

TOWN OF SHELBYNE BYLAWS

**Excluding Zoning Bylaws and Sewer Bylaws
(as most recently amended on May 6, 2025)**

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ARTICLE 1. TOWN MEETING

- Section 1A.** The annual town meeting shall be held on the first Tuesday in May after six thirty (6:30 p.m.) or by adjournment to another day.
- Section 1B.** The election of officers and the determination of such matters, as by law, are required to be elected or determined by ballot shall take place on the third (3rd) Monday in May.
- Section 2.** All warrants for Town meetings, whether annual or special, shall be served by posting attested copies of the same in two (2) public places in Town. Said posting shall be at least seven (7) days before the time of holding an annual town meeting and fourteen (14) days for a special Town meeting.
- Section 3A.** The presence of at least seven (7) qualified voters shall be required at any town meeting to act on any motion except a motion to adjourn or dissolve.
- Section 3B.** All persons present at any Town meeting shall, while the meeting is open, be seated when requested by the moderator.
- Section 4.** When anyone addresses the moderator, he/she shall rise and stand uncovered during his/her speaking.
- Section 5.** No one shall stand in front of the moderator when votes are being counted or given in, except when called upon by the moderator.
- Section 6.** No one shall speak on the same question more than once in preference to one who has not already spoken, except to explain or call to order.
- Section 7.** No one shall interrupt another while speaking without permission of the speaker except to call him/her to order.
- Section 8.** An appeal to the meeting shall lie from the decision of the moderator on a question of order upon the demand of ten (10) persons present. The question on appeal shall be submitted before any other. Debate shall be limited to three (3) minutes on each side, but the moderator may make such statement as to the reason for his ruling as he/she deems proper.
- Section 9.** When several motions are made concerning the same subject, relating to sums of money, numbers or time, the question shall be first put upon the largest sum or number or the longest time.

- Section 10.** In all other cases, no new motion shall be made while one (1) is pending except, to amend or substitute, commit or recommit, lay upon the table or postpone to a time certain, close debate at a specified time, or the previous question or to adjourn.
- Section 11.** The previous question shall be put in the following form: "Shall the main question be now put?" and until this question is decided, all debate on the main question shall be suspended, except as provided in Section 12. Immediately after taking and adopting the previous question the sense of the meeting shall be taken upon any pending amendments, in the order inverse to that in which they were moved, and finally upon the main question.
- Section 12.** When debate is closed by ordering the previous question, or by a vote to close debate at a specified time, the person who shall have introduced the matter under consideration shall be allowed to speak ten (10) minutes, and may grant to any other person any portion of his/her time.
- Section 13.** The reports of all committees, relating to money or property, shall be in writing.
- Section 14.** All motions and amendments shall be in writing, when required by the moderator.
- Section 15.** A motion to reconsider a question in which a vote has been declared may be made by any person, but no question shall be twice reconsidered.
- Section 16.** All votes on motions shall be taken by a voice vote; the Moderator may, for motions requiring a two-thirds majority, but not receiving unanimous approval, declare that a two-thirds majority exists which shall be recorded in the records of the meeting. For motions requiring 4/5 or 9/10 vote, a count must be taken and recorded unless the vote is unanimous. If the Moderator is in doubt on any voice vote, he/she may call for a counted vote. If any voice vote, as declared by the Moderator, is immediately questioned by seven (7) of the voters present, by rising and stating "Mr./Madame Moderator, I doubt the vote," the taking of the vote shall be by a counted vote. Nothing in this section shall be construed to prevent the taking of a vote by ballot if a motion to that effect shall be duly made and carried by a majority of the voters present and voting thereon.

ARTICLE 2. FINANCES

- Section 1.** After every annual or other meeting at which any money is appropriated, the town clerk shall make three (3) lists or accounts of the sums voted, expressing therein the particular purpose of each appropriation, and deliver one (1) of them to the Select board, one (1) to the treasurer, and one (1) to the assessors.
- Section 2.** When monies voted for any purpose shall be by the Town appropriated to any other, or transferred to the general account of the monies unappropriated, two

(2) certificates thereof shall be made by the town clerk, one (1) of which shall be delivered to the Select board, and the other to the town treasurer.

Section 3. If an appropriation or portion thereof is not, within the fiscal year in which it is made or within the succeeding year, applied to the objects for which it was designed, it, or the unapplied balance thereof, shall revert to the general treasury, and shall not afterwards be paid out except upon a new appropriation. An appropriation for a specific year shall not be construed to prevent the application of an unexpended balance in the following year to the same objects. Except as aforesaid no appropriation shall be altered or transferred to any other account or purpose but by an express vote of the Town, provided however that this section not apply to transfers from the reserve or contingent account as allowed by the statue.

Section 4. The moderator at each annual town meeting shall appoint the necessary number of members to the Finance Committee. No member of the Finance Committee, during his/her term of service, shall hold an elective or appointive town office or be a member of any committee having to do with the expenditure of town funds or money.

In the first year the Town adopts this Bylaw, the Moderator shall appoint two (2) members for three (3) years, two (2) members for two (2) years and one (1) member for one (1) year and each year thereafter at subsequent Town Meeting, the Moderator shall appoint members to fill the expiring term(s) for three (3) years. The Moderator may rescind an appointment to the Committee for cause and may fill any vacancy for the unexpired term. The Committee shall annually choose a Chairman, Secretary and such other officers as it chooses. The finance committee shall meet and investigate the cost of maintenance and expenditures of the Town, and recommend in detail the amounts to be appropriated for each department for the ensuing year. They shall also consider all articles in the Town warrants requiring the appropriation of money and shall make written report to the meetings considering such articles.

Section 5. The Shelburne Sewer Commissioners shall recommend to Town Meeting the amounts necessary for the maintenance and capital expenses associated with the Shelburne Falls Treatment Plant, sewerage works, and sewers. Any appropriations approved by Town Meeting and expended to meet these expenses shall be reimbursed to the Town by the sewer users and/or State and Federal government or out of funds in the Shelburne Sewer Account.

Section 6. The yearly appropriation of funds necessary to retire the sewer bond debt associated with the initial sewerage treatment plant capital construction in the amount of \$7,000 plus interest shall not be reimbursed to the Town by the sewer users.

Section 7. The Town Collector shall retain all fees received from Municipal Lien Certificates in accordance with Chapter 60, Section 23 of the General Laws of the Commonwealth of Massachusetts.

Section 8. Departmental Revolving Funds

1. Purpose: This by-law establishes and authorizes revolving funds for use by town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E½
2. Expenditure Limitations: A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law/ordinance without appropriation subject to the following limitations:
 - A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund [except for those employed as school bus drivers].
 - B. No liability shall be incurred in excess of the available balance of the fund.
 - C. The total amount spent during a fiscal year shall not exceed the amount authorized by town meeting/town/city council on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the selectboard and finance committee/mayor and city council.
3. Interest: Interest earned on monies credited to a revolving fund established by this bylaw/ordinance shall be credited to the general fund.
4. Procedures and Reports: Except as provided in General Laws Chapter 44, § 53E½ and this by-law/ordinance, the laws, charter provisions, by-laws/ordinances, rules, regulations, policies or procedures that govern the receipt and custody of town/city monies and the expenditure and payment of town/city funds shall apply to the use of a revolving fund established and authorized by this by-law/ordinance. The town accountant/city auditor shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the town accountant/city auditor provides the department, board, committee, agency or officer on appropriations made for its use.

5. Authorized Revolving Funds:

Revolving Fund	Department, Board, Committee Authorized to Spend Fund	Fees, Charges or Other Receipts Credited to Fund	Program or Activity Expenses Payable From Fund	Fiscal Years
Police Department	Police Chief	Firearms Licensing, Permit Fees and fees to the Commonwealth	Activities Associated with Firearm Licensing and Other Permits	2019 Onward
Town Clerk	Town Clerk	Dog Licensing Fees, Fines and Donations	Dog Licensing and Animal Care	2019 Onward
Board of Health	Board of Health	Inspection Fees and Fines	Inspection related Activities	2019 Onward
Zoning Board of Appeals	Zoning Board of Appeals	Advertising, Hearing Application Fees, and Consulting Fees	Fees Associated with Special Permits, Variances and Specialized Consultants	2019 Onward
Recreation Committee	Recreation Committee	User Fees and Donations	Recreational Related Activities and Supplies	2019 Onward
Open Space Committee	Open Space Committee	Monies generated by activities of the Open Space Committee including events and sales of brochures	Activities, Events, and Publications Relating to Open Space and Land Preservation	2019 Onward
Agricultural Commission	Agricultural Commission	Monies generated by activities of the Agricultural Commission including events and sales of brochures	Activities, Events and Publications Relating to Agriculture	2019 Onward
Conservation Commission	Conservation Commission	Monies generated advertising and hearing related fees	Fees Associated with Special Permits, Variances and Specialized Consultants	2019 Onward

ARTICLE 3. LICENSES

- Section 1.** The Select Board may grant licenses in writing for the obstruction of any part of the highways or streets, or for such excavations of the same as may be needed for the purpose of erecting, repairing, altering, or removing any building, or for the laying of drains, water or gas pipes, or for any other purposes which to them may seem reasonable.
- Section 2.** Every person receiving such licenses shall execute a written agreement to indemnify and save harmless the Town against all damage or cost by reason of any claim for damages, or by the reason of any process, civil or criminal, on account of the existence of such obstruction or excavation, and the Select Board may impose such conditions and limitations as they see fit in respect to erecting

barricades, maintaining lights, and taking other precautions for the safety of travelers.

Section 3. 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, and second hand articles from place to place in the Town and they may provide that such collectors shall display badges upon their persons or upon their vehicles, or upon both, when engaged in collecting, transporting, or dealing in junk, old metals, or second hand articles; and may prescribe the design thereof. They may also provide that such shops and all articles of merchandise therein, and any place, vehicle, or receptacle used for the collection or keeping of the articles aforesaid, may be examined at all times by the selectmen, police officers, or by any persons by them authorized thereto.

Section 4. Every keeper of a shop for the purchase, sale, or barter of junk, old metals, or second hand articles, within the limits of the Town, shall keep a book in which shall be written, at the time of every purchase of any such article, a description thereof, the name, and residence of the person from whom, and the day when, such purchase was made; such book shall at all times be open to the inspection of the selectmen and any person by them authorized to make such inspection; every keeper of such shop shall put in a conspicuous and suitable place on his/her shop a sign having his/her name and occupation legibly inscribed thereon in large letters; such shop and all articles of merchandise therein, may at all times be examined by the Select Board or by any person by them authorized to make such examination.

Section 5. (a) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the party that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be *prima facie* evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any

findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

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

(d) The Select Board may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his/her immediate family, as defined in section one of chapter two hundred and sixty-eight in the business or activity conducted in or on said property. This section shall not apply to the following licenses and permits: open burning, section thirteen of chapter forty-eight; bicycle permits, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred forty nine; clubs, associations, dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven; and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

ARTICLE 4. SNOW REMOVAL

- Section 1.** No person shall permit water from the eaves or leader pipe of any building owned or cared for by him/her to be discharged upon the sidewalk.
- Section 2.** Unless exempted by the Select Board or their agent, the tenant, and in the case there be no tenant, the owner of any real estate abutting upon any highway in the Shelburne Falls Fire District in the Town of Shelburne within the limits of which highway or townway and adjoining such real estate there is a constructed sidewalk or upon any sidewalk hereafter constructed within the above-named limits of the fire district, shall after ceasing to fall or form of any snow, ice, or sleet, within twenty-four (24) hours cause the same to be removed from such

sidewalk; and shall sprinkle thereon sand or other substance so the such constructed sidewalk shall be safe for travel.

Section 3. When a tenement house or other building is used or occupied by more than one (1) tenant, the owner or person having the care of such house or building shall cause the snow, ice, or sleet to be removed from the sidewalks adjoining such house or building as provided in Section 2.

Section 4. No person shall throw or put, or cause to be put or thrown, any ice or snow or any other substance from any privately-owned property into any street, lane, or alley in the Town without the permission of the Select Board.

Section 5. No person shall throw or put, or cause to be thrown or put, any snow, ice, or any other substance upon or against any fire hydrant or catch basin, except the highway department in the normal course of their duties, in any street, lane, alley, or park in the Town.

Section 6. No person shall throw snowballs or other missiles at moving vehicles in the public ways of the Town.

Section 7. No person shall course, coast, or slide upon any sled, board, or other contrivance, upon any sidewalk, footwalk, street, or highway in the Town without the approval of the Select Board.

Section 8. Whoever violates any of the provisions of Sections 1-7 of Article 4 shall forfeit not more than twenty dollars (\$20.00) for each offense and \$10.00 per day thereafter, said forfeit to be recovered before the district court.

ARTICLE 5. POWERS AND DUTIES OF POLICE

Section 1. The chief of police shall hold office for one (1) year, or until his/her successor is appointed and qualified, unless previously removed by the Select Board.

The chief of police may, with the approval of the Select Board, establish rules and regulations for the conduct of the police officers, the rooms occupied by the police department and the lockup. It shall be the duty of the chief of police to enforce such rules and regulations, to assign the various police officers to their duties, and at all times direct and control such officers in the discharge thereof.

Section 2. It shall be the duties of the police officers to enforce the provisions of these rules and orders. Police officers are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provisions of these rules and orders, provided that in the event of a fire or other emergency, to expedite the movement of traffic or safeguard pedestrians, officers of the police and fire departments may direct traffic as conditions may require, notwithstanding the provisions of these rules and orders.

- Section 3.** The police may close temporarily any street or highway in an impending or existing emergency, or for any lawful assemblage, demonstration, or procession provided there is reasonable justification for the closing of such street.
- Section 4.** The police may prohibit, temporarily, parking on any street or highway or part thereof in an impending or existing emergency or for a lawful assemblage, demonstration, or procession, provided there is reasonable justification for such prohibition. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of a police officer.
- Section 5.** The provisions of these rules and orders shall not apply to operators actually engaged in work upon a street or highway closed to travel or under construction or repair, to officers when engaged in the performance of public duties, nor to drivers of emergency vehicles while operating in an emergency and in the performance of public duties when the nature of the work of any of these necessitates a departure from any part of these rules or orders. These exemptions shall not, however, protect the driver of any vehicle from the consequences of a reckless disregard of the safety of others.
- Section 6.** The police department is hereby authorized to go to the aid of another police agency at the request of said police agency.
- (a) Any vehicle found in violation of Section 5 of this article may be removed to some other convenient place by the chief of police, such other officer(s) of the rank of sergeant or higher or the officer in charge of the shift, as he/she may from time to time designate.
 - (b) Removal, Towing and Storage Fees: The Town hereby imposes upon the owner of any motor vehicle(s) moved or towed in violation of Section 5; any and all fees associated with towing, removal and storage of said vehicle.
- Storage of Vehicle: The contractor shall be liable to the owner for any damage arising out of the negligence caused to a vehicle in the course of removal and storage.
- Section 7.** Any department of the Town may, with the approval of the Select Board, if it deems to be for the best interest of the Town, sell either at public auction or private sale any article of personal property of which such department has had custody and control of for at least one (1) year, the fair market value of which does not exceed five hundred dollars (\$500.00). All monies collected shall be transmitted to the town treasurer for deposit to the Town's account.
- (a) In accordance with Chapter 40, section 22 of the Massachusetts General Laws, any vehicle found to be in violation of Sections 1, 2, 3 and 4 of this article, may be removed to some convenient place by an officer of

the police department. The owner of said vehicle shall be responsible for all towing and storage fees incurred and the contractor shall be liable to the owner for any damage arising out of the negligence caused to a vehicle in the course of removal and storage.

ARTICLE 6. PARKING

- Section 1.** No parking on Cross Street at any time, both sides, from Water Street east to Main Street, North Side East to Mechanic Street.
- Section 2.** No person shall stand or park, and no person shall allow, permit or suffer any vehicle registered in his/her name to stand or park, in any of the following places:
- (a) within an intersection
 - (b) upon any crosswalk
 - (c) upon the roadway in a rural or sparsely settled district, obstructing the normal flow of traffic.
 - (d) upon the sidewalk
 - (e) upon a roadway where parking is permitted unless both wheels on the right side of the vehicle are within twelve (12) inches of the curb or edge of the roadway, except upon those streets which are designated as one-way streets. On such one-way streets vehicles shall be parked in the direction in which said vehicle is moving and with both wheels within twelve (12) inches of the curb
 - (f) upon any road where the parking of the vehicle will not leave a clear and unobstructed lane at least ten (10) feet wide for passing traffic
 - (g) upon any street or highway within ten (10) feet of a fire hydrant
 - (h) in front of any private road or driveway
 - (i) upon any street or highway within twenty (20) feet of an intersecting way except alleys
- Section 3.** Upon the following streets or highways or parts thereof parking is hereby prohibited:
- (a) WATER STREET: east side from Bridge St. northerly for a distance of approximately one hundred feet (100')
 - (b) DEERFIELD AVENUE: both sides from Bridge St. southerly for a distance of approximately one hundred feet (100')

- (c) BRIDGE STREET: both sides from Deerfield River Bridge easterly for approximately thirty feet (30')
- (d) WATER STREET: no parking at any time on the west side from Bridge St. northerly for a distance of one hundred twenty two feet (122'), except in a loading zone as designated
- (e) MAIN STREET: no parking at any time on the west side (even numbered side) from Water St. northerly for a distance of three hundred feet (300')

Section 4. No person shall park a vehicle for a period of time longer than hereafter specified between the hours of 9:00 A.M. and 4:00 P.M. Monday through Friday and Saturdays between the hours of 9:00 A.M. and 2:00 P.M.

BRIDGE STREET: both sides between Mechanic Street and thirty feet (30') east of Deerfield River Bridge: two (2) hour limit.

Section 5. No person shall stand or park or allow, permit or suffer any vehicle registered in his/her name to stand or park in any of the following places:

- (a) upon any way in such a manner as to impede the removal or plowing of snow or ice.
- (b) No parking on any road or street, including the parking lot between Main Street and Water Street, behind the Greenfield Savings Bank at the corner of Main St. & Bridge St. and the "Bank Block" on Bridge St. between the hours of 1:00 a.m. and 6:00 a.m. from December one (1) to March thirty-one (31) of the succeeding year. Dates and times are subject to change upon approval of the Select Board.

ARTICLE 7. OPERATION OF VEHICLES

Section 1. One-Way-Streets: alley way between thirty (30) and forty-four (44) Bridge St., northerly for a distance of approximately fifty feet (50').

Section 2. Drive Within Marked Lanes: when a roadway is divided into lanes, the driver of a vehicle shall so drive that the vehicle shall be entirely within a single lane, and he/she shall not move from the lane in which he/she is driving until he/she has ascertained if such movement can be made with safety.

- Section 3.** Use Right Lane: upon all roadways the driver of a vehicle shall drive in a lane nearest the right side of the roadway when said lane is available for travel, except when overtaking another vehicle or when preparing for a left turn.
- Section 4.** Care In Starting, Stopping, Turning or Backing: the driver of any vehicle before starting, stopping, turning from a direct lane, or backing shall first see that such movement can be made with safety. If such movement cannot be made in safety, or if it interferes unduly with the normal movement of other traffic, said driver shall wait for a more favorable opportunity to make such a movement. If the operation of another vehicle should be affected by a stopping or turning movement, the driver of such other vehicle shall be given a plainly visible signal, as required by Chapter 90, Section 14B of the Massachusetts General Laws.
- Section 5.** No Driving On Sidewalks: the driver of a vehicle shall not drive upon any sidewalk except at a permanent or temporary driveway.
- Section 6.** Emerging From Alley or Private Driveway: the driver of a vehicle emerging from a private road, driveway, or garage shall stop such vehicle immediately prior to driving upon the sidewalk area extending across the driveway or garage, and where no such driveway exists the stop shall be made at the building or property line as the case may be, and upon entering the roadway shall yield the right of way to vehicles approaching on the roadway.
- Section 7.** Vehicle Operation at Crosswalks: when traffic control signals are not in place the driver of a vehicle, which for the purpose of this article shall include bicycles, shall yield the right of way, slowing down or stopping if need be so to yield, to a pedestrian crossing the roadway within a marked crosswalk. No operator of a vehicle shall pass any other vehicle, which has been stopped at a marked crosswalk to permit a pedestrian to cross a way.
- Section 8.** Obedience To Isolated Stop Signs: every driver of a vehicle, railway car, or other conveyance approaching an intersection of ways where there exists facing him/her an official sign bearing the word "Stop" or a flashing red signal indication, said sign or signal having apart from these rules and orders the written approval of the Department of Public Works, Commonwealth of Massachusetts, and such approval being in effect, shall before proceeding through the intersection bring such vehicle, railway car, or other conveyance to a complete stop at such point as may be clearly marked by sign or lane, or if a point is not so marked, then at the nearest line of the crosswalk of the said intersection. In the case of a line of two (2) or more vehicles approaching such sign, or flashing red signal indication, the drivers of all vehicles will come to a complete stop before entering the intersection. This section shall not apply when the traffic is otherwise directed by an Officer or by a lawful traffic regulation sign, signal, or device. In accordance with the foregoing, the erection and maintenance of an isolated stop sign, or signs, or flashing red signal, as the case may be, are authorized so as to face:

- (a) eastbound drivers on Grove Street at Mechanic Street
- (b) southbound drivers on Water Street at Bridge Street
- (c) northbound drivers on Deerfield Avenue at Bridge Street
- (d) east and west bound drivers on Church Street at Mechanic Street
- (e) southbound drivers on Main Street at Bridge Street (permit #337)
- (f) northbound and southbound drivers on Water Street at Main Street (permit #337)
- (g) southbound drivers on North Maple Street at Bridge Street (permit #6251)

Section 9. Flashing Red Light: when a red lens is illuminated in a traffic control signal by rapid intermittent flashes, and its use has been specifically authorized by the Department of Public works, Commonwealth of Massachusetts, drivers shall stop before entering the nearer line of crosswalk of the street, intersection, or at a stop line when marked, and the right to proceed shall then be governed by provisions of Chapter 89, Section 8 of the Massachusetts General Laws.

Section 10. Interference With Signs, Signals, Markings and Zones: it shall be unlawful for any person to willfully deface, injure, move, obstruct or interfere with any official traffic sign, signal, or marking.

Section 11. No driver of any vehicle shall disobey the instructions of any official traffic control signal, sign, marking, marker, or legend, unless otherwise directed by a police officer.

Section 12. No U-turns: no operator shall back or turn a vehicle so as to proceed in the direction opposite to that in which said vehicle is headed or traveling. (No U-turns.) All vehicles must be parked on the side of the road in the direction of its original travel. Operators cannot cross the center of the road, parking on the opposite side of the road from the original direction of travel.

Section 13. Following Too Closely: the driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the highway. This section shall not apply to funerals or other lawful processions.

Section 14. Overtaking Other Vehicles: the driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, and shall not cut in ahead of such other vehicle until safely clear of it.

- Section 15.** Overtake Only When There Is space Available: the driver of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safe operation of any vehicle ahead or without causing the driver of any such vehicle to change his/her speed or alter his/her course, except as provided in the following section.
- Section 16.** Driver To Give Way To Overtaking Vehicle: the driver of a vehicle when about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right when practicable in favor of the overtaking vehicle and shall not increase the speed of his/her vehicle until completely passed by the overtaking vehicle.
- Section 17.** Whoever operates a motor vehicle at a rate of speed inconsistent with public safety, may be arrested without a warrant by an officer authorized to make arrest and kept in custody not more than twenty four (24) hours, Sunday excepted; and within such time he/she may be brought before a proper magistrate and proceeded against according to law (C.85S.11 MGL).
- Section 18.** Obstructing Traffic: no person shall drive in such manner as to obstruct unnecessarily the normal movement of traffic upon any street, highway, or roadway in the Town. No driver shall enter an intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to accommodate the vehicle he/she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.
- Section 19.** Owner Prima Fascia Responsibility For Violations: if any vehicle is found upon any street or highway or roadway in violation of any provision(s) of Article 7, 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 fascia responsible for such violation.
- Section 20.** Any person convicted of a violation of article 7, except as otherwise provided, shall be punished by a fine not exceeding twenty dollars (\$20.00) for each offense.
- Section 21.** Repeal: these rules are adopted with the intent that each of them shall have force and effect separately and independently of each other except insofar as by express reference or necessary implication any rule or any part of a rule is made dependent upon another rule or part thereof. The provisions of these rules so far as they are the same in effect as those of any valid existing rules, orders or regulations heretofore made by the Town of Shelburne relative to, or in connection with, official signs, lights, markings, signal systems or devices shall be construed as a continuation thereof but all other existing rules, orders, and

regulations so made for the regulation of vehicles are hereby expressly repealed. This repeal, however, shall not effect the punishment or penalty imposed or complaint or prosecution pending at the time of the passage thereof for an offense committed under any of the valid rules, orders, or regulations hereby repealed.

ARTICLE 8. DEFINITIONS

For the purpose of these rules and orders the words or phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning.

- Section 1.** Street or Highway: the entire width between property lines of every way open to the use of the public for the purpose of travel. Whenever the words "street," "highway," or "highways" is mentioned in these bylaws, it shall be understood as including alleys, lanes, courts, public squares, and public places; and, it shall also be understood as including sidewalks unless otherwise expressed.
- Section 2.** Roadway: that portion of a street or highway between the regularly established curb lines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.
- Section 3.** Lane: a longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.
- Section 4.** Vehicle: every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway, including bicycles when the provisions of these rules are applicable to them, except other devices moved by human power or used exclusively upon stationary rails or tracks.
- Section 5.** Parking: the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to an officer or traffic signs or signals or while making emergency repairs, or, if disabled, while arrangements are being made to move such vehicle.
- Section 6.** Official Traffic Signs: all signs, markings, and devices, other than signals not inconsistent with these rules and orders, and which conform to the standards prescribed by the Department of Public Works of the Commonwealth of Massachusetts and placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning, or regulating traffic.
- Section 7.** Officer: any officer, constable, or special officer, provided that he/she has his/her badge of office displayed over his/her left breast and upon his/her outer garment or in some other conspicuous place.

- Section 8.** Emergency Vehicles: vehicles of the fire department, police vehicles, ambulances, and emergency vehicles of federal, state, and municipal departments or public service organizations when the latter are responding to a police, fire, or medical emergency.
- Section 9.** Official Street Markings: any painted line, legend, marking, or marker of any description painted or placed upon any way which purports to direct or regulate traffic and which has been authorized by the board of selectmen and which has the written approval of the Department of Public Works, Commonwealth of Massachusetts.
- Section 10.** Persons: the word “persons” shall mean and include any individual, firm, co-partnership, association, or corporation.
- Section 11.** Crosswalks: that portion of a roadway ordinarily included within the extensions of the sidewalk lines, or, if none, then the footpath lines, and, at any place in a highway, ways clearly indicated for pedestrian crossing by lines or markers upon the roadway surface.
- Section 12.** Department: the highway department of the Town of Shelburne.
- Section 13.** Intersection: the area embraced within the extensions of lateral curb lines, or if none, then the lateral boundary lines, of intersection ways as defined in Section 1, Chapter 90 of the Massachusetts General Laws.
- Section 14.** One-Way Highways: roadways or streets, designated by the department as one way, and upon which vehicular traffic may move only in the direction indicated by signs.
- Section 15.** Pedestrians: any person afoot or riding on a conveyance moved by human power, except bicycles or tricycles.
- Section 16.** Sidewalk: that portion of a highway set aside for pedestrian traffic.
- Section 17.** Traffic: pedestrians, ridden or herded animals, vehicles, streetcars, or other conveyances either singly or together while using any highway for the purpose of travel.
- Section 18.** Bicycle: any wheeled vehicle propelled by pedals and operated by one (1) or more persons, except motorized bicycles.
- Section 19.** Missile: any object thrown or projected.
- Section 20.** Motor Vehicles: all vehicles constructed and designed for propulsion by power other than muscular power, excluding motorized wheelchairs or vehicles used exclusively for recreational purposes.

Section 21. Non-Motorized Conveyances (NMC): any wheeled object which holds a person(s) and which is propelled by foot or batteries. This shall include vehicles known as tricycles with wheel size under sixteen inches (16"), big wheels, scooters, sleds, sleighs, skis, rollerblades, skateboards and roller-skates. NMCs shall not include bicycles, carriages, strollers, wagons, wheelchairs, or tricycles over the size of sixteen inches (16").

ARTICLE 9. UNREGISTERED MOTOR VEHICLES

Section 1. The keeping of more than one (1) unregistered motor vehicle, assembled or disassembled, except by a person licensed under General Laws Chapter 140, Section 59 on any premises shall not be permitted, unless said motor vehicles are stored within an enclosed building.

Section 2. A special permit to keep more than one (1) unregistered motor vehicle on any premises not within any enclosed building, after a duly called public hearing to which all abutters to the premises have received notice, may be granted by the Board of Selectmen, if it finds such keeping: (1) is in harmony with the general purposes and intent of this bylaw, (2) will not adversely affect the neighborhood, and (3) will not be a nuisance.

Section 3. All such special permits granted shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall expire upon transfer of the ownership of the land, and shall be limited to a reasonable length of time.

Section 4. This article shall not apply to motor vehicles which are designated and being used for farming purposes nor to land owners or tenants who store motor vehicles out of sight of abutters and public ways.

Section 5. Whoever violates any provisions of this article of the by-laws shall be liable to a penalty of five dollars (\$5.00) per day for each day of violation for each offense commencing ten (10) days following date of receipt of written notice from the Select Board.

ARTICLE 10. SOLICITORS AND PEDDLERS

Section 1. No person shall go from house to house selling or offering for sale by sample, lists, catalogue, or otherwise for future delivery, nor shall any person go from place to place within the Town begging or soliciting alms or contributions for any person, cause, or organization either on foot or from any animal or vehicle, without first having recorded his/her name and address with the chief of police or the town clerk and having furnished his/her name, address, date of birth, social security number, height, weight, color of hair, color of eyes, telephone number, reason for solicitation and employer.

- Section 2.** The chief of police or town clerk shall thereupon issue a written permit for a specified period of time, which must be shown on request and shall state that said person has duly registered and is entitled to go from place to place within the Town for the purpose specified.
- Section 3.** The chief of police or town clerk may, however, authorize the directors, trustees, person(s) in charge, etc. of any religious organization, veterans' group, hospital, community chest, Red Cross, YMCA, YWCA, or other legitimate organization engaged in social, charitable, or educational service to solicit contributions without having each solicitor under their direction registered.
- Section 4.** Any permit issued under this article may be revoked at any time by the chief of police or the town clerk for cause. Any permit revoked by the chief of police or the town clerk may be appealed to the Select Board.
- Section 5.** Whoever violates any provisions of this article after being advised by the police department or the town clerk that a permit must be obtained, shall be fined twenty dollars (\$20.00) for each offense.

ARTICLE 11. PUBLIC SAFETY

Section 1. Skateboards, scooters and any other non-motorized conveyances (NMC)

(a) In order to protect the public safety, persons coasting, coursing, sliding on, riding or otherwise operating any sleigh, sled, skis, skate board, roller-skates, roller-blades or any other non-motorized conveyance in any of the streets or sidewalks shall use proper care and shall not travel at a speed or in a manner which is inconsistent with public safety or convenience under the conditions then existing.

When riding NMC, riders shall yield the right of way to pedestrians and motorized vehicles, use care at all times and give an audible sign before overtaking and passing any pedestrian.

The operator of NMC emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on said sidewalk or sidewalk area and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

No person shall operate any NMC on the following streets: South Maple, Maple St. from Bridge St. to Church St., Bridge St., Main St., Deerfield Ave., Mechanic St., Church St., Hope St. and Water St. or the parking lots between Main St. and Water St. The Board of Selectmen, after a public hearing, reserve the right to add or delete streets to this by-law.

All devices used by disabled persons or for the transportation of infants and young children are exempted from the provisions of this section.

- (b) The use and operation of NMC upon the sidewalk located on Bridge St. between the iron bridge and the intersection of Bridge St. and Mechanic St. is prohibited.
- (c) A violation of Article 11, Sections 1 shall be punished by a fine of \$20.00. The parent or guardian of any person under the age of 18 shall not authorize, or knowingly permit, any such person to violate any of the provisions of this section. A violation by a minor under the age of eighteen (18) shall not affect any civil rights or liability nor shall such violation be considered a criminal offense.

Section 2. No person shall scatter, or permit to be scattered, from any vehicles or otherwise, any metal, glass or other substance, and no person shall leave or place any whole or broken bottles, tacks, or nails in any streets or gutters or on any sidewalks.

Section 3. No person shall by the honking of horns, blowing of whistles, or by other means make, or cause to be made, any unnecessary noise in the Town which disturbs the peace and quiet of the neighborhood. This section shall not be construed to prohibit the use of sound trucks and/or sound equipment by owners or operators thereof who have obtained a special permit therefore from the Select Board

Section 4.

- (a) It shall be unlawful for any person under the age of sixteen (16) to be, or remain, upon any street, alley or other public place in the Town after 10:00 P.M. unless such person is accompanied by a parent or legal guardian or other person having custody of such minor(s), or unless traveling to or from home while involved in an activity known to and sanctioned by such parent or guardian or other person having custody, or unless such person is in lawful employment making it necessary to be in such places after 10:00 P.M.
- (b) Every member of the police force while on duty is hereby authorized to detain any such minor willfully violating the provisions of the Section 4 (a) until the parent or guardian of the child shall take him/her into custody; but such officer shall immediately, upon taking custody of the child, attempt to communicate with the parent(s) or guardian(s).

Section 5. Except with the approval of the Select Board, it shall be unlawful for any person, firm or corporation, in person or by his/her agent, employee, or servant, to cast, throw, sweep, sift, or deposit in any manner in or upon any public way or other public place in the Town or any river, canal, public water, drain, sewer, or receiving basin within the jurisdiction of the Town, any kind of dirt, rubbish, waste articles, thing(s), or substance(s) whatsoever, whether liquid or solid.

Nor shall any person, firm, or corporation cast, throw, sweep, sift, or deposit any of the aforementioned items anywhere within the jurisdiction of the Town in such manner that it may be carried or deposited, in whole or in part, by the action of the sun, wind, rain, or snow, into any of the aforementioned. Whoever violates any provision(s) of this section may be arrested and detained by a police officer in accordance with Chapter 272, Section 60 of the Massachusetts General Laws.

Section 6. It shall be unlawful for any person to knowingly start a fight, or to fight, or to commit any assault or battery in any place in the Town.

Section 7.

- (a) It shall be unlawful for any person to knowingly start or spread any false alarm of fire, riot, explosion, civil disturbance, or other breach of the peace in the Town.
- (b) It shall be unlawful for any person to report the existence of a fire or other emergency to the police, fire department, or other agency empowered to deal with an emergency when such person knows the report to be false.
- (c) It shall be unlawful for any person to report or cause to be reported to any police agency any information concerning the commission of any offense or other incident which would require police action when: (1) he/she knows that no such offense or other incident has occurred or (2) he/she knows that the information is false or that he/she has no such information.
- (d) It shall be unlawful for any person to knowingly give false information to the effect that a bomb will be exploded or that any other serious hazard exists in any public conveyance, church, school, theater, auditorium, assembly hall, factory, warehouse, industrial, commercial or residential buildings, or any other place used for public gatherings.

Section 8. It shall be unlawful to cast, throw, or propel any missile on any street, alley or other public place.

Section 9. It shall be unlawful to obstruct or permit the obstruction of any stair way, aisle, corridor, or exit in any office building, factory, stores, assembly hall, lodge, or other public hall or building to which the public has a right of access, or any other building used by two (2) or more tenants or families in such a manner that it would interfere with free use of such stairways, aisle, corridor, or exit.

Section 10. Whenever the presence of any person in any public place is causing, or is likely to cause, any of the following conditions as mentioned below, any police officer may order such person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section:

- (1) create, or cause to be created, a danger of a breach of the peace.

- (2) create, or cause to be created, any disturbance or annoyance to the comfort and repose of any person
- (3) obstruct the free passage of pedestrians or vehicles
- (4) obstruct, molest, or interfere with any person lawfully in any public place.

This section shall include the making of unsolicited remarks of an offensive, repugnant, revolting, or derogatory nature or which are calculated to annoy or provoke the person to whom, or in whose hearing, they are made.

Section 11. Unless by permit from the Select Board, no person shall, within the Town, possess any opened container of an alcoholic beverage (as defined in Chapter 138, Section 1 of the Massachusetts General Laws) or drink or consume any alcoholic beverage from such a container, on any public street, sidewalk, parkway, alley court, public or semipublic parking lot, park common, cemetery, or on any way as defined by Chapter 90, Section 1 of the Massachusetts General Laws, whether that way be town highway, county highway, state highway, or other private way open to the public use, or in or upon any other place where the public has a right of access as invitees or licensees without the owner's permission or in the area commonly known as the "Potholes." This section shall also be construed so as to prohibit the consumption of alcoholic beverages as hereinabove defined by any person standing, sitting, walking, running, or otherwise present within such place as hereinabove defined, or within any vehicle, whether parked or moving, which is within the limits of such places as hereinabove defined.

Section 12. Any Police Officer, upon view or information of any violation of Article 11 (except Section 1 (a), (b), and (c) of Article 11 may, without a warrant, arrest the offender and make complaint in the district court against such offender. The police may keep the offender in custody for not more than twenty-four (24) hours – Sundays and Holidays excepted, until he/she can be taken before a court, trial justice, or clerk/magistrate having jurisdiction of such offense.

Section 13. Any person convicted of a violation of any of the provisions of Article 11 (except 11, Section 1 (a), (b), and (c) shall be punished by a fine of not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00).

Section 14. The Select Board may make rules and orders for the regulation of vehicles within the Town and may set penalties for any violation thereof in accordance with Chapter 40, Section 22 of the General Laws of the Commonwealth of Massachusetts.

ARTICLE 12. NON-CRIMINAL DISPOSITION

Section 1. In accordance with Chapter 40, Section 21D of the Massachusetts General Laws, any person charged with a violation of Articles 4, 6, 7, 9, and 10 may dispose of the charges in a non-criminal proceeding by paying the appropriate fine(s) as follows:

Article 4: Fine of twenty dollars (\$20.00) for each offense.

Article 6: In accordance with Chapter 90, Section 20A of the Massachusetts General Laws:

- (a) all parking violations (except parking within ten feet (10') of fire hydrant or in a handicapped zone), fine of ten dollars (\$10.00)
- (b) parking within ten feet (10') of fire hydrant, fine of fifteen dollars (\$15.00)
- (c) parking in a handicapped zone, fine of twenty-five dollars (\$25.00)

Article 7: Fine of twenty dollars (\$20.00.) for each offense.

Article 9: Fine of five dollars (\$5.00) per day for each day of violation for each offense commencing ten (10) days following the date of receipt of written notice from the Select Board.

Article 10: Fine of twenty dollars (\$20.00) for each offense. For all of the above articles, said forfeit to be recovered before the district court.

Article 11: Fine of \$20.00 for each offense. Fine for above articles to be recovered by the Town Clerk in accordance with MLG Chapter 20 Section 21D.

ARTICLE 13. SCENIC ROADS

Section 1. Definitions

In the absence of contrary meaning established through legislative or judicial action pursuant to MGL Chapter 40, Section 15C, the following terms contained in that statute shall be defined as follows:

1.1 Cutting or Removal of Trees

“Cutting or removal of trees” shall mean the removal of one (1) or more trees, trimming of major branches or cutting of roots.

1.2 Repair, Maintenance, Reconstruction, or Paving Work

“Repair, maintenance, reconstruction, or paving work” shall mean work done within the right-of-way by any person or agency, public or private. Within this definition is any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as scenic road. Construction of new driveways or alteration of existing ones is also included, insofar as it takes place within the right of way.

1.3 Road

“Road” shall mean a right-of-way of any way used and maintained as a public way including the vehicular traveled way plus necessary appurtenances with the right-of-way such as bridge structures, drainage systems, retaining walls, traffic control devices, and sidewalks, but not intersecting streets or driveways. When the boundary of the right-of-way is in issue so that a dispute arises as to whether or not certain trees or stonewalls or portions thereof are within or without the way, the trees or stonewalls, shall be presumed to be within the way until the contrary is shown.

1.4 Tearing Down or Destruction of Stone Walls

“Tearing down or destruction of stone walls” shall mean the destruction of more than fifteen (15) linear feet of stone wall involving one (1) or more cubic foot of wall material per linear foot above existing grade, but shall not be construed to include temporary removal and replacement at the same location with the same materials.

1.5 Trees

“Trees” shall include a tree whose trunk has a diameter of four (4) inches or more as measured one (1) foot above ground.

Section 2.

Purpose

These regulations are intended to ensure that:

1. Ways will be recommended for designation as scenic roads on stated criteria.
2. Ways so designated will not be altered without following proper procedures and without adherence to proper considerations.
3. Ways so designated will not be altered by the decision of any person, organization, or agency other than the planning board.

Section 3.

Criteria for Designation of a Scenic Road

The Planning Board, Conservation Commission, or Historical Commission shall, in determining which roads or portions of roads should be designated as scenic roads, consider the following criteria:

1. Ways bordered by trees of exceptional quality.
2. Ways bordered by stone walls.
3. Ways bordered by any other natural or man-made features of aesthetic Value.
4. Ways for which any alteration is being planned or is likely to be planned in the future.
5. Ways for which any alteration would lessen the aesthetic value or natural or man-made features bordering them.

Section 4. Notification of Designation as a Scenic Road

Upon the designation of any roads or portions of road as a scenic road, the planning board shall take the following steps within sixty (60) days of such designation:

1. Notify all municipal departments that may take any action with respect to such road.
2. Notify the State Department of Public Works.
3. Publish in the local paper, by an informal article, that the road (or roads) have been so designated.
4. Indicate such designation on all maps currently in use by municipal departments.
5. Notify all utility companies or other such parties which may be working on the border of such road.

Section 5. Procedures

5.1 Filing

Any person, organization, state or municipal agency seeking the written consent of the planning board regarding the cutting or removal of trees or tearing down or destruction of stonewalls, or portions thereof on a scenic road shall file a request with the planning board together with the following:

1. The text of a legal notice identifying the location of the proposed action in terms enabling readers to locate it with reasonable specificity on the ground without need for additional plots or references, and describing in reasonable detail the proposed changes to trees and stone walls.
2. A statement of purpose, or purposes, for the changes proposed.
3. A list of owners as of the latest tax map of properties located in whole or in part within one hundred feet (100') of the proposed action.
4. Except in the case of Town agencies, a deposit sufficient to cover the cost of advertising and notifications.

5. Any further explanatory material useful to adequately inform the Planning Board.

5.2 Notice

The Planning Board shall, as required by statute, give notice of its public hearing by advertising twice in a newspaper of general circulation in the area. This notice shall contain a statement as to the time, date, place, and purpose of the hearing with a reasonable description of the action proposed by the applicant. Copies of this notice shall also be sent to the Select Board, the Conservation Commission, the Historical Commission, Town Engineer, Tree Warden, Department of Public Works, and the owners of property within one hundred feet (100') of the proposed action.

5.3 Timing of Notice

The first publication of the notice shall be as soon as feasible after the Planning Board receives the request from the applicant, and shall in all cases be at least fourteen (14) days before the hearing. The last publication shall occur, as required by statute, at least seven (7) days prior to the hearing.

5.4 Timing of Hearing

The Planning Board shall hold a public hearing within sixty (60) days of the planning board meeting at which a properly filed request is received. The date and time of the public hearing shall be set outside of normal weekday work hours 8:00 A.M.-5 P.M., Monday thru Friday so as to encourage maximum citizen participation.

5.5 Timing of Decision

The Planning Board shall make a decision on the request within twenty-one (21) days of the public hearing.

5.6 Public Shade Tree Act

Whenever feasible, notice shall be given and Planning Board hearings shall be held in conjunction with those held by the Tree Warden acting under M.G.L. Chapter 87. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by the Tree Warden, or vice versa. The Planning Board decision shall contain a condition that no work should be done until all applicable provisions of the Public Shade Tree Law, M.G.L. chapter 87, have been complied with.

Section 6. Considerations

The Planning Board's decision on any application for proposed action effecting scenic roads shall be based on consideration of the following:

1. preservation of natural resources
2. environmental values
3. historical values
4. scenic and aesthetic characteristics
5. public safety
6. compensatory actions proposed, such as replacement of trees or walls
7. other sound planning considerations

Section 7. General

The planning board may adopt more detailed regulations for carrying out the provisions hereunder.

ARTICLE 14. RECYCLING

Whereas, the Commonwealth of Massachusetts has instituted a regional recycling program pursuant to which a recycling materials processing facility will be constructed and the Town shall collect recyclables and promote recycling activities; and whereas, landfill capacity, environmental, and financial benefits associated with recycling can only be realized if the residents of the Town participate in a program of collection of recyclables separate from unusable solid waste.

Now therefore be it ordained by the Town Meeting of the Town of Shelburne...and hereby enacted by the authority of the same as follows:

Section 1. Recycling Program

There is hereby established a program for the mandatory separation of certain recyclable material(s) from the garbage or rubbish by the residents of the Town of Shelburne.

Section 2. Definitions

Recyclables are the discarded materials described below which may be reclaimed and are considered saleable by the Town of Shelburne. For the purpose of this ordinance, they are defined in the following categories:

- a. Aluminum: cans made from aluminum, aluminum foil, aluminum wrappers, and containers or trays used in the packaging, preparation or cooking of prepared dinners, pies, cakes or other foods.
- b. Glass: all unbroken jars and bottles, or similar products made from silica or sand, soda, ash and limestone, the product being transparent or

translucent and being used for packaging or bottling of various matter and all other material commonly known as glass excluding:

1. blue and flat glass and glass commonly known as window glass.
2. dishes and crockery.
- c. Ferrous Metal Cans: all containers composed in whole of iron or steel and so called “tin” cans used for the packaging or storing of various food and non-food items EXCEPT containers which contained paint or petroleum-based solvents and any pressurized aerosol cans.
- d. Clean and Unsoiled Newspapers; including newsprint, all newspaper advertisements, supplements, comics and enclosures.
- e. Corrugated Paper; corrugated boxes, cardboard, cardboard carton, pasteboard and similar corrugated and kraft paper materials.

Section 3. Separation of Recyclables and Placement for Removal

1. Recyclable newspapers and corrugated paper shall be placed in the recycling receptacle/container in a manner to prevent the scattering of the paper.
 - a. Newspapers shall either be packed in standard grocery shopping bags, placed in corrugated boxes or securely tied in flat bundles, none of which shall weigh more than fifty (50) pounds.
 - b. If not used for packing paper recyclables, corrugated boxes and cardboard cartons shall be collapsed and tied in bundles not weighing more than fifty (50) pounds and they are to be placed in the recycling receptacle/container.
 - c. All other recyclables (aluminum, glass, ferrous metal cans) shall be placed in a receptacle provided by the Town.
2. Recyclables shall not be placed in plastic garbage bags for collection, removal, or disposal. Recyclables shall not be placed in the same refuse container as, or otherwise mixed with, other forms of solid waste for collection, removal or disposal. Any refuse container containing such recyclables shall not be collected by the Town.

Section 4. Ownership of Recyclables-Offenses

1. Upon collection by the Town of Shelburne, pursuant to the program established hereby and the rules and regulations issued hereunder, such

materials shall become and be the property of the Town of Shelburne. It shall be a violation of this by-law for any person, other than authorized employees of the town or contractors hired by the Town, to collect or pick up or cause to be collected or picked up any recyclable material. Any and each collection or pick up in violation hereof from one (1) or more locations shall be a separate and distinct offense punishable as hereinafter provided.

2. Any violation of this section, or any part thereof, shall be punishable by a fine not to exceed three hundred dollars (\$300.00) and the violator shall make restitution to the Town for the value of any recyclables illegally removed.

Section 5. Effective Date

The recycling program shall be in effect after the Select Board has published a public notice detailing the procedures and starting date(s).

Section 6. Enforcement

The Select Board will be charged with the responsibility of enforcing this by-law.

ARTICLE 15. CURB CUT

Section 1. Definitions

These definitions are for the purpose of this by-law only.

Public Way: a way accepted and maintained by a public agency.

Driveway: privately owned access to and from a public way.

Landing: the first (20) feet of a driveway adjoining a public way, measured from the edge of the traveled way.

Section 2. Purposes

1. To provide better protection of the public safety through the orderly control of traffic entering and exiting a public way.
2. To provide the necessary grade and drainage to protect the public way from damage.

Section 3. Application for Permit

Any property owner desiring to construct a driveway which accesses a public way shall do so only after securing a permit to do so from the Select Board, in accordance with this by-law. A curb cut permit is required before construction of the driveway or before submission for any applicable building permit.

Exceptions:

1. Driveways already in existence, where the use remains the same.
2. Driveways subject to Massachusetts General Laws Chapter 81, Section 21 (State Curb Cut Permit).
3. Driveways reviewed by municipal boards under existing laws or by-laws to include, but not limited to: scenic roads by-law or subdivision by-law.

Section 4. Review Procedures

- A. The property owner seeking a curb cut shall make a written submission to the board of Selectmen, including: three (3) copies of the Application for Curb Cut Permit, including a plan showing:
 1. Any driveway that is to be created, altered, or closed and the relationship to the accessed public way.
 2. Construction details described under Section V, Design Standards.
- B. The Select Board shall consult with the Highway Superintendent, Police Chief and other interested Town Officials to obtain their comments on the plan.
- C. The Select Board shall notify the property owner making the application within twenty-one (21) days, in writing, indicating:
 1. The curb cut does conform to the Town's standards set forth in this by-law or
 2. The curb cut does conform subject to certain modifications, conditions, or restrictions.

If the criteria set forth in Section V. Design Standards are met, the Select Board shall issue a curb cut permit. If the board of Selectmen takes no action within twenty-one (21) days of completed submission, the Curb Cut Permit is automatically issued in accordance with the plan, and the Town Clerk may so certify.

- D. The Town will inspect the project during and after construction. The Select Board shall have the authority to halt construction and/or to prohibit access to said driveway if construction is not in accordance with the approved plan, until objectionable conditions are corrected.

- E. The Select Board shall “sign off” on the Permit after satisfactory completion of construction.

Section 5.

Design Standards: (Reference Appendix A)

These standards are for the purpose of this by-law only:

- A. Driveways should be located to the best advantage with regard to alignment with the public way and intersect at as close to a right angle as feasible. The angle of the intersection shall be between 60 and 120 degrees. The curb-line radius of the landing to the edge of the traveled way shall be a minimum of 10 feet. The width of the landing shall be a minimum of 14 feet, but shall not exceed 24 feet. Unless conditions require it, a landing should not be located within twenty (20) feet of a side property line.
- B. Sight distances: No wall or other obstruction shall be planted, constructed, or maintained at the intersection of the driveway with the public way which causes danger to traffic on the public way or to users of the driveway by unreasonably obscuring a view. No new driveway should be located where the minimum sight distance at four (4) feet above the traveled road surface in each direction along the way is less than 150 feet.
- C. Culverts and Drainage: Existing drainage ditches parallel to the public way shall not be obstructed by driveway construction. Culverts of appropriate size and durable material (such as asphalt coated galvanized steel) shall be provided by the applicant as determined by the highway Superintendent. Culverts should be set back a minimum of four (4) feet from the edge of the traveled way. Culverts should be a minimum of twenty (20) feet in length.
- D. Gradients: The gradient of a new driveway must conform to the following standards:

The first six (6) feet of driveway must have a minimum 00.5% and maximum 9% downgrade from the way. The next fourteen (14) feet of driveway must not exceed a 9% downgrade or upgrade from the way.

- E. All new driveways shall be provided with adequate space for reversing the direction of an automobile, so that the vehicle may enter the public way facing forward.
- F. The Select Board may modify these Design Standards based on sound engineering practice for the site’s terrain and driveway usage.

ARTICLE 16. EMPLOYMENT

- Section 1.** All Town employees are hired on an initial 12-month probationary period during which they shall be considered an “at will” employee of the town unless otherwise provided for by State Law.
- Section 2.** Any employee may be removed by the Appointing authority for cause at any time following a hearing conducted under M.G.L. Chapter 39, Section 23B (open meeting law).
- Section 3.** All town employees, paid hourly shall be compensated based upon a grade classification and compensation package developed in accordance with provisions specified in Massachusetts General Laws Chapter 41, Section 108A. Said compensation plan shall provide for minimum and maximum salaries to be paid employees and will provide for periodic step-rate increases.
- Section 4.** Employees of the town who work more than 20 hours per week and are eligible for compensation under Article 16, section 3 entitled: “Salary Plans for Certain Employees”, shall be eligible for longevity pay in accordance with the following schedule:
- | | |
|---|------------|
| After the completion of 15 years of service | \$ 500.00 |
| After the completion of 20 years of service | \$1,000.00 |

ARTICLE 17. DOGS

Administration

- A. Severability: If any provision of this By-Law should be found invalid, the remainder of this By-Law shall remain in force.
- B. Definitions for this by-law shall be adopted and defined by MGL c.140 §136A.

Dog Licensing

- A. In accordance with MGL c.140 § 137, the owner or keeper of a dog over the age of (6) six months shall annually obtain a license for the dog from the licensing authority, who shall issue dog licenses and tags.
- B. Annual dog licenses must be obtained by March 31st for a licensing period of April 1 through March 31 of the following calendar year. The open licensing period shall be from February 1st through March 31st of each year.

One Year	\$5.00	One Year	\$10.00
Two Year	\$10.00	Two Year	\$15.00
Three Year	\$15.00	Three Year	\$20.00

C. In accordance with MGL c. 140 § 138, any person who during any licensing period becomes the owner or keeper of a dog which is duly licensed in the town or city where it is to be kept shall forthwith give notice, in writing, to the Town Clerk that they have become such owner or keeper. The Town Clerk shall change the record of such license to show the name and address of the new owner or keeper.

D. In accordance with MGL c. 140 § 138, any person bringing or causing to be brought from another state or country any dog licensed under the laws thereof which is 6 months old or over or will be 6 months old before the expiration of (30) thirty days shall, on or before the expiration of thirty days following the arrival of such dog within the commonwealth license the dog with the Town Clerk.

E. No License fee shall be charged for a license issued under MGL c. 140 § 139, for a service dog as defined by the Americans with Disabilities Act and MGL c. 272 §98a.

a. Application shall be made for a dog license as provided in this bylaw, and license tags issued must be worn by any such service dog.

F. No License fee or portion thereof shall be refunded because of subsequent death, loss, spaying, neutering, removal from town or other disposal of the dog for which the license has been issued, nor shall any fee for a license issued to a new resident be prorated.

G. Any person (70) seventy years of age or older, upon proof of age, shall be exempt from the annual fee for one dog, per household, per licensing year.

a. The owner of a kennel license, age (70) seventy years of age or older, shall be excluded from this exemption.

H. Any residence attempting to license (4) four or more dogs shall be required to secure a kennel license as defined in Kennel Licensing.

I. All license fees collected shall deposited as defined in MGL c140 § 147.

J. Violations of this section are subject to the fine schedule as set forth in MGL c. 140 § 173.

Kennel Licensing

A. Annual kennel licenses must be obtained by March 31st for a licensing period of April 1 through March 31 of the following calendar year. The open licensing period shall be from February 1st through March 31st of each year.

B. A Kennel license shall be in lieu of individually licensing the dogs kept on the subject premises.

C. The fee for Kennel licensure shall be set by the Select Board and may be adjusted at their discretion during an open meeting. Any adjustments shall not become effective until the start of the next licensing period.

D. Issuance: Upon receipt of the completed application packet and appropriate fee, the Town Clerk shall issue the kennel license valid through March 31st of the following calendar year.

E. Renewals: A kennel license shall be renewed by March 31st annually, upon completion of an annual inspection and payment of the appropriate fee, provided that the license holder has not been in violation of this by-law or Massachusetts General laws pertaining to dogs in the past (12) twelve months as determined by the Animal Control Officer or Hearing Authority.

F. Inspections: In accordance with MGL c. 140 §137C, an Animal Control Officer or Police Officer may inspect, or cause to be inspected any licensed kennel. If, in the judgement of the Animal Control Officer or Police Officer, the kennel is not being maintained in a sanitary or humane manner, or if records are not being properly kept as required by law, the inspecting authority shall, by order, revoke or suspend the license for the kennel.

G. In accordance with MGL c. 140 § 137A, an owner or keeper of less than 4 dogs, 3 months old or older, who does not maintain a kennel may elect to secure a kennel license in lieu of licensing the dogs under section 137 and shall be subject to this section, sections 137B and 137C and so much of section 141 as it relates to violations of this section to the same extent as though the owner or keeper were maintaining a kennel.

H. All license fees collected shall deposited as defined in MGL c140 § 147.

I. Violations of this section are subject to the fine schedule as set forth in MGL c. 140 § 173A.

Dogs Running-at-Large

A. No owner or keeper of any dog within the town limits shall allow 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 with a chain or leash.

- a. Exception: This section shall in no way preclude the use of certain specially trained dogs as set forth in MGL c. 140 §139.
- B. The owner or keeper of any dog which is not on the premises of the owner or keeper or upon the premises of another with the permission of said person shall restrain said dog with a chain or leash of sufficient material and strength as necessary to restrain the dog and shall be held by a person capable of controlling the movements of the dog. The chain or leash shall be a length which prohibits the dog from being a nuisance to persons nearby or causing damage to public or personal property.
- C. Any dog being used for lawful hunting, training, sporting, working purposes or accompanied by its master, who must accept full responsibility for the dog's behavior, shall not be considered running unrestrained.
- D. Any dog found to be in violation of this bylaw, and not under the immediate control of the owner or keeper, may be picked up by any law enforcement officer and either returned to the owner or keeper or deposited in a dog pound or similar facility. The owner or keeper shall be responsible for paying all costs of maintaining and keeping the animal at the dog pound or similar facility. Except as otherwise permitted by this bylaw, 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 MGL c. 140, §§ 151A and 167.
 - a. Any dog that is deposited in a dog pound or similar facility shall be assessed a \$15 (fifteen dollars) pick up fee, that shall be paid prior to release of the dog.
- E. This by-law shall remain in force year-round.
- F. Violations of this section are subject to the fine schedule as set forth in MGL c. 140 § 173A.

Removal of Waste

- A. No person owning or keeping a dog shall suffer, permit, or allow such a dog to leave feces in any public or private property of someone other than that of the dog's owner or keeper within the Town of Buckland, without the approval of said property owner. Any person having custody and control of a dog in any such area shall carry with him or her proper equipment for the removal of feces. For purposes of this section, the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces. No person shall leave or dispose of said feces in any catch basin, drainage structure, waterway or on any public property or street except in an approved trash receptacle.

- a. This section shall not apply to a dog licensed under MGL c.140 § 139 and/or accompanying a person whom is handicapped as defined in MGL c272 §98A. If by reason of their handicap they are physically unable to comply with the requirements of this section.

Complaint of Nuisance and Dangerous Dogs

- A. Any person may make a written complaint to the Animal Control Officer that any dog owned or kept within the Town is a nuisance dog or a dangerous dog, as those terms are defined in MGL c. 140, § 136A.
- B. The provisions of MGL c. 140, §§ 161 and 161A shall apply to whoever suffers the loss of livestock or fowl in a manner described in said § 161.
- C. The Animal Control Officer shall investigate or cause to be investigated such complaint, which may include an examination under oath of the complainant at a public hearing in Town to determine whether the dog is a nuisance dog or a dangerous dog, and shall submit a written report of his/her findings and recommendations to the Select Board concerning the restraint or disposal of such dog as provided in MGL c. 140, § 157.
- D. The Animal Control Officer, after his investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed 14 days to enable the Select Board to issue their order following receipt of the report of the Animal Control Officer. If the Select Board fails to act during the period of the interim order, upon expiration of the interim period, the order shall automatically be vacated.
- E. The Select Board, after credible evidence and testimony is presented at the public hearing, shall (A) dismiss the complaint; (B) deem the dog a nuisance dog and order that the owner or keeper of the dog take remedial action to ameliorate the cause of the nuisance behavior; or (C) deem the dog a dangerous dog and make such order concerning the restraint, muzzling, or euthanization of such dog, or such other action as may be deemed necessary; provided, however, that the Selectmen shall not order the banishment and tethering.
- F. Violations of such orders shall be subject to the enforcement provisions of MGL c. 140, §§ 157 and 157A.

Humane Treatment

- A. Any person owning, possessing or controlling a domesticated animal shall provide his or her animal with sufficient potable water and wholesome food, proper shelter and protection from the weather, including extremes of heat and cold,

veterinary care sufficient to prevent suffering and the spread of disease and shall provide humane care and treatment for the animal.

B. Any person owning, possessing or controlling a dog in the town shall not allow or permit said dog to be harbored, confined, chained or tethered in violation of MGL c. 140 § 174E.

a. Violations of this section are subject to the fine schedule as set forth in MGL c. 140 § 174E.

C. In accordance with MGL c. 140, § 174F, it shall be a violation of this bylaw to confine an animal in a motor vehicle in a manner that could reasonably be expected to threaten the health of the animal due to exposure to extreme heat or cold.

a. Violations of this section are subject to the fine schedule as set forth in MGL c. 140 § 174F.

D. No owner or keeper shall abandon any animal. For the purpose of this section, "abandonment" shall be defined as the willful desertion of an animal, which shall include but not be limited to the failure to claim an impounded animal upon receipt of notice that said animal was impounded.

Impoundment and Kenneling

A. Impoundment:

a. The Animal Control Officer or Police Officer shall immediately notify the owner or keeper of any animal impounded by him/her under the provisions of this bylaw, if such owner is known by him/her.

b. If the animal is not licensed or the owner or keeper is not known by the Animal Control Officer or Police Officer, no notice shall be necessary.

c. The animal shall be secured in the town kennel or other such approved holding facility.

B. Kenneling:

a. The Kenneling period shall start at the time of impoundment and shall accrue until the owner presents the required documentation, signs a release form and removes the animal from the facility.

i. Required Documentation, shall be considered: Proof of Ownership, Valid Rabies Certificate, Valid Town License.

- b. The Town shall contract with the Franklin County Regional Dog Shelter to provide care and kenneling services to dogs impounded by the Animal Control Officer, Police Officer, or turned in by a citizen.
 - i. All associated fees and costs related to the kenneling of a dog shall be set and collected by the Franklin County Regional Dog Shelter.
- c. In the event that the Kennel Facility is not adequate for the animals, is overpopulated, or is not adequate for the conditions, animals may be boarded at an approved boarding facility.
 - i. If an animal is required to be boarded at another facility, payment to the facility shall be made by the Town upon receipt of bill or invoice. The Town may then seek restitution for the costs from the owner of the animal.

C. Disposition of Animals

- a. Animal Surrenders shall be done at the discretion of the Animal Control Officer.
- b. Unclaimed Animals: In accordance with MGL c. 140 § 151A, any dog unclaimed after (7) seven days from pickup/confinement shall be come property of the town and shall be handled at the discretion of the animal control officer.
 - i. In the case of dogs. Dogs shall become property of the Regional Dog Shelter.
 - ii. This bylaw shall be extended to cover all animals taken into custody by the Animal Control Officer, with the exception of livestock which shall be handled on a case-by-case basis.

Rabies Control

- A. All dogs, cats and ferrets owned by a resident of the town shall be properly vaccinated against rabies in accordance with MGL c. 140 § 145B.
- B. The town shall annually nominate a minimum of (1) Animal Inspector as defined in MGL c. 129 § 15.
- C. All bites by dogs, cats or other domestic animals or wild or exotic animals shall be reported to the Animal Inspector and the Animal Control Officer as soon as possible by the person bitten or by the owner or keeper of the animal, or both.

Cats

A. Stray Cats:

Any rescue group, humane society or other person or organization picking up stray cats shall notify the Animal Control Officer with all relevant information of each cat and the location found.

B. Feral Cats:

Any person or organization that traps and releases feral cats shall report such activity to the Animal Control Officer including information of description and numbers of cats trapped and name and contact information of the caretaker. The caretaker is expected to take full responsibility for the duration of the cat's life. All feral cats shall be ear tipped. All feral cats shall be spayed or neutered.

Livestock

A. Any owner or person having care of any sheep, swine, horses, oxen, cows, or other grazing animals or fowls, shall construct and maintain a suitable barrier, that a reasonable person would find sufficient, to prevent said animals or fowl from becoming a nuisance by way of trespass upon public ways; public lands; and the lands of another person.

B. No owner or person having care of any sheep, swine, horses, oxen, cows, or other grazing animals or fowls, shall permit or suffer any such animal or animals to go at large unattended upon any public way or lands in the town.

C. No owner or person having care of any sheep, swine, horses, oxen, cows, or other grazing animals or fowls, shall permit or suffer any such animal or animals to trespass upon the premises of another person without the permission of said person.

D. The owner or person having care of said animals shall immediately cause said animals to be restrained following notification that said animals are at large upon a public way or lands or upon the property of another person without permission.

a. For the purpose of this bylaw section, the term notification shall include: In writing and duly posted in a conspicuous location at the last known residence of the owner or person having care of the animals; In person; By phone conversation with the owner or person having care of the animals; by phone with a voicemail left at the last known number for the owner or person having care of the animals; By other means not defined here that a reasonable person would find acceptable.

E. If said animals remain at-large twelve (12) hours after notification, the owner or person having care of said animal shall be subject to a violation punishable by a fine.

F. Each twelve (12) hour period that the animals remain at-large shall constitute another offense. An offense shall be limited to a period of twelve (12) months.

G. In the event of multiple occurrences within a period of time, in which any sheep, swine, horses, oxen, cows, or other grazing animals or fowl trespass upon any public way or lands in the town; or the premises of another person without the permission. The owner or person having care of said animals, shall be deemed in violation of paragraph A of this section. Such violation shall result in notification of and referral to the Town Hearing Authority for remediation.

H. If the owner or person having care of the animals, is making efforts that a reasonable person would find acceptable to restrain said animals, and this is not a subsequent offense, the enforcing agent based on their assessment of the situation may forgo issuing a monetary fine, however, the occurrence shall still count as a first offense.

I. Nothing in this section shall preclude prosecution under section 118 of chapter 266.

Fees, Enforcement, Violations and Penalties

A. In addition to police officers, who shall in all cases be considered enforcement personnel for the purposes of non-criminal enforcement, a duly appointed Animal Control Officer shall be the enforcement officer with respect to the provision set forth in this bylaw.

B. A violation of any provision of this article may be dealt with as a non-criminal offense in accordance with the provision of General law, Chapter 40, Section 21D, and shall be subject to the specific fine or penalty listed in each provision.

C. Violation of Dog Control Laws:

Shall utilize the following schedule of fines as defined in MGL c.140 §173A .

- a. First Offense: \$50 (fifty dollars)
- b. Second Offense: \$100 (one hundred dollars)
- c. Third Offense: \$300 (three hundred dollars)
- d. Fourth/Subsequent Offense: \$500 (five hundred dollars)
 - i. The town may require a dog to be spayed/neutered if applicable.

D. Chaining/Tethering; Housing:

Shall utilize the following schedule of fines as defined in MGL c.140 §174E.

- a. First Offense: \$50 (fifty dollars)
- b. Second Offense: \$200 (two hundred dollars)
- c. Third/Subsequent Offense: \$500 (five hundred dollars)

E. Confinement in a Motor Vehicle:

Shall utilize the following schedule of fines as defined in MGL c.140 § 174F.

- a. First Offense: \$150 (one hundred fifty dollars)
- b. Second Offense: \$300 (three hundred fifty dollars)
- c. Third/Subsequent Offense: \$500 (five hundred dollars)

F. Livestock – Failure to recover animals at large:

Violations of the Livestock provision will utilize the following schedule of fines.

- a. First Offense: \$20 (Twenty dollars)
- b. Second Offense: \$40 (Forty dollars)
- c. Third/Subsequent Offense: \$50 (fifty dollars)

G. Other violations:

If no specific fine is listed for a specific provision, the following fine schedule shall apply:

- a. First Offense: Verbal Warning
- b. Second Offense: \$25 (twenty-five dollars)
- c. Third Offense: \$50 (fifty dollars)
- d. Fourth Offense/Subsequent: \$100 (one hundred dollars)

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

I. Unless specified within a specific provision, a separate offense is not limited to an offense within a calendar year from the first offense.

J. Except where otherwise required by law, all fines collected pursuant to the enforcement of this bylaw shall be deposited into the Animal Control/Dog Fund revolving account.

ARTICLE 18 RIGHT TO FARM

Section 1: Intent and Purpose

The Town of Shelburne finds that farming is an essential and valued activity, which provides fresh food, clean-air, economic diversity and open spaces to all the citizens of our town. This bylaw is intended to encourage the pursuit of agriculture, promote agricultural-based economic opportunities, and protect farmland within

the Town of Shelburne.¹ The purpose is to allow agricultural uses and related activities to function with minimal conflict with citizens, town agencies and others.

Section 2: Definitions

“Farm” shall include any parcel of land and or water bodies used for the primary purpose of agriculture and or its accessory uses and consisting of at least 5-acres.

“Farming” or “Agriculture” shall include but not be limited to the following:

- a. Farming in all its branches and the cultivation and tillage of the soil;
- b. Dairying and orchards;
- c. Production, cultivation, growing, and harvesting of any agricultural, floricultural, viticultural, or horticultural commodities;
- d. Growing and harvesting of forest products, and any related forestry or lumbering operations;
- e. Raising of livestock including horses or keeping of horses as a commercial enterprise;
- f. Keeping and raising of poultry, sheep, swine, goats, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

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

- a. Operation and transportation of slow-moving farm equipment over the roads within the Town;
- b. Control of pests, including insects, weeds, predators, and disease organisms of plants and animals under best management practices;
- c. Application of manure and fertilizers under best management practices;
- d. 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;
- e. Processing and packaging of the agricultural output of the farm and the operation of a farm stand;
- f. Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager and used expressly for the purpose of propagation, processing, managing, or marketing of the agricultural products;
- g. On-farm relocation of earth and the clearing of ground for farming operations; and
- h. Constructing and maintaining farm buildings used for shelter, feed and storage;

¹ Statutes that pertain to this bylaw include: MGL Ch. 40A Section 3; Ch. 90 Section 9; Ch 111 Section 125A, and Ch. 128 Section 1A.

- i. Revitalizing drainage or irrigation ditches, picking stone, erecting, repairing or maintaining fences, and clearing, rejuvenating and maintaining pastures.

Section 3: Right to Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Shelburne. The above-described agricultural activities may occur 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 commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, consideration shall be given to both traditional customs and procedures as well as to new practices and innovations. The protections contained in this bylaw do not replace any applicable zoning or legal restrictions associated with agricultural operations.

Section 4: Notification to Real Estate Buyers

In order to promote harmony between farmers and their new neighbors, the Town of Shelburne requests selling landholders and/or their agents (and assigns) to provide notice to prospective purchasers as follows:

“It is the policy of this community to conserve, protect, and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers that the property they are about to acquire lies within a town where farming activities occur. Such farming activities (which may occur on holidays, weekdays, and weekends by night or day) may include, but are not limited to, activities that cause noise, dust and odors. Occupying land within Shelburne means that one should expect and accept such conditions as a normal and necessary aspect of living in such an area.”

A copy of the above disclosure notification shall be posted in the Town Hall and be available for distribution from the Planning Board or its designee. Copies shall also be mailed to all town residents from time to time.

Section 5: Dispute Resolution

In the event of a dispute, the aggrieved party may apply in writing to the Planning Board, or its designee, outlining the issues for redress. The Planning Board, or its

designee, will appoint a panel of at least three individuals to hear the issues. The panel will have broad authority to research the complaint and may invite interested parties to attend a hearing to offer input. Within 60 days of the complaint, the panel will issue a decision with which the affected parties agree to comply.

Section 6: Rules of the Road

Slow Moving vehicles

Most farm vehicles, construction rigs, and other slow-moving vehicles have orange warning signs mounted at the rear of the vehicle. If you approach such a vehicle, reduce your speed and use the same caution you would with bicyclists and pedestrians. Allow plenty of space around the vehicle if you plan to pass.

Animals and Horse Drawn Vehicles

Always give the right-of-way to any animal that someone is leading, riding or driving. Animals are easily frightened by motor vehicles, so when you approach any animal or horse-drawn vehicle, remember to be careful:

Slow down

If the animal or vehicle is coming toward you or is crossing your path, stop and allow the animal to pass.

If the animal or vehicle is traveling in the same direction you are, allow plenty of room for passing safely and also reasonable speed.

Do not sound your horn or make loud noise.

If the animal you are passing appears frightened, you must pull your vehicle to the roadside and stop.

Proceed only when it is safe.

You must stop if a rider or driver signals you to do so. In rural areas, take extra care when passing hay rides, which are usually animal drawn and full of passengers.

Section 7: Severability

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

ARTICLE 19 COMMUNITY PRESERVATION ACT

The Town has accepted Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by:

1. Approving a surcharge on real property tax for the purposes permitted by said Act, including:
 - a) the acquisition, creation and preservation of open space,
 - b) the acquisition, preservation, rehabilitation and restoration of historic resources,
 - c) the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use,

- d) the acquisition, creation, preservation and support of community housing, and
 - e) the rehabilitation and restoration of such open space and community housing which is acquired or created as provided under said Act;
2. To set the amount of such surcharge at 3.0% on real property tax as a percentage of the annual real estate tax levy against real property;
 3. To set fiscal year 2024 as the fiscal year in which such surcharge shall commence;
 4. To accept the following exemptions from such surcharge as permitted under Section 3(e) of said Act:
 - a) property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act;
 - b) Class three, commercial, and class four, industrial, properties. as defined in M.G.L. c.59, §2A;
 - c) \$100,000 of the value of each taxable parcel of residential real property; class three, commercial property; and class four, industrial property, as defined in section 2A of said Chapter 59;
 5. A taxpayer receiving a regular property tax abatement or exemption shall also receive a pro rata reduction in the said surcharge;
 6. A Community Preservation Committee, composed of local citizens, as described in the CPA Committee Bylaw to be adopted in coordination with this Warrant Article, shall make recommendations to Town Meeting on the use of Community Preservation Act funds, and all such expenditures must be pre-approved by Town Meeting; and
 7. To submit the terms of this Warrant Article to be approved or disapproved by the voters of the Town on the November 2022 ballot, or to take any other action relative thereto.

Voted May 2, 2023

The Town adopted the following CPA Bylaw in accordance with Chapter 44B, Section 5(a) of the General Laws, otherwise known as the Massachusetts Community Preservation Act:

1. Required members.

There shall be five required members of the Shelburne CPA Committee (the “CPC”):

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

C. One member of the Recreation Committee as designated by the Committee for a term of one year;

D. One member, a resident of the Town who does not currently hold elected or appointed office, nor currently serves as a municipal employee, who is interested in promoting historic preservation in the Town, appointed by the Select Board for a term of three years; and

E. One member, a resident of the Town who does not currently hold elected or appointed office, nor currently serves as a municipal employee, who is interested in promoting affordable housing in the Town, appointed by the Select Board for a term of three years.

2. Members at Large.

There shall be four at large member of the CPC who shall be appointed as follows:

A. One member of the Open Space Committee as designated by the Committee for a term of one year.

B. One member of the Agricultural Commission as designated by the Committee for a term of one year.

C. Two at large members, residents of the Town who do not currently hold elected or appointed office, nor currently serve as a municipal employee, appointed by the Select Board for terms of three years.

3. Notwithstanding the term provisions set forth above, two of the members appointed by Select Board shall serve for an initial term of three years, two shall serve for an initial term of two years, and one shall serve for an initial term of one year. Thereafter all members shall serve for three years. Terms of all CPC members shall run with the Town's fiscal year - from July 1 through June 30.

4. Any vacancy on the CPC shall be filled by the Board, Commission, or Committee that designated the member who creates the vacancy by designating another member in accordance with the above for the unexpired term.

5. Should any of the Boards, Commissions, or Committees who have appointment authority under this Bylaw shall be no longer in existence for whatever reason, the appointment authority for that Board, Commission, Committee shall become the responsibility of the Select Board.

6. Duties

The CPC's operations shall be governed by Chapter 44B of the Massachusetts General Laws, as amended from time to time.

A. The CPC shall study the needs, possibilities and resources of the Town regarding community preservation. The CPC shall consult with existing municipal boards, including the Select Board, the Conservation Commission, the Planning Board, the Recreation Committee, and the Open Space Committee, in conducting such studies. As part of its study, the CPC 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 CPC may, after proper appropriation, incur expenses as permitted by state law using funds from the community preservation fund to pay such expenses.

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

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

7. Meetings and Anticipated Costs

The CPC shall not meet or conduct business without the presence of a quorum and shall keep a written record of its proceedings. A majority of the members of the CPC shall constitute a quorum. The CPC shall approve its actions by majority vote of the quorum. Recommendations to the Town Meeting shall include their anticipated costs.

8. Reporting

The CPC should coordinate with applicable municipal officials to provide the information required by reports required by the CPA and ensure that annual reports are timely filed.

9. Amendments

The CPC shall, from time to time, review the administration of this Bylaw, making recommendations, as needed, for changes in the By-law and in administrative practice to improve the operations of the CPC. This Bylaw may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not be in conflict with Chapter 44B of the Massachusetts General Laws.

10. Effect of CPA revocation

Upon revocation of the CPA, the CPC shall continue to provide spending recommendations for remaining community preservation funds that are not required for the satisfaction of outstanding obligations.

11. Severability

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.

12. Effective Date

Following Town Meeting approval of this Bylaw, this Bylaw shall take effect immediately upon approval by the Attorney General of the Commonwealth and proper posting by the Town according to G.L. c. 40, § 32. Each appointing authority shall have sixty days after this Bylaw takes effect to make their initial appointments.

ARTICLE 20 ADDRESS ASSIGNMENT

- Section 1.** The Selectboard shall promulgate regulations establishing addressing standards and governing the numbering of properties. All properties, buildings and structures are required to have a valid address.
- Section 2.** The regulations promulgated by the Selectboard shall designate a Town official(s) as the sole authority to assign and modify addresses for all taxable and non-taxable properties.
- Section 3.** The Town of Shelburne will maintain an up-to-date Master Address Table using the addresses assigned by the Selectboard's designated Town official(s) and parcel identification numbers for all taxable and non-taxable properties. No one may publicly use or list an address for a property, building, or structure located within the Town of Shelburne for any purpose, unless that address is included in the Master Address Table.

ARTICLE 21 SHORT TERM RENTAL

Section 1. Definitions

Short-Term Residential Rental: Rental of a single-family, two-family, or multi-family property or rooms in one of these properties for overnight accommodations for not more than 31 consecutive days. Short-term residential rentals include traditional Bed & Breakfasts, but do not include motels, hotels or inns.

Owner Occupied Residential Rental: A residential property that is the primary residence of the property owner and where they reside for at least nine (9) months of the year.

Owner of Residential Real Estate: One or more individuals who has/have some property interest and legal authority over a residential property.

Section 2. Purpose

The purpose of this chapter is to allow for short-term residential rentals while ensuring public safety, preventing possible nuisances for abutters, minimizing reductions to available long term (greater than 31 days) rental housing, and preserving the character of the town's neighborhoods. It will assist the town in the enforcement of state and local health and safety regulations and provide a method of correcting violations requiring immediate attention.

Section 3. Short Term Rental Registration

- 3.1 Owners of residential properties shall not offer short-term residential rentals unless they are
 - a. registered with the Commonwealth of Massachusetts and the Town of Shelburne in accordance with this bylaw and with the Commonwealth of Massachusetts Department of Revenue pursuant to the applicable provision of General Laws Chapter 64G, and
 - (b) fully compliant with all requirements of this bylaw and any regulations adopted hereunder.
 - (c) compliant with state law and regulations
 - (d) compliant with the Shelburne zoning bylaws regarding short term residential rentals.
- 3.2 To become registered, the owner shall submit a completed Short-term Residential Rental Application form to the Town Clerk which shall include:
 - (a) contact information for the owner and an agent designated by the owner either of which shall be available within two (2) hours on a 24/7 basis to respond to any disturbances or emergencies associated with the short-term residential rental;
 - (b) attestation of possession of liability insurance coverage for the short-term residential rental in compliance with Massachusetts General Laws, Chapter 175, Section 4,
 - (c) Massachusetts Department of Revenue Occupancy Excise Registration.
- 3.3 The applicant must work with the town's Health Agent, Building Inspector, and Fire Chief, to schedule required sanitation, building, and fire safety inspections of the property. Fees may apply for inspections and permits.
- 3.4 Upon receipt of a completed registration form, applicable certificates of compliance with sanitation, building, and fire safety inspections, and the associated fee, the Town Clerk shall issue a certificate of registration with a unique registration number.
- 3.5 Registrations shall expire on December 31 of each year. All renewals shall require a new application to be submitted and payment of the associated fee. Owners who wish to have their renewal take effect on January 1 following the expiration of their registration should apply at least by December 1 before the expiration of their registration. Renewal shall be

conditional upon compliance with the provisions of this bylaw and any associated regulations during the preceding year and at the time of the renewal.

3.6 Non-Transferability: Short-term residential rental registrations shall be granted solely and personally to the applying owner and shall not be transferable or assigned to any other person, legal entity, or address. The registrations shall not run with the property; and it shall terminate upon sale or transfer of the property.

Section 4. Regulations

4.1 Pursuant to M.G.L. Chapter 111, Section 31, the Board of Health may promulgate regulations to carry out and enforce the provisions of this bylaw. Such regulations may include, but are not limited to, requirements to ensure that the short-term rental operates consistent with sanitary code requirements.

4.2 The town-issued registration number shall be included on any listing offering the short-term rental for rent.

4.3 The owner of each short-term residential rental shall keep a register containing the name of every person occupying each short-term rental, their phone number, and the dates of occupancy. The register shall be retained for two (2) years and shall be made available upon request to the Board of Health, Building Inspector, fire department, or other duly appointed or authorized code compliance staff of the Town of Shelburne.

4.4 A short-term residential rental property shall maintain compliance with all applicable Federal, state and local laws. It shall have no outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning violations at the time of registration. The owner must be current with Shelburne town taxes. A registration may be suspended or revoked if such violations arise within the registration period and are not corrected in a timely manner.

4.5 The owner shall not allow short-term residential renters to create or become a nuisance (including but not limited to loud noise or music, excessive traffic, or other disturbances) to the surrounding neighborhood.

4.6 The owner is responsible for informing renters of the Shelburne winter parking ban.

Section 5. Complaint Process and Enforcement

5.1 The Board of Health, or its designee, shall be the “enforcing person” for this bylaw. The enforcing person may issue orders as appropriate to aid in the enforcement of this bylaw and the regulations adopted hereunder, and may enforce these provisions in equity, including the request for injunctive relief in a court of competent jurisdiction and by noncriminal disposition pursuant to G.L. c. 40, §21 D. Failure to comply with any order issued hereunder shall be punishable by a fine of \$300.00. Each day of continued noncompliance shall constitute a separate violation. The imposition of a fine shall not be construed to prevent enforcement of any other bylaws, laws or regulations nor prevent other

enforcement measures or fines, including civil or legal action against the owner to require compliance with the order.

- 5.2 Upon receipt of a complaint from any person alleging that the condition, operation, or use of a short-term residential rental is in violation of this bylaw, or otherwise, as the enforcing person may determine in its discretion, the enforcing person may request an inspection of the short-term residential rental property by each official or board with jurisdiction to address the alleged violation. The owner shall make a good faith effort to arrange access by authorized town personnel to the short-term residential rental property for the purpose of conducting inspections within twenty-four (24) hours of receiving a request.
- 5.3 Upon a hearing by the enforcing person with notice to the owner, the enforcing person may suspend or revoke a short-term residential rental license upon its determination that the owner is in violation of this bylaw and has failed or is unable to cure the violation within the time required.

Section 6. Severability

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 Shelburne declares the provisions of this bylaw to be severable.

ARTICLE 22 REPEAL

Section 1: Upon acceptance of the foregoing by-laws by the Town, approval of the same by the Attorney-General, and their publication as required by law, all by-laws, heretofore existing shall be annulled and repealed.

