the Spring Annual Town Meeting, a report giving detailed statements of the receipts and expenditures of all Town officers, committees, commissions and boards, who have had the charge of expenditures of Town funds for the financial year immediately preceding. Said report shall also contain the records and reports to the Selectmen of all official boards, committees, commissions, town officers and librarian for the preceding year.

**SECTION 4: (Amended 5/8/2017, Art 13 ATM)**

**SECTION 5:** The Town Clerk shall on or before the tenth of January prior to each Spring Annual Town Meeting, notify in writing the chairman of any committee which has made no report to the Town since the last Spring Annual Town Meeting that some report will be expected at the coming Spring Annual Town Meeting.

**SECTION 6:** Whenever any report of any committee is presented to the Town, the Clerk shall cause to be entered upon the regular records of the meeting such portions of the report only, if any, as may be necessary for the understanding of the action taken by the Town, and unless the report has been printed in full in the Town Report, the Clerk shall cause same to be entered in full, in a book provided for the purpose, which shall be called the book of reports. The regular record of the meeting shall also make references to the number of the report as entered in the Book of Reports.

**SECTION 7:** The Board of Selectmen shall determine and establish charges to be made to residents and non-residents for copies of the Town Bylaws, Zoning Bylaws and any or all other Town documents for which, in their opinion, a charge should be made.

**SECTION 8:** All boards, officers, commissions, committees or departments which adopt or promulgate rules or regulations or have heretofore adopted or promulgated the same, shall within ten days file a copy thereof with the Town Clerk for a permanent record. Whenever there are additions to or amendments of any such rules and regulations, the board, officer, commission, committee or department responsible thereof shall file with the Town Clerk a new and complete copy of such rules and regulations in substitution for the copy already on file.

**SECTION 9:** Whenever it shall be necessary to execute any deed conveying land or any other instrument required to carry into effect any vote of the Town, the same shall be executed by the Treasurer on behalf of the Town, unless the Town shall otherwise vote in any special case.

**SECTION 10:** The Treasurer shall be the custodian of all bonds and insurance policies belonging to the Town, except that the surety bonds of the Treasurer and Tax Collector shall be in the custody of the Town Clerk.

**SECTION 11:** The Treasurer, with the approval of the Selectmen, is authorized to sell at public auction all or any of the Town property acquired by virtue of sale for nonpayment of taxes, which sales have been confirmed by the Land Court or the Tax Commissioner, and to give deeds therefor.

**SECTION 12:** The Town Treasurer shall be a member, ex-officio (without vote) of any Board or Committee appointed by or on behalf of the Town, for the purpose of planning a project which involves the borrowing of money on behalf of the Town.

**SECTION 13:** The Town Accountant shall be an ex-officio member (without vote) of the Finance Committee.

**SECTION 14:** The Town Accountant shall keep a listing by department, board, committee, commission or officer, of all:

- a. For internal control, fixed assets owned by the Town that have a value of \$10,000.00 or more.
- b. For accounting purposes, assets greater than \$20,000.00 in value, i.e. vehicles, machinery, equipment.
- c. For accounting purposes, the Town will also include in its inventory, infrastructure in excess of \$150,000.00 including land, buildings, building improvements and facilities.

The Town Accountant shall formulate and set up such procedures as deemed necessary to complete such inventory. The Town Accountant shall require an inventory each year, and all boards, or officers of the Town shall comply with such request. The Town Accountant shall be notified immediately by all boards, committees, commissions or officers of any disposal or acquisition of capital items such as those described in items a,b,c, above. **(Amended 11/18/2002) (Amended 5/10/2021, A5, STM)**

**SECTION 15:** No board or officer shall make any contract on behalf of the Town, the execution of which shall necessarily extend beyond three years from the date thereof, except as otherwise provided by law, unless specific authority to do so has been given by vote of the Town.

For Example see Art. 11, Special Town Meeting, February 11, 1991 RE: Agreement for recycling, composting of solid waste.

**SECTION 16:** No officer or board of Town Officers having the power or authority to appoint any Town Officer or agent shall appoint himself or any member of such board to a salaried office or position, but this shall not prohibit any Town Officer from being chairman or clerk of the board of which he may be a member.

**SECTION 17:** See Article 4, Special Town Meeting, June 4, 1990 - Uniform Procurement Act, Chapter 30B.

**SECTION 18:** Every contract for construction work, whether for alterations, repairs or original construction, shall comply with bond requirements as outlined in Massachusetts General Laws, c. 149-Building Construction Contracts and c.30,sec 39M-Public Works (Non-Building) Construction Contracts (with labor).(amended 05/11/2015)

**SECTION 19:** Any board or officer in charge of a department of the Town may, with the approval of the Selectmen and the Town Accountant, sell any personal property of the Town within the possession or control of the department which has become obsolete or is not required for further use by the department, and which does not, in the opinion of the Selectmen, exceed \$500.00 in value.

**SECTION 20:** All registered vehicles owned by the Town of Ludlow shall display a permanently displayed decal of the Town Seal and designated department on a clearly visible exterior location of said vehicle, within thirty (30) days after receipt of said equipment.

**SECTION 21:** The Building Commissioner/Inspector may order numbers to be affixed to any dwelling or building, on all streets, at his discretion. The owner of every building shall comply with such order within ten days after notice thereof.

1. Numbers must be not less than four (4") inches high in blocked face and shall be displayed in a conspicuous place on the building. If the building has a set back of seventy-five (75") feet or more from the road or view is concealed from the road, numbers must be displayed on a sign post approximately five feet (5') high, at the beginning of the driveway. The signpost shall not interfere with road maintenance or snow plows. **10/04/1999**

**SECTION 22: (Amended 5/8/2017, Art 19 ATM)**

**SECTION 23:** The Board of Selectmen shall charge the following fees for storage permits granted under the authority of Chapter 148, Sections 9 and 13 of the Massachusetts General Laws as amended:

(a) To manufacture, keep, store and use crude petroleum or any of its products, any explosive or inflammable fluid or any inflammable compound not for resale:

	Original Lisc Fee	Annual Reg Fee
Up to 2,000 gals. Or up to 16,000 lbs.	\$25.00	\$15.00
2,001 to 10,000 gals. or 16,001 to 80,000 lbs.	50.00	30.00

10,001 to 20,000 gals. or 80,001 to 160,000 lbs.	80.00	50.00
20,001 to 100,000 gals. or 160,001 to 800,000 lbs.	100.00	60.00
Over 100,000 gals. or over 800,000 lbs.	100.00	60.00

(b) To manufacture, keep, store and use crude petroleum or any of its products, any explosive or inflammable fluid or any inflammable compound for resale:

	Original License Fee	Annual Registration Fee
Up to 5,000 gals. or up to 40,000 lbs.	\$ 50.00	\$ 30.00
5,001 to 10,000 gals or 40,001 to 80,000 lbs.	100.00	50.00
10,001 to 30,000 gals. or 80,001 to 240,000 lbs.	100.00	60.00
30,001 to 100,000 gals. or 240,001 to 800,000 lbs.	150.00	75.00
100,001 to 200,000 gals. or 800,001 to 1,600,000 lbs.	250.00	125.00
Over 200,000 gals. or over 1,600,000 lbs.	500.00	250.00

**(Section 23 Amended 10/7/2019, Art 4 STM)**

**SECTION 24: Capital Improvement Planning Committee**

1. The Board of Selectmen shall establish and appoint a committee to be known as the Capital Improvement Planning Committee, composed of one member of the Board of Selectmen, the Town Administrator, one member of the Finance Committee, one member of the Planning Board, the School Superintendent or his designee and one private citizen. The Board of Selectmen shall appoint one administrative officer who shall be an ex-officio committee staff member without right to vote. The committee shall choose its own officers. **(amended 5/12/2008)**

2. The Committee shall study Capital Projects, improvements asset purchases involving major non-recurring tangible assets and projects. They shall study Departmental Capital Outlay requests for:

a. Single or combined asset purchases or lease purchases for additional and/or replacement items which are purchased at intervals of at least five (5) years, and amount to \$20,000 or more, and have a useful life of at least five (5) years. Equipment to be used for school student educational training purposes and/or equipment to be acquired through grants or gifts shall be exempt from this by-law.



Capital Projects, improvements and/or repairs to fixed assets amount to \$20,000 or more.

By November 15th of each year, all Officers, Boards and Committees shall submit information concerning all Capital Projects and purchases requiring Town Meeting action during the ensuing six (6) years. Said information shall be submitted on forms devised and distributed by the Capital Improvement Planning Committee. The Committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the Town.

No appropriation shall be voted for a Capital Project, purchase or improvement which comes under this by-law unless the proposed Capital Project, purchase or improvement is considered in the Committee's report, or the Committee shall first have submitted a report explaining the omission to the Board of Selectmen.

3. The Committee shall prepare an annual report recommending a Capital Improvement Budget for the next fiscal year, and a Capital Improvement Program including recommended capital improvements for the following five fiscal years. The report shall be submitted to the Board of Selectmen for its consideration and approval. The Board shall submit its approved Capital Budget to the Annual Town Meeting for adoption by the Town.

4. Such Capital Improvement Program, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisals; but no such expenditure shall be incurred on projects which have not been so approved by the Town through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

5. The Committee's report and the Selectmen's recommended capital budget shall be published and made available in a manner consistent with the distribution of the Finance Committee report. The Committee shall deposit its original report with the Town Clerk.

**SECTION 25:** The Board of Selectmen shall have the authority to defend all litigation to which the Town is a party, and to employ special counsel to assist the Town Counsel whenever in their judgement necessity therefore arises and the Town has allocated funds therefore. All Boards, Officers and Departments shall have authority to prosecute all litigation to which their board, office or department is a party through the Town Counsel. The Town Counsel shall draft or approve as to form all bonds, deeds, leases, obligations, conveyances and other legal instruments, and perform every professional act necessary for the protection of the Town's interest which may be requested of him by vote of the Town or of any Board, Officer or Department of the Town. Each Board, Office or Town Department shall designate a person (preferably the Chairman or Department Head) who shall be designated as the contact person with Town Counsel and through whom all inquiries of that Board, Office, or Department to Town Counsel shall be channeled. The contact person shall contact the Board of Selectmen's Office when he/she wishes to forward an inquiry to Town Counsel and upon receipt of approval by the Executive Secretary, shall forward such request to Town Counsel. The contact person can appeal a negative decision of the Executive Secretary to the full Board of Selectmen. Upon receipt of Town Counsel's written reply, copies shall be filed forthwith with both the Board of Selectmen's Office and the Town Clerk. This procedure need not be followed when a board or committee member has a question about the legality of an action of either the board or committee on which he/she serves or of the Board of Selectmen. The Town Counsel shall be present at all Town Meetings and shall appear at any and all hearings on behalf of the Town whenever his services may be required.  
**(Amended 4/14/97 ATM)**

**SECTION 26:** The Board of Selectmen shall annually appoint an attorney-at-law to act as Town Counsel, who shall fulfill such duties as are required of him by the General Laws and these Bylaws. The Town Counsel shall have the authority to compromise all litigation to which the Town is a party, so long as the compromised sum does not exceed \$1,000.00. Prior approval of the Board of Selectmen shall be necessary before any litigation may be compromised.

**SECTION 27: (Amended 10/5/2020, Art 21 STM)**

**SECTION 27A:** The Board of Public Works shall have, in addition to the powers and duties outlined in M.G.L. Ch. 41, S. 69D, all the powers and duties of the Engineering Department, which provides for the furnishing of all services related to engineering, and to further transfer all monies from Engineering Department No. 344 to the Department of Public Works, and to give the authority of paying any bills incurred by the Engineering Department prior to this date to the Department of Public Works. **(Added 4/13/92 ATM)**

**SECTION 27B:** The Board of Public Works shall have, in addition to the powers and duties outlined in M.G.L. Ch. 41, S. 69D, all the powers and duties of the operation of the Town's sanitary landfill, which provides for the furnishing of all services related to the sanitary landfill, and to further transfer all monies from Department 451, Waste Collection and Disposal to the Department of Public Works and to give the authority of paying any bills incurred by the sanitary landfill prior to this date to the Department of Public Works.

**SECTION 28:** All boards, officers, commissions and committees shall on July 1st each year notify, in writing, the Town Engineer of new buildings, repair and alterations they anticipate within ten (10) years.

**SECTION 29:** Whenever a sewer bill remains outstanding after sixty (60) days from billing date, a penalty of 10% or \$5.00 whichever is greater, shall be charged, such penalty to be added to the sewer bill and then, if the bill remains unpaid, it shall be added to the Real Estate Tax Bill as a sewer lien.

**SECTION 30:** The Town Collector shall, in the collection of accounts due the Town for departmental services, licenses, permits, fees, and in lieu of tax payments, assess an interest charge at the prevailing rate being charged for late property tax payments. Said interest to be charged for all accounts remaining outstanding over sixty (60) days from date of mailing.

**SECTION 31:** Enumeration - Fees to be charged by the Town Clerk's Office pursuant to the authority of Ch 262 s 34 of the Massachusetts General Laws as follows **(amended 10/5/09)**

CLAUSE #		FEE
1.	For filing and indexing assignment for the benefit of creditors	10.00
11.	For entering amendment of a record of the birth of a child born out of wedlock subsequently legitimized	10.00
12.	For correcting errors in a record of a birth	10.00
13.	For furnishing certificate of birth	10.00
13A.	For furnishing an abstract copy of a record of birth	4.00
14.	For entering delayed record of birth	10.00
20.	For filing certificate of a person conducting business under any title other than his real name	25.00
21.	For filing by a person conducting business under any title other than his real name of a statement of change of his residence, or of his discontinuance, retirement or withdrawal from or change of location of such business	15.00
22.	For furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such person of his discontinuance, retirement, withdrawal from such business	5.00
24.	For recording the name and address, the date and number of the certificate issued to a person registered for the practice of podiatry in the Commonwealth	20.00
29.	For correcting errors in a record of death	10.00

30.	For furnishing a certificate of death	10.00
30A.	For furnishing an abstract copy of a record of death	4.00
42.	For entering notice of intention of marriage and issuing certificates thereof	15.00
43.	For entering certificate of marriage filed by persons married out of the Commonwealth	5.00
44.	For issuing copy of certificate of marriage	10.00
44A.	For furnishing an abstract copy of a record of marriage	4.00
45.	For correcting errors in a record of marriage	10.00
54.	For recording power of attorney	10.00
57.	For recording certificate of registration granted to a person to engage in the practice of optometry or issuing a certified copy thereof	20.00
58.	For recording the name of the owner of a certificate of registration as a physician or osteopath in the Commonwealth	20.00
62.	For recording order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in number of wires and cable or attachments under the provisions of Section 22 of Ch. 166	40.00 flat rate 10.00 add'l. streets
66.	For examining records or papers relating to birth, marriage or deaths upon the application of any person, the actual expense thereof, but not less than	5.00

67.	For copying any manuscript or record pertaining to a birth, marriage or death	5.00 per page
69.	For receiving and filing a complete inventory of all items to be included in a "closing out sale", etc.	10.00 first page  2.00 ea. add'l. page
	For filing a copy of written instrument or declaration of trust by trustees of an association or trust, or any amendment thereof as provided by Section 2, Ch. 182	20.00
78.	For recording deed of lot or plot in a public burial place or cemetery	10.00
9.	Recording any other documents	10.00 first page  2.00 ea. add'l. page
	Voter's Certificate	4.00
	Burial Permit	10.00

**SECTION 32: (Amended 10/5/2020, Art 9 STM)**

**SECTION 33:** 1. The Planning Board of the Town of Ludlow is hereby authorized to appoint one (1) associate member pursuant to Massachusetts General Laws, Chapter 40A, Section 9.

2. Said associate member shall be appointed by a majority vote of the Planning Board for a term of one year or to fill a vacancy occurring during a term caused by the death, resignation, or other form of removal from said position.
3. Said terms shall commence on the third Monday in April each year.
4. Said associate member shall serve only for the purposes of acting on a special permit application, in the case of absence, inability to act or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board when so designated by the Chairman of the Planning Board.

**SECTION 34: (Amended 10/5/2020, Art 22 STM)**

**SECTION 35: Temporary Repairs on Private Ways (Added 4/13/93 ATM)**

The Town may make temporary repairs on private ways which have been open to the public use for a period of six (6) years or more, provided the repairs are for the protection of the health and safety of the general public using such roads.

Such repairs shall include the filling of holes in the subsurface of such ways and repairs to the surface materials thereof. Materials for such repairs, where practical, should be of the same as or similar to those used for the existing surfaces of such ways, but may include surfacing the ways with bituminous materials, including but not limited to bituminous concrete.

Drainage, as determined by the Department of Public Works to be necessary as a result of the repairs, may also be done. Drain repairs shall be made only if petitioned for by all of the abutters who own frontage on such ways, if necessary, and if the Department of Public Works declare that they are required by the public necessity and convenience to make such repairs. Drainage easements shall, if necessary, be the responsibility of the petitioners. The cost of such repairs shall be paid by the abutters by a cash deposit as herein provided.

No repairs shall be commenced unless and until a cash deposit equal in amount to the estimated cost of such repairs, as determined by the Department of Public Works is paid over to the Town. No betterment charges shall be assessed.

The Town shall not be liable on account of any damage whatsoever caused by such repairs, and Ch. 84 S. 25 Massachusetts General Laws shall not apply. The Board of Public Works may require an indemnity agreement executed by the petitioning abutters, indemnifying the Town for all claims and damages which may result from changing such repairs.

The Town may, subject to the approval of the Department of Public Works, make temporary minor repairs to private ways not to exceed \$500.00 in total, provided the private way has been open to public use for a period of six (6) years or more. The repair shall be limited to minor work such as filling, patching and not more than grading or scraping twice per year.

No such repairs shall be done unless there is a unanimous agreement by all abutters that the work shall commence and the Town of Ludlow shall be held harmless from any and all damages or claims arising out of such repairs. Massachusetts General Laws, Ch. 84, S. 25 shall not apply.

**SECTION 36:** Provisions of Chapter 40 (**Added 4/13/93 ATM**)

(a) The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve (12) month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments, or other municipal charges, payable to the municipality as the date of issuance of said certificate.

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

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

This section shall not apply to the following licenses and permits: open burning; Ch. 48, S. 13; bicycle permits; Ch. 85, S. 11A ; sales of articles for charitable purposes, Ch. 101 S. 33; children work permits, Ch. 149, S. 69; clubs, associations dispensing food or beverage licenses, Ch. 140, S. 21E; dog licenses, Ch. 140 S. 137; fishing, hunting, trapping license, Ch. 131 S. 12; marriage licenses, Ch. 207 S. 28; and theatrical events, public exhibition permits, Ch. 140 S. 181.

**SECTION 37:** Provisions of Chapter 40, Section 22F

Any municipal board or officer empowered to issue a license, permit, certificate or to render a service or perform work for a person or class of persons may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to statutes or regulations wherein the entire proceeds of the fee remain with such issuing city or town, and may fix reasonable charges to be paid for any services rendered or work performed by the city or town or any department thereof, for any person or class of persons.

A fee or charge imposed pursuant to this section shall supercede fees or charges already in effect, or any limitations on amounts placed thereon for the same service, work, license, permit or certificate, provided that this section shall not supersede the provisions of Ch. 6A S 31 through 77, Ch 80, Ch. 83, or Ch. 138. The fee or charge being collected immediately prior to acceptance of this section for any license, permit, certificate service or work will be utilized until a new fee or charge is fixed under this section.

The provisions of this section may be accepted in a city by a vote of the City Council, with the approval of the Mayor if so required by law, and in a town by vote of the Town Meeting, by vote of the Town Council in towns with no Town Meeting.

**SECTION 38: (Added 4/14/97 ATM )-** Town Meeting article refers to Section 36 in error)

### **1. Creation of Special Property Tax Assessment**

A special property tax assessment is created for substantial rehabilitation of owner-occupied residential property listed on the State Register of Historic Places (State Register). The increase in assessed value resulting from substantial rehabilitation of eligible properties shall be phased in one-fifth increments over a period of five (5) years to the full assessed value of the property. The Special assessment shall extend only to the building(s) or structure(s) that are rehabilitated.

### **2. Eligible Properties**

In order to be eligible for the special assessment, property must meet the following criteria:

- a. The property to be rehabilitated must be occupied by the owner exclusively for residential purposes and be listed on the State Register which is maintained by the Massachusetts Historical Commission (MHC) pursuant to M.G.L. Ch. 9, S. 16C, either individually or as a contributing element within an historic district.
- b. The cost of rehabilitation, as that term is defined in 950 C.M.R. 72.04, must be no less than 25% of the assessed value of the property prior to rehabilitation. Not less than 10% of the cost of rehabilitation shall be dedicated to rehabilitation of the exterior of the historic building.
- c. The property owner must present to the Assessor a certificate from the MHC stating that the proposed rehabilitation meets the Secretary of the Interior's standards.

### **3. Application Process**

The requirements listed in subsection 1 (a-d) are the minimum information required by 950 C.M.R. 72.08 (3).

- (1) A property owner must submit an application, on a form provided by the Assessor, which includes the following information:
  - (a) Certification from the MHC that the rehabilitation as proposed meets the Secretary of the Interior's guidelines;
  - (b) Proof of the applicant's ownership and occupancy of the subject property;
  - (c) The total cost of rehabilitation; and
  - (d) The property's assessed value prior to rehabilitation.



(2) Within sixty (60) days of receipt of a completed application, the Assessor shall determine whether the proposed rehabilitation meets the eligibility criteria set forth in Section 2, and will notify the owner of its decision in writing. The Assessor will grant final approval of the special assessment upon receipt of the certification described in subsection 3 of Section 3.

(3) Within ninety (90) days of completion of the rehabilitation, the property owner shall provide to the Assessor a certification that the completed work conforms with the proposed rehabilitation and meets the Secretary of the Interior's Standards. The owner shall obtain such certification from the MHC, or from the appropriate local preservation commission if the property is in an historic district, or is a designated landmark, or is otherwise subject to a preservation restriction or ordinance.

#### **4. Effective Date of Special Assessment**

The special assessment will take effect on the first day of the next fiscal year after the assessment is approved by the Assessor.

#### **5. Time Limits**

(1) An owner shall apply for the special assessment no later than two (2) years after completion of the rehabilitation certified by the MHC.

(2) In order to be included in the total cost of rehabilitation as defined in 950 C.M.R. 72.04, all rehabilitation work must be completed within a three (3) year period.

#### **6. Other Provisions**

The following provisions outline policies for ensuring that the owner who received the special assessment maintains the property in the manner intended by the enabling legislation.

(1) An owner who applies for the special assessment shall agree in writing to maintain the subject property in accordance with the Secretary of Interior's Standards for the duration of the special assessment. Failure to maintain the property in accordance with the Secretary of the Interior's Standards for the agreed period of time shall result in revocation of the special assessment. In the event that the local preservation commission informs the Assessor that the owner has failed to maintain the subject property in accordance with the Secretary of the Interior's Standards, the Assessor shall notify the owner in writing and the owner shall have thirty (30) days in which to demonstrate that the property has been maintained in accordance with the Secretary of the Interior's Standards or, if not, to remedy such failure.

(2) An owner who received the special assessment shall annually, for the duration of the special assessment, provide the Assessor with written certification that he or she still owns and occupies the property which is the subject of the special assessment, and that the subject property is still listed on the State Register.

(3) The date of any of the following occurrences shall be considered the date of the end of the special assessment:

(a) written notice from the owner to the Assessors requesting removal of the special assessment;

- (b) sale or transfer of ownership during the five (5) year period, except in the course of probate proceedings; or
- (c) removal of the property from the State Register.

**SECTION 39: Town Administrator**

**Powers and Duties**

**Appointment, Qualifications of the Town Administrator:** The Board of Selectmen shall appoint a Town Administrator and shall annually appraise the performance of the Town Administrator. The Town Administrator shall be a person of proven administrative ability, especially qualified by education and experience. The Board of Selectmen may from time to time establish such additional qualifications as deemed necessary and appropriate.

**Relationship of the Board of Selectmen and Town Administrator:** The Town Administrator shall be the primary officer responsible for the implementation of policy directives and guidelines adopted by the Board of Selectmen. The daily administration of the affairs of the town shall be the responsibility of the Town Administrator.

**General Responsibilities of the Town Administrator:** The Town Administrator shall be the chief administrative officer of the town, shall act as the agent for the Board of Selectmen and shall be responsible to the Board of Selectmen for the proper operation of town affairs for which the Town Administrator is given responsibility under the provisions of this Article. The Town Administrator, under the policy direction of the Board of Selectmen, shall supervise, direct and be responsible for the efficient administration of all officers appointed by the Board of Selectmen and their respective departments and of all functions for which the Town Administrator is given responsibility, authority or control by this Article, by By-Law, by Town Meeting vote, or by vote of the Board of Selectmen. The Town Administrator shall have the power to delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty or responsibility which the office of town Administrator is authorized to exercise under this Article. All actions that are performed under such delegation shall be deemed to be the actions of the Town Administrator.

**Administrative Powers and Duties:** The Town Administrator shall be the administrative officer of the town and shall be responsible to the Board of Selectmen for the proper operation of town affairs for which the Town Administrator is given responsibility under this Article. The powers, duties and responsibilities of the Town Administrator shall include, but are not intended to be limited to, the following:

- a. To supervise, direct and be responsible for the efficient administration of all officers appointed by the Board of Selectmen and their respective departments, and of all functions for which the Town Administrator is given responsibility, authority or control by this Article, by By-Law, by Town Meeting vote, or by vote of the Board of Selectmen;
- b. To administer and enforce either directly or through a person or persons supervised by the Town Administrator, in accordance with this Article, all provisions of the laws of the Commonwealth or special laws applicable to the town, all By-Laws, and all regulations established by the Board of Selectmen.
- c. To attend all regular and special town meetings of the Board of Selectmen, unless excused;
- d. To attend all sessions of the town meeting and to answer all questions addressed to the Town Administrator and which are related to the warrant articles and to matters under the general supervision of the Town Administrator;
- e. To keep the Board of Selectmen fully informed as to the needs of the town, and to recommend to the Selectmen for adoption such measures requiring action by them or by the town as the Town Administrator deems necessary or expedient;
- f. To ensure that complete and full records of the financial and administrative activity of the town are maintained and to render reports to the Board of Selectmen as may be required;

- g. To be responsible for the rental, use, maintenance, repair and the development of a comprehensive maintenance program for all town facilities, except those under the jurisdiction of the School Committee, Board of Public Works and Library Trustees.
- h. To serve as the Chief Procurement Officer and be responsible for the purchase of all supplies, materials, and equipment, except books and other educational materials for schools and approve the award of all contracts for all town departments;
- i. To develop and maintain a full and complete inventory of all town owned real and personal property;
- j. To administer personnel policies, practices, or rules and regulations and any compensation plan and any related matters for all municipal employees and to administer all collective bargaining agreements, except for School Department agreements entered into by the town;
- k. To be responsible for the negotiation of all contracts with town employees over wages, and other terms and conditions of employment, except employees of the School Department. Contracts shall be subject to the approval of the "Board of Selectmen".
- l. To prepare and submit an annual operating budget and capital improvements program;
- m. To share with the Board of Selectmen and the Finance Committee any information obtained by the Town Administrator as to the financial condition of the Town.
- n. To investigate or inquire into the affairs of any town department or office;
- o. To delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty, or responsibility which the office of Town Administrator is authorized to exercise, provided that all acts that are performed under such delegation shall be deemed to be the acts of the Town Administrator;
- p. To perform such other duties as necessary or as may be assigned by this Article, by By-Law, by Town Meeting vote or by vote of the Board of Selectmen.

**(amended October 6, 2003 art 7)**

## **SECTION 40: (Added 5/11/2009) Ludlow Right to Farm**

### **Section 1 Purpose and Intent**

The Town of Ludlow understands that farming is an essential and valued activity, which provides fresh food, clean air, economic diversity, local employment and open spaces to all the citizens of our town. This by-law is intended to encourage the pursuit of agriculture, promote agricultural based economic and employment opportunities, and protect farmland within the Town of Ludlow. The purpose is to allow agricultural uses and related activities to function in harmony with the community, town agencies and others. This by-law shall apply to all jurisdictional areas within the town.

This by-law restates for Ludlow the Right to Farm accorded to all citizens of the Commonwealth of Massachusetts as stated under the Constitution and General Laws and Regulations including but not limited to Article 97 of the Constitution, Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1: (The Zoning Act) Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128, Section 1A.

### **Section 2 Definitions**

"Farm shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto. Commercial shall be defined by the minimum acreage requirement (1) or the gross sales and program payment requirement (2) specified in Massachusetts General Law Chapter 61A, Section 3, as amended. "Farm" shall include youth related agricultural activities, such as but not limited to 4-H, irrespective of minimum acreage or gross sales and program payment requirements.

"Farming" or "agriculture" shall include, but not be limited to the following: \*Farming in all its branches and the cultivation and tillage of the soil;

\*Dairying;

\*Orchards;

\*Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural or horticultural commodities;

\*Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operation;

\*Raising livestock including horses;

\*Keeping of horses as a commercial enterprise;

\*Keeping and raising poultry, sheep, goats, swine, cattle, ratites (such as emus, ostrich and rheas), camelids (such as llamas and camels) and other domesticated animals for food and other agricultural purposes, including bees.

1. In 2005 the minimum acreage requirement was not less than 5 acres.

2. In 2005 the gross sales or program payment requirement was not less than \$500 per year.

### **Section 3 Right to Farm Declarations**

\*All these guidelines are subject to applicable local, state and federal regulations.\*

"Farming" shall encompass activities including, but not limited to, the following:

\*Operation and transportation of slow moving farm equipment over roads within town;

\*Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;

\*Application of manure, fertilizers and pesticides;

\*Conducting agriculture related educational and farm based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;

\*Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;

\*Maintenance, repair or storage of seasonal equipment or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management or sale of the agricultural products;

- \*On-farm relocation of earth and the clearing of ground for farming operations;
- \*Revitalizing draining or irrigation ditches, picking stone, erecting, repairing or maintaining fences, and clearing, rejuvenating and maintaining pastures;
- \*Herding of livestock from area to area, including along roads.

#### **Section 4 Notification to Real Estate Buyers**

In order to allow prospective purchasers to make informed decisions prior to a real estate transaction and to promote harmony between farmers and their new neighbors after a transaction, the Town of Ludlow requests selling landholders and/or their agents (and assigns) provide written notice to prospective purchasers substantially as follows:

“it is the policy of the Town of Ludlow to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers that the property they are about to acquire lies within a Town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors.”

Written notification may occur in one of several ways including but not limited to a disclosure form, addendum to a Purchase and Sale Agreement and should include an acknowledgement by the buyer that they received notification.

Within 30 days after this by-law becomes effective the Board of Selectmen shall make available for use by selling landowners or their agents (and assigns) copies of example written notifications.

Within 30 days after this by-law becomes effective, the Board of Selectmen shall prominently place in the Town Hall the above disclosure.

#### **Section 5 Resolution of Complaints**

Any person having a complaint about a farm activity or practice is encouraged to seek an amicable resolution to the complaint, including talking directly with the involved farmer. Such person may, notwithstanding pursuing any other available remedy, request resolution assistance from the Board of Selectmen. The Board of Selectmen may refer such a request to the Ludlow Agricultural Commission as well as other applicable Boards. The Agricultural Commission shall review and facilitate the resolution of such a request, and report its recommendations to the Board of Selectmen within the agreed upon time frame.

#### **Section 6 Severability Clause**

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

#### **SECTION 41: Criminal History Check Authorization**

A. The Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172 B1/2, conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for the following licenses:

- . Hawking and Peddling or other Door to Door Salespeople (Selectboard or Police Chief)
- . Manager of Alcoholic Beverage License (Selectboard)
- . Owner or Operator of Public Conveyance (Selectboard)
- . Dealer of Secondhand Articles (Selectboard)
- . Pawn Dealers (Selectboard)
- . Hackney Drivers (Selectboard)

Ice Cream Truck Vendors (Police Chief)

At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records. The Police Chief shall periodically check with the Executive Office of Public Safety and Security (EOPSS) which has issued an Informational Bulletin which explains the requirements for town bylaws and the procedures for obtaining criminal history information, to see if there have been any updates to be sure the Town remains in compliance.

Upon receipt of the fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this bylaw to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint based state and national criminal records background checks of license applicants specified in this bylaw.

The Town authorizes the Massachusetts State Police, the DCJIS, and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint based state and national criminal record background checks, including FBI records, consistent with this bylaw. The Town authorizes the Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this bylaw. The State and FBI criminal history will not be disseminated to unauthorized entities.

Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of his/her criminal history record from the Police Department. Should the record subject seek to amend or correct his/her record, he/she must take appropriate action to correct said record, which action currently includes contacting the DCJIS for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wants to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28 CFR 16.34. The Police Department shall not utilize and/or transmit the results of the fingerprint based criminal record background check to any licensing authority pursuant to this bylaw until it has taken the steps detailed in this paragraph. Municipal officials should not deny an applicant the license based on information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so.

The Police Department shall communicate the results of fingerprint based criminal record background checks to the appropriate governmental licensing authority within the Town as listed above. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his or her suitability or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex related offense.

The Board of Selectmen is authorized to adopt policies and procedures to effectuate the purposes of this bylaw and promulgate regulations for the implementation of the bylaw, but in doing so it is recommended that the Selectboard consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the applicable law, the FBI's requirements for access to the national database and other applicable state laws.

**B. Use of Criminal Record by Licensing Authorities:** Licensing authorities of the Town shall utilize the results of fingerprint based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this bylaw. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.

The Town or any of its officers, departments, boards, committees or other licensing authorities is hereby authorized to deny any application for, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this bylaw.

C. Fees: The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be one hundred dollars (\$100). The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services, regarding the proper municipal accounting of those fees.

A portion of the fee, as specified in Massachusetts General Laws Chapter 6, Section 172B1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town to be expended by the Police Department to help offset costs associated with the administration of the fingerprinting system.

D. Effective Date: This bylaw shall take effect upon approval by the Attorney General, so long as the requirements of Massachusetts General Law, Chapter 40, Section 32 are satisfied. **(added 10/7/2013)**

## **SECTION 42: Departmental Revolving Funds (added 5/8/17 ATM, Art 13)**

**1. Purpose.** This by-law/ordinance establishes and authorizes revolving funds for use by town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, §53E ½.

**2. Expenditure Limitations.** A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law without appropriation subject to the following limitations:

A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund, (except for those employed as school bus drivers).

B. No liability shall be incurred in excess of the available balance of the fund.

C. The total amount spent during a fiscal year shall not exceed the amount authorized by town meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the selectboard and finance committee.

**3. Interest.** Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the general fund.

**4. Procedures and Reports.** Except as provided in General Laws Chapter 44, §53E ½ and this by-law, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditure and payment of town funds shall apply to the use of a revolving fund established and authorized by this by-law. The town accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the town accountant provides the department, board, committee, agency or officer on appropriations made for its use.

## **5. Authorized Revolving Funds.**

### **Table Establishing Funds**

The Table establishes:

- A. Each revolving fund authorized for use by a town department, board, committee, agency or office,
- B. The department or agency head, board, committee or officer authorized to spend from each fund,
- C. The fees, charges, and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the town accountant,
- D. The expenses of the program or activity for which each fund may be used,
- E. Any restrictions or conditions on expenditures from each fund,
- F. Any reporting or other requirements that apply to each fund, and
- G.** The fiscal years each fund shall operate under this by-law.



**Table: Revolving Funds**

A Revolving Fund	B Department, Board, Committee, Agency Or Officer Authorized to Spend from Fund	C Fees, Charges or Other Receipts Credited to Fund	D Program or Activity Expenses Payable from Fund	E Restrictions or Conditions On Expenses, Payable from Fund	F Other Requirements/ Reports	G Fiscal Years
CPR Training	Board of Health	Fees charged for CPR, Hands-only CPR and First Aid Training	Purchase of certification cards, manuals and supplies that will be needed for each participant.		The balance in the revolving account shall not exceed the approved expenditure limit set at the Annual Town Meeting or subsequently approved by the Board of Selectmen in accordance with M.G. Laws  Transfer end of year balance to subsequent fiscal year.	Fiscal Year 2018 and subsequent years
On-site Sewage System	Board of Health	Fees collected for percolation tests, reviewing of septic plans and final inspection of septic systems	Pay the salary of the sewage system Inspectors and to pay other expenses of the inspection program.	Payment to the On-site Sewage Disposal System Inspectors who witnesses percolation tests, reviews septic system plans and performs final Inspections of septic systems	The balance in the revolving account shall not exceed the approved expenditure limit set at the Annual Town Meeting or subsequently approved by the Board of Selectmen in accordance with M.G. Laws  Transfer end of year balance to subsequent fiscal year.	Fiscal Year 2018 and subsequent years
Vaccine	Board of Health	Fees collected for vaccines provided to residents	Payment to vaccine providers to purchase vaccines to replenish supply		The balance in the revolving account shall not exceed the approved expenditure limit set at the Annual Town Meeting or subsequently approved by the Board of Selectmen in accordance with M.G. Laws  Transfer end of year balance to subsequent fiscal year.	Fiscal Year 2018 and subsequent years

Consultants	Conservation Commission	Consultant fees collected by Con Com per Chapter XV, § 6, of the Town of Ludlow Bylaws	Commission may require an applicant to pay for the cost of enlisting the services of an independent consultant in an amount estimated to be sufficient to cover the fee for any given project	Only to pay Independent consultants for services related to the specific project for which they were collected	The balance in the revolving account shall not exceed the approved expenditure limit set at the Annual Town Meeting or subsequently approved by the Board of Selectmen in accordance with M.G. Laws  Transfer end of year balance to subsequent fiscal year.	Fiscal Year 2018 and subsequent years.
Wetlands	Conservation Commission	Fees collected per Chapter XV, § 6 of the Town of Ludlow Bylaws	For expenses, attributable to the administration and enforcement of the Wetlands Protection Act, Ludlow conservation Commission Bylaws and maintenance and improvements of Ludlow's natural resource areas.	MA Dept of Revenue require that Wetland fees imposed through a Town Bylaw must be kept separate from wetland fees imposed by the State Regulation	The balance in the revolving account shall not exceed the approved expenditure limit set at the Annual Town Meeting or subsequently approved by the Board of Selectmen in accordance with M. G. Laws  Transfer end of year balance to subsequent fiscal year.	Fiscal Year 2018 and subsequent years.
Purple Bags	Board of Public Works	Receive revenues From the sale of "Purple" Bags under the Sustainable Materials Recovery Program	Purchase purple bags, recycling bins and recycling decals.		The balance in the revolving account shall not exceed the approved expenditure limit set at the Annual Town Meeting or subsequently approved by the Board of Selectmen in accordance with M.G. Laws  Transfer end of year balance to subsequent fiscal year.	Fiscal Year 2018 and subsequent years.
Dog Park	Conservation Commission	Receive Additional \$5.00 for dog licensure that was increased pursuant to A.5, STM, May 9, 2016	Care and maintenance of dog park		The balance in the revolving account shall not exceed the approved expenditure limit set at the Annual Town Meeting or subsequently approved by the Board of Selectmen in accordance with M.G. Laws  Transfer end of year balance to subsequent fiscal year.	Fiscal Year 2018 and subsequent years.

(Dog Park added 10/2/17 STM, Art 5) (Section F language added 5/14/18 ATM, Art 6)

## CHAPTER III

### Regulating Certain Occupations

**SECTION 1:** No person shall hawk or peddle fish, fruit or vegetables within the limits of this Town, except as authorized by law, without first obtaining a license thereto from the Board of Selectmen upon payment of a fee of Five (\$5.00) Dollars annually.

**SECTION 2:** No person shall be a pawnbroker, collector of or a dealer in junk, old metals, or secondhand articles, or a keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles without first obtaining a license therefor from the Board of Selectmen upon payment of a fee of at least one-hundred (\$100.00) dollars annually. (**amended 5/12/2014**)

**SECTION 3:** The annual fee for any automatic amusement device license issued or renewed under Ch. 140, S. 177A of the Massachusetts General Laws shall be one-hundred (\$100.00) dollars. The fee for any license issued after January 31st in any year shall be prorated on the basis of the number of months in which the license is to be in force compared with twelve months. The fee for every change of premises shall be two dollars (\$2.00).

#### **SECTION 4: Licensing of Solicitors and Canvassers**

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

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

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

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

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

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

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

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

(2) "Canvassing" shall mean and include any one or more of the following door-to-door activities conducted for commercial purposes:

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

(b) seeking to enlist membership in any organization;

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Date of birth.

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

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

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

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

(g) Social Security Number. (Optional)

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

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

**(d) Registration Fee.** "Each applicant for registration or re-registration shall pay a fee of \$25.00 paid to the town at the police department upon application. Each registration period shall be for three months" **(Amended 5/10/21, A9, ATM)**

**(e) Registration Cards.**

(1) The Police Chief shall complete his or her review and shall either issue a registration card or deny a registration card within three (3) business days after receiving all the information described in Subsections (a) through (e) above.

(a) The name of the person.

(b) A recent photograph of the person.

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

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

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

- (2) Persons engaged in solicitation or canvassing must carry the registration card at all times and present the card to any person solicited or upon the request of any police officer.
- (3) Registration cards are valid only for the specific dates or time period specified thereon and in no case for longer than 90 days
- (4) The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this by-law within the previous two year period, or an individual who at any time has been convicted of murder, manslaughter, rape, robbery, arson, burglary/breaking and entering, assault, larceny or an individual who is a sex offender required to register with the Sex Offender Registry Board, or its equivalent in any other state, and who is finally classified as a level two or level three sex offender.

**(f) Exceptions.**

- (1) Registration shall not be required for officers or employees of the Town, county, State or Federal governments when on official business.
- (2) Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.
- (3) Registration shall not be required for individuals seeking to engage in exclusively noncommercial communication or solicitation for support of candidates for public office

**(g) Duties of Solicitors:**

- (1) It shall be the duty of every solicitor or canvasser, upon going into any residential premises in the Town of Ludlow, to first examine any notice which may be posted prohibiting solicitation. If such a notice is posted, the soliciting or canvasser shall immediately and peacefully depart from the premises.
- (2) Any solicitor or canvasser who has gone onto any residential property or gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.
- (3) Immediately upon going onto any residential property or gaining entrance to any residence, each registered solicitor or canvasser must do the following:
  - (a) Present his registration card for inspection by the occupant.
  - (b) Request that the occupant read the registration card.
  - (c) Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of that organization. For purposes of this subsection, the term 'in clear language' shall mean words spoken in the language spoken by the occupant and which are reasonably expected to be understood by a person of ordinary intelligence.
- (4) It shall be the duty of every organization employing solicitors or canvassers to notify the Police Department daily as to what areas) of the Town they will be operating in.

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

- (1) Falsely represent; directly or by implication, that the solicitation or canvassing is being done on behalf of a governmental organization.
- (2) Solicit or canvass at any residence where there is a posted sign prohibiting solicitation, without express prior permission of an occupant.
- (3) Solicit or canvass any residence without express prior permission of an occupant, before 9:00 a.m. or after 8:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation.

**(i) Penalty.**

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

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

**(j) Appeals.**

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

**(k) Severability.**

Invalidity of any provision of this section shall not affect the validity of the By-law as a whole.

**(added 5/09/2010) (amendment 5/10/2010)**

**5. Permitting of Ice Cream Truck Vendors**

A. Pursuant to 520 CMR 15.00, the Massachusetts Department of Public Safety requires each municipality to issue permits to persons engaging in ice cream vending. For the purpose of this bylaw, the following definitions shall apply:

- . Ice Cream, any frozen dairy or frozen water-based food product.
- . Ice Cream Truck, any motor vehicle used for selling, displaying or offering to sell ice cream.
- . Ice Cream Truck Vending, the selling, displaying or offering to sell ice cream or any other prepackaged food product from an ice cream truck.
- . Ice Cream Truck Vendor/Operator, any person who owns, sells, displays, or offers to sell ice cream from an ice cream truck or any person who drives or operates such a vehicle.

B. No person shall engage in ice cream truck vending within the Town of Ludlow unless the applicant has been issued a valid permit to do so by the Chief of Police or his designee. Said permit shall only be valid for use within the town limits. A separate permit is required for every person who engages in ice cream truck vending/operation.

C. All permits issued shall be conspicuously displayed and clearly visible on the windshield dash of any ice cream truck operated or from which ice cream is sold.

D. Only the uniform application and permit form approved by the Police Department shall be utilized. The permit shall include a current color photograph of the applicant encased in plastic.. Permits shall be numbered in order as granted and be encased in plastic.

- E. In order to obtain an initial permit or to renew a permit, each applicant shall submit the following to the Permitting Authority:
  - .A completed uniform application form
  - .A copy of their fingerprints
  - .Two (2) current, 1 ½ "X2" (color) photographs
  - .Valid driver's license
- F. The police department shall collect an administrative fee in the amount of \$50.00 upon the issuance of each permit.
- G. Both initial and renewal permits shall expire annually on January 1<sup>st</sup>.
- H. Upon receipt of the permit application or application for renewal, the Chief of Police or his designee shall conduct an investigation into the criminal history of a permit applicant to determine eligibility. The investigation shall include performing a state and national criminal history records check as authorized by Massachusetts General Law, Chapter 6 Section 172B ½. As part of this investigation, the Chief of Police or his designee shall ensure that the identity of the applicant is true and accurate and, in the case of a renewal, that the applicant is linked to the original permit number.
- I. The Chief of Police or his designee may deny issuance of a permit or revoke a permit for just cause. Pursuant to 520 CMR 15.05, no permit shall be issued to any person who is a Sex Offender, as defined by Massachusetts General Law Chapter 6, Section 178C. Upon denial of the issuance or the revocation of a permit, an applicant shall have the right of appeal to the Board of Selectmen. All such appeals must be made in writing, and addressed to the Town of Ludlow Board of Selectmen Office. Appeals will be heard at the next regularly scheduled Board of Selectmen meeting. The decision of the Board shall be final and binding. No such right of appeal shall attach for the denial of a permit to an applicant who is a Sex Offender.
- J. Whoever conducts themselves as an ice cream vendor/operator without a valid Town issued permit or with an expired permit; or whoever improperly displays a permit shall be subject to a fine of no more than \$100 dollars for the first offense, \$200 for a second offense and \$300 for a third or subsequent offense.
- K. Every ice cream vendor/operator shall comply with all State Motor Vehicle Laws, regulations specific to the operation of Ice Cream Trucks, Town Bylaws, Health Codes, as well as any zoning or state or local regulations that may restrict or prohibit vending in certain areas. Violation of any such law, Regulations, Bylaw or Health Code shall be grounds for the revocation of the vendor's permit. **(added 10/07/2013).**

**Section 6: Pawn Shops Buyers & Sellers of Gold**

Purpose: This section, adopted pursuant to Massachusetts General Law Chapter 140, Section 70: "The Police Commissioner of Boston, the License Commission of Lowell, the Aldermen of any other city, or the Selectmen of any Town, if ordinances or Bylaws therefore have been adopted in such city or town, may license suitable persons to carry on the business of pawnbrokers in such city or town, subject to sections two hundred and two to two hundred and five, inclusive, and may revoke such licenses at pleasure.

A. Computerized Records

The license holder shall keep a computerized record of any and all transactions in a format to be determined by the Ludlow Police Department.

#### B. Identification of Customer

The license holder shall require positive identification from any and all persons or entities who sell, pawn, pledge or otherwise deposit any item with the license holder. The license holder shall identify the type of identification provided and record the name, residence, date of birth, and social security/identification number on a form to be approved by the Ludlow Police Department. Positive identification shall mean any picture identification card issued by a governmental entity.

The license holder shall photograph any person pawning, selling, pledging or otherwise depositing any item with the license holder. The required photo shall be clear and of such quality that the person shall be clearly identified. A photo shall be required each time a person makes a separate transaction. Said photographs shall be stored in a digitized format, the image must be retrievable, and a clear copy provided to police upon request. The license holder for a minimum of three years shall maintain the above-described photo.

The license holder shall transmit this digitized identification information to the Ludlow Police Department in format to be determined by the Ludlow Police Department and as often as required by the Ludlow Police Department.

#### C. Transaction Records

The license holder shall accurately describe all items pawned, sold, pledged, or otherwise deposited with the license holder. This description shall include, but shall not be limited to, all distinguishing marks, etchings, engravings, model names, model numbers and serial numbers. Any jewelry with an affiliation to any institution or organization shall include the name of said institution or organization, year and inscribed initials, if any. All descriptions of items of jewelry shall include the material, ring size (if applicable), weight, length (if applicable), shape and color. Descriptions of coins, stamps, collectible cards, autographed items, figurines or other collectibles of any description shall include any identifying features such as the name of the item, date, denomination, color, size, brand name, vintage and image represented.

The license holder shall photograph all items pawned, sold, pledged or otherwise deposited with the license holder. The required photo shall be clear and of such quality that the item(s) shall be clearly identified. The photos shall be stored in a digitized format, the image must be retrievable, and a clear copy provided to police upon request. The license holder for a minimum of three years shall maintain the above-described photos.

The license holder shall transmit this digitized transaction information to the Ludlow Police Department in a format to be determined by the Ludlow Police Department and as often as required by the Ludlow Police Department.

#### D. Reporting of Stolen Items

The license holder shall immediately report to the Ludlow Police Department all incidents where a person claims that articles stolen or wrongfully taken from him are in the possession of the license holder or located within his place of business. In the event that a person makes such a claim, the license holder shall ask the complaining party to remain in the licensed premises and immediately contact the Ludlow Police Department and request that a police report be taken. The item(s) in question shall be tendered to the Ludlow Police Department or stored in a safe place in the licensed premises until such time as otherwise directed by the Ludlow Police Department. If the complaining party does not wish to wait for the arrival of the Ludlow Police Department, the license holder shall secure as much information as possible from the complaining party and immediately provide the same to the Ludlow Police Department.



All unusual or suspicious activity, which may involve criminal behavior that occurs in or near the licensed premises, shall immediately be reported to the Ludlow Police Department.

No article purchased or received by the license holder shall be sold, altered, or removed from the premises until a period of at least thirty (30) days has elapsed from the date of its purchase or receipt.

E. Violations

Persons or entities violating the provisions of this section are subject to the suspension or revocation of the license granted. The Town of Ludlow may in addition to or in lieu of a suspension or revocation, impose a fine of not more than three hundred \$300.00 dollars per violation. Persons or entities violating this bylaw may also be subject to prosecution under Massachusetts or Federal Laws. **(added 10/07/2013)**

F. License

1. License: Pawnbrokers shall not be authorized to engage in business in the Town of Ludlow until obtaining a pawnbroker's license certificate.
2. License Certificate: The License certificates are issued by the Board of Selectmen. The license certificate fee is as set by Chapter III, "Regulating Certain Occupations", Section 2. The license year begins July 1<sup>st</sup> annually. All licenses expire June 30<sup>th</sup> following the date of issuance regardless of the date of issuance. The license certificate shall be posted in a conspicuous place in the office of the licensee so that it will be in full view of the public at all times. If a pawnbroker operates more than one place of business, additional licenses may be obtained by filing a separate application for each additional place of business. Such license may not be transferred or assigned. Said application fee shall not be charged for those businesses legally operating on the effective date of this chapter's enactment.
3. Renewal of License: All licenses expire on June 30<sup>th</sup> next following the date of issuance and must be renewed by the applicant on or before the date of expiration at the Town of Ludlow's Board of Selectmen for a fee as set by Chapter III, "Regulating Certain Occupations", Section 2. Said renewal fee shall not be charged for those businesses legally operating on the effective date of this chapter's enactment. **(added 05/12/2014)**

**Section 7. Prohibition on Marijuana Establishments (added 11/6/17 STM, Art 3)**

In accordance with Massachusetts General Laws Chapter 94G, Section 3(a)(2), all types of marijuana establishments, as defined in Massachusetts General Laws Chapter 94G, Section 1 and as may otherwise be defined by Massachusetts law or regulation, to include, without limitation, all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, on-site consumption at a business location, any other types of licensed marijuana-related businesses, and the conducting of any such activity for commercial purposes by whichever name used, shall be prohibited within the Town of Ludlow. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time).

## CHAPTER IV

### Regulating the Conduct of Citizens

**SECTION 1:** No opening or obstruction shall be made in, nor, except as provided in Section 12 of the Chapter, shall any material be placed on a public way or a way under control of the Town of Ludlow, either by a department of the Town or a private individual or corporation, unless a permit therefor shall first be obtained from the Board of Public Works. Before such a permit is granted, an applicant, other than a Town Department, may be required to file a bond in a sum satisfactory to the Board of Public Works, conditioned upon the faithful discharge and performance of every duty and requirement imposed by statute, Bylaws of the Town or regulation of the Board of Public Works applicable thereto, and upon conformance to all directions of the Board of Public Works relating to the work to be done under such permit and upon the payment of all expenses and damages incurred by the Town or recovered from it by reason of or in connection with such occupation, opening or work. Each applicant for a permit to open a street shall deposit with the Town Treasurer an amount prescribed by the Board of Public Works as condition to the issuing of the permit to cover the cost of resurfacing after the opening has been closed, provided, however, that an applicant may be excused from making such payment in advance when a satisfactory guarantee is given.

**SECTION 2:** No person shall throw, place or cause to be thrown or placed upon any street or sidewalk in the Town, any dirt, ashes, stones, hoops, boards, or other wood with nails projecting therefrom, shavings, sawdust, manure, nails, spikes, screws, glass, tin cans, filth, rubbish or any noxious or refuse liquid or solid matter of substances, except as provided in Section 17 of this Chapter. No person or entity shall cause to be discharged on any street, way or sidewalk in the Town of Ludlow the liquid from any sump or cellar pump or swimming pool or other like or similar source.

(a): No riding of horses shall be allowed on sidewalks of the Town.

**SECTION 3:** No person shall fire or discharge any gun, fowling piece, pistol or other firearms within any street, public way, place or square in the Town, except with the permission of the Board of Selectmen; provided, however, that this section shall not apply to any firing by a Police Officer in the line of duty.

**SECTION 4:** No person shall allow any gate or door on premises under his control, and adjoining any public way, to swing on, over or into said public way.

**SECTION 5:** No person shall place, or cause or allow to be placed, posters, handbills, placards or other advertising matter of any nature upon any wall, fence, pole, structure or tree, in any highway or street, and in or upon any sidewalk, safety or footwalk in the Town, except upon property owned or occupied by such a person so advertising. Penalty for failure to remove any posters, handbills, or other advertising matter shall be assessed against the person or persons named therein, after notice to the person or persons named.

**SECTION 6:** No person shall be permitted to kick a football or play or be permitted to play at any game in which a ball or other missile of any kind is used, or thrown or be permitted to throw any stones or other missiles, or use or be permitted to use a bow and arrow or air gun in any public street of the Town.

**SECTION 7:** No person shall coast or permit coasting upon or across any sidewalk or street in the Town except at such times and in such places as may from time to time be designated by the Selectmen.

**SECTION 8:** Three or more persons shall not stand together or near each other in any street, or any sidewalk, safetywalk or footwalk, or upon any land left open and used as a sidewalk in the Town, so as to obstruct the free passage for foot passengers, after being ordered to move by any constable or Police Officer of the Town.

**SECTION 9:** No person shall loaf or loiter upon any public way after having been requested by a constable or Police Officer to move.

**SECTION 10:** No person, except an officer of the law in the performance of his duties shall enter upon the premises of another or upon any public property with the intention of peeping into the windows of a house or other building, or of spying in any manner upon any person or persons therein.

**SECTION 11:** No person shall remove, extinguish, injure or destroy any light lawfully in a public way.

**SECTION 12:** No person shall place, or cause to be placed upon any sidewalk, any coal, bale, box or trunk, crate, barrel, garbage can, package or anything, so as to obstruct the same for more than one hour, or for more than ten minutes after being notified by a constable, Police Officer or Selectman to move it. Nothing in this section shall prohibit the placing in suitable locations at the edge of the street or sidewalk of suitable containers filled with rubbish for disposition in connection with a duly authorized public rubbish collection, provided that said container shall be reasonably removed from the street or sidewalk after being emptied.

**SECTION 13:** No person intending to erect, repair or take down any building on land abutting on any street or way which the Town is required to keep in repair, and desiring to make use of any portion of said street or way for the purpose of placing therein building materials or rubbish, shall not do so until he shall have given notice thereof to the Selectmen and obtained their permit therefor. The Selectmen may grant a permit to occupy a portion of said street or way, and if such permit be granted, it shall be on the condition that the licensee shall keep a sufficient number of lighted lanterns at or near the parts of the street or way obstructed or unsafe, and shall keep a railing or guard around the same while such obstruct shall continue. If such obstruction is more than a temporary condition, the licensee shall place a good temporary walk around said obstruction, and at the completion of the work shall restore the street or way to its former condition. Before issuing a permit as herein-above provided, the Selectmen shall require the person applying for the same a written agreement (and may require a bond) to indemnify and save harmless the Town against and from all damages, by reason or any claim or damages or by reason of any proceeding, criminal or civil, on account of the existence of such obstruction or excavation.

**SECTION 14:** The Selectmen shall from time to time make reasonable rules and regulations as to the use of Town ways and ways under the control of the Town.

**SECTION 15:** Parking of Vehicles of Handicapped Persons **(Amended 10/5/98)**

15A HANDICAPPED PARKING SPACES REQUIRED, PENALTY.

**15A.1 General**

Any person who has lawful control of improved or enclosed private property used as off-street parking for businesses, auditoriums, sporting or recreational facilities, cultural centers, or general public where the public has the right of access as invitees or licensees, shall cause such parking areas to comply with the Commonwealth of Massachusetts Regulations (CMR) 521 Massachusetts Architectural Access Board Rules and Regulations.

**15A.1.1 Residential and Transient Lodging Facilities**

Where parking spaces are assigned to individual units, said spaces designated for accessible units shall have signage reserving said space. An international symbol of accessibility need not be used.

**15A.1.2 Dwelling Unit Occupants**

The number of accessible spaces shall not be limited in number, but shall be provided in sufficient numbers to meet the needs of the dwelling unit occupants. If parking spaces are assigned to individual units, those spaces designed for accessible units shall have signage reserving said spaces. An international symbol of accessibility need not be used.

**15A.1.3 Garages**

In multi-level garages where no elevator is provided, such spaces shall be located near the accessible entrance.

**15A.1.4 See special van requirement in 15A.4.7.**

**15A.1.5 Existing Building(s) & Parking Lot(s)**

Change of use of the business, alterations, additions to existing Building or Parking Lots shall comply with this Bylaw. If a permit is required by the local or state inspector, these Bylaws shall comply.

**15A.2 Number**

Accessible spaces shall be provided as follows:

**TABLE**

<b>15A.2.1</b>	<b><u>Total Parking in Lot</u></b>	<b><u>Required Minimum Number of Accessible Spaces</u></b>
	15-25	1
	26-50	2
	51-75	3
	76-100	4
	101-150	5
	151-200	6
	201-300	7
	301-400	8
	401-500	9
	501-1,001	2% of total
	1,000 and over	20 plus 1 for each 100 over 1,000

**15A.2.2** One in every eight accessible spaces, but not less than one, shall be van accessible, See 15A.4.7

**15A.2.3** Spaces required by table 15.2.1 need not be provided in a particular lot. They may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.

**15A.2.4** Specialized Medical Facilities: At facilities providing medical care for persons with mobility impairments, parking spaces shall comply with the following:

- a) Outpatient units and facilities: 10% of the total number of parking spaces provided to serve each such outpatient unit or facility shall be accessible.
- b) Units and facilities that specialize in treatment or services for persons with mobility impairments: 20% of the total number of parking spaces provided, serving each such unit or facility, shall be accessible.

### **15A.3 Location**

Accessible parking spaces shall be located as follows:

**15A.3.1** Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.

**15A.3.2** In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.

**15A.3.3** In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

**Exception:** Where accessible spaces cannot be located within 200 feet (220'=61m) of an accessible entrance, an accessible passenger drop-off area shall be provided within 100 feet (100'=30m) of an accessible entrance.

### **15A.4 Parking Spaces**

Shall comply with the following:

**15A.4.1** **Width:** Accessible parking spaces shall be at least eight feet (8'=2438mm) wide, plus the access aisle.

**15A.4.2** **Length:** The length of accessible parking spaces shall be at least the same as for parking spaces generally in accordance with 780 CMR: the State Building Code or local Zoning requirements. Parked vehicles shall not reduce the clear width of an accessible route by overhanging or protruding into it.

**15A.4.3** **Slope:** Parking spaces shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

**15A.4.4** **Surface:** Spaces shall have a uniform, paved, or hard packed smooth surface.

**15A.4.5 Delineation:** Accessible spaces shall be marked by high contrast painted lines or other high contrast delineation, and the words "NO PARKING" are to be painted inside this area.

**15A.4.6 Access aisles:** All accessible spaces shall have access aisles that comply with the following:

- a) Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with 521 CMR 20, Accessible Route.
- b) Access aisles adjacent to accessible spaces shall be five feet (5'=1524mm) wide minimum, except adjacent to van accessible spaces, the access aisle shall be a minimum of (8'=2438mm) wide.
- c) Two accessible parking spaces may share a common access aisle. See Fig. 15-1 and Fig. 15-2.
- d) Access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.
- e) Access aisles shall be clearly marked by means of diagonal stripes.

**15A.4.7 Van Accessible spaces** shall comply with the following:

- a) Provide minimum vertical clearance of nine feet, six inches (9'6"=2896mm) at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s). See Fig. 15.3.
- b) Each space shall have a sign designating it "**Van Accessible**" as required by 15A.6, Signage.
- c) All such spaces may be grouped on one level of a parking structure.
- d) Eight foot minimum (8'=2438mm) wide space.
- e) Provide an access aisle of eight feet (8'+2438mm).

**Exception:** Van accessible spaces do not have to be separately provided if all required accessible parking spaces are 11 feet wide (11'=3353mm) with a five foot (5'=1524mm) access aisle.

## **15A.5 Sidewalks**

**15A.5.1** Where sidewalks are provided at accessible parking spaces, a curb cut shall be installed at the access aisle of each accessible space or pair of spaces.

**15A.5.2** Crosswalk shall be clearly marked in any parking lot(s) where any handicapped person has to cross a drive through area to gain access to the accessible entrance.

**15A.5.3** Delineation: Crosswalk shall be marked by high contrast painted lines or other high contrast delineation, and the words "NO PARKING" are to be painted inside this area.

## **15A.6 Signage**

**15A.6.1** Accessible parking spaces shall be identified by signs indicating that they are reserved.

**15A.6.2** A sign shall be located at the head of each space and no more than ten feet (10'=3048mm) away, and at accessible passenger loading zones.

**15A.6.3** The sign shall show the international symbol of accessibility.

**15A.6.4** Van accessible spaces shall include the words: "**Van-Accessible**".

**15A.6.5** Such signs shall be permanently located at a height of not less than five feet (5'=1524mm), nor more than eight feet (8'=2438mm) to the top of the sign.

## **15A.7 Passenger Loading Zone**

**15A.7.1** If passenger loading zones are provided, at least one of them shall comply with the following:

**15A.7.2** Wherever a passenger loading zone or parking area is provided, an accessible route to an accessible entrance is required.

**15A.7.3** Passenger loading zones shall provide an access aisle at least 60 inches (60"=1624mm) wide and 20 feet (20'=609mm) long, adjacent and parallel to the vehicle pull-up space.

**15A.7.4** If there are curbs between the access aisle and the vehicle pull-up space, then a curb cut complying with 521 CMR 21, Curb Cuts, shall be provided.

**15A.7.5** Vehicle standing spaces and access aisle Vertical Clearance: A minimum of nine feet, six inches (9' 6"=2896mm) of vertical clearance shall be provided at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s).

## **15A.8 Valet Parking**

**15A.8.1** Valet parking facilities shall provide a passenger loading zone complying with 15A.7, Passenger Loading Zone located on an accessible route to the entrance of the facility. 15A.4.7 Van Accessible Spaces, does not apply to valet parking facilities.

## **15A.9 Snow Removal**

**15A.9.1** Snow shall be removed from Handicap Parking Spaces, access aisles, sidewalks and all locations noted as the shortest routes of travel to an accessible pedestrian entrance. Snow must be removed within 24 hours after it has fallen.

**15A.9.2** If Handicap Signs are removed during snow removal operations, signs must be replaced at the completion of the snow removal.

**15A.9.3** No snow shall be piled or left on any handicap parking spaces, access aisles or crosswalks.

#### **15A.10 Exemptions**

**15A.10.1** This Bylaw shall not apply to off street parking areas owned or controlled by the United States of America or the Commonwealth of Massachusetts.

**15A.10.2** This Bylaw shall not apply to vehicles owned by the Commonwealth of Massachusetts or a political subdivision thereof or by the United States or an instrumentality thereof or vehicles registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked as so owned.

#### **15A.11 Enforcement for Handicapped Requirements**

**15A.11.1** Any person licensed for an open air parking business under the provisions of G.L. c. 148 s 56 shall, if parking is to be done by customers of the licensed business, reserve and mark parking spaces as required in this Bylaw for parking of vehicles of the handicapped. These persons shall be subject to a penalty of not more than \$25.00 per day.

**15A.11.2** Enforcement Officer for all new building(s) alterations or modification to any parking areas as per 15.1.4 of this Bylaw shall be the Board of Selectmen or their designee. For this Bylaw the Building Inspector shall be the principle Enforcement Officer and shall be authorized to use the Non-Criminal Enforcement Bylaw and Regulations for the Town of Ludlow Bylaws under Chapter XIII.

#### **15B Violation – Parking in Handicapped Spaces**

**15B.1** No person or persons will be allowed to permit or suffer any vehicle registered in his or her name to stand or park in the spaces designated as reserved for handicapped persons under Chapter IV, Section 15A of this Bylaw.

##### **15B.2 Allowable License Plates and Placards:**

Any License Plates displaying a disabled veteran identification or a distinctive handicapped number plate or placard which is issued through the Registry of Motor Vehicles to people with disabilities eligible under M.G.L. Chapter 90, Section 2.

##### **15B.3 Other Allowable License Plates and Placards:**

Any allowable license plates or placards that have been officially issued by any other State guidelines for parking in handicap spaces. The person or persons must be present when parking the vehicle in the allowable handicap spaces.

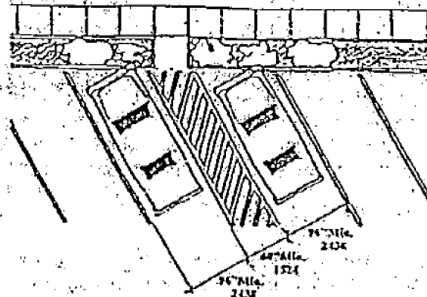
##### **15B.4 Enforcement:**

Any Police officer who is cognizant of a violation of this Bylaw shall affix to the motor vehicle a notice of such violation in conformity with Chapter 90 of the M.G.L. Persons parking in spaces designated as reserved for handicapped persons, are in violation of this Bylaw and shall be punished by a fine of (\$100.00) one hundred dollars.

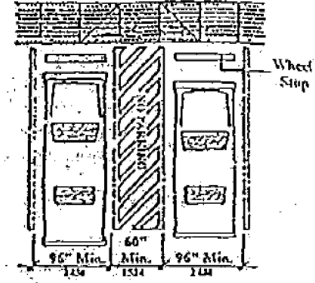


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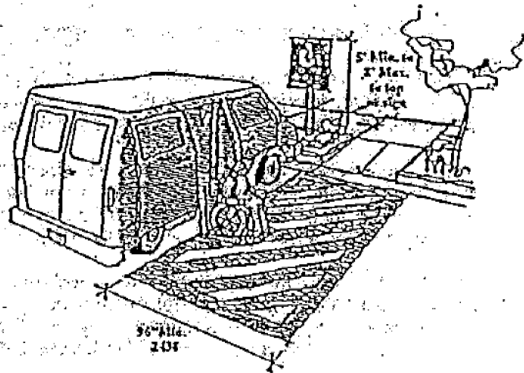
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Angled Parking  
Figure 15-1



Alternate Stall Parking  
Figure 15-2



Van Accessible Parking Space  
Figure 15-3

**SECTION 16:** All owners of land whereon is located an abandoned well or well in use shall provide a covering for such well capable of sustaining a weight of three hundred (300) pounds or shall fill the well to the level of the ground. Whosoever violates the provisions of this section shall be liable to a penalty of not less than \$100.00 nor more than \$500.00 for each offense.

**SECTION 17:** Snow shall be removed from the sidewalk within street limits within 24 hours after it has fallen. Snow so removed shall not be placed in any way, street or road to which the public has access. Snow removed from one's property, whether public or private, shall not be placed in any way, street or road to which the public has access. **( Added 10/7/96)** Ice shall be removed or sanded on all sidewalks in public ways forthwith. Public ways for the purposes set forth in this section shall be sidewalks, safetywalks, or footwalks whether concrete or blacktop on streets accepted by the Town. The Board of Selectmen shall determine and establish safetywalks in Town and authorize snow removal by the Town on said walks. The Town Clerk shall certify to the Police Department annually on November 1st each year a list of publicly accepted streets of the Town to be used for enforcement of this bylaw. The penalty for the violation of this Bylaw shall apply to the owner of the abutting property or his agent having charge thereof.

**SECTION 18:** Fees, rentals, reimbursements of all Town Officers received by them by virtue of their office must be monthly turned in to the Town Treasurer and reported to the Town Selectmen who shall publish same in the Town Report.

**SECTION 19:** Any Town bylaw which imposes a duty and affixes a penalty for the neglect or violation thereof, if not complied with, shall be performed under direction of the Board of Selectmen and a charge not exceeding the penalty shall be recovered in contract by the Town from the person liable to perform same.

**SECTION 20:** Whoever violates any Bylaws of the Town of Ludlow shall, unless otherwise provided by such Bylaws, or the laws of the Commonwealth, be liable to a penalty of not more than twenty (\$20.00) dollars for each offense.

**SECTION 21:** No procession or parade shall be allowed on public streets or sidewalks of the Town without written permission of the Board of Selectmen. The Board of Selectmen is not required to give its written permission unless notice of that procession or parade showing the time, place, route and duration of the procession or parade is filed with the Board of Selectmen at least thirty (30) days prior to the starting time and date to allow enough time for proper review, as each request will be forwarded to the Police Department for review and comment. The Board of Selectmen shall issue its decision within thirty (30) days of its receipt of the notice of the procession or parade. A permit, if timely sought, shall be granted unless (a) the time, route and size of the parade or procession will disrupt to an unreasonable extent the movement of other traffic; (b) the parade or procession is of a size or nature that requires the diversion of so great a number of police officers of the Town to properly police the line of movement and the area contiguous thereto that allowing the parade or procession would deny reasonable police protection to the Town; (c) such parade or procession will interfere with another parade or procession for which a permit has been issued; or (d) by reason of disaster, public calamity, riot or other emergency, the Board of Selectmen determines that the safety of the public or property required such denial. Nothing in this Section will prohibit at any time the movement of troops or armed forces of either the Commonwealth of Massachusetts or the Government of the United States.

The purpose of this Section is to prevent disorder and to allow the public streets and sidewalks of the Town to be open for the convenience of its citizens and to prevent interruption and interference with the known existing traffic conditions in the streets and sidewalks of the Town for which any permit is sought. **(amended 10/05/2015)**

**SECTION 22:** No person shall operate a motorized vehicle on the frozen surface of Chapin Pond, better known as Haviland Pond, or any other frozen pond or waterway under the jurisdiction of the Town of Ludlow. Vehicles owned and operated by an agency of the United States Government, State, County or a municipality are exempt from this section.

In this section, unless the context otherwise requires, the words "Motorized Vehicles" shall mean any motor vehicle, motorcycle or motorized bicycle as defined under Ch. 90, S. 1 of the Massachusetts General Laws; or any recreational vehicle and snow vehicle as defined under Ch. 90B, S. 29 of the Massachusetts General Laws; or any vehicle which is motor driven.

#### **REGULATION OF BOATS ON CHAPIN POND ALSO KNOWN AS HAVILAND POND.**

**SECTION 23:** In this section, unless the context otherwise requires, the following words shall have the following meanings: **(Amended 10/7/96 ATM)**

**"Machinery"** - All inboard or outboard engines and all other types of motors or mechanical devices capable of propelling vessels.

**"Motorboat"** - Any vessel propelled by machinery.

**"Vessel"** - Watercraft of every description which is capable of being used as means of transportation on water.

**"Trolling Motor"** – Any type of machinery, other than machinery propelled by an internal combustion engine which is capable of propelling a vessel at a speed of no greater than 5 MPH.

a: No person shall operate a motorboat on Chapin Pond better known as Haviland Pond, or Wade Pond, except for vessels owned by an agency of the United States Government or by a State, County, City or Town. **(Amended 4/14/97 ATM)**

**SECTION 24:** Consuming Intoxicating Beverages on Public Property; Penalties.

1. Whoever shall, on a public way within the Town, whether that public way be a Town way, County highway, State highway, or a private way open to the public, or in any other place where the public shall have access, consume intoxicating beverages shall be punished by a fine not exceeding \$50.00. This section shall also be construed so as to prohibit the consumption of intoxicating beverages by any person while such person is standing, sitting, walking, running, or otherwise present within such way or public place as hereinabove defined, or within any vehicle, whether parked or moving, which is within the limits of such public way or place as herein defined.

2. Whoever shall consume any intoxicating beverages in any public building, or on any public property, including parks, cemeteries, schoolhouses and school grounds, public squares, or in any private way or parking area regulated under the provisions of General Laws, Ch. 90, S. 18, shall be punished by a fine not exceeding \$50.00.

3. The foregoing paragraphs 1 and 2 shall not apply to any activity duly licensed by the Board of Selectmen under the applicable provisions of the General Laws. A violation of this by-law shall be deemed to be a breach of peace.

4. It shall be the duty of any Police Officer of the Town to arrest any person who violates the provisions of paragraphs 1 or 2, and to cause such persons to be detained until he can be taken before a court having jurisdiction of the offense.

**SECTION 25: Fire Lane Rules and Regulations**

1. The Fire Chief may designate fire lanes within the limit of any private way, parking area, or driveway for the access of fire apparatus, ambulances or other emergency vehicles to multiple-family dwellings, stores, schools and places of public assembly.

3. It shall be unlawful to obstruct or block any area designated as a Fire Lane with a vehicle or by any other means.

4. The registered owner of any vehicle parked or left unattended within the limits designated as a Fire Lane shall be punished by a fine not to exceed fifteen (\$15.00) dollars for each offense.

5. False Fire Alarm calls as follows:

An alarm user whose fire alarm system transmits or otherwise causes more than three (3) false alarms in any calendar year shall be assessed a fine according to the following schedule:

- A. Fourth false alarm \$25.00.
- B. Fifth and any subsequent false alarms \$50.00.

Definition: For the purpose of this Article, the term "false alarm" means the activation of a fire alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents. Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

6. Installation of Key Boxes on Property Protected by automatic Fire Alarm Systems or automatic Sprinkler Systems

- A. Whenever an automatic fire alarm system or automatic fire sprinkler system protects a structure or area within the Town, a secured key box rapid entry system approved by the Fire Chief shall be installed on the property in a location approved by the Fire Chief or his designee. For standardization, a Knox Box is the only approved key box rapid entry system. It shall be the responsibility of the owner, lessee, tenant or other party in control of the structure or area (1) to assume all costs associated in the installation of the key box, (2) to ensure that all keys contained therein are those currently in use in the structure or area, (3) to keep the key box in good repair.

The following are exempt:

- . Structures or areas that are occupied twenty four hours a day, seven days a week where personnel on site have keys and access to aforementioned areas
- . Buildings containing five (5) or less dwelling units
- . Buildings containing six (6) or more dwelling units that do not utilize common corridors to access living units.

- B. Such key boxes shall contain current keys for the following:
  - (1) Locked points of ingress or egress whether on the interior or exterior of the building
  - (2) Fire alarm panel and room
  - (3) Mechanical rooms, if any
  - (4) Elevator controls and firefighter switch if applicable
  - (5) Any area with hazardous conditions or materials
  - (6) Other areas as directed by the Fire Chief or his designee.

- C. All structures or areas required to install a key box shall have one (1) year from the effective date of this by-law to comply. Failure to comply with any portion of this by-law will result in a penalty of \$50.00 for each thirty (30) day period of non-compliance. **(added 5/13/2002)**

7. Fire Department notification and the hiring of a fire watch for large public gatherings.

A. Whenever there is a public event in a place of assembly, theater, auditorium, or sports complex or any event which requires a special permit from the Town or any Town Department, the Fire Department shall be notified at least thirty (30) days in advance of the start of such event. This notification shall be in writing and include, but not limited to: the location of the event; the time and date the event will take place; the event organizer; the expected attendance; and a brief description of the event and any special considerations for the event.

B. The definition of a public event for this bylaw shall be any event which members the general public are invited to attend or an event to which tickets are sold to the general public. This shall not include places of worship.

C. Any public event with an expected attendance of over 1000 people, or any indoor event at which 85% of the occupancy load is expected to be met, may require a firefighter to serve as a fire watch. The fire watch is at the discretion of the Fire Chief or his designee. The cost associated with this fire watch shall be the sole responsibility of the event organizer or group. This cost will be paid to the Fire Department at least fourteen (14) days prior to the event.

D. The Fire Chief or his designee may require an ambulance at a public event if the attendance is expected to be greater than 2000 people, or it is in the best interest of public safety at the discretion of the Fire Chief or his designee. The ambulance staffed with two firefighters will serve as the fire watch for that event. All costs associated with the two firefighters providing the coverage shall be the sole responsibility of the event organizer or group. This cost will be paid to the Fire Department at least fourteen (14) days prior to the event.

E. All public events regardless of attendance will require a pre-event safety inspection conducted by the Fire Department in the interest of public safety. There shall be no cost associated with this inspection. The inspection will be conducted with the event organizer or his/her designee present. At the time of the inspection, the Fire Department has the right to order a fire watch if it is in the best interest of public safety. **(added 10/5/09)**

(see attorney general's remarks in approving the amendments adopted under Article 3 we remind the Town that any fees paid pursuant to this by-law must be paid into the general fund as required by G.L. c. 44 sec 53 and cannot be held separately by the Fire Department)

## **SECTION 26: Regulating the Use of Firearms in the Stony Brook Wetlands Area (Amended 10/5/98)**

In this section the following words shall have the following meanings:

**“Firearm”** A pistol, revolver or other weapon of any description loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than sixteen (16) inches or eighteen (18) inches in the case of a shotgun as originally manufactured and the term “length of barrel” shall mean that portion of a firearm, rifle, shotgun, or machine gun through which a shot or bullet is driven, guided or stabilized, and shall include the chamber.

**“Rifle”** A firearm having a rifled bore, fired from the shoulder, with a barrel length equal to or greater than sixteen (16) inches capable of discharging a shot or bullet for each pull of the trigger. For the purposes of this Bylaw, a shotgun with a rifled bore shall be considered to be a shotgun.

**“Shotgun”** Means a firearm having a smooth bore, fired from the shoulder, with a barrel length equal to or greater than eighteen inches with an overall length equal to or greater than twenty-six (26) inches, capable of discharging a shot or bullet for each pull of the trigger. For the purposes of this Bylaw, a shotgun with a rifled bore shall be considered to be a shotgun.

**“Bow  
and  
Arrow”** Means those types of bows and arrows which meet standards generally accepted for bows and arrows used for hunting purposes, but shall not include a crossbow except by those disabled persons specified in Massachusetts General Laws, Chapter 131, Section 69, nor an arrow gun, so-called, the purpose of which is to discharge an arrow from the bore of a firearm.

1. No person shall discharge any firearm as defined in this section other than a “shotgun” or a “bow and arrow” in the or “primitive firearm” in the Stony Brook Wetlands Area and such use is to occur only during a duly authorized hunting season of the Division of Fisheries and Wildlife within the dates of September 1<sup>st</sup> through January 31<sup>st</sup> inclusive. A violation of this bylaw is subject to a fine of fifty dollars (\$50.00) for the first offense and one hundred dollars (\$100.00) for each subsequent offense.

2. No target shooting or siting of any **firearm**, including **Bow and Arrow** allowed in this area at any time.

## **SECTION 27: Prohibiting the Use of Recreational and/or All Terrain Vehicles in the Stony Brook Wetlands Area.**

In this section, the following words shall have the following meaning:

Recreational Vehicle or All Terrain Vehicle.

Any motor vehicle designed or modified for use over unimproved terrain if used for recreation or pleasure off or on a public way as defined in Chapter 90 of the Massachusetts General Laws, and all legally registered motor vehicles when used off a way, as defined under Chapter 90; provided, however, that for the purpose of vehicles used for agriculture, forestry, lumbering, golf, or construction shall be excluded from this definition when used for such purpose; provided, further, that in any complaint brought under this Bylaw, the burden of proof shall be upon the alleged violator to prove such use. A violation of this Bylaw is subject to a fine of twenty-five dollars (\$25.00) for the first offense and fifty dollars (\$50.00) for each subsequent offense. **(Added 10/5/98)**

**SECTION 28:** It is hereby prohibited to feed any non-domesticated goose or duck of any breed within the town borders. Any person who feeds such waterfowl will be subject to a twenty-five dollar (\$25.00) fine for the first offense and a fifty-dollar (\$50.00) fine for each subsequent offense. Any town of Ludlow Police Officer who witnesses the feeding of these waterfowl shall be authorized to issue said fines pursuant to the non-criminal disposition provisions of General Laws, Chapter 40, Section 21D.

Children under the age of sixteen (16) shall not be subject to said fines, however, any adult supervising a child, who is engaged in the feeding of these waterfowl shall be subject to said fines. **(Added 10/5/98)**

**SECTION 29:** No commercial vehicle shall be parked on any street in Ludlow for more than two (2) hours (Exception: emergency and servicing vehicles) unless said street is equipped with a sidewalk. No commercial vehicle shall be parked on any street in the Town between the hours of 6:00 p.m. and 6:00 a.m. **(Amended 5/8/00)**

## **REGULATING THE SALE OF MERCURY THERMOMETERS**

### **SECTION 30:**

In this section, the following words shall have the following meanings:

Mercury Thermometer: A mercury-containing product that is used to measure body temperature. A mercury-containing product is a product, device, instrument or equipment into which elemental mercury or mercury compounds are intentionally added during its formulation or manufacture and in which the continued presence of mercury is desired to provide a specific characteristic or to permit a specific function.

Basal Thermometer: An ultra sensitive mercury-containing product or digital device that is used to measure the body's exact temperature.

Health Care Facility: Any hospital, nursing home, extended care facility, long term facility, clinic or medical laboratory, state or private health or mental institution, clinic, physician's office or health maintenance organization.

Manufacturer: Any person, firm, association, partnership, corporation, governmental entity, organization, combination or joint venture that produces a mercury fever or basal thermometer.

Disposal Site: An area at the Department of Public Works Transfer Station specifically designated for all mercury-bearing equipment.

1. **Retail Sale Prohibited.** No person who owns, conducts, operates or manages a retail commercial establishment shall sell at retail or offer for sale or supply (including online retail) mercury fever or basal thermometers to consumers and patients, except by prescription. The manufacturers of mercury fever thermometers shall supply clear instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur with all mercury fever or basal thermometers sold through prescriptions.
2. **Manufacturing Prohibited:** No person in Town shall manufacturer any thermometer containing mercury.
3. **Importation Prohibited:** It shall be unlawful for any facility to import, purchase, or distribute any thermometer containing mercury in Town except in the sale of medical necessity as determined by a licensed physician.
4. **Disposal of a mercury or basal thermometer is prohibited in the Town of Ludlow except at the designated disposal site.** At this site, thermometers must be hand delivered to the appropriate Department of Public Works employee responsible for the disposal of mercury and basal thermometers.

5. Penalty: Any person who violates this By-Law shall be subject to a fine of not less than \$20.00 for a first offense and not more than \$50.00 for subsequent offenses.  
(Added 10/1/01)FSTM

## **REGULATING AUTOMATIC AMUSEMENT DEVICES**

### **SECTION 31:** Regulating Automatic Amusement Devices

The following provisions shall apply to automatic amusement devices as defined in Massachusetts General Laws, Chapter 140, Section 177A ("Section 177A"):

1. In accordance with Section 177A, as amended from time to time, any individual or business desiring to keep and operate an automatic amusement device for hire, gain or reward shall secure an annual license from the Board of Selectmen which shall design a license application to be completed by the applicant for each device and each location where such device is to be kept and operated. The fee for each device licensed pursuant to this By-Law shall be \$100.00. The Board of Selectmen shall not grant a license for any automatic device which presents a risk of misuse as a gaming device. Automatic amusement devices which present a risk of misuse as gaming devices are those devices which simulate actual gaming devices, including so-call"video poker", and games which involve matching forms, shapes or random number combinations.
2. The maximum number of automatic amusement devices allowed on any single business premises shall be four with no such device able to accept a bill larger than \$1.00. Any individual or business desiring more than four automatic amusement devices on a single business premises shall require authorization from the Board of Selectmen.
3. All licenses for automatic amusement devices granted by the Board of Selectmen shall be subject to inspection by the Ludlow Police Department to ensure conformance with submitted application information and the requirements of this By-Law and Section 177A.
4. Any unlicensed automatic amusement device or any automatic amusement device used in violation of the By-Law or Section 177A shall be subject to immediate seizure by the Ludlow Police Department.
5. A violation of this By-Law or Section 177A shall be grounds for revocation of any license issued by the Town of Ludlow and held by the violator, including a license to sell alcoholic beverages.  
Added(10/01/01)FSTM



## **FALSE BURGLAR ALARMS**

**SECTION 32:** Any property owner with a Burglar Alarm system installed on their premises is required to take reasonable care and undertake necessary maintenance to ensure that the system does not produce "false alarms." A twenty five dollar (\$25.00) fee will be assessed for each false alarm after the first three (3) false alarms which occur in a single calendar year. For purposes of this By-law a "false alarm" is defined as any activation of the alarm system, either intentionally, by human error, or by malfunction, which results in the dispatch of an emergency vehicle when no emergency exists. **(added 10/04/2004).**

## **PUBLIC CONSUMPTION OF MARIHUANA OR TETRAHYDROCANNABINOL**

**SECTION 33:** No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in G.L. c. 94C, sec 1; as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public buildings, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or any place accessible to the public.

This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40; sec 21, or by noncriminal disposition pursuant to G.L. c. 40, sec. 21D; by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under G.L. c., 94C, sec. 32L. **(added 5/11/09 ATM, Art 14)**

## **SOLICITATIONS**

**SECTION 34:** No person shall solicit donations or conduct fundraising activities in the traveled portioned of a public way in a manner which, in the reasonable judgment of a police officer, endangers the safety of persons engaging in such conduct or persons using the public way. **(added 5/10/2010)**

## **VACANT AND UNKEMPT PROPERTIES**

### **SECTION 35:**

#### **Sec. 1 Regulations of Inadequately Maintained Vacant or Unkempt Properties**

(a) **Purpose:** The purpose of this ordinance is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, protecting the Town's resources, avoiding the creation and maintenance of nuisances and ensuring the safe and sanitary maintenance of dwellings. Inadequately maintained vacant buildings or unkempt properties are at an increased risk for fire, unlawful entry, and other public health and safety hazards. This ordinance will help secure the welfare of the Town's residents and neighborhoods by requiring all residential property owners, including lenders, trustees, and service companies and alike, to properly maintain vacant and/or unkempt residential and commercial properties.

#### **(b) Definitions:**

**Enforcement persons:** Building Commissioner, Fire Chief or his designee, Police Chief or his designee, Representative of the Board of Health.

**Owner:** every person, entity, service company, property manager or real estate broker, who alone or severally with others:

(1) Has legal or equitable title to any dwelling, dwelling unit, or parcel of land, vacant or otherwise; or

(2) Has care, charge or control of any dwelling, dwelling unit, parcel of land, vacant or otherwise, in any capacity including but not limited to agent, executor, executrix, administrator, trustee or guardian of the estate of the holder of legal title; or

- (3) Is a mortgagee in possession of any such property; or**
- (4) Is an agent, trustee or other person appointed by the courts and vested with possession or control; or**
- (5) Is an officer or trustee of the association of unit owners of a condominium; or**
- (6) Is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated a foreclosure process.**

Each such person is bound to comply with the provisions of these minimum standards as if he or she were the owner.

**Property:** any real, residential or commercial property, or portion thereof, located in the Town of Ludlow, including buildings or structures situated on the property. For purposes of this section, property does not include property owned or subject to the control of the Town or any of its governmental bodies.

**Residential Property:** any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

**Commercial Property:** any property that contains one or more structures or units used, intended, or designed to be occupied for any business type activity that is owned or leased by a corporation, LLC, partnership or any other legal holding entity.

**Vacant property:** any residential or commercial property that is unoccupied for a period greater than one hundred eighty (180) consecutive days by a person or persons with legal right to reside therein.

**Unkempt property:** any residential or commercial property that has any type of overgrown vegetation or plantings that have overgrown to a point that rodents, animals, or vermin can dwell within. Any property on which debris, trash, junk, or garbage has accumulated on the ground, driveway, sidewalks etc. for longer than sixty (60) days shall be determined as unkempt.

**(exception):** Any vegetation used as a buffer between abutting neighbors or any wooded/wetlands areas.

**(c) Requirements for adequate maintenance:** owners of vacant or unkempt properties as defined in section (b), must fulfill the following minimum adequate maintenance requirements for any such property they own:

- (1) Maintain vacant or unkempt properties subject to this section in accordance with the relevant sanitary, building and fire codes.**
- (2) Secure vacant properties subject to this section to prevent unauthorized entry and exposure to the elements.**
- (3) Maintain vacant or unkempt properties subject to this section in accordance with regulations promulgated by the Enforcement Persons pertaining to the external/visible maintenance of the property, including but not limited to the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery, and other landscape features.**
- (4) Repair or replace broken windows or doors within thirty (30) days. Boarding up any doors or windows is prohibited except as a temporary measure for no longer than thirty (30) days.**
- (5) For properties vacant for one hundred eighty (180) days or more, whose utilities have been shut off, remove or cut and cap such utilities to prevent accidents within ten (10) days after the 180<sup>th</sup> day of vacancy.**
- (6) Compliance with this subsection shall not relieve the owner of any applicable obligations set forth in any other codes, regulations, covenant conditions or restrictions, and/or homeowner or condominium association rules and regulations.**

**(d) Notice of failure to adequately maintain vacant or unkempt property:** Upon identifying a vacant or unkempt property as failing to meet the minimum maintenance requirements set out in section (c), any Enforcement person shall notify the Zoning Enforcement Officer who will then notify the owner in writing of maintenance deficiencies at the owner's last known address. If any maintenance deficiency is not corrected within 30 days of said notice, or if a maintenance plan is not approved by the Zoning Enforcement Officer within 30 days of said notice, the Zoning Enforcement Officer may take action pursuant to subsection (f) below.

**(e) Inspections:** Any Enforcement Person shall have the authority to periodically inspect any property subject to this section for compliance. Any Enforcement person shall have the discretion to determine when and how such inspections are to be made, provided that the time and manner of such inspections are reasonably calculated to ensure that this section is enforced.

**(f) Penalties:** This Bylaw may be enforced through any lawful means, including, but not limited to, by non-criminal disposition pursuant to MGL Chapter 40, Section 21D. For the purpose of noncriminal enforcement, the Enforcing Persons shall be the enforcement persons as defined in subsection (b) of this bylaw. If enforced pursuant to noncriminal disposition, the civil penalty for each such violation shall be as set forth in Chapter 13, section 2 of the Town of Ludlow Bylaws.

**(g) Enforcement:** Any Enforcement Person shall enforce all provisions of this section; including any regulation promulgated hereunder, and shall institute all necessary administrative or legal action to assure compliance.

**(h) Regulatory Authority:** The Board of Selectman has the authority to promulgate rules and regulations necessary to implement and enforce this section.

**(i) Severability:** If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered separate and apart from the remaining provisions, which shall remain in full force and effect.

#### **Appeal process**

Any owner, as outlined in definitions, issued a non-criminal penalty may appeal by requesting a hearing before the Town of Ludlow Municipal Hearing Officer within thirty (30) days from the date of offense. (added 5/11/2015)

## **CHAPTER V**

**Regulating the Use of Land (Zoning) - See separate booklet "Zoning Bylaws for the Town of Ludlow."(amended 5/14/07)**

## **CHAPTER VI**

**Regulating the Construction of Buildings (Building Code). - See separate book,  
"State Building Code" (Revised 10/02/00)**

# CHAPTER VII

(Amended 5/9/16, Art 18 ATM)

## CHAPTER VIII

### REGULATING UNREGISTERED CARS

This article shall not apply to off-road recreational vehicles. This Bylaw shall not apply to vehicles used for farming purposes.

1. No person not licensed to do so, shall keep, store or park any unregistered, junked or dilapidated motor vehicle, as defined in the General Laws, which are required to be registered in order to be operated upon the ways of the Commonwealth.
2. For the purposes of this Bylaw a "junked or dilapidated motor vehicle" shall also include a motor vehicle which is registered for which no current Massachusetts Inspection Sticker has been issued.
3. Motor vehicles that are unregistered, whether assembled or disassembled.
  - a. Shall not be kept on any premises within the Town unless such vehicle(s) are either:
    - i. Stored within a totally enclosed and lawfully permitted building with sidewalls and a roof.
    - ii. Stored out of sight (including covered with an appropriate "car cover") from abutting properties and public ways.
  - b. Any open air storage of more than two (2) unregistered or inoperable vehicles is prohibited on any lot where the principal use of such lot is residential in nature.
  - c. For the purposes of this Bylaw, all contiguous parcels of land in common ownership will be considered one lot.
4. No motor vehicle may be offered for sale on any premises except in accordance with a license granted under M.G.L. Ch. 140 s.57. A motor vehicle may be offered for sale by owner if:
  - a. The motor vehicle is legally owned by the owner or tenant of the premises.
  - b. The owner of the motor vehicle and property has sought and received permission from the Police Department
  - c. Permission may be issued by the Police Department at its discretion for a period not to exceed thirty (30) days.
  - d. No more than two (2) vehicles will be permitted to be posted for sale on the same premises within a calendar year.
  - e. No more than one (1) vehicle will be permitted to be posted for sale at one time.
5. Enforcement:
  - a. Any person that continues to violate any sections of this Bylaw after seven (7) calendar days following receipt of written notice of violation for each offense shall be liable for a fine of not more than one-hundred (\$100.00) dollars for each offense.
  - b. Each day that a violation continues after said seven (7) calendar day period shall be treated as a separate offense.

- c. Any violation that is corrected and then recurs within one year following the written notice of the original violation shall be considered a repeat violation subject to an immediate penalty not more than two hundred (\$200.00) dollars for each offense and each day the repeat violation continues shall constitute a separate offense.
- 6. The notice of violation may be issued by any Police Officer or Zoning Enforcement Official, and such violations shall be subject to non-criminal disposition pursuant to Article XIII of the Ludlow General Bylaws. **(added 10/05/2015)**



## CHAPTER IX

# REGULATING THE LICENSING, CONTROL AND KEEPING OF DOGS

**SECTION 1:** The provisions of Ch. 140 of the Massachusetts General Laws shall govern the regulation of dogs in the Town of Ludlow unless otherwise stated in these Bylaws and authorized by the acceptance of Ch. 308 of the Acts of 1985.

**SECTION 2:** Notwithstanding the provisions of Ch. 140, S. 137 of the General Laws and any other provision of law to the contrary, the registration, numeral listing, description and licensing of dogs, if kept in the Town of Ludlow, shall be conducted by the Town Clerk.

**SECTION 3:** Notwithstanding the provisions of Ch. 140, S. 139 of the General Laws or any other provision of law to the contrary, the annual fees to be charged by the Town of Ludlow for the issuance of licenses for dogs shall be established by the Board of Selectmen.

**SECTION 4:** Notwithstanding the provisions of Ch. 140, S. 147 of the General Laws or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the Town of Ludlow, or recovered as fines or penalties by said Town under the provisions of said Ch. 140 relating to dogs shall be paid into the Town Treasury and shall not thereafter be paid over to Hampden County.

**SECTION 5:** Dog Leash Law - No person owning or keeping a dog in the Town shall permit such dog to be at large in the Town, elsewhere than on the premises of the owner or keeper, except if it be on the premises of another person with the knowledge and permission of such other person. Such owner or keeper of a dog in the Town which is not on the premises of the owner or upon the premises of another person with the knowledge and permission of such person shall restrain such dog by a chain or leash not exceeding six feet in length. In any prosecution hereunder the presence of such dog at large upon premises other than premises of the owner or keeper of such dog shall be prima facie evidence that such knowledge and permission was not had. Any dog found to be at large in violation of this section shall be caught and confined by the dog officer, who shall notify forthwith the licensed owner or keeper of such dog. Return of the dog to the licensed owner or keeper shall be dependent upon admission of ownership or the keeping of the dog and the assumption of responsibility by the licensed owner or keeper. The dog officer shall enter and prosecute a complaint against the owner or keeper of any dog taken into his custody under this section; provided, however, that if within the twelve months next preceding this offense the owner or keeper has not been convicted for violation of this section or a dog owned or kept by him has not been taken into custody for violation of this section the dog officer may waive prosecution. The park department may designate times and places on public park property where dogs may be exercised or trained off leash while under the control and supervision of their masters.

A violation of this section shall be punishable by a fine of \$50.00 for the first offense, \$100.00 for the second offense and \$250.00 for a third or subsequent offense. **(Amended 10/3/94) (Amended 5/10/2021, A11, ATM)**

**SECTION 6:** Barking/Nuisance Dogs – Under the authority of Massachusetts General Laws, Chapter 140, Section 157, the Board of Selectmen shall take action in response to written complaints “that any dog owned or harbored within the Town of Ludlow is a nuisance by reason of vicious disposition or excessive barking or other disturbance.” For the purposes of the section, causing a nuisance shall include but not be limited to:

- 1) Having a vicious disposition;
- 2) Engaging in excessive barking;
- 3) Chasing Cars;
- 4) Running in packs with other dogs;
- 5) Breaking or damaging shrubbery, crops, or gardens;
- 6) Breaking or damaging personal property;
- 7) Biting or attacking by other means a person or persons;
- 8) Biting or attacking by other means a pet or other animal; or
- 9) Entering unrestrained onto the property of persons other than the owner or keeper of the dog.
- 10) Three verified complaints of continued barking by the Police Department or Dog Officer.

First Offense fine (1-6)                      \$50.00  
Second Offense fine                      \$100.00    **(Amended 5/10/21, A11, ATM)**

**SECTION 7:** Formal complaints; hearings; action by Board of Selectmen; criminal complaint. The Dog Officer or any resident may file a written complaint and request an adjudicatory hearing with the Board of Selectmen if aggrieved by any unresolved complaint of nuisance behavior, which cannot be otherwise resolved by the action of the Dog Officer acting alone. All parties shall be served with written notice at least ten days prior to the scheduled hearing. In the case of an emergency, determined by the chairman of the Board of Selectmen, the hearing may be held as soon as one hour after the notice is delivered.

The complainant shall testify. The dog owner or keeper may testify. Any party may be represented by private legal counsel. The Board of Selectmen may call such other witness to present evidence or testimony which the Chairman shall determine to be relevant.

The Board may order any of the following resolutions:

- a) restraint of the dog exclusively to the property of the owner or keeper;
- b) removal and restraint of the dog into the town impound facility;
- c) muzzling of the dog at specific times or places;
- d) evidence of completion of a dog obedience or behavior program for the dog and the owner or keeper;
- e) construction of a new, or inspection of an existing fenced, concrete floor, mesh wire covered enclosure for the dog on the property of the owner or keeper, deemed suitable, safe and secure by the Dog Officer;
- f) removal of the dog from the town;
- g) transfer of the dog into the care of a bona fide rescue or adoption shelter program;
- h) and/or cause the dog to be humanely euthanized by a licensed veterinarian.
- i) Revocation of dog license

The board may also order the Dog Officer to issue additional citations based on the facts and findings of the hearing, in accordance with MGL Chapter 140, Section 157.

The dog owner or keeper may appeal the orders of the Board of Selectmen to the District Court in accordance with MGL Chapter 140, Section 157. An appeal will not stay the execution of an order to restrain said dog during the time of the appeal proceedings, except in the case that said dog is ordered to be euthanized.

The Board of Selectmen may enforce these bylaws by filing a criminal complaint in the District Court if a dog owner fails to comply with a citation or with any orders issued pursuant to a hearing under this section, and fails to appeal in accordance with Section 157. (**amended May 9, 2011**)

## CHAPTER X

### COUNCIL ON AGING

**SECTION 1:** The Board of Selectmen shall appoint a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in co-operation with programs of the Commission on Aging established under Ch. 6, S. 73 of the General Laws.

**SECTION 2:** The Board of Selectmen shall appoint the Council on Aging consisting of eleven (11) members. Upon acceptance of this by-law, the Board shall appoint four (4) members for three (3) years, four (4) members for two (2) years and three (3) members for one (1) year term. Members can be reappointed for concurrent terms. The members of the Council shall serve without pay.

**SECTION 3:** Whenever a vacancy shall occur in the membership of the Council, by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled by appointment by the Selectmen for the remainder of the term.

**SECTION 4:** The Council on Aging at its first annual meeting and thereafter, annually in April of each year, shall elect from its membership a President, 1st Vice President, 2nd Vice President, Secretary and Treasurer. Each officer shall hold office until the next annual election. In the event a vacancy occurs in any of the offices above, the Council shall hold a special meeting for the purpose of electing one of its members to fill such vacancy.

**SECTION 5:** The Council shall prepare and submit an annual report of its activities to the Town and shall send a copy thereof to the Commission on Aging.

**SECTION 6:** The Council may appoint such clerks and other employees as it may require.

**SECTION 7:** The Board of Selectmen shall appoint three (3) associate members to the Council on Aging each year when they make their annual appointments. The role of the associate members shall be to assist the regular members of the Council in carrying out their responsibilities. **(Added 4/14/97 STM)**

# CHAPTER XI

## REGULATING THE USE OF THE SANITARY LANDFILL RULES AND REGULATIONS

### CHAPTER 1 - DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of these regulations:

- a) "**REFUSE**" shall mean and include any solid waste product or those having the character of solids rather than liquid in that it will not flow readily without additional liquid and which is composed wholly or partly of such materials as rubbish, garbage, ashes, street cleanings, industrial or domestic solid wastes, but not including body wastes.
  
- b) "**RUBBISH**" shall mean nonputrescible solid wastes, excluding ashes, and consisting of both combustible and noncombustible waste products. This includes paper, cardboard, packaging materials, cans, glass, crockery, rags, boxes, wood, bedding metals, discarded home furnishings, yard clippings and cleanings, solid industrial and domestic wastes, leaves, dead trees or branches thereof, materials resulting from demolition, alteration or construction of buildings or structures, tires and similar materials.
  
- c) "**GARBAGE**" shall mean putrescible animal and vegetable waste products resulting from the handling, storage, preparation, cooking and consumption of foods.
  
- d) "**CLEAN FILL**" shall mean material free from refuse and consisting only of sand, gravel and other "clean earth."
  
- e) "**REFUSE DISPOSAL AREA**" shall mean any site, location, tract of land, area, building, structure, place or premises used or intended to be used for refuse disposal.
  
- f) "**REFUSE DISPOSAL**" shall mean bury, burn, destroy or otherwise dispose said refuse.

## CHAPTER 2 - REFUSE DISPOSAL

- a) No refuse disposal area shall be established or maintained on public or private premises within the limits of the Town of Ludlow unless such premise has been approved and a permit issued by the Board of Public Works and the Board of Health of the Town of Ludlow, MA. Said refuse disposal area shall be subject to provisions of the Zoning Bylaws of the Town of Ludlow and of Ch. 111, S. 150A, Appendix B of the General Laws of Massachusetts as amended by Ch. 310 of 1955.
  
- b) The premises shall be provided with adequate and appropriate facilities for extinguishing fires.
  
- (c) No fires shall be allowed, except by permission of the Board of Health or its authorized representatives. The Fire Chief or his authorized representatives shall supervise the burning operation.
  
- d) The refuse disposal area shall be operated as a properly conducted sanitary landfill.
  
- e) Clean fill shall be brought to the area as required by the Board of Health or its authorized representative.
  
- f) The disposal of garbage or other putrescible wastes shall not be permitted; except, however, the Board of Health or its authorized representatives may, in an emergency situation, permit the disposal but only in a manner prescribed by the Board of Health or its authorized representative.
  
- g) Fences shall be erected, whenever deemed necessary, to prevent the blowing away of certain refuse material.
  
- h) The premises shall be maintained as free as possible of rodents and insects at all times with proper control measures being instituted whenever requested by the Board of Health or its authorized representative.
  
- i) Scavenging or salvaging of rubbish or other refuse material shall not be allowed.
  
- j) The disposal area shall be as free of standing water as is feasible and practicable.
  
- k) There shall be a responsible person in charge at the refuse disposal area during the periods of operation.

### CHAPTER 3 -DISPOSAL PRIVILEGES

- a) The refuse disposal area shall be open to Town of Ludlow businesses and residents only, with the following exception. EXCEPTION: The Board of Selectmen may enter into a contract with a public or private entity to bring in refuse from inside or outside the Town of Ludlow.
  
- b) Refuse from outside the Town of Ludlow shall not be permitted in the refuse disposal area, unless under the previous exemption stated in (a) above.
  
- c) A special vehicle sticker permit shall be available at no charge to each household or business in the Town of Ludlow for admission to the refuse disposal area.
  
- d) Only TWO vehicle sticker permits shall be allowed for each household or business. A fee of \$1.00 will be charged if the permit is lost or destroyed.
  
- e) The vehicle sticker permit shall have no expiration date.
  
- f) The sticker permit for household users shall be affixed to the FRONT LEFT BUMPER on the driver's side of the vehicle.
  
- g) The sticker permits for business vehicles shall be kept on the front left bumper of the vehicle.
  
- h) IF A VEHICLE IS REPLACED, THEN IT WILL BE NECESSARY TO REMOVE THE STICKER PERMIT AND RETURN IT TO THE SELECTMEN'S OFFICE SO THAT A NEW STICKER PERMIT MAY BE ISSUED.
  
- i) Vehicle(s) registration(s) must be submitted at time of application for sticker permit.
  
- h) Business firms having one or more vehicles shall be issued only two sticker permits after written application is made to the Board of Public Works and the registration number is given.
  
- k) Sticker permits will be available upon request at the Board of Public Works Office, Sportsmen's Road, Ludlow, MA.

l) A sticker permit shall not be transferable from one household to another or from one business firm to another.

m) A ONE DAY PERMIT may be issued to a non-resident or out-of-town business who is performing work in the Town of Ludlow, provided that the refuse to be disposed of is from Ludlow.

#### **CHAPTER 4 - TIME PERIODS FOR USE OF REFUSE DISPOSAL AREA**

a) The refuse disposal area shall be opened from 8:00 a.m. to 5:00 p.m. from May 1st to October 31st, then from 7:00 a.m. to 4:00 p.m. from November 1st to April 30th. It will be opened on all holidays except Christmas Day, New Year's Day, Memorial Day, Thanksgiving Day, Washington's Birthday, 4th of July and Labor Day. It will remain closed on Sunday.

#### **CHAPTER 5 - PENALTIES**

a) Any person who shall violate any provisions of these regulations for which penalty is not otherwise provided in any of the General Laws shall upon conviction be fined not more than twenty dollars. Each and every violation of these regulations shall constitute a separate offense.

#### **CHAPTER 6 - AMENDMENTS, ETC.**

a) The Board of Public Works and/or Board of Health may from time to time prescribe new rules and regulations or amendments relative to refuse disposal and areas.

#### **CHAPTER 7 - UNCONSTITUTIONALITY CLAUSE**

a) Should any chapter, paragraph, clause, or phrase of these regulations be declared unconstitutional or invalid for any reason, the remainder of said regulation shall not be affected thereby.

These regulations shall become effective immediately after publication of said regulations in one or more newspapers published in the County of Hampden for a period of not less than once a week for three successive weeks. **(Adopted 3/12/68 and effective 4/1/68. Amendments effective 8/1/70 and 2/7/78.)**



## CHAPTER 8 - MANDATORY RECYCLING BY-LAW

In order to implement a program of recycling in conjunction with ordinary waste disposal, residents of every household shall separate waste material into the following categories before depositing same for disposal:

1. Glass and cans
2. Paper
3. Other waste

If no separation takes place, waste material shall not be accepted at the disposal location. Repeat offenders shall suffer a fine of \$50.00 per day. This Bylaw shall be implemented upon vote of a majority of the Board of Public Works.

Upon placement of properly separated recyclable for collection by the Town or its designated agent at the curbside or upon the tree belt, pursuant to this Bylaw, such materials shall become the property of the Town of Ludlow. It shall be a violation of this ordinance for any person, other than authorized agents of the Town acting in the course of their employment, to collect or pick up or cause to be collected or picked up any recyclable material so placed. Each and every such collection or pick up in violation hereof from one or more locations shall constitute a separate and distinct offense. Any violation of this paragraph or any part thereof shall be punishable by a fine not to exceed fifty dollars, and the violator shall make restitution to the Town for the value of the recyclable illegally removed.

- **See Article 11 STM 2/11/91 and Part 2 Ch. 1 S. 15.**

## CHAPTER XII

### REGULATING MOBILE HOME PARKS

#### SECTION 1. Mobile Home Rent Control Board

The Mobile Home Rent Control Board shall consist of five members appointed by the Board of Selectmen. The members in the first instance shall be appointed as follows: two (2) for a term of three (3) years; two (2) for a term of two (2) years; one (1) for a term of one (1) year. After expiration of the aforesaid terms, each subsequent appointment shall be for a period of three years. In the event of a vacancy in a seat, the Board of Selectmen may fill said vacancy for the remainder of the term. There will be no monetary compensation for Mobile Home Rent Control Board Members.

#### SECTION 2. Rules and Regulations

In accordance with the Bylaws of the Town of Ludlow, and Chapter 240 of the Acts of 1983, the Mobile Home Rent Control Board, after hearing in accordance with General Laws Ch. 30A. S. 2, hereby adopts the following rules and regulations for the purpose of regulating rents charged in mobile home parks within its jurisdiction.

#### DEFINITIONS

1. "Fair Market Value" of property shall mean the current assessed valuation of the property or any other valuation the Board feels more appropriate to the situation. This will be determined by the Board based on the evidence presented to it.
2. "Fair Net Operating Incomes" shall be that income which will yield a return, after all reasonable operating expenses, on the fair market value of the property, equal to the debt service rate for residential or commercial property generally available from institutional first mortgage lenders. The Board, in any given case may, on the basis of evidence presented to it, adopt a different rate of return if such a different rate of return is deemed by the Board to be more appropriate to the circumstances of the case before it.
3. "Rent" shall mean the total consideration paid by a tenant to an owner for the use and occupation of land in a mobile home park. This rent does exclude the tax collected by the owner and paid to the Town under Massachusetts General Laws Ch. 140, S. 32G.
4. "Standard Adjudicatory Rules of Practice and Procedure" or "Standard Rules" shall mean the rules and regulations promulgated by the Commissioner of Administration and Finance pursuant to General Laws Ch. 30A S. 11 and codified at 801 CMR Section 1.01 through 1.03 including any amendments which may hereafter be adopted by the said Commissioner.

## **SECTION ONE - MAXIMUM RENT**

The maximum rent for any mobile home park accommodation shall be the rent charged on January 2, 1985. If the mobile home park was unoccupied at that time, the maximum rent shall be the rent charge for similar accommodation on January 2, 1985. No rent adjustment of any mobile home park accommodation shall be effective without prior approval of the Board after proceeding as set forth in Section two and three herein.

## **SECTION TWO - ADJUSTMENT OF MAXIMUM RENT**

a) The Board may by order make such individual or general adjustments of the maximum rent established by section one herein, either upward or downward, as may be necessary to remove hardships or correct inequities for both the owner and the tenant and to yield to owners a fair net operating income for mobile home park accommodations.

b) The Board may refuse to grant all or part of any upward adjustment of rent if the Board determines that the affected mobile home park is not in compliance with the statutes, codes or regulations of the Commonwealth or any agency or department thereof or any municipal rules, regulations, codes, Bylaws or ordinances regulating the conditions of mobile home parks or, if the Board determines that the owner has failed to provide normal and adequate repairs and maintenance.

The Board may refuse to make any downward adjustment of maximum rent if it determines that the tenant is more than sixty (60) days in arrears in the payment of rent unless such arrearage is due to the withholding or non-payment of rent pursuant to General Laws Ch. 239 S. 8A, or if the tenant is in substantial violation of any enforceable rule of the mobile home park, or if the tenant is in violation of any laws or ordinances which protect the health or safety of other mobile home park residents.

c) In addition to any other provisions of these regulations, a tenant of any mobile home park accommodation may petition the Board for a downward adjustment in the tenant's individual rent and the Board may make such a downward adjustment if the tenant establishes, by affidavit, that the owner of said park has not rectified the said situation in a reasonable period of time, that the mobile home park accommodations because of violations of state or municipal laws, codes, regulations, ordinances or Bylaws are diminished in value to such a tenant. The Board based on this affidavit, may or may not dismiss the petitions presented to it.

## **SECTION THREE - RENT ADJUSTMENT PROCEEDING**

1. All proceedings to consider the upward or downward adjustment of rent shall be governed by the standard Adjudicatory Rules of Practice or Procedure - Formal Rules.

2. Any group of ten or more tenants, or any owner of any mobile home park may file with the Board a Notice of Claim for an Adjudicatory Hearing requesting either an upward or downward adjustment of rent. Said Notice of Claim shall simultaneously be served in hand, or by mail, postage prepaid and properly addressed, upon the owner, tenant(s) or tenants' association as the case may be and upon any other affected person, including any person affected by the proposed adjustment in rent.

All papers filed with the Board shall be accompanied by a statement signed under the pains and penalties of perjury, that service of copies have been made, and specifying the mode of service, date of service, the person(s) served and the address of the person(s). The Board may refuse to accept for filing any papers not accompanied by such certificate of service.

3. A respondent opposing any Notice of Claim shall file an answer to it within twenty-one (21) days after the filing of the Notice of Claim.

4. The Notice of Claim shall state clearly and concisely the facts which are the grounds for the proceeding, the relief sought and shall include a statement of the present rent, and the proposed rent.

1. Any Notice of Claim for any upward adjustment of rent shall be accompanied by the following documents:

(a) Financial statements for the three (3) years preceding the filing of the Notice of Claim; such statements should clearly set forth income, sources of income, a detailed breakdown of operating expenses, a complete and current balance sheet.

(b) An interim financial statement for the current year, if the period from the end of the last financial statement required under part (a) to the date of filing the Notice of Claim is more than three (3) months. The interim financial statement shall contain the same information as required under part (a).

(c) A statement of the number of employees, job titles and descriptions, and salaries for any employee whose employment relates in whole or in part to the affected mobile home park.

(d) Current capital improvements and dates of completion.

(e) Proposed capital improvements and proposed dates of completion.

(f) Proposed budget for the year in which the increase is to be effective.

(g) A statement of the rate of return sought and the assessed valuation of the property or appraised valuation of the property.

In any case where the owner seeking an upward adjustment in rent owns and operates more than one mobile home park all financial documentation submitted shall pertain solely to the operation of the mobile home park for which the upward adjustment is sought.

If any expenses are shared with other parks, the owner shall explain the rationale for his allocation.

Copies of all documents accompanying the Notice of Claim shall be served on the legal representative of tenants affected by the proposed adjustment.

2. Any Notice of Claim for a downward adjustment in rent shall specify clearly and concisely the grounds therefor. And, if based in whole or in part on the claimed violation of any law, regulation, ordinance or by-law, shall so state with appropriate citation to the law, regulation, ordinance or by-law.

3. The submission of any information or documents as set forth in this Section does not preclude the Board from ordering any party to produce at the hearing or before the hearing any other information or documentation relevant to the issues before the Board.

4. The Board shall make all reasonable efforts to conduct a hearing within sixty (60) days after the date of filing of the Notice of Claim. If it appears that more time is necessary for the Board or parties to prepare for the hearing, the Board or its Chairperson shall confer with the parties to establish in writing a time schedule for the parties to complete any necessary pre-hearing preparation.

#### **SECTION FOUR - LIMITATION OF PETITIONS**

Notwithstanding any other provision of this regulation, the Board may, without holding a hearing, refuse to adjust the maximum rent and may dismiss any petition or Notice of Claim for adjustment if a decision has been made by the Board with regard to the maximum rent for a mobile home park or an individual mobile home park accommodation within the twelve (12) months preceding unless the petition on the basis of new evidence demonstrates a substantial change in circumstances warranting the proceeding. The Board may also dismiss any petition or Notice of Claim if the Board finds that it was filed for purposes of harassment or for purposes or relief beyond the jurisdiction of the Board.

## **SECTION FIVE - RULE MAKING**

Any person whose rights, interest or property are, or may be affected, by rules and regulations of the Board may file a petition for rule making or to have the Board consider the adoption and promulgation of any rule or regulation consistent with St. 1981, Ch. 557. The Board on its own may conduct hearings for the purpose of considering, adopting and promulgating any rule or regulation consistent with its jurisdiction and St. 1981, Ch. 557.

All such proceedings shall be governed by General Laws Ch. 30A.

## CHAPTER XIII

### NON-CRIMINAL DISPOSITION AND ENFORCEMENT

SECTION 1: A Violation of any Town Bylaw may be enforced by any means available in law or in equity. When enforced on indictment or on complaint before a district court, any person violating any provision of these by-laws shall be punished by a fine of not more than three hundred dollars for each offense.

SECTION 2. Non-Criminal Disposition

#### **(a) Scope and Authority**

This Bylaw provides for a non-criminal disposition of a violation of any Town Bylaw, the violation of which is subject to a specific penalty. This Bylaw is enacted in accordance with MGL c. 40, sec 21D and applies to the following violations;

1. Any violation of an order of the Town's Board of Health relating to public health which is authorized by the General Laws, any special law applicable to the Town, the provisions of the State Sanitary Code, or other State regulation, or any Town bylaw, rule or regulation.
2. Any violation of an order of a Town Building Official relating to public safety which is authorized by the General Laws, any special law applicable to the Town, the provisions of the State Building Code, or other State regulation, or any Town bylaw, rule or regulation.
3. Any violation of an order of a Town Fire Official relating to public safety which is authorized by the General Laws, any special law applicable to the Town, the provisions of the State Fire Prevention Code or other State regulation, or any Town bylaw, rule or regulation.
4. Any violation of any other Town bylaw, or any rule or regulation of any Town Officer, board or department.

#### **(b) Enforcing Person**

"Enforcing person," as used in this Bylaw, shall mean any police officer of the Town of Ludlow, with respect to any offense; the Fire Chief and his or her designees; the Building Inspector and his or her designees; the Public Health Director and his or her designees; the Director of Operations, Department of Public Works and his or her designees; the Sealer of Weights and Measures and his or her designees; the Dog Officer; and such other officials as the Board of Selectmen or Bylaw may from time to time designate, each with respect to violation of Bylaws within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

**(c) Fines**

Notwithstanding any other provisions of this article, when enforcement is pursuant to the non-criminal disposition procedures of MGL c. 40, sec 21D, the following shall be the fines applicable to the listed offenses, unless otherwise specifically provided by Bylaw:

First violation:	Warning	
Second violation:	\$100	
Third violation:	\$200	
Fourth and subsequent violations:	\$300	(deleted old added new)

Each day a violation exists shall constitute a separate violation. (amended 5/10/2010)



## CHAPTER XIV

# REGULATION OF CLASS I, II AND III MOTOR VEHICLE LICENSES

### 1. Regulation of Class I, II and III Motor Vehicle Licenses.

A. Any person filing an application for a license or amending an existing license shall file an accurate plot plan of all the premises on which this license will be exercised. Such plan shall be drawn to scale, shown the north arrow as well as the actual dimensions, radii, and all angles of all the premises, showing the specific area to be used for the car lot, display areas, and all permanent buildings. The plot plan shall also include buffer areas, signs, driveways, and all abutters to the property; and such other information and plans as may be necessary to determine the merits of the application. Such plans as may be necessary to determine the merits of the application. Such plans must be approved by the Building Department and Engineering Department.

B. Every licensee shall provide a suitable place to conduct his business which shall include a plan to provide services and storage for not less than one motor vehicle. A storage area shall be exclusive of any office space. Each licensee shall be required to provide an area of display for vehicles containing not less than 1,500 square feet.

C. The issuance of any license shall be allowed only for a minimum of five (5) cars and does not allow auto repairs, or auto body repairs for the general public, but is restricted to repairs only on cars offered for sale by the dealer. All major repairs must be done indoors.

D. After the license is issued under this section, the licensee must obtain dealer license plates from the Registry of Motor Vehicles and shall not use repair plates for the vehicles held for sale. The licensee must obtain the above plates within ninety (90) days of the issuance of the license and retain these plates as a condition of holding this license. All license plate numbers must be recorded in the office of the Town Clerk upon receipt from the Registry of Motor Vehicles.

E. No person shall be licensed to buy and sell second hand motor vehicles unless he has filed with his application a statement certifying that such business will be the applicant's principal business and to be conducted on the licensed premises.

F. No car for sale shall be parked within the buffer area which shall be a minimum of five feet from a public way or sidewalk. Bumper guards shall be a minimum of five feet from a public way or sidewalk. Bumper guards shall be placed along any street line used as a display area. The licensing authority may require additional buffers that they deem necessary as it applies to safety of each individual area.

G. No temporary office space will be allowed such as small buildings without proper sanitary facilities, or trailers on wheels or blocks.

H. Failure of a licensee to conform with any of this section or zoning Bylaws, shall be deemed cause to suspend, revoke, or not to reissue the license.

I. Effective upon the date of the adoption of this ordinance, all present licensees who remain in the same location and under the same ownership shall be exempt from the provisions of subparagraphs A, B, C and G of paragraph 1 of this chapter, provided, however, that all conditions in effect upon the original issuance of any license shall remain as a condition for those license holders.

J. All signs shall conform with sign ordinance.

K. The hours of operation to be restricted between the hours of 8 a.m. to 9 p.m. No sales or promotional activities on Sundays or holidays with the exception of Washington's Birthday.

L. Lighting shall be a condition of the license to be approved by the Building Inspector subject to final inspection and approval by that officer.

M. Subject to any other safety precautions deemed necessary by the licensing authority.

N. The licensing authority may approve an application for a Class I and II dealers license with the stipulation that all the above regulations must be met prior to the issuance of that license.

2. Revocation of license hearings. The licensing authority is empowered to suspend, revoke or take any other action provided by this chapter or the General Laws of the Commonwealth against any license issued hereunder, after hearing, if it finds that there has been a violation of law, ordinance, rules or regulation.

3. Penalties - If the licensing authority finds, after hearing, that there has been a violation of law, ordinance, rule or regulation, it may revoke, suspend or fine any licensee. Fines shall be established as follows:

1. First offense for each day of violation, \$50.00.
  
2. Second offense or subsequent offense for each day of violation, \$100.00.

Nothing herein shall prevent the licensing authority from imposing any of the above penalties, in any combination.

4. Limitation of licenses - The total number of Class II dealers licenses issued under General Laws, Ch. 140, S. 58 and 59 at any one time shall be no more than twenty-five (25). **(Amended STM 10-5-2020 Art 6 from twenty to twenty-five)**

5. Fees - The application fee for Class I and II licenses is \$100.00. The annual fee of Class I and II licenses is \$200. **(Amended 10/5/2020 Art 6 STM from \$100 to \$200)**

6. Enforcement, investigation - The investigation of violations under this chapter shall be delegated to the Police Chief or his designees and the Building Inspector or his designees, who may enter licensed premises at reasonable times to inspect and investigate the condition in order to ensure compliance with Sec. II-I3.

7. Class III provisions - The provisions of paragraphs 2, 3, 5 and 6 inclusive shall apply to all Class III licenses. The total number of Class III dealers licenses issued under General Laws Ch. 140, S. 58 and 59 at any one time shall be no more than ten (10).

- a. Fees - The application fee for Class III license is \$100.00. The annual fee of Class III licenses if \$100.00.

# CHAPTER XV

## CONSERVATION COMMISSION BYLAW

**1. Purpose**

The purpose of this bylaws is to assist the Conservation Commission in protecting the wetlands, water resources, and adjoining land areas in the Town of Ludlow by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community.

**2. Jurisdiction**

No person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds of any size, rivers, streams, creeks, beaches, lands under water bodies, lands subject to flooding or inundation by groundwater or surface water, and lands abutting any of the aforesaid resource areas (collectively the “resource areas protected by this By-law”). Said resource areas shall be protected whether or not they border surface waters. This jurisdiction shall extend to a buffer area of 100 feet away from any of the above described resource areas, and is extended to a buffer area of 200 feet away from a river or stream. Except where permitted by the Wetlands Protection Act, no person shall develop or disturb an area within 25 feet of the above described resource areas, to be known as a minimum non-disturb zone.

**2. a, Exceptions:**

In a case of Public Utilities, where no feasible alternatives exist, and no permanent damage will occur to the wetland, the Conservation Commission may at its discretion grant a variance to the “25 foot no disturb zone”.

In the case where no feasible alternatives exist but to encroach upon the Wetland in order to allow the applicant access to his/her property, the Conservation Commission may at its discretion grant a variance to the “25 Foot no disturb zone” provided no permanent damage will occur to the Wetland and/or proposed replication is agreed upon by all parties.

**(amended 5/14/2001)**

2.b. **Flood Control:**

Any proposed work in the Floodplain of Isolated Areas or Bordering Land subject to Flooding may not begin without first filing a Notice of Intent with the Conservation Commission and must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws, and 310 CMR 10.57, and the Massachusetts State Building Code pertaining to construction in the floodplains (currently 780CMR).**(amended May 13, 2013)**

The Floodplain District is delineated for the Town of Ludlow on the Hampden County Flood Insurance Rate Map (FIRM), dated July 16, 2013, as Zones A and AE to indicate the 100-year floodplain. The precise boundaries of the district are defined by the 100-year flood elevations shown on the FIRM and further defined by the Flood Profiles contained in the Flood Insurance Study (FIS) report, dated July 16, 2013. Within Zone A, where the 100 year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Department of Public Works. If the data is sufficiently detailed and accurate it shall be relied upon to require compliance with this bylaw and the Massachusetts State Building Code.**(amended May 13, 2013)**

3. **Coordination with Other Boards**

Any person filing a permit application or a Request for a Determination of applicability under the Massachusetts Wetlands Protection Act with the Commission, shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the conservation Commission of the adjoining municipality, if the application or Request for a Determination of applicability pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered shall be filed with the Commission. In order to insure that the Conservation Commission is aware of any property being built upon or development within its jurisdiction as defined above, the Conservation Commission shall be provided by the applicant with a copy of any permit application submitted to other town Boards and officials including but not limited to the Department of Inspectional Services **(amended 5/9/2005)** , Department of Public Works,

Planning Board and Board of Health. Notice of said requirement shall be posted in appropriate Permitting places by the Conservation Commission. The Conservation Commission shall provide Public Hearing Notices to the above mentioned Boards. **(Amended 5/8/00)**

#### 4. Performance Guarantees and Security

As part of a permit issued under this bylaw, except for permits issued for work being performed or contracted by any department or agency of the Town of Ludlow, and in addition to any security required by any other municipal or state board or agency, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- (a) A financial guarantee, such as a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission. Surety performance bonds, cash escrows, and standby letters of credit are the usual forms of financial guarantees that will be accepted. Property escrows will not be accepted. Permittee shall submit their estimates of what the required improvements will cost, preferably with contractors bids to perform the work.

The term of any financial guarantees must be at least nine months longer than the time a permittee has to complete a project. The Commission, at its discretion, may allow partial or complete release of guaranteed funds as sections of a project are completed. The Commission has the right not to release part of the guaranteed funds until after the project is finished and a certificate of compliance is issued.

The Commission has the right to reject the terms of a proposed financial guarantee, including the financial institution holding guaranteed funds if it is not a local bank, and to determine the amount of funds that must be guaranteed. The commission's only duty to secure release of guaranteed funds is to certify that required improvements or conditions have not been completed on time or to a satisfactory standard, as defined by the Commission.

At the discretion of the Commission, a joint financial guarantee may be used to comply with Commission requirements and that of other agencies, boards, and commissions in the Town of Ludlow, provided however that all relevant parties agree on the terms and the principal amount of the guarantee, and that the guarantee is structured so that all relevant parties agree before any funds are released.

- (b) A conservation restriction, easement, or other covenant enforceable in a court of law, shall be executed and duly recorded by the owner of record, running with the land to the benefit of this municipality and observed before any lot may be conveyed other than by mortgage deed.

## **5. Enforcement**

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 conditions, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

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

The commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court 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.

Upon request of the Commission, the Board of Selectmen and the town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

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

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or portion thereof during which a violation continues, or unauthorized fill, or other alteration remains in place shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedure set forth in M.G.L. Ch. 40, S. 21D, which has been adopted by the Town in Ch. 13, Sec. 1 of the General Bylaws. **(Added 4/13/98 ATM)**

## **6. Payment of Fees and Commission Expenses**

At the time of a permit application (Notice of Intent or Request for Determination of Applicability) the applicant shall pay a filing fee as specified in the Regulations of the Ludlow Conservation Commission. This fee is in addition to that required by the Wetlands Protection Act (M.G.L. Chapter 131, s 40) and regulations (310 CMR 10.00). At any point in its deliberations prior to final decision, if, in the judgment of a majority of the Commission, consulting services are necessary for the Commission to comprehend the project impact completely, the applicant will reimburse the Town of Ludlow for consultant fees. The Town is to be reimbursed in full prior to a decision on the request or application. Failure to reimburse the Town for such necessary consultant fees will be sufficient grounds to deny the application or request; pass any vote or take any action relative thereto. Submitted by the conservation Commission.  
**(added May 8, 2006)**

# CHAPTER XVI

## COMMISSION ON DISABILITY

### SECTION 1: Title and purpose:

The Board of Selectmen shall appoint a Commission on Disability to promote the inclusion and integration of person's with disabilities in the activities, services, and employment opportunities of the Town of Ludlow. The Commission is established in accordance with MGL Chapter 40, Sections 8J and 22G, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

### SECTION 2: Powers and Duties:

- a) The Commission shall coordinate and/or carry out programs in cooperation with the Massachusetts Office on Disability in order to bring about full and equal participation in all aspects of life in the Town of Ludlow.
- b) Research local problems of people with disabilities;
- c) Review and make recommendations about policies, procedures, services and activities of departments and agencies of the Town of Ludlow as they affect people with disabilities;
- d) Advise and assist municipal officials in ensuring compliance with federal and state disability laws;
- e) Initiate, monitor, and/or promote legislation at the town, state, and federal levels which advance the equal status of people with disabilities and ensure that appropriate regulations are adopted and enforced pursuant to such legislation;
- f) Review plans for construction, additions or alterations of any new or existing public buildings as they relate to accessibility issues;
- g) Encourage public awareness of disability issues;
- h) Provide information, referral, guidance and advice to individuals, businesses, organizations, and public agencies in all matters pertaining to disability;
- i) Receive gifts of property, both real and personal, in the name of the town, subject to the approval of the Board of Selectmen; such gifts to be managed and controlled by the Commission;
- j) Take such action as the Commission considers appropriate and to ensure the equal status of persons with disabilities;
- k) Prepare and submit an annual report of the Commission's activities to be included in the Town's Annual Report.



### **SECTION 3: Membership:**

- a) The Board of Selectmen shall appoint no less than five and no more than nine town residents to the Commission on Disability, the majority of whom must be persons with disabilities;
- b) One member shall be a member of the family of a person with a disability, and one member must be an elected or appointed municipal official;
- c) The terms of the first members of said Commission shall be for one, two, or three years, and so arranged that the term of one third of the members expires each year; with their subsequent appointments being for three year terms;
- d) Resignations of any members shall be made by notifying the Chairperson and the Board of Selectmen in writing.
- e) If any member is absent from three regularly scheduled meetings in one calendar year, a recommendation shall be made to the Board of Selectmen that he/she be removed from the Commission, unless any or all absences have been excused for good cause by the Chairperson.
- f) Whenever a vacancy shall occur in the membership of the Commission, by reason of death, resignation, inability to act for any other reason, that vacancy shall be filled by appointment by the Board of Selectmen;
- g) Members shall get the approval of the Commission prior to making statements or joining activities on behalf of the Commission;
- h) All members shall have full voting rights.

### **SECTION 4: Officers**

- a)The officers shall include a chairperson, vice chairperson, secretary, and treasurer;
- b)Officers shall be elected annually by a majority vote of the Commission;
- c)One member may hold more than one office;

### **SECTION 5: Meetings**

- a) Regular meetings shall be held at least eight (8) times a year;
- b) A quorum shall consist of a majority of current Commission membership;

### **SECTION 6: Amendments**

These By-laws may be amended at any duly constituted meeting of the Commission by two-thirds vote of those members present provided written notice of the proposed amendment is distributed to each member a least fourteen (14) days prior to the meeting. All amendments are subject to approval by the Town of Ludlow.

## CHAPTER XVII

### PROHIBITING SMOKING IN PUBLIC PLACES

**A. Statement of Purpose:**

Conclusive evidence exists that tobacco smoke poses a significant health risk to children, people with asthma and other respiratory illnesses, and others; and for this reason, the Town enacts this By-Law:

**B. Definitions:**

**Adequate Ventilation:** a system that provides air exchange for an enclosed area that is separately ventilated and is sufficient to prevent tobacco smoke from entering all non-smoking areas of a building.

**Bar Area of a Restaurant:** an area of a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests or restaurant patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages.

**Bar:** any establishment that is devoted to the serving of alcoholic beverages for consumption by guests or patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages. Revenue generated from the serving of alcoholic beverages must be equal to or greater than eighty percent (80%) of the total combined revenue generated by the serving of such beverages and food, per receipts as required to be filed with the Massachusetts Department of Revenue.

**Enclosed:** a space bounded by walls continuous from the floor to the ceiling and enclosed by doors. The construction of the walls, floor, ceiling, and doors shall be of such material that will prevent the permeating of tobacco smoke pollutants. The doors must be self-closing.

**Environmental tobacco Smoke (ETS):** also known as second-hand smoke; both exhaled smoke and the smoke given off by the burning end of a cigarette, pipe, cigar, or clove cigarette in any form.

**Food Service Establishment:** any place where food is prepared and intended for individual portion service; this includes the site at which the individual portions are provided. The term includes such places regardless of whether consumption of food is on or off the premises and regardless of whether there is a charge for the food. The term includes, but is not limited to, any restaurant, coffee shop, cafeteria, catering operation, delicatessen, luncheonette, short-order café, pizza shop, donut shop, grille, tearoom, sandwich stand, public and private school cafeteria, and work place cafeteria. "Bar Area of a Restaurant", "Bar" and "Designated Smoking Section of a Restaurant" are excluded from the above definition.

Indoor Sports Arena: any sports pavilion, gymnasium, health spa, boxing arena, martial arts school, swimming pool, roller or ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sporting events.

Minor: a person under eighteen (18) years of age.

Municipal Building: any building owned or leased by a municipality. This includes, but is not limited to, town offices, libraries, police and fire stations, and schools.

Open to the Public: designates times in which private clubs admit members of the general public to attend receptions, parties, functions, meetings, events, etc., at their private club. This includes periods of time when the private club is rented out to non-members of the club who hold receptions, parties, functions, meetings, events, etc. This excludes periods of time when individual members of the club rent the club to hold receptions, parties, functions, meetings, events, etc.

Person in Control: one or more persons who are responsible for the operation of a business or public place. This person in control includes, but is not limited to, the owner of the establishment, proprietor, manager, shift supervisor, designated person, or any combination thereof. A "person in control" is not an enforcement agent of the Town pursuant to Section G of this by-law.

Private Club: any non-profit establishment which limits admission to members of such establishment (and guest of such members) and which excludes admission to the general public, except for the designated periods of time as referenced in the definition of "Open to the Public".

Public Place: an enclosed, indoor area when open to and used by the general public, including but not limited to the following; any and all food service establishments; retail stores; museums; libraries; public schools-including any and all school property whether or not said property is enclosed; clinics; nursing homes; auditoriums; indoor sports arenas; municipal buildings; inn, hotel, and motel conference/meeting rooms and lobbies; public assembly rooms; all polling places; all buses, trains, taxis, and other means of public mass transit while operating within the boundaries of the Town of Ludlow; retail tobacco stores and malls; all businesses and non-profit entities patronized by the public; public areas in attorneys, realtors, and other offices; banks; Laundromats; haircutting establishments; movie theaters; bookstores; child care or health care facilities; public restrooms; all lobbies, hallways, and other common areas in multiple-unit residential and/or commercial facilities; stairwells, halls, entrances, and elevators accessible to the public; and all other enclosed areas available to the general public.

Retail Store: any establishment whose primary purpose is to sell or offer for sale to consumers, but not for resale, any goods, wares, merchandise, articles or other things, including supermarkets and grocery stores.

Smoking: lighting, inhaling, exhaling, or burning any cigarette, cigar, pipe or other tobacco product or clove cigarette or carrying any lighted cigarette, cigar, pipe, or other tobacco product or clove cigarette in any form.

### C. Smoking Prohibited:

No person shall smoke nor shall any person be permitted by any "person in control" to smoke in any public places within the Town of Ludlow.

### D. Exceptions:

Deleted sections 1-2 (10/04/2004)

1. Non-enclosed outside patios or decks of restaurants.
2. (deleted)
3. Private Clubs except when open to the public.
4. Private or semi-private room of retirement or nursing homes and long-term care facilities occupied by one (1) or more patients who have requested in writing on the facility admission form to be placed in rooms where smoking is permitted.
5. All in-home offices approved by the Planning Board.

### E. Posting notice of prohibition:

Every "person in control" of the premises upon which smoking is prohibited by and under the authority of this by-law shall conspicuously display upon the premises "No Smoking" signs or the "No Smoking" symbol (consisting of a pictorial representation of burning cigarette in a red circle with a red bar across it.)

### F. Conflict with other laws or regulations:

Nothing in this by-law 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.

### G. Enforcement:

This by-law may be enforced by any Town of Ludlow police officer, Department of Inspectional Services(**amended 5/9/2005**) official, Health Department official, or any other official appointed by the Ludlow Board of Selectmen. Said official or officer will issue a citation to the person smoking and to the "person in control" of the regulated public place and will report any violation to the designated secretary of the Board of Selectmen who shall keep a record of offenses and report to the Board of Health, Building Department and Police Department monthly on offenses reported to the Board of Selectmen for each establishment in Town. Said record shall include the date of offense, whether the offense is the first, second, third, etc., the issuing department and the name of the official/officer who issued the citation.

An officer/official who witnesses a violation of this by-law shall issue a citation to the person smoking and the owner or manager of any public place covered by this by-law who is present at the time of the violation at said public place. If the owner/manager is not present at the time of the violation the citation shall be issued to the person in control of said establishment at the time of the violation. Violations shall be issued according to the following schedule:

1. First & Second offense – written warning
2. Third offense within three years of the first offense – one hundred dollar (\$100) fine
3. Fourth offense within three years of the first offense – two hundred dollar (\$200) fine
4. Fifth and subsequent offenses within three years of the first offense – three hundred (\$300) fine

In the case of sixth offense, within three years of the first offense, in addition to a fine, the board, agency or commission of the Town which has issued a license to or on behalf of the establishment, shall suspend said Town issued license(s), to or on behalf of the establishment, for thirty (30) calendar days.

In the case of a seventh offense, within three years of the first offense, in addition to a fine, the board, agency or commission of the Town which has issued a license to or on behalf of the establishment, for ninety (90) calendar days.

In the case of an eighth offense, within three years of the first offense, the board, agency or commission of the Town which has issued a license to or on behalf of the establishment, shall revoke said Town issued license(s) to or on behalf of the establishment.

Individuals violating this by-law by smoking in any prohibited place shall be subject to a \$50.00 fine.

Any provision of this by-law may be enforced by any officer or official referenced or designated in the first paragraph of Section G of this by-law by a non-criminal disposition as provided by the Massachusetts General laws Chapter 40, Section 21D.

The specific penalty for each violation to be enforced pursuant to this section shall be set forth below:

First and subsequent offenses for a person who is smoking in a regulated place – Fifty dollar (\$50.00) fine.

Penalties for offenses for a “person in control” of public place.

Third offense – one hundred dollar (\$100) fine.

Fourth offense – two hundred dollar (\$200) fine.

Fifth and subsequent offenses – three hundred (\$300) fine.

#### H. Due Process

Prior to the suspension or revocation of any Town issued license(s) pursuant to this by-law, the license holder shall be given the full opportunity to appear before the board, agency, or commission considering the suspension or revocation of said license(s). The license holder shall be allowed to present exhibits, witnesses and make argument as to why said license should not be suspended or revoked. Said hearing shall occur prior to the imposition of any suspension or revocation under this by-law.

#### I. Severability:

Should any section or portion of this by-law be held unlawful and unenforceable by any court of competent jurisdiction, such decision of the court shall only apply to the specific section or portion of the by-law directly specified in the court’s decision.

#### J. Effective date:

This by-law shall be effective July 1, 2001, unless the Town has not received approval from the Attorney General’s office by July 1, 2001. In that event, this by-law will become effective thirty (30) days after receipt by the Ludlow Town Clerk of the approval from the Attorney General’s office. In the event that the by-law is not in effect by July 1, 2001, the Board of Selectmen shall cause a notice of the effective date to be served upon each license holder of the effective date of this by-law. **Added(10/1/2000)FSTM**

## CHAPTER XVIII

# POLICY ON THE REMOVAL OF NON-HAZARDOUS PUBLIC SHADE TREES BY INDIVIDUALS OR AGENCIES OTHER THAN THE TOWN OF LUDLOW

I Trees are recognized as an asset to the community, providing a more healthful and beautiful environment in which to live. Trees and other vegetation provide oxygen, shade, protection from wind, glare and noise, view barriers, wildlife habitat aesthetics and a priceless psychological counterpoint to the man-made urban setting. Landscaping is economically beneficial in attracting new residents, visitors and industry. When grown on the right place and of proper varieties, landscaping enhances the value and marketability of property and promotes the stability of desirable neighborhoods and commercial areas.

II This policy is to be used for the removal of any non-hazardous public shade tree by any individual, utility, organization, cooperation, or agency, other than the Town of Ludlow. Actual removals shall only be performed by qualified tree removal contractors.

III This policy is to be followed for all public shade trees as defined by Massachusetts General law, Chapter 87 (Tree growing within the right of way, at least 1.5 inches in diameter measured one foot above ground), other than:

- A. Trees that are determined by the Tree Warden to be dead, diseased, or dangerous. A dangerous tree is one that is likely to fail, or significant portions are likely to fail, under mild environmental or man made stress;
- B. Trees that are less than 2 ½" in diameter that are, in the opinion of the Tree Warden, of no significant value.

IV An applicant who wishes to remove a non-hazardous public shade tree is responsible for the following expenses:

- A. Legal advertising;
- B. Cost of removal of tree and stump, including hauling away of all debris, and proper filling of stump hole;
- C. Planting of sufficient replacement trees as described elsewhere in this policy;
- D. Cost of police traffic details, repair of street surface and road shoulder, and protection and restoration of utility structures.
- E. All other costs related to the removal and replanting.

V Public shade trees shall not be removed for a private purpose without suitable compensation to the Town for replacements. The value of existing shade trees is to be calculated on an inch by inch replacement basis. Replacements shall be at least two-inch diameter, nursery grown stock. The Tree Warden may, at his option, require larger replacements. For example, if an 18" diameter tree, measured four feet above grade is to be removed, the applicant must sufficiently reimburse the Town to provide for the purchase and planting of nine, two-inch diameter replacements. Planting within the spring or fall months following completion of construction.

VI At the discretion of the Tree Warden, the applicant shall either;

- A. Arrange to plan suitable replacements using his own contractor, working to the Town's specifications, or
- B. Make cash contribution to the Town to be used exclusively for the purchase and planting of replacements, and related expenses.

VII If the applicant proposes to trim or prune a public shade tree, and if, in the opinion of the Tree Warden the proposed work will drastically effect the health, beauty, structural stability, or safety of the tree, the Tree Warden may consider the proposed work to have the same effect as the removal of the tree. In these cases, the Tree Warden may either order the removal of the tree, or allow the tree to remain, providing that it does not present an immediate hazard. In either case, appropriate replacement plantings must be provided by the applicant, in accordance with Section V.

VIII The tree removal contractor, to be paid for by the applicant, must be approved by the Tree Warden as to equipment, qualifications, and experience.

The tree removal contractor shall provide certificates of insurance in the following amounts and Town shall be listed as additional insurer:

- 1. \$ 250,000 workmen's compensation;
- 2. \$ 500,000 bodily injury;
- 3. \$ 300,000 property damage;
- 4. \$1,000,000 excess liability;

IX The applicant shall submit a bond in a form and amount approved by the Tree Warden, prior to the commencement of work. The Bond will be released after the successful completion of all items of work. Such surety may be held for one year from date of planting to ensure survival of the replacement trees.

X All tree work shall be performed in compliance with a.N.S.I.Z-133 and N.A.A. standards. Applicant must guarantee the health of the replacements for two year from the time of planting.

XI Replacement trees shall be of such size and species as specified by the Tree Warden, and will be planted on public property, along rights of way and on setback easements as allowed by M.G.L. Chapter 87, Section 7. Planting location will be determined by the Tree Warden.

XII Permit required.

- A. All trees on any street or other publicly-owned property and any tree protected under the terms of this section near any excavation or construction or repair of any building, structure, or street work, shall be guarded with a good substantial fences, frame, or box not less than four feet high and eight feet by eight feet, or at a distance in feet from the trunk equal to the diameter of the trunk at DBH (Diameter Breast Height) in inches, whichever is greater.
- B. No person shall excavate any ditches, tunnels, trenches, lay any drive, or place any building material, excess dirt, or other debris, within the dripline of any public or protected tree without first obtaining a permit from the tree warden.
- C. No person shall place, store, or maintain upon any public place of the municipality, any stone, brick, sand, dirt, concrete or any other materials or chemicals which may impede the passage of water, air, and fertilizer to the roots of any tree growing therein or any

Protected tree except by valid permit of the Tree Warden.

XIII Nothing contained in this policy shall prohibit the Tree Warden from refusing to permit the removal of non-hazardous trees. The Tree Warden may refuse to grant the permit for the removal of non-hazardous trees, if, in his or her opinion, the tree is of historic or scenic value, is of a size or species not commonly found along the roadways of Ludlow, has significant wildlife value, or is an unusually healthy or significant specimen.

XIV All decisions made by the Tree Warden are **final (Added 5/8/00)**

(but without reference to placement in a specific section of the Bylaws)(added 10/2/00)



## CHAPTER XIX

### COMMUNITY PRESERVATION COMMITTEE

#### SECTION 1. – Establishment

There is hereby established a Community Preservation Committee, consisting of at least five (5) and not more than nine (9) voting members pursuant to Massachusetts General Laws Chapter 44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of three (3) years.

One member of the Historical Commission as designated by the Commission for an initial term of two (2) years and thereafter for a term of three (3) years.

One member of the Planning Board as designated by the Board for an initial term of one (1) year and thereafter for a term of three (3) years.

One member of the Housing Authority as designated by the Authority for a term of three (3) years.

One member of the Recreation Commission as designated by the Commission for an initial term of two (2) years and thereafter for a term of three (3) years.

Up to four (4) members of the community to be appointed by the Board of Selectmen, the first two with initial terms of one (1) year and the remaining two with initial terms of two (2) years. All four would thereafter be appointed for terms of three (3) years.

Unexpired terms shall be filled for the remainder of the term in a like manner as described above. Should any of the Commissions, Boards, or Authorities who have appointment authority under this Section be no longer in existence for any reason, the appointment authority for that Commission, Board, etc., shall become the responsibility of the Board of Selectmen.

## **SECTION 2 – Duties**

- a.) The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation and planning. The committee shall consult with existing municipal boards including the Conservation Commission, the Historical Commission, the Planning Board, the Recreation Commission, and the Housing Authority in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings annually on community preservation possibilities, needs and resources, notice of which shall be posted publicly and published for each of two consecutive weeks, the second of which must be at least seven (7) days but not more than fourteen (14) days from the date of the public hearing in a newspaper of general circulation in the town.
- b.) The Community Preservation Committee shall, in accordance with the provisions of M.G.L., Chapter 44B, Sections 3 through 7, make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing (whenever possible must be for reuse of existing buildings or new construction on previously developed sites), and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section.
- c.) The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending, funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose, or to set aside for later spending, funds for general purposes that are consistent with community preservation.

## **SECTION 3 – Quorum, Cost Estimates**

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by a vote of the majority of the members in attendance. Recommendations to the Town Meeting shall include cost estimates and be in accordance with M.G.L., Chapter 44B, Sections 3 through 7.

## **SECTION 4 – Amendments**

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

### **SECTION 5 – Severability**

In the event that any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

### **SECTION 6 – Effective Date**

Following Town Meeting acceptance of the Community Preservation Act and subsequent referendum acceptance, this Committee shall take effect immediately upon the completion of the requirements of Chapter 40, Section 32. Each appointing authority shall have ten days after approval by the Attorney General to make their initial appointments. Should any appointing authority fail to make their appointment within that allotted time, the Board of Selectmen shall make the appointment.

**Added(10/1/01)FSTM**

## **PART 2**

# **GENERAL LAWS**

# CHAPTER 170

## ACTS OF 1891

An Act To Give Towns Jurisdiction Over Highways And County Bridges.

Be it enacted, etc., as follows:

**SECTION 1:** Any town which shall have accepted this act, as hereinafter provided, shall have and may exercise original and concurrent jurisdiction with county commissioners of petitions for altering, widening, locating anew and making specific repairs upon any highway or county bridge within such town; provided, however, that such town shall not have the power to discontinue any highway or county bridge, but in altering, widening or locating the same anew may discontinue such portions of the same as may become unnecessary for the public use; and provided, also, that such discontinuance shall not diminish the former width of such highway or bridge. The town shall have no right to assess any part of the expense upon the county.

**SECTION 2:** The proceedings of the town and its officers in exercising the powers aforementioned, and the remedies of parties whose rights are affected thereby, shall be the same as those provided by law in the case of town ways.

**SECTION 3:** In any town which has accepted this act, and which has accepted the provisions of chapter one hundred and sixty-nine of the acts of the year eighteen hundred and sixty-nine or of chapter three hundred and eighty-two of the acts of the year eighteen hundred and seventy-one or of the first nine sections of chapter fifty-one of the Public Statutes, the provisions of law above referred to shall apply to the action of such town taken in pursuance of this act, in relation to any highway or county bridge therein.

**SECTION 4:** On appeals to the county commissioners from the action of the Selectmen or of the town the county commissioners shall give not less than fourteen days notice to all parties interested, in the same manner and to the same person as required in the laying out of town ways, and also by causing a copy of such notice to be published in such newspaper as they shall order, not less than seven days before any hearing. At such hearing the county commissioners may finally decide such appeal.

**SECTION 5:** Nothing in this act shall be construed as in any way affecting the provisions of sections one hundred and seventeen to one hundred and thirty-eight inclusive of chapter one hundred and twelve of the Public Statutes, or of chapter four hundred and twenty-eight of the acts of the year eighteen hundred and ninety or any acts passed in amendment thereof.

**SECTION 6:** Within two weeks after any town has taken final action in pursuance of this act in relation to any highway or county bridge therein, the Town Clerk of such town shall send to the county commissioners a certified copy of the record of the town of such final action, and the county commissioners shall cause said certified copy to be recorded in the same manner that the proceedings of the county commissioners in relation to highways or county bridges are recorded by them.

**SECTION 7:** Within ten days after the acceptance of this act by any town, in the manner hereinafter provided, the Town Clerk of such town shall send a certified copy of the vote accepting the same to the county commissioners and also to the Secretary of the Commonwealth.

**SECTION 8:** This act shall take effect upon its passage so far as to allow any town to vote upon the acceptance hereof; but shall take full effect in any such town only after it shall have been accepted by a majority of the voters of such town present and voting thereon by ballot at a Town Meeting called for that purpose. The ballots shall be furnished by the town and shall be in the following form: "Shall the act entitled 'an act to give towns jurisdiction over highways and county bridges' be accepted?

Yes or No". **(Approved 4/6/1891).**

## CHAPTER 341

# AN ACT TO AUTHORIZE THE TOWN OF LUDLOW TO CONSTRUCT AND MAINTAIN A SEWERAGE SYSTEM

### Special Acts of 1917

Be it enacted, etc., as follows:

**SECTION 1:** The Town of Ludlow is hereby authorized to lay out, construct, maintain and operate a system or systems of main drains and common sewers for a part or the whole of its territory, with such connections and other works as may be required for a system of sewage disposal; and for the purpose of providing better surface or other drainage guarding against pollution of the water, and otherwise protecting the public health, may lay, make and maintain such main drains as it deems best. For the purposes aforesaid the town may, within its limits, deepen, widen and clear of obstruction any brook, stream or water course, and may straighten or alter the channel or divert the water thereof, and may make and maintain sub-drains, and with the approval of the State Department of Health, discharge the water into any brook, stream or water course within the town. The town may operate such a system jointly with any other adjacent municipality.

**SECTION 2:** The town shall elect by ballot at an Annual Town Meeting, or at a Special Town Meeting duly called for the purpose, a board of three Sewer Commissioners who shall be citizens of the town, to hold office, one until the expiration of one year, one until the expiration of two years, and one until the expiration of three years from the next succeeding Annual Town Meeting, or until their successors are elected and qualified, and thereafter at each Annual Town Meeting the town shall elect one member of the board to serve for three years, or until his successor is elected and qualified. A Selectman or a member of the Board of Health may be a member of the Board of Sewer Commissioners.

**SECTION 3:** The Board of Sewer Commissioners, acting on behalf of the town, shall have power to take, or acquire by purchase or otherwise, any lands, water rights of way or easements in said town, public or private, necessary for accomplishing any purpose mentioned in this act, and may construct within the town main drains and sewers under or over any water course, bridge, railroad, railway, highway, boulevard, or other way or within the location of any railroad, and may enter upon and dig up any private land, street or way or railroad location, for the purpose of laying such drains and sewers and of maintaining and repairing same, and may perform any other act necessary or proper for the purposes of this act; provided, however, that the said board shall not take in fee any land of a railroad corporation, and that they shall not enter upon or construct any drain or sewer within the location of any railroad corporation except at such time and in such manner as they may agree upon with the corporation, or, in case of failure to agree, as may be approved by the public service commission.

**SECTION 4:** Said board, in order to take in fee any land, water rights, rights or way of easements, shall cause to be recorded in the registry of deeds for the County of Hampden, a statement signed by a majority of the board containing a description thereof sufficiently specific for identification, and declaring that the same are taken under authority of this act; and upon such recording, the Title to the lands, water rights, rights of way or easements described in the statement shall vest in the Town of Ludlow, which shall pay all damages therefore and all other damages sustained by any person or corporation through any action of said board under this act, but no registered land, or interest therein, shall be deemed to have

been taken until the provisions of chapter one hundred and twenty-eight of the revised laws has been complied with. Said board at the time of such taking shall notify the owners thereof in writing, and may agree with any person or corporation upon the damages sustained by such person or corporation; otherwise the damages shall be assessed by a jury in the Superior Court for said County upon petition of either party, in the manner provided by law for determining damages for land taken for highways; but in case of a taking, no suit or petition shall be brought after the expiration of two years from the date of recording of the taking as herein provided; and in all other cases no suits or petition shall be brought after the expiration of two years from the time when the cause of action accrues.

**SECTION 5:** In every case of a petition for the assessment of damages or for a jury said town may, at any time, file in the Office of the Clerk of the Court an offer to pay the petitioner a sum specific therein as damages; and if the petitioner does not accept the same within thirty days after notice of such offer, and does not finally recover a sum greater than that offered, not including interest from the date of the offer on the sum so recovered, the town shall recover costs from the date of said notice; and the petitioner shall be entitled to costs only to said date.

**SECTION 6:** The town shall by vote determine what proportion of the cost of said system or systems of sewerage and sewage disposal the town shall pay; provided, that it shall pay not less than one quarter nor more than two thirds of the whole cost. In providing for the payment of the remaining portion of the cost of said system or systems the town may avail itself of any or all of the methods permitted by general laws, and at the same meeting at which it determines the proportion of the cost which is to be borne by the town, it may by vote determine by which of such methods the remaining portion of said cost shall be provided for. In case it determines that such remaining portion shall be provided for wholly or in part by assessments upon the owners of estates situated within the territory embraced by said system or systems and benefited thereby, the owners shall be assessed by the Board of Sewer Commissioners, their proportional parts, respectively, or such portion of said cost as the town shall have determined is to be provided for by assessment, but no estate shall be deemed to be benefited until a sewer is constructed into which it can be drained. For the purpose of fixing the amounts of such assessments, the board shall determine the value of the special benefit to each of said estates from the said system or systems of sewers, taking into account all the circumstances of the case; and the proportionate part to be paid by the owners of said estates, respectively, shall be based upon the amount of the special benefit to each estate, determined as aforesaid, and in no case shall exceed such special benefit, and every such owner shall, within three months after written notice of such assessment served on his or on the occupant of his estate, or sent by mail to the last address of the owner known to the Board of Sewer Commissioners, pay the sum so assessed by the Collector of Taxes of said town;

Provided, that said board shall, on the written request of any such owner made within the said three months, apportion his assessment into two equal parts of assessments; and the board shall certify such apportionment to the Assessors of the town, and one of said parts or installments, together with the interest at six percent per annum on all unpaid apportionment's, shall be added by the Assessors to the annual tax



on such estate for each year next ensuing, until all the said parts have been added, unless sooner paid as hereinafter provided; and provided, further, that nothing herein contained shall be construed to prevent the payment at any time in one payment, notwithstanding its prior apportionment, of any balance due, but interest on such balance at the rate of six percent per annum shall be paid to the date of such payment, and thereupon the Collector of Taxes shall receive the same and certify the payment or payments to the Assessors, who shall preserve a record thereof. In case of corner lots abutting on more than one sewered street, the same area shall not be assessed more than once.

**SECTION 7:** The town, for the purpose of paying the necessary expenses and liabilities incurred under this act, may incur indebtedness in accordance with the provisions of chapter seven hundred and nineteen of the acts of the year nineteen hundred and thirteen and all acts in amendment thereof and in addition thereto.

**SECTION 8:** The town shall at the time of authorizing any loan under the provisions of section seven provide for the payment thereof in such annual payments as will extinguish the same in accordance with the provisions of said section; and when a vote to that effect has been passed, the amount required thereby, less the amount that may be appropriated therefore as provided in the following section, shall annually thereafter without further vote be assessed by the Assessors of the town in the same manner as other taxes, until the debt incurred by said loan is extinguished.

**SECTION 9:** The receipts from sewer assessments and from payments made in lieu thereof shall be applied to the payment of charges and expenses incident to the maintenance and operation of said system of sewerage or to the extension thereof, except that any part of such receipts may be applied to the payment of interest upon notes or bonds issued hereunder, and not otherwise provided for, or to the payment or redemption of such bonds or notes as the town shall by vote determine, and the said receipts shall be used for no other purpose. If the said receipts shall not in any year be sufficient for the purposes aforesaid, the town shall raise forthwith by taxation, in the same manner in which money is raised for other town purposes, the balance required therefore.

**SECTION 10:** Any assessment levied under the provisions of section six and any charge made as aforesaid shall constitute a lien upon the estate which shall continue for two years after certificate thereof is filed, and after the demand aforesaid is made or, in case of apportionment, until the expiration of two years from the time when last installment is committed to the Collector. Said assessment, together with interest at the rate of six percent per annum, with incidental costs and expenses, may be satisfied by sale of the estate or so much thereof as will be sufficient to discharge the assessment and interest and intervening charges, if the assessment is not paid within three months after the services of said notice or, if it has been apportioned, within three months after any portion has become due. Such sale and all proceedings connected therewith shall be conducted in the same manner as sales for the non-payment of taxes, and real estate sold may be redeemed in the same manner as if sold for the non-payment of taxes. Such assessments or parts thereof may be collected also by an action of contract in the name of the Town of Ludlow against the owner of the estate, brought at any time within two years after the same become due.

**SECTION 11:** Any person aggrieved by any such assessment may, at any time within three months after the service of the demand mentioned in section six of this act, apply to the Superior Court for said county for a jury to revise the same, but before making such application he shall give to the said commissioners

fourteen days notice in writing, and shall therein specify particularly his objection to the assessment, to which specification he shall be confined in his hearing before a jury.

**SECTION 12:** The Board of Sewer Commissioners shall annually appoint a clerk, and may appoint a superintendent of sewers, who shall not be a member of the board, and may remove the clerk or superintendent at its pleasure, and may fix the pay of the clerk and superintendent and define their duties. The commissioners may in their discretion prescribe such annual rentals or charges for the use of said sewer system, based on the benefits derived therefrom, as they shall deem proper. The compensation of the commissioners shall be fixed by the town.

**SECTION 13:** All contracts made by the Board of Sewer Commissioners shall be made in the name of the town and shall be signed by the Board but no contract shall be made or obligation incurred by the Commissioners for any purpose in excess of the amount of money appropriated by the town therefor.

**SECTION 14:** Said Commissioners may from time to time prescribe rules and regulations for the connection of estates and building with main drains and sewers, and for the inspection of the materials, the construction, alteration, and use of all connections and drains entering such main drains or sewers, and may prescribe penalties not exceeding twenty dollars for each violation of any such rule or regulation. Such rules and regulations shall be published not less than once a week for three successive weeks in some newspaper published in the County of Hampden, and shall not take effect until such publication has been made.

**SECTION 15:** No act shall be done under authority of the preceding sections, except in the making of surveys and other preliminary investigations, until the plans for the said system of sewerage have been approved by the State Department of Health. Upon application to said department for such approval the department shall give a hearing, after due notice to the public. At such hearing plans showing in detail all the work to be done in constructing said system of sewerage shall be submitted for the approval of the State Department of Health.

**SECTION 16:** Until the Board of Sewer Commissioners shall have been elected as provided in this act, the town may carry on the construction of the system of sewerage by a fully authorized committee of the town, but not longer than until the annual meeting next but one after the commencement of said work of construction. The committee shall serve without pay and shall have all the powers and authority given to the Board of Sewer Commissioners in this act or by the General Laws relating to Boards of Sewer Commissioners.

**SECTION 17:** This act shall take effect upon its passage, but no expenditure shall be made and no liability incurred hereunder until it has been accepted by vote of a majority of the voters of the town voting thereon at a legal meeting called for the purpose. **Approved 5/22/1917.**

## CHAPTER 336

# AN ACT PROVIDING FOR PRECINCT VOTING REPRESENTATIVE TOWN MEETINGS, TOWN MEETING MEMBERS, A REFERENDUM AND AN ANNUAL MODERATOR IN THE TOWN OF LUDLOW

### Special Acts of 1929

The Act as printed herein contains the amendments as made by the following acts:

Chapter 167, Special Acts of 1941

Chapter 349, Special Acts of 1956

Chapter 98, Special Acts of 1958

Chapter 459, Special Acts of 1959

Chapter 62, Special Acts of 1960

Chapter 754, Special Acts of 1977

Chapter 59, Special Acts of 1988

Chapter 124, Special Acts of 2001Apvd(11/1/01)\*

Be it enacted, etc., as follows:

**SECTION 1:** Upon the acceptance of this act by the Town of Ludlow, as hereinafter provided, the Selectmen shall forthwith divide the territory thereof into three voting precincts, each of which shall be plainly designated and shall contain not less than five hundred inhabitants. All precincts shall contain approximately an equal number of inhabitants. The precincts shall be so established as to consist of compact and contiguous territory, to be bounded as far as possible by the center line of known streets and ways or by other well defined limits. The boundaries of such precincts shall be reviewed and, if need be, such precincts shall be wholly or partly revised by the selectmen in December, once in 5 years, or in December of any year when so directed by a vote of a representative town meeting no later than November 30 of that year. In the course of any such revision the number of such precincts may be changed.

Selectmen shall, within twenty days after any establishment or revision of the precincts, but not later than January twentieth of the succeeding year, file a report of their doings with the Town Clerk, the Registrars of Voters and the Assessors of taxes with a map or maps or description of the precincts and the names and residences of the inhabitants therein. The Selectmen shall also cause to be posted in the Town Office a map or maps or description of the precincts as established or revised from time to time, with the names and residences of the inhabitants therein; and it shall also cause to be posted in at least one public place in

each precinct a map or description of that precinct with the names and residences of the inhabitants therein. The division of the town into voting precincts and any revision of such precincts shall take effect upon the date of the filing of the report thereof by the Selectmen with the Town Clerk. Whenever the precincts are established or revised, the Town Clerk shall forthwith give written notice thereof to the State Secretary, stating the number and designation of the precincts. Meetings of the registered voters of the several precincts for elections, for primaries, and for voting upon any question to be submitted to all the voters of the town, shall be held on the same day and at the same hour and at such place or places within the town as the Selectmen shall in the warrant for such meeting direct. The provisions of the General Laws relating to precinct voting at elections, so far as the same are not inconsistent with this act, shall apply to all elections and primaries in the town upon the establishment of voting precincts as hereinbefore provided.

**SECTION 2:** Other than the officers designated in section three as Town Meeting Members At Large, the Representative Town Meeting membership shall in each precinct consist of the largest number divisible by three which will admit of a representation of all precincts by an equal number of members and which will not cause the total elected town meeting membership to exceed ninety. The registered voters in every precinct shall, at a special election called for that purpose, to be held not sooner than thirty days after the establishment of precincts under this act or at the first annual town election held after the establishment thereof, and at the first annual town election following any precinct revision where the number of precincts is changed, conformably to the laws relative to elections not inconsistent with this act, elect by ballot the number of registered voters in the precinct, other than the officers designated in section three as town meeting members at large, provided for in the first sentence of this section, to be town meeting members of the town. The first third in order of votes received of members so elected shall serve three years; the second third in such order shall serve two years; and the remaining third in such order shall serve one year from the day of the annual town meeting, or, in the case such election is at a special meeting, from the day of the next annual town meeting, in case of a tie vote affecting the division into thirds, as aforesaid, the members elected from the precinct shall by ballot determine the same, and thereafter, except as is otherwise provided herein, at each annual town election the registered voters of each precinct shall, in like manner, elect one third of the number of town meeting members to which that precinct is entitled for the term of three years, and shall at such election fill for the unexpired term or terms any vacancy or vacancies then existing in the number of elected town meeting members in their respective precincts. Upon every revision of the precincts where the number of precincts is changed the term of office of all elected town meeting members from every such precinct shall cease upon the election of their successors. The Town Clerk shall, after every election of town meeting members, forthwith, notify each elected town meeting member by mail of his election.

**SECTION 3:** Any Representative Town Meeting held under this act, except as otherwise provided herein, shall be limited to the voters elected under section two, together with the following designated as town meeting members at large; namely, the Selectmen, the Moderator, the Town Clerk, the Town Treasurer, the Town Collector, the Town Counsel if he is a resident of the town, the Chairman of the School Committee, the Chairman of the Library Trustees, the Chairman of the Board of Health, the Chairman of the Park Commission, Tree Warden, the Chairman of the Assessors of Taxes, the Chairman of the Sewer Commission, the Chairman of the Forestry Commission, the Chairman of the Cemetery Committee, the Chairman of the Finance Committee, the Highway Surveyor, the Chairman of the Board of Registrars of Voters, and the Chairman of any other board or commission established in the town by authority of the General Court. The Town Clerk shall notify the town meeting members the time and place at which Representative Town Meetings are to be held, the notices to be sent by mail at least seven days before the meeting. The town meeting members, as aforesaid, shall be the judges of the election and qualification of their members. A majority of town meeting members shall be a quorum for doing business, but a less number may organize temporarily and may adjourn from time to time. Notice of every adjourned

representative town meeting shall be posted by the Town Clerk in at least one public place in each precinct, and he shall notify the town meeting members by mail of the adjournment at least twenty-four hours before the time of the adjourned representative town meeting. The notices shall state briefly the business to be acted upon at any meeting and shall include notice of any proposed reconsideration. All town meetings shall be public. The town meeting members as such shall receive no compensation. Subject to such conditions as may be determined from time to time by the representative town meeting, any voter of the town who is not a town meeting member may speak at any Representative Town Meeting, but shall not vote. Any elected town meeting member may resign by filing a written resignation with the Town Clerk, and such resignation shall take effect upon the date of such filing. No elected town meeting member whose official position entitles him to be a town meeting member at large shall act as a town meeting member at large during such time as he remains an elected town meeting member. A town meeting member who moves from the town shall cease to be a town meeting member and an elected town meeting member who moves from one precinct to another or is so removed by a revision of precincts shall not retain membership after the next annual election.

**SECTION 4:** Nomination of candidates for town meeting members to be elected under this act shall be made by nomination papers, which shall bear no political designations, and shall be signed by at least ten inhabitants of the precinct in which the candidate resides, and filed with the Town Clerk on or before the last date for filing nomination papers for other town offices; provided that any incumbent town meeting member may become a candidate for re-election by giving written notice thereof to the Town Clerk not later than twenty-one days prior to the last day and hour for filing nomination papers. No nomination papers shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

**SECTION 5:** The articles in the warrant for every town meeting, so far as they relate to the election of the Moderator, Town Officers, Town Meeting Members and, as provided in this act, to referenda and all matters to be acted upon and determined by ballot of the town, shall be acted upon and determined by the voters in their respective meetings by precincts. All other articles in the warrant for any town meeting, beginning with the town meeting at which said town meeting members are first elected, shall be acted upon and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the Selectmen in the warrant for the meeting, subject to the referendum provided for by section eight.

**SECTION 6:** A Moderator shall be elected by ballot at an annual town meeting for a term of three years and shall serve as Moderator of all town meetings except as otherwise provided by law, until a successor is elected and qualified. Nominations for and election of a Moderator shall be as in the case of other elective town officers and any vacancy in the office shall be filled by the town meeting members at a meeting held for that purpose. If a Moderator is absent, a Moderator pro tempore shall be elected by the town meeting members.

**SECTION 7:** Any vacancy in the full number of elected town meeting members from any precinct shall be filled until the next annual election by the remaining elected town meeting members of the precinct from among the registered voters thereof. Notice of any vacancy shall be given promptly by the Town Clerk to the remaining members from the precinct in which the vacancy or vacancies exist and he shall call a special meeting of such members for the purpose of filling the vacancy. He shall cause to be mailed to every member, not less than seven days before the time set for the meeting, a notice specifying the object, time and place of the meeting. At said meeting a majority of the elected town meeting members from such

precinct shall constitute a quorum, and they shall elect from their own number a chairman and clerk. The choice to fill any vacancy shall be by ballot and a majority of the votes cast shall be required for a choice. The chairman and the clerk shall count the ballots and shall make certificate of the choice and forthwith file the same with the Town Clerk, together with a written acceptance by the member or members so chosen who shall thereupon be deemed elected and qualified as town meeting member or members, subject to the right of all town meeting members to judge of the election and qualifications of the town meeting members as set forth in section three.

**SECTION 8:** A vote passed at any representative town meeting authorizing the expenditure of twenty thousand dollars or more as a special appropriation, or establishing a new board or office or abolishing an old board or office or merging two or more boards or offices, or fixing the term of office of town officers, where such term is optional, or increasing or reducing the number of members of a board, or adopting a new by-law, or amending an existing by-law, shall not be operative until after the expiration of five days, exclusive of Sundays and Holidays, from the dissolution of the meeting. If, within said five days, a petition, signed by not less than three percent of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed with the Selectmen asking that the question or questions involved in such a vote be submitted to the registered voters of the town at large, then the Selectmen, after the expiration of five days, shall forthwith call a special meeting for the sole purpose of presenting to the registered voters at large the question or questions so involved.

The polls shall be opened at ten o'clock in the forenoon and shall be closed not earlier than eight o'clock in the evening, and all votes upon any questions so submitted shall be taken by ballot, and the check list shall be used in the several precinct meetings in the same manner as in the election of town officers. The questions so submitted shall be determined by a majority vote of the registered voters of the town voting thereon but no action of the Representative Town Meeting shall be reversed unless at least twenty percent of the registered voters shall so vote. Each question so submitted shall be in the form of the following questions, which shall be placed upon the official ballot: "Shall the town vote to approve the action of the Representative Town Meeting whereby it was voted (brief description of the substance of the vote)?" If such petition is not filed within said period of five days, the vote of Representative Town Meeting shall become operative and effective upon the expiration of the said period.

**SECTION 9:** The Town of Ludlow, after the acceptance of this act and the first election of the town meeting members there under, shall have the capacity to act through and be bound by its said town meeting members who shall, when convened from time to time as herein provided, constitute Representative Town Meetings, and the Representative Town Meeting shall exercise exclusively, so far as will conform to the provisions of this act, all powers vested in the municipal corporation. Action in conformity with all provisions of law now or hereafter applicable to the transaction of town affairs in town meetings shall, when taken by any Representative Town Meeting in accordance with the provisions of this act, have the same force and effect as if such action had been taken in a town meeting open to all voters of the town as heretofore organized and conducted.

**SECTION 10:** This act shall not abridge the right of the inhabitants of the Town of Ludlow to hold general meetings, as that right is secured to them by the Constitution of this Commonwealth, nor shall this act confer upon any Representative Town Meeting in said town the power finally to commit the town to any measure affecting its municipal existence or changing its government, without action thereon by the voters of the town at large, using the ballot and check list therefor.

**SECTION 11:** The question of the acceptance of this act shall be submitted to the registered voters of the Town of Ludlow at the annual town meeting in the year nineteen hundred and thirty. The vote shall be taken by ballot in accordance with the provisions of the General Laws, so far as the same shall be applicable, in answer to the question, which shall be placed upon the official ballot to be used for the election of town officers; "Shall an act passed by the General Court in the year nineteen hundred and twenty-nine entitled 'An Act providing for precinct voting, Representative Town Meetings, town meeting members, a referendum and an annual Moderator in the Town of Ludlow' be accepted by this town?"

**SECTION 12:** So much of this act as authorizes its submission for acceptance to the registered voters of the Town of Ludlow shall take effect upon its passage, and the remainder shall take effect upon its acceptance by a majority of the voters voting thereon. **(Approved 5/22/1929 Originally)**

## CHAPTER 600

# AN ACT ESTABLISHING A MUNICIPAL GOLF COURSE COMMISSION IN THE TOWN OF LUDLOW

### Special Acts of 1974 Amended 6/14/84

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same as follows:

**SECTION 1:** The Town of Ludlow is hereby authorized to operate and maintain a municipal golf course on property now or formerly known as Westover Air Force Base, including any recreation and picnic areas adjoining said golf course.

**SECTION 2:** There is hereby established in the Town of Ludlow a Municipal Golf Course Commission, hereinafter called the commission, for the maintenance, promotion, development and administration of a municipal golf course including any recreation and picnic areas adjoining said golf course. The commission shall consist of seven members, of whom three shall be the Park Commissioners of said town and four shall be appointed by the Board of Selectmen of said town. When the commission is first established, the terms of the four appointed commissioners shall be for one, two, three and four years respectively, and thereafter when the term of a member expires, his successor shall be appointed for a term of four years. Any appointed member of the commission who has served a term of four years may not be reappointed to the commission until the expiration of one year after the completion of his term. Any appointed member of the commission may, after a public hearing if requested, be removed for cause by the appointing authority. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment. The chairman of the Park Commissioners shall act as temporary chairman at the first meeting of the commission, at which time a permanent chairman shall be elected by majority vote of the commission. Thereafter, at the first meeting in February of each year, a chairman shall be elected by majority vote of the commission. Each member of the commission shall be a resident of the Town of Ludlow. Each member shall continue in office after expiration of his term until his successor is duly elected or appointed and qualified. Four members of the commission shall constitute a quorum, and an affirmative vote of four members shall be necessary for any action taken by the commission. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all duties of the commission. The members of the commission shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. The commission shall be subject to all laws governing the conduct of municipal officials, committees and departments and shall file an annual report of its activities for each calendar year with the Board of Selectmen.

**SECTION 3:** The commission is hereby authorized and empowered:



- (a) to adopt Bylaws for the regulation of its affairs and the conduct of its business;
- (b) to ensure, maintain, repair and improve such golf course and recreation and picnic areas and operate the same for use by the public;
- (3) to provide, through its employees or by the grant of one or more concessions, or in part through its employees and in part by the grant of one or more concessions, for the furnishing of services and things for the accommodation of persons admitted to or using the golf course and adjoining facilities, which concessions may be allowed to serve alcoholic beverages in compliance with Chapter one hundred and thirty-eight of the General Laws;
- (d) to establish rules and regulations, and fix policies for the use of such golf course and adjoining facilities;
- (e) to fix from time to time and charge and collect fees for admission to or the use of the golf course or any part thereof, and for the grant of concessions therein and for things furnished, or services rendered by the commission. The commission may fix such fees as in its judgment are best adapted to ensure sufficient income to meet expenses of operating and maintaining the golf course and adjoining facilities; such fees shall be subject to the provisions of section fifty-three of Chapter forty-four of the General Laws;
- (f) to make all contracts and agreements for a term of not more than three years necessary or incidental to the performance of its duties and the execution of its powers under this act, to employ such agents and employees as may be necessary in its judgment, and to fix their compensation, and to do all acts and things necessary or convenient to carry out the powers expressly granted in this act; provided, that the provisions of Chapter thirty-one of the General Laws shall not apply to any such employees.

**SECTION 4:** This act shall take effect upon its acceptance by the Town of Ludlow. **(Accepted 8/12/1974)**

## CHAPTER 672

# AN ACT CREATING THE WESTOVER METROPOLITAN DEVELOPMENT CORPORATION

Whereas the deferred operation of this act would tend to defeat its purposes, which is to aid private enterprise in the speedy and orderly conversion and redevelopment of lands formerly used for certain activities at Westover Air Force Base in order to prevent blight, economic dislocation and unemployment, and to aid private enterprise fully to utilize certain opportunities to alleviate unemployment, therefore it is hereby declared to be an emergency law necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

### **SECTION 1:** Findings and purpose.

It is hereby found that there exists within the Commonwealth substantial unemployment which is detrimental to the welfare of the people of the Commonwealth, that the termination by the United States of certain activities at the Westover Air Force Base will, in the absence of a speedy and orderly conversion and redevelopment of lands formerly used for such activities to nonmilitary uses, result in blight, economic dislocation, and additional unemployment, all to the further detriment of the welfare of the people of the Commonwealth, and that private, semipublic enterprise, unaided by the Commonwealth, is unable to accomplish such a speedy and orderly conversion and redevelopment so as to prevent such further detriment. It is further found that there are opportunities presented by such termination to private, semipublic or public enterprise to alleviate such unemployment and that private, semipublic or public enterprise, unaided by the Commonwealth, is unable fully to utilize such opportunities.

Therefore it is the purpose of the Westover Metropolitan Development Corporation created by this act to aid private, semipublic or public enterprise in the speedy and orderly conversion and redevelopment of lands formerly used for certain activities at said base to nonmilitary uses, including, but not limited to, industrial, commercial or manufacturing uses, in order to prevent blight, economic dislocation, and additional unemployment and to aid private, semipublic or public enterprise fully to utilize opportunities to alleviate unemployment.

**SECTION 2:** In this act the following words and phrases shall, unless the context requires otherwise, have the following meanings:

"Corporation", the Westover Metropolitan Development Corporation.

"Cost of a project", all costs, whether incurred prior to or after the issue of bonds or notes hereunder, of acquisition, site development, construction, improvement, enlargement, reconstruction, alteration, machinery, equipment, furnishings, demolition, or removal of existing buildings or structures, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during the carrying out of any project, interest for up to two years after completion or estimated completion date of any project, planning, engineering and legal service, administrative expense, the funding of notes issued for capital purposes, such reserve for debt service or other capital or current expenses as may be required by a trust agreement or resolution securing notes or bonds, and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation.

"Economic development area", any part of the area formerly used by the United States for the Westover Air Force Base.

"Economic development plan", a detailed plan, as it may be approved from time to time by the municipality as herein provided for one or more economic development projects within an economic development area, which plan shall be consistent with local objectives respecting appropriate land uses, and shall be sufficiently complete to indicate the boundaries of the area, such land acquisition, such demolition, removal and rehabilitation of structures, and such development, redevelopment and general public improvements as may be proposed to be carried out within such area, zoning and planning changes, if any, and proposed land uses, maximum densities and building requirements; provided, however, that no economic development plan shall propose zoning changes, to or from business or residential uses, or provide for any office building other than one wholly incidental to a manufacturing, commercial or industrial use within the area without the specific approval of the city or town within which the project lies.

"Economic development project", a project to be undertaken in accordance with an economic development plan for acquisition by the corporation of land and the improvements thereon, if any, within an economic development area and for clearance, if necessary, rehabilitation, improvement, and redevelopment for industrial, manufacturing, or commercial uses. An economic development project may include improvements necessary for carrying out the objectives of the economic development project, together with such site improvements as are necessary for the preparation of any site for uses in accordance with the economic development plan, and making any land or improvements acquired in the area of the project available for redevelopment or rehabilitation by private, semipublic or public enterprise, including sale, initial leasing or retention by the corporation for industrial, manufacturing, or commercial uses in accordance with the economic development plan. An economic development project may also include the construction by the corporation of any of the buildings, structures or other facilities for industrial, manufacturing, or commercial uses contemplated by the economic development plan and the repair, removal or rehabilitation by the corporation of any of the buildings, structures or other facilities located in the area covered by the economic development plan which, under such plan, are to be repaired, removed or rehabilitated.

"Lands", any real property, improvements thereon, and related personal property.

"Municipality", the Town of Ludlow, with respect to any parcel of land lying wholly therein, the City of Chicopee, with respect to any parcel of land lying wholly therein, or the Town of Ludlow and the City of

Chicopee acting jointly, with respect to any parcel of land lying partly within said town and partly within said City.

"Pollution control facilities", facilities for the prevention, avoidance, reduction, control, abatement or elimination of pollution of air or waters by industrial, manufacturing, or commercial establishments by any means.

**SECTION 3:** There is hereby created a body politic and corporate to be known as the Westover Metropolitan Development Corporation, which shall be governed by a board of nine directors, all residents of the Springfield-Chicopee-Holyoke standard metropolitan statistical area, one of whom shall be appointed chairman by a majority vote of the other directors, three of whom shall be appointed by the Mayor of the City of Chicopee, with the approval of the Board of Aldermen of the City of Chicopee, two of whom shall be appointed by the First Selectman of the Town of Ludlow, and three of whom shall be experienced in industry, manufacturing, or commerce, shall not be residents of the City of Chicopee or the Town of Ludlow, and shall be appointed by a majority vote of the other directors; provided, however, that the initially appointed chairman shall be one of the three nominees of the Westover Task Force created

by the joint commission on federal base conversion and those three members initially appointed on the basis of experience and nonresidency shall be appointed by the chairman, each from among three nominees of said Task Force. The chairman and other directors shall serve for terms of three years; provided, however, that of those initially appointed by the Mayor of the City of Chicopee, two shall be for terms of two years of those initially appointed by the First Selectman of the Town of Ludlow, one shall be for a term of two years, and of those initially appointed by the chairman of the board of directors, two shall be for terms of two years. Vacancies arising other than from the expiration of a term shall be filled for the remainder of the unexpired term in the same manner as regularly provided for such appointments. Directors shall receive no compensation for the performance of their duties hereunder, but each director may be reimbursed for expenses actually incurred in the performance of his duties.

A majority of the nine directors shall constitute a quorum for the transaction of any business, but the action of a majority of the entire board shall be required for any transaction. For the purposes of section eleven A of Chapter thirty A of the General Laws, the corporation shall be deemed to be an authority established by the General Court to serve a public purpose in the Commonwealth.

**SECTION 4:** The directors of the corporation shall adopt a corporate seal for the corporation, and designate the custodian thereof, may from time to time appoint and at pleasure remove a clerk, a treasurer or such other officers of the corporation as they may deem necessary, and may determine their duties and their compensation, which shall be paid by the corporation, shall cause at all times accurate accounts to be kept of all receipts and expenditures of the funds of the corporation, and shall make a report annually in December to the City of Chicopee and the Town of Ludlow and to the General Court containing an abstract of such accounts and detailed information of all receipts and expenditures, including prices paid for land purchased or taken and any buildings constructed thereon, contracts for construction of facilities and for the leasing thereof, and such other detailed information as may be deemed helpful. The offices of Treasurer and Clerk may be held by the same person. The corporation shall cause an audit of its books and accounts to be made at least once in each fiscal year by certified public accountants and the cost thereof shall be treated as an item of current expense.

Except as otherwise provided in this act, the corporation shall have full power to exercise care of its property and the management of its business and affairs, and to sell and convey any real property not needed for its business or affairs, by deed or other instrument sealed with the corporate seal, signed and acknowledged by a majority of the board of directors or in like manner to authorize such sale and conveyance by any of its officers or agents. The Treasurer shall give bond for the faithful performance of his duties, with a surety company authorized to do business in this Commonwealth as surety, in such sum as the said board may determine, the premium therefor to be paid by the corporation. The provisions of Chapter thirty-one of the General Laws or any rule made thereunder shall not apply to any person employed or engaged by the corporation under this act.

**SECTION 5:** The corporation is hereby authorized:

- (a) To sue and be sued in its own name, and plead and be impleaded.
- (b) To adopt Bylaws for the regulation of its affairs and the conduct of its business, and to alter the same at its pleasure.
- (c) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts and attorneys and such other employees, agents and consultants as may be necessary in its judgment, and to fix their compensation.
- (d) To receive and accept from any federal agency, the Commonwealth or any municipality grants, loans or advances for or in aid of an economic development project or projects and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants, loans, advances and contributions may be made. Any municipality may borrow outside its debt limits to obtain money for a loan to the corporation, with the approval of the Secretary of Communities and Development.
- (e) To borrow money and, from time to time, to make, accept, endorse, execute and issue bonds, debentures, promissory notes, bills of exchange, and other obligations of the corporation, for moneys borrowed or in payment for property acquired or for any of the other purposes of the corporation, and to secure the payment of such obligations by mortgage, pledge, deed, indenture, agreement, or other instrument of trust, or by other lien upon, assignment of, or agreement in regard to all or any part of the property, rights, or privileges of the corporation.
- (f) To issue revenue bonds of the corporation, payable solely from revenues, for the purpose of paying all or any part of the cost of a project or projects, except that any municipality may, upon request by the corporation, pledge its full faith and credit to the solvency of the corporation.
- (g) To invest any funds not required for immediate use or disbursement in certificates of deposit or in obligations of the government of the United States or in obligations the payment of the principal of, and interest on, which is guaranteed by the Government of the United States.

- (h) To provide such advisory services and technical assistance as may be necessary or desirable to carry out the purposes of this act.
- (i) To prepare or cause to be prepared plans, designs, drawings, specifications and estimates of cost or the construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or repair of economic development projects and from time to time modify such plans, designs, drawings, specifications and estimates.
- (j) To finance pollution control facilities in the same manner provided by this act for economic development projects, in which event all provisions of this act which are applicable to economic development projects apply to the pollution control facilities, insofar as such provisions are apt, except as otherwise provided.
- (k) To designate, subject to the approval of the municipality, areas formerly used for the Westover Air Force Base as economic development areas.
- (l) Whenever the United States shall give notice that any lands, or any interest therein, formerly used for the Westover Air Force Base are available for disposal or make advertisement for bids with respect to such lands, or such interest, the corporation may take whatever steps are required by federal law to acquire such lands, or such interest.
- (m) To acquire and hold any lands, or any interest therein, formerly used for the Westover Air Force Base.
- (n) To procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable.
- (o) To clear and improve property acquired by it, and to engage in or contract for the construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or repair thereof.
- (p) To arrange or contract with the municipality for the planning, replanning, opening, grading or closing of streets, roads, alleys or other places or for the furnishing of facilities or for the acquisition by the municipality of property or property rights or for the furnishing of property of services in connection with a project or projects.
- (q) To sell, convey, mortgage, lease, transfer option, exchange or otherwise dispose of any lands, or any interest therein, as the objects and purposes of the corporation may require, subject to such limitations as may be prescribed by law.

- (r) To loan on mortgages, including purchase money mortgages, on real estate and personal property within economic development areas, to foreclose the same when in default, and to bid for the purchase property at any foreclosure or other sale; and in such event, to deal with such property in such manner as may be necessary or desirable to protect the interests of the corporation therein.
- (s) To manage any project whether owned or leased by the corporation and to enter into agreements with the Commonwealth or the municipality or any agency or instrumentality thereof or with any person, firm, partnership or corporation either public or private for the purpose of causing any project to be managed.
- (t) To act with respect to one or more projects as a corporation organized under Ch. 121A S.3 or S. 18B of the General Laws, provided that the accounts for each project shall be kept separately, and the income of one project shall not be expended upon or for the benefit of another project.
- (u) To borrow money for the purpose of aiding in the construction of equipment required by the Commonwealth or United States to abate air or water pollution.
- (v) To do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

**SECTION 5a:** The corporation may exercise any of its powers for the purpose of making lands formerly used for Westover Air Force Base available for development of facilities for the generation, transmission or transformation of electric power and energy by or for the electric utilities primarily consisting of one or more political subdivisions of the Commonwealth. Without limiting the generality of the foregoing, the corporation may borrow money to acquire such lands, or any interest therein, and lease, sell, or otherwise transfer the same for consideration to Massachusetts Municipal Wholesale Electric Company, Massachusetts Municipal Power Development Corporation or to electric utilities primarily consisting of one or more political subdivisions of the Commonwealth or to another entity or entities for the purposes of this section. The uses of lands under this section may include, as an incident to the generation, transmission or transformation of electric power and energy, headquarters or other office space for the corporate entity owning or operating the facilities referred to in this section. Lands subject to this section shall not constitute or be designated as "economic development areas", and the terms "economic development plan" and "economic development project" as used in this act shall not be deemed to include activities of the corporation under this section, nor shall such activities be subject to sections sixty-one and sixty-two of chapter thirty of the General Laws, but the foregoing shall not be deemed to exempt from any applicable environmental laws the construction or operation of facilities referred to in this section.

**SECTION 6:** No economic development project shall be undertaken until a public hearing relating to the economic development plan covering such project has been held by the corporation after due notice, and the economic development plan has been approved, in the case of the Town of Ludlow, by an affirmative two-thirds vote of an Annual Town Meeting or a Special Town Meeting called for the purpose and, in the

case of the City of Chicopee, by a two-thirds vote of the Board of Aldermen with the approval of the Mayor. If no economic development project covered by an economic development plan is commenced within seven years after the approval of such plan, the approval of such plan shall lapse. Every economic

development plan submitted to the municipality for approval under this act (i) shall require that every person occupying the whole or any part of the economic development area covered by such plan during the period of forty years after the approval of such plan shall make every reasonable effort, in employing persons in his business, to give to the fullest practicable extent preference to residents of the municipality and (ii) shall be accompanied by a report on such plan by the planning agency of the municipality to whom such plan shall have been submitted before its submission to the municipality by a statement of the proposed method for financing each project covered by such plan and by such other information as the corporation deem advisable.

Notice of the public hearing required by the first paragraph of this section shall be given by the corporation to (1) such persons, groups and organizations as have requested in writing that such notice be given them, (2) the department and secretary and agency, whether of the city or of the Commonwealth, likely in the judgment of the corporation to have an actual or potential interest in the economic development plan, (3) the Senator for every senatorial district of the Commonwealth, and the Representative for every representative district thereof, within which the economic development area or any part thereof lies. In the course of preparing an economic development plan, the corporation shall consult with each of the aforesaid so far as in the judgment of the corporation it is practicable. If an economic development plan is so approved by the municipality, the corporation shall have the powers and duties imposed by this act to undertake and carry out the economic development projects covered by such plan. The corporation shall not be required to submit an economic development plan so approved to the Department of Community Affairs of the Commonwealth for further approval.

**SECTION 7:** Except as provided herein rents and charges for services or facilities furnished or supplied by the corporations shall not be subject to supervision or regulation by an department, division, commission, board, bureau or agency of the Commonwealth or any political subdivision thereof, and, if derived from a project in connection with which revenue bonds have been issued, shall, with all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves thereof as may be provided for in the resolution authorizing the issuance of the bonds or in the trust agreement, but including such part thereof as may be necessary to provide such reserves for the payment of the principal of and the interest on said revenue bonds as may be provided for in such resolution or trust agreement, and including also the proceeds of any and all sales by the corporation of property within the project area, be set aside at such regular intervals as may be provided for in such resolution or trust agreement, in a sinking fund which is hereby pledged to and charged with the payment of (1) the interest upon such bonds as such interest shall fall due, (2) the principal of the bonds as the same shall fall due, (3) the necessary charges of paying agents for paying principal and interest, and (4) the redemption price or the purchase price of bonds retired by call or purchase as therein provided.



**SECTION 8:** The corporation shall be liable in contract or in tort in the same manner as a private corporation. The directors, employees, officers and agents of the corporation shall not be liable as such on its contracts or for torts not committed or directly authorized by them. The property or funds of the corporation shall not be subject to attachment or to levy and sales on execution, but if the corporation refuses to pay a judgment entered against it in any court of competent jurisdiction, the Superior Court, sitting within and for the county in which the corporation is situated, may, by writ of mandamus, direct the Treasurer of such agency to pay such judgment.

**SECTION 9:** The real estate and tangible personal property of the corporation shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessment; provided, that in lieu of such taxes, betterments and special assessments, the municipality may determine a sum to be paid to it annually in any year or period of years, such sum to be in any year not in excess of the amount that would be levied at the then current tax rate upon the average of the assessed value of such real estate, including buildings and other structures, for the three years preceding the year of acquisition thereof, the valuation for each year being reduced by all abatements thereon.

The municipality may, however, agree with the corporation upon the payments to be made, or the corporation may make and the municipality may accept such payments, the amount of which shall not in either case be subject to the foregoing limitation. The last paragraph of S. 6 and all of S. 7 of Ch. 59 of the General Laws shall, so far as apt, be applicable to payments under this section.

Nothing in this act shall be construed to prevent the taxation to the same extent and in the same manner as other real estate is taxed, of real estate acquired by the corporation for an economic development project and sold by it, or the taxation to the same extent and in the same manner as real estate of the Commonwealth is taxed, of real estate so acquired by the corporation and leased by it; provided, however, that real estate so acquired by the corporation and sold or leased to an urban redevelopment corporation or other entity operating under Ch. 121A A of the General Laws or to an insurance company or savings bank or group of savings banks operating under said chapter, shall be taxed as provided in said chapter and not otherwise. The corporation and the debentures, revenue bonds and revenue refunding bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free from taxation by the Commonwealth or any subdivision thereof.

**SECTION 10:** To provide funds for the general purposes of the corporation, including working capital, the corporation may from time to time issue debentures; provided, however, that such debentures outstanding at any one time shall not exceed five million dollars unless specifically approved by the Secretary of Communities and Development. Such debentures unless otherwise authorized by law shall not be deemed to constitute a debt of the Commonwealth or of the municipality or a pledge of the faith and credit of the Commonwealth or of the municipality and shall be subordinated to all other obligations of the corporation and shall be payable at such time or times and in such installments, if any, as the corporation shall determine, but solely out of the net assets of the corporation; and the holders thereof shall be entitled to interest thereon but only out of the net earnings of the corporation, and in no event at a rate higher than the rate specified therein. Such debentures may be secured by a trust agreement by and between the corporation and a corporate trustee, which shall be located within the Commonwealth and shall be a trust company or bank having the powers of a trust company. Such trust agreement shall contain such provisions for protecting and enforcing the rights and remedies of the debenture holders as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the

laws of the Commonwealth which may act as depository under such trust agreement to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. Such trust agreement shall set forth the rights and remedies of the debenture holders and of the trustee, and may restrict the individual right of action by debenture holders. In addition to the foregoing, such trust agreement may contain such other provisions as the corporation may deem reasonable and proper for the security of the debenture holders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as an item of current expense.

**SECTION 11:** The municipality may raise and appropriate or may borrow, or may agree with the corporation or with the Federal Government or the Commonwealth to raise and appropriate or to borrow, in aid of the corporation, such sums as may be necessary to carry out the purposes and powers of the corporation including defraying part of the development, acquisition and operating costs of any project. Indebtedness of the municipality authorized under this section shall be outside the limit of indebtedness prescribed in S. 10 of C. 44 and shall be payable within twenty years and otherwise subject to S. 16 to 27 inclusive, of said C. 44; provided, however, that the total amount of indebtedness of the municipality, outstanding at any one time under this section and Ch. 1, 2 and 5 of S. 20 of Ch. 121B shall not exceed five per cent of the municipality equalized valuation as defined in S. 1 of said Ch. 44. Indebtedness incurred under this act shall also be subject to approval under S. 22 of said Ch. 121B in like manner as indebtedness incurred under said S. 20.

**SECTION 12:** The corporation is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the corporation for the purposes of paying all or any part of the cost of a project or projects. The principal of and interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rates, and shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the corporation, and may be made redeemable before maturity, at the option of the corporation, at such price or prices and under such terms and conditions as may be fixed by the corporation prior to the issuance of the bonds. The corporation shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds, and the place or places of payment of principal and interest, which may be at any bank or trust company within the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The bonds may be issued in coupon or registered form or both, as the corporation may determine and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest. The corporation may sell such bonds in such manner, either at public or at private sale, and for such price, as it may determine to be for the best interests of the corporation.

The proceeds of such bonds shall be used solely for the payment of the cost of the project or projects, and shall be disbursed in such manner and under such restrictions, if any, as the corporation may provide. Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds which shall be come mutilated or shall be destroyed or lost. Revenue bonds may be issued under the provisions of this act subject only to those proceedings, conditions or things which are specifically required by this act.

The corporation is hereby authorized to provide by resolution for issuance of revenue refunding bonds of the corporation for the purpose of refunding any revenue bonds then outstanding and issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the corporation, for the additional purpose of constructing or reconstructing any extensions or improvements of the project. The issue of such bonds, the maturates and other details thereof, the rights of the holders thereof, and the duties of the corporation in respect of the same shall be governed by the provisions of this act insofar as the same may be applicable. While any bonds issued by the corporation remain outstanding the powers, duties or existence of the corporation shall not be diminished or impaired in any way that will affect adversely the interest and rights of holders of such bonds.

Revenue and revenue refunding bonds issued under the provisions of this section, unless otherwise authorized by law, shall not be deemed to constitute a debt of the Commonwealth or of the city, or a pledge of the faith and credit of the Commonwealth or of the city, but such bonds shall be payable solely from the funds herein provided therefor from revenues. In the event that the corporation, or municipality or Commonwealth is not obliged to pay said revenue and revenue refunding bonds, then, and in that event, all such revenue and revenue refunding bonds shall contain on the fact thereof a statement to the effect that neither the corporation nor the Commonwealth nor the municipality shall be obliged to pay the same or the interest thereon except from revenues and that neither the faith and credit nor taxing power of the Commonwealth or of the municipality is pledged to the payment of or the interest on such bonds.

All revenue and revenue refunding bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments.

**SECTION 13:** In the discretion of the corporation, such revenue bonds or revenue refunding bonds may be secured by a trust agreement by and between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the Commonwealth. Such trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage any project or part thereof.

Either the resolution providing for the issuance of bonds or such trust agreement may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, the corporation in relation to the acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, operation, repair, insurance and disposition of property, the custody, safeguarding, investment, and application of moneys, the use of any surplus bond or note proceeds and the establishment of reserves. Such resolution or trust agreement may also contain covenants by the corporation in relation to, among other things.

(a) The establishment, revision and collection of such rents and charges for services of facilities furnished or supplied by the corporation as shall provide revenues sufficient with other revenues of the project, if any, to pay (i) the cost of maintaining, repairing and operating the project and of making renewals and replacements in connection therewith, (ii) the principal of and the interest on said revenue bonds, as the same shall become due and payable, (iii) payments in lieu of taxes, betterment and special assessment, and (iv) reserves for all such purposes, (b) the purpose or purposes for which the proceeds of the sale of the bonds will be applied and the use and disposition thereof, (c) the use and disposition of the gross revenues of the corporation from the project, and additions thereto and extensions and improvements

thereof, including the creation and maintenance of funds for working capital and for renewals and replacements to the project, (d) the amount, if any, of additional revenue bonds payable from the revenues of the project and the limitations, terms and conditions on which such additional revenue bonds may be issued, and (e) the operation, maintenance, management, accounting and auditing of the project and of the income and revenues of the corporation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth to act as depository of the proceeds of bonds or of revenues and to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. Such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, such trust agreement may contain such other provisions as the corporation may deem reasonable and proper for the

security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the project. The pledge by any such trust agreement or resolution shall be valid and binding from the time when the pledge is made, the revenues or other moneys so pledged and then held or thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof.

**SECTION 14:** Revenue bonds and revenue refunding bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments and within the limits set by section fifty-four of chapter one hundred and seventy-two of the General Laws, banking associations, investment companies, executors, trustees and other fiduciaries, and all other

persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them; and such bonds are hereby made obligations which may properly and legally be made eligible for the investment of savings deposits and the income thereof in the manner provided by section fifty or chapter one hundred and sixty-eight of the General Laws. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law.

**SECTION 15:** Any holder of bonds or debentures issued under the provisions of this chapter or of any coupons appertaining thereto, and the trustee, except to the extent the rights herein given may be restricted by the trust agreement, may, by commencing a civil action, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under the trust agreement, and may enforce and compel the performance of all duties required by this act or by the trust agreement, to be performed by the corporation or by any officer thereof.

**SECTION 16:** Insofar as the provisions of this act are inconsistent with the provisions of any other law, general or special, excluding any state or the municipal building code and the municipal zoning Bylaws, the provisions of this act shall be controlling.

**SECTION 17:** The provisions of this act are severable; and if any of its provisions shall be held unconstitutional by any court or competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

**SECTION 18:** This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. **Approved August 1, 1974; Amended November 17, 1975.**

**APPROVED AUGUST 1, 1974**

**AMENDED NOVEMBER 17, 1975**

## **CHAPTER 473**

# **AN ACT FURTHER REGULATING THE COMPENSATION OF TOWN CLERKS WHO SERVE AS REGISTRARS OF VOTERS.**

### **SPECIAL ACT OF 1990**

**Section 1:** Chapter 41 of the General Laws is hereby amended by inserting after section 191 the following section:-

MA St 41 Sec 19J

Section 19J. Notwithstanding the provisions of sections nineteen G and nineteen H, a city or town which accepts this section may compensate a clerk of a city or town who also serves as a member of its board of registrars of voters, in addition to any compensation to which such clerk is entitled as city or town clerk, a sum not less than fifty dollars but not to exceed one hundred dollars, and, if the number of registered voters exceeds one thousand, an additional sum not less than fifty dollars but not to exceed one hundred dollars for each additional thousand of registered voters or major fraction thereof; provided, however, that the total payment for such service as a member of said board shall not exceed four thousand dollars in any year.

MA St 41 Sec 19J note

Section 2. For the purposes of implementing section one during fiscal year nineteen hundred and ninety-one, a town may accept the provisions of this act and set such compensation for a town clerk at a special town meeting and provide that payment of such additional compensation may be made from available funds and the amounts of such payment shall be reported by the town accountant or by the town treasurer if there is no town accountant, to the assessors who shall include the amounts so reported in the aggregate appropriation assessed in the determination of the next subsequent annual tax rate.

**Approved December 29, 1990**

## CHAPTER 39

# AN ACT PROHIBITING THE DISCLOSURE OF THE NAMES AND TELEPHONE NUMBERS OF CERTAIN LAW ENFORCEMENT PERSONNEL AND OTHERS

### SPECIAL ACTS OF 1996

(which amends mass general laws chpt 66, sec 10)

**SECTION 1:** Section 10 of chapter 66 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

The home address and home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, correctional and any other public safety and criminal justice system personnel shall not be public records in the custody of the employers of such personnel and shall not be disclosed; provided, however, that such information may be disclosed to an employee organization under chapter one hundred and fifty E or to a criminal justice agency as defined in section one hundred and sixty-seven of chapter six. The name and home address and telephone number of a family member of any such personnel shall not be public records in the custody of the employers of the foregoing persons and shall not be disclosed. The home address and telephone number, or place of employment or education of victims of adjudicated crimes and of persons providing or training in family planning services and the name and home address and telephone number, or place of employment or education of a family member of any of the foregoing shall not be disclosed.

**SECTION 2:** Section 3 of chapter 268B of the General Laws, as so appearing, is hereby amended by inserting after the word "reports:", in line 18, the following words:-provided, however, that the commission shall be authorized, in its discretion, to exempt from public disclosure those portions of a statement of financial interest filed pursuant to section five which contain the home address of the filer; and provided, further, that.

**Approved March 14, 1996.**

**CHAPTER 127**  
**The Acts of 1999**

**AN ACT TO ESTABLISH A PROGRAM TO ALLOW PERSONS OVER THE AGE OF SIXTY (60) TO VOLUNTEER TO PROVIDE SERVICES TO THE TOWN OF LUDLOW IN EXCHANGE FOR A REDUCTION ON THE INDIVIDUAL” REAL PROPERTY TAX BILL OF NO MORE THAN \$500.00 IN A GIVEN TAX YEAR.**

**SECTION 59.** Chapter 59 of the General Laws is hereby amended by inserting after section 5J the following section:-

**SECTION 5k.** In any city or town which accepts the provisions of this section, the board of selectmen of a town or in a municipality having a town council form of government, the town council or the mayor with the approval of the city council in a city may establish a program to allow persons over the age of 60 to volunteer to provide services to such city or town. In exchange for such volunteer services, the city or town shall reduce the real property tax obligations of such person over the age of 60 on his tax bills and any reduction so provided shall be in addition to any exemption or abatement to which any such person is otherwise entitled and no such person shall receive a rate of, or be credited with, more than the current minimum wage of the commonwealth per hour for services provided pursuant to such reduction nor shall the reduction of the real property tax bill exceed \$500 in a given tax year. It shall be the responsibility of the city or town to maintain a record for each taxpayer including, but not limited to the number of hours of service and the total amount by which the real property tax has been reduced and to provide a copy of such record to the assessor in order that the actual tax bill reflect the reduced rate. A copy of such record shall also be provided to the taxpayer prior to the issuance of the actual tax bill. Such cities and towns shall have the power to create local rules and procedures for implementing this section in any way consistent with the intent of this section.

In no instance shall the amount by which a person's property tax liability is reduced in exchange for the provision of services be considered income, wages or employment for the purposes of taxation as provided in chapter 62, for the purposes of withholding taxes as provided in chapter 62B, for the purposes of unemployment insurance as provided in chapter 151, for the purposes of workers' compensation as provided in chapter 152 or any other applicable provisions of the General Laws but such person while providing such services shall be considered a public employee for the purposes of chapter 258. **(Apvd Oct 2, 2000);**

(as amended Oct 2, 2000)

SENIOR CITIZEN PROPERTY ABATEMENT PROGRAM

**(deleted old A.B. and C 10/01/2012 and replaced on (10/1/2012)**



A. Eligibility of volunteers: apart from the requirements of the General Laws of the Commonwealth, the following will also apply:

1. Volunteers must be sixty-two (62) years or older, as certified by a copy of a birth certificate at the time of participation.
2. Volunteers must be an owner/occupant of a legal domicile in the town of Ludlow for a minimum of ten (10) consecutive years prior to participating in the program.
3. In accordance with Massachusetts Law, the annual tax obligation will not be reduced below ten percent (10%) of the annual tax.

B. Scope of Program

The Town will set up to no more than (75) slots as volunteer services in various Town Departments for this program. The program will have a Board of Advisors composed of five (5) Town Department Managers and/or designees and the Town Administrator as an ex-officio member to assist in the counsel and advice to the Board of Selectmen for definition of the program, monitoring of its effectiveness and selection process. The Advisors will consist of the following: School Business Manager, Council on Aging Director, Town Collector, Assistant Assessor and Librarian. The Advisory Board shall meet annually to re-determine the allocation of seventy-five slots

1. Applications will be accepted from November 1<sup>st</sup> through December 31<sup>st</sup> of each year for the following fiscal year selection. The attached application must be utilized for all prospective volunteers.
2. Volunteers may begin the work on February 1<sup>st</sup> or later which ever is more convenient for the assigned department and all work must be completed no later than November 30<sup>th</sup>.
3. Volunteers must complete the number of hours equivalent to \$500.00 divided by the Federal Minimum wage. To qualify for the abatement, individuals must complete the assigned number of hours (no partial abatements will be recognized)
4. Only one abatement per household (volunteer hours must be completed by one individual not shared)
5. The abatement will be applied to the domicile address at the time of the hours worked.
6. If the number of applicants exceeds the number of slots, selection of perspective volunteers will be made on a lottery basis. Each applicant not selected will be assigned a number. In the event that an applicant cannot fulfill the requirements, then the slot will be filled by the next numerical applicant. If that applicant refuses then the next numerical applicant available will be chosen.
7. The allocation of slots will be assigned to the departments where volunteers will be most valuable.
8. Department heads must certify participation of the volunteer program by completing the bottom portion of the original application.
9. In lieu of wages received, volunteers will receive from the Board of Assessors Office, a certificate prior to the issuance of the actual real estate tax bill for the current fiscal year.

**(added Oct 1, 2012)**

## CHAPTER 137

# AN ACT RELATIVE TO PUBLIC EMPLOYEES SERVING IN THE ARMED FORCES OF THE UNITED STATES.

## ACTS OF 2003

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith the salaries of certain public employees who served or are serving in the armed forces, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

**SECTION 1.** Notwithstanding any general or special law to the contrary, an employee in the service of the commonwealth or a county, city or town that accepts this section as provided in this section, including an employee of a school district, who has been granted a military leave of absence because the employee is a member of the army national guard, the air national guard or a reserve component of the armed forces of the United States called to active service in the armed forces of the United States after September 11, 2001, shall be entitled to receive pay at his regular base salary as such a public employee, and shall not lose any seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned overtime. An employee eligible under this section shall be paid his regular base salary as such a public employee for each pay period of such military leave or absence after September 11, 2001, reduced by any amount received from the United States as pay or allowance for military service performed during the same pay period, excluding overtime pay, shift differential pay, hazardous duty pay or any other additional compensation. For the purposes of this section, the words "active service" shall not include active duty for training in the army national guard or air national guard or as a reservist in the armed forces of the United States. This section shall take effect in a county, city or town upon its acceptance in a county, by vote of the county commissioners; in a city or town, as provided in section 4 of chapter 4 of the General Laws; and in a regional school district, by vote of the school committee. Nothing in this section shall limit or reduce a person's entitlement to benefits under section 59 of chapter 33 of the General Laws, and nothing in this section shall entitle a person to benefits in excess of the maximum benefit provided under said section 59 of said chapter 33 for any period during which that person is receiving benefits under this section.

**SECTION 2.** Notwithstanding any general or special law to the contrary, state agencies and municipal governments may expend in the current fiscal year associated costs incurred in prior fiscal years pursuant to this act.

**SECTION 3.** Notwithstanding any general or special law to the contrary, any employee eligible for retirement under section 616 of chapter 26 of the acts of 2003 who was stationed outside of the commonwealth on active military duty during the period from July 15, 2003 through September 1, 2003, inclusive, shall file his application for retirement with the state board of retirement within 30 days of discharge from active military duty outside the commonwealth or within 30 days of the effective date of this act. The retirement date requested shall be no more than 60 days and no less than 30 days from the date said application is filed with the state board of retirement.

**SECTION 4.** Section 40 N of chapter 7 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the definition "Minority business" the following definition:—"Veteran-owned business", a contracting or subcontracting business which is beneficially owned by 1 or more veterans as defined in clause Forty-third of section 7 of chapter 4, meeting the requirements set forth in clauses (1) to \*4), inclusive, of the definition of minority business, except that the terms "veteran", "veteran owners", and "veteran-owned business", shall be substituted for the terms "minority" and "minority persons", "minority owners", and "minority business" as appearing in that definition.

**SECTION 5.** Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting in line 47 after the word "businesses", in lines 47 and 57, each time it appears, the following words:-, and veteran-owned businesses.

**SECTION 6.** Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting in line 62 after the word "businesses", in line 62, the following words:- and 3 per cent for veteran-owned businesses,.

**SECTION 7.** Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the word "women-owned", in lines 66, 100 and 106, each time it appears, the following words:- and veteran-owned.

**SECTION 8.** Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting in line 68 after the word "women-owned", in lines 68, 72 and 103, each time it appears, the following words:- or veteran-owned.

**SECTION 9.** Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the word "business", in line 71, the following words:- or 3 per cent for a veteran-owned business,.

**SECTION 10.** Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the word "per cent", in line 77, the following words:- or veteran-owned business set-aside below 3 per cent.

**SECTION 11.** Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the word “section”, in line 85, the following words:-; nor shall any portion of contracting and subcontracting work reserved for minority-owned businesses under this section be awarded to any veteran-owned business not meeting the requirements of a minority-owned business under this section; nor shall any portion of contracting and subcontracting work reserved for women-owned businesses under this section be awarded to any veteran-owned business not meeting the requirements of a women-owned business under this section; nor shall any portion of contracting and subcontracting work reserved for veteran-owned businesses under this section be awarded to any minority-owned business not meeting the requirements of a veteran-owned business under this section; nor shall any portion of contracting and subcontracting work reserved for veteran-owned businesses be awarded to any women-owned business not meeting the requirements of a veteran-owned business under this section.

**SECTION 12.** Said section 40N of chapter 7, as so appearing, is hereby further amended by inserting after the word “court”, in line 98, the following words:- and, in the case of veteran-owned businesses, to the department of veterans’ services.

**SECTION 13.** Said section 40N of said chapter 7, as so appearing, is hereby further amended by adding the following paragraph:-

SOMBA shall work in collaboration with the Massachusetts Small Business Development Center Network and The National Veterans Business Development Corporation to establish and update, by periodic additions and deletions, a list of veteran-owned business under this section and shall cause the list to be published in the central register established in section 20 of chapter 9, and filed with the joint committee on state administration and in such other publications as the commissioner shall designate.

**SECTION 14.** Section 39 of chapter 23A of the General Laws, as so appearing, is hereby amended by inserting after the word “Minority”, in line 5, the following words:-, women and veterans.

**SECTION 15.** Said section 39 of said chapter 23A, as so appearing, is hereby further amended by inserting after the word “minority”, in line 7, the following words:-, women and veterans.

**SECTION 16.** Section 40 of said chapter 23A, as so appearing, is hereby amended by inserting after the definition of ‘OMWBDE” the following definition:-

“Veteran business enterprise”, for the purpose or receipt of services from SOMWBA, a business enterprise that is both owned and controlled by 1 or more veterans, as defined in section 7 of chapter 4, who have invested in an ongoing business free of conversion rights.

**SECTION 17.** Section 44 of said chapter 23A, as so appearing, is hereby amended by inserting after the word “women”, in line 2, and in line 16, the second time it appears, and in lines 23, 51 and 57, in each instance, the following words:- and veteran.

**SECTION 18.** Said section 44 of said chapter 23A, as so appearing, is hereby further amended by inserting after the word “women”, in line 16, the first time it appears, the following words:-or veteran.

**SECTION 19.** Said section 44 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 76, the words “or women-owned” and inserting in place thereof the following words:-or women-or veteran-owned.

**SECTION 20.** Section 18 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word “forty N” and inserting in place thereof the following words:-40N and any business beneficially owned by 1 or more veterans as provided in the definition of “veteran-owned business” as set forth in section 40N.

**SECTION 21.** Sections 1, 2 and 3 shall expire on September 11, 2005.

**Approved November 26, 2003**

**(added May 8, 2006)**

## **CHAPTER 394**

# **AN ACT RELATIVE TO THE TAXATION OF FOREST, FARM, AND RECREATION LAND**

## **ACTS OF 2006**

**Section 1:** The definition of “class two, open-space” of subsection (b) of section 2A of Chapter 59 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following sentence: In a City or Town that has elected to adopt section 2A of Chapter 61, section 4A of Chapter 61A or section 2A of Chapter 61B, class two, open-space shall include land taxable under Chapter 61, 61A or 61B.

**(May 10, 2010)**