

# **Town of Medway**

## **General Bylaws of the Town**



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# **GENERAL BYLAWS OF THE TOWN OF MEDWAY**

## **ARTICLE 1**

### **Bylaw Changes and Effectivity**

#### **Section 1.1**

- (a) These Bylaws may be amended or repealed at any town meeting, an article or articles for that purpose having been inserted in the warrant for such meeting.

#### **Section 1.2**

- (a) These Bylaws shall take effect from and after their approval by the Attorney General and publication required by law, and all Bylaws heretofore adopted by the town shall thereupon be repealed.

## **ARTICLE 2**

### **Town Meetings and their Governance**

#### **Section 2.1**

- (a) Election of Town Officers, Primaries and State Elections shall be held in the location(s) designated on the warrant.
- (b) The Annual Election of town officers shall be held on the third Tuesday in May in each year.
- (c) The Annual Town Meeting, except the election of officers, shall be held on the second Monday in May at 7:30 p.m., and if necessary, additional sessions shall be held at 7:30 p.m. on Tuesday, Wednesday, and Thursday of the same week and thereafter as voted, until articles in the Warrant have been acted upon, except that the Annual Town Meeting shall not be adjourned to the third Tuesday in May.
- (d) A special Town Meeting shall be held on the second Monday of November. If the second Monday of November is a state or federal holiday, the Town Meeting shall be held the following day.

#### **Section 2.2**

- (a) All town meetings shall be opened at the hour named in the warrant.

#### **Section 2.3**

- (a) The warrants for all town meetings shall be directed to a constable of the town and voters shall be notified by posting an attested copy of the warrant in town hall, the public library, the main post office and on the town's website.

#### **Section 2.4**

- (a) At any meeting held for the transaction of town business, no person whose name is not on the list of voters shall be admitted to the floor of the hall without the permission of the Moderator, and it shall be the duty of the constables and police officers to enforce this Bylaw, but the same shall not apply to the annual town elections while the voters are casting their ballots.

#### **Section 2.5**

- (a) Fifty or more legal voters shall constitute a quorum for the transaction of business at any special town meeting, except for any change in the zoning Bylaws, for which purpose one hundred or more legal voters shall constitute a quorum, and that one hundred or more legal voters shall constitute a quorum for the annual town meeting.

## Section 2.6

- (a) When a question is under debate, until it is disposed of, no motion shall be received but to adjourn the meeting, to move the previous question, to lie on the table, to commit or recommit, to amend, to refer, or to postpone to a day certain, or to postpone indefinitely, which several motions shall have precedence in the order in which they are herein arranged.

## Section 2.7

- (a) No vote shall be reconsidered at the same meeting, unless ordered by two thirds of the voters present and voting thereon.

## Section 2.8

- (a) Town Meeting votes, duly recorded, may be moved for reconsideration only during the session of the town meeting at which the original vote is recorded, except that if less than one hour of time elapses between the original vote and the official time of adjournment of the town meeting, the difference in minutes between such actual time and one hour's time shall be allowed to carry forward to the adjourned session immediately following.
- (b) The only exception to this Bylaw that shall be allowed is when it is ruled by Town Counsel that the original vote, as recorded, is unlawful according to an existing ordinance or Bylaw of the Town of Medway, or according to statute of the Federal Government, or the General Law of the Commonwealth of Massachusetts.
- (c) Nothing in this Bylaw shall be construed so as to prevent the same article or a similar article from appearing in the warrant of any subsequent town meeting.

## Section 2.9

- (a) The Moderator shall make declaration of all votes passed, and when a question is put, the sense of the meeting shall be taken by the voices of those voting, and the Moderator shall announce the vote as it appears by the sound; but if the Moderator is unable to decide by the sound of the voices, or if the Moderator's announcement made thereupon is doubted by seven voters, rising in their places for the purpose, the Moderator shall order a return of the number voting in the affirmative and in the negative without further debate upon the question, and no motion whatever will be entertained by the chair while verifying a vote. Whenever a vote is doubted and a return of the number voting is ordered, all persons for or against the question, when called on by the Moderator, shall rise in their places and stand until they are counted.
- (b) On matters requiring a two-thirds vote by statute, a standing count need not be taken unless the vote so declared by the Moderator is immediately questioned by seven or more voters rising in their places for that purpose as provided in these Bylaws.

## Section 2.10

- (a) The duties of the Moderator not prescribed by the statutes or by the foregoing Bylaws shall be determined by customary town practices and the general rules of parliamentary law so far as they may be adapted to town meetings.

## **ARTICLE 3**

### **Town Officers and their Duties**

## Section 3.1

- (a) All town officers, whether elected or appointed, shall pay all money belonging to the town, received by them in their respective departments, for the sale of property or from any other source whatsoever, to the Town Treasurer, on or before the fifth day of each month.

### Section 3.2

- (a) No town officer or member of any committee chosen by the town, or any agent of any such office or committee, shall have any pecuniary interest otherwise than in common with the citizens of the town in general, in any contract or bargain made or approved in behalf of the town as an individual, or any board or committee of which this individual is a member, or for which this individual may act as an agent.

### Section 3.3

- (a) If any person appointed as a town officer does not take the oath of office within fifteen days after notice of appointment, the office shall thereupon become vacant and such vacancy shall forthwith be filled by the Select Board or other appropriate appointing authority.

### Section 3.4

- (a) The Select Board shall have the full authority, as agents of the town, to institute and prosecute suits in the name of the Town, and to appear and defend suits brought against it, unless it is otherwise specifically ordered by a vote of the town at a meeting called for that purpose. They shall consider all claims made against the town for damages, or breach of contract, and may, within the advice of counsel, settle the same, provided in no case shall a settlement be so made by a payment of more than twenty-five thousand dollars without a vote of the town.
- (b) The Select Board may accept on behalf of the Town of Medway gifts of land and interests in land for the following purposes: walkway and sidewalk purposes, water and sewer purposes, storm drainage, above and below ground general drainage purposes, for slope maintenance purposes, for purposes of rounding street corners, and for any purpose approved by the Planning and Economic Development Board and shown on a plan approved by the Planning and Economic Development Board under Massachusetts General Laws, Chapter 41, Sections 81K to 81Y inclusive.

### Section 3.5

- (a) The report of the Town Clerk shall show the number of births and marriages in the town during the year, the number of deaths and burials, whether the death occurred in the town or not, the number of licenses for different purposes issued during the year, and the sums received therefore the use of the town. The Town Clerk shall keep a file of all town reports, reports submitted by all committees chosen by the town, and all original documents relating to the affairs of the town which come into the Town Clerk's custody. All such reports and all records of the town in the Town Clerk's custody shall be suitably indexed in a manner convenient for reference and examination.

### Section 3.6

- (a) The Treasurer-Collector shall keep a separate account with each appropriation of money voted by the town, and no money shall be paid out except for the purpose for which it was appropriated. All moneys received by the Treasurer-Collector, not especially appropriated shall be kept in an account of unappropriated funds, to be disposed of as the town may direct.

### Section 3.7

- (a) The Assessors shall publish in 1975 and on each succeeding fifth year thereafter, and whenever at other times the town shall instruct them to do so, the full valuations and tax lists, both real and personal property, assessed within the town or upon which taxes are paid to the town, and each year the usual summary thereof.

### Section 3.8 Solid Waste and Recycling Program

- (a) The Select Board shall be responsible for any municipal solid waste and recycling program, including the operation of a municipal recycling center, if it determines it is in the best interest of the Town to have such a program. Operation of said program shall be managed by the Department of Public Works.
- (b) The Select Board shall annually, between the fifteenth day of April and the Fifth Day of May, designate clean-up week in the town.

### Section 3.9 - Deleted in its entirety 11.12.2023 FTM

### Section 3.10 Finance Committee

- (a) There shall be a Finance Committee consisting of nine registered voters of the town who shall be sworn to the faithful performance of their duties. No elected or appointed town official or town employee, shall be eligible for membership on the Finance Committee.
- (b) Annually not later than the first day of July, an appointment committee as provided for in the town charter shall appoint three members for a term of three years in place of those whose terms shall expire in that year.
- (c) The Finance Committee, acting on behalf of the town residents, shall be responsible for the timely and thorough review of all financial statements, forecasts, and recommendations to be presented in conjunction with warrants for expenditures at the annual town meeting, as authorized under Section 6 of Chapter 2 of the town charter.
- (d) The Committee shall meet, choose its own officers, and adopt such rules and regulations affecting its government as may from time to time are necessary.

### Section 3.11 Design Review Committee

- (a) There shall be a Design Review Committee consisting of at least five members who reside in Medway who shall be sworn to the faithful performance of their duties.
- (b) The Design Review Committee shall be appointed by the Planning and Economic Development Board. Committee members shall serve two year staggered terms, with majority of the first members appointed for a two year term and the remaining initial members appointed for a one year term. Thereafter, each member shall serve for two years or until ~~his~~ the member's successor has been appointed.
- (c) The Design Review Committee shall include one member of the Planning and Economic Development Board and a representative of the Medway Business Council. The remaining members should have experience and/or training in architecture, landscape design, site design, graphic design, sign design, planning, or other suitable professions that could be helpful to the Committee's work.
- (d) Responsibilities of the Design Review Committee
  1. Assist and advise the Planning and Economic Development Board, its applicants, and other town boards as may request such assistance, with regard to applications for subdivisions, site plans, special permits, sign permits, scenic road work permits, and other development proposals. The Design Review Committee's recommendations are advisory and may include suggestions for modifications to proposed designs and conditions for approval of development proposals.
  2. Assist and advise the Planning and Economic Development Board regarding possible amendments to the Medway Zoning Bylaw and various Rules and Regulations.

3. Continue to promote and improve the use of the Medway Design Guidelines; recommend changes and improvements to the Medway Design Guidelines.
  4. Assist and advise the Planning and Economic Development Board in other design related issues as may be specified by the Medway Zoning Bylaw or other Town bylaws or as requested by the Planning and Economic Development Board.
  5. Advocate for good design in municipal programs and capital projects.
- (e) In performing its work, The Design Review Committee shall be guided by the Medway Master Plan and by Design Guidelines to be developed by the committee and adopted and published by the Planning and Economic Development Board after a duly called and advertised public hearing. The Planning and Economic Development Board may amend the Design guidelines from time to time after a duly called and noticed public hearing in accordance with customary Planning and Economic Development Board practice.

### Section 3.12 Open Space Committee

- a) There shall be established an Open Space Committee consisting of at least five but not more than nine voting members who reside in Medway who shall be sworn to the faithful performance of their duties.
- b) The Open Space Committee shall be appointed by the Planning and Economic Development Board. Committee members shall serve two year staggered terms, with the majority of the first members appointed for a two year term and the remaining initial members appointed to a one year term. Thereafter, each member shall serve for two years or until a successor has been appointed.
- c) The membership shall consist of individuals with experience, training or a dedicated interest in open space preservation, land planning, conservation, real estate acquisition, mapping, fundraising, communications and such other professions as could be helpful to the Committee's work.
- d) Duties – The Open Space Committee shall have the following responsibilities and duties:
  1. Assist and advise the Planning and Economic Development Board, its applicants, and other Town boards/committees and departments as may request such assistance with regard to the review of applications for land development permits with the goal of securing open space areas for the community.
  2. Serve as an information source and advocate for the acquisition of land for conservation, open space, recreation and related purposes and make recommendations for its purchase.
  3. Update and implement of Medway's Open Space Plan pursuant to Massachusetts Department of Conservation and Recreation guidelines.
  4. Maintain an open space inventory.
  5. Work with Medway residents, Town departments/boards/committees, state and federal officials and agencies, and private non-profit land conservation organizations to further the preservation of Medway's open space resources.
  6. Encourage philanthropy and private efforts to preserve open space.
  7. Develop community education programs and communication tools regarding the value and use of open space areas.
- e) The Open Space Committee shall choose its own officers and may adopt rules of procedure regarding its functioning and operation.
- f) In performing its work, the Open Space Committee shall be guided by the Medway Master Plan and the Medway Open Space and Recreation Plan.

### Section 3.13 Medway Affordable Housing Trust

- (a) Authority/Establishment - Pursuant to the authority of Massachusetts General Laws chapter 44 section 55C, there is hereby created a local municipal affordable housing trust fund to be known as the Medway Affordable Housing Trust (hereinafter: "Trust").
- (b) Purposes - The purposes of the Trust shall be to:
1. Receive, hold, invest, and/or expend funds for research, acquisition, construction, rehabilitation, renovation, repair, maintenance, financing or refinancing of property within the Town of Medway so that such property will be substantially available as affordable housing for low and moderate income households and to further provide mechanisms to ensure such use; and
  2. Utilize funds for temporary consulting services including but not limited to engineering and legal fees that allow the Town of Medway to provide or preserve real property in the Town so that such property will be substantially available as affordable housing for low and moderate income households and to further provide mechanisms to ensure such use.
- (c) Powers and Duties – The Trust shall have the responsibility to support the creation and preservation of affordable housing in order to secure rental and home ownership opportunities for the community's low and moderate income households. The Trust shall have the powers and duties specified in Massachusetts General Laws chapter 44 section 55C provided that it shall have no ability to borrow money, or mortgage or pledge Trust assets without prior Town Meeting approval. It shall have the following additional powers and duties:
1. To establish criteria and/or qualifications for recipients and expenditures in accordance with the Trust Fund's above stated purposes.
  2. To employ consultants and full or part-time staff, and to contract for administrative and support good and services.
- (d) Source of Funds – As a means of providing available assets for the Trust, all monies received by the Town through the following means shall be paid over to and become a part of the fund for the purposes set forth herein.
1. Cash payments made by developers to the Town under applicable provisions of the Medway Zoning Bylaw in lieu of affordable dwelling unit set asides and developer agreements made under Section 14 of Chapter 716 of the Acts of 1989.
  2. Funds authorized by Town meeting for community housing purposes under chapter 44B of Massachusetts General Laws, the Community Preservation Act.
  3. Public and private gifts, grants, donations, contributions or other cash payments made to and accepted by the Town for the purpose of providing low and moderate income housing.
  4. Monies obtained through fines, restitution or damages collected in connection with the administration of any local affordable housing bylaw.
  5. Any other source of revenue determined by Town Meeting, as allowed by law.
- (e) Composition – The Trust shall have at least five Trustees at all times. The Trustees shall be appointed by the Select Board. At least one of the Trustees shall be a member of the Select Board and one shall be a member of the Affordable Housing Committee. In making appointments, the Select Board shall endeavor to provide a broad based membership including affordable housing advocates, legal, banking, financial, and real estate professionals, and other members of the local business community.
- (f) Term of Office – The Trustees shall serve a term of two years except that one half of the initial Trustee appointments shall be for a term of one year, or until such time as a successor is appointed, should said appointment be delayed.
- (g) Organization – The Trustees shall annually elect one Trustee to serve as Chairperson. The Chairperson may establish sub-committees and/or ad hoc task related committees to carry out the purposes of the Trust. Chairpersons of the sub-committee may be selected by the members of the sub-committees.



- (h) Filling of Vacancies – In the event of a vacancy in the position of Trustee, the appointment shall be made in the same manner as the original appointment.
- (i) Meetings/Quorum – Meetings of the Trust Fund shall be held on a regular basis. Special meetings may be called by the Chairperson or by any two Trustees. Notice of any meeting of the Trust Fund shall be filed with the Town Clerk and posted in accordance with Massachusetts General Laws chapter 39, section 23, the Open Meeting Law. A majority of the number of appointed members shall constitute a quorum and shall be required to approve any motion.
- (j) Treasurer-Collector as Custodian – The Medway Treasurer-Collector shall be the custodian of the Trust’s funds and shall maintain separate accounts and records for said funds. The Treasurer-Collector shall invest the funds in the manner authorized by sections 55, 55A and 55B of chapter 44 of the Massachusetts General Laws. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust.

#### Section 3.14 Affordable Housing Committee

- (a) There shall be established a Medway Affordable Housing Committee consisting of at least five individuals who reside in Medway who shall be sworn to the faithful performance of their duties.
- (b) The Affordable Housing Committee will work proactively toward the creation of more affordable housing opportunities in the community. The Committee will have the following duties and responsibilities:
  1. Serve as a resource on all issues relating to affordable housing in the Town of Medway for the Town’s elected officials, appointed boards and the community at large.
  2. Develop and advocate for the establishment of affordable housing programs and opportunities, working to implement the affordable housing recommendations of the Medway Master Plan and other community housing plans.
  3. Develop and recommend changes to Town bylaws and regulations to implement initiatives to encourage more affordable housing in Medway.
  4. Establish standards of eligibility for affordable housing in Medway; assist with lotteries.
  5. Recommend to the Community Preservation Fund Committee the use of Community Preservation Act funds for affordable housing purposes.
  6. Assist and advise the Planning and Economic Development Board, the Zoning Board of Appeals and other town boards as may request such assistance with regard to development applications which include affordable dwelling units. The Committee’s recommendations are advisory and may include suggestions for modifications to proposed designs and conditions for approval of development plans.
  7. Conduct research and periodically update community affordable housing plans.
  8. Increase public awareness of the need for affordable housing.
  9. Identify local, state and federal housing resources available to Medway.
  10. Advocate for state and federal legislation and regulations that advance the provision of affordable housing in Medway.
  11. Perform such other duties as the Select Board and/or Planning and Economic Development Board may determine in response to the need for affordable housing in Medway or as may be specified by the Medway Zoning Bylaw or other Town Bylaws.
- (c) The Affordable Housing Committee shall be appointed by the Select Board. Committee members shall serve two year staggered terms with the majority of the first members appointed for a two year term and the remaining initial members appointed for a one year term. Thereafter, each member shall serve for two years or until the member’s successor has been appointed.

- (d) The Affordable Housing Committee shall be comprised of individuals who have experience and/or training in real estate development and finance, construction, non-profit housing development, program administration, planning, real estate, human services, law, or other suitable professions that could be helpful to the Committee's work. The Committee should include at least one Medway resident who lives in an affordable dwelling unit. Associate members may also be appointed to the Affordable Housing Committee as liaisons from other Town boards/committees/departments or Medway housing agencies/organizations involved in affordable housing.

### Section 3.15 Economic Development Committee

- (a) There shall be a Medway Economic Development Committee (EDC) consisting of at least five but not more than eleven individuals who reside or work in Medway who shall be sworn to the faithful performance of their duties.
- (b) The Economic Development Committee will work proactively to promote, encourage and facilitate the development of responsible and properly planned business and industrial growth within the community in order to expand and strengthen the local economy and diversify the community's tax base. The Committee may undertake any of the following activities to accomplish this mission:
  - 1. Serve as a resource on matters relating to economic development in the Town of Medway for the Planning and Economic Development Board and other Town officials and the community at large.
  - 2. Develop and advocate for the establishment of economic development initiatives working to implement the economic development recommendations of the Medway Master Plan.
  - 3. Cooperate with interested private concerns, civic or community economic development organizations/associations and with regional state and federal agencies in the attraction of new industry and in the encouragement of expansion of existing industries and businesses.
  - 4. Conduct research and assemble information pertaining to economic resources, labor market, industrial site and development opportunities; develop and publish booklets, brochures, and pamphlets to promote Medway locations for economic investment.
  - 5. Establish and maintain economic development information for the web sites of the Town and allied economic development agencies.
  - 6. Develop and recommend changes to Town bylaws and regulations to implement initiatives to encourage economic development in Medway.
  - 7. Assist and advise the Planning and Economic Development Board, the Zoning Board of Appeals and other town boards as may request such assistance with regard to development applications. The Committee's recommendations are advisory and may include suggestions for modifications and conditions for approval of development proposals.
  - 8. Initiate and periodically update economic development plans.
  - 9. Increase public awareness of the need and importance of community economic development
  - 10. Identify local, state and federal economic development resources available to Medway.
  - 11. Advocate for state and federal legislation and regulations that advance the economic development in Medway.
  - 12. Perform such other duties as the Planning and Economic Development Board may determine in response to the need for economic development in Medway or as may be specified by the Medway Zoning Bylaw or other Town bylaws.
- (c) The Economic Development Committee shall be appointed by the Planning and Economic Development Board. EDC members shall serve two year staggered terms with the majority of the first members

appointed for a two year term and the remaining initial members appointed for a one year term. Thereafter, each member shall serve for two years or until the member's successor has been appointed.

- (d) The Economic Development Committee shall be comprised of individuals who have experience and/or training in industrial and commercial real estate development, brokerage, site selection, banking, finance, marketing, business development, site construction/infrastructure development, technology or other suitable professions that could be helpful to the Committee's work. A member of the Planning and Economic Development Board shall serve on the Economic Development Committee.

### Section 3.16 Agricultural Committee

- (a) There shall be established a Medway Agricultural Committee consisting of at least five and no more than nine individuals.
- (b) The mission of the Medway Agricultural Committee is to encourage the pursuit of agriculture in Medway by working to preserve, revitalize and sustain Medway's agricultural enterprises, rural character and farming traditions. The Committee may undertake any of the following activities to accomplish this mission:
  - 1. Act as a spokesperson on behalf of the Medway farming community.
  - 2. Advise the Town's elected officials, appointed boards/committees, Town staff and the community at large, by request or on its own initiative, on issues, projects and activities relating to agricultural lands and farming in the community, including land acquisitions and other land transactions. Develop, propose and comment on warrant articles, Town policies and procedures, and rules & regulations from the perspective of advocating and promoting agriculture concerns. This advice may include the presentation of oral or written testimony at public meetings and hearings before any Town Board or Committee.
  - 3. Serve as representatives, advocates, educators, facilitators and/or mediators in the resolution of disputes relating to agricultural issues within the community. Any such recommendations shall be advisory and any such agreements are entered into voluntarily by the parties involved.
  - 4. Promote and support agricultural based economic opportunities in the community.
  - 5. Pursue initiatives appropriate to creating, retaining, and sustaining an agricultural community in Medway including but not limited to farm based recreational activities and agritourism opportunities.
  - 6. Work to preserve, protect and improve private and public agricultural lands and resources.
  - 7. Engage in projects and activities to promote farming including educational programs and special community events.
  - 8. Perform such other duties as the Select Board may determine in response to the need to encourage agriculture in Medway or as may be authorized by other Town bylaws.
- (c) The Agricultural Committee shall be appointed by the Select Board following an active recruitment process. Committee members shall serve three year staggered terms with one-third of the first members appointed for a three year term, one-third for a two year term and the remaining initial members appointed for a one year term. Thereafter, each member shall serve for three years or until the member's successor has been appointed. Vacancies shall be filled by the Select Board. The Committee may make recommendations for persons to fill vacancies on the Committee. To maintain the staggered cycle of terms, appointments to fill vacancies shall be based on the unexpired term of the open position.
- (d) Members of the Agricultural Committee shall either reside in the community or own agricultural property in Medway. A majority of the Agricultural Committee members shall be actively engaged in the business of farming or related agricultural industries. The remaining members shall have a background, expertise, or a demonstrated interest in or an affinity for farming and agricultural traditions. Non-voting associate members who are supporters or friends of Medway farming and agriculture may also be appointed for one year terms.

### Section 3.17

The Board of Assessors shall accept applications for exemptions to the Community Preservation Act tax during the same period as other personal exemption applications in accordance with Massachusetts General Law Chapter 59, Section 5, Clause 18A.

## **ARTICLE 4** **Fire Department**

### Section 4.1

(a) There shall be established a Fire Department, the Fire Department to be under the direction of a Fire Chief, who will act as Forest Warden, appointed by the Town Manager, and shall serve until removed for just cause, resigns or retires. The Fire Chief shall receive a salary, as the Town Manager may from time to time determine, not exceeding the annual amount appropriated therefore. The Fire Chief shall have charge of extinguishing fires in the town and the protection of life and property in case of fire, purchase, subject to the approval of the Town Manager, and keep in repair all property and apparatus used for and by the Fire Department, and have and exercise all the powers and discharge all the duties conferred or imposed by this bylaw. The Town Manager shall appoint Deputy Chiefs and such officers and firefighters from a list of applicants as needed, and may remove the same at any time for just cause and after a hearing subject to the authority of the Town Manager. The Fire Chief shall have full authority in the administration of the Fire Department, shall enforce all rules and regulations for its operation, shall report to the Town Manager from time to time as the Town Manager may require, and shall annually report to the town the condition of the Department and professional recommendations thereon. The Fire Chief shall fix the compensation of the Call members of the Fire Department subject to the approval of the Town Manager. In the expenditure of money the Fire Chief shall be subject to such further limitations as the town may impose from time to time.

### Section 4.2

Any call firefighter of the Medway Fire Department must be a resident of the Town of Medway or a municipality which is contiguous to the Town of Medway.

### Section 4.3

The Chief shall have the power to modify, delete, or add to the written rules and regulations of the Department. All Department rules and regulations shall be approved by the Town Manager and Town Counsel. Each member of the Department shall receive a copy of the Department Rules and Regulations as shall the Select Board, Town Counsel, Town Manager and Town Clerk.

### Section 4.4

All "Just Cause" hearings for removal will be held before the Town Manager.

### Section 4.5

**4.5.1 Definitions** When used in this bylaw, unless a contrary intention clearly appears, the following words shall have the following meanings:

(a) "Central Station Operating Company" A company equipped to receive a fire alarm signal from each of its customers and which then transmits to the Medway Fire Dispatch the location of any such alarm the central station operating company receives.

(b) "Fire Alarm System" any heat activated, smoke activated, flame energy activated or other such automatic device capable of transmitting a fire alarm signal to either a central station operating company or directly to the Medway Fire Dispatch by way of a master box.

(c) "Fire Alarm System -Malfunction" The transmittal of a fire alarm to a central station operating company or directly to the Medway Fire Dispatch by way of a master box which alarm is caused by improper installation of a fire alarm system, a mechanically defective fire alarm system, lack of maintenance or some other reasons that caused a fire alarm to sound even though there is no actual fire or situation that reasonably could evolve into a fire.

(d) "Fire Alarm System Owner" An individual or entity who owns the title to and/or has on a business or residential premises a fire alarm system equipped to send a fire alarm signal to a central station operating company or directly to the Medway Fire Dispatch by way of a master box.

(e) "Fire Chief" The Chief of the Medway Fire Department.

(f) "Master Box Owner" An individual or entity who has on a business or residential premises a fire alarm system equipped to send a fire alarm signal directly to the Medway Fire Dispatch by way of a master box, which is a municipal fire alarm box.

#### 4.5.2 Connection of Fire Alarm Systems to the Medway Fire Department by way of a Master Box.

(a) Before any fire alarm system is connected to the Medway Fire Dispatch the master box owner shall provide the Fire Chief with the following information:

(1) The name, address, home and work telephone numbers of the master box owner.

(2) The street address where the master box is located.

(3) The names, addresses and telephone numbers of the persons or businesses protected by the fire alarm system connected to the master box.

(4) The names, addresses, home and work telephone numbers of at least two (2) persons other than the owner who can be contacted twenty-four (24) hours a day, who are authorized by the master box owner to respond to an alarm signal and who have access to the premises in which the master box is located.

(5) The name and address of the owner's insurance provided.

(6) Such other information as the Fire Chief may require.

(7) Any building with a fire alarm system which reports either directly by master box, or by a central station monitoring company, shall be equipped with a key access box that is approved by the Medway Fire Chief. The key access box shall contain all the keys requested by the Medway Fire Chief. When locks are changed at the building, the Medway Fire Chief shall be contacted immediately and new keys shall be placed in the key access box.

(b) If at the passage of the Bylaw, a fire alarm system has already been connected to the Medway Fire Dispatch by way of a master box, the master box owner shall comply with the requirements of this section within sixty days after the Medway Fire Dispatch has sent him notice by first class mail of the requirements of this Section.

(c) If a master box owner fails to comply with this section, the Fire Chief may assess a fine of fifty dollars for the first offense, one hundred dollars for the second offense, and three hundred dollars for each and every subsequent offense.

#### 4.5.3 Connection of Central Station Operating Companies to the Medway Fire Department

(a) Every business utilizing a central station operating company which has a direct connection on the effective date of this Bylaw to the Medway Fire Dispatch shall pay the following fees: annual fee \$200.00.

(b) Before any central station operating company is connected with the Medway Fire Dispatch, it shall provide the Fire Chief with the following information:

(1) The name, address and telephone numbers of the central station operating company.

- (2) The names, addresses, home and work telephone numbers of at least two persons who can be contacted twenty-four hours a day, who are authorized by the central station operating company to respond to an alarm signal and who have access to the premises from where the alarm signal is emitting to the central station operating company.
  - (3) The names, addresses, home and work telephone numbers, and location of the premises of each customer of the central operating company who has a fire alarm system equipped to send a fire alarm signal to the central station operating company.
  - (4) The name and address of the owner's insurance provider.
  - (5) Such other information as the Fire Chief may require.
- (c) If at the passage of this Bylaw, a central station operating company already has a direct connection to the Medway Fire Dispatch, the central station operating company shall comply with the requirements of this section within sixty days after the Medway Fire Dispatch has sent its notice by first class mail or the requirements for this section.
- (d) If a central station operating company fails to comply with this section, the Fire Chief may assess a fine of fifty dollars for the first offense, one hundred dollars for the second offense, and three hundred dollars for each and every subsequent offense.

#### 4.5.4 Updating Information

- (a) Every master box owner and every central station operating company shall be responsible for updating the information herein required to be provided to the Chief. If the information provided changes, the master box owner and the central station operating company shall provide the Fire Chief with the updated information and shall pay the fee, if any required by the Bylaw.
- (b) If a master box owner or a central station operating company fails to comply with this section, the Fire Chief may assess a fine of fifty dollars for the first offense, one hundred dollars for the second offense, and three hundred dollars for each and every subsequent offense.

#### 4.5.5 Fire Alarm System Malfunctions-Fines

- (a) If there is a fire alarm system malfunction, as defined herein, the Fire Chief may assess a fine against a fire alarm system owner for each malfunction per fiscal year according to the following schedule:
- (1) First through third malfunction: no charge.
  - (2) Upon the recording of the third false alarm by the Fire Department, the Fire Chief shall notify the owner of the fire alarm system, in writing, and by certified mail, of such fact, and at that time inform the owner of the department's policy at this time.
  - (3) Each malfunction after the third: three hundred dollars.
- (b) Private fire alarm systems connected to the Medway Fire Department by other automatic means or through a central station system shall be subject to the above conditions and fines.
- (c) Any false alarm which is a result of the failure of the property owner, occupant or their agents to notify the Medway Fire Department of repair, maintenance, or testing of the internal fire alarm system within the protected premises, shall cause a penalty to be assessed in accordance with (1) and (2) above.
- (d) For the purpose of this regulation, a false alarm shall be defined as follows:
- (1) The operation of a faulty smoke or heat detection device.
  - (2) Faulty control panel or associated equipment.
  - (3) Accidental operation of an automatic sprinkler system.

(4) An action by an employee of the owner or occupant of the protected premises or a contractor employed by the owner or occupant, causing accidental activation of the internal fire alarm system.

(5) This section shall not apply to panel trouble signal received as a result of power failures or other actions out of the control of the building or business owner.

(e) Property owners will be billed once a month for the previous month's malfunction activity. All fines assessed shall be paid to the Town Treasurer/Collector for deposit in the general fund.

(f) If the bill is not paid within thirty days, a second notice will be sent; if the bill is not paid after another thirty day period, a final notice will be sent informing the owner and/or occupant that the master box will be disconnected and the insurance company notified.

#### 4.5.6 Restrictions of Tape Dialers and Similar Automatic Telephone Devices

(a) No fire alarm system shall be equipped with a tape dialer or similar automatic telephone device which will transmit an alarm message to any telephone lines directly to the Medway Fire Dispatch. If, at the passage of this Bylaw, a fire alarm system is equipped with such a tape dialer or similar automatic telephone device, the fire alarm system owner shall have sixty (60) days, following the approval of this Bylaw by the Attorney General, to disconnect such tape dialer or similar automatic telephone device. If a fire alarm system owner fails to comply with this section, the Fire Chief may assess a fine of fifty dollars.

#### 4.5.7 Appeal Procedure

(a) Any fire alarm system owner who is aggrieved by an action taken by the Fire Chief under this Bylaw may, within ten days of such action, file an appeal, in writing, with the Select Board of the Town of Medway (the board). After notice the Board shall hold a hearing, after which it shall issue a decision in which it affirms, annuls or modified the action taken by the Fire Chief giving its reasons therefore. The Board shall send its decision to the owner by first class mail within ten days after the hearing. The decision of the Board shall be a final administrative decision.

#### 4.5.8 Regulations and Enforcement

(a) The Fire Chief may promulgate such regulations as may be necessary to implement this Bylaw. The Fire Chief is authorized to pursue such legal action as may be necessary to enforce this Bylaw.

#### 4.5.9 Deposit in the General Fund

(a) All fines assessed herein shall be payable to the Town of Medway for deposit in the General Fund.

### **ARTICLE 5** **Water Department**

#### Section 5.1 Director of Public Works Annual Report

(a) The Director of Public Works shall annually, before the last day of January, present to the Select Board a report made up to and including the last day of December preceding for the year ending the last day of December, containing a statement of the condition of the municipal water system and of the land and other property connected therewith, and any information or suggestion which the Director may deem important.

#### Section 5.2 Hydrants

(a) It shall be the duty of the Department of Public Works to keep the hydrants of the town in good working order and readily accessible at all times.

### Section 5.3 Public Ways

- (a) Department of Public Works shall have the right, with the approval of the Select Board Town Manager, to excavate in any public way for the purpose of laying, removing, repairing or obtaining access to water pipes and connections thereto, and on completion of this work shall immediately cover same and place the way in substantially the same condition which existed before said excavation was undertaken. The Department of Public Works shall cause said excavations to be suitably guarded at all times by proper safety barriers.

## **ARTICLE 6** **Council on Aging**

### Section 6.1

- (a) The Select Board shall appoint a Council on Aging for the purpose of coordinating or carrying out programs for the aging.

### Section 6.2

- (a) The Select Board shall appoint the Council of Aging consisting of nine members. Upon acceptance of the Bylaw, the Board shall appoint three members for three years, three members for two years, and three members for one year. Members can be reappointed. The members of the Council shall serve without pay.

### Section 6.3

- (a) Whenever a vacancy shall occur in the membership of the Council by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled by appointment by the Select Board for the remainder of the term.

### Section 6.4

- (a) The Council of Aging at its first annual meeting and thereafter annually in June of each year, shall elect from its membership a Chair, Vice Chair, Secretary and Treasurer. Each officer shall hold office until the next annual election. In the event a vacancy occurs in any of the offices above, the Council shall elect one of its members to fill such vacancy.

### Section 6.5

- (a) The Council shall prepare and submit an annual report of its activities to the town.

## **ARTICLE 7** **Capital Improvement Committee**

### Section 7.1

There shall be established a Capital Improvement Committee which shall perform the duties set forth in the following sections of this Bylaw and shall be governed by the provisions thereof. Said Committee shall consist of five registered voters of the town and shall be appointed as provided in the following sections.

### Section 7.2

The Select Board shall appoint the five members of the Committee.

### Section 7.3

The Select Board shall appoint or reappoint members for a three year term unless filling an unexpired term.



#### Section 7.4

Whenever a vacancy occurs on the Committee it shall be filled by the Select Board. Any person appointed to fill a vacancy shall hold office for the unexpired term of the person succeeded.

#### Section 7.5

- (a) For the purpose of this Bylaw, a capital improvement or project is a physical betterment or item of equipment having a substantial useful life and a total cost that exceeds \$10,000.00. It can be more specifically defined as:
- (1) An expenditure, financed in whole or in part by town funds, enterprise funds and grant monies for the construction, reconstruction, replacement, major repair, extension, or other improvement of public buildings, highways, sidewalks, storm drains, sewerage installations, playgrounds, parks, or like public works, or for a facility, structure, or a utility appurtenant to any of them.
  - (2) An expenditure, similarly financed for the purchase of land, an item of equipment, buildings, or structures.
- (b) Briefly, capital expenditures are made in order to provide, replace, or improve the facilities that furnish services to the public.

#### Section 7.6

- (a) The Committee shall ascertain annually what capital outlays will be required by the town during the subsequent five years. In making this determination it shall consult with the town, county and state officials, and with other boards and committees of the town as needed. It shall publish an annual report with the Town of Medway annual Finance Committee report and with the annual Town Report and such other reports as it deems advisable and shall include in such reports its recommendations for the scheduling of capital outlays and for the financing of such outlays as in its judgement cannot, or should not, be paid for entirely out of current revenues. The Committee shall assist the Town Meeting with regard to priorities of projects, financing costs, impact of recommended projects on the operating budget, and other related matters.

#### Section 7.7

- (a) Department heads and chairs of all boards, commissions, and committees of the town, (elected or appointed) shall, not later than December 1<sup>st</sup> of each year, submit to the Capital Improvement Committee recommendations and statements of needs and/or proposed plans involving capital outlay requirements for the ensuing three years.

#### Section 7.8

- (a) All projects approved at the annual town meeting following the Capital Improvement Committee's recommendations will be overseen by the Town Manager as the Town's Chief Procurement Officer, funds for which shall be set aside and released by the Town Manager only after proper documentation has been submitted indicating the work is complete or the purchase has been made in accordance with the intent of the Capital Improvement Committee and the voters at the annual town meeting.

### **ARTICLE 8** **Cemetery Trust Funds**

#### Section 8.1

- (a) All moneys deposited with the Town Treasurer for the perpetual care of cemeteries or cemetery lots shall be invested in accordance with law, by the Treasurer with the approval of the Select Board. There shall be a board of three cemetery commissioners appointed annually by the Select Board, two of whom shall be trustees of cemeteries in the town, and the said commissioners shall have charge of expending the income of the said

funds. Said commissioners shall annually report in writing all receipts and expenditures during the preceding year, and same shall be printed in the annual town report.

## **ARTICLE 9**

### **Trade in Junk, Old Metals and Second-Hand Articles**

#### **Section 9.1**

- (a) The Select Board may license suitable persons to be dealers in and keepers of shops for the purchase, sale, or barter of junk, old metals or second-hand articles, subject to the provisions of the General Laws, and may revoke such licenses at pleasure.

## **ARTICLE 10**

### **Removal of Earth Products**

#### **Section 10.1**

- (a) The removal from any premises of more than three cubic yards of sod, loam, sand, or gravel in any one year shall be prohibited except when incidental to and in connection with the construction of a building under a permit issued by the Building Commissioner or the construction of streets shown on the profile of a subdivision plan approved by the Planning and Economic Development Board or any other activity authorized by this Bylaw. Provided, however, that a use of premises for the excavations or removal of sand and gravel existing at the time of the adoption of the Bylaw can be continued and extended throughout the premises. Opening of new sand or gravel pits may be authorized by the Select Board provided such excavations are not harmful or detrimental to the neighborhood. Removal of topsoil other than specifically permitted in this Bylaw is classified as stripping and is prohibited.

#### **Section 10.2 Earth Removal Regulations**

##### **(a) Permit Required.**

- (1) No soil, loam, gravel, sand or other earth materials shall be removed from any lot within the town unless such removal will constitute an exempt operation as hereinafter provided or is done pursuant to a permit therefor issued by the Select Board.
- (2) No permit for the removal of earth materials shall be granted unless the Board finds that the operations conducted under such permit, subject to the conditions imposed thereby, will not be contrary to the best interest of the town. For this purpose, an operation shall be considered contrary to the best interests of the town:
  - (a) Will be injurious or dangerous to the public health or safety;
  - (b) Will produce noise, dust or other effects observable from adjacent property in amounts seriously objectionable or detrimental to the normal use of adjacent property;
  - (c) Will result in change in topography or cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted;
  - (d) Will have a material adverse effect on the water supply, health or safety of persons living in the neighborhood or on the use of or amenities of adjacent land.

##### **(b) Application and Reference to Select Board**

- (1) Each application for a permit for earth material removal shall be accompanied by a plan (the exact size and number of copies of which may be indicated by rule of the Select Board) prepared at the expense of the applicant by a registered land surveyor or civil engineer, showing:
  - (a) The existing contours of the land every five feet;
  - (b) The contours as proposed after completion of the operation every five feet;

- (c) The proposed lateral support at all adjacent property;
- (d) The proposed drainage including calculations;
- (e) Other information necessary to indicate the complete physical characteristics of the proposed operation.

(c) Conditions of Permit.

- (1) In granting a permit hereunder, the Select Board shall impose reasonable conditions specially designed to safeguard the neighborhood and the town, which may include conditions as to;
  - (a) Method of removal;
  - (b) Type and location of temporary structures;
  - (c) Hours of operation;
  - (d) Area and depth of excavation;
  - (e) Distance of excavation to street and lot lines;
  - (f) Steepness of slopes excavated;
  - (g) Re-establishment of ground levels and grades;
  - (h) Provisions for temporary and permanent drainage;
  - (i) Disposition of boulders and tree stumps;
  - (j) Replacement of loam over the area of removal;
  - (k) Planting of the area to suitable cover, Including shrubs and trees;
- (2) Cleaning, repair and/or resurfacing of streets used in removal activities which have been adversely affected by the removal activity.
- (3) No permit for removal of earth material shall be issued for a period of more than three years, although such permit may be renewed for additional periods in the same manner. The Board shall require a bond or other security to insure compliance with its conditions of authorization, unless, in a particular case, it specifically finds that such security is not warranted and so states in its decision, giving the reason for its finding.

(d) Other exceptions.

- (1) The removal of earth material in any of the following operations shall be an exempt operation:
  - (a) The removal of less than three cubic yards in the aggregate in any year from any one lot.
  - (b) The transfer of material from one part of a lot to another part of the same lot.
  - (c) The removal of material necessarily excavated in the lawful construction of a building or structure, driveway, sidewalk or path or other appurtenances incidental to any such building or structure, provided that the quantity of material removed does not exceed that actually displaced by the portion of the building, structure, driveway, sidewalk or path below finished grade.
  - (d) Permits in proposed subdivisions.

(1) It is the intent of the bylaw that the removal of the earth materials in an amount in excess of that permitted in paragraph (d.1.a) above from any parcel of land for which a definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the town. Consequently, approval of a subdivision plan by the Planning and Economic

Development Board shall not be construed as authorizing the removal of material in excess of three cubic yards from the premises.

## **ARTICLE 11**

### **Repairs to Private Ways**

#### **Section 11.1**

- (a) The Select Board may cause temporary repairs to be made on private ways in the town provided that the following conditions are met:
- (1) The type and extent of said temporary repairs shall include only the filling of holes or depressions in the subsurface of such ways with sand, gravel or other suitable materials where practical to be the same as or similar to those used for the existing surface of such ways and grading but shall not include surfacing or permanent construction of said ways. The scope of the work which can be performed will be no change in the character of the way and no permanent expansion or improvement therein.
  - (2) Existing drainage, when determined by the Select Board to be the cause of the need for such repairs, may be included within the scope of temporary repairs.
  - (3) A determination is made by vote of the Select Board that public necessity requires such repairs.
  - (4) Such repairs can be only made upon petition by the abutters who own seventy-five percent of the linear footage of such total way.
  - (5) Betterment charges may be assessed.
  - (6) The town, its officers, agents and employees, in making repairs under this Bylaw shall not be liable on account of any damage caused by such repairs. Said repairs shall not be undertaken unless the Select Board has in its possession agreements executed by all the abutting owners of the affected area to release and save the town, its officers, agents and employees, harmless on account of any damage whatever caused by such repairs. Such agreements to release and save harmless shall be recorded in the Registry of Deeds and shall be deemed to be covenants running with the land and shall be binding upon all subsequent owners thereof.
  - (7) Said private ways shall have been opened to public use for three years or more.
  - (8) No cash deposit shall be required for said repairs.

## **ARTICLE 12**

### **Fire Lanes**

#### **Section 12.1 Definitions**

**Building Size.** For the purpose of this ordinance building size refers to the building “footprint” or area of the lot that the building covers.

**Fire Lane.** For the purpose of this ordinance, a fire lane is a road, path or other passageway developed to allow the passage of fire apparatus. A fire lane will be a minimum of twenty feet in width with the road edge closest to the building at least ten feet from the building. Fire lanes shall be constructed of a hard all weather surface adequately designed to support at least seventy five thousand pounds. Fire lanes shall consist of hard surfaces that shall be maintained in all weather.

#### **Section 12.2 Power To Designate Fire Lanes**

Fire lanes shall be designated by the Chief of the Medway Fire Department or the Chief’s designee. The owner of any property on which a fire lane has been so designated shall be required to create the required fire lane within such time as shall be set in notice to the owner by the Fire Chief or the Chief’s designee.

#### **Section 12.3 Fire Lane Requirements**

All new and existing commercial or residential buildings not including single family homes greater than five thousand square feet in size located within the Town of Medway shall be accessible on at least two sides by the use of fire lanes.

All new and existing commercial buildings greater than twenty thousand square feet in size located within the Town of Medway shall be accessible on at least three sides by the use of fire lanes.

All new and existing commercial buildings greater than forty thousand square feet in size located within the Town of Medway shall be accessible on at least four sides by the use of fire lanes.

At least one required fire lane shall lead directly to the emergency access point of the building as determined by the Chief of the Fire Department, and at least one fire lane shall lead to the sprinkler or standpipe connection if the building is so equipped.

#### Section 12.4 Parking Prohibited

No parking shall be allowed within the boundaries of any fire lane or within twenty feet of emergency access points to buildings, or fire hydrant, sprinkler or standpipe connections. All fire lanes, emergency access points to buildings, fire hydrants, sprinkler connections and standpipe connections shall be kept clear and unobstructed at all times.

#### Section 12.5 Posting of Fire Lanes

All fire lanes, emergency access points to buildings, and access to sprinkler and standpipe connections shall be clearly marked and posted with the words "FIRE LANE - NO PARKING - TOW AWAY ZONE." These markings will consist of painted lines and wording directly on the surface of the fire lane and clearly distinguishable from other markings. Letters are to be at least six inches in height and uniform in height and width. Signs reading "FIRE DEPARTMENT CONNECTION - NO PARKING - TOW AWAY ZONE" shall be posted above all Fire Department connections. Letters are to be at least three inches in height and uniform in height and width.

#### Section 12.6 Variances

The Chief of the Fire Department may authorize, upon application, in specific cases of hardship, variances in the application of the terms of this ordinance. In case of such application, the Chief shall give a written decision to the applicant. The applicant shall have ten days from the date of that decision to appeal the Chief's decision to the Board of Selectmen.

#### Section 12.7 Penalty For Violation

The owner of any building who fails or refuses to comply with the requirements of this ordinance shall be punished by a fine of not more than one hundred dollars to be recovered to the use of the town, and each day any violation of the ordinance continues shall constitute a separate offense.

Any motor vehicle or other property which obstructs any fire lane, emergency access to a building or a sprinkler or standpipe connection shall be immediately moved or towed away at the expense of the owner of the vehicle or other property causing the obstruction. Removal may be made by the owner of the building, the Chief of the Fire Department or the Medway Police Department.

#### Section 12.8 Effective date

This ordinance shall take effect upon passage and any ordinance or part of an ordinance that is inconsistent herewith is hereby repealed.

### **ARTICLE 13** **Penal Laws**

### Section 13.1

- (a) No person shall drive or cause to be driven or drawn any tractor having metal cleats on the streets of Medway without wheel guards.

### Section 13.2

- (a) No person shall continue to stand or remain in a group or near to each other, on any sidewalk or any public place in such a manner as to obstruct a free passage for foot passengers after having been requested by a constable or police officer to move on.

### Section 13.3

- (a) No person shall coast on a sled or roller skates upon any of the sidewalks in the town, nor shall any person coast or slide down any of the streets or highways of the town upon any hand sled, board, jumper, or otherwise except at such places and under such restrictions and regulations as the Select Board shall designate and require.

### Section 13.4

- (a) No person shall play at any game, or throw balls or stones or sticks or snowballs, within any of the streets or public places of the town, excluding designated recreation areas.

### Section 13.5

- (a) No person shall deposit within any public streets or way of the town, any stones, ashes cinders, papers, tin cans, offal or rubbish, or any obstruction or waste matter whatsoever.

### Section 13.6

- (a) No person shall place in any street, roadway, or town way any broken glass, nails, tacks or other substances liable to injure the feet of persons or animals, bicycles tires, motorized vehicles.

### Section 13.7

- (a) No person, firm or corporation shall post or affix in any manner, paint, print or write, or cause to be painted, printed or written any notice, advertisement, bill, picture, drawing or writing, upon any public post, pole, tree, fence, wall or building.

### Section 13.8

- (a) No person, firm or corporation shall store or keep junk, refuse or waste material for any purposes, in such manner as to be visible from any public highway of the town.

### Section 13.9 Roadway Access

(a) Roadway Access Permit. No person except a duly authorized officer of the Town shall, without a permit granted by the Select Board, or their designee (hereinafter called "the Permitting Authority"), excavate, alter, construct an access to, or obstruct any portion of a public way for any purpose whatsoever. A public way is defined as the entire length and width of the roadway, both paved and unpaved.

(b) Time Limit. Each permit granted shall specify the length of time it shall continue in force. Every person receiving such a permit shall execute a written agreement to indemnify and same harmless the Town against damages or cost.

(c) Driveway Access. Anyone wishing to construct a driveway on a lot having frontage on a public way, or a way which the Town Clerk certifies is maintained and used as a public way, shall comply with the following minimum requirements:

(1) Alterations/Changes. Any substantial change in use or location of the curb cut shall require modification of the permit or application for a new permit which may contain new restrictions. "Substantial change" shall mean an increase of ten percent (10%) or more in vehicle trips caused by expansion of the project or by a change of use from one use category to another, or by addition of a drive-through facility or a substantial impact on traffic caused by a change in the type, pattern or timing of such traffic.

(2) Commercial/Industrial Use. Driveway locations and number shall be subject to approval by the Permitting Authority.

(3) Residential Use. There shall be no more than one driveway access for residential lots with one hundred fifty feet or less of frontage and no more than one additional driveway access for each one hundred fifty feet of frontage in excess of one hundred fifty feet, unless granted approval by the Permitting Authority for an alternative configuration based upon determination that public safety will be adequately protected and that commonly employed engineering and planning standards have been met in full.

(4) Distance from Hydrant. Within the street right-of-way, the paved edge of the driveway shall be no closer than fifteen feet to a hydrant unless otherwise granted approval by the Permitting Authority based upon determination that public safety will be adequately protected.

(5) Driveway Grade Elevation at Street. The elevation of the finished grade of the driveway at the right-of-way line of the street shall be equal to, or higher than, the elevation of the crown of the existing street pavement directly opposite the opening.

(6) Grades Within Street Layout. In the event the horizontal distance from the edge of the existing street pavement to the right-of-way line of the street is five feet or less, the grade of that area lying between the edge of the existing street pavement and the right-of-way line of the street shall have a minimum, positive grade of three percent from the edge of the existing street pavement for the horizontal distance required to attain the condition stated in 5 above.

(7) Grades Outside Street Layout. Unless otherwise approved by the Permitting Authority for an alternative configuration based upon determination of no adverse impact to the public way, no driveway outside the street right-of-way shall exceed a positive or negative grade of three percent for a distance at least fifteen feet, and twelve percent for a distance of at least twenty-five feet from the street right-of-way. Beyond said total of at least forty feet, the grade of a residential use driveway shall not exceed fifteen percent; commercial/industrial use driveways shall in no case exceed a grade of twelve percent.

(8) Paving Material Within Street. All driveway openings shall be paved with a minimum of three inches of bituminous concrete between the existing street pavement and the right-of-way line of the street. If the area between the existing street pavement and the right-of-way line of the street includes a cement concrete sidewalk, the new driveway apron shall also be cement concrete for at least the width of the sidewalk. The cost of this work shall be borne by the owner of the driveway.

(9) Paving Material Outside Street. Driveways to commercial, industrial and multi-family residential units shall in all cases be paved with bituminous or cement concrete. Paving materials for single and two-family houses, other than bituminous or cement concrete, which have a durable, dustless, all-weather surface suitable for year-round use, may be used as alternatives, if approved by the Permitting Authority.

(10) For commercial, industrial and residential driveway aprons only, concrete or asphalt must be used. No bricks, pavers, cobblestones or similar like type stone products can be used within the ROW limits.

(d) Utilities Relocation/Installation. Relocation of existing town-owned and maintained utilities, mains and services, or installation of new drainage facilities within any portion of a public way, shall be the responsibility of the applicant. The cost of this work shall be borne by the applicant.

(e) Paving Drainage. All paving shall be designed and constructed in such a manner, that the amount of surface water draining onto any public way or onto any lot in other ownership other than through a drainage easement or stream, shall not create an adverse condition.

(f) Maximum Curb Opening. The maximum width or any curb opening measured at the street line shall be twenty-five feet, including the driveway returns unless authorized by the Permitting Authority, based on safety and planning consideration.

(g) Sight Distance. The location of all driveways shall have adequate sight distance, in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards.

(h) Basketball Hoops and like Equipment in Roadway

1. No portable or fixed basketball hoops shall be placed or erected permanently along public roadways or within the Public Right of Way.
2. Any such like equipment damaged unintentionally by the Town will not be the Town's responsibility.

(i) Violations. Any person who violates any section of this Bylaw shall be subject to a fine as follows:

Maximum fine allowed:	\$100.00
Enforcement agent:	Select Board/Designee
Fine Schedule:	First offense - Warning Second offense - \$25.00 Third offense - \$50.00 Fourth and each subsequent offense - \$100.00 maximum per day. Each day to constitute a separate violation.

#### Section 13.10

(a) By reason of any claim for damages on account of the existence of such obstruction or excavation, the Select Board may impose such conditions, terms and limitations as they shall see fit in respect to erecting barricades, maintaining fines and taking other precautions for the safety of travelers.

#### Section 13.11

(a) No person shall solicit funds for charitable, veteran or fraternal purposes, or solicit for sale of any products or services in the Town of Medway without first obtaining a permit from the Select Board and registering this license number, the organization, business address, true name, home address and date of birth with the Chief of Police. Application of this Bylaw will not interfere with or infringe on the exercise of constitutionally protected rights under the First and Fourteenth Amendments to the United States Constitution. Violation of this section will be punishable by fine of not more than \$100.00.

#### Section 13.12

(a) No person without a permit or license from the Select Board shall store, keep or allow to remain on the premises upon which this person lives or has a business more than one unregistered automobile, truck, or the body or chassis of a motor vehicle unless that same is stored or kept in a garage.

#### Section 13.13

(a) No person shall consume an alcoholic beverage as defined by General Laws chapter 138, section 1, or possess an open container of such beverage, or smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol as defined by General Laws chapter 94C, section 1, within the limits of any park, playground, cemetery, school building, school grounds, parking lot, public building or public land owned or under the control of the Town of Medway, or on any public way or way to which the public has a right



of access as invitees or licensees, including any person in a motor vehicle while it is on or upon any public way or any way to which the public has a right of access as aforesaid, within the Town of Medway, except any activity duly licensed by the Select Board under the applicable provisions of the Massachusetts General Laws at the town owned premises known as the Thayer property, a parcel of land containing 3.29 acres, more or less, situated at 2B Oak Street, the Medway Public Library, the Senior Center, and the 50 Winthrop Street property; and no person shall consume any alcoholic beverages as previously defined in, on, or upon any private land or place without the consent of the owner or person in control of such private land or place.

All alcoholic beverages, marijuana or tetrahydrocannabinol being used in violation of this section may be seized and held until final adjudication of the charge against any such person or persons has been made by the court.

Whoever violates the provisions of this section shall be punished by a fine not exceeding one hundred dollars for the first offense, two hundred dollars for the second offense, and three hundred dollars for any third or subsequent offense.

#### Section 13.14

- (a) No person owning or operating a gasoline filling station shall allow the pumping of gasoline for retail sale without an attendant employed by the station present to hold the gas nozzle while gasoline is being pumped into the tank of the vehicle except under the following conditions. Self-service gasoline sales shall be permitted upon the condition of the owner or operator of the gasoline filling station shall have:
  - (1) obtained the approval of a fire suppression plan for the station from both the Fire Chief of the Town of Medway and the State Fire Marshal;
  - (2) shall have filed said approval plans with the Fire Chief,
  - (3) shall have installed the improvements on said plan, all to the approval of the Fire Chief, and, during the hours of 6:00 a.m. and 10:00 p.m., or during any such portion of those hours that the station is open, full service/attendant pumping shall be provided in addition to the self-service operation.

#### Section 13.15

- (a) The penalty for the violation of any Medway General Bylaw as to which no other fine is provided therein shall be a fine not exceeding \$300.00 for each offense. Each day during which any portion of a violation continues shall constitute a separate offense. All forfeitures under any of the Bylaws of the town shall be recovered by complaint and shall inure to the use of the Town of Medway. As an alternative, for violation of any Medway General Bylaw, non-criminal disposition of violations as provided for in Article 19 of the Medway General Bylaws may be used, in accordance with the following schedule of non-criminal penalties, unless the specific Bylaw otherwise provides for non-criminal penalties:

First offense:	warning (verbal or written)
Second offense:	\$100.00
Third offense:	\$200.00
Fourth and	
Subsequent offenses:	\$300.00

#### Section 13.16

In addition to the requirements set forth in this Bylaw, the licensing, keeping and control of animals shall be in accordance with all applicable provisions of the Massachusetts General Laws, including, but not limited to, the provisions of G.L. c. 140, §§136A to 174E, inclusive, as may be amended from time-to-time.

The Police Chief shall be the hearing authority with respect to complaints about nuisance or dangerous dogs and said complaints shall be determined in accordance with the provisions of G.L. c. 140, §157.

Annual dog and kennel licenses, as required by G.L. c. 140, §§137 and 137A, must be obtained from the Office of the Town Clerk by March 31 for a licensing period of January 1 through December 31. When licensing a dog for the first time, proof of spay or neutering should be presented in order to be eligible for neutered or spayed license fee. There will be an additional late fee per license for licensing after March 31. Any dog or kennel not licensed by April 1 may be subject to the issuance of tickets through the use of non-criminal disposition, as set forth below, for each day after April 1 that the dog or kennel is not licensed. Any fees, late fees, demand fees and tickets are cumulative.

Applications for kennel licenses shall include the name, breed, age, proof of fixing (if applicable), proof of rabies vaccinations, certification of a photograph of each dog, and the telephone number where the licensee can be reached at all times. The name and address of the owner of each dog kept in a kennel, if other than the person maintaining it, shall be kept at the kennel and available for inspection by an Animal Control Officer. Kennel inspections must be conducted before initial licensing and before renewal. No kennel license shall be issued unless the applicant demonstrates that the use of the subject property as a kennel is permitted under the Town's Zoning bylaws.

The annual fee for individual and kennel licenses shall be as follows:

- a. Individual Dog, fixed ..... \$10
- b. Individual Dog, intact ..... \$15
- c. Kennel, 4 dogs ..... \$35
- d. Kennel, 5-10 dogs ..... \$70
- e. Kennel, over 10 dogs ..... \$140
- f. Late fee, after March ..... \$25

No licensing fee or part thereof shall be refunded because of the subsequent death, loss, spaying or removal from the Commonwealth, or other disposal of the dog.

No person shall permit any dog, whether licensed or unlicensed, to wander on private property without permission of the owner thereof, or on any public property within the Town, including but not limited to public ways, school grounds, recreation areas and cemeteries, unless the dog is properly restrained. A dog is under restraint for purposes of this Bylaw if it is accompanied by its owner or other person responsible for the dog, who is in full control of such dog, and is held firmly on a leash of not more than ten feet.

Unrestrained or unlicensed dogs may be sought out, caught and confined by the Animal Control Officer or any police officer of the Town, and impounded pursuant to G.L. c. 140, §§151A and 167.

The owner or keeper of any dog impounded under the provisions of G.L. c. 140, §167, this Bylaw or any other applicable law, may claim such dog, provided the owner or keeper first procures from the Town Clerk a license and tag for any such dog that is not licensed and pays for the impoundment and daily rate for the care of the dog; provided, however, that nothing in this section shall prohibit the Animal Control Officer from disposing of or retaining custody of any dog as may be authorized by law.

No person shall fail to promptly remove and properly dispose of any feces left by any dog owned, kept or controlled by them on the property of another, including, but not limited to, any public property within the Town.

No person shall fail to cause any dog or cat, six months of age or older, owned or kept by them, to be vaccinated against rabies by a licensed veterinarian and revaccinated at intervals recommended by the vaccine manufacturer. The vaccination tag shall be secured to the collar or harness to be worn by the dog or cat.

The owner or keeper of a dog that has been deemed a Nuisance or Dangerous by the Police Chief after a hearing, shall comply with all mitigation remedies ordered by the Chief.

Whoever having the charge or custody of any member of the animal kingdom, including, but not limited to, any mammal, bird, reptile or amphibian, other than a dog, willfully suffers or permits them to enter or remain on or

pass over the land of another, shall be subject to a fine. The Animal Control Officer may apprehend any animal found in violation and impound such animal in a suitable place. Impoundment fees and boarding rates shall apply in regards to the enforcement of this section.

The Animal Control Officer or any police officer of the Town shall be empowered to enforce provisions of this Bylaw.

In addition to the remedies set forth herein and in G.L. c. 140, §§136A to 174E, inclusive, or any other applicable provision of law, this Bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, non-criminal disposition pursuant to G.L. c. 40, §21D. If non-criminal disposition is elected, then any person who violates any provision of this Bylaw shall be subject to the following penalties

First Offense:	\$50 fine
Second Offense:	\$100 fine
Third Offense:	\$200 fine
Fourth or subsequent Offense:	\$500 fine

Subsequent offenses shall be determined as offenses occurring within two years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

#### Section 13.17

- (a) No person shall place snow or leaves from a plow, shovel, blower or by any other means on any portion of a public way.

#### Section 13.18

- (a) The annual fee for any automatic amusement device issued or renewed by the Select Board shall be no less than twenty dollars and no more than one hundred dollars. The amount of such fee shall be determined by the Select Board annually. The amount of such fee shall be the same for each automatic amusement device regardless of type, nature or location.

#### Section 13.19

- (a) All municipal charges, fees and bills shall be due and payable no later than thirty days from the date on which each was mailed. If the whole or any part of any such charge fee or bill remains unpaid for more than thirty days, interest at the rate of fourteen percent per annum computed from the thirty-first day after such mailing, shall be paid on and added to any unpaid amount. There is excluded from the provisions of this section bills for real estate and personal property taxes which shall continue to be governed pursuant to G.L.C. 59, S57 and excise taxes which shall continue to be governed pursuant to G.L.C. 60A, S2.

#### Section 13.20

- (a) No person shall fire or discharge any firearm, BB gun, pellet gun, or airsoft gun within the limits of any school, park, playground, or other Town and/or private property, or across any public way, or hunt or fire or discharge any firearm on private property without written consent of the owner or legal occupant thereof, or in the case of Town Property the Chief of Police.
- (b) This Bylaw shall not apply to the lawful defense of life or property or any law enforcement officer acting in the discharge of said officer's duties.
- (c) Any person violating the provisions of this Bylaw shall be subject to a fine as provided for in Section 12.15(a) of the Penal Laws.

#### Section 13.21

- (a) Every outdoor swimming pool having 24 inches or more in depth or a surface area of 250 square feet or more, whether or not filled with water, shall be completely surrounded at all times by a fence or wall not less than four feet above grade. The fence may be the pool wall itself. Every such fence or wall shall be constructed as to not have holes or gaps larger than 4 inches. Stockade types must have horizontal supports on the inside. Gates and doors accessible to the public must be self-closing with provisions for a padlock. Ladders on above-ground pools must either be removable or be able to be locked in the "up" position. All swimming pools require the appropriate permits, and shall not be filled with water until a final inspection has been performed by the Inspector of Building/Local Inspector.

Maximum fine allowed: \$100.00

Enforcement agents: Inspector of Buildings/Local Inspector/Police  
Fine Schedule: First offense - Warning  
Second offense - \$100.00  
Third offense - \$200.00  
Fourth and each subsequent offense - \$300.00 maximum per day. Each day to constitute a separate violation.

#### Section 13.22

- (a) Any person who violates any section of 780 CMR (Massachusetts State Building Code) shall be subject to a fine as follows:

Maximum fine allowed: \$300.00

Enforcement agent: Inspector of Buildings/Local Inspector  
Fine Schedule: First offense - Warning  
Second offense - \$100.00  
Third offense - \$200.00  
Fourth and each subsequent offense - \$300.00 maximum per day. Each day to constitute a separate violation.

#### Section 13.23

- (a) Any person who violates any section of 527 CMR (Massachusetts Electrical Code) shall be subject to a fine as follows:

Maximum fine allowed: \$300.00

Enforcement agent: Wire Inspector; Assoc. Wire Inspector  
Fine Schedule: First offense - Warning  
Second offense - \$100.00  
Third offense - \$200.00  
Fourth and each subsequent offense - \$300.00 maximum per day. Each day to constitute a separate violation.

#### Section 13.24

- (a) Any person who violates any section of 248 CMR (Massachusetts Plumbing/Fuel Gas Code) shall be subject to a fine as follows:

Maximum fine allowed: \$300.00

Enforcement agent: Wire Inspector; Assoc. Wire Inspector; Assoc. Gas Inspector  
Fine Schedule: First offense - Warning  
Second offense - \$100.00

Third offense - \$200.00

Fourth and each subsequent offense - \$300.00 maximum per day. Each day to constitute a separate violation.

Section 13.25 – Registration and Maintenance of Abandoned and/or Foreclosed and or Foreclosing Properties.

(a) Purpose; Enforcement Authority

(1) It is the purpose and intent of this bylaw to protect and preserve public safety, health, welfare and security, and the quiet enjoyment of occupants, abutters and neighbors, by:

- a. requiring all residential property owners, including lenders, trustees and service companies, to register abandoned and/or foreclosed residential properties with the Town of Medway; and by
- b. regulating the maintenance and security of abandoned and/or foreclosed residential properties to help prevent blighted and unsecured residences.

(2) The Building Commissioner of the Town of Medway has enforcement authority as to this bylaw.

(b) Definitions - When used in this bylaw, the following terms shall have the following meanings, unless a contrary intention clearly appears:

“Abandoned” means a residential property which is not being used or occupied as a residence despite containing a residential building; abandoned does not include a residential building that is unoccupied while undergoing renovations, or while undergoing repairs due to fire or other casualty. “Abandoned” does not apply to accessory buildings or structures on the premises nor does it apply to residential property that is temporarily vacant due to seasonal absences.

“Town” means the Town of Medway

“Commissioner” means the Building Commissioner of the Town of Medway or the Commissioner’s designee.

“Days” means consecutive calendar days.

“Foreclosed” means a property, placed as security for a real estate loan, as to which all rights of the mortgagor or the mortgagor’s grantee in the property have been terminated as a result of a default of the loan.

“Foreclosing means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy a debt if the borrower of the loan

“Initiation of the foreclosure process” means taking any of the following actions:

- a. Taking possession of property pursuant to Massachusetts General Laws chapter 244, section 1
- b. Publishing the first foreclosure notice pursuant to Ma. General Laws chapter 244, section 14
- c. Delivering the mortgagee’s notice of intention to foreclosure pursuant to Ma General Laws chapter 244, section 17B
- d. Commencing a foreclosure action on a property in either the Land Court or the Superior Court.

“Local” means within twenty miles of the property in question.

“Mortgagee” means the creditor, including but not limited to service companies, lenders, in a mortgage agreement, or any successor in interest of the mortgagee’s rights, interests or obligations under the mortgage agreement.

“Property” means any real property or portion thereof, located in the Town of Medway, which contains a building, structure or other improvement; excepted from this definition is any and all town owned properties.

“Vacant” means any real property which is not being actively used or occupied and which has not been actively used or occupied within the preceding ninety days. This definition shall not apply to property which is undergoing renovations or repaired due to fire or other casualty. For the purpose of this bylaw, “Vacant” also includes abandoned and/or foreclosed or foreclosing property(ies). Excepted from this definition is residential property that is temporarily vacant due to owner(s) seasonal absences.

(c) Registration

(1) All owners of abandoned and/or foreclosed residential properties shall register such properties with the Commissioner on forms provided by the Commissioner. If the owner is an out of state corporation, person, or other entity, the owner shall appoint an in-state agent authorized to accept service of process and other documents under this bylaw.

- a. Each registration must state the owner’s or agent’s name, telephone number and mailing address located within the Commonwealth of Massachusetts including name of owner, street number, street name, city or town, and zip code ; the mailing address shall not be a post office box.
- b. Each registration must also certify that the property has been inspected by the owner and must identify whether the property is abandoned. Each registration must designate a local individual or local property management company responsible for the maintenance and security of this property. This designation must state the individual or company’s name, direct telephone number, and local mailing address; the mailing addresses shall not be a post office box.
  - i. If the owner’s inspection determines that the property is abandoned, the registration must be received by the Commissioner within seven days of the owner’s inspection.
  - ii. If the owner’s inspection determines that the property is not abandoned, but has been foreclosed, the registration must be received by the Commissioner within seven days of the foreclosure.
  - iii. If the Commissioner’s inspection pursuant to paragraph (e) determines that the property is abandoned, the registration must be received by the Commissioner within fourteen days of the Commissioner’s citation for improper maintenance.
  - iv. If, regardless of any determination as to abandonment, property has been foreclosed, the registration must be received by the Commissioner within seven days of the foreclosure.

(2) All property registrations pursuant to paragraph (c) are valid for one calendar year from the date when the registration is received by the Commissioner. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. Subsequent registrations and fees are due within thirty days after the date of the expiration of the previous registration. Subsequent registrations must certify whether the property remains abandoned and/or remains in foreclosure, as the case may be.

(3) Any owner that has registered a property under paragraph (c) must report any change in information contained in the registration within ten days of the change.

(4) Once the property is no longer abandoned or is sold, the owner shall provide the Commissioner with written notice of legal occupancy or proof of sale, as the case may be.

(d) Maintenance and Security Requirements

1. Properties subject to this bylaw must be maintained in accordance with the State Building Code. The local owner or local property management company must inspect and maintain the property on at least a monthly basis for as long as the property is abandoned.

2. In accordance with state law, including but not limited to Massachusetts General Laws chapter 143 Sections 6-10 and 780 CMR 121.0, property that is abandoned must be safe and must be secured so as not to be accessible to unauthorized persons and exposure to the elements.
3. Maintain vacant properties subject to this section, including but not limited to maintaining and keeping in good repair any building(s), structures(s), and improvements, the removal of trash and debris, and the regular mowing of lawns, pruning and/or trimming of trees and shrubbery, and upkeep of other landscape features.
4. Repair or replace broken windows or doors within thirty days of breakage. Boarding up any doors or windows is prohibited except as a temporary measure for no longer than thirty days.
5. The Building Commissioner may order that a property vacant for six months or more shall have utilities shut off, removed, or cut and capped if any such utilities present a hazard or risk of accident.
6. Compliance with paragraph (d) does not relieve the owner of any applicable obligations set forth in code regulations, covenant conditions and restrictions, and/or homeowner's association rules and regulations.

(e) Inspections – Pursuant to the State Building Code, the Commissioner or the Commissioner's designee shall have the authority and the duty to inspect properties subject to this bylaw for compliance with this bylaw and to issue citations for any violations. The Commissioner or Commissioner's designee shall have the discretion to determine when and how such inspections are to be made, provided such determination is reasonably calculated to ensure that this bylaw is enforced.

(f) Penalties – In addition to any other means of enforcement available to the Commissioner, the Commissioner may enforce this bylaw by means of noncriminal enforcement pursuant to Massachusetts General Laws chapter 40 Section 21D and in accord with Section 19 of these Bylaws. The following penalties are established for purposes of said noncriminal disposition:

- (1) A failure to initially register with the Commissioner pursuant to paragraph (c): three hundred dollars.
- (2) A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to paragraph (d): three hundred dollars for each violation, and a like penalty for each day's continuation of such violation.
- (3) A failure to maintain and/or to secure the property pursuant to paragraph (d): three hundred dollars for each week during which the property is not maintained and/or not secured in compliance with paragraph (d).
- (4) The penalties provided in paragraph (f) shall not be construed to restrict the Town from pursuing other legal remedies available to the Town. Violation of this bylaw shall be subject to a fine not to exceed three hundred dollars for each violation; each day shall be considered a new violation.

(g) Appeals – Any persons aggrieved by the requirements of this bylaw or by a decision issued hereunder may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.

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

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

#### Section 13.26 Regulation of Parking and Storage of Commercial Vehicles

- (a) Purpose - The purpose of this Bylaw is to regulate the on-street parking of certain commercial vehicles and the outdoor parking/storage of certain commercial vehicles. This Bylaw is adopted to promote safe vehicular traffic, to preserve peace and good order, to protect the character of residential neighborhoods, to promote the

aesthetic beauty of the community and hence the value of the property located therein, and to promote the health, safety and general welfare of the citizens of the Town of Medway.

(b) Definitions

(1) Commercial Vehicle - Any vehicle defined as such by the Massachusetts Registry of Motor Vehicles in 540 CMR 2.05.

(2) Gross Vehicle Weight Rating (GVWR) – The value specified by the manufacturer as the loaded weight of a single vehicle including the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo but excluding that of any trailers, as established by the National Highway Traffic Safety Administration, U.S. Department of Transportation.

(c) Prohibitions/Limitations

(1) No person shall allow, permit, or cause a commercial motor vehicle having a Class 4 gross vehicle weight rating or higher to be parked at any location on any public or private way within the Town of Medway for any period in excess of six hours in any twenty-four hour period, unless said vehicle is in the process of being used for loading, unloading, or providing a service to one or more adjacent properties including but not limited to landscaping, construction, driveway paving etc.

(2) No commercial vehicle with a class 5 gross vehicle weight rating or higher shall be parked within the standard front, side and rear setback areas as set forth in section 6.1 of the Zoning Bylaw for the zoning district where the property is located except that such vehicle maybe parked in the property's paved driveway where located within the set back areas.

**ARTICLE 14**  
**Prevention of Leakage of Underground Fuel or Chemical  
Storage Tanks and Systems**

**Section 14.1 Purpose**

(a) The purpose of this Bylaw is to protect the public health, groundwater and surface water of the town from contamination by liquid fuels, chemicals or hazardous materials from underground fuel or chemical storage tanks and systems.

**Section 14.2 Applicability**

(a) This Bylaw shall apply to all underground fuel or chemical storage tanks and systems of one thousand gallons or greater.

(b) Storage systems in service at the time of the approval of this Bylaw shall be brought into compliance with the terms of this Bylaw within ninety days of its approval.

**Section 14.3 Administrative and Enforcement Agent**

(a) Nothing contained herein shall act as a limitation on the rights, duties and obligations of any other town entity, including, but not limited to, Select Board, Fire Department, Building Department, Conservation Commission or other town entities having concurrent jurisdiction or licensing authority.

(b) The provisions of this Bylaw shall be administered and enforced by the Board of Health and Fire Department.

**Section 14.4 Definitions**

(a) For the purpose of this Bylaw, the following terms shall have the following meanings

(1)"CMR" shall mean the Code of Massachusetts Regulations.



(2) "Hazardous Material" be defined by the Environmental Protection Agency, which incorporates the Occupational Safety and Health Administration (OSHA) definition as any substance or chemical which is a "health hazard" or "physical hazard," including:

- chemicals which are carcinogens, toxic agents, irritants, corrosives, sensitizers;
- agents which act on the hematopoietic system;
- agents which damage the lungs, skin, eyes, or mucous membranes;
- chemicals which are combustible, explosive, flammable, oxidizers, pyrophorics, unstable-reactive or water-reactive; and
- chemicals which in the course of normal handling, use, or storage may produce or release dusts, gases, fumes, vapors, mists or smoke which may have any of the previously mentioned characteristics; and, any item or chemical which can cause harm to people, plants or, or animals when released by spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment

(3) "Owner" shall mean every person who alone or severally with others:

(a) Has legal title to any property on which is located an underground fuel or chemical storage tank and system subject to this Bylaw; or,

(b) Has care, charge, or control of any such property, in any capacity, including without limitation agent executor, administrator, trustee or guardian of the estate of the holder of legal title, or agent, trustee or a person appointed by a court of competent jurisdiction; or

(c) Is a mortgagee in possession of such property. Each such person is bound to comply with the provisions of this Bylaw as if the mortgagee were an owner.

(4) "Person" shall mean every individual, partnership, corporation, firm, association, group or entity owning property or carrying on an activity regulated by this Bylaw.

(5) "Underground Tank" shall mean any fuel storage or chemical storage containment system, the top of which is located below the ground.

(6) Where applicable, other terms in this Bylaw are as defined in 527 C.M.R. Section 5 and 9 of the Massachusetts Board of Fire Prevention Regulations.

#### Section 14.5 Tank Regulations

a) Every owner of an underground fuel or chemical storage tank or system shall file with the Board of Health who will notify the Fire Department, the size, type, age and location of each tank and/or system and the type of material stored, on or before ninety days after the approval of this Bylaw hereafter, every owner of a tank or system installation shall comply with the provisions of Section 5(a) hereof on or before January 1st of each succeeding year.

b) Owners of tanks for which evidence of the installation is not available shall, at the order of the Board of Health, have such tanks or systems tested or uncovered for inspection.

(1) Tanks or systems which fail to meet the test standards set forth in Section 9 below or are not airtight shall be removed forthwith at the owner's expense.

(2) A fee of \$100.00 per permit for the removal of underground storage tank(s) shall be payable to the Town of Medway.

(c) Design and Construction

(1) All new tanks shall be designed and constructed to provide maximum protection against corrosion and leakage. Only the following tank construction systems shall be approved.

- (a) UL-listed fiberglass reinforced plastic (FRP) tanks, using materials compatible with the product to be stored therein.
- (b) UL-listed steel tanks provided with cathodic protection, a coal-tar epoxy or urethane coating and electrical isolation, and equipped with a test box to measure electrical potential.
- (c) Steel tanks with bonded fiberglass coating, compatible inner corrosion-resistant lining and electrical isolation, the integrity of the outer coating to be verified by electrostatic testing and guaranteed by the manufacturer.
- (d) Double-walled steel tanks with bonded fiberglass coating, electrical isolation, a vacuum of air pressure in the interstitial space and provision for continuous monitoring of the vacuum or air pressure.
- (e) Any other "state of the art" type of tank construction approved by the State Fire Marshal and by the Board of Health.

#### Section 14.6 Inventory Control

- (a) Every underground storage tank or system shall have a method of accurately gauging the volume contained in the tank and a method of accurately metering the quantity of product removed during service. The metering device shall at all times be properly maintained in accurate calibration.
- (b) For tanks containing fuel, chemical or hazardous material for resale accurate daily inventories and records thereof shall be maintained based on actual daily measurement and recording of actual sales, use and receipts of tank products and water levels as required by Massachusetts Fire Prevention Regulation 527 C.M.R. 5.05 (3).
  - (1) Inventory records shall include a daily computation of gain or loss.
  - (2) Recording of pump meter readings and product (delivery shall not constitute adequate inventory records for the purposes of this Bylaw.
- (c) For all tanks containing fuel, chemical or hazardous materials and for resale a quarterly inventory and reconciliation is required. Such reconciliation shall include records of delivery, volume contained in the tank and flow through the metering device.
- (d) The owner and operator shall participate in a program of regularly scheduled inventory verification as follows:
  - (1) For systems from which less than 25,000 gallons per month of product is used or sold, annually.
  - (2) For systems from which 25,000-100,000 gallons per month is used-or sold, quarterly.
  - (3) For systems from which more than 100,000 gallons per month is used or sold, quarterly.
- (e) Owners shall submit annually to the Board of Health a certified statement that inventory records have been maintained and reconciled as required in subsections (b), (c), and (d) of Section 14.6 and such records shall be made available to the Board of Health upon its request. Inventory verification of tanks shall be performed annually by a certified auditor or other independent qualified person approved by the Board of Health.

#### Section 14.7 Report of Leaks and Spills

- (a) Any owner or operator or his agent who is aware of a spill or abnormal loss of product stored shall report such spill or loss immediately to the head of the Fire Department and within two hours to the Board of Health.
- (b) All leaking tanks must be emptied within twenty-four (24) hours of leak detection and either repaired or removed within a time specified by the Board of Health and under the direction of the Fire Department.

#### Section 14.8 New or Replacement Tank Selection and Installation

(a) All tanks installed after the effective date of this Bylaw shall be of approved design and protected from internal and external corrosion. All tanks shall be made of the following materials:

(1) All fiberglass construction (equipped with a striker plate), steel with bonded fiberglass or enamel coating and non-corrosive lining, the Steel Tank Institute 3-Way Protection System, any other system which can be shown to provide equivalent protection at the discretion of the Board of Health.

(2) All other underground storage of chemicals, or hazardous materials other than gasoline and fuels, shall be contained in tanks approved by the Board of Health as "best available technology".

(b) All tanks shall be properly installed in accordance with Massachusetts Fire Prevention Regulations in force at the time of installation and according to manufacturers' specifications.

(1) Installation shall be under the direction of the head of the Board of Health or their duly-appointed designee.

(c) All tank installation within four (4) feet of high water table or within one hundred feet of a surface water body shall be of fiberglass construction and located in a water-tight vault. Tanks so located shall be monitored by an approved leak detection system the design and number of devices subject to Board of Health approval.

(d)

(1) The owner or operator shall notify the Fire Department prior to the commencement of any tank installation.

(2) Upon receipt of said notice of installation the head of the Fire Department or the Board of Health may require repair of protective coatings prior to installation or final cover, and additional requirements may be required to satisfy terms of "best available technology".

(e) When it is necessary to replace or interior coat an underground steel tank which has developed a corrosion-induced leak all other steel tanks at the facility of the same age or older shall be interior coated or replaced with tanks that meet the requirements of Section 14.8 (b) M.

(f) Where a cathodic protection system is installed, an ongoing monitoring and maintenance program shall be conducted.

(1) Where sacrificial anodes have been installed, their proper operation shall be confirmed by a qualified person at least once a year.

(g) If a tank is taken out of service temporarily or permanently the Board of Health shall be notified. The final disposition of the tank and product shall be in accordance with Massachusetts Board of Fire Prevention Regulations as set forth in 525 C.M.R. and as approved by the Board of Health.

(h) Any existing tank may be replaced subject to the provisions of Section 14.8.

#### Section 14.9 Tank Testing and Removal

(a) Leak Testing. All underground storage systems with a design capacity of greater than 1,100 gallons shall be subject to an acceptable leak testing system method which meets National Fire Protection Association Pamphlet No. 329 standards of 0.05 gph accuracy and shall be performed by a trained tank tester. Leak tests shall be performed at five, ten and fifteen years after installation and annually thereafter. A record of the test results, type of testing system used, and date the test was performed shall be supplied to the Enforcement Officer upon completion of the test. 5.01 All underground storage systems with a design capacity of 1,100 gallons or less which are used to store motor vehicle fuel, waste oil or other product, except for fuel oil, or listed on the Massachusetts Substance List shall be subject to an acceptable leak testing system method which meets National Fire Protection Association Pamphlet No. 329 standards of 0.05 gph accuracy and shall be performed by a trained tank tester. Leak tests shall be performed ten and fifteen years after installation and

annually thereafter. A record of the test results, types of testing systems used, and date the test was performed shall be supplied to the Enforcement Officer upon completion of the test.

(b) All tanks not in conformance with Section 14.8 above and 527 C.M.R. 9.04, installed prior to the effective date of this Bylaw shall be removed when twenty years old or upon the failure to meet any testing standards, whichever first occurs.

(1) Any time that a tank is exhumed for removal, it shall be examined for leaks by the Board of Health. If a leak exists, the Board of Health shall immediately cause an investigation to be made of the amount and location of spilled substance, at the expense of the owner. The spilled substance shall be removed immediately by the owner.

#### Section 14. 10 Proximity to Water Supplies and Other Sensitive Areas

(a) No new installation of underground fuel or chemical storage tanks and systems shall be allowed within two thousand feet of public and private water supply wells.

(b) Where fuel, gasoline or other sensitive areas, the Board of Health may require the installation of an approved leak detection system, the design and number of devices to be subject to the Board of Health approval.

#### Section 14.11 Costs

(a) The owner shall assume a costs incurred to comply with this Bylaw.

#### Section 14.12 Penalties

(a) Whoever violates any provision of this Bylaw shall be subject to a fine of two hundred dollars for each violation. Each day that such violation continues shall constitute a separate offense.

#### Section 14.13 Severability

(a) A conflict of one part or provision of this Bylaw with any law shall not affect the validity or applicability of any other part or provision of this Bylaw.

### **ARTICLE 15** **Town Clerk Fees**

#### Section 15.1

(a) The following fees are hereby established and shall be collected by the Town Clerk in lieu of the fees otherwise provided:

- |  |         |
|--|---------|
| 1. For furnishing certificate of birth, marriage or death.                                       | \$10.00 |
| 2. For furnishing general copy of a record of birth, marriage, or death.                         | \$5.00  |
| 3. For entering delayed record of birth.   | \$10.00 |
| 4. For entering amendment of a record of birth of an illegitimate child subsequently legitimate. | No Fee  |
| 5. For entering notice of intention of marriage and issuing certificates thereof.                | \$30.00 |
| 6. For entering certificate of marriage for persons married out of the Commonwealth              | \$10.00 |
| 7. For correction of errors in a record of birth, marriage, or death.                            | \$15.00 |
| 8. Printed copy of Annual Street Listing:<br>Business  | \$10.00 |

Resident	\$5.00
9. For filing certificate of a person conducting business under any title other than the person's real name.	\$40.00
10. For filing by a person conducting business under any title other than the person's real name of statement of change of residence, or of discontinuance, retirement, or withdrawal from, or of the change of location of such business.	\$10.00
11. For furnishing certified copy of certificate of person conducting business under any title other than the person's real name, or a statement of such person of the discontinuance, retirement or withdrawal from such business.	\$10.00
12. For recording Power of Attorney.	\$5.00
13. For filing a copy of written instrument or declaration of trust by the trustee of an association or trust, or any amendment thereof, as provided by Section 2, Ch. 182, G.L.	\$10.00
14. For recording order granting locations of poles, piers, abutments or conduits, alterations, or transfers thereof, and increase in number of wire and cable attachments under the provisions of Section 22 of Ch. 166, of the General Laws.	
Flat Fee	\$25.00
Each Additional Street	\$5.00
15. For receiving and filing of a complete inventory of all items to be included in a closing-out sales, etc.	
Per Page	\$2.00
16. Voter or resident verification letter	\$2.00
17. Raffle Permit	\$20.00

## **ARTICLE 16**

### **License or Permit Denial**

#### **Section 16.1**

- (a) The Tax Collector shall annually and may periodically provide to each department, board, commission or committee, (hereinafter referred to as the licensing authority) that issues licenses or permits including renewals and transfers, a list of any persons, corporations, or business enterprises, (hereinafter referred to as the party), that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges 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.

#### **Section 16.2**

- (a) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity event or other such matter which is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice.
- (b) Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

#### **Section 16.3**

- (a) 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 on the license or permit, and the validity of said license or permit shall be conditioned on the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for 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.

#### Section 16.4

- (a) The Select Board may waive any such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of the party's immediate family, as defined in Section I of Chapter 268 in the business or activity conducted in or on said property.

#### Section 16.5

- (a) The provisions of this Bylaw shall not apply to licenses or permits for:
  - (1) Open burning,
  - (2) Bicycle permits,
  - (3) Sales of articles for charitable purposes,
  - (4) Work permits for minors,
  - (5) Licenses for any club, society, association or other organization for the purpose of dispensing of food or beverages on its premises to its members or guests,
  - (6) Dog licenses,
  - (7) Fishing, hunting, and trapping licenses,
  - (8) Marriage licenses,
  - (9) Licenses for theatrical exhibitions, public shows, public amusements and exhibitions or every description for which an admission is charged.

### **ARTICLE 17** **Structure Demolition**

#### Section 17.1 Intent and Purpose

This bylaw is enacted to promote the public welfare and safeguard Medway's historical, cultural and architectural heritage by protecting historical resources that make the town a more interesting, attractive and desirable place in which to live. The bylaw aims to protect "preferably-preserved historically significant structures" within the town by encouraging their owners to seek alternatives to their demolition and by providing the town an opportunity to work with owners of such properties in identifying alternatives to their demolition.

#### Section 17.2 Definitions

As used in this bylaw, the following words and terms shall have the meanings set forth below, unless the context otherwise requires:

- 2.1 "APPLICANT" - any person or entity who files an application for a demolition permit.
- 2.2 "BUILDING" - any combination of materials forming a shelter for persons, animals or property.
- 2.3 "COMMISSION" - the Medway Historical Commission.

- 2.4 "DEMOLITION" - any act of destroying, pulling down, razing or removing a structure or substantial portion thereof, or starting the work of any such act with the intention of completing the same.
- 2.5 "HISTORICALLY SIGNIFICANT STRUCTURE" - any structure or portion thereof, which:
- (a) Is in whole or in part seventy-five or more years old; and
  - (b) Is listed on the National Register of Historic Places or the Massachusetts Register of Historic Places, or which is the subject of a pending application for such listing, or is eligible for such listing, or;
  - (c) Is within any historic district, or;
  - (d) Has an important association with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth, or;
  - (e) Is historically or architecturally important (in terms of period, style, method of structure construction, or association with a recognized architect or builder) either by itself or in the context of a group of structures.
- 2.6 "PREFERABLY-PRESERVED HISTORICALLY SIGNIFICANT STRUCTURE" - any historically significant structure which the Commission determines, as provided in section 17.3.6.iii of this bylaw, is in the public interest to be preserved or rehabilitated rather than to be demolished.
- 2.7 "STRUCTURE": Anything constructed or erected at a fixed location on the ground to give support or to provide shelter, including dams.

#### Section 17.3 Procedure

- 3.1 No permit for the demolition of a structure which is in whole or in part seventy-five or more years old or portion thereof shall be issued other than in conformity with the provisions of this bylaw as well as in conformity with the provisions of other laws applicable to the demolition of structures and the issuance of permits thereof generally.
- 3.2 Application contents: Every application for a demolition shall be filed with the Building Commissioner and shall contain the following information:
- (i) The owner's name and current address (and/or the name of owner's legal representative, if applicable);
  - (ii) The applicant's name, address, and interest in such structure, if different from the owner;
  - (iii) The address or location of such structure;
  - (iv) Assessors' Parcel ID;
  - (v) A brief description of such structure including its age;
  - (vi) An explanation of the proposed use and/or changes thereof to be made of the site of such structure; and
  - (vii) 4" x 6" color photos of all sides of the exterior and all other structures that are visible from the street.
- 3.3 Upon receipt of an application for a demolition permit for a structure which is in whole or in part seventy-five or more years old, the Building Commissioner shall forward a copy thereof to the Commission within seven business days. No demolition permit shall be issued at that time.
- 3.4 Within forty-five days after the Commission's receipt of a complete application, the Commission shall make an initial determination on whether the structure is historically significant. The applicant for the permit may make a presentation to the Commission at that time. The Commission may require that the applicant provide a report from an engineer licensed to practice in Massachusetts with respect to any

claims by the applicant as to the structural condition of the structure. The Commission may also, at the applicant's expense, hire its own consultant to review any such reports and any claims by the applicant as to the structural condition of the house.

- 3.5 If the structure is determined not to be historically significant, the Commission shall notify the Building Commissioner and the applicant, in writing, within seven business days of its initial determination and the Building Commissioner may issue a demolition permit.

If the Commission determines that the structure is historically significant, it shall notify the Building Commissioner and the applicant, in writing, within seven business days of its initial determination; and the Commission shall, within forty-five days of its initial determination, open a public hearing to determine whether the historically significant structure is preferably preserved.

(i) Publication of Notice of Public Hearing

Public notice of the time, place and purpose of the hearing shall be published in a newspaper of general circulation in the Town not less than fourteen days prior to the date of said hearing and shall be posted in a conspicuous place in town hall for a period of not less than fourteen days prior to the date of said hearing. Notice of the hearing shall also be posted online on the Town of Medway website ([www.townofmedway.org](http://www.townofmedway.org)) for a period of not less than fourteen days prior to the date of said hearing.

(ii) Notification of Abutters

At least fourteen days prior to the public hearing, the applicant shall send copy of said notice by mail, postage prepaid, to the owners of all abutting properties at their mailing addresses shown in the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private way and abutters to the abutters within 300 feet of the property line of the applicant. A list of those so notified shall be provided to the Commission prior to the opening of the public hearing.

All costs associated with publication of the legal notice and required mailings shall be the responsibility of the applicant. Failure to comply with any of the above will result in a delay of the public hearing.

- 3.6 The Commission shall make a determination of whether or not the historically-significant structure is preferably preserved within thirty-one days following the close of the public hearing.

(i) If after a public hearing the Commission determines that the structure should not be preferably preserved, the Commission shall notify the Building Commissioner and the applicant, in writing within seven business days after the close of the public hearing and the Building Commissioner may issue a demolition permit upon receipt of the written decision.

(ii) If after a public hearing the Commission determines that the structure should be preferably preserved, the Commission shall so notify the Building Commissioner and the applicant in writing within seven business days after the close of the public hearing, and no demolition permit may be issued until:

- a. at least twenty-four months after the date of determination by the Commission, for structures that are 200 or more years old; or
- b. at least eighteen months after the date of the determination by the Commission, for structures that are at least 150 years old, but less than 200 years old; or
- c. at least twelve months after the date of the determination by the Commission, for structures that are at least 75 years old, but less than 150 years old.

- 3.7 The demolition permit shall expire after eighteen months of being issued. This means that once the above conditions have been satisfied, the owner of the property or applicant has eighteen months to demolish the structure. If the structure is not taken down in that period, the owner or applicant shall submit a new demolition permit application.



- 3.8 Notwithstanding anything contained in section 17.3.6, the Building Commissioner may issue a demolition permit for a preferably-preserved historically significant structure at any time after receipt of written advice from the Commission to the effect that either:
- (i) The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, rehabilitate and restore the subject structure, or
  - (ii) The Commission is satisfied that for at least the demolition delay period the owner had made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject structure, and that such efforts have been unsuccessful.

#### Section 17.4 Responsibility of Owners

- 4.1 During the demolition delay period, the applicant shall make continuing, bona fide and reasonable efforts to find an alternative use for the structure that will result in its preservation, including seeking a new owner willing to purchase and preserve, restore or rehabilitate the structure. Other alternatives to demolition include, but are not limited to, incorporation of the structure into the future development of the site; adaptive reuse of the structure; utilization of financial incentives to rehabilitate the structure; or moving or relocating the structure. For the purposes of this paragraph, “continuing, bona fide and reasonable efforts” to seek a new owner shall mean retaining a licensed broker to market the property in the usual manner over substantially all of the demolition delay period, obtaining an appraisal from a reputable appraiser and providing evidence of good faith negotiations with potential buyers of the property.
- 4.2 Upon determination by the Commission that a structure is a preferably preserved historically significant structure, the owner shall be responsible for properly securing the structure, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail to so secure the structure, the subsequent destruction of such structure through any cause, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this bylaw.
- 4.3 If requested by the Commission, it shall be the responsibility of the owner to assist in the facilitation of the implementation of the requirements of this Bylaw by providing information and any architectural plans readily available to the owner, allowing access to the property, participating in the investigation of preservation options, and actively cooperating in seeking alternatives with the Commission and any persons designated by the Commission.

#### Section 17.5 Emergency Demolition

Nothing in this bylaw shall restrict or prevent the Building Commissioner from ordering the demolition of a historically significant structure determined by the Building Commissioner pursuant to state law and/or the State Building Code to be unused, uninhabited or abandoned, and open to the weather.

If the Building Commissioner determines there is no reasonable alternative to an emergency demolition, the Building Commissioner shall prepare a written report describing the basis of that decision. A copy of that report shall be filed with the Commission.

#### Section 17.6 Non-Compliance

- 6.1 Any owner of a historically significant structure who violates any provision of this bylaw shall be penalized by a fine of not more than three hundred (\$300.00) dollars. Each day during which any portion of a violation continues shall constitute a separate offense.

As an alternative means of enforcement, the Building Commissioner may impose noncriminal penalties pursuant to G.L. c. 40, § 21D and Article 19 of the Town’s General Bylaws, in accordance with the following schedule:

- (i) First offense: one hundred dollars
- (ii) Second offense: two hundred dollars
- (iii) Third and each subsequent offense per violation: three hundred dollars

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

6.3 No permit shall be issued with respect to any premises upon which a historically significant structure has been demolished in violation of this bylaw for a period of two years after the date of the completion of such demolition. As used herein, "premises" includes all land within the property lines of said parcel of land upon which the demolished historically significant structure was located.

#### Section 17.7 Severability

If any section, paragraph or part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

#### Section 17.8 Regulations

The Commission may enact rules and regulations to carry out the provisions and purposes of this Bylaw.

### **ARTICLE 18** **Personnel**

#### Section 18.1 Purpose and Authorization

- (a) The purpose of the personnel Bylaw is to establish a fair and equitable system of personnel administration based on merit principles that ensures a uniform and efficient application of personnel policies for the Town of Medway. This Bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Law, Chapter 41, Sections 108A and 108C.

#### Section 18.2 Application

- (a) All town departments and positions shall be subject to the provisions of this Bylaw except elected officers and employees of the school department.

#### Section 18.3 Personnel System

- (a) The Human Resource Director shall be responsible for the establishment and maintenance of a personnel system based on merit principles, a classification plan, the development of an annual compensation plan, the adjustment of grievances, and the development of personnel policies pursuant to Section 4 of this Bylaw. The personnel system shall make use of modern concepts of personnel management and shall include, but not be limited to, the following elements:
  - (1) Method of Administration The Human Resource Director shall act as the personnel director(s) for the Town and may designate an individual to oversee the daily administration of the personnel plan. The Human Resource Director shall be responsible for a system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records, implementing effective recruitment and selection processes, maintaining classification and compensation plans, monitoring and application of personnel policies and periodic reviews, evaluating the personnel system, and development of a disciplinary policy and grievance procedure.
  - (2) Classification Plan A position classification plan for all employees subject to this Bylaw shall be established, based on similarity of duties performed and the responsibilities assumed so that the same

qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to all positions in the same class. No employee may be appointed to a position not included in the classification plan.

- (3) A Compensation Plan A compensation plan for all positions subject to this Bylaw shall consist of (1) a schedule of pay grades including minimum, maximum and intermediate rates for each grade; and (2) an official list indicating the assignment of each position to specific pay grades.
- (4) A Recruitment and Selection Policy A recruitment, employment and promotion policy which ensures that reasonable effort is made to attract qualified persons and that selection criteria are job related.
- (5) Disciplinary Policy and Grievance Procedure A disciplinary policy which is reasonable and a method of addressing grievances resulting from improper application of personnel policies or disciplinary procedures.
- (6) Personnel Policies A series of personnel policies which establishes the rights and benefits to which personnel employed by the Town are entitled and the obligations of said employees to the Town.
- (7) Personnel Records A centralized record-keeping system which maintains essential personnel records.
- (8) Other Elements Other elements of a personnel system are deemed appropriate or required by law.

#### Section 18.4 Adoption and Amendments of Personnel Policies

- (a) The Human Resource Director shall promulgate personnel policies defining the rights, benefits and obligations of employees subject to this Bylaw. Policies shall be adopted or amended as follows:
  - (1) Preparation of Policies The Human Resource Director shall prepare policies or amendments to policies. Any person may propose a new policy or an amendment to existing policies to the Human Resource Director. The Human Resource Director need not consider any proposal already considered in the preceding twelve months. Any person proposing a new or amended policy shall provide the substance and the reason for the proposed policy to the Human Resource Director in writing.
  - (2) Posting of Policies The Human Resource Director shall post the text of the proposed or amended policy and an explanation of the policy in prominent work location.
  - (3) Computation of Time In computing time (days) under this Bylaw, only business days shall be counted.

#### Section 18.5 Severability

- (a) The provisions of the Bylaw and any regulations adopted pursuant to this Bylaw are severable. If any Bylaw provision or regulation is held invalid, the remaining provisions of the Bylaw or regulations shall not be affected thereby. Nothing in this policy shall be construed to conflict with M.G.L. Chapter 31 or any labor contract.

### **ARTICLE 19** **Noncriminal Disposition of** **Violations of Bylaws, Rules and** **Regulations**

#### Section 19.1

- (a) There is hereby established in the Town of Medway, pursuant to the provisions of General Laws Chapter 40, section 21D, a system of non-criminal disposition of violations of Town Bylaws and the rules and regulations of its departments, boards, commissions, committees and officials, the violation of which is subject to a specific penalty.

## Section 19.2

- (a) Any person taking cognizance of a violation of any Bylaw, rule or regulation which that person is empowered to enforce may give to the offender written notice to appear before the Clerk of the District Court having jurisdiction thereof at any time during office hours but not later than twenty-one days after the date of such notice. The form, content, timing, manner of delivery, and processing of such notice shall comply with the requirements of said section 21D and General Laws Chapter 90G.

## Section 19.3

- (a) Any person notified to appear before the Clerk of the District Court as herein before provided, and as provided in said Chapter 90G, may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the clerk together with the notice such specific sum of money not exceeding three hundred dollars as the Town may fix as the penalty for violation of the Bylaw rule or regulation. The payment to the clerk shall operate as a final disposition of the case and shall not be deemed to be a criminal proceeding.

## Section 19.4

- (a) Any person so notified to appear who desires to contest the violation alleged in the notice may, within the said twenty-one days, request a hearing in writing. Any such hearing shall be held pursuant to the terms of said chapter 90G and shall not be deemed to be a criminal proceeding.

## Section 19.5

- (a) Any person so notified to appear who fails to confess the offense charged and pay the fine within the time specified or fails to pay the sum fixed as a penalty after a hearing and finding as provided in Section 18.4, shall be subject to the application for and the issuance of a criminal complaint for the violation of said Bylaw, rule or regulation.

## Section 19.6

- (a) The persons empowered to enforce the Bylaws, rules and regulations pursuant to this Bylaw shall include any police officer, the animal control officer, Board of Health agent, Building Commissioner, Public Works Director and such other officials as the Select Board may from time to time designate.

## **ARTICLE 20** **Water Use Restriction**

### Section 20.1: Authority

This bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. Chapter 40, ss21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. Chap 41, s69B. This bylaw also implements the Town's authority under M.G.L. Chap. 40, s41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

### Section 20.2: Purpose

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

### Section 20.3: Definitions

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

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. Chap. 21G, s 15-17.

Enforcement Authority shall mean the Town Select Board or other Department or Board having responsibility for the operation and maintenance of the water supply, the Health Department, the Town Police, Special Police, and any other locally designated body having police powers.

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

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

#### Section 20.4: Declaration of a State of Water Supply Conservation

The Town, through its Select Board, may declare a State of Water Conservation upon a determination by a majority vote of the Board that:

1. Shortage of water exists, and that conservation of water is necessary to insure adequate supply to all consumers under all conditions.
2. The level of water in the tanks falls to 58 feet; the rate of withdrawal of water for the Medway water system exceeds average rate for a period of longer than one week. Public notice of state of water conservation shall be given under section 6 of this bylaw before it may be enforced.

#### Section 20.5: Restricted Water Uses

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

a) Odd/Even Day Outdoor Watering.

Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor water by water users with even-numbered addresses is restricted to even-numbered days.

b) Outdoor Watering Ban

Lawn watering, and all other forms of non-essential outdoor water use, including automatic sprinklers, are prohibited.

c) Outdoor Watering Hours

Outdoor watering is permitted only during periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.

d) Filling Swimming Pools

Filling of Swimming pools is prohibited.

#### Section 20.5a Irrigation systems

- a. All automatic lawn watering systems, connected to the public water supply must be equipped with a timing device that can be set to make the system conform to the local odd/even outdoor watering restrictions.
- b. All automatic lawn watering systems must be equipped with some type of moisture sensing device that will prevent the system from starting automatically when not needed.

- c. All automatic lawn watering systems must be installed with an approved backflow prevention device. Said device will be inspected initially by the plumbing inspector, and will be permitted and tested periodically thereafter by water department employees.
- d. Any person who now has, or who intends to install an automatic lawn watering system in the future, must notify the Water/Sewer Department of the existence of said system, or of their intention to install a new system prior to the actual installation. All systems, those currently in existence as well as any installed in the future, must comply with all rules.
- e. And regulations adopted on the date: existing systems shall be in compliance by June 2003.
- f. Any system not in conformance with the above criteria may be disconnected from the public water supply system.
- g. Irrigation in Right of Way:
  - a. Irrigation systems made up of sprinkler heads, valves and piping cannot be installed within the public roadway, public right of way or easements.
  - b. Previously installed systems within the public Right of Way does not place a burden on the Town or utility company to notify the property owner of any pending installation, construction or repairs to utilities, signs or any other item placed within the Public Right of Way that may affect the integrity of operation of the irrigation system.
  - c. Any damage to irrigation system within the Public Right of Way is assumed by property owner and is not the responsibility of the municipality or utility company.

#### Section 20.6: Public Notification of a State of Water Supply Conservation-, Notification of DEP

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

#### Section 20.7: Termination of a State of Water Supply Conservation; Notice

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

#### Section 20.8: State of Water Supply Emergency compliance with DEP Orders

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

#### Section 20.9: Penalties

Any person violating this Bylaw shall be liable to the Town in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation. After a fourth violation, the water service shall be shut off until all fines are paid and person is in compliance and \$50.00 restoration fee is paid which shall inure to the town. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

#### Section 20.10. Severability

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

## **ARTICLE 21**

### **General Wetlands Protection**

#### **Section 21.1 Purpose**

- (a) The purpose of this Bylaw is to protect the wetlands, related water resources and adjoining land areas in the Town of Medway by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following; public or private water supply, groundwater, flood control, erosion and sedimentation control, fisheries, wildlife habitat, rare species habitat, agriculture, aqua-culture and recreational values (collectively, the "resource area values protected by this Bylaw"). This Bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, section 40) and its regulations (310 CMR 10.00).

#### **Section 21.2 Jurisdiction**

- (a) Except as permitted by the Conservation Commission, or as provided in this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds of any size, rivers, streams, creeks, land under waterbodies, lands subject to flooding or inundation by ground water or surface water, and lands within 100 feet of any of the above resource areas. Said resource areas shall be protected whether or not they border surface waters. To be afforded protection, Isolated Vegetated Wetlands (not including vernal pools) must encompass minimum surface areas of 5,000 square feet.
- (b) Except as permitted by the Commission, no work shall be allowed within 25 feet of wetland resource areas identified in this Bylaw (exclusive of the 100 foot buffer zone). This provision shall establish a permanent vegetative buffer between wetland resource areas and developed areas. No removal of vegetation will be permitted within this 25 foot setback except as specifically waived by the Commission (I.E. Limited Project Wetland Crossings). In cases where the Commission allows the removal of vegetation within the 25 foot setback a comparable area within the 100 foot buffer zone shall be preserved.

#### **Section 21.3 Exceptions**

- (a) The application and permit (and subsequent fees) required by this Bylaw shall not be required for the following projects:
- (1) Maintaining, repairing, or replacing, but not substantially changing or enlarging an existing, lawfully located structure or facility used in the service of the public to provide - electric, gas, water, telephone, telegraph, or other telecommunications services, provided that written notice has been given to the Commission prior to the commencement of work, and provided that the work conforms to the performance standards in regulations lawfully adopted by the Commission.
  - (2) Work performed for normal maintenance or improvement of land which is lawfully in agricultural use at the time the work takes place,
  - (3) Emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by, or has been ordered by, any agency of the Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency. Within 21 days of commencement of an emergency project, a permit application shall be filed with the Commission for review as provided in this Bylaw.

#### **Section 21.4 Application/Permits**

- (a) Written application shall be filed with the Conservation Commission to perform activities in or on resource areas or areas protected by the Bylaw. The permit application shall be identical to that required by the Massachusetts Wetlands Protection Act and its regulations except as described in this Bylaw.
- (1) All applications where work is proposed within 50 feet of resource areas identified in this Bylaw, and requiring a Notice of Intent under the Wetlands Protection Act, shall include but not be limited to:
  - (a) Detailed contour layout drawn by a registered engineer or land surveyor, backed up by field staking of
    - (i) The limit of all wetland resource areas including the 100-foot buffer zones,
    - (ii) Conservation restrictions,
    - (iii) U.S. Army Corps of Engineers demarcation lines
    - (iv) House and septic system sites,
    - (v) Property lines
    - (vi) Any restrictions, including rights-of-way, easements (and type), etc. as shown by title search,
    - (vii) Benchmark reference within 1/2 mile,
    - (viii) Limit of 100 year flood according to the most recently available Flood Insurance Rate Map,
    - (ix) Areas of proposed wetland impact, and replication if applicable,
  - (b) Payment of appropriate fees as required under this Bylaw.

#### Section 21.5 Fees

- (a) Application Fees
 

The Commission shall establish fees for applications, notices of intent and other requests filed with the Commission in the rules and regulations of the Conservation Commission in accordance with Section 21.10 of this Bylaw. Such fees shall be paid by the applicant at the time the application, notice of intent or request is filed. Fees established by the Commission pursuant to this Bylaw are in addition to any fees required by the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, Section 40. The Commission may waive or reduce the filing fee and costs and expenses for an application or request filed by a government agency or otherwise as the Commission may determine by its rules and regulations.

#### Section 21.6 Permits, Determinations, and Conditions

- (a) Within 21 days of the close of a Public Hearing, the Commission shall issue or deny a permit for the work requested. If it issues a permit, the Commission shall impose conditions which it deems necessary to protect the interests which are protected by this Bylaw, and all work shall be done in accordance with those conditions.
- (b) If after consideration of an application, the Commission determines that the area which is subject of the application does not have significant interests protected by this Bylaw, the Commission shall inform the applicant within 21 days that a permit is not required.
- (c) Permits and determinations shall expire three years from the date of issuance. Any permit may be renewed one time for an additional one-year period, provided that a written request for renewal is received by the Commission at least 45 days prior to the expiration of the permit.
- (d) For good cause, including unexpected conditions actually encountered at the parcel which is subject of the application, and after Public Notice and Public Hearing, the Commission may review or modify a permit issued under this Bylaw.



- (e) In appropriate cases, the Commission shall combine the permit, determination, or other action under this Bylaw with the Order of Conditions, Determination, or other action issued under the Wetlands Protection Act.

#### Section 21.7 Enforcement

- (a) The Commission shall have the authority to enforce this Bylaw, and permits issued pursuant to this Bylaw, by issuing enforcement orders and by commencing civil and criminal court actions as appropriate. Any person who violates any provision of this Bylaw or permits issued hereunder shall be punished by a fine of not more than \$300.00 each day, or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw or permit violated shall constitute a separate offense.
- (b) The Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Chapter 40, Section 21D. Members of the Commission, duly appointed agents of the Commission, and police officers of the Town may enforce this Bylaw pursuant to Chapter 40 Section 21D. In the case of non-criminal disposition enforcement, the penalty shall be as follows:

First offense	\$50.00
Second offense	\$100.00
Third offense	\$200.00
Fourth and subsequent offenses	\$300.00

#### Section 21.8 Burden of Proof

- (a) The applicant shall have the burden of proving by a preponderance of the credible evidence, that the work proposed in the application will not harm the interests protected by this Bylaw. Failure to provide adequate evidence to the Commission which would support a determination that the proposed work will not harm the interests protected by this Bylaw shall be sufficient cause for the Commission either to deny a permit, or to grant a permit with conditions.

#### Section 21.9 Relation to the Wetlands Protection Act

- (a) This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, independent of the Wetlands Protection Act, M.G.L. Chapter 131, section 40, and the regulations thereunder.

#### Section 21.10: Regulations

- (a) After public notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purpose of this bylaw and the Wetlands Protection Act. Failure by the Commission to promulgate such rules and regulations or a legal declaration of the invalidity of such rules and regulations by a court of law shall not act to suspend or invalidate the effect of this bylaw.
- (b) Public notice of any proposed rules and regulations shall be given at least three (3) weeks prior to such public hearing by publication in a newspaper of general circulation in Medway and by posting with the Town Clerk.
- (c) The Commission's Rules and Regulations may define terms contained herein, adopt procedures for the filing of permit applications and specify methods of delineating areas subject to protection under this bylaw, provided that such Rules and Regulations are not inconsistent with both this bylaw and the Wetlands Protection Act.

#### Section 21.11 Severability

- (a) The invalidity of any section of this bylaw shall not invalidate any other section of provision thereof, nor shall it invalidate any order of condition or permit previously issued.

### **ARTICLE 22** **Community Preservation Committee**

### Section 22.1

There is hereby established a Community Preservation Committee, consisting of nine voting members pursuant to General Laws, Chapter 44B. The committee shall perform the duties set forth in this bylaw and shall be governed by the provisions of this bylaw and General Laws, Chapter 44B, Sections 3 to 7, inclusive.

### Section 22.2

The membership of the Community Preservation Committee shall consist of the following:

One member of the Affordable Housing Committee, as designated by the Affordable Housing Committee;  
One member of the Open Space Committee, as designated by the Open Space Committee;  
One member of the Planning and Economic Development Board, as designated by the Planning and Economic Development Board;  
One member of the Historical Commission, as designated by the Historical Commission;  
One member of the Conservation Commission, as designated by the Conservation Commission;  
One member of the Park and Recreation Commission, as designated by the Park and Recreation Commission;  
Three citizens at large, appointed by the Select Board for staggered terms;

All members to be appointed for a term of three years.

### Section 22.3

The Community Preservation Committee shall study the needs, possibilities, and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards. 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.

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

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 by 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 22.4

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

### Section 22.5

This bylaw 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 General Laws, Chapter 44B.

### Section 22.6

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

## **ARTICLE 23**

### **Sewer Extension Moratorium**

#### **Section 23.1 Purpose**

This bylaw is adopted pursuant to the Home Rule Amendment. The purpose of this bylaw is to conserve the town's limited available sewage disposal capacity in order to protect the public health and welfare.

#### **Section 23.2 Applicability**

Any and all extensions of the town's municipal; sewer system are hereby prohibited. No town board, commission, committee, official, or entity shall grant any permit or approval that would allow for the extension of the town's municipal sewer system beyond that currently in existence.

#### **Section 23.3 Connections**

Nothing in this bylaw shall prevent the grant of a sewer connection permit for property that abuts on that portion of a public or private way with an existing sewer line.

#### **Section 23.4 Severability**

If any section of this bylaw is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the bylaw.

## **Article 24**

### **Regulation of Door to Door Soliciting and Canvassing**

#### **Section 24.1. Purpose**

This bylaw adopted pursuant to chapter 43B, section 13, of the General Laws and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operational requirements for persons intending to engage in door-to-door canvassing or soliciting in the Town of Medway in order to protect its citizens from disruption of the peaceful enjoyment of their residences and from the perpetration of fraud or other crimes; and, to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

#### **24.2. Definitions**

For the purpose of this Bylaw, the following definitions shall apply:

##### **24.2.1. "Soliciting"** shall mean and include any one or more of the following door-to-door activities:

- a) selling, or seeking to obtain orders for the purchase of goods or services, including advertising in any type of publication, for any kind of consideration whatsoever;
- b) selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind;
- c) selling, or seeking to sell subscriptions to books, magazines, periodicals, newspapers or any other type of publication;
- d) seeking to obtain gifts or contributions of money, or any valuable thing for the support or benefit of any association, organization, corporation or project wholly or in part for commercial purposes or by a professional solicitor or commercial co-venture for a charitable or other non-commercial organization; and

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

24.2.2. “Canvassing” shall mean and include any one or more of the following door-to door activities:

- a) person-to-person distribution of literature, periodicals, or other printed materials for commercial purposes, but shall not include placing or dropping off printed materials on the premises:
- b) seeking to enlist membership in any organization for commercial purposes: and
- c) seeking to present, in person, organizational information for commercial purposes.

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

24.2.4. “Registered Solicitor” shall mean any person who has obtained a valid certificate of registration for the Town of Medway as required by this Bylaw.

24.2.5. “Charitable Organizations”, “Charitable” and “Commercial co-venturer” shall be defined:

“Charitable”, including but not limited to benevolent, educational, philanthropic, humane, patriotic, scientific, literary, religious, health, safety or welfare-related, or in furtherance of governmental or civic objectives, and benefiting the general public or some indefinite class thereof;

“Charitable organization”, any person whose purposes or actual operation are charitable in nature or one holding oneself out to be a charitable organization in whole or in part, including any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal which could be reasonably interpreted to suggest that there is a charitable purpose to any such solicitation;

“Commercial co-venturer”, any person who for profit or other commercial consideration, conducts, produces, promotes, underwrites, arranges or sponsors a performance, event, or sale to the public of a good or service which is advertised in conjunction with the name of any charitable organization or as benefiting to any extent any charitable purpose. Any such person who will benefit in good will only shall not be deemed a commercial co-venturer if the collection and distribution of the proceeds of the performance, event or sale are supervised and controlled by the benefiting charitable organization;

### 24.3. Registration

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of Medway must apply for a permit with the Chief of Police by filing a registration application form with the Medway Police Department. Application for both individual and organizational registrations shall be filed at least seven business days in advance.

24.3.1. Organization application forms shall include the following information:

- a) The name and address of the organization applying for registration, and the names and addresses of the organizations’ principal officers. If the organization is a charitable organization, a certification that the most recent Annual Registration Statement required to be filed with the Attorney General’s Division of Public Charities has been so filed. If the organization is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon;
- b) The name, title and telephone number, IRS or Social Security (optional) number and valid drivers license or other government-issued photo identification of the person(s) filing the application form;

- c) The names, addresses and telephone numbers of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Medway;
- d) A list of the names, addresses, date of birth of all individuals who will be employed in solicitation or canvassing, in the Town of Medway, by the applicant;
- e) Period of time for which certificate of registration is needed; provided, however, that no certificate may be granted for longer than a 90-day period;
- f) Names of the last three communities, if any, in which the organization has conducted a solicitation or canvassing operation, complete with the date of the issuance and date of the expiration of any permits or licenses issued by those communities to the organization; and
- g) Insurance information and license, if applicable.

24.3.2. Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under Chapter 27.3.1 hereof. Individual registration forms shall contain the following information:

- a) Name and address of the present place of residence and length of residence at that address; if less than three years residence at present address, the address of residence(s) during the past three years;
- b) Date of birth;
- c) Name, address and telephone number of the person or organizations whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization. If the individual is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract, if any, with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon;
- d) Period of time for which certificate of registration is needed; provided, however, that no certificate may be granted for longer than a 90-day period;
- e) Names of the last three communities, if any, in which the applicant has solicited or canvassed door-to-door, complete with the date of issuance and date of the expiration of any permits or licenses issued by those communities to the applicant;
- f) Valid drivers license or other government issued photo identification; and
- g) Make, model and registration number of any vehicle to be used by the applicant while soliciting or canvassing.

#### 24.4. Registration Fee

There shall be a \$20.00 application fee for an individual registration card or re-registration. There is no application fee for organizational applicants that apply for registration or re-registration.

#### 24.5. Registration Cards

24.5.1. The Police Chief or the Chief's designee, after a review of the application, which will include an investigation of the applicants pursuant to Section 27.5.4, but in no event more than seven business days after receipt of a fully-completed application, shall furnish each person with a registration card which shall contain the following information:

- a) The name of the person;
- b) A recent photograph of the person;
- c) The name of the organization, if any, which the person represents;

- d) A statement that the individual has been registered with the Town of Medway Police Department but that registration is not an endorsement of any individual or organization; and
- e) Specific dates or period of time covered by the registration.

24.5.2. Persons engaged in solicitation or canvassing as defined in this Bylaw must carry the registration card while soliciting or canvassing and present the card to any person solicited or upon request of any police officer.

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

24.5.4. The Police Chief shall routinely grant registrations without further inquiry but shall refuse registration to an organization or an individual where registration has been revoked for violation of this Bylaw within the previous two-year period or who has been convicted of murder, manslaughter, rape or any other sex crime, kidnapping, robbery, arson, burglary, breaking and entering, felony assault, illegal possession of a firearm or dangerous weapon, distribution of any illegal narcotic drugs, felony larceny, three or more misdemeanor assaults or three or more misdemeanor larcenies, as such persons pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The police chief shall also refuse to register a person who is a sex offender required to register with the Massachusetts Sex Offender Registry Board, or any other similar government entity, and who is a classified or considered to be a moderate to high risk or re-offending. Such individuals pose a substantial degree of dangerousness to minors or to other persons vulnerable to becoming victims of sex crimes. For the purposes of this Bylaw, a “Continued without a finding” or similar disposition will be considered the same as a conviction.

#### 24.6. Exceptions

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

24.6.2. Individual registration shall not be required for minors under the age of 17.

24.6.3. Nothing in this Bylaw shall be construed to impose any registration requirement or otherwise restrict or in any way regulate any activity for religious, political, newspaper distribution or public policy purposes or other non-commercial purposes, including, charitable, benevolent or fraternal activities, regardless of whether such activity includes acts that would otherwise constitute soliciting or canvassing.

#### 24.7. Duties of Persons Going Door-to-Door

24.7.1. Upon going into any residential premises in the Town of Medway, every solicitor, canvasser or other person must first examine any notice that may be posted, prohibiting solicitation or other activities. If such a notice is posted, the solicitor, canvasser or other person shall immediately and peacefully depart from the premises.

24.7.2. Any solicitor, canvasser or other person who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

24.7.3. Immediately upon gaining entrance to any residence, each solicitor or canvasser as defined in this Bylaw must do the following:

- a) Present the registration card for inspection by the occupant;
- b) Request that the occupant read the registration card; and
- c) Inform the occupant in clear language of the nature and purpose of the solicitor’s or canvasser’s business and, if representing an organization, the name and nature of that organization.

#### 24.8. Restriction on Methods of Solicitation, Canvassing, or Other Door-to Door activities.

It shall be unlawful for a solicitor, canvasser or other person to do any of the following:

- a) Falsely represent, directly or by implication, that the solicitation, canvassing or other activity is being done on behalf of a governmental organization, or on behalf of any municipal employee or elected official;
- b) Solicit, canvass or conduct any other activity at the residence without express prior permission of an occupant, before 9:00 a.m. or after 8:00 p.m., where there is no sign posted otherwise limiting solicitation or the hours of solicitation or such other activities;
- c) Continue to solicit, canvass or conduct activities after being advised by police of the registration requirements or after a registration certificate has been revoked or denied;
- d) Utilize any form of endorsement from any department head currently employed or serving the Town of Medway; and
- e) Solicit, canvass or conduct any other activity at any residence in an illegal fashion.

#### 24.9. Penalty

24.9.1. Any person or organization who violates Section 7.2, with an accompanying signed statement of the offended party, or Section 8 of this Bylaw, or any other applicable state or federal laws and punished by a fine of three hundred dollars for each and every offense, which may be recovered upon complaint before the district court and shall enure to the town, all in accord with chapter 40, section 21 of the General Laws. Any person or organization who violates any other provision of this Bylaw shall be punished by a fine of one hundred dollars for each and every offense, which may be recovered upon complaint to the district court and shall enure to the town, all in accord with chapter 40, section 21 of the General Laws.

24.9.2. Any person or organization who for said person, organization or through the person's or organization's agents, servants or employees is found after investigation by a police officer to have:

- a) violated any provision of this Bylaw, governing soliciting or canvassing; or
- b) knowingly provided false information on the registration application,

shall have the registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

#### 24.10. Appeals

Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Town of Medway Town Manager. Such appeal must be filed within five days after the receipt of the notice of denial or revocation. The Town Manager shall hear the appeal within ten days after the filing of the written notice of appeal, provided, however, that if the Town Manager fails to make a determination within thirty days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

#### 24.11. Severability

Invalidity of any individual provision of this Bylaw shall not affect the validity of the Bylaw as a whole.

### **ARTICLE 25** **Stretch Energy Code**

Section 25.1 The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as an appendix to the State Building Code as 780 CMR Appendix 115AA, including any amendments or modifications thereto, and accepted by vote of Town Meeting, is herein incorporated by reference.

Section 25.2 The Stretch Energy Codes is enforceable by the Building Commissioner and is to become concurrent with the State Building Codes July 1, 2011 and effective on January 1, 2012.

## **ARTICLE 26**

### **Stormwater Management and Land Disturbance**

#### **SECTION 26.1 AUTHORITY**

This Bylaw is adopted in accordance with the authority granted by M.G.L. Chapter 43B, Section 13.

#### **SECTION 26.2 PURPOSE**

The purpose and intent of this Bylaw is to fulfill the Town's obligations under the Clean Water Act (33 U.S.C 1251 & seq.) (the "Act") and under the Town's National Pollution Discharge Elimination System ("NPDES") permit. More specifically, its purpose is the following:

1. To protect the waters of the U.S. as defined in the Act and implementing regulations from uncontrolled Discharges of Storm Water or discharges of contaminated water which have a negative impact on the receiving waters by changing the physical, biological and chemical composition of those waters resulting in an unhealthy environment for aquatic organisms, wildlife and people;
2. To establish a comprehensive and fair system of regulation of discharges to the Town's Municipal Separate Storm Sewer System (MS4);
3. To identify, and authorize or eliminate direct or indirect connections to the MS4;
4. To require the removal of all illicit discharges to MS4;
5. To comply with Town, state and federal regulations related to storm water discharges, including but not limited to point sources, construction or industrial activities, and post-construction runoff by establishing provisions for the long-term responsibility for and maintenance of stormwater control facilities; and
6. To establish legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

#### **SECTION 26.3 DEFINITIONS**

Except as listed below, words, all terms, abbreviations and acronyms that appear in this Bylaw and are also defined in Appendix A of the Final 2016 Massachusetts Small MS4 General Permit ("Appendix A") signed April 4, 2016 with an effective date of July 1, 2018, (MS4 General Permit) or as most recently amended, shall be construed to have the meaning presented in Appendix A.

**Common Plan of Development** - A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. This Bylaw shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) as of the effective date of this Bylaw. A development shall not be segmented or phased in a manner to avoid compliance with this Bylaw. For example, if a developer buys a twenty-acre lot and builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures sometime in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction occurs on separate by independent builders, this activity still would be subject to stormwater and land disturbance permitting requirements if the smaller lots were included on the original site plan.

**Direct Connection** – A discharge that is connected to the MS4 through a pipe.

**Indirect Connection** – A flow generated outside the MS4 that enters through storm drain inlets or by infiltrating through the joints of the pipe.



Discharge – When used without qualifications, means the “discharge of a pollutant.”

Discharge of a pollutant – Any addition of any pollutant or combination of pollutants to waters of the United States from any point source. This includes additions of pollutants into waters of the United States from surface runoff which is collected and channeled by man; or discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

Illicit Connection -- A direct or indirect connection, which allows an illicit discharge into the MS4, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed or approved before the effective date of this Bylaw.

Illicit Discharge – Any discharge to a MS4 that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than NPDES permit for discharges from the MS4) and discharges from firefighting activities.

Illicit Discharge Detection and Elimination Program (IDDE) – The Town’s systematic procedure for locating and removing illicit discharges via catchment investigations and dry and wet weather outfall screening and sampling as administered and enforced by the Town’s Department of Public Works (DPW).

Impervious Surface – Any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include but is not limited to: roads, driveways, parking areas and other areas created using non porous material; buildings, rooftops, structures, artificial turf and compacted gravel or soil.

Land Disturbance – An action to alter the existing surface, vegetation and/or underlying soil of a site, such as demolition, clearing, grading, site preparation (e.g., excavating, cutting and filling), soil compaction, construction, and movement and stockpiling of top soils.

Limit of Work – The boundaries of the full extent of the area of land to be altered or disturbed during a construction project. The boundary beyond which no construction work will take place. Includes but is not limited to the areas where trees and other vegetation will be cleared, where the sod layer and other earth materials will be removed, where excavation and grading will occur, where buildings and infrastructure will be constructed, and areas to be used for truck parking, equipment storage, and material storage during construction. Limit of Work is also known as the area encompassed by erosion controls.

Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- a. Owned and operated by the Town that discharges to waters of the United States
- b. Designated or used for collection or conveyance stormwater
- c. Which is not a combined sewer; and
- d. Which is not part of Publically Owned Treatment Works (POTW) is as defined at 40 CFR 122.2.

New Development – Any construction activities or land alteration resulting in total land disturbances of 20,000 square feet or greater (or activities that are part of a larger common plan of development disturbing greater than 20,000 square feet) on an area that is not developed which will now include impervious cover.

Outfall – A point source where the MS4 discharges to waters of the United States.

Outfall Catchment – The land area draining to a single outfall or interconnection. The extent of an outfall’s catchment is determined not only by localized topography and impervious cover but also by the location of drainage structures and the connectivity of MS4 pipes.

Permitting Authority — The Conservation Commission or Planning and Economic Development Board (PEDB) as described in Section 26.5.3.

Point Source – Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agriculture stormwater runoff.

Pollutant – Dredged spoil, solid waste, incineration residue, filter backwash, sewage, garbage, sewer sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agriculture waste discharged into water.

Redevelopment – Any construction, land alteration, or improvement of impervious surfaces resulting in total land disturbances 20,000 square feet or greater (or activities that are part of a larger common plan of development disturbing 20,000 square feet or greater) that does not meet the definition of New Development (see above).

Stormwater – Stormwater runoff, snow melt runoff, and surface runoff and drainage.

Total Suspended Solids (TSS) – The entire amount of organic and inorganic particles dispersed in water. TSS is a water quality metric used to assess the quality of a water sample.

Town – Town of Medway

Unauthorized Connection –A connection that discharges to the Town’s MS4 without written permit from the Town.

## SECTION 26.4 DISCHARGES TO THE MS4

### Section 26.4.1. Prohibited Activities

- a. No person shall dump, discharge, cause or allow to be discharged any pollutant, unauthorized water from a point source, prohibited non-stormwater, or any other illicit discharge into the MS4 and/or Town right-of-way.
- b. No person shall construct, use, allow, maintain or continue any illicit connection or unauthorized connection to the MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- c. No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior written approval from the Enforcement Authority.
- d. No person shall dump or dispose of yard waste (leaves, grass clippings, etc.) into the MS4, or into catch basins, retention/detention basins or any other component of a stormwater management system which discharges to the MS4.

### Section 26.4.2. Pre-existing Discharges.

- a) Illicit discharges, illicit connections, and unauthorized connections in existence prior to the adoption of this Bylaw shall be discontinued in compliance with the Town’s Illicit Discharge Detection and Elimination (IDDE) program.
- b) Unauthorized connections that discharge only stormwater to the Town MS4 may be allowed to continue only with a MS4 Permit from the DPW following an examination of potential alternatives and a finding by the DPW that there is no viable alternative. In such a case, the owner of the property has the burden of demonstrating that there is no viable alternative. The owner of the property will be required to mitigate any stormwater discharge by on-site management to the maximum extent practicable, and by treatment

of any stormwater prior to discharge to the Town's MS4 system to remove any pollutants and a minimum of 80% of TSS.

### Section 26.4.3. Non-Stormwater Discharges

#### 26.4.3.1. Allowable Non-Stormwater Discharges

The following categories of non-stormwater discharges are allowed unless the Town, the United States Environmental Protection Agency (EPA), or the Massachusetts Department of Environmental Protection (MassDEP) identifies any category or individual discharge of non-stormwater discharge as a significant contributor of pollutants to the MS4. Then that category or individual discharge is not allowed but rather shall be deemed an "illicit discharge" and the Town shall address that category or individual discharge as part of its IDDE Program:

- a. Water line flushing
- b. Diverted stream flows
- c. Discharge from potable water sources
- d. Air conditioning condensation
- e. Irrigation water, springs
- f. Individual resident car washing without detergents or chemicals
- g. Flows from riparian habitats and wetlands
- h. Street wash waters
- i. Residential building wash waters without detergents
- j. Fire-fighting activities

#### 26.4.3.2. Non-Stormwater Discharges Requiring a MS4 Connection and Discharge (CD) Permit

A limited category of non-stormwater discharges are only allowed with a permit from the Department of Public Works (DPW). Such permits may be granted only following an examination of potential alternatives and a finding by DPW that there is no viable alternative and no detriment to the public good. These categories are:

- a. Uncontaminated pumped ground water
- b. Foundation drains
- c. Water from crawl space pumps
- d. Footing drains

#### 26.4.3.3. Prohibited Non-Stormwater Discharges

The following non-stormwater discharges are strictly prohibited:

- a. Chlorinated swimming pool discharges
- b. Landscape irrigation
- c. Lawn watering
- d. Discharging anything other than stormwater or non-stormwater allowed under section 26.4.3.1. and 26.4.3.2. into the street.

### Section 26.4.4. Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the MS4 or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Fire Department and the Department of Public Works-(DPW). In the event of a release of non-hazardous material, the

reporting person shall notify DPW no later than the next business day. The reporting person shall provide to DPW written confirmation of all telephone, electronic or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

#### Section 26.4.5. Municipal Separate Storm Sewer System (MS4) Permit Application

##### 26.4.5.1. Applicability

The MS4 Permit shall apply to:

- a. Unauthorized connections described in section 26.4.2.b. of this Bylaw.
- b. Unauthorized non-stormwater discharges as described in section 26.4.3.2. of this Bylaw.

##### 26.4.5.2. MS4 Rules and Regulations

The Department of Public Works shall promulgate MS4 Rules and Regulations to carry out the purpose and intent of Section 26.4 Discharges to the MS4, including but not limited to application requirements for MS4 permits; procedures for submission and review of applications; performance standards; waivers; decision criteria; construction monitoring; reporting; and enforcement.

### SECTION 26.5 LAND DISTURBANCE AND CONSTRUCTION ACTIVITY

#### Section 26.5.1. Applicability

This section shall apply to all activities in which the limit of work results in disturbance of:

- a. 20,000 square feet or more or
- b. Review for removal, disturbance, alteration, or addition of 10,000 square feet or more of impervious surface.

#### Section 26.5.2. Land Disturbance Permit

##### 26.5.2.1. Land Disturbance Permit Required

Except as authorized by the applicable board or commission, no person shall perform any applicable land disturbance activity without a Land Disturbance Permit. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulations 310 CMR 10.04, is exempt. Roadway and utilities improvement and maintenance undertaken by the Town is also exempt from permitting but such road work that involves increasing impervious surface by more than a single lane width shall comply with MS4 General Permit requirements.

##### 26.5.2.2. Outside Consultants and Fees

In connection with Land Disturbance Permit applications involving technical, legal, or other issues as to which the Permitting Authority considers it necessary or desirable to engage an outside consultant or consultants, such as engineers, lawyers, planners, licensed site professionals, or other appropriate professionals, to advise the Permitting Authority on those issues, the Permitting Authority may, in its sole discretion, require that the Applicant pay a reasonable review fee sufficient to enable the Board to retain consultants of its choice, said fee to be deposited into a special separate account established pursuant to Mass. G.L. c. 44, Section 53G.

##### 26.5.2.3 Rules and Regulations

The Conservation Commission and the Planning and Economic Development Board shall promulgate Land Disturbance Permit Rules and Regulations to implement the Land Disturbance Permit process provided herein. The Rules and Regulations shall include but are not limited to application requirements, procedures for submission

and review of applications, filing and review fees, performance standards, waivers, decision criteria, construction monitoring, reporting and enforcement.

#### Section 26.5.3. Coordinated Permitting

The Conservation Commission shall be the Permitting Authority for Land Disturbance permits, except that, if subdivision, site plan, or special permit approval from the Planning and Economic Development Board (PEDB), is required, and there are no activities subject to the Conservation Commission jurisdiction under the Wetland Protection Act or the Town's Wetland Protection Bylaw, Land Disturbance Permits shall be reviewed and issued by the PEDB as a component of those other permits, including the fees, regulations, timing, notice and hearing requirements of those other permits.

#### Section 26.5.4. Application

A completed application for a Land Disturbance Permit that complies with the requirements of the Stormwater Management and Land Disturbance Rules and Regulations (hereinafter "Land Disturbance Rules and Regulations") shall be filed with the Permitting Authority and when applicable, shall be submitted in conjunction with any other permit application to the applicable Permitting Authority as established in 25.5.3. A permit must be obtained prior to the commencement of any applicable land disturbing activity. The Land Disturbance Permit Application package shall include the following in addition to any other requirements set forth in the Land Disturbance Rules and Regulations:

- a. a completed Land Disturbance Application Form with original signatures of Applicant and all Owners;
- b. Erosion and Sediment Control Plan;
- c. Drainage calculations in compliance with the most current Massachusetts Stormwater Management Standards and the National Oceanic and Atmospheric Administration (NOAA) Atlas 14+ precipitation rates as may be updated;
- d. Narrative on how the project meets the most current Massachusetts Stormwater Management Standards;
- e. Construction sequencing or phasing plan;
- f. Stormwater Operations and Maintenance Plan during Construction;
- g. Post-Construction Stormwater Management Plan;
- h. Long-Term Stormwater Operations and Maintenance Plan;
- i. Other permits already received for the project;
- j. Request for Waivers from the provisions of 26.5 of this Bylaw if necessary;
- k. Application and/or filing fee when applicable; and,
- l. Calculation of limit of work.

#### Section 26.5.5. Waivers

The Permitting Authority may waive strict compliance with any requirement of this Bylaw or the Rules and Regulations promulgated hereunder, where:

- a. Such action is allowed by federal, state and local statutes and/or regulations; or

- b. a waiver is in the public interest; or
- c. a waiver is not inconsistent with the purpose and intent of this Bylaw; or, ~~or,~~
- d. the requirement does not apply to the particular site or situation under review; or
- e. a waiver would permit a superior design.

Any Applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that the waiver request meets the criteria of this section. All waiver requests shall be discussed and voted on at the public hearing for the project. If in the opinion of the Permitting Authority, additional time or information is required for review of a waiver request, it may continue the review to a date certain announced at the meeting.

#### Section 26.5.6. Erosion and Sediment Control Plan

##### 26.5.6.1. Applicability

An Erosion and Sediment Control Plan (ESCP) is required of all construction site operators performing land disturbance activities under the jurisdiction of this Bylaw. The ESCP shall be submitted with the Land Disturbance Permit and shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. **Details of the Erosion and Sediment Control Plan content are described in the Land Disturbance Rules and Regulations.** The Applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements listed in 26.5.6.2. below.

##### 26.5.6.2. Design Requirements

The design requirements of the Erosion and Sediment Control Plan are:

- a. Minimize total area of disturbance and protect natural resources;
- b. Sequence activities to minimize simultaneous areas of disturbance;
- c. Minimize soil erosion and control sedimentation during construction and document that proposed measures can handle the point precipitation frequencies for rates within a twenty-four hour period for a 100-year storm as provided in the NOAA Atlas 14+, recognizing that prevention of erosion is preferred over sedimentation control;
- d. Protect slopes on the construction site;
- e. Protect all storm drain inlets and armor all newly constructed outlets;
- f. Divert uncontaminated water around disturbed areas;
- g. Install and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices;
- h. Stabilize construction site entrances and exits, **and use perimeter controls** to prevent off-site vehicle tracking of sediment;
- i. Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project)
- j. Comply with applicable federal, state, and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
- k. Prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species from the proposed activities;

- l. Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site;
- m. Properly manage on-site construction and waste materials; including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes. These wastes may not be discharged to the MS4.

#### Section 26.5.7. Stormwater Operations and Maintenance Plan during Construction

##### 26.5.7.1. Applicability

The Applicant shall submit a narrative titled “Stormwater Operations and Maintenance Plan (O&M) during Construction,” which describes how the project site will be managed during construction.

##### 26.5.7.2. Stormwater Operations and Maintenance Plan during Construction Content

The narrative shall include:

- a. Good housekeeping practices, such as but not limited to, street sweeping, erosion and sediment control inspections and repairs, inspections of any pre-existing stormwater systems;
- b. Storage of materials and waste products inside or under cover;
- c. Routine inspections and maintenance of stormwater best management practices (BMPs);
- d. Spill prevention and response;
- e. Proper management of deicing chemicals and snow;
- f. Protection and stabilization of soils;
- g. Storage use and use of fertilizers, herbicides, and pesticides;
- h. Operations and maintenance of sanitary systems;
- i. Routine inspections of vehicles and equipment for leaks, spills, and other sources of pollutants.

##### 26.5.7.3. Reports

Reports shall be submitted bi-weekly to the Permitting Authority and after any storm event resulting in 0.25 inches of precipitation or more within twenty-four hours.

#### Section 26.5.8. Post-Construction Stormwater Management Plan

##### 26.5.8.1. Applicability

The application for a Land Disturbance Permit shall include a Post-Construction Stormwater Management Plan. The Post-Construction Stormwater Management Plan shall contain sufficient information for the applicable Permitting Authority to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the Applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the most current Massachusetts Stormwater Management Standards and utilize NOAA Atlas 14+ precipitation rates as may be updated from time to time. Applicant’s design shall reflect the most stringent requirements for stormwater management, whether it be federal, state, or local requirements. Details of the requirements for the Post-Construction Stormwater Management Plan content are described in the Land Disturbance Permit Rules and Regulations.

#### 26.5.8.2. Stormwater Design Requirements

##### a. Low Impact Development

Projects shall use Low Impact Development (LID) site planning and design strategies unless infeasible and shall comply with the following requirements:

1. Reduce runoff and pollutant loading by managing runoff as close to its source as possible;
2. Utilize integrated LID and individual small-scale stormwater management practices (isolated LID practices) to promote the use of natural systems for infiltration, evapotranspiration, the harvesting and use of rainwater, and reduction of flows to drainage collection systems;
3. Reduce impervious cover;
4. Conserve and protect natural lands, especially open space landscapes, high quality wildlife habitat, and existing farmland;
5. Utilize compact building design and increasing density to prevent sprawl, enhance walkability, and preserve more undisturbed natural areas;

##### a. For new development sites:

1. Stormwater management systems must be designed to meet the most current Massachusetts Stormwater Standards and utilize NOAA Atlas 14+ precipitation rates as may be updated.
2. All stormwater management systems shall be designed to:
  - a. Retain the volume of runoff equivalent to, or greater than, one inch multiplied by the total post-construction impervious surface area on the site, AND
  - b. Remove 90% of the average annual load of Total Suspended Solids (TSS) AND 60% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious area on the site. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, any federally or State approved BMP design guidance or performance standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance. The required removal percentage is not required for each storm; it is the average removal over a year that is required.

##### b. For redevelopment sites:

1. Stormwater management systems on redevelopment sites shall meet the most current Massachusetts Stormwater Standards and utilize NOAA Atlas 14+ precipitation rates as may be updated.
2. Stormwater management systems on redevelopment sites shall also improve existing conditions and be designed to:
  - a. Retain the volume of runoff equivalent to, or greater than, 0.80 inch multiplied by the total post-construction impervious surface area on the site; AND
  - b. Remove 80% of the average annual post-construction load of Total Suspended Solids (TSS) AND 50% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious area on the site. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1 where available. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or State approved BMP design guidance or performance



standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.

3. Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions unless infeasible and are exempt from the MS4 General Permit part 2.3.6.a.ii.4. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements of part 2.3.6.a.ii.4 ~~(a)~~—(e) of MS4 General Permit as most recently amended.
- c. All stormwater management systems must have a Long-Term Operation and Maintenance plan prepared in accordance with Section 26.5.9. to ensure that systems function as designed.
- d. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.

#### 26.5.8.3. Recording

The Post-Construction Stormwater Management Plan shall be recorded at the Registry of Deeds along with the decision of the Applicable Permitting Authority.

### Section 26.5.9. Long-Term Operation and Maintenance Plan

#### 26.5.9.1. Applicability

A Long-Term Operation and Maintenance Plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit, this Bylaw and the Massachusetts Stormwater Standards are met in all seasons and throughout the life of the system. The applicable Permitting Authority shall make the final decision of what maintenance option is appropriate in a given situation. The applicable Permitting Authority will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The Long-Term Operation and Maintenance Plan shall remain on file with the applicable Permitting Authority and the Department of Public Works. Adherence to the O&M Plan shall be an ongoing requirement.

#### 26.5.9.2. Plan Contents

The Long-Term Operation and Maintenance Plan shall include:

- a. The name(s) of the owner(s) for all components of the system;
- b. Maintenance agreements that specify:
  1. The names and addresses of the person(s) responsible for operation and maintenance,
  2. The person(s) responsible for financing maintenance and emergency repairs,
  3. A maintenance schedule for all structural and non-structural stormwater BMPs,
  4. A list of easements to the town with the purpose and location of each, if applicable,
  5. The signature(s) of the owner(s) acknowledging responsibility of maintenance.

#### 26.5.9.3. Stormwater Management Easement(s).

- a. Stormwater management easements may be required for areas used for off-site stormwater control.,

- b. Stormwater management easements shall be provided to the Town by the property owner(s) as necessary to comply with the Post-Construction Stormwater Management Plan and Long-Term Operation and Maintenance Plans for:
  - 1. access for facility inspections and maintenance, preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
  - 2. direct maintenance access by heavy equipment to structures requiring regular cleanout.
- c. The purpose of each easement shall be specified in the Long-Term Operation and Maintenance agreement signed by the property owner.
- d. Easements along with a plan illustrating their location shall be recorded with the Norfolk County Registry of Deeds prior to issuance of a Certificate of Project Completion by the applicable Permitting Authority.

#### 26.5.9.4. Changes to Long-Term Operation and Maintenance Plan

- a. The owner(s) of the stormwater management system must notify the Department of Public Works of changes in ownership or assignment of financial responsibility.
- b. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this Bylaw by mutual agreement of the Department of Public Works and the Responsible Parties. Proposed amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility. Proposed amendments must be described in detail along with reasons why the Town should consider them. Amendments will not be considered until at least three years after Project Completion as defined in 26.5.14.

#### 26.5.9.5. Recording

The Long-Term Operation and Maintenance Plan shall be recorded at the Registry of Deeds along with the decision of the applicable Permitting Authority and the Post-Construction Stormwater Management Plan.

#### 26.5.9.6. Reports

The property owner shall provide an annual report to the Permitting Authority and Department of Public Works by December 15. The Report shall include documentation of compliance with the O&M Plan, including photographs, and maintenance receipts as applicable.

### Section 26.5.10. Inspection and Site Supervision

#### 26.5.10.1. Pre-construction Meeting

Prior to clearing, excavation, construction, or land disturbing activity, the Applicant, the Applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with appropriate Town staff and/or designated agents, to review the permitted plans and their implementation.

#### 26.5.10.2. Construction Inspection

The applicable Town staff or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the Permittee wherein the work fails to comply with the Land Disturbance Permit as approved. The Land Disturbance Permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of applicable Permitting Authority, shall be maintained at the site during the progress of the work. In order to obtain inspections, the Permittee shall notify applicable Permitting Authority at least two working days before each of the following events:

- a. Erosion and sediment control measures are in place and stabilized;
- b. Site clearing has been substantially completed;

- c. Rough grading has been substantially completed;
- d. Installation of physical control measures;
- e. Final grading has been substantially completed;
- f. Close of the construction season; and
- g. Final landscaping (permanent stabilization) and project final completion.

A written report of these inspections shall be provided to both the Permittee and the applicable Permitting Authority by the Town staff or designated agent. Such inspections may be combined with other inspections required under any other permits issued to authorize the project.

#### 26.5.10.3. Permittee Inspections and Reporting

The Permittee or Permittee's agent shall conduct and document inspections of all control measures no less than weekly during construction or as specified in the Land Disturbance Permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The Permittee or Permittee's agent shall submit reports to the applicable Permitting Authority or designated agent as outlined in section 26.5.7.

#### 26.5.10.4. Access Permission

To the extent permitted by law, or if authorized by the Owner/Permittee or other party in control of the property, the applicable Permitting Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys or sampling as the applicable Permitting Authority deems reasonably necessary to determine compliance with the permit.

#### Section 26.5.11. Surety

In instances where the proposed Land Disturbance does not require a special permit or site plan approval from the Planning and Economic Development Board, the applicable Permitting Authority may require the Permittee to post a performance guarantee in a form acceptable to Town Counsel and the Town Treasurer before the start of land disturbance activity. The Permitting Authority shall consider the size of the overall project, the potential environmental harms if work is not completed in compliance with the Permit, any unique topographical or other natural features of the site, the extent of mitigation needed, and other relevant factors in determining whether a performance guarantee is necessary to protect the interests of this Bylaw. The form of the surety shall be in an amount deemed sufficient by the applicable Permitting Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the applicable Permitting Authority may release part of the surety as each phase is completed in compliance with the Permit, but the surety may not be fully released until the applicable Permitting Authority has received the final report as required by 26.5.12. and has issued a Certificate of Completion. The amount of the surety shall be sufficient to ensure that the site may be stabilized, including a minimum of six inches of loam seeded over any disturbed area along with erosion controls plus 25% contingency.

#### Section 26.5.12. Final Reports

Upon completion of the work, the Permittee shall submit to the applicable Permitting Authority a report from the Professional Engineer of record (P.E.), certifying that the project has been completed in accordance with the conditions of the approved Permit and the approved plans and including an as-built plan as described in Section 26.5.13. Any deviations should be noted in the cover letter. The Final Report shall include the Long-Term Operation and Maintenance Plan as described in 26.5.9.

#### Section 26.5.13. Certified As-built Plans

The As-built Plans must depict all on site controls, both structural and non-structural, designed to manage stormwater and demonstrate that the proposed work was completed in accordance with the approved Land Disturbance Permit. As-built construction plans must be stamped by a Professional Engineer (P.E.) and a Massachusetts Land Surveyor.

#### Section 26.5.14. Project Completion

The Permitting Authority will issue a document certifying completion upon receipt and approval of the Final Reports and As-built Plans and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this Bylaw. Such certification may be a component of Conservation Commission Certificate of Compliance or a PEDB Certificate of Completion. A copy of the Certificate, Final Report, and As-built Plans shall be submitted by the Permitting Authority to the Department of Public Works.

### SECTION 26.6. Enforcement

#### Section 26.6.1. Applicability

The Director of the Department of Public Works or the Director's designee shall enforce Section 26.4 of this Bylaw, and the applicable Permitting Authority or an authorized agent shall enforce Section 26.5 of this Bylaw, (herein the "enforcing authority"), including associated regulations, and may issue orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

#### Section 26.6.2. Orders

- a. The enforcing authority may issue a written order to enforce the provisions of this Bylaw or the regulations thereunder, which may include:
  - i. a requirement to cease and desist from any unauthorized or illicit connection, or illicit discharging to the MS4 until there is compliance with the Bylaw and provisions of the MS4 permit;
  - ii. a requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw and provisions of the land-disturbance permit;
  - iii. Maintenance, installation or performance of additional stormwater BMPs or erosion and sediment control measures;
  - iv. Monitoring, analyses, and reporting;
  - v. Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.
- b. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and the property owner shall reimburse the Town expenses.
- c. Within thirty days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Town Administrator within thirty days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty days following a decision of the Town Administrator affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

#### Section 26.6.3. Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and Article 19 of the Town of Medway General Bylaws through the applicable enforcing person. The penalty for the first violation shall be a written warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or

part thereof that such violation occurs or continues shall constitute a separate offense.

#### Section 26.6.4. Criminal Penalty

Any person who violates any provision of this Bylaw, regulation, order or permit issued there under, shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

#### Section 26.6.5. Appeals

The decisions or orders of the DPW, PEDB or Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

#### Section 26.6.6. Remedies Not Exclusive

The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

#### Section 26.7. Severability

If any provision, paragraph, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

### **ARTICLE 27** **Revolving Funds**

Section 27.1 Authorized Revolving Funds. There are hereby established in the Town of Medway pursuant to the provisions of General Laws Chapter 44, Section 53E½, the following Revolving Funds:

Program or Purpose	Authorized Representative or Board to Spend	Department Receipts
Self-supporting parks and recreation services, including salaries and benefits	Department of Public Services	Fees and charges received from permitting parks, fields, and recreational activities.
Dial-a-ride van service for seniors and disabled; shuttle service to Norfolk commuter rail station, and other necessary transportation services	Council on Aging Department	Fees, charges or donations received in connection with transportation services provided through the Council on Aging and the Greater Attleboro Taunton Regional Transit Authority (GATRA) reimbursement.
Library printer, copier and fax expenses	Library Department	Fees or charges received in connection with public use of this equipment.
Library meeting room	Library Department	Fees or charges received in connection with public use of meeting rooms.
Thayer Homestead partial self-support of property, including salaries and benefits	Town Manager	Fees or charges received in connection with rental of the facility.
Tobacco license compliance inspections	Health Department	Tobacco license fees
Self-supporting food services, including salaries and benefits	Council on Aging Director	Charges received from food sales.
Planting trees	Conservation Commission	Tree Preservation Mitigation Payment *With annual spending limit of \$20,000

Section 27.2 Expenditure Limits. Expenditures from each revolving fund set forth herein shall be subject to the limitation established annually by Town Meeting or any increase therein as may be authorized in accordance with General Laws Chapter 44, Section 53E½.

## **ARTICLE 28**

### **Right to Farm**

#### **Section 28.1 Legislative Purpose and Intent**

The purpose and intent of this Bylaw 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, subject to strict compliance with all state and local laws, rules and regulations, including but not limited to the Medway Zoning and General Bylaws, Medway Board of Health regulations, and subdivision rules and regulations of the Medway Planning and Economic Development Board, and any Rules and Regulations of any Medway board, committee, department or agency. We the citizens of Medway 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 Bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Medway by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies.

#### **Section 28.2 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, but in no circumstances shall they be used in any manner to change, alter or create a deviation from any other parts of the Medway General Bylaws, Zoning Bylaws, or Rules and Regulations of any Medway board, committee, department or agency:

- 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, 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.

"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 28.3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Medway. 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 Bylaw are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices and in full compliance with the Medway General Bylaws, Zoning Bylaws, and all rules and regulations of any Medway board, committee, department or agency. Moreover, nothing in this Right To Farm Bylaw 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 28.4 Resolution of Disputes

The provision of this Bylaw shall not apply whenever an impact results from willful negligence or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Zoning Board of Appeals, Conservation Commission, 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 Board of Appeals, Conservation Commission or Board of Health may forward a copy of the grievance to the Agricultural Commission or its agent which shall review the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame. The voted resolution of the grievance by the Zoning Board of Appeals, Conservation Commission or Board of Health, which may include an order to cease a particular activity or activities, shall be final.

### Section 28.5 Severability Clause

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

## **ARTICLE 29** **Plastic Bag Reduction**

### Section 29.1 Findings and Purpose.

The production and use of thin-film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: harming marine and terrestrial animals through ingestion and entanglement; polluting and degrading the terrestrial and marine environments; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of non-renewable fossil fuel in their manufacture and composition.

The purpose of this bylaw is to protect the Town's unique natural beauty and irreplaceable natural resources by eliminating the usage of thin-film single-use plastic checkout bags by all establishments in the Town of Medway.

### Section 29.2 Definitions.

**CHECKOUT BAG:** Any bag that is provided at the point of sale to a customer of an Establishment for use to transport or carry away purchases, such as merchandise, goods or food, except as otherwise exempted under this bylaw.

ESTABLISHMENT: Any business selling goods, articles, food or personal services to the public, including public eating establishments and take-out restaurants.

PRODUCT BAG: A bag integrated into the packaging of the product.

RECYCLABLE PAPER BAGS: Paper bags with or without handles provided at the point of sale to a customer of an Establishment for use to transport or carry away purchases, such as merchandise, goods or food, etc. and that (1) are one hundred percent (100%) recyclable, and (2) contain a minimum of forty percent (40%) postconsumer recycled paper content.

REUSABLE [CHECKOUT] BAG: A bag, with stitched handles, that is 4.0 mils or thicker, is specifically designed for multiple uses and is made of cloth, fabric, or other durable, washable materials.

THIN-FILM SINGLE-USE BAGS: Plastic bags, typically with handles, with a thickness less than 4.0 mils which are intended for single-use transport of purchased products.

### Section 29.3 Use Regulations.

- A. Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any Establishment within the Town of Medway.
- B. Establishments may provide or sell checkout bags to customers, and the bags must be one of the following: Recyclable paper bags or reusable checkout bags at no charge or a reasonable charge to be kept by the Establishment. Establishments are further encouraged to educate their staff to promote Reusable Bags and post signs encouraging customers to use washable Reusable Bags.
- C. Customers are encouraged to bring their own reusable or biodegradable shopping bags to Establishments.

### Section 29.4 Exemptions and Alternatives

The following are exempt and not subject to the provisions of this chapter:

- (1) Thin plastic bags used to protect newspapers upon delivery;
- (2) Laundry or dry-cleaning bags;
- (3) Thin film bags, typically without handles, used to contain produce, meat, or fish
- (4) Bags sold in packages containing multiple bags intended to be used for home food storage, garbage, waste, pet waste or yard waste;
- (5) Product bags;
- (6) Town Pay-As-You-Throw trash bags;

Nothing in this chapter prohibits customers from using bags of any type that they bring into an Establishment themselves or from carrying away goods that are not placed in a bag. Customers are encouraged to bring their own reusable bags to the aforesaid Establishments.

### Section 29.5 Inspections and Enforcement.

- A. This bylaw shall be enforced by any Town police officer, enforcement officer or agent of the Board of Health.
- B. This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, non-criminal disposition pursuant to G.L. c. 40, §21D and Article 19 of the Town's General Bylaws. If non-criminal disposition is elected, then any Establishment which violates any provision of this bylaw shall be subject to the following penalties:

First Offense:	Warning
Second Offense:	\$50 fine
Third and Subsequent Offenses:	\$200 fine each offense

Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

- C. Non-payment of fines may result in the suspension, revocation, or denial of other Town issued license(s) or permits in accordance with G.L. c. 40, § 57.

### Section 29.6 Severability and Effective Date.



- A. If any provision of this bylaw shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this bylaw, which shall remain in full force and effect.
- B. This bylaw shall take effect six (6) months following approval of the bylaw by the Attorney General or on July 1, 2020, whichever is later. This will allow time for Establishments to use their existing inventory of thin-film plastic checkout bags and to convert to alternative packaging materials.
- C. Upon application of the owner of an Establishment or the owner's representative, the Board of Health may exempt an Establishment from the requirements of this section for a period of up to six (6) months upon a finding by the Board of Health that (1) the requirements of this section would cause undue hardship; or (2) a retail store requires additional time in order to draw down an existing inventory of checkout bags.

### **Article 30**

#### **Security Posted in Connection with Licenses, Permits and Approvals**

##### **Section 30.1 Purpose**

The purpose of this Bylaw is to provide a mechanism for the application by Town officers, boards, committees and commissions of security posted by applicants in connection with their obtaining licenses, permits, approvals, authorizations and contracts. This Bylaw is adopted pursuant to the home rule authority of the Town and the authority conferred by G.L. c. 44, § 53G½.

##### **Section 30.2 Scope**

It is the intent of this Bylaw to govern as broad a range of situations as possible in which Town officers, boards, committees and commissions require some form of security from applicants, provided that this Bylaw shall not apply to deposits or other financial surety received under G.L. c. 41, § 81U or financial surety governed by other general or special laws. Without limiting the generality of the foregoing, this Bylaw shall apply to surety required by (a) the Select Board to secure performance under any contract which such board is authorized to execute by general or special law or by any of the General Bylaws; (b) the Select Board to secure performance of any condition for the issuance by such board of any license, permit or approval; (c) the Conservation Commission to secure performance of any obligation undertaken by an applicant for an order of conditions, land disturbance permit or other approval granted by such commission; (d) the Planning and Economic Development Board and Zoning Board of Appeals to secure performance of any obligation undertaken by an applicant for a special permit, variance, site plan approval, land disturbance permit or other approval granted by such boards; and (e) the Department of Public Works to secure performance of any obligation undertaken by an applicant for a stormwater permit, street opening permit, or other approval granted by such department.

##### **Section 30.3 Handling of Funds**

- (a) Subject to any restrictions set forth in any authorizing statute or Bylaw, Town officers, boards, committees and commissions may require, accept, hold and apply security in a deposit of money, a bond issued by a bonding company authorized to do business within the Commonwealth of Massachusetts, a letter of credit, and a so-called 'tri-partite' agreement of the kind described in G.L. c. 41, § 81U(4).
- (b) Any deposit of money hereunder shall be held by the Treasurer in a special account established specifically for such purpose, separate and apart from all other funds. Any bonds, letters of credit and so-called "tri-partite" agreements shall also be held by the Treasurer, and any funds generated from such surety shall likewise be deposited in such a special account. Any such account shall be an interest-bearing account with a Massachusetts bank. All interest accruing on each such account shall be added to the principal of such account for disposition as set forth herein.

##### **Section 30.4 Performance Standards**

- (a) Any Town officer, board, committee or commission requiring surety from any applicant hereunder shall be responsible for determining, in the exercise of ~~his, her or its~~ reasonable discretion and in good faith, the extent, quality and adequacy of any work done by such applicant or performance by such applicant of the obligation for

which such surety was given. Such officer, board, committee or commission may, but need not, reduce the amount of surety held upon proof of satisfactory partial work or performance by such applicant, provided that nothing herein shall require that such reduction be commensurate with the extent of such performance.

(b) If and when such Town officer, board, committee or commission determines that such applicant has fully and satisfactorily completed all work and performed all obligations for which such surety was given, such surety shall be released and returned to the applicant, including any accrued interest.

#### Section 30.5 Default

(a) If any Town officer, board, committee or commission which has received surety for work or for the performance of any obligation hereunder determines at any time that the applicant who posted such security is in default of the applicant's obligations (whether because of a failure to complete such work or performance by a designated deadline, or the unsatisfactory quality of such applicant's work or performance, or otherwise), such officer, board, committee or commission may declare such applicant in default, after first providing the applicant with written notice and an opportunity to be heard regarding whether such applicant is in default.

(b) Upon a declaration of default, such officer, board, committee or commission shall be entitled to apply any and all surety posted by such applicant (including any interest received thereon) to the completion of the work or the performance of the obligations for which such surety was posted. Without limiting the generality of the foregoing, such officer, board, committee or commission may take any and all actions necessary or appropriate to enforce any bond, make demand on any issuer of a letter of credit, and demand payment under any so-called "tri-partite" agreement, and any money received as a result thereof shall be deposited in an account held by the Treasurer under §31.3(b), above. Monies in such special account may be expended by such officer, board, committee or commission, without further appropriation, to complete the work or perform the obligations which such applicant was obliged to do or perform. Any monies remaining in such account after all work has been done and all obligations performed to the full satisfaction of such officer, board, committee or commission shall be returned to the applicant, including any accrued interest.

#### Section 30.6 Procedure for Return of Surety

(a) At any time, and from time to time, an applicant whose surety is being held by the Treasurer on behalf of a Town officer, board, committee or commission may give written notice to such officer, board, committee or commission that in such applicant's opinion the work or performance that such surety was intended to secure has been fully and satisfactorily completed. Such notice shall contain a demand for the return of surety and the full name and address of the applicant. If such officer, board, committee or commission determine that such work or performance has been fully and satisfactorily completed, then the surety shall be released, or so much of it as may then remain, including any accrued interest, as set forth in §31.4(b), above. If such officer, board, committee or commission determines that such work or performance has not been fully and satisfactorily completed, then shall be specified in a written notice to the applicant the details wherein such work or performance remains incomplete or unsatisfactory within forty-five days after the receipt by such officer, board, committee or commission of the said notice and demand from the applicant. In the event that such forty-five-day period expires without such specification, then the applicant shall be entitled to the return of all surety then remaining, including any accrued interest. Any notice under this Bylaw by an applicant to a Town officer, board, committee or commission shall be given by certified mail, return receipt requested, or by hand delivery with a signed receipt.

#### Section 30.7 Severability

If any term, condition or provision set forth in this Bylaw should be found by a court of competent jurisdiction to be illegal, invalid or unenforceable as applied under particular circumstances, such term, condition or provision shall not be deemed stricken from this Bylaw but rather shall be, to the greatest extent possible, deemed applicable only to such circumstances as will not support a finding of such illegality, invalidity or unenforceability. The illegality, invalidity or unenforceability of any term, condition or provision of this Bylaw shall not affect the legality, validity or enforceability of any other term, condition or provision of this Bylaw.

### **Article 31** **Tree Preservation**

PURPOSE: The intent of the Tree Preservation Bylaw (Tree Bylaw) is:

- a) To promote and protect the public health, safety, and general welfare of the residents by providing for the regulation of the planting, maintenance, protection, and removal of trees within the Town of Medway;
- b) To recognize and appreciate that trees produce oxygen, capture carbon dioxide from the atmosphere, provide air purification, prevent soil erosion, control flooding, assist in water purification, contribute to the quality of life by providing cooling shade, provide habitat for wildlife, reduce noise levels, and aesthetically enhance the landscape;
- c) To preserve and protect trees and their canopies as an important environmental and cultural resource that enhances the Town of Medway's natural character and heritage;
- d) To protect the people in the Town of Medway from personal injury and property damage caused by the improper planting, maintenance, protection, or removal of trees;
- e) To protect property values by maintaining a healthy and vigorous community forest;
- f) To allow for the protection of certain trees during demolition and/or construction activity by designating areas of a lot where trees shall be protected and requiring mitigation for trees removed via replanting or collection of fees to support the Town's tree planting and maintenance efforts.

31.1. DEFINITIONS: For the purposes of this Tree Bylaw, the following definitions shall apply:

Certified Arborist: A professional arborist possessing current certification issued by the International Society of Arboriculture (I.S.A.) and/or the Massachusetts Arborist Association (M.A.A.).

Certificate of Exemption: A document approved and authorized by the Permitting Authority stating that the applicant/property is exempt from the regulations under this Bylaw. The Permitting Authority shall issue a Certificate of Exemption if the proposed activity does not have potential to harm a Protected Tree.

Commission: The Town of Medway Conservation Commission.

Conservation Permits: Written permit to perform activities in or on resource areas or areas protected by the Town of Medway Bylaw Article 21.

Construction: Building of structure(s) on a vacant or occupied lot; or additions to a structure on a lot that increases the total structure's square feet (of existing foundation) by 50% or greater.

Demolition: Removal of an existing structure with slab or foundation which is equal to 250 square feet or greater.

Diameter at Breast Height (DBH): The diameter of a tree trunk four and one-half feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one-half feet above the existing grade, the DBH shall be the measurement taken at the narrowest point beneath the split.

Invasive Species: Any plant listed on the most recent version of the Massachusetts Prohibited Plant List as published by the Massachusetts Department of Agriculture.

Lot Clearing: Removal of 75% or more of the Tree Canopy on a vacant lot.

Permitting Authority: Medway Conservation Commission, Conservation Agent, or the Tree Warden.

Protected Tree: Any existing tree with a DBH of six inches or greater that has any portion of its trunk within a Tree Preservation Area at grade level. Invasive Species (as defined herein) shall not be considered Protected Trees.

Tree Mitigation Fund: An account established pursuant to (M.G.L. c. 44 § 53E½) for the deposit of contributions in lieu of tree replanting as required by this Tree Bylaw.

Tree Preservation Area: The minimum front, side, and rear yard setback areas of a parcel as specified in Section 6.1 or other provisions of the Zoning Bylaw.

Tree Protection and Mitigation Plan: A plan submitted to the Permitting Authority for approval prior to the commencement of demolition, construction, or tree removal on a property on which a Protected Tree is located.

Tree Removal: Mechanical demolition of a living tree, or any act (a) that has caused a tree to die within the previous 12 months or (b) is likely to cause significant decline or death as determined by the Permitting Authority.

Tree Removal Permit Application: Written request to remove a Protected Tree in the Tree Preservation Area. The application must include a Tree Protection and Mitigation Plan.

Tree Removal Permit: Formal permission granted to remove a tree within the Tree Preservation Area via written permit.

## 31.2. SCOPE AND APPLICABILITY

31.2.1. The requirements of this Bylaw and all applicable rules and regulations apply to the following:

- a. Proposed demolition of existing residential or non-residential structures if construction includes removal of trees in the Tree Preservation Area.
- b. Proposed construction on a developed lot if construction includes removal of trees in the Tree Preservation Area.
- c. Proposed construction of any building or structure on a lot with no residential or non-residential structure on it.
- d. Proposed lot clearing of 75% or more of Tree Canopy on a vacant lot.

31.2.2. The following are exempt from the requirements of this Bylaw and all applicable rules and regulations:

- a. Public Shade Trees pursuant to M.G.L. Chapter 87.
- b. Emergency projects necessary for public safety, health, and welfare, as determined by the Permitting Authorities.
- c. Trees severely damaged as the direct result of a natural disaster.
- d. A period of an emergency such as a tornado, windstorm, flood, or other natural disaster.
- e. Trees that are hazardous as determined and confirmed in writing by a Certified Arborist or the Tree Warden.
- f. Trees currently infected by a disease or insect infestation of a permanent nature, as determined and confirmed in writing by a Certified Arborist or the Tree Warden.

- g. New construction (only), the construction of new driveways or entryways to the property. Width of driveways/entryways should follow the public safety requirements of Fire and Police regulations. This exemption does not include clearing of trees outside the footprint of the proposed driveway/entryway and sightlines to the lot proposed for development. For single family homes, this does not include requests for a second driveway or entryway if the lot has an existing driveway or entryway.

### 31.3. TREE PROTECTION AND MITIGATION

31.4.1 In connection with any activity regulated by this Bylaw, see Section 31.3, no person shall Remove a Protected Tree within a Tree Preservation Area without first applying for and receiving a Tree Removal Permit or Certificate of Exemption in accordance with this Bylaw. No building permit or Land Disturbance Permit shall be issued for any use, site, construction, or structural alteration that is subject to this Bylaw until the issuance of a Tree Removal Permit by the Permitting Authority if applicable to the project.

31.4.2. PROTECTION DURING DEMOLITION AND/OR CONSTRUCTION: Each Protected Tree to be retained on the property shall be shielded by the establishment of a fenced off Tree Preservation Area. The Tree Preservation Area shall be delineated on the submitted Tree Protection and Mitigation Plan, shall be installed prior to any demolition or site work, and shall remain in place until work is completed on the property, excluding final landscaping.

31.4.3. MITIGATION: The removal of a Protected Tree(s) from a property in connection with one or more of the circumstances set forth in Section 31.3.1 shall require mitigation based upon aggregate DBH of Protected Tree(s) removed. Mitigation shall be achieved by satisfying one or a combination of the following provisions:

- a. Replanting of Trees: For each inch of DBH of the Protected Tree(s) removed trees shall be replanted in accordance with the following:
  - 1. Each tree proposed for planting must have a minimum caliper of one inch or greater.
  - 2. Replacement Trees shall be determined as follows;
    - a. 6”-8” caliper trees proposed for removal, replaced with 1 tree for every 1 removed;
    - b. 8”-20” caliper trees proposed removal, replaced with 2 trees for every 1 tree removed;
    - c. Greater than 20” caliper tree proposed for removal, replaced with 3 trees for every 1 tree removed; and
    - d. All proposed replacement trees shall be native and shall not consists of non-native, cultivars or invasive species.
- b. Contribution to the Town of Medway Tree Mitigation Fund: The Commission shall establish a Tree Mitigation Fund contribution schedule with assigned value per inch of DBH of Protected Tree(s) to be removed and not otherwise mitigated. Tree Mitigation Fund contributions shall be received by the Town Conservation Commission, prior to the start of any tree removal and construction of any portion of the proposed project on the lot. Mitigation measures shall be identified in the submitted Tree Protection and Mitigation Plan. The removal or proposed removal of a Protected Tree(s) that has been mitigated for, in conjunction with a previous applicable permit, shall not require additional mitigation under subsequent permits, unless such mitigation has not been completed or otherwise assured.
- c. Contribution rate schedule.

12” Diameter at Breast Height (DBH) and Less	\$25 per inch
Greater than 13” DBH but no more than 18” DBH	\$50 per inch
Greater than 18” DBH	\$75 per inch

31.4.4.        **UNAUTHORIZED REMOVAL:** The removal of any Protected Tree not identified on the Tree Protection and Mitigation Plan shall require mitigation at the rate specified in Section 31.4.3 In addition, any person removing a Protected Tree not identified on the Tree Protection and Mitigation Plan in violation of this Bylaw shall be subject to enforcement pursuant to Section 31.9.1.

31.5.        **TREE REMOVAL PERMIT PROCEDURE:**

31.5.1.       **APPLICATION:**

- a. The application for a Tree Removal Permit must include a Tree Preservation and Mitigation Plan documented, prepared, dated, and signed by a Certified Arborist.
- b. Tree Removal Application Submittal: Prior to the issuance of a permit in connection with one or more of the circumstances set forth in Section 31.3.1 on a property which a Protected Tree is located, the applicant shall submit a Tree Removal Application to the Commission when filing a separate Conservation Application as part of the filing documents. If there is no Conservation Application being submitted as part of the project review, the Tree Removal Application shall be submitted to the Conservation Agent, who will make a decision with the recommendation of the Tree Warden for review and determination.
- c. Tree Removal Application Requirements: Tree Removal Permit Application must include a Tree Preservation and Mitigation Plan documented, prepared, dated, and signed by a Certified Arborist. The plan shall be a to-scale survey or site plan that indicates the applicable Tree Preservation Area, existing improvements, proposed construction and/or demolition, Protected Trees, and preservation and maintenance procedures in accordance with this Bylaw and the Rules and Regulations in effect at the time. It must also specify any tree removals and proposed mitigation measures per the requirements of this Bylaw.
- d. Re-Submittal: If demolition or construction has not commenced within twelve months of the date that a Tree Removal Permit Application was submitted for a property, or if removal of a previously unidentified Protected Tree is necessary during construction, an amended Tree Removal Permit Application shall be submitted identifying any changes from the previous plan, if any, and associated mitigation measures, if any.

31.5.2.       **ISSUANCE OR DENIAL**

- a. If the Tree Protection and Mitigation Plan is consistent with the protection and mitigation requirements contained herein and any established Rules and Regulations, then the Permitting Authority may issue an approval to any applicable permit. Applicant shall be sent a notice of this decision within 21 days of the vote at a public meeting and by Certified Mail Return Receipt. If the proposal does not meet or satisfy these requirements of this Bylaw, the Permitting Authority shall notify the applicant and the appropriate Town Department that all applicable permits should be denied due to lack of meeting requirements of this Bylaw. Applicant shall be sent a notice of this decision within 21 days of the vote at a public meeting and by Certified Mail Return Receipt. If the Permitting Authority fails to act on an application within thirty days after the application has been made, it shall be deemed to be approved. This time limit may be extended by mutual agreement of the applicant and Permitting Authority.
- b. All Tree Removal Permits shall be recorded at the Norfolk County Registry of Deeds and shall run with the land.

31.6.        **MAINTENANCE OF PROTECTED AND REPLANTED TREES:**

- a. Protected Trees: Each Protected Tree retained shall be maintained in good health for a period of no less than twenty-four months from the date of final inspection, or issuance of a Certificate of Occupancy if applicable. Should such tree die or significantly decline in the opinion of the Tree Warden and/or Conservation Commission or Certified Arborist, within this twenty-four-month period, the owner of the property shall be required to provide mitigation consistent with the requirements for the removal of a Protected Tree as contained herein within nine months from said determination.
- b. Replanted Trees: All new trees planted to mitigate the removal of Protected Tree(s) shall be maintained in good health for a period of no less than twenty-four months from the date of planting. Should such tree die within this twenty-four-month period, the owner of the property shall be responsible for replacing the tree with a tree equal to or greater than the size of the original Replanted Tree at installation; such replacement tree shall be planted within nine months of the death or serious decline of the original Replanted Tree.

### 31.7. CERTIFICATE OF EXEMPTION

#### A. APPLICATION:

- a. Applicant shall submit a Certificate of Exemption Application to the Commission when filing a separate Conservation Application as part of the filing documents. If there is no Conservation Application being submitted as part of the project review, the Certificate of Exemption Application shall be submitted to the Conservation Agent for review and determination.

#### B. ISSUANCE OR DENIAL:

- b. If the proposed Building Activity does not have potential to harm a Protected Tree, the Permitting Authority may issue any applicable permit or notify the appropriate Town Department. If the proposal does not meet or satisfy these requirements, the Permitting Authority shall notify the applicant and the appropriate Town Department that all applicable permits shall not be issued until the requirements are met. If the Permitting Authority fails to act on an application within thirty days after the application has been made, it shall be deemed to be approved.

31.8. TREE MITIGATION FUND There is hereby established a Town of Medway Tree Mitigation Fund ("Tree Fund") pursuant to M.G.L. c. 44 § 53E½. Any contributions collected per Section 31.4.3 of this Tree Bylaw shall be deposited in the Tree Mitigation Fund and shall be used solely for the purpose of buying, planting, and maintaining trees within residential neighborhoods and Town-owned properties in the Town of Medway.

### 31.9. ADMINISTRATION

- 31.9.1. ENFORCEMENT: The Permitting Authorities are hereby authorized to enforce all the provisions of the Tree Bylaw. Anyone who violates any provision of this Bylaw shall be punishable by a fine of not more than three hundred dollars for each offense. As an alternative means of enforcement, the enforcing person may impose noncriminal penalties pursuant to G.L. c. 40, §21D and Article 19 of the Town's General Bylaws, in accordance with the following schedule:

Bylaw	Noncriminal Penalty Schedule	Noncriminal Penalty	Enforcement Agent
Tree Preservation Bylaw	1 <sup>st</sup> Offense	\$100	Conservation Agent
	2 <sup>nd</sup> Offense	\$200	
	3 <sup>rd</sup> & each subsequent offense	\$300	

#### 31.9.2. APPEAL

- a. Any person aggrieved by a decision of the Tree Warden or Conservation Agent under this Bylaw may file an appeal with the Commission. Said appeal must be in writing and must be received by the Commission within ten business days of issuance of the written decision. The Commission shall conduct a public hearing on the appeal and shall give the public notice thereof, at the expense of the applicant. Public notice shall include mailed notice to all persons owning land within 100 feet of any part of the applicant's land at least 14 days before said hearing. The Commission shall rule within 20 days of the close of the public hearing.
- b. Appeals of final decisions of the Commission shall be pursuant to G.L. c. 249, § 4.
- c. No Protected Trees shall be removed while an appeal is pending.

#### 31.10. RULES AND REGULATIONS

The Commission may promulgate or amend Rules and Regulations which pertain to the administration of this Tree Bylaw and shall file a copy of said rules in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style, and number of copies of plans and expense specifications, the procedure for the submission and approval of such plans, and the procedure for determining final compliance with these regulations. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations.

### **Article 32** **Vehicle Removal**

The Chief of Police, or such Sergeants, officers in charge, or other officers of higher rank in the Police Department as they may from time to time designate, may remove, to some convenient place, through the agency of a person or persons acting on behalf of said police department, any motor vehicles on such ways or portions thereof, and whoever violates such rules, regulations in violation of any rules, regulations or orders which prohibits the parking or standing of all motor vehicles on such ways, or any under the town's control including parking lots within the curtilage of all school property or portions thereof, or order shall be liable for charges for the removal and storage of such vehicle as well as subject to punishment by fine.

If a vehicle is removed pursuant to such rules, regulations or orders, such vehicles shall be held until all charges lawfully paid and, if in the calendar year in which such vehicle is so aggregate have been affixed to said vehicle as provided in Chapter 90, Section 20A ½ of General Laws, until due notice has been received that either the fines provided in such notice have been paid or security for payment therefor has been deposited.

Motor vehicles owned by the Commonwealth or a political subdivision thereof or by the United States government or any instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular office who is not a citizen of the United States and bearing distinctive number plates or otherwise conspicuously marked as so owned or registered, or any other vehicle specifically exempt by law, shall not, however, be subject to such removal.

Liability shall be imposed for the reasonable cost of such removal, and for the storage charges, if any, resulting therefrom, upon the owner of such vehicle. Neither the removal nor storage of a motor vehicle under the provisions of this section shall be deemed to be services rendered or work performed by the Town and/or police department of the Town. The contractor shall be liable to the owner of such vehicle for any damage caused to its arising out of negligence in the course of such removal and storage.

### **Article 33** **Pedestrian Control**

#### **(1) Pedestrians Crossing Ways or Roadways.**

Pedestrians shall obey the directions of police officers directing traffic and whenever there is an officer directing traffic, a traffic control signal, or a marked crosswalk within 300 feet of a pedestrian, no such pedestrian shall



cross a way or roadway except within the limits of a marked crosswalk and as hereinafter provided in 720 CMR 9.00.

(2) Pedestrian Actuation.

(a) At a traffic control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian push button, no pedestrian shall cross a roadway unless or until the pedestrian control signal push button has been actuated and then cross only on the proper pedestrian signal indication. At traffic control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication. If necessary, the green indication shall be actuated by the pedestrian by means of a push button.

(b) At a traffic control signal location, pedestrians shall yield the right of way to vehicles of a funeral or other procession or authorized emergency vehicle while in performance of emergency duties regardless of the signal indication given, and they shall not attempt to cross the roadway until such vehicles or procession has passed at which time pedestrians shall then cross the roadway only as provided in 720 CMR 9.00.

(3) Pedestrian Obedience to Traffic Control Signals. Traffic control signal color indications and legends shall have the pedestrian commands ascribed to them in 720 CMR 9.09(3) and no other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer.

(a) The Walking Person symbol or the Word "Walk". Whenever the Walking Person symbol or the single word "walk" is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signal only. The walking person symbol or "WALK" indication means that there may or may not be possible conflict of pedestrians with turning vehicles.

(b) Red Alone or "Don't Walk". Whenever the words "Don't Walk" or the Up-raised Hand symbol are illuminated in a traffic control signal where pedestrian indications are provided, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the proper indication is illuminated in the traffic control signal, but any pedestrian who has partially completed his crossing on the walk indication shall proceed or return to the nearest sidewalk or safety island on the yellow indication, the red indication, the Up-raised Hand symbol or when the words "Don't Walk" are illuminated by rapid intermittent flashes.

(c) Green Alone. At traffic control signal locations where no pedestrian indication is given or provided, pedestrians facing the signal may proceed across the roadway within any marked crosswalk in the direction of the green indication.

(d) Yellow Alone, Red Alone, Flashing Up-raised Hand symbol or Flashing "Don't Walk". Pedestrians approaching or facing a yellow, red, or flashing "Don't Walk" illuminated indication shall not start to cross a roadway.

(e) Flashing Red or Yellow. At any traffic control signal location where a flashing red, or flashing yellow indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian signal indication and cross the roadway only on the Up-raised Hand symbol or "Walk" indication when such indication is in operation. If no pedestrian signal is provided, pedestrians shall cross within crosswalks with due care.

(4) Pedestrian Crossings and Use of Roadways.

(a) No pedestrian shall suddenly leave a sidewalk or safety island and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield the right of way.

(b) Pedestrians shall at all times attempt to cross a roadway using the right half of crosswalks.

(c) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway whenever the sidewalk is open to pedestrian use.

(d) Where sidewalks are not provided, any pedestrian walking along and upon an undivided highway shall, when practicable, walk only on the left side of the roadway on its unfinished shoulder facing traffic which may approach from the opposite direction. On any divided highway pedestrians not in violation of 720 CMR 9.08(2) shall walk only on the right side of the roadway on the unfinished shoulder.

(e) Persons alighting from the roadway side of any vehicle parked at the curb or edge of roadway in urban areas within 300 feet of a marked crosswalk shall proceed immediately to the sidewalk or edge of roadway adjacent to vehicle and shall cross the roadway only as authorized by 720 CMR 9.00.

(f) It shall be unlawful for any person to actuate a pedestrian control signal or to enter a marked crosswalk unless a crossing of the roadway is intended.

(5) Crossing at Non-Signalized Locations. Every pedestrian crossing a roadway in an urban area at any point other than within a marked crosswalk shall yield the right of way to all vehicles upon the roadway. At a point where a pedestrian tunnel or overpass has been provided, pedestrians shall cross the roadway only by the proper use of the tunnel or overpass.

(6) Pedestrians Soliciting Rides or Business. No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the operator or occupant of any vehicle without the written permission of the board or officer having control of such roadway or highway.

(7) Obedience of Bridge Signals. No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(8) Exemptions. The provisions of 720 CMR 9.09 governing the use of State highways by pedestrians shall not apply to pedestrians actually engaged in work upon a roadway closed to travel or under construction or repair, to municipal, state, federal or public service corporation employees while in the performance of their duties, to officers engaged in the performance of their public duties or to pedestrians acting in an emergency when such emergency necessitates departure from any part of 720 CMR 9.00.

Effect of 720 CMR 9.00. The provisions of 720 CMR 9.00 for driving so far as they are the same in effect as those of any existing rules and regulations heretofore made by the Commissioners of the Department shall be construed as a continuation thereof, but all other existing rules and regulations for driving are hereby expressly repealed. This repeal shall not, however, affect any punishment or penalty imposed or any complaint or prosecution pending at the time of passage hereof for any offense committed under any of the said rules and regulations hereby repealed.

If any section, sub-section, sentence, clause or phrase of 720 CMR 9.00 is for any reason unconstitutional, such decision shall not affect the validity of the remaining portion of 720 CMR 9.00. The Commissioners of the Department hereby declare that they would have passed 720 CMR 9.00 and each section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that anyone or more sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

REGULATORY AUTHORITY 720 CMR 9.00: M.G.L. c. 85, §§ 2 and 2E.

### **Article 34** **Noise**

Restrictions on hours of certain commercial activity. Except in an emergency, and except as permitted by statute or the chief of police as herein provided, no person shall undertake or perform any outdoor commercial activity involving construction, earth moving, yard maintenance, home improvement, or the delivery or pick up of equipment or supplies for use therein, except during the following periods of time: Monday through Friday 7AM. until 7PM. Saturday, 8AM. until 7PM and not permitted on Sunday and state observed holidays. The foregoing regulated activity includes, but is not limited to, the use of equipment powered by electric or internal combustion engines. Upon application, the chief of police or the chief's designee may issue permits for the conduct of necessary commercial outdoor activity which could not be performed during the otherwise permitted times without serious suffering, loss, damage, or public inconvenience. This bylaw shall not apply to snow removal operations, nor shall it apply to residents performing work on their own residential property or properties.

The emptying of the contents of the dumpster(s)/collection bin(s) by a contractor shall not commence before 7AM and not continue after 7PM Monday through Saturday. The Board of Health may modify these hours, if, in its reasonable judgment, is convinced that the public health and safety or public welfare would be better served and a nuisance would not be created. The Board of Health shall be guided in this regard by the location, proximity to residential property, frequency of emptying, resulting noise and other factors deemed appropriate.

Violations. Any person who violates any section of this bylaw shall be subject to a fine as follows:

Maximum fine allowed: \$300.00

Enforcement agent: Select Board or its Designee

Fine Schedule:           First offense - Warning  
                              Second offense - \$100.00  
                              Third offense - \$200.00  
                              Fourth and each subsequent offense - \$300.00 maximum per day. Each day to constitute a separate violation

### **Article 35** **Handicapped Bylaw**

#### **Section 1:**

No person shall allow, permit, or suffer any motor vehicle or trailer to:

- (A)           stand or park within parking spaces designated as reserved for vehicles issued handicapped or disabled veteran number plates or parking identification pursuant to the methods specified in G.L. c. 40, §21(23) and G.L. c. 40, §22; or
- (B)           stand or park in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or public way.

#### **Section 2:**

Any person or body that has lawful control of any way, property or place as appears in G.L. c. 40, §21(23)(a) shall provide handicapped parking according to the formula contained therein. Further, such handicapped spaces shall be identified in accordance with G.L. c. 23, §21(23)(b).

#### **Section 3:**

This bylaw may be enforced through the non-criminal disposition pursuant to G.L. c. 40, §21D. The penalty for violations of this bylaw shall be \$100 as provided in G.L. c. 40, §21(24). This bylaw shall be enforced by the Police Department. If any unauthorized vehicle is found in violation of the provisions of the bylaw and the identity of the driver cannot be determined, the owner or the person in whose name such vehicle is registered shall be held prima facie responsible for such violation.

### **Article 36** **Scenic Road Bylaw**

#### **36.1. GENERAL**

**A. Purpose** – This Bylaw is enacted for the purpose of further protecting the natural beauty that currently exists within the rights-of-way of select roads in the Town of Medway pursuant to M.G.L. chapter 40, section 15C.

**B. Designated Scenic Roads** – This Bylaw shall apply to the twenty-four roads designated as Scenic Roads at the Town Meeting of December 30, 1975 and an additional one road designated as a Scenic Road at the Town Meeting of May 14, 2001, as well as any additional roads as may be designated by Town Meeting. Additional roads may be designated as Scenic Roads by vote of Town Meeting in accordance with the provisions of M.G.L. chapter 40, section 15C.

**C. Regulations** – The Planning and Economic Development Board may promulgate rules and regulations to implement this Bylaw, including but not limited to procedures for submission and review of applications, application requirements, filing fees, waivers, decision criteria, and other matters.

#### **Section 36.2 PROCEDURES**

No person shall cut or remove a tree(s) or tear down or destroy stone walls or portions thereof within the right-of-way of a Scenic Road without first obtaining a Scenic Road Work Permit from the Planning and Economic

Development Board. The procedure for filing an application and for the public hearing are governed by M.G.L. chapter 40, section 15C and the Board's Rules and Regulations for Review and Issuance of Scenic Road Permits.

### **Section 36.3 ENFORCEMENT**

**A. Failure to file** – A person's failure to file with the Board for a Scenic Road Work Permit for the cutting or removal of a tree(s) or the tearing down or destruction of stone walls, or portions thereof within the right-of-way on a Scenic Road will necessitate that person's immediate filing for the required permit. Restoration measures, as determined by the Board after a Scenic Road public hearing, may be required.

**B. Compliance** – The failure by an applicant to comply with the duly issued decision of the Board in a Scenic Road Work Permit after one year from issuance may necessitate the enforcement of remedial measures which the Board deems necessary, including, but not limited to enforcement through non-criminal disposition and additional restoration measures.

**C. Enforcement** – The Building Commissioner, the Tree Warden, the Director of Public Works or his/her designee may enforce violations of this Bylaw.

**D. Penalties**- Anyone who violates the provisions of this Bylaw shall be punished by a fine of not more than \$300.00 per violation. As an alternative means of enforcement, the violator may be subject to non-criminal disposition in accordance with M.G.L., Chapter 40, Section 21D, as follows:

1. First offense: \$100 per violation;
2. Second offense: \$200 per violation;
3. Third and all subsequent offenses: \$300 per violation;
4. Each day's failure to comply shall constitute a separate and distinct offense.

Or act in any manner related thereto.