

TOWN OF STOCKBRIDGE
MASSACHUSETTS

BY-LAWS

STOCKBRIDGE TOWN BYLAWS

AMENDED

MAY 18, 1998

AMENDED

MAY 17, 1999

AMENDED

MAY 15, 2000

AMENDED

MAY 21, 2001

AMENDED

APRIL 1, 2002

AMENDED

MAY 20, 2002

AMENDED

MAY 19, 2003

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MAY 17, 2004

AMENDED

MAY 16, 2005

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MAY 15, 2006

AMENDED

MAY 19, 2008

AMENDED

MAY 19,2009

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FEBRUARY 19, 2013

AMENDED

MAY 18, 2015

AMENDED

May 15, 2017

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May 21, 2018

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June 12, 2021

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May 15, 2023

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BYLAWS, TOWN OF STOCKBRIDGE

Article I

The Town Meeting

Section 1. The annual meeting of the town shall be held on the third Monday in May, certified copies of the warrant for which will be posted conspicuously in at least three public places in the town at least seven days before the date of the meeting.

Section 2. The annual meeting or any special meeting of the Town shall be called not later than eight o'clock a.m. and the polls for the choice of officers required by law to be chosen by ballot shall be open at least until 6:30 p.m. and may be closed at any time thereafter by vote.

Section 3. The annual meeting or any special meeting, the seats in the hall shall be reserved for the voters, and all voters shall be seated as the capacity of the hall allows. No person shall be allowed to speak if objections are made, unless his name is on the list of voters, but any taxpayer who is not a voter, or his authorized representative may be granted the privilege to speak at any town meeting by the Moderator. The Moderator may invite reporters or others to occupy seats providing voters of the town are not deprived of seats.

Section 4. A uniformed police officer must be present in the meeting place during the entire annual and all special town meetings.

Section 5. All motions shall be submitted in writing, if the Moderator so directs, and the movers may have the floor first to explain the matter, which will not debar him from subsequent debate; otherwise no one shall be allowed to speak but once on a proposition to the hindrance of others, or if objection is made.

Section 6. A motion to reconsider shall not be entertained, unless made during or at the close of consideration of the article under which it is passed, and no motion to reconsider action of a former days sitting shall be made at any adjourned meeting.

Section 7. Any vote on a motion or proposal to raise and appropriate an amount for a particular purpose that is in excess of that recommended by the Finance Committee, and that the Finance Committee disapproves of, shall be by written secret ballot. Should the Finance Committee recommend a non-secret ballot and the Moderator agrees, the vote on any such disapproved motion or proposal may be by such form of non-secret vote as is determined by the Moderator. However, any such recommendation by the Finance Committee for a non-secret ballot shall not be considered an approval of such motion or proposal.

Section 8. No motion to dissolve a meeting shall be in order until all articles in the warrant have been acted upon.

Section 9. For the purposes of transacting the business at any town meeting a quorum shall consist of not less than fifty voters.

Section 10. When not inconsistent with statute law or these by-laws the Moderator shall be governed by general parliamentary practice, where applicable to town meetings.

Article II

The Fiscal Year and Reports

Section 1. One copy of the annual town report shall be delivered by mail or otherwise to every property taxpayer and to each household represented on the voters' lists at least seven days before the date of the annual meeting.

Article III

The Selectmen

Section 1. That the town, beginning at the Annual Town Meeting in 1957, elect the Selectmen as follows: One for three years, one for two years, and one for one year, and thereafter one annually for a three-year term.

Section 2. The Selectmen may bring and defend suits in the name of the Town, and employ counsel; and it shall be their duty, at once, where suits are likely to result, to examine the circumstances, secure witnesses and take all necessary precautions. They shall settle with the Treasurer and see that all funds belonging to the Town are made over to his successor when installed in office.

Section 3. They shall meet at least once a week for the payment of bills, when the auditor shall meet with them to audit the same and he shall not audit any bills exceeding the appropriations.

Section 4. No contract for the construction, reconstruction, installation, demolition, maintenance, or repair of any municipal building, the estimated cost of which amounts to \$5,000 or more, or for the purchase of equipment, supplies or materials, the actual or estimated cost of which amounts \$10,000 or more, except in cases of emergency involving the health or safety of the people or their property, shall be awarded unless proposals for the same have been invited by the officer, or committee authorized by the Town to make the contract, by advertisement in a local newspaper once a week for at least two consecutive weeks, the last publication to be at least one week before the time specified for the opening of such proposals. Such advertisement shall state the time and place where plans and specifications for the proposed work, or apparatus, supplies, or materials, may be had, and the time and place for opening the proposals in answer to such advertisement, and shall reserve the Town the right to reject any or all such proposals. All proposals shall be opened in public and no contract for preliminary plans, and specifications therefor, shall be split or divided for the purpose of evading the provisions of this Bylaw.

Section 5. A selectmen may not hold any other compensatory office or employment in Stockbridge Town Government during the term for which he/she is elected, nor hold any compensated appointive town office or employment for one year thereafter. Also, any member of the Board of Selectmen serving in such a capacity at the time of adoption of this section shall not be required to resign from any other position held and shall not be allowed to complete his/her term of office.

Article IV

Other Officers

Section 1. The Moderator shall appoint, as hereinafter provided, a Committee of voters consisting of seven members and two alternate members. Such Committee shall be known as the Finance Committee. Within thirty days of the adoption of this Section, the Moderator shall appoint three members of the Committee for terms of one year; two members and one alternate member for the terms of two years; and two members and one alternate member for the terms of three years. Thereafter, within thirty days after the Annual Town Meeting, the Moderator shall appoint members or alternate members for terms of three years to succeed those members for terms of three years to succeed those member whose terms are scheduled to expire; provided, however, that the Moderator may appoint a member or alternate member at any time to complete an unexpired term whenever a vacancy occurs.

The terms of office of Committee members and alternate members shall commence immediately upon qualification, and shall not expire until a successor is appointed and qualified.

Section 2. The Finance Committee shall organize by the election of a chairman and a secretary, and a record shall be kept of all transactions.

Every article in the warrant for the annual or any special Town Meeting calling for appropriation or borrowing of money, the creation of a debt or disposal of property of the town shall be referred to this Committee by the Selectmen, and the committee shall either approve or disapprove every such article.

The committee shall fully inform itself as to the financial condition of the Town, and also prepare a statement of the fixed charges against the town for which taxes must be levied. All town officials are required to furnish the Finance Committee with any facts or figures in their possession that may be requested of them. At least one public meeting shall be held previous to the annual meeting, at which all interested taxpayers may be heard as to appropriations to be voted on at the town meeting.

Section 3. Within thirty days after the annual town meeting, the Moderator shall appoint for the membership of those committees which he is authorized to appoint. He shall also fill vacancies on those committees. "All Town Officials shall pay into the Town Treasury all fees received by them by virtue of their office, said bylaw to be effective as to the Town Collector, May 17, 1993; said bylaw to be effective as to the Town Clerk, May 15, 1995."

Article V

Cemetery Regulations

Section 1. General Regulations

1.1 The Cemetery Commission shall consist of the five members who shall be appointed by the Select Board. One member may be a member of the Select Board or a representative of the Board. The Laurel Hill Association is entitled to nominate a representative of the association to be appointed. If a representative is not nominated within 30 days of notification of a vacancy in the seat designated to the association, the Select Board will appoint a substitute.

Members have three-year terms, staggered so that no more than two terms expire in the same calendar year.

The Commission shall have charge, care, and management of the Town Cemeteries, and shall make all policies for that management.

1.2 Residents or taxpayers, including those residents or taxpayers who have needed to move out of town for additional care or to care for others shall be entitled, upon death, to be interred in a burial plot in the Town Cemetery, subject to the requirements of this Article.

Non-residents, whose family members already have a burial plot, shall be entitled, upon death, to join that family plot if there is room.

The Cemetery Commission will review all other non-resident requests and decide those on a case-by-case basis.

No right of interment pursuant to this Article may be transferred, or sold.

1.3 The rights of persons eligible pursuant to the provisions of section 1.2 shall be governed by this Article and by sections 28 to 39 inclusive of Chapter 114 of the General Laws, as applicable.

1.4 Eligible persons shall be entitled to be interred in the next available burial plot in the Town Cemetery so long as vacant burial plots are available.

Section 2. Interment Regulations

2.1 Ample notification prior to interment shall be given to the Cemetery Consultant and Highway Superintendent.

Section 3. Financial Regulations

3.1 In order that perpetual care shall be provided for each burial, a one-time fee shall be required to be deposited with the Town Treasurer. The Cemetery Commission shall fix and amend from time to time a schedule of fees for interments and perpetual care.

Article VI

Miscellaneous

Section 1. These Bylaws shall not be repealed or amended, except at an annual meeting, acting under an article in the warrant for the purpose.

Such repeal of the presently existing Bylaws and Ordinances not to be effective until the effective date of the new Bylaws.

Section 2. A fence of at least four feet in height shall be constructed surrounding swimming pools.

Such fence shall be constructed so as to prevent children from climbing over, under, or through it and shall be equipped with a gate which shall be closed and kept locked when not in use.

Any permanent swimming pool constructed shall be equipped with poles and life preservers which shall be kept within immediate reach.

Section 3. Motor boats shall be banned from use from the waters of the Housatonic River within the limits of the Town of Stockbridge, except for official emergency use. Any operation of a motorboat on the waters of the Housatonic River within the limits of the Town of Stockbridge, except for emergency use, shall subject the operator of the motorboat to a fine of \$10.00 for each and every operation in violation of this Bylaw.

Section 4. Repealed Stockbridge Annual Town Meeting June 12, 2021

Section 5. Any toilet or water closet installed after May 15, 1978 shall not use more than three and one half (3.5) gallons of water per flush. Any urinal installed after May 15, 1978 shall not use more than one and one half (1.5) gallons of water per flush. Any shower head installed after May 15, 1978 shall not permit water to be used in excess of three (3) gallons per minute. Any kitchen or bathroom sink fixture installed after May 15, 1978 shall not permit a flow of water in excess of two and one half (2.5) gallons per minute.

Variance: The plumbing inspector may grant a variance from the above restrictions upon written application and upon good cause shown.

Section 6. No person shall consume any beer, wine, malt or alcoholic beverages, or have in his possession any open containers thereof upon any public way, sidewalk or town owned land.

Article VII

Wetlands Protection

Section 1. The purpose of this Article is to protect the wetlands of the Town of Stockbridge by controlling activities deemed to have a significant or cumulative effect upon resource area values. These resource areas include, but are not limited to, the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention including, water pollution, fisheries, wildlife habitat, rare species habitat, including rare plant species, agriculture, aquaculture, recreation and esthetics.

The purpose of this Article is also to control activities deemed to have a significant effect on watershed resources or the preservation of natural scenic qualities within the mapped Scenic Mountain region defined pursuant to the Berkshire Scenic Mountain Act, Massachusetts General Laws, Chapter 131, Section 39A.

No person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter any bank, wetland, marsh, meadow, bog, swamp, creek, river, stream, pond, reservoir, vernal pool or lake, or any lands bordering thereon, or any land under said waters or any land subject to flooding, other than in the course of maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph and other telecommunication services, without filing written notice of that person's intention so to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter and without receiving and complying with an Order of Conditions and provided all appeal periods have elapsed. Such notice shall be given to the Stockbridge Conservation Commission, including such plans as may be necessary to describe such proposed activity and its effect on the environment. The same notice, plans and specifications required to be filed by an applicant under Massachusetts General Laws, Chapter 131, Section 40, will be accepted as fulfilling the requirements of this Article. The said Commission, in its discretion, may hear any oral presentation under this Article at the same public hearing required to be held under the provisions of said Massachusetts General Laws, Chapter 131, Section 40. Definitions set forth in said section, and in the regulations made pursuant thereto, are hereby made a part of this Article.

Section 2. The term “preservation of natural scenic qualities” as used in this Article, shall mean the protection of existing aesthetic and/or historic features of the environment, as determined by the Commission.

The term “watershed” as used in this Article, shall mean a region or area within which all water drains ultimately to a particular watercourse or body of water.

Section 3. The Commission shall make a determination as to whether or not this Article applies to a specific situation prior to the filing of a written Notice of Intent under the provisions hereof within ten days of the receipt of a written request from any person desiring such determination. The Commission, its agent, officers and employees, may enter upon the land upon which the proposed work is to be done in response to a Request for Determination of Applicability or for the purpose of carrying out its duties under this Article. The Commission, its agent, officers and employees may make or cause to be made such examination or survey as deemed necessary to make a Determination of Applicability.

Section 4. The Conservation Commission is empowered to deny permission for any removal, dredging, filling, building upon, degrading, discharging into, or otherwise altering of subject lands within the Town if, in its judgment, such denial is necessary to preserve environmental quality of either or both the subject lands and contiguous lands. Due consideration should be given to possible effects of the proposal on all values to be protected under this Article and to any demonstrated hardship on the applicant by reason of denial, as brought forth at the public hearing.

The Conservation Commission is also empowered to deny permission for any removal, dredging, filling, building upon, degrading, discharging into, or otherwise altering of subject lands for failure to submit necessary information and plans requested by the Commission. The Commission may also deny permission for failure on the part of the applicant or the applicant’s representatives to meet the design specifications, performance standards, and other requirements in the regulations, or for failure to avoid or prevent unacceptable, significant or cumulative effects upon the resource area values protected by this Article.

Section 5. The Commission may, as an alternative to a denial, impose such conditions as it deems necessary to contribute to the protection and preservation of subject lands, in accordance with the purposes of this Article. Any Order of Conditions issued under this Article shall be subject to the same constraints and may be identical to any such order issued by the Stockbridge Conservation Commission under the provisions of Massachusetts General Laws, Chapter 131, Section 40.

Lands within 200 feet of rivers, ponds and lakes, and lands within 100 feet of other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater

recharge, poor water quality, and loss of wildlife habitat. The Commission may, therefore, establish performance standards for protection of such lands including, without limitation, strips of continuous, undisturbed vegetative cover within the 200-foot or 100-foot area. The Commission may also establish other forms of work limit or setback to buildings, roads, landscaping and other features, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by this Article. The specific size and type of the protected area may be established by regulations of the Commission.

Section 6. The notice required by Section 1 of this Article shall not apply to emergency projects necessary for the protection of the health or safety of the citizens of Stockbridge to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town. Emergency projects shall mean any projects certified to be an emergency by the Commissioner of the Department of Environmental Protection and the Conservation Commission if this Article and Massachusetts General Law, Chapter 131, Section 40, are both applicable. The emergency may be declared by the Conservation Commission if only this Article is applicable. In no case shall any removal, filling, dredging, building upon, degrading, discharging into, or otherwise altering of subject lands be authorized by such certification extend beyond the time and place necessary to abate the emergency.

Section 7. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this Article, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this Article.

The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this Article 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 Article, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under M.G.L. c.40, §21D, and civil and criminal court actions. Any person who violates provisions of this Article 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 Chief of Police may 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 Article, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$100. 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 Article, 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 with specific penalties pursuant to the non-criminal disposition procedure set forth in M.G.L. c.40, §21D.

Article VIII

Police and Traffic Details and Public Safety Requirements for Large Events

Section 1. Police Detail or Traffic Detail

- A. Authority to Require. The Chief of Police or a designee thereof may require police details or traffic details from the Stockbridge Police Department or other entity specified by the Chief where: (1) a large event is hosted or operated; or (2) the passage or flow of pedestrian or vehicle traffic on any public way, a private way to which the public has a right of passage, or any sidewalk within a Town right of way may (a) be impeded or rerouted by the actions of a person or entity, or (b) negatively impact general law and order and the public health and safety.
- B. Application. Application for a police or traffic detail shall be made on such forms as may be required by the Chief of Police, not less than 8 hours before the event requiring such services. Payment for the detail shall be made at a rate established by the Select Board from time to time, pursuant to *M.G.L. c. 44, §53C* and consistent with the Stockbridge Police Department collective bargaining agreement.

Section 2. Large Events

- A. Notice to Chief of Police Required.
 - a. Any person or entity that intends to host or operate an event within the Town of Stockbridge at which a group of 250 or more persons congregate shall notify the Chief of Police in writing not less than 15 business days prior to the event and shall provide sufficient details regarding the event for the Chief of Police to evaluate public safety and traffic implications. The Chief of Police may require that this information be provided on a specified form. If a person or entity intends to host or operate multiple events on the same property at the same time, all individuals permitted to be present on the property for the events shall be counted for purposes of this Section as a single group.
 - b. Within three business days of receipt of the notification that a person or entity intends to host or operate a large event, the Chief of Police shall inform the person

or entity (1) whether a police or traffic detail is required, and (2) whether a Public Safety Plan is required.

B. Public Safety Plan.

- a. If a Public Safety Plan is required, it must be submitted to the Chief of Police at least ten business days prior to the event. The Public Safety Plan shall include a detailed description of the manner in which the person or entity that hosts or operates the event will protect public health and safety and control traffic.
- b. Within five business days of receipt of the plan, the Chief of Police or a designee thereof, shall either approve or disapprove the Public Safety Plan based on whether the plan adequately protects public health and safety and controls traffic.
- c. If the plan is disapproved, the person or entity may adjust the plan and resubmit or appeal the decision to the Select Board, which shall hold a hearing and may approve the plan if it finds that the plan adequately protects the public health and safety and controls traffic.
- d. No person or entity shall host or operate an event for which a Public Safety Plan is required, unless the Public Safety Plan has been approved pursuant to this Subsection.

C. Multiple Events. A person or entity that hosts or operates numerous events that require submission of a Public Safety Plan pursuant to this Section may, if authorized by the Chief of Police or a designee thereof, submit one plan to cover all events.

D. Violations and Enforcement.

- a. The Select Board and the Chief of Police shall have the authority to enforce the requirements of this Article by violation notices, enforcement orders, non-criminal citations under M.G.L. c. 40, §21D, and civil and criminal court actions.
- b. Any person or entity that fails to provide notification of a large event, fails to arrange for a required police or traffic detail, or otherwise violates any provision of this Article shall be subject to a fine of three hundred (\$300) for each offense. Each day that such violation continues shall constitute a separate offense.

E. Exemptions. The Town of Stockbridge shall be exempt from the requirements of this Section.

Article IX

Trash Disposal (Recycling)

Section 1. 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:

- I. Glass and cans
- II. Paper to include card board
- III. Plastic bottles
- IV. Tires
- V. Used motor oil
- VI. Other waste materials

Once deposited, no such glass, cans or paper may be removed from the designated area without the permission of the Highway Department or its agent. All glass, cans and paper so deposited shall become the property of the Commonwealth, and shall be transported to a designated Massachusetts-sponsored Materials Recovery Facility.

Section 2. All waste haulers providing services in the town shall register with the Board of Health. All such haulers and all commercial, industrial, institutional or residential generators of waste shall be responsible for the separation of waste in their possession in accordance with Section 1 a of this Article. No waste hauler may collect leaves and yard waste unless separated from other waste materials.

Section 3. No person shall use the town's trash compactor or recycling area unless such person has obtained from the Town Clerk's office a compactor sticker, which shall be displayed on the vehicle used to transport waste to the compactor or recycling area.

Section 4. Solid waste disposal of large unrecyclable units shall not be permitted unless prior authorization has been obtained from the Highway Department, and a fee adequate to cover the cost of the unit's disposal has been paid.

Section 5. The highway department is authorized to distribute home composting bins on such terms and conditions as it deems appropriate. No yard waste will be accepted.

Section 6. The Highway Department or its designee shall conduct or participate in a one-day collection event for household hazardous waste not less than once each year. The Highway Department is authorized to arrange for the collection of categories of hazardous waste on such terms and conditions as it deems appropriate.

Section 7. In making procurement decisions, the Town shall purchase recycled products and products made of recycled components whenever such products are available and are of the same quality and price as competing products.

Section 8. Notwithstanding any other provision of law, any person who violates the provisions of this Article may be penalized by non-criminal disposition as provided in Chapter 40, Section 21d of the Massachusetts General Laws, or shall be punished by a fine not to exceed three hundred dollars (\$300.00).

Article X

Junk Cars

No unregistered and dilapidated motor vehicle and/or parts thereof may be allowed to stand on any premises unlicensed under Chapter 140, Section 57 of the General Laws if the owner or occupier of said premises received notification either written or oral from the Selectmen or the Chief of Police that there exists on the premises unregistered and dilapidated motor vehicles and/or parts thereof. The existence of any unregistered and dilapidated motor vehicle and/or parts thereof on such premises after fourteen (14) days from the date of the aforementioned notification shall constitute a violation of this ordinance. Such violation may be punishable by fine of \$10.00. Each motor vehicle and part thereof and each day that any motor vehicle or part thereof exists on such premises shall constitute a separate offense.

Article XI

Beach Regulations

1. No person shall operate any motorboat on the lake towing a person or persons on water skis, a surfboard or other similar device, unless such towing is done in a counter clockwise direction around the lake.
2. No person shall operate any motorboat on the lake towing more than two persons on water skis, surfboards or other similar device.
3. Buoys to which all boats are to be moored shall not be more than 150 feet from the shore line of the lake and shall conform in all respects with the System of Uniform Waterways Markers.
4. No buoys shall be placed in the lake marking racing areas for any boat whether towing water skiers or not, or making areas for slalom skiing or for any other purpose, unless such placement of buoys conforms in all respects to the System of Uniform Waterways Markers and such placement of buoys has the annual approval of the Stockbridge Board of Selectmen.

5. Swimming areas shall be marked on at least two sides with buoys, not more than 20 feet apart, and the buoys shall be of such size, shape and color as to be clearly visible at a distance of 150 feet; the swimming areas shall not extend more than 250 feet from the shore line out into the lake.

6. No pets shall be bathed in any marked swimming area on the lake.

7. Violation of any of these regulations shall be punishable by a fine of not more than \$25.

8. A copy of these regulations shall be posted before July 1 each year at the Stockbridge Town Beach, the County Access on the north shore of the Bowl and in the Stockbridge Town Hall.

Article XII

Earth Removal

1. The removal of earth materials such as loam, sod, sand, gravel, clay or stone, from land not in public use, anywhere in town is hereby prohibited unless done in strict compliance with a permit granted hereunder by the Board of Selectmen; provided, however, that this Article shall not apply to the removal of earth materials if such removal is: (i) in an amount not more than 1,000 cubic yards; and (ii) conducted in connection with the construction, reconstruction, repair, or modification of a one-family dwelling. The term removal as used herein shall mean stripping, digging, quarrying or excavating the earth materials from one lot or removing it away from said lot.

2. Any permit for earth removal may be issued by the Board of Selectmen only after a public hearing legally advertised 14 days prior to the hearing, subject to the following conditions and requirements:

2.1 No permit for earth removal shall be issued if such removal will endanger the general health or safety or constitute a nuisance, or will result in detriment to the normal use of adjacent property by reason of noise, dust or vibration or physical damage on public ways.

2.2 No excavation, processing, loading or other operation, structures or facilities shall be closer than one hundred (100) feet of any property line.

2.3 No permit shall be issued under this section until a plan for rehabilitation of the land, showing existing and proposed final contours, and time schedule for completing the operation and restoring the land for its ultimate reuse, has been submitted to the Board of Selectmen and has been reviewed and approved by the Planning Board.

2.4 A bond with surety satisfactory to the Board of Selectmen has been furnished to the town and approved as to form by the Town Counsel in the amount sufficient in the opinion of the Board of Selectmen to secure performance of the restoration of the land in accordance with the

approved plan, and for preserving the sightliness of the area, and for meeting the requirements of public safety.

2.5 The Board of Selectmen may impose conditions and restrictions with regard to length of time the permit will remain in force; the hours of the day during which activities related to the removal of earth materials may be conducted; the method of excavating earth materials; the routes of transporting excavated earth materials from the premises; the control underground and surface drainage; the disposal of rocks, trees, stumps, and other debris; the provision for landscaping, fencing or other barriers against nuisances and hazards to the public safety and welfare; and in order to protect the area from becoming an eyesore.

3. The Board of Selectmen is authorized to exempt earth removal operations consisting of less than fifty (50) cubic yards from any or all of the conditions and requirements of this Bylaw.

4. Whoever shall violate any of these provisions shall be punished in accordance with Chapter 40, Section 21 (17). The Board of Selectmen may revoke or suspend the permit of any person holding a permit under this Bylaw if such person violates or fails to comply with any of its provisions.

Article XIII

Penalty Provisions and Enforcement

Section 1. Whoever violates any bylaw of the Town shall pay for each offense a fine not exceeding one hundred dollars unless some other penalty is expressly provided by law or by some bylaw of the Town. Each continuing day of such violation may be considered a separate offense.

Section 2. Any bylaw of the Town of Stockbridge, or any rule or regulation of any town officer, board or department, the violation of which is subject to a specific penalty, may, in the discretion of the town official who is the appropriate enforcing person, be enforced in the method provided in M.G.L. c.40, §21D. The term "Enforcing Person," as used in this Article, shall mean any police officer with respect to any offense; the Building Inspector, Animal Control Officer, Board of Health or Health Officer, Parks and Recreation Commission, Board of Sewer and Water Commissioners, Tree Warden, Conservation Commission or Conservation Agent, Historical Commission and any such other official as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations 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.

Without limiting the generality of the foregoing, the following bylaws are to be included within the scope of this Article, and the specific penalties and enforcing persons listed herein shall apply in such cases:

Article VI, Section 3	(Motor Boats on Housatonic)
Penalty:	\$10
Enforcing Persons:	Police Officer
Article VI, Section 4	(Dog Restraints)
Penalty:	\$10
Enforcing Persons:	Police Officer, Animal Control Officer
Article VII, Section 7	(Wetlands)
Penalty:	\$100
Enforcing Persons:	Police Officer, Conservation Commission, Conservation Agent
Article IX, Section 8	(Trash Disposal - Recycling)
Penalty:	\$300
Enforcing Persons:	Police Officer, Board of Health, Health Officer
Article X	(Junk Cars)
Penalty:	\$10
Enforcing Persons:	Police Officer
Article XI, Section 7	(Beach Regulations)
Penalty:	\$25
Enforcing Persons:	Police Officer, Parks and Recreation Commission
Article XIV, Section 6.2	(Sewers and Drains)
Penalty:	\$20
Enforcing Persons:	Police Officer, Board of Sewer and Water Commissioners
Article XVI, Section 5	(Stockbridge Bowl)
Penalty:	\$50 for the first offense and \$100 for the second offense
Enforcing Persons:	Police Officer, Parks and Recreation Commission
Article XVII, Section 4	(Curb Cuts and Street Openings)
Penalty:	\$100
Enforcing Persons:	Police Officer

Article XIX, Section 4	(Scenic Roads)
Penalty:	\$300
Enforcing Persons:	Police Officer, Planning Board, Tree Warden
Article XX, Section 6	(Water use Restrictions)
Penalty:	\$50 for the first violation and \$100 for each subsequent violation
Enforcing Persons:	Police Officer, Board of Sewer and Water Commissioners
Article XXI, Section 6	(Historic Preservation)
Penalty:	\$100
Enforcing Persons:	Historic Preservation Commission, Planning Board, Building Inspector

Article XIV

Sewers and Drains

A bylaw regulating the use of public and private sewers and drains, the installation and connection of building sewers, the discharge of waters and wastes into the public sewer system, authorizing the Board of Sewer Commissioners to establish reasonable charges for the use of sewers and to adopt additional regulations to control the use of sewers, and to provide penalties for violations thereof in the town of Stockbridge, Berkshire County, Massachusetts.

Section 1. Definitions

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

1.1 "BOD" - (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

1.2 "Building Drain" - shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5. meters) outside the inner face of the building wall.

1.3 "Building Sewer" - shall mean the extension from the building drain to the public sewer or place of disposal.

1.4 "Combined Sewer" - shall mean a sewer receiving both surface runoff and sewage.

1.5 "Garbage" - shall mean solid wastes from the domestic and commercial

preparation, cooking, and dispensing of food, and from handling, storage, and sale of produce.

1.6 "Industrial Wastes" - shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

1.7 "Natural Outlet" - shall mean any outlet into a watercourse, pond, ditch, lake, or body of surface groundwater.

1.8 "Person" - shall mean any individual, firm, company, association, society, corporation, or group.

1.9 "pH" - shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

1.10 "Properly Shredded Garbage" - shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one half (1/2) inch (1.27 centimeters) in any dimension.

1.11 "Public Sewer" - shall mean sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

1.12 "Sanitary Sewer" - shall mean a sewer, which carries sewage and to which storm, surface, and groundwater are not intentionally admitted.

1.13 "Sewage" - shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

1.14 "Sewage Treatment Plant" - shall mean any arrangement of devices and structures used for the treating of sewage.

1.15 "Sewage Works" - shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

1.16 "Sewer" - shall mean a pipe or conduit for carrying sewage.

1.17 "Shall" - is mandatory; "May" - is permissive.

1.18 "Slug" - shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

1.19 "Storm Drain" - (sometimes termed Storm Sewer) shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial waste, other than unpolluted cooling water.

1.20 "Superintendent" - shall mean the office holder presently performing the duties of a Superintendent of Water Pollution Control of the Town of Stockbridge, or his authorized deputy, agent, or representative.

1.21 "Suspended Solids" - shall mean solids that either float on the surface or, or are in suspension in water sewage, or other liquids, and which are removable by laboratory filtering.

1.22 "Watercourse" - shall mean a channel in which a flow of water occurs, either continuously or intermittently.

1.23 "Town" - shall mean the Town of Stockbridge, Massachusetts.

Section 2. Building Sewers and Connections

2.1 No unauthorized person shall uncover, make any connections with or opening into, use, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent. "Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Superintendent at least forty five (45) days prior to the proposed change or connection.

2.2 There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case the owner or his agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of Superintendent. A permit and inspection of five (\$5.00) dollars for a residential or commercial building sewer permit and ten (\$ 10.00) dollars for an industrial building sewer permit shall be paid to the town at the time the application is filed.

2.3 All costs and expenses incident to the installation and connections of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

2.4 A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear of the building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

2.5 Old building sewers may be used in connection with new buildings only when they are found on examination and test by the superintendent, to meet all requirements of this ordinance.

2.6 The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavation, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town. In the absence of code provisions or in amplification thereof the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

2.7 Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

2.8 No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

2.9 The connection of the building sewer to the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

2.10 The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

2.11 All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

Section 3. Use of the Public Sewers

3.1 No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

3.2 Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

3.3 No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

B) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

C) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ash, ashes, cinders sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cup, milk containers, etc. either whole or ground by garbage grinders.

3.4 No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

A) Any liquid or vapor having a temperature higher than one hundred fifty (150) degree F (65 degree C).

B) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty two (32) and one hundred fifty (150) degree F (O and 65 degree C).

C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three fourths (3/4) horsepower (0.76 lhp metric) or greater shall be subject to the review of the superintendent.

D) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

E) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.

F) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage to meet the requirements of the State, Federal or other public agencies or jurisdiction for such discharge to the receiving waters.

G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable State or Federal regulations.

H) Any waters or wastes having a pH in excess of 9.5.

I) Materials which exert or cause:

1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

J) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such a degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

3.5 If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this article, and which in the judgment of the superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

A) Reject the wastes,

B) Require pretreatment to an acceptable condition for discharge to the public sewers,

C) Require control over the quantities and rates of discharge, and/or

D) Require payment to cover the added cost of handling and treating the wastes not covered by taxes or sewer charges under the provisions of section 10 of this article.

If the Superintendent permits the pretreatment or equalization of wastes flows, the design and installation of the plants and equipment shall be subject to the review of the Superintendent, and subject to the requirements of all applicable codes, ordinances, and laws.

3.6 Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

3.7 Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

3.8 When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters, and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safety located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

3.9 All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this bylaw shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastes Water," published by the American Public Health Association, and shall be determined at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analysis involved will determine whether a twenty four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composite of all outfalls whereas pH's are determined from periodic grab samples.

A) All industries discharging into a public sewer shall perform such monitoring of their discharges as the Superintendent and/or other duly authorized employees of the town may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent. Such records shall be made available upon request by the Superintendent to other agencies having jurisdiction over discharge to the receiving waters.

3.10 No statement contained in the Article shall be construed as preventing any special agreement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefore, by the industrial concern.

Section 4. Protection from Damage

4.1 No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under of disorderly conduct.

Section 5. Powers and Authority of Inspectors

5.1 The Superintendent and other duly authorized employees of the town bearing proper credentials and identifications shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this bylaw. The Superintendent or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the and source of discharge to the sewers or waterways or facilities for wastes treatment.

5.2 While performing the necessary work on private properties referred to in Article V, Section 1 above, the Superintendent or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town employees and the town shall indemnify the company against loss or damage to its property by town employees and liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article III, Section 8.

5.3 The Superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town hold a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Section 6. Penalties

6.1 Any person found to be violating any provision of this bylaw except Article IV shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

6.2 Any person who shall continue any violation beyond the time limit provided for in article VI, Section I, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding twenty (20) dollars for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

6.3 Any person violating any of the provisions of this bylaw shall become liable to the town for any expense, loss, or damage occasioned the town by reason of such violation.

Section 7. Validity

7.1 All bylaws or parts of bylaws in conflict herewith are hereby repealed.

7.2 The invalidity of any section, clause, sentence, or provision of this bylaw shall not affect the validity of any other part of this bylaw which can be given effect without such invalid part parts.

Section 8. Sewer Commissioners

A Bylaw regulating the use of Public and Private sewers and drains, the installation and connection of building sewers, the discharge of waters and wastes into the public sewer system, authorizing the board of sewer commissioners to establish reasonable charges for the use of sewers and to adopt additional regulations to control the use of sewers, and to provide penalties for violations thereof: In the town of Stockbridge, Berkshire County, Massachusetts.

8.1 The Board of Sewer and Water Commissioners for the Town of Stockbridge shall have all the powers of a Board of Sewer Commissioners given by general and special law, regulation and this bylaw.

8.2 The Sewer Commissioners shall have the authority to establish from time to time reasonable rates, fees or charges for connection to or use of the public sewers, which rates, fees or charges shall be sufficient to pay all costs of operating and maintaining the sewer system, including collection and treatment facilities, as well as any portion of the cost of expanding or updating said sewer system that the Town determines, pursuant to Chapter 83, section 23 of the General Laws, shall be paid utilizing revenues derived from such rates, fees or charges.

8.3 The Sewer Commissioners shall have the authority to make, adopt, amend and repeal regulations relative to the use of the public sewer system.

Article XV

Licenses and Permits

Section 1. The Town of Stockbridge may deny any application for, or revoke or suspend any local license or permit including renewals and transfers issued by any Board, Officer, Department for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.

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

1.2 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 Town Collector; provided, however, that written notice is given to the party and the Town Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Town 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 purpose 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 licensing authority receives a certificate issued by the Town Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality at the date of issuance of said certificate.

1.3 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.

1.4 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 stockholders, if any, or members of his immediate family, as defined in Section I Chapter 268 in the business or activity conducted in or on said property.

Section 2. This Article shall not apply to the following licenses and permits: open burning (S.13 of Chapter 48); bicycle permits (S.11A of Chapter 85); sales of articles for charitable purposes (S.33 of Chapter 101); children work permits (S.69 of Chapter 149); clubs, associations of dispensing food or beverage licenses (S.21E of Chapter 140); dog licenses (S.137 of Chapter 140); fishing, hunting, trapping licenses (S.12 of Chapter 131); marriage licenses (S.28 of Chapter 207); and theatrical events, public exhibition permits (S.181 of Chapter 140).

Section 3. Unless specifically excluded by M.G.L. Chapter 40, S.57, this Article shall apply to any and all permits, permits of, permits to go forth, certificates, certificates of, certificates for, approvals of, approvals to go forth, and licenses of any description or form allowed by law.

Article XVI

Stockbridge Bowl

Section 1. Definitions

- 1.1 Daytime Operations: Shall include the hours between sunrise and sunset.
- 1.2 Harbor Master: As defined by MGL Chapter 102, Sec. 19.
- 1.3 Headway Speed: Is the slowest speed at which a motorboat may be operated and maintain steerage, but not to exceed 6 MPH.
- 1.4 Motor Vehicle: as defined in MGL Chapter 90, Section 1.
- 1.5 Personal Water Craft: Means a small vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by persons sitting, standing or kneeling on the vessel. The term includes but is not limited to a jet ski, wet bike, or surf jet, so-called.
- 1.6 Recreational Vehicle: Any motor vehicle designed or modified for use over unimproved terrain if used for recreation or pleasure off a public way as defined in Chapter 90.
- 1.7 Safety Zone/Buffer Zone: is that zone, with a width extending out from the shore line of 300 feet, as marked by buoys, inside of which the operation of all motorboats shall be at headway speed. Any swimmer more than 300 feet from shore shall be attended by a boat. Boat moorings, anchorages and docks are prohibited more than 300 feet from shore.
- 1.8 Snow Vehicle: A motor vehicle designed to travel over ice or snow supported in whole or part by skis, belts or cleats.

Section 2. Operation of Motor Boats and Water Craft

- 2.1 Personal Water Craft: Operation of Personal Water Craft as defined in Section 1.5 is prohibited on the Stockbridge Bowl.
- 2.2 Speed Limit: The maximum speed for motorboats on the Stockbridge Bowl shall be 40 MPH.
- 2.3 Speed Limit, Morning: Maximum speed for motorboats between the hours of sunrise and 10:00 a.m. shall be headway speed, i.e., 6 MPH.
- 2.4 Night Time Operation: Motorboats shall be operated between the hours of sunset and 10:00 a.m. at headway speed or maximum of 6 MPH.

2.5 Direction: All motorized water craft shall circulate in a counter-clockwise direction.

Section 3. Harbor Master

3.1 The Board of Selectmen for the Town of Stockbridge may appoint a harbor master, as defined in MGL Chapter 102, Section 19, who shall be responsible for enforcement of all applicable laws.

Section 4. Winter

4.1 Operation of motor vehicle as defined in MGL Chapter 90, Section 1 on the Stockbridge Bowl while it is frozen shall be prohibited.

4.2 No person shall operate a recreational vehicle or snow vehicle as defined in Section 1, on the Stockbridge Bowl in a negligent or obnoxious manner. No person shall modify the exhaust of a recreation vehicle or snow vehicle, nor operate it in a loud or obnoxious manner.

4.3 No person shall operate a recreation vehicle or snow vehicle, on the Stockbridge Bowl at a speed greater than 40 MPH.

Section 5. Violations

5.1 A violation of any section of this article may be punished by a fine of \$50.00 for the first offense and \$100.00 for the second offense, unless otherwise provided for. Said fine structure may be adjusted by a vote of the Board of Selectmen after a public hearing.

Article XVII

Curb Cuts and Street Openings

Section 1. Permit Required

Except as provided under Federal and State Law, or during an emergency after giving notice to the Chief of Police, any person wishing to cut, add, remove or alter any sidewalk or curbing, or open, for any reason, any portion of any Town owned street, roadway, right-of-way or easement within the Town must first obtain a permit from the Board of Selectmen. Permit shall be granted only upon an applicant's completion of the application procedure set forth in Section 2 of this bylaw and shall be subject to and limited by the applicable permit terms of this bylaw, any other applicable bylaw of the Town of Stockbridge, and any applicable Federal or State laws. Nothing in this bylaw shall be construed to except any person from complying with applicable provisions of the Town's Zoning Bylaws.

Section 2. Application Procedure

2.1 Any property owner, contractor, or public utility may request a permit. An applicant must complete, in full, a permit application, which may be obtained from the Board of

Selectmen. Applications shall be submitted, together with a certified check for the processing of the application in accordance with a schedule of fees determined by the Board of Selectmen.

2.2 Applicants shall submit, by certified mail or hand delivery, written notice of the proposed work, including the address of the site with a reasonably accurate description of the location of the work and the name, address and phone number of the party performing the work, to the Chief of Police and to all public utilities operating in the vicinity of the site. Applicants shall also comply with the notice requirements set forth in M.G.L. C.82, Section 40.

2.3 Applicants may be required to submit a performance bond, in the amount of the total cost of the work to be performed, to serve as a guarantee of the timely and satisfactory completion of the work.

2.4 The issuance of a permit shall constitute an agreement between the holder and the Town, which saves harmless and indemnifies the Town, and which releases the Town from any and all liability arising in any manner related to the permit and the work performed pursuant to the permit.

Section 3. Permit Terms

3.1 Terms applicable to all permits

Unless otherwise specifically authorized by the Board of Selectmen, the permit holder shall:

- A) Obtain all necessary State and Federal approvals concurrently with that of the Town.
- B) Commence work no later than 30 days after the issuance of a permit.
- C) Perform work only between the hours of 7:30 a.m. and 5:30 p.m.
- D) Perform no work on Saturday, Sundays, holidays or during the period November 15-April 1
- E) Keep the permit, or a copy thereof, at the site.
- F) Allow the Highway Superintendent to make periodic inspection of the site, work performed and the permit.
- G) Take appropriate precautions to protect public safety and convenience.
- H) Barricade, mark, and light affected areas, as necessary to prevent public entrance or access into the work area.
- I) If recommended by the Chief of Police, provide for Police Officers to be present at any work site for the public safety and the direction of traffic.
- J) Maintain proper access to any roadways, private property, sewer grate, fire hydrant, catch basin or sidewalk.
- K) Perform and complete all work without creating any adverse effect on drainage or risk of erosion.
- L) If a public utility line, wire, conduit, main pipe, or other facility is damaged in any manner or to any degree, immediately notify the utility in accordance with M.G.L. C. 82 Section 40.

M) Maintain the work site in proper order and contain any noise, vibration and dust emitted therefrom to the greatest extent possible.

N) Return any affected public or private property, or structure thereon, to its original condition immediately upon completion of the work. Any water main, sewer grate, manhole cover or other surface level hardware shall be set flush with the completed sidewalk or roadway

3.2 Terms applicable to all permits

Unless otherwise specifically authorized by the Board of Selectmen, all work performed pursuant to a curb cut permit shall conform to the following standards:

A) Lots with 200 feet or less of frontage shall be allowed no more than one curb cut. Lots with greater than 200 feet of frontage may be allowed no more than two curb cuts.

B) All curb cuts shall be between 8 feet to 16 feet wide and all driveways created thereby shall be capable of serving motor vehicles, including emergency vehicles.

C) Driveway entrances shall be located to the best advantage with regard to street alignment, profile, sight distance and safety conditions.

D) In no event shall a driveway entrance be located: 1.) on a traffic intersection; 2.) in the case of a residence, no less than 50 feet from the nearest pavement edge of the roadway intersecting the one the driveway borders; 3.) any place where the Board of Selectmen determines it will create an unreasonable risk to public safety.

E) In the interest of public safety the Board of Selectmen may require: 1.) that a driveway be right turn in and right turn out only; or 2.) that a channeling island and/or acceleration and deceleration lanes be constructed to serve a driveway entrance in an area of high traffic congestion.

F) Driveways shall have a stopping area set at least 12 feet back from the bordering roadway and a slope no greater than 4%.

G) Driveways shall be set back from abutting property by at least 5 feet.

H) Under-driveway drainage systems shall not be installed without the approval of the Board of Selectmen.

I) Driveway entrances shall contain sloped borders capable of serving as ramps to facilitate sidewalk access for the handicapped.

J) Affected curbing shall be replaced with curbing of the same material and width as that of adjacent areas and shall be set at an equivalent depth.

K) After completion, a driveway shall be considered a part of any public sidewalk it traverses, except that a property owner may not petition the Town for improvements thereof.

3.3 Terms applicable to street opening permits

Unless otherwise specifically authorized by the Board of Selectmen, all work performed pursuant to a street opening permit shall conform to the following standards:

A) All excavations shall be accomplished through saw cutting of roadway so as to produce smooth, straight lines and avoid tearing of the roadway.

B) All excavated material that is unsuitable for re-use shall be disposed of in a prompt and proper manner.

C) Openings shall be returned to their original condition through the use of materials of the same type and quality as those being replaced and procedures approved by the Highway Department.

Section 4. Penalties for Violation

Any party performing a curb cut or street opening performed in violation of the provisions of this bylaw shall be subject to a fine of \$100.00 for each offense. Each continuing day of any violation shall be considered a separate offense. A violation shall continue until the time that the subject work is brought into compliance with the standards of this bylaw. Any work performed that does not conform to the standards set forth in Section 2 or 3 of this bylaw shall be subject to correction by the Town at the permit holder's or responsible party's expense.

Article XVIII

Hawkers, Peddlers and Transient Vendors

1. No person shall act as a hawker or peddler as defined by M.G.L. chapter 101, section 13, or as a transient vendor as defined by M.G.L. chapter 101, section 1, in the Town of Stockbridge without first obtaining a license from the Board of Selectmen pursuant to this section.
2. Any hawker, peddler or transient vendor license application shall contain the name, address and telephone number of each individual applicant as well as any business such individual is associated with or represents. The Board of Selectmen, in conjunction with the Stockbridge Police Department, may obtain and examine background information on individuals and businesses applying for a license pursuant to this section, and may annually grant such licenses to successful applicants subject to conditions governing the time, place or manner of activities authorized as the Board deems necessary or appropriate to protect public safety or convenience, upon payment of a prescribed fee set by the Board of Selectmen in accordance with M.G.L. chapter 101, section 3. The Board of Selectmen may deny any application made pursuant to this section if it determines that such denial is necessary or appropriate for the protection of public safety.
3. Charitable organizations, as defined by M.G.L. chapter 68, section 18, shall register with the Board of Selectmen and present evidence of their registration with the Division of Public Charities, as required by M.G.L. chapter 68, section 19, prior to engaging in public solicitation in the Town of Stockbridge, but shall otherwise be exempt from the provisions of this section.

Article XIX

Scenic Roads

1. The following town roads are designated as scenic roads in accordance with the provisions of M.G.L. c.40, section 15C:

Averic Rd., Bean Hill Rd., Butler Rd., Devon Rd., Hawthorne Rd., Mahkeenac Rd., Old Stockbridge Rd., Prospect Hill Rd., Rattlesnake Mountain Rd., Sky Farm Rd., Yale Hill Rd.

2. No repair, maintenance, reconstruction, or paving work done with respect to any scenic road designated in section 1 may involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the Planning Board, after a public hearing duly advertised twice in a newspaper of general circulation in the Town, as to time, date, place and purpose, the last publication to occur at least seven days prior to such hearing; provided however, that when a public hearing must be held under the provisions of this section and under M.G.L. chapter 87, section 3 prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the Tree Warden and the Planning Board, and notice of such consolidated public hearing shall be given by the Tree Warden or his deputy as provided in M.G.L. Chapter 87, section 3.
3. In determining whether to give its consent pursuant to section 2, the Planning Board shall give due consideration to the preservation of natural resources, environmental and historical values, and scenic and aesthetic characteristics; public safety; any compensatory actions proposed such as the replacement of trees or walls; and any other sound planning considerations as it deems appropriate.
4. Any violations of section 2 shall be punished by a fine not to exceed \$300.00.

Article XX

Water Use Restrictions

Section 1. Definitions

Unless the context clearly indicates otherwise the following terms, as used in this bylaw, shall have the following meanings:

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

1.2 State of Water Supply Conservation shall mean a State of Water Supply Conservation declared pursuant to Section 2 of this bylaw.

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

Section 2. Declaration of a State of Water Supply Conservation

2.1 The Board of Sewer and Water Commissioners may declare a State of Water Supply Conservation upon determinations by a majority vote of the Board that:

- A) A shortage of water exists; and
- B) Conservation measures are appropriate to ensure an adequate supply of water to all water users.

2.2 Public notice of a State of Water Conservation shall be given pursuant to Section 4 of this bylaw before it may be enforced.

Section 3. Restricted Water Uses

3.1 Upon a declaration of a State of Water Supply Conservation, the Board of Sewer and Water Commissioners may impose one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply:

- A) Odd/Even Day Outdoor Watering – Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor watering by water users with even-numbered addresses is restricted to even-numbered days.
- B) Outdoor Watering Ban - Outdoor watering is prohibited.
- C) Outdoor Watering Hours - Outdoor watering is permitted only during daily periods of low demand, to be specified in the public notice required by Section 4 of this bylaw.
- D) Filling Swimming Pools - Filling of swimming pools is prohibited.
- E) Automatic Sprinkler Use - The use of automatic lawn sprinkler systems is prohibited.

3.2 The applicable restrictions, conditions or requirements shall be included in the public notice required by Section 4 of this bylaw.

Section 4: Public Notice of a State of Water Supply Conservation

Public notice of any restriction, condition or requirement imposed by the Board of Sewer and Water Commissioners as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated

to reach and inform water users. No restriction imposed pursuant to Section 3 of this bylaw shall be effective until such public notice has been provided.

Section 5: Termination of a State of Water Supply Conservation

5.1 A State of Water Supply Conservation shall terminate upon the expiration of six months from the date of its original Declaration or any extension thereof unless, by a majority vote of the Board of Sewer and Water Commissioners, the State of Water Supply Conservation is extended, for a period not to exceed six months, upon determinations that:

- A) The shortage of water continues to exist; and
- B) Conservation measures continue to be appropriate to ensure an adequate supply of water to all water users.

5.2 Public notice of the extension of a State of Water Supply Conservation shall be given in the same manner as required by Section 4 of this bylaw. Nothing in this section shall be construed to limit the number of extensions that can be made to a State of Water Supply Conservation.

Section 6: Penalties

Any person violating this bylaw shall be subject to a fine in the amount of \$50 for the first violation and \$100 for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with Chapter 40, Section 21D of the General Laws. Each day of violation shall constitute a separate offense.

Section 7: Severability

If any provision of this bylaw is found invalid for any reason, such invalidity shall be construed as narrowly as possible, and the balance of the provisions hereof shall remain in effect and shall be construed, to the extent permissible by law, so that the purposes of this bylaw are substantially effected.

Article XXI

Community Preservation Committee

Section 1. Establishment

1.1 There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to M.G.L. c.44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

- A. One member of the Planning Board as designated by the Board for a term of one year;

- B. One member of the Conservation Commission as designated by the Commission for a term of one year;
- C. One member of the Parks and Recreation Commission as designated by the Commission for a term of one year;
- D. One member of the Historical Commission as designated by the Commission for a term of one year;
- E. One member of the Housing Authority as designated by the Authority for a term of one year;
- F. One member to be appointed by the Finance Committee for a term of one year;
- G. One member to be appointed by the Board of Assessors for a term of one year;
- H. Two members to be appointed by the Board of Selectmen for terms of one year each.

1.2 Should any Commission, Board, Authority or Committee who has appointment authority under this section be no longer in existence for whatever reason, the appointment authority for that Commission, Board, Authority, or Committee shall become the responsibility of the Board of Selectmen.

Section 2. Duties

2.1 The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with other municipal boards and officials, including, as it deems appropriate, the Planning Board, the Conservation Commission, the Parks and Recreation Commission, the Historical Commission, and the Housing Authority, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.

2.2 The Community Preservation Committee shall make recommendations to the Town Meeting for the creation, preservation and support of affordable housing, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of open space, for the acquisition, creation and preservation of land for recreational use, and for rehabilitation or restoration of such affordable housing, historic resources, open space and land for recreational use that is acquired or created as provided in this Article. With respect to affordable housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

2.3 The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

Section 3. Amendments

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

Section 4. Severability

In case any section, paragraph or part of this Article is, 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 5. Effective Date

Each appointing authority shall have ten days after approval by the Attorney General to make its initial appointments pursuant to section 1. Should any appointing authority fail to make its appointment within such time, the Board of Selectmen shall make the appointment.

Article XXII

Historic Preservation and Demolition Delay

Section 1. Purpose

This Article is adopted for the purpose of protecting and preserving significant historic buildings within the Town and encouraging owners of such buildings to seek out alternative options to preserve, rehabilitate or restore such buildings rather than to demolish them or to alter them in a detrimental way, thereby promoting the public welfare and preserving the heritage of the Town. To achieve these purposes, the Stockbridge Planning Board and the Stockbridge Historic Preservation Commission are authorized as provided herein to advise the Building Inspector with respect to the issuance of permits for the demolition or alteration of significant buildings. The issuance of permits for demolition or alteration of any Significant Historic Building is regulated as provided by this Article.

Section 2. Definitions

2.1 Building – Any structure having a roof intended for shelter, housing, or enclosure of any person, process, equipment, animals or goods.

2.2 Commission – The Town of Stockbridge Historic Preservation Commission.

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

2.4 Demolition/Alteration Permit – The permit issued by the Building Inspector as required by the State Building Code for a demolition, substantial demolition, alteration, renovation or removal of a building.

2.5 Planning Board – The Town of Stockbridge Planning Board.

2.6 Significant Historic Building – Any Building that, in whole or in part, is at least fifty (50) years old and:

2.6.1 is listed on, or is a contributing Building within an area listed on the National Register of Historic Places, or is the subject of a pending application for such listing, or is eligible for such listing; or

2.6.2 has been determined by recommendation of the Commission and vote of the Planning Board to be a Building either:

- (a) importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history or character of the Town, or the Commonwealth, or
- (b) historically or architecturally significant (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

If a Building is of unknown age, it shall be presumed to be at least fifty (50) years old.

2.7 Substantial Alteration – Any alteration of a Significant Historic Building that (a) requires a building permit, (b) alters 500 square feet or more of the Building exterior or increases the square footage of the Building by 500 square feet or more, and (c) materially compromises the historic or architectural significance of the Significant Historic Building, considering such factors as the extent to which the original architectural or historic features of the Building will be preserved or enhanced, the relation between those features and the design of any new construction, and the sensitivity to context, the compatibility and the scale of the proposed alteration.

2.8 Town of Stockbridge Historic Preservation Commission – The Commission shall consist of seven members, to be appointed by the Board of Selectmen, three members initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years. The Commission shall include, if possible, a member of the local historical commission; a realtor; an architect and a building contractor familiar with historic rehabilitation. Each member shall continue to serve in office after the expiration date of

his or her term until a successor is duly appointed. Meetings of the Commission shall be held at the call of the Chairperson. Four members of the Commission shall constitute a quorum.

Section 3. Procedure

3.1 No person shall cause any Building that is, in whole or in part, at least fifty (50) years old to be demolished or altered except as authorized pursuant to this Article as well as in conformity with the provision of other laws and Bylaws applicable to the demolition/alteration of buildings and the issuance of permits generally.

3.2 Application contents: Every application for a Demolition/Alteration Permit for a Building that is, in whole or in part, at least fifty (50) years old shall be filed with the Building Inspector and shall contain the following information: (a) the address of the Building to be demolished or altered; (b) the owner's name, address and telephone number; (c) a brief description of the type of Building and the condition requiring issuance of the permit; (d) the date of the Building, established by the Board of Assessors, deed or documentation verifying the year of construction; and (e) a brief description of the proposed reuse, reconstruction or replacement on the premises upon which the Building is located accompanied by any relevant floor plans, elevations or site plans.

In addition to the foregoing, an applicant who requires a Special Permit from the Planning Board or from the Board of Selectmen in order to perform any activity subject to the requirements of this Article may, at the time of filing an application for said Special Permit, file with the Building Inspector a Notice of intention to apply for a Demolition/Alteration Permit. Such Notice shall be filed in the same manner, and contain the same materials, as an application for a Demolition/Alteration Permit for a Building that is, in whole or in part, at least fifty (50) years old. The purpose of such Notice is to allow, if necessary, the applicable boards to hear and decide historic preservation and Special Permit matters contemporaneously, and, once filed, such Notice shall be treated, for the purpose of Historic Preservation review by the Historic Preservation Commission and the Planning Board, as an Application filed pursuant to this Subsection. In the event that the required Special Permit issues to the applicant, the Building Inspector may treat such Notice as an Application for a Demolition/Alteration Permit.

3.3 Within seven (7) business days from receipt of an application for a Demolition/Alteration Permit of a Building that is, in whole or in part, at least fifty (50) years old and, if an alteration is proposed, seeks authorization to alter 500 square feet or more of the Building exterior or to increase the square footage of the Building by 500 square feet or more, the Building Inspector shall forward a copy to the Commission. No Demolition/Alteration Permit shall be issued during this time.

3.4 Within thirty (30) business days after receipt by the Commission of the application for a Demolition/Alteration permit, the Commission shall make a written recommendation as to whether the Building is a Significant Historic Building. In the event of a proposed alteration of a Significant Historic Building, the Commission also shall make a written recommendation as to whether the proposed alteration is a Substantial Alteration. Upon a written recommendation by the Commission that the Building is not a Significant Historic Building, or that any proposed

alteration is not a Substantial Alteration, the Commission shall so notify the Building Inspector in writing. Upon receipt of such notification, or after the expiration of thirty (30) business days from the date of submission to the Commission, if the Building Inspector has not received notification from the Commission, the Building Inspector may issue the Demolition/Alteration Permit.

3.5 Upon a recommendation by the Commission that the Building is a Significant Historic Building, and, in the event of a proposed alteration to a Significant Historic Building, that the proposed alteration is a Substantial Alteration, the Building Inspector and Applicant shall be so notified in writing, and a Demolition/Alteration Permit shall not be issued pending a public hearing before the Planning Board and a decision by such Board. The Planning Board shall hold a public hearing within 90 business days of the foregoing recommendation by the Commission to assist the Planning Board in making a final determination whether the Building is a Significant Historic Building, and, in the event of a proposed alteration to a Significant Historic Building, whether the proposed alteration is a Substantial Alteration. Public notice of the time, place and purpose of the hearing shall be published by the Planning Board at the expense of the applicant in a newspaper of general circulation in the Town not less than seven (7) days before the day of said hearing and shall be posted in a conspicuous place in the Town Hall for a period of not less than seven (7) days before the day of said hearing.

3.6 If, after a public hearing, the Planning Board makes a determination that the Building is not a Significant Historic Building, or in the event of a proposed alteration, that the proposed alteration is not a Substantial Alteration, the Planning Board shall notify the Building Inspector in writing within five (5) business days of the hearing and the Building Inspector may issue the Demolition/Alteration Permit upon receipt of the written decision.

3.7 If, after a public hearing, the Planning Board makes a determination that the Building is a Significant Historic Building, and, in the event of a proposed alteration, that the proposed alteration is a Substantial Alteration, the Planning Board shall so notify the Building Inspector in writing within five (5) business days of the hearing, and the Building Inspector may issue the Demolition/Alteration Permit upon receipt of written determination from the Planning Board pursuant to Paragraph 3.8 of this Article.

3.8 Upon application by the owner, made at any time after the Planning Board has made a determination that the Building is a Significant Historic Building, and, in the event of a proposed alteration, that the proposed alteration is a Substantial Alteration, the Planning Board may, after a public hearing determine that (a) there is no reasonable likelihood that any person or group is willing to purchase, preserve, rehabilitate or restore such Building, or (b) for at least twelve (12) months, the owner has made continuing, bona fide and reasonable efforts to locate a purchaser willing and reasonably able to preserve, rehabilitate or restore the subject Building and that such efforts have been unsuccessful. For the purposes of this Paragraph, the term "Continuing, bona fide and reasonable efforts to locate a purchaser" shall mean retaining a licensed broker to market the property in the usual manner over substantially all of the 12-month period, obtaining an appraisal from a reputable appraiser and providing evidence of good faith negotiations with potential buyers of the property. These efforts to sell the property shall be deemed unsuccessful only upon a finding that either there were no offers to purchase the property, that no offer from a

willing and reasonably able buyer was for at least the reasonable appraised value of the property, or that no agreement to sell the property pursuant to an offer of at least the reasonable appraised value of the property could be reached despite good faith efforts to do so.

In the event that the Planning Board declines to make a requested determination pursuant to this Paragraph, the owner may make a further application showing materially new circumstances, including material revisions to any proposed Substantial Alteration.

Section 4. Responsibility of Owners

If requested by the Planning Board or the Commission, it shall be the responsibility of the owner of record or any designee thereof to assist in the facilitation of the implementation of the requirements of this Article by providing information and any architectural plans readily available to such owner or designee, allowing access to the property and securing the premises, by participating in the investigation of preservation options, and by actively cooperating in seeking alternatives with the Planning Board, the Commission and any persons designated by the Planning Board or the Commission.

Section 5. Emergency Demolition

Nothing in this Article shall restrict the Building Inspector from ordering the immediate demolition of any Building in the event of imminent danger to the safety of the public.

Section 6. Enforcement and Remedies

Any person who violates any provision of this Article shall be punished by a fine of not more than \$100 for each offense. Each continuing day of such violation may be considered a separate offense.

In accordance with *M.G.L. c.40, §§21 and 21D*, the Commission, the Planning Board and the Building Inspector are each specifically authorized to impose any penalties, to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this Article or to prevent a threatened violation thereof or to punish any actual violation thereof.

Section 7. Severability

If any provision of this Article shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible and the balance of the Article shall be deemed to be amended to the minimum extent necessary to provide the Town substantially the benefits set forth in this Article.

Article XXIII

Regulation of Dogs and Kennels

Section 1. Purpose

Pursuant to the authority set forth in Section 136A-174E of Chapter 140 of the General Laws, inclusive, and any other relevant statutes and regulations issued pursuant thereto, the following requirements are adopted for the regulation of dogs in the Town of Stockbridge.

Section 2. Definitions

The definitions of words and terms set forth in Section 136A of Chapter 140 of the General Laws are incorporated into this bylaw and shall be applicable to the interpretation thereof. In addition, unless context clearly indicates otherwise, the following words and terms used in this bylaw shall have the following meanings:

DOG UNDER CONTROL: A dog that is (1) physically controlled by a person by means of a leash, cord or chain held by the person, or (2) a dog that is contained within a physical or electric fence; or (3) a dog that is at all times within sight of their person, is actively monitored by that person, and that at all times immediately responds to a recall command by their person.

RUNNING AT LARGE: A dog is running at large if it is not on the private property of its owner or keeper, or on private property with the express permission of that property's owner or is otherwise not a Dog Under Control.

Section 3. Dog Licenses and Tags

A person who, as of April 1 of any calendar year, is, or at any other time of the year becomes the owner or keeper within the Town of a dog of at least six (6) months of age shall obtain a license and tag therefor from the Town Clerk and shall attach the tag to a collar or harness of said dog. If any such tag is lost, the owner or keeper of such dog shall secure a substitute tag from the Town Clerk.

When applying for a dog license the applicant must show proof, by a licensed veterinarian's certificate, that the dog has been vaccinated against rabies, as required by Sections 137(b) and 145B of Chapter 140 of the General Laws.

Section 4. Kennel Licenses

No person shall maintain a kennel in the Town of Stockbridge without first obtaining a license therefor from the Town Clerk. Such license shall be renewable annually no later than March 31.

Section 5. License fees and exceptions; Late fees.

- (a) The license fee for a dog that has not been spayed or neutered is Fifteen Dollars (\$15.00).
- (b) The license fee for a dog that has been spayed or neutered is Six Dollars (\$6.00). A registered veterinarian's certificate, or reasonable copy of same, as proof of spaying or neutering is required.
- (c) The license fee for a kennel is 5-10 dogs \$25.00, over 10 dogs \$50.00
- (d) No license fee shall be refunded in whole or in part for any reason.
- (e) Annual licenses are to be renewed by April 1. A late fee of Ten Dollars (\$10.00) per dog will be charged by May 1 for late renewals of a license (one month late). A late fee of Twenty-Five Dollars (\$25.00) per dog will be charged as of June 1 for late renewals of a license (two months late).

Section 6. Control of dogs

An owner or keeper of a dog within the territorial limits of the Town of Stockbridge shall not allow such a dog to be Running at Large. Dog owners or keepers are required to ensure their dog is a Dog Under Control when said dog is not on the owner or keeper's property or on private property with the express permission of that property's owner. Hunting dogs when being used for hunting or training shall be exempt. Violators of this provision shall be subject to a fine of Ten Dollars (\$10.00).

Section 7. Issuance of Temporary Orders

(a) The animal control officer may issue a Temporary Restraint Order to the owner or keeper of any dog that is alleged to be a nuisance dog or a dangerous dog and is awaiting a decision under Section 11. A Temporary Restraint Order shall be in force for no more than thirty (30) days unless the animal control officer renews it in writing for subsequent thirty (30) day periods. The animal control officer may rescind or stop renewing the order when, in the animal control officer's judgment, restraint is no longer required. The animal control officer's order shall expire upon receipt of a decision from the Select Board on the nuisance dog or dangerous dog hearing.

(b) The Animal Control Officer may make arrangements for the temporary housing of any dog that requires such temporary housing and may issue an Order of Temporary Confinement authorizing such temporary housing. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns and shall be at the dog owner's or keeper's expense.

Section 8. Impounding of dogs; Release

(a) The animal control officer may cause a dog to be impounded for any one the following reasons, pursuant to MGL Chapter 140, Section 151A:

- (1) If found without a license in violation of Section 3.
- (2) If found Running at Large in violation of Section 6.
- (3) For violation of an order issued pursuant to MGL Chapter 140, Section 157.

(b) Not later than two (2) business days after the impounding of any dog by the animal control officer, the owner or keeper of the dog shall be notified, or if the owner or keeper of the dog is unknown, or, after reasonable efforts, is not contacted, written notice shall then be posted for ten (10) consecutive business days in the location for the posting of notices in the Town Hall and on the town website, which notice shall describe the dog, include a photo of the dog and the place and time of taking. A notice shall also be posted online at the public facebook page Missing Pets of Berkshire County by the animal control officer and the Berkshire Humane Society and Sonsini Animal Shelter shall be contacted with the goal of locating the owner or keeper of the dog. A licensed veterinarian with a chip reader shall check for dog ownership. Prior to the end of said ten- business day period the owner or keeper may obtain the release of any dog impounded hereunder as follows:

- (1) In the case of a violation of Section 3, upon obtaining a license as required by law.
- (2) In addition to compliance with subparagraph (b)(1) of this Section, all impound fees, fines, and notification costs, if any, must be paid before the dog is released.
- (3) A person who owns or keeps a dog and has received such notice that the dog has been impounded by the animal control officer and does not within ten-business (10) days claim said dog at the pound, shall be punished by a fine of Seventy-Five Dollars (\$75.00).

(c) The impound fee shall be Ten Dollars (\$10.00) per day for each day or fraction thereof a dog is impounded.

(d) A licensed veterinarian shall be consulted by the animal control officer in cases involving euthanasia except in emergencies. Dogs impounded and unclaimed by the owner or keeper after the end of said ten-business day period shall be rehomed, if at all possible, in conjunction with an evaluation by a licensed

veterinarian and animal rehabilitator. Only after documented efforts to rehome a dog shall a dog be sent to a no-kill shelter.

Section 9. Animal Control Officer

The Board of Selectmen shall annually appoint one or more animal control officers in accordance with MGL Chapter 140, Section 151.

Section 10. Removal of Dog Litter.

(a) If any dog shall defecate upon any Property or Area, as hereinafter defined, then the owner, keeper, or person then walking or otherwise in charge of said dog shall immediately remove or cause to be removed from said property or area all feces so deposited by said dog. Unless said feces are removed, the owner, keeper, or the person then walking or otherwise in charge of said dog (or if said owner, keeper or person shall be a minor, then the parent or guardian) shall each be deemed to have committed a punishable offense.

(b) As used in this Section the following terms shall have the meanings indicated: PROPERTY or AREA – Any public property or the common areas of any privately-owned property or any private property owned or occupied by any person or persons who are not members of the family of the owner, keeper, or person then walking or otherwise in charge of the dog.

(c) The provisions of this Section shall not apply to a guide dog, hearing dog, or service dog accompanying any person with a disability.

(d) The commission of an offense under this Section shall be punishable by a fine of Fifty Dollars (\$50.00) for the first offense and One Hundred Dollars (\$100.00) for each subsequent offense.

Section 11. Nuisance or Dangerous Dog Hearings

Any person may file a complaint in writing to the Select Board that a dog owned or kept in the Town is a nuisance dog or a dangerous dog. All such complaints shall be investigated and addressed in accordance with MGL Chapter 140, Section 157.

Section 12. Enforcement

Whoever violates any provisions of this bylaw may be penalized by the non-criminal disposition procedure set forth in Article XIII of the General Bylaws.

Article XXIV

Fee Schedules

Section 1. Town Clerk

A schedule of fees fixed by the Town Clerk shall be posted in a conspicuous place in the Town Clerk's office. Said schedule of fees may be revised from time to time as the Town Clerk sees fit and in accordance with the provisions of Chapter 40, Section 22F of the General Laws.

Section 2. Building Inspector

Subject to approval by the Board of Selectmen, the Building Inspector shall fix and amend from time to time a schedule of fees for building permits, inspections, plan reviews, certificates of occupancy, wood stove inspections and permits and other activities required or regulated by the Massachusetts State Building Code or by related provisions of the Bylaws of the Town.

Section 3. Wire Inspector

Subject to approval by the Board of Selectmen, the Wire Inspector shall fix and amend from time to time a schedule of fees for electrical permits and other activities required or regulated by the Massachusetts State Fire and Electrical Codes or by related provisions of the Bylaws of the Town.

Section 4. Gas Inspector

Subject to approval by the Board of Selectmen, the Gas Inspector shall fix and amend from time to time a schedule of fees for gas permits and other activities required or regulated by the Massachusetts Fuel Gas Code or by related provisions of the Bylaws of the Town.

Section 5. Plumbing Inspector

Subject to approval by the Board of Selectmen, the Plumbing Inspector shall fix and amend from time to time a schedule of fees for plumbing permits and other activities required or regulated by the Massachusetts Plumbing Code or by related provisions of the Bylaws of the Town.

Section 6. Payment of Fees into Treasury

Except as otherwise provided by statute, all Town officers, whether elected or appointed, shall pay all fees received by them by virtue of their office into the Town treasury, and the amounts so received shall be published in the Annual Town Report.

Article XXV

Agricultural and Forestry Commission

Section 1. There shall be an Agricultural and Forestry Commission, which shall, as appropriate, advise Town Boards and officials regarding initiatives and strategies to support commercial agriculture and other farming and forestry activities; to encourage the pursuit of agriculture and forestry; to promote agriculture-or forestry-based economic

opportunities; to work for the preservation of agricultural and forest lands; and to pursue the creation of a sustainable agricultural and forestry community in the Town.

Section 2. The Agricultural and Forestry Commission shall consist of five members, appointed by the Board of Selectmen, who are substantially engaged in the pursuit of agriculture or forestry within the Town, or who have experience and a demonstrated interest in agricultural or forestry matters.

Section 3. The terms of office of the members initially appointed to the Agricultural and Forestry Commission shall be as follows: One member for a term of three years; one member for a term of two years; and one member for a term of one year. Upon the expiration of any member's term, a member shall be appointed or re-appointed for a term of three years. In the event of a vacancy, the Board of Selectmen shall appoint a new member to complete the unexpired term.

ARTICLE XXVI

STORMWATER MANAGEMENT AND EROSION CONTROL

Section 1. Purposes

The purposes of this Article are:

- (a) To prevent Pollutants from entering the Stockbridge Municipal Separate Storm Sewer System (“MS4”), Surface Waters or adjacent properties.
- (b) To prohibit Illicit Connections and unauthorized discharges to the MS4 and to require the removal of all such Illicit Connections;
- (c) To comply with state and federal statutes and regulations relating to Stormwater discharges;
- (d) To establish the legal authority to ensure compliance with the provisions of this Section through permitting, inspection, monitoring, and enforcement;
- (e) To control Runoff and prevent soil erosion and sedimentation resulting from Construction Site Stormwater Runoff,
- (f) To promote infiltration and the Recharge of groundwater;
- (g) To protect, maintain and enhance the public safety, environment, health, and general welfare by establishing minimum requirements and procedures to manage Stormwater Runoff; and
- (h) To ensure that soil erosion and sedimentation control measures and Stormwater Runoff control practices are incorporated into the site planning and design process and are implemented and maintained.

Section 2. Definitions

For the purposes of this Article, the following definitions shall apply:

ALTERATION — Any activity that will change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Examples include, but are not limited to, construction or alteration of structures, soil compaction, earthmoving, paving, and modification of existing vegetation including removal of brush and trees.

BEST MANAGEMENT PRACTICES (BMPs) — Structural, non-structural, and managerial techniques that are recognized to be the most effective and practical means to prevent or minimize increases in Stormwater volumes and flows, reduce Point-Source and Nonpoint-Source pollution, and promote Stormwater quality and protection of the environment.

CONSTRUCTION SITE — Any site where activity is proposed or occurs that involves the alteration of land.

DEVELOPMENT — The alteration of land to accommodate a new use or an expansion or modification of an existing use.

HAZARDOUS MATERIAL — Any material that, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious material, acid and alkali, and any substance defined as Toxic or Hazardous under *M.G.L. c.21C* and *c. 21E*, or the regulations at 310 CMR 30.000 or 310 CMR 40.0000.

ILLICIT CONNECTION — A surface or subsurface drain or conveyance that allows an Illicit Discharge into the MS4, including any connection from an indoor drain, sinks, toilet, or laundry facility, regardless of whether the connection was previously allowed, permitted, or approved before the effective date of this Section.

ILLICIT DISCHARGE — Any direct or indirect discharge to the MS4 or the Waters of the Commonwealth that is not composed entirely of Stormwater, including, without limitation, any discharge of a Pollutant, sewage, process wastewater, or wash water, except as exempted in Subsection 5.3. The term does not include a discharge in compliance with an NPDES Stormwater Discharge Permit or a Surface Water Discharge Permit.

IMPERVIOUS SURFACE — Any material or structure on, above or below the ground that prevents water from infiltrating through to the underlying soil. Impervious surfaces may include, without limitation: paved and compacted surfaces, parking lots, sidewalks, driveways, roof tops and swimming pools.

MS4 (MUNICIPAL SEPARATE STORM SEWER SYSTEM) — The system of conveyances, owned or operated by the Town of Stockbridge that is designed or used for collecting or conveying Stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, swale, culvert, channel, catch basin, outfall, outlet, reservoir, or other drainage structure.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the United States Environmental Protection Agency or jointly with the state that authorizes the discharge of Stormwater containing Pollutants into waters of the United States.

NONPOINT SOURCE POLLUTION — Any water pollution having a source that is not a Point Source.

NON-STORMWATER DISCHARGE — A discharge into the MS4 that is not composed entirely of Stormwater.

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

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, and any officer, employee, or agent of such Person.

POINT SOURCE — Any discernible, confined and discrete conveyance, including, without limitation, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which Pollutants are or may be discharged. The term does not include agricultural Stormwater discharges and return flows from irrigated agriculture.

POLLUTANT — Any element or characteristic of sewage, agricultural, industrial or commercial waste, Runoff, leachate, heated effluent, or other matter whether originating at a Point or Nonpoint Source, that is or may be introduced into the MS4 or Waters of the Commonwealth. Pollutants shall include, but are not limited to:

- (a) Paints, varnishes, and solvents;
- (b) Oil and other automotive fluids;
- (c) Non-hazardous liquid and solid wastes and yard wastes;
- (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (e) Excess pesticides, herbicides, and fertilizers;
- (f) Hazardous Materials and wastes;
- (g) Sewage, fecal coliform and pathogens;
- (h) Dissolved and particulate metals;
- (i) Animal wastes;
- (j) Rock, sand, salt, silt, soils;
- (k) Construction wastes and residues; and
- (l) Noxious or offensive matter of any kind.

RECHARGE — The process by which groundwater is replenished by precipitation.

RUNOFF — The water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into the MS4 or streams or other Surface Waters or land depressions.

SLOPE — The measurement of a continuous change in elevation divided by the horizontal distance in which the change takes place, expressed as a percentage.

STEEP SLOPE — An area with a Slope averaging 15% or greater over a horizontal distance of 200 feet. Steep Slopes shall be measured by transects spaced a minimum of 35 feet apart along the base of the Slope. A box of 35 X 35 X 200 feet defines the area of a Steep Slope.

STORMWATER — Stormwater Runoff, snowmelt Runoff, and Surface Water Runoff and drainage.

STORMWATER MANAGEMENT — The use of structural or non-structural practices that are designed to reduce and control Stormwater Runoff Pollutant loads, discharge volumes or peak flow discharge rates. Stormwater Management includes the use of Low-Impact Development (LID) management practices.

STORMWATER MANAGEMENT AND EROSION CONTROL PERMIT — A permit issued by the Conservation Commission, approving a system that is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater Runoff.

STORMWATER MANAGEMENT STANDARDS — The Stormwater Management Standards and accompanying Stormwater Handbook(s) issued by the Massachusetts Department of Environmental Protection or any successor agency, as such Standards and Handbooks may be hereafter superseded or amended.

SUBSTANTIAL DEMOLITION — The demolition of at least 50% of an existing principal structure, measured by the area of the footprint of the structure on the lot.

SURFACE WATERS — Streams, waterways, water bodies and vernal pools.

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

Section 3. Administration

3.1 The Board of Selectmen may adopt, and may periodically amend, rules and regulations relating to the requirements, procedures, administration and enforcement of this Article, after conducting a public hearing to receive comments on any proposed rules and regulations. The absence of such rules and regulations shall not prevent the implementation and enforcement of the Article.

3.2 The Conservation Commission shall be responsible for the day-to-day administration of this Article and shall be the Stormwater Management and Erosion Control Permit Granting Authority.

3.3 The Conservation Commission shall have the authority to investigate suspected Illicit Discharges and to require the elimination of Illicit Discharges.

Section 4. Permit Process

4.1 A completed application for a Stormwater Management and Erosion Control Permit shall be filed with the Conservation Commission, together with any application required under Article VII Wetlands Protection, of the Stockbridge General Bylaws or the *Wetlands Protection Act, M.G.L. c.131, §40* (the “WPA”). A permit shall be obtained prior to the commencement of any work regulated by this Section. The application shall include:

- (a) Hydrologic calculations and plans of storm water mitigation measures designed by a registered professional engineer; and
- (b) Hydrologic calculations utilizing Natural Resources Conservation Service procedures or acceptable equivalent methods shall be submitted comparing the existing drainage conditions on the site before construction (pre Alteration condition) with post Alteration conditions and shall include the following design storms: 2, 10, 25 and 100 year intervals.

Calculations shall include a description of the methodology used and a narrative description of the soil conditions, Slopes, vegetated coverage and Runoff curve numbers for each sub-drainage area affected by the Alteration.

4.2 Applications shall be submitted electronically in a readily accessible format whenever possible along with one (1) hard copy of the full application. If it is not reasonably feasible to submit an electronic application, eight (8) hard copies shall be submitted.

4.3 Some permit applications may require the Conservation Commission to secure the services of a Licensed Professional Engineer or other professional consultant with expertise in Stormwater management and erosion control to assist with the administration of this Section. The Conservation Commission, or its agent, may require the Applicant to pay the reasonable cost of such engineer or consultant pursuant to M.G.L. c. 44 s. 53G, and regulations adopted thereunder by the Commission. These services shall be paid for by the Applicant prior to the issuance of the Stormwater Management and Erosion Control Permit. Failure of the Applicant to pay for required services or to agree to extend the deadline specified in Section 4.4 shall be grounds for the Conservation Commission to disapprove the application.

4.4 The Conservation Commission shall take final action on an application for a Stormwater Management and Erosion Control Permit within thirty (30) days from the receipt of a complete application. The Conservation Commission may approve the application; approve the application with conditions; or disapprove the application. Failure by the Conservation Commission to take final action on an application within 30 days following the receipt of a complete application shall be deemed to be approval of the application, unless this timeframe is extended by mutual agreement of the Conservation Commission and the Applicant.

4.5 The applicant, or an agent thereof, shall obtain the approval of the Conservation Commission prior to any change or modification of an activity authorized in a Stormwater Management and Erosion Control Permit. The Conservation Commission may approve the request if it determines that the change or modification is consistent with all of the following: the regulations promulgated pursuant to Section 5, the Stormwater Management Standards and Best Management Practices. The Conservation Commission may amend the existing permit and require additional stormwater Runoff and erosion control measures prior to approval of the change or modification.

Section 5. Illicit Connection Detection & Elimination

5.1 Prohibited Activities

5.1.1 Illicit Discharges.

No Person shall cause or allow an Illicit Discharge into the MS4 or into the Waters of the Commonwealth. Nothing in the article shall be construed to exempt Stormwater discharges from regulation under the NPDES Stormwater program where applicable.

5.1.2 Illicit Connections.

No Person shall construct, use, allow, maintain or continue any Illicit Connection, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

5.1.3 Obstruction of Municipal Storm Drain System.

No Person shall obstruct or interfere with the normal flow of Stormwater into or out of the MS4 without prior written approval from the Stockbridge Board of Selectmen.

5.2 Regulated Activities

No Person shall connect a pipe or other appurtenance to the MS4, or otherwise perform any modification, repair, rehabilitation, or replacement work on the MS4, without a Stormwater Management and Erosion Control Permit and without the permission of the Board of Selectmen and/or any other board or commission of the Town having jurisdiction over such matters.

5.3 Exemptions

The following Non-Stormwater Discharges are exempt from the requirements of Sections 4 and 5 except if the Conservation Commission determines, after notice and an opportunity for hearing, that the source is a significant contributor of a Pollutant to the MS4:

- (a) Water line flushing;
- (b) Landscape irrigation;
- (c) Diverted stream flows;
- (d) Rising ground waters,
- (e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005[20]);
- (f) Uncontaminated pumped ground water;
- (g) Discharges from potable water sources;
- (h) Foundation drains;
- (i) Air conditioning condensation;
- (j) Irrigation water and springs;
- (k) Water from crawl space pumps;
- (l) Footing drains;
- (m) Lawn watering;
- (n) Car washing undertaken by individual residents at their homes;
- (o) Flows from wetland resource areas;
- (p) De-chlorinated swimming pool discharges;
- (q) Street wash water and residential building wash waters, without detergents;
- (r) Discharges or flows from firefighting activities;
- (s) Dye testing if the Conservation Commission has given written approval thereof prior to the time of the test;
- (t) Non-Stormwater Discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the U.S. Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations, and
- (u) Discharges necessary to protect public health, safety, welfare or the environment, for which advanced written approval is received from the Conservation Commission.

5.4 Emergency Suspension of Storm Drain System Access

The Conservation Commission may suspend MS4 access to any Person or property without prior written notice when such suspension is determined to be necessary to prevent or terminate a threatened or actual discharge of Pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event that any Person fails to comply with an emergency suspension order issued pursuant to this section, the Conservation Commission may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

Section 6. Stormwater Management and Erosion Control

6.1 Regulated Activities

A Stormwater Management and Erosion Control Permit shall be required prior to undertaking any land disturbance that involves:

- (a) An Alteration that will result in land disturbances of 10,000 square feet of total area or more, or that is part of a common plan for Development that will disturb 10,000 square feet or more or which when aggregated with previously disturbed area within the past 10 years will disturb 10,000 square feet or more;
- (b) An Alteration that will increase the amount of a lot's Impervious Surface area by more than 2000 square feet;
- (c) Storage or permanent placement of more than 100 cubic yards of excavated material, fill, snow or ice; or
- (d) An Alteration to a Steep Slope.

6.2 Exempt Activities

Alterations on lots with one, two or three dwelling units existing as of the effective date of this Section shall be exempt from Sections 4 and 6, except for Alterations associated with the Substantial Demolition of such dwelling unit(s) and associated Alterations thereafter on the same lot. In addition, the following activities shall be exempt from Section 6:

- (a) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Section;
- (b) Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture, or the use, expansion, or reconstruction of existing structures for the primary purpose of agriculture, horticulture, floriculture, or viticulture, to the extent protected under the *Zoning Act, M.G.L. c. 40A, §3*;
- (c) Customary cemetery management;
- (d) Stormwater discharges that are authorized by an Order of Conditions issued by the Conservation Commission;
- (e) Customary landscaping, gardening, and lawn care activities except those in violation of Section 6.5 of the Zoning Bylaws and the WPA;
- (f) Activities not expressly regulated by Subsection 6.1
- (g) Normal maintenance of Town-owned public land, ways, public utilities and appurtenances;
- (h) Emergency activities necessary to protect public health or safety;
- (i) Construction of a septic system authorized under Massachusetts Law;
- (j) Any activity that will alter less than 10,000 square feet of contiguous property. This exemption may not be applied for contiguous properties held in common or related ownership at the time of the adoption of this Section that may have been previously subdivided and/or are owned by multiple unrelated parties; and
- (k) Those projects regulated under other sections of the Bylaws of the Town that require the submission of and implementation of Storm Water management programs at least as stringent as this Section.

6.3 General Requirements

6.3.1 An Operation and Maintenance Plan shall be submitted to the Conservation Commission for approval prior to the issuance of a Stormwater Management and Erosion Control Permit. The Operation and Maintenance Plan shall be designed to ensure compliance with the Stormwater Management and Erosion Control Permit, this Section, and the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, in all seasons and throughout the life of the system.

6.3.2 As-built drawings showing all Stormwater management systems shall be submitted to the Conservation Commission at the completion of a project. The Conservation Commission may require that the as-built drawings be certified as true and correct by a qualified professional.

6.3.3 The Conservation Commission may require the applicant to contribute to the cost of design, construction, and maintenance of a public or shared Stormwater facility in lieu of an onsite Stormwater facility where the Conservation Commission determines that there are not sufficient site conditions for onsite Best Management Practices that will satisfy the design criteria set forth in Subsection 6.4.1 and the performance standards set forth in the regulations adopted pursuant to this Article. Funds so contributed may be used to design, construct, and maintain Stormwater projects that will improve the quality and quantity of Surface Waters in Stockbridge by treating and recharging Stormwater from existing Impervious Surfaces that is now discharged to said waters with inadequate treatment or Recharge. The amount of any required contribution to the fund shall be determined by the Conservation Commission pursuant to standards established in the regulations adopted pursuant to this Article.

6.3.4 The Conservation Commission may adopt and implement a regulation or policy regarding electronic submission of any applications or associated documents pursuant to this Article.

6.4 Design Criteria

6.4.1 All Development shall satisfy the following design criteria:

- (a) Compliance with all applicable provisions of the Stormwater Management Standards, regardless of the proximity of the Development to resource areas or their buffer zones, as defined by the WPA and its implementing regulations.
- (b) Erosion and sediment controls must be implemented to prevent adverse impacts during disturbance and construction activities.
- (c) There shall be no change to the existing conditions of abutting properties from any increase in Peak Discharge and volume of Stormwater Runoff or from erosion, silting, flooding, sedimentation or impacts to wetlands, ground water levels or wells.
- (d) When any proposed discharge may have an impact upon streams, wetlands and/or storm sewers, the Conservation Commission may require minimization or elimination of this impact based on site conditions and existing Stormwater system capacity but subject to the requirements of Article VII, Wetlands Protection of the the Stockbridge Conservation Commission.
- (e) All components of a drainage system shall be designed with capacity to handle Peak Discharge from a 25-year design storm in the post-Alteration condition.
- (f) Stormwater Management measures shall be installed so that the post-Alteration conditions will not increase Peak Discharge from the site during a 25-year design storm compared to the pre-Alteration condition.

Section 7. Severability

If any provision of this Article shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the Article shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in Section 1.

Section 8. Enforcement

The Conservation Commission and other Town officials as set forth in the Section, shall enforce this Section, and any regulations, orders, violation notices, and enforcement orders made pursuant to this Article, and may pursue all civil and criminal remedies for such violations. Nothing in this Section shall be construed to limit the power of the Stockbridge Conservation Commission in the enforcement of matters under the WPA or Article VII, Wetlands Protection of the Stockbridge General Bylaws.

- (a) The following individuals may investigate possible violations and may issue a notice of violation alerting the violator that the Conservation Commission may issue an enforcement order at its next meeting: the Building Commissioner, the Conservation Agent (or other Town employee serving as staff to the Conservation Commission), the Chair of the Conservation Commission, and any other Town employee or official designated by the Conservation Commission. Such designation shall be in a written statement signed by a majority of the members of the Conservation Commission and transmitted to the Town Administrator. Revocation of such designation shall be made in the same manner.
- (b) The Conservation Commission may issue a written order to enforce the provisions of this Article or implementing regulations hereunder, which may include (but shall not be limited to) an order to:
 - (i) Eliminate Illicit Connections or Illicit discharges to the MS4;
 - (ii) Perform monitoring, analyses, and reporting;
 - (iii) Cease and desist unlawful discharges, practices, or operations; and
 - (iv) Remediate contamination in connection therewith.

In a situation requiring immediate action, an order to cease and desist any activity in violation of this Article may be signed by the Building Commissioner, the Conservation Agent (or other Town employee serving as staff to the Conservation Commission), or the Chair of the Conservation Commission. Said order shall expire at the time of the Conservation Commission's next Meeting unless ratified by a majority of the members of the Conservation Commission at that meeting.

- (c) If the Conservation Commission determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Conservation Commission may, at its option, authorize such work, and the expenses thereof shall be charged to the violator in an amount not exceeding the penalty specified in Subsection 8(e).

- (d) If the Conservation Commission performs the work described in Subsection 8(c), the violator and the property owner shall be notified of the costs incurred by the Conservation Commission, including administrative costs, within thirty (30) days after completing all measures necessary for the abatement or remediation. Within thirty (30) days of receipt of such notification, the violator or property owner may file with the Town Administrator a written protest objecting to the amount or basis of the costs incurred. Upon receipt of such a protest, the Town Administrator may adjust the amount of the costs to be charged to the violator pursuant to Subsection 8(b).
- (e) If a Person violates the provisions of this Article, or any, permit, notice, or order issued hereunder, the Conservation Commission, with the approval of the Board of Selectmen, may seek injunctive relief in a court of competent jurisdiction to restrain such Person from activities that would create further violations or to compel the Person to perform abatement or remediation of the violation.
- (f) As an alternative to criminal remedies set forth in this Section, the Conservation Commission may elect to utilize non-criminal disposition procedures set forth in *M.G.L. c.40, §21D*. The penalty for the first violation shall be \$100.00. The penalty for the second violation shall be \$200.00. The penalty for the third and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. Enforcing persons shall be any police officer, the Chair of the Conservation Commission, the Conservation Agent (or other Town employee serving as staff to the Conservation Commission, and the Building Commissioner.
- (g) To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Article or any regulation issued pursuant thereto, and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary.
- (h) The remedies set forth in this Section are not intended to be exclusive of any other remedies available under applicable federal, state, or local law.

ARTICLE XXVII

Stockbridge Bowl Stewardship Commission

Section 1. Membership.

1.1 The Town shall have a Stockbridge Bowl Stewardship Commission consisting of seven voting stakeholder representatives as identified below and two non-voting stakeholder representatives appointed by the Board of Selectmen on an annual basis. The stakeholder groups may be modified at the discretion of the Board of Selectmen but may not exceed seven voting members.

1.2 Said appointees are to represent the following stakeholder categories:

1.3 Voting Members (one to be appointed from each stakeholder group listed)

a. Stockbridge Select Board

b. Board of Health

- c. Water Department
- d. Conservation Commission
- e. Stockbridge Bowl Association
- f. Water and Sewer Commission
- g. Stockbridge Sportsmen's Club

1.3 Non-Voting members:

- a. Stockbridge Harbormaster
- b. Director, Tri-Town Health Department

Section 2. Term.

2.1 The term of office shall be one year commencing on July 1st.

Section 3. General Duties and Responsibilities.

3.1 The Stockbridge Bowl Stewardship Commission shall act as an advisory group to the Stockbridge Board of Selectmen to preserve and protect the Stockbridge Bowl (Lake Mahkeenac), its watershed and ecosystem by utilizing unified, scientific information collected by the SBSC. Responsibilities include (and may be added to at the discretion of the Board of Selectmen):

- 1) Annual evaluation and maintenance of a comprehensive Lake Management Plan in response to changing environmental conditions.
- 2) Maintaining, sharing, and assimilating all ecosystem data collected from Stockbridge Bowl and its watershed including but not limited to water sampling data and analysis, invasive species data, aquatic plant sampling data, wildlife data including fish, birds, mollusks, crustaceans and insects.
- 3) Routinely communicating with expert limnologists, biologists, lake managers and other experts contracted with the Town to determine recommended projects and actions in response to environmental conditions and stakeholder concerns to preserve the health of the lake, watershed and ecosystem.
- 4) Provide public information and educational resources to the residents of Stockbridge regarding the current status of the Stockbridge Bowl and its watershed to promote community responsibility and involvement.
- 5) Maintain communications with the Town Administrator, all pertinent Boards and Committees such as the Board of Selectmen, Parks and Recreation Commission, Water and Sewer Commission, Conservation Commission, camps, non-profit organizations, boat clubs and community groups as appropriate, etc.

3.2 The voting body of the SBSC shall elect a Chairperson on an annual basis and determine their meeting schedule which shall be no less than twice a month from March through October and no less than once a month from November through February.

3.3 Unexcused absenteeism of voting members in excess of four meetings per year shall result in replacement of a voting member by the Select Board.

3.4 Budget. The Commission shall prepare an annual budget. The budget is subject to approval by the Selectmen. The Selectmen are responsible for presenting the budget to the Finance Committee and for presenting the motion for the budget appropriation to Town Meeting.

Article XXVIII

Building Numbering

Section 1. Purpose

1.1 The purpose of this Bylaw is to enforce M.G.L. Chapter 148, Sec. 59, which requires numbers on all buildings for the purpose of the address of such buildings to be entered into an electronic database for use in the Enhanced 911 Service as defined in M.G.L. Chapter 6A, Sec. 18A, and to allow first responders to correctly identify a building's location in the event of an emergency.

Section 2. Requirements

2.1 Numbers shall be a minimum of three inches in height, contrasting in color. Example: Dark letters with light fielding.

2.2 Numbers shall be affixed on the front of buildings so as to be seen from the street. If a building is more than fifty (50) feet from the street, numbers shall be placed at the entrance of the driveway servicing the building. If a driveway services more than one building, numbers shall be placed at each turnoff and at forks in the road indicating which direction to take.

2.3 Numbers shall be a minimum of forty four (44) inches from the ground. If mounted on mailboxes, numbers shall be on both sides of the mailbox and unobstructed by the mailbox flag. The mailbox shall meet the U.S. Postal height regulation of forty four (44) inches from the ground. If grouped or communal mailboxes are used, a sign shall be used listing all building numbers. Multiple addresses at one location (apartments, condominiums, residential compounds, and businesses), the sub-address designation shall appear after the street name. Example: Building 1, Unit 2.

Section 3. Effective Date

3.1 All existing buildings shall comply with the requirements of this bylaw no later than January 1, 2022.

Section 4. Enforcement

4.1 The Building Inspector shall enforce the posting of identification numbers on dwellings, apartment buildings, condominiums and business establishments.

4.2 The Building Inspector, upon a written complaint from any resident of the Town, prior to the issuance of a Certificate of Occupancy for any new or renovated building subject to this Bylaw, or upon his own initiative, shall enforce the requirements of this Bylaw. Any existing numbering system for any building in existence prior to the enactment of this Bylaw shall be deemed to comply with the requirement herein; unless, in the opinion of the Building Inspector, the degree of noncompliance with specific requirements of this Bylaw constitutes a danger to public safety, whereupon, the Building Inspector shall issue written notification to the property owner requiring compliance with the requirements of this Bylaw.

4.3 This Bylaw shall be enforced through written notice issued by the Building Inspector. Notice shall be effective if posted in a conspicuous location on the building deemed to be in violation of this Bylaw. Upon the expiration of fourteen (14) days after the issuance of written notice, the Building Inspector shall issue a fine of twenty five (25) dollars per day to the property owner until the building is brought into compliance with this Bylaw.

Section 5. Appeals

5.1 Any person aggrieved by the enforcement of this Bylaw, or by the refusal of the Building Inspector to enforce any provision of this Bylaw, may file an appeal with the Zoning Board of Appeals within thirty (30) calendar days of the date of such enforcement action or refusal. All appeals shall be handled in a manner consistent with the standard rules of the Zoning Board of Appeals.

ARTICLE XXIX

WILDLIFE FEEDING

Section 1. Purpose

The purpose of this Article is to protect the health and welfare of both people and wildlife by prohibiting the feeding or attracting of nuisance wildlife. Although black bears are the primary species of concern, the Article applies in circumstances involving other nuisance wildlife species.

Section 2. Definitions

For the purposes of this Article, the following definitions shall apply:

ATTRACTANT – Any substance including food (human and pet), bird seed, livestock feed, minerals, compost, other nutritive substances, scents, waste products or refuse, that attracts bears and nuisance wildlife intentionally or unintentionally.

BEAR-PROOF CONTAINER/DUMPSTER – A fully enclosed container that prevents bears and other nuisance wildlife from accessing the contents inside. This includes but is not limited to heavy duty secured containers, metal topped latching dumpsters, enclosed storage areas such as sheds or other buildings. Containers must include a latching mechanism and reinforced covers/lids.

GARBAGE/TRASH/WASTE – Any waste/refuse that can reasonably attract bears and nuisance wildlife including but not limited to food, food packaging, organic waste, scented waste such as grease, seasonings and other cooking waste.

INVESTIGATING AUTHORITY – Those town or state personnel charged with determining if a bear attractant issue is occurring on a property. Investigating authorities include town and state law enforcement officers, Massachusetts Environmental Police, town animal control officer, town and state Board or Department of Health Officials, and personnel of the state Division of Fisheries and Wildlife.

NUISANCE-Likely to lead to complaint or already having caused complaint.

PERSON – Any person, resident, occupier, company, firm, corporation, or other business organization.

STATE – The Commonwealth of Massachusetts.

TOWN – The Town of Stockbridge, Massachusetts.

WILDLIFE – Any undomesticated animals including, but not limited to rodents, birds, deer, raccoons, skunks, coyotes, foxes and bears.

Section 3. Feeding of Wildlife Prohibited

1. No person shall intentionally or knowingly feed, use, place, provide, give, expose, deposit, scatter, distribute, leave or store any attractant that provides a lure, attraction, or enticement to nuisance wildlife on any property in the town of Stockbridge. Feed that is deposited by natural vegetation or found solely as a result of normal agricultural or gardening practices, as well as standing crops planted and left standing as nuisance wildlife food plots that may be used by wild animals, is not considered feeding for the purpose of these regulations and is allowed.
2. Determination of whether attractants are serving as a lure, attraction, or enticement to nuisance wildlife can be made by any Investigating Authority. The landowner or person responsible for premises where problems with nuisance wildlife feeding have occurred will be notified in writing of the attractant issue and offered suggestions for remediation by the Investigating Authority in cooperation with the Town of Stockbridge. Where a tenant or party other than the property owner is clearly responsible for the attractant, notification will be directed to the responsible party.
3. Failure of the person to respond to a notice of an attractant issue and remove or contain the attractant in such a manner as to make it inaccessible to nuisance wildlife within 7 days may be construed as evidence that the nuisance wildlife feeding was done with the knowledge or consent of the landowner or responsible person and was intentional.

Section 4. Refuse Containers or Enclosures

1. In responding to an attractant issue, the Investigating Authority shall make a determination whether or not refuse containers or enclosures on the premises are the source of the nuisance wildlife feeding problem.
2. If refuse containers or enclosures are determined to be the sources of the nuisance wildlife feeding problem, the landowner or person responsible for the premises will be required to replace them with a Bear Proof Container or secure them in a bear resistant structure. Failure to comply with an order to replace or secure refuse containers within 7 days will constitute a violation of this section.
3. Damage and repair of containers and enclosures: If a Bear Proof Container is damaged or defeated so that it may allow access by nuisance wildlife, repair or replacement must be made within 7 days after the damage is discovered.
4. Acceptable outdoor composter design: Any outdoor composter containing any material edible by nuisance wildlife must not be accessible by nuisance wildlife. No trash or material may be exposed and doors must be kept closed and latched with a nuisance wildlife-proof mechanism except when loading or removing refuse. If damaged, allowing access by nuisance wildlife, repairs must be made to the outdoor composter within 7 days after the damage is discovered or receipt of written notification by an Investigating Authority.

Section 5. Exceptions

The following entities or actions are exempt from the requirements of this Article:

1. Any individual, company, or corporation that is duly licensed by the Commonwealth of Massachusetts or entitled under law to possess nuisance wildlife of any kind, however, if the normal possession of said nuisance wildlife is determined to be causing an attractant issue or public safety threat by virtue of lack of containment, the attractant must be removed or contained within 48 hours.
 - a. An attractant issue and appropriate remediation is to be determined by the Select Board after notification by the Investigating Authority.
2. Any action that is officially sanctioned by the Commonwealth of Massachusetts that would require feeding, baiting, or luring nuisance wildlife for management purposes, scientific projects, research or study.
3. Any individual, company, or corporation that is engaged in farming. Farming is defined herein as lawful agricultural pursuits, including but not limited to growing crops, crop bearing plants, or raising livestock where revenue from said activities represents a majority of income to the individual, company or corporation.
4. This Article shall not be interpreted so as to prohibit bird feeders or bird feeding, provided that if a bird feeder or bird feed is determined to be the feeding source and causing an attractant issue or public safety threat, the bird feeder and seed debris are removed within 48 hours.

Section 6. Penalties

1. First Violation – The first violation will be considered the identification of an attractant issue by an Investigating Authority and subsequent written warning along with education and suggested solutions to the attractant issue. The written warning shall include a time schedule for compliance which shall be no longer than 7 days from the date of issuance.
2. Second Violation – The second violation will result in a written Notice of Violation and a penalty of \$50.00. The Notice of Violation shall contain a time schedule for compliance which shall be no longer than 7 days from the date of issuance.
3. Subsequent Violations – Each Subsequent violation will result in a written Notice of Violation and a penalty of \$100.00. The Notice of Violation shall contain a time schedule for compliance which shall be no longer than 7 days from the date of issuance.
4. Each day of violation after the expiration of the time schedule for compliance constitutes a separate offense for purposes of assessing a penalty.

Section 7. Enforcement

1. Enforcement authority for the purpose of issuing the monetary penalty in Section 6 shall be the Stockbridge Police Department.

ARTICLE XXX

RIGHT TO FARM BY-LAW

Section 1. Legislative Purpose and Intent

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A, and Chapter 128 Section 1A. We the citizens of the Town of Stockbridge restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-law encourages the pursuit of agriculture, promotes agriculture based economic opportunities, and protects farmlands within the Town of Stockbridge by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town. This bylaw shall not be interpreted to exempt anyone engaged in farming from any law, regulation or other restriction on the use and application of pesticides, herbicides or "GMO" substances.

Section 2. Definitions

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

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

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

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

- operation and transportation of slow-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the 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; and
- on-farm relocation of earth and the clearing of ground for farming operations.

Section 3. Right to Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Stockbridge. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

Section 4. Disclosure Notification

Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property if no purchase and sale agreement exist, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the Town of Stockbridge the landowner shall present the buyer or occupant with a disclosure notification which states the following:

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

A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Board of Selectmen or its designee prior to the sale, purchase, exchange or occupancy of such real property. In addition to the above, a copy of this disclosure notification shall be provided by the Town to landowners each fiscal year by mail.

A violation of Section 4 shall be subject to a penalty of \$300 and shall be enforced by the Board of Selectmen or its designee. The Town is authorized to enforce Section 4 under the non-criminal disposition provision of G.L. c. 40, § 21D.

Section 5. Resolution of Disputes

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board may forward a copy of the grievance to the Agricultural and Forestry Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural and Forestry Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an 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 Stockbridge hereby declares the provisions of this By-law to be severable.

ARTICLE XXXI

Short Term Rental of Residential Property

1. Purpose

Short-term rentals (STRs) are allowed for residential properties in conformance with regulations that aim to balance private, neighborhood, and municipal interests by ensuring compliance with applicable Massachusetts General Law regarding Short Term Rentals and ensure observance of residential health and safety regulations.

2. Definition

"Short-term rental", an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such. Short-term rentals are rentals of 31 consecutive days or less duration.

3. Registration and Regulations

3.1. Registration – All short-term rentals must register annually with the Stockbridge Town Clerk. A registration fee may be required as determined by the Board of Selectmen. The following information must be provided:

- a. Owner Name;
 - i. If owned by a Trust, Trustee and Beneficiary name and contact information in addition to a copy of the Trust;
 - ii. If owned by an LLC, the members of the LLC, contact information and a copy of the Articles of Organization and Bylaws.
- b. Primary Manager name - the name and contact information of the local responsible party (required) who would respond in the event of any problem, complaint or emergency reported by a guest, Stockbridge residents or Town government.
- c. Booking Agent, if any (such as a Realtor).
- d. Copy of Certificate of Registration with the Massachusetts Department of Revenue (DOR)
- e. Applicants shall attest under the penalties of perjury that a dwelling unit or bedroom offered for short-term rentals shall comply with all state and local requirements for health and safety and the Standards of Fitness for Human Habitation as stated in Massachusetts State Sanitary Code-Chapter II-105 CMR 410.000 by including at a minimum the following:

- i. Compliance with residential smoke and CO detector law pursuant to M.G.L. c 148 s. 26F
- ii. A fire extinguisher shall be mounted in (or near) kitchens used for the STR in a clearly visible location or if the unit offers no kitchen a fire extinguisher will be mounted in a location easily accessible to occupants.
- f. Indication of service by a septic system or municipal sewer;
 - a. if served by a septic system:
 - i. number of bedrooms rated under permit
 - ii. A private wastewater system pumping record within the past three years must be on record in the Stockbridge Board of Health.
 - iii. A valid maintenance agreement on file if served by an Innovative/Alternative system.
 - b. if served by municipal sewer:
 - i. number of bedrooms and bathrooms as indicated by the Assessor's tax card.
- j. Indication of service by a well or municipal water supply;
 - a. if served by a well:
 - i. specify if a flow meter is in place.
 - ii. Well water used for drinking or cooking (potable) purposes must be tested prior to initial registration and every subsequent 5 years for attachment to the registration form to ensure that it is safe to use for personal consumption.
- k. Number of off-street parking spaces provided.

4. Regulations:

4.1 The following residential property is prohibited from being offered as a short-term rental:

- a. Residential property owned by a corporation (other than an LLC);
- b. residential premises designated as affordable or otherwise income-restricted, which are subject to affordability covenants or are otherwise subject to housing or rental assistance under local, state, or federal programs or law, may not engage in short term rentals;
- c. units that meet the definition of "Professionally Managed Units" under M.G.L. Chapter 64G, Section 1.

4.2 A short-term rental is not allowed on any property with outstanding violations of the Building Code, Fire Code, Board of Health, Town General Bylaws, Zoning Bylaws, Planning Board regulations, or Conservation Commission regulations.

- 4.3 A short-term rental is required to have a local manager or responsible party who will respond within two (2) hours to any problem or complaint and within 30 minutes in an emergency; failure to do so may result in imposed fines.
- 4.4 Off-street parking on the property adequate to house all guest occupant vehicles for overnight parking is required.
- 4.5 Events that include tents or amplified music or which would customarily require a license or permit are not allowed.
- 4.6 Occupancy is limited to total legal occupancy per dwelling; if total occupancy is exceeded, fines may be applied on a daily basis until brought into compliance.
- 4.7 No advertising in any media shall exceed legal occupancy total; non-compliance shall result in fines levied on a daily basis until brought into compliance.
- 4.8 No commercial trash receptacle such as a dumpster may be maintained on the property to be used for regular trash pickup; trash removal must be limited to regular, weekly (or more frequent as needed) residential trash removal services or regular weekly trips to the Town transfer station. Trash removal shall be the responsibility of the owner/operator.
- 4.9 STRs may be subject to inspection by Stockbridge Board of Health, Fire Department, and/or the Stockbridge Building Inspector.
- 4.9.1 Inspections may be scheduled in response to complaints by renters or by owners or tenants of neighboring properties. A complaint process shall be made available on the Town of Stockbridge website.
 - 4.9.2 Failure to provide updated contact information will be a failure to comply with this bylaw and may result in the refusal to allow registration renewal if there is a failure to respond after a reasonable attempt is made to contact the Operator/Owner, Booking Agent or Trustee.
 - 4.9.3 Failure to provide access to properties for inspection or failure to comply with orders to correct deficiencies may result in fines or in the refusal to allow registration renewal. Appeals of these penalties may be made within ten business days to the Stockbridge Board of Selectmen.
- 4.10 In the event that there are three or more violations within a twelve-month period, the right to renew registration may be denied by vote of the Board of Selectmen.

5. Additional Requirements

5.1 The maximum occupancy shall be set at one (1) more than twice the number of bedrooms (e.g., five (5) for a two (2) bedroom unit). In addition to the dwelling's bedroom count as noted in the assessors' records, a space that meets the Title 5 definition of a bedroom may be used for occupants in the STR; provided, however, that in the case of STR properties serviced by a septic system, the maximum occupancy shall not exceed the capacity of the system. All septic systems must be Title 5 compliant and must be inspected and serviced as required by M.G.L. 310 CMR 15.000, with pumping at least once

every three years. Evidence of Title 5 pumping within the past three years must be on file in the Stockbridge Board of Health and filed with the application for a permit.

5.2 A dwelling unit or bedroom offered for STR use shall comply with all standards and regulations promulgated by the Stockbridge Board of Health.

5.3 Commercial meetings and uses are prohibited in short-term rentals.

5.4 The Operator or booking agent of an STR shall keep either paper or electronic records that include the number of occupants present during each rental period. The records must be produced upon demand by the Stockbridge Board of Health, the Board of Selectmen, or either Board's designee and such records must be maintained for two (2) years after the date of the rental.

6. Marketing Information

Each Town registration of a Short-Term Rental shall include a registration number. Any listing offering the STR for rent shall include the Town-issued registration number and the maximum occupancy allowed.

7. Adoption of Regulations

The Board of Selectmen and the Board of Health may adopt and amend regulations in furtherance of the implementation of this bylaw.

8. Penalties

If any Occupant, Operator or Owner violates any provision of this bylaw, the Owner or Operator may be subject to a civil penalty in accordance with the following:

- \$100 1st Offense
- \$200 2nd Offense
- \$300 3rd Offense – and each subsequent offense

Each day that a violation exists constitutes a separate offense.