# Grafton
## Massachusetts

# General By-Laws

**GRAFTON MEMORIAL MUNICIPAL CENTER**
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# ARTICLE 1

# GENERAL PROVISIONS

## TITLE OF BY-LAWS

**SECTION 1.** The following provisions shall constitute the GENERAL BY-LAWS of the TOWN OF GRAFTON, MASSACHUSETTS, which shall be in lieu of all by-laws heretofore in force, except the Zoning By-Law accepted at a special town meeting, 25 April 1956 and which became effective, 31 May 1956.

### Effect of Repeal

**SECTION 2**. The repeal of a by-law shall not thereby have the effect of reviving any by-laws theretofore repealed.

### Effect of Change of Titles of Boards, Etc.

**SECTION 3.** Words and phrases specifying or naming any officer, board or committee of the town, shall be construed as including the lawful successor, or the person or persons having the powers and performing the duties of such officer, board or committee.

### Power to License

**SECTION 4.** When in a by-law anything is prohibited from being done without the license or permission of a certain officer, board or committee, such officer, board or committee shall have the right to license or permit such thing to be done.

### Manner of Repeal

**SECTION 5**. Any or all of these by-laws may be repealed or amended or other by-laws may be adopted at any town meeting by a majority vote of the voters present and voting, an article or articles for that purpose having been inserted in the warrant of such meeting by the Selectmen.(T.M. 10/20/03)

### Penalty

**SECTION 6A.** Whoever violates any of the provisions of these by-laws, shall, unless other provision is expressly made herein or in the GENERAL LAWS, be subject to court procedure and costs including reasonable attorney fees, all expenses of prosecution and all court costs thereof, and shall forfeit and pay a fine fifty ($50.00) for each offense. Each day that a violation continues shall be considered a separate offense. (T.M. 10/20/03)

**SECTION 6B.** All penalties for the violation of these By-Laws may be recovered by complaint before any court, or magistrate of the county, having jurisdiction of criminal offenses committed within the Town, and the penalties so recovered shall be paid into the treasury of the Town. But no prosecution shall be commenced after six (6) months from the time of such violation, unless otherwise provided by law.

**SECTION 6C.** The Board of Selectmen shall be charged with the enforcement of these By-laws, and upon their own initiative or upon the written petition of any citizen alleging a violation, shall investigate the same and authorize in writing the Town Counsel to bring proper charges, if in the Selectmen's discretion the facts warrant such action.

**SECTION 6D.** Whoever violates any provision of the Board of Health Smoking Regulations, adopted February 23, 1999 and as they may be amended from time to time, in the discretion of the enforcing person, be penalized in a non-criminal proceeding as provided by G.L. c.40, s21D. For purposes of this Section, "enforcing person" shall include police officers of the Town and members of the Board of Health, the Board of Health Agent, and other authorized agents of the Board of Health. Any enforcing person taking cognizance of a violation of said Regulations may, as an alternative to initiating criminal proceeding, give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice.

## Validity

**SECTION 7**. If any provision of these By-Laws is declared unconstitutional or illegal by final judgment, order or decree of the Supreme Judicial Court of the Commonwealth, the validity of the remaining provisions of these By-Laws shall not be affected hereby.

## One Elective Town Office at a Time

**SECTION 8.** Any citizen elected or appointed to fill a vacancy in an elective Town office after the effective date of this by-law can hold only one elective Town office at one time. If an elected Town official seeks another elective Town office, he will have to resign from the first office prior to being sworn in to the second office. (T.M. 3/21/73)

## Appointed Officers

**SECTION 9.** All other Town Officers shall be appointed as follows:

9-1 The Board of Selectmen shall appoint:

(a) A Town Administrator to serve for an indefinite term.
(b) A Board of Health to consist of five members appointed for terms of three years each. (T.M.5/12/08)
(c) A Conservation Commission to consist of five members appointed for terms of three years each. (T.M. 10/16/89; T.M. 10/15/2012).
(d) A Board of Registrars of Voters in the manner provided by general law.
(e) A Board of Appeals to consist of five regular members appointed for terms of three years each, and two associate members appointed for terms of three years each.
(f) A Council on Aging as provided for by By-Law.
(g) A Development and Industrial Commission as provided for by By-Law.
(h) An Industrial Development Financing Authority in the manner provided by General Law.
(i) A Cable Television Oversight Committee.

(j) A Cemetery Commission.
(k) Constables.
(l) An Emergency Management Director and related Emergency Management personnel. (T. M. 10/20/03)
(m) An Arts Lottery Council.
(n) A Grafton Historical Commission.
(o) The McNamara Memorial Committee.
(p) The Municipal Center Renovation Committee
(q) A Board of Trustees of Soldiers Memorials.

9-2 The Town Administrator shall appoint:

(a) A Director of Public Works (if any) and all other employees of A Department of Public Works.
(b) A Police Chief and other Police Officers to serve to indefinite terms.
(c) A Board of Fire Engineers, a Fire Chief, Forest Wardens, and other Fire Fighters to serve for indefinite terms.
(d) A Board of Assessors, to consist of a Principal Assessor, who shall serve full-time and two Associate Assessors, who shall serve part-time, the term of all members shall be three years.
(e) A Board of Sewer Commissioners to consist of three members appointed for terms of three years each.
(f) A Town Treasurer/Collector to serve for a term of three years.
(g) A Town Accountant to serve for a term of three years.
(h) An Inspector of Buildings to serve for an indefinite term.
(i) A Wire Inspector to serve for an indefinite term.
(j) An Inspector of Gas Appliances and Gas Fittings to serve for an indefinite term.
(k) A Plumbing Inspector to serve for an indefinite term.
(l) An Animal Inspector to serve for an indefinite term.
(m) An Animal Control Officer to serve for an indefinite term.
(n) A Board of Trustees of Nelson Park and Memorial.
(o) A Recreation Commission.
(p) A Parking Clerk.
(q) A Town Counsel.
(r) A Town Engineer.
(s) A Town Forest Committee.
(t) A Traffic Safety Committee.
(u) A Veterans Service Director, Veterans Agent, Veteran's Grave Officer and a Burial Agent.
(v) A health agent, animal inspector, and other personnel of a department of Public Health.
(w) A Sealer of Weights and Measures in accordance with Civil Service law and rules.

NOTE: All other appointments not listed herein shall be made under the guidelines set forth in the Grafton Home Rule Charter, Article 3, Section 3-2 (d) and Article 4, Section 4-2 (b), and other relevant sections.

# ARTICLE 2

# TOWN MEETINGS

## Date of Town Meeting and Elections

**SECTION 1.** The annual town election for the election of town officers and for the determination of all other matters to be referred to the voters shall be held on the third Tuesday in May of each year. (T.M. 10/17/2011)

**SECTION 1A.** The spring session of the annual town meeting shall be held on the second Monday in May of each year and the third Monday in October, both sessions to begin at 7:30 PM, and if there is unfinished business that subsequent adjourned meetings shall held on the following Wednesday and Monday evenings consecutively at 7:30 PM until final adjournment.

## Polling Hours

**SECTION 2.** The polls shall be opened during such hours as the Selectmen shall specify in the warrant.

## Notice of Meeting

**SECTION 3.** Warrants for all town meetings shall be served by posting an attested copy thereof in some conspicuous place in each of the precincts of town at least (14) fourteen days before said meeting. Notice of all town meetings will be by publication in one or more newspapers generally circulated in the Town.

## Adjourned Meeting

**SECTION 4.** As soon as practicable after the adjournment of any Town Meeting, on a vote to adjourn to another day, the clerk shall cause a brief statement of the day and hour to which the adjournment was voted and of the business remaining to come before the meeting, to be posted in at least one public place in each precinct of the Town.

## Only Voters Admitted to Floor of Hall

**SECTION 5.** At any Town Meeting held for the transaction of Town business, if the Moderator, or a vote of the meeting so orders, no person whose name is not on the list of voters shall be admitted to the floor of the hall, and such order may be enforced by the use of the check list, but the same shall not apply to the state election, primaries, or Town Meeting for the election of Town Officers, or to be construed to prohibit press reporters from the meeting. The Moderator shall determine the bounds of the hall.

## Speaking Time

**SECTION 6.** No person shall speak for more than five minutes for the second time on any subject if there are any other citizens who desire to be, but have not been, heard on the same subject, without first obtaining leave of the meeting.

### Motions in Writing

**SECTION 7.** Any report, resolution or motion shall be reduced to writing before being submitted to the meeting. (T. M. 10/20/03).

### Smallest Sums First on Motions

**SECTION 8.** On substitute motions and proposed amendments involving sums of money, the votes shall be taken in descending order, the largest sum proposed shall be taken up first and voting shall continue until an affirmative vote on a sum is reached. Any lesser amounts proposed not then voted upon shall be deemed to have been defeated.

### Priority of Motions

**SECTION 9.** When a question is before the meeting, the following set of motions shall be used as a guide, and shall ordinarily have precedence in their numerical order:

1. To adjourn.
2. Take a recess.
3. Rise to a question of privilege.
4. Call for the order of the day.
5. Lay on or take from the table.
6. Call for the previous question.
7. Limit or extend limits of debate.
8. Postpone to a certain time.
9. Commit, refer or recommit to a committee.
10. Pass over.
11. Amend.
12. Main motion.

But the treatment and order of receipt, of these and all other motions made in a Town Meeting shall be left to the final decision of the Moderator.

### Reconsideration

**SECTION 10.** A motion to reconsider any prior vote shall not be accepted. All votes taken shall be deemed to be final. (T.M. 10/19/92)

### Recognition by Moderator

**SECTION 11.** No person shall address the meeting without first being recognized by the Moderator. When two or more persons rise to speak at the same time the Moderator shall name the one entitled to speak.

### Articles to be Acted on in Order

**SECTION 12.** Articles in the Warrant shall be acted upon in the order in which they stand, except that the Moderator shall, upon request and for reasons stated, entertain a motion to take up an article out of its regular order.

**Motion to Dissolve Not in Order Until All Article Have Been Acted Upon**

**SECTION 13**. No motion, the effect of which would be to dissolve a Town Meeting, shall be in order until every article in the Warrant has been duly considered and acted upon, but this shall not preclude the postponement of action on or consideration of, any article to an adjournment of the meeting to a stated time.

**Moderator to Appoint Committees Unless Otherwise Voted**

**SECTION 14.** All special committees shall be appointed by the Moderator unless otherwise specifically directed by the meeting, and all committees so appointed shall be directed to report within a definite time. Any committee so appointed shall keep minutes of all their meetings. All records of the committee shall be filed with the Town Clerk upon discharge of the committee. If a committee does not report within the time stated, it shall be considered discharged unless in the meantime the town shall have granted an extension of time. (T.M. 10/20/03)

**Determination of Vote**

**SECTION 15.** When a question is put, the sense of the meeting shall be determined by a show of hands of the Town Meeting voters and the Moderator shall declare the vote as it appears to him. If the Moderator is unable to decide the vote by the show of hands, or if his decision is immediately questioned, he shall determine the vote by a standing vote and he may appoint tellers to make and return the count.

**Written or Printed Ballot**

**SECTION 16.** If before action is taken on an article or on an item thereof, twenty-one voters request that the vote on said article or item thereof be by written or printed ballot, the same shall be ordered by the Moderator and the voting list shall be used.

**Discharge of Committees**

**SECTION 17.** A vote to accept the report of a special committee shall place the report before the meeting, but shall not discharge the committee. A vote to adopt or reject the report of a special committee with, or without amendment, shall discharge the committee.

**Other Procedures for Town Meeting**

**SECTION 18.** In all matters not covered by these by-laws the town moderator shall be guided by the rules of parliamentary procedures as applied to Town Meeting in the current edition of "Town Meeting Time, A Practical Handbook of Parliamentary Law". (T. M. 10/20/03)

**SECTION 18A.** The Moderator may take all votes requiring a two-thirds majority in the same manner in which he or she conducts the taking of a vote when a majority vote is required.(T.M. 5/10/99)

# ARTICLE 3

# FINANCE COMMITTEE

## Membership of Committee

**SECTION 1.** There shall be a Finance Committee for the Town, which shall perform the duties set forth in the following sections of this article and be governed by the provisions thereof, along with provisions of the Grafton Home Rule Charter Article 2 section 2-3 (b) and other relevant sections thereof. Said committee shall consist of nine (9) legal/registered voters of the Town, one from each precinct, and four members at large, but in no event more than four members from one precinct, which committee shall be appointed as provided in the following section. No Town Officer, as defined in the Town Charter, either elected or appointed shall be eligible to serve on the Finance Committee. (T.M. 10/18/04; T.M. 10/17/11)

## Appointment and Term of Office

**SECTION 2.** The Moderator, at each spring session of the annual Town Meeting shall appoint (3) three members of said committee for terms of three (3) years to fill the expired seats on said committee as they arise. Said committee shall choose its own officers and shall serve without pay, and it shall cause to be kept a true record of its proceedings. Members' terms shall run concurrent with the fiscal year. (T.M. 10/20/03)

## Notice of Hearings

**SECTION 3.** Notice of public hearings held by the Finance Committee shall be given by posting a copy thereof on the Municipal Center Bulletin Board and by publication in a local newspaper of a notice stating the time and place, at least seven but no more than fourteen days before said hearing.(T.M.10/20/03)

**SECTION 3A.** The report of the Finance Committee shall be printed and copies shall be made available for distribution to every person who shall request a copy thereof at the office of the town clerk, at the public library and at its branches, at the police station and at other places in the town for the convenience of the voters. The reports shall be available at least seven days before the town meeting is to act on any article contained in the warrant for the said town meeting.

## Annual Report

**SECTION 4.** It shall be the duty of said Committee to make an annual report to be printed with the annual report of the other town officers.

## Access to Records

**SECTION 5.** In the discharge of its duty, said Committee shall have free access to all books of record and accounts of any office or department of the Town.

## Submission of Budget

**SECTION 6.** At least ninety (90) days before the Town Meeting is to convene in its spring session, the Town Administrator, after consultation with the Board of Selectmen, shall submit to the

Finance Committee a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents.

# ARTICLE 4

# TOWN OFFICERS, PROPERTY AND RECORDS

## Custody of Town Documents

**SECTION 1.** All Town Officers shall turn over to their successors in office, at the expiration of their term of office, all books, papers, documents, or other property in their custody belonging to the Town. All departments shall turn over to the Town Clerk all papers, contracts, documents, computer files, deeds, maps, city locations, blueprints and other material of permanent value, as soon as possible after these articles are acquired or executed. These shall be deposited in the Town Clerk's vault, unless otherwise provided by law. (T.M. 10/20/03)

## Annual Report

**SECTION 2.** Each officer, board or committee of the Town shall annually by January 31, file with the Board of Selectmen a full and comprehensive report of all its activities, and if in charge of the expenditure of Town funds, a review of its condition, a financial statement and estimate of the appropriation needed for the ensuing year. This report shall include a list of all individuals and businesses, and the amounts paid to each, that have received one-thousand and no/100 ($1,000.00) dollars or more during the year for services or supplies which have been charged against the appropriations under the control of said officer, board or committee.(T.M. 10/20/03)

## Material to be Included in Annual Town Report

**SECTION 3.** The Selectmen, before the annual Town Meeting, shall, at the expense of the Town, print the annual town report for the use of the inhabitants, and in addition to the departmental reports for the municipal year, as submitted to the Selectmen under Section 2 above, and other matters required by law, the book shall contain:

a. A complete list of the Town Officers with expiring date of office, showing the organization of the different boards.

b. Copies of the warrant for the Annual and Special Town Meetings held during the Municipal year, together with the minutes of the Town Clerk, showing the action taken at each meeting. (T.M. 12/16/71).

c. A report of all claims that are outstanding and all suits in which the Town is a party.

d. A list of what betterments have been assessed during the municipal year.

e. A tabulated statement showing the object of each appropriation for the year, the amount appropriated, the amount overdrawn, if any, in each instance, and an itemized list of all unpaid bills and obligations.

f. A classified statement of all expenditures and receipts of the Town in detail, so as to give a fair and full exhibit of the objects and methods of all expenditures. This detailed report

shall itemize each department's expenditures by types of goods or services purchased. (T. M. 10/20/03)

**Use of Town Seal**

**SECTION 4.** No Town officer or member of a Town Board, Committee or Commission shall use any paper, stationery, or other article bearing the Town seal or representation thereof, or bearing the name of a Town Board, Committee or Commission for other than official purposes.(T.M. 10/20/03)

**Notification of Town Clerk of Office Hours**

**SECTION 5**. All Town officers, boards and committees shall notify the Town Clerk of their organization and of their office hours or times of stated meetings.

**Written Contracts**

**SECTION 6.** Unless otherwise provided by a vote of the Town Meeting, the Board of Selectmen for all departments except the School Department, and the School Committee for the School Department are authorized to enter into any contract for the exercise of the Town's corporate powers, on such terms and conditions as are deemed appropriate. Notwithstanding the foregoing, the Board of Selectmen and School Committee shall not contract for any purpose, on any terms, or under any conditions inconsistent with any applicable provisions of any general or special law. (T.M. 10/17/88) (T.M. 5/13/91)

**Purchase of Property or Supplies by Public Bids**

**SECTION 7.** Every contract for the procurement of supplies, services or interests in real property and for the disposal of supplies or interests in real property shall be made in accordance with the provisions of Chapter 30B of the Massachusetts General Laws. (T.M. 6/3/81) (T.M. 5/13/91) (T.M. 10/20/03)

**Custody and Approval of Contracts**

**SECTION 8**. Whenever any written contract is required by these By-laws, it shall be approved as to form, by the Town Counsel in writing. Said contract, with the Town Counsel's written approval as to form, shall be filed with the Town Accountant within one week of approval by Town Counsel. (T.M. 5/13/91; T.M. 10/20/03)

**Sale of Obsolete, Surplus or Unused Property**

**SECTION 9.** Every board or officer in charge of a department may, with the approval of the Selectmen, sell any obsolete, surplus or unused property or material not required by such department not exceeding Five Thousand Dollars ($5,000.00) in value. Personal property or material having a value in excess of Five Thousand Dollars ($5,000.00) shall be sold only after authorization by a vote of the Town. The Board of Selectmen may transfer such property to another Town Board or Department having use for the same. (T.M. 10/20/03)

**Heavy Equipment Pool**
(Deleted T.M. 10/15/90)
**Presentation of By-Laws**

**SECTION 10.** A copy of the Town By-laws with amendments, a copy of the Open Meeting Law, a copy of the Conflict of Interest Law, and a copy of the Town Charter shall be presented by the Town Clerk to all elected or appointed town officers and committee members, immediately after they are sworn into office.(T.M. 10/20/03)

**Meetings**

**SECTION 11.** All Boards, Committees and Commissions must be appointed, sworn in, meet, organize and elect officers within thirty days of the Annual Town Meeting, or within thirty days of the meeting at which a special purpose Board, Committee or Commission is authorized. The same rules shall apply to individual appointments. (T.M. 3/21/73; T.M. 10/20/03)

# ARTICLE 5

# SELECTMEN

## General Management

**SECTION 1.** The Selectmen shall have the general direction and management of the property and affairs of the Town in all matters not otherwise provided for by law, by Town Charter or by these By-Laws.

## Police Regulations

**SECTION 2.** The Selectmen shall make, from time to time, such rules and regulations for the government, management and disposition of police as they may deem expedient.

## Claims and Suits

**SECTION 3.** The Selectmen shall have full authority as agents of the Town, acting upon the advice of the Town Counsel, to settle any claims or suits against the Town.(T.M. 10/20/03)

## Defending Interest of Town

**SECTION 4.** The Selectmen shall appear in the interest of the Town, either personally or by Town Counsel or by special counsel, before any court, committee, or any State or County Board or Commission. They shall have full authority as agents of the Town acting upon the advice of the Town Counsel or special counsel, to institute and prosecute any and all necessary suits and proceedings in favor of the Town, and to appear and defend any and all suits and legal proceedings against or involving the Town's interest, except as is otherwise provided by law.

## Execution of Deeds

**SECTION 5.** All conveyances of land or interests in land or other Town property which may hereafter be authorized by vote of the Town, or otherwise, shall be signed by a majority of the Board of Selectmen, unless otherwise provided by law or by a vote of the Town, and shall be sealed with the Town seal.

## Lists of Appointments

**SECTION 6.** The Selectmen shall, immediately after any person is chosen or appointed to Town Office, file with the Town Clerk a list of such choice or appointment.

## Designation of Clerk

**SECTION 7.** The Selectmen shall designate one of its members as Clerk who shall enter all its records, orders and proceedings in a bound book, and this shall be placed in the custody of the Town Clerk, and shall be open to the inspection of any person at reasonable times.

# ARTICLE 6

# TREASURER/COLLECTOR

## Placing of Bond

**SECTION 1.** Before entering upon the duties of his office the Town Treasurer/Collector shall give bond to the Town, with good and sufficient surety, to be approved by the Selectmen. Said bond shall be upon condition that said Treasurer/Collector shall well and faithfully discharge the duties of his office during any and every period of his incumbency thereof.

## Custodianship

**SECTION 2.** The Treasurer/Collector shall be the custodian of all fiduciary bonds except as hereafter provided, of all notes, bonds and coupons which have been paid, and all other documents that may be required pursuant to State Law, Town By-Laws or the Town Charter.

## Annual Report

**SECTION 3**. The Treasurer/Collector shall make an annual report which shall contain a statement of the amount of money received and paid out by him during the year. A full exhibit and full description of all moneys, properties and securities which may be placed in his charge by virtue of a vote of the Town or of any statutes or By-Laws, or by virtue of any gifts, devise, bequest or deposit; a list of all notes issued during the year showing the purpose for which money was borrowed and given the date, term, rate of interest, time of maturity, and premium, if any, received thereon; a list of all notes paid during the year, and a list of all outstanding notes, with dates on which they mature. This report, however, need not contain such details as are required by law to be shown on the report of the Town Accountant.

## Office Hours

**SECTION 4.** The Treasurer/Collector shall have stated hours for the transaction of business and shall give public notice thereof.

(T.M. 10/15/90)

# ARTICLE 7

# TOWN CLERK

## Placing of Bond

**SECTION 1.** Before entering upon the duties of his office the Town Clerk shall give bond to the Town, with good and sufficient surety, to be approved by the Selectmen. Said bond shall be upon the condition that said Town Clerk shall well and faithfully discharge the duties of his office during any and every period of his incumbency thereof.

## Report Files

**SECTION 2.** The Town Clerk shall keep a file of all Town reports, reports submitted by all committees chosen by the Town and all original documents relating to the affairs of the Town which come into his custody. He shall suitably index all such reports and all records of the Town in his custody in a manner convenient for reference and examination.

## Office Hours

**SECTION 3.** The Town Clerk shall have stated daily hours for the transaction of business and shall give public notice thereof.

## Ballot and Lists for Town Meeting

**SECTION 4.** The Town Clerk shall furnish for the use of the voters at the Town Meeting, perforated "yes" and "no"" ballots with letters not less than one-half inch high for use under the direction of the Moderator, as provided under Article 2, Section 18, of these By-Laws, and he shall also provide regular voting lists for use at Town Meeting.

## Employment of Competent Person and Filing of Notes

**SECTION 5.** The Town Clerk shall make provisions to record by electronic or other means, as shall be deemed appropriate by the Town Clerk, the proceedings of all Town Meetings. The record so obtained shall be filed and maintained as part of the public records of the Town.

(T.M. 3/18/74) (T.M. 5/13/91)

## Enumeration of Fees

**SECTION 6.** The fees of the Town Clerk shall be as follows:

| | | |
|---|---|---|
| (1) | For filing and indexing assignment for the benefit of creditors | $25.00 |
| (11) | For entering amendment of a record of the birth of an illegitimate child subsequently legitimized | $15.00 |
| (12) | For correcting errors in a record of birth | $15.00 |

| | | |
|---|---|---|
| (13) | For furnishing certificate of a birth | $10.00 |
| (13A) | For furnishing an abstract copy of a record of birth | $5.00 |
| (14) | For entering delayed record of birth | $15.00 |
| (20) | For filing certificate of a person conducting business under any title other than his real name | $50.00 |
| (21) | For filing by a person conducting business under any title other than his real name or change of his residence or of his discontinuance, retirement, or withdrawal from or of a change of location of such business | $25.00 |
| (22) | For furnishing certified copy of certificate of person conducting business under any title other than is real name, or a statement by such person of discontinuance, retirement, or withdrawal from such business | $10.00 |
| (24) | For recording the name and address, date and number of the certificate issued to a person registered for the practice of podiatry in the Commonwealth | $20.00 |
| (29) | For correcting errors in a record of death | $15.00 |
| (30) | For furnishing a certificate of death | $10.00 |
| (30A) | For furnishing an abstract copy of a record of death | $5.00 |
| (42) | For entering notice of intention of marriage and issuing certificates thereof | $20.00 |
| (43) | For entering certificate of marriage filed by persons married out of the Commonwealth | $15.00 |
| (44) | For issuing certificate of marriage | $10.00 |
| (44A) | For furnishing an abstract copy of a record of marriage | $5.00 |
| (45) | For correcting errors in a record of marriage | $15.00 |
| (54) | For recording power of attorney | $15.00 |
| (57) | For recording certificate of registration granted to a person to engage in the practice of optometry or issuing a certified copy thereof | $20.00 |
| (58) | For recording the name of the owner of a certificate of registration as a physician or osteopath in the Commonwealth | $20.00 |
| (62) | For recording order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in number of wires and cable or attachments under the provisions of Sec. 22 of Chapter 166 - $3.50 additional for each street or way included in | $50.00 flat rate<br>$20.00 add'l street |

| | | |
|---|---|---|
| | such order | |
| (66) | For examining records or papers relating to birth, marriage or deaths upon application of any person, the actual expense thereof, but not less than | $5.00 |
| (67) | For copying any manuscript or record pertaining to a birth, marriage, or death | $5.00/page |
| (69) | For receiving and filing of a complete inventory of all items to be included in a "closing out sale," "going out of business sale," "discontinuance of business sale," "selling out," "liquidation," "lost our lease," "must vacate," "forced out," or other designation of like meaning | $20.00 1st page<br>$2.00 add'l page |
| (75) | For filing a cop of written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereof as provided by Sec. 2, Chap. 182 | $25.00 |
| (78) | For recording deed of lot or plot in a public burial place or cemetery | $15.00 |
| (79) | For recording any other documents not specifically named herein | $20.00 1st page<br>$2.00 each add'l page |
| | Voter's card | $5.00 |
| | Residency Verification Form | $5.00 |

(T.M. 5/27/81) (T.M. 10/16/89) (T.M. 10/20/03)(T.M. 5/13/2013)

# ARTICLE 8

# TOWN ACCOUNTANT

## Annual Audit

**SECTION 1.** There shall be an annual audit of the Town accounts. (T.M. 10/19/92)

## Annual Report

**SECTION 2.** The Town Accountant shall, in his annual report, in addition to such matters as are required by law, furnish a condensed statement of the financial condition of the Town and financial transactions for the year covered by such report.

## Custody of Bonds

**SECTION 3.** The Town Accountant shall have the custody of all contracts with the Town, unless otherwise provided by law.

(T.M. 3/18/74) (T.M. 10/19/92)(T.M. 10/20/03)

# ARTICLE 9

# ASSESSORS

## Valuation Lists

**SECTION 1.** The Board of Assessors shall post a list of the real estate and personal property assessed valuations for each revaluation year, and in years where Town-wide interim adjustments to value are made, in four public places within the Town.

(T.M. 10/19/92)(T.M.10/20/03)

# ARTICLE 10

# TOWN COUNSEL

## Appointment and Term of Office

**SECTION 1.** The Town Administrator shall each year after the annual Town Meeting, and whenever a vacancy shall exist, choose some competent lawyer to act as Town Counsel. He shall be paid such compensation as the Town shall determine. The Town Administrator may remove him at pleasure. His term of office shall continue until the appointment and acceptance of his successor.

## Duties

**SECTION 2.** The Town Counsel shall, when required by the several Town officers, boards and committees, furnish a written opinion on any legal question that be submitted to him in regard to any matter which concerns the Town or them as Town officers, and he shall at all times furnish legal advice to any officer of the Town who may require his opinion upon any subject with reference to the duties incumbent upon such officer by virtue of his office.

## Prosecution and Defense of Suits

**SECTION 3.** The Town Counsel shall, unless otherwise directed by the Town Administrator, prosecute all suits ordered to be brought by the Town, or defend suits brought against the Town or its officers in their official capacity. He shall, when requested by the Town Administrator, appear before any tribunal, whether in law, equity or otherwise, or before any board, referee, commissioners, committee, arbitrators or other tribunal in matters in which the Town may be a party, or in which the Town may be interested. For such service he shall receive suitable compensation as determined by the Town Administrator.

## Prosecution for Violation of Statutes

**SECTION 4**. The Town Counsel shall prosecute on behalf of the Town, all cases for the violation of the statutes, or of these By-Laws, when requested in writing by any board or officer of the Town. For such services he shall receive suitable compensation as determined by the Town Administrator. (T.M. 10/20/03)

## Drawing Up and Approval of Legal Instruments

**SECTION 5.** Town Counsel shall draw up all bonds, deeds, leases, obligations, conveyances and other legal instruments or approve the same.

## Annual Report

**SECTION 6**. Town Counsel shall annually make a written report to the Town Administrator, to be printed in the annual Town Report, concerning the professional services rendered by him during the preceding year. Said report shall contain a statement of each case or claim which has been tried, settled or otherwise disposed of by him during the year, and also a statement of each case which is still pending and the status of the same insofar as the facts may be

properly published, together with such other information and recommendations as he may deem advisable.

# ARTICLE 11

# INSPECTOR OF WIRES

## Powers

**SECTION 1.** The Inspector of Wires appointed in accordance with General Laws Chapter 166, Section 32 and Acts of 1932, Chapter 282, Section 26, shall have control of the supervision and inspection of electrical wiring and shall endorse all By-Laws, and regulations that relate thereto.

## Permits

**SECTION 2.** Before any person, firm or corporation shall install any electrical wiring, said person, firm or corporation shall make application to the Inspector of Buildings office for a permit for that purpose, pay a fee, as determined by the Board of Selectmen, and shall file with the Inspector of Wires such information or specifications as may be required. No permit will be required to do the following classes of electrical work:

a. The installation, alteration or repair of electrical equipment installed by or for an electric utility company for the use of such company in the generation, transmission, distribution or metering of electricity.

b. The replacement of electrical lamps or the repair of electrical equipment and appliances which are plugged into a permanently installed electrical outlet.

c. For emergency repairs and maintenance of electrical wiring in establishments where a licensed electrician is employed continuously on the premises.

## Inspections

**SECTION 3.** When any work is complete or ready for inspection, the Inspector of Wires shall be notified. If, upon inspection, the work is found to comply with the requirements of this By-Law and all applicable state laws, approval shall be given by the Inspector of Wires authorizing the electrical utility company for the connection to the electrical service work is defective, all defects shall be remedied before such an approval is issued.

## Penalty

**SECTION 4.** Whoever violates any provisions of this By-Law shall be liable to a penalty not exceeding Twenty Dollars ($20.00).

# ARTICLE 12

# SAFETY AND ORDER

## Moving of Buildings

**SECTION 1**. No buildings shall be moved over a public street without a permit from the Board of Selectmen and the Inspector of Buildings. The Board of Selectmen shall require the owner of any building being moved or the person moving it, or both, to file with the Inspector of Buildings office a bond with satisfactory sureties to save the Town harmless from loss, costs or damages. (T.M. 1/14/85) (T.M. 10/19/92)

## Obstruction of Streets

**SECTION 2.** No person shall place or cause to be placed, in any public street, anything tending to obstruct the public way, without a written permit from the Selectmen.

## Fireworks and Firearms

**SECTION 3.** No person shall discharge any kind of firearms, nor any firecrackers, or fireworks, or explosive compound, in any street or public way, nor throw such fireworks, or explosive material, within the limits of any street or public way, except in the performance of a legal right or duty.

## Disposal of Polluted Material

**SECTION 4.** No person shall conduct or empty any filthy water or unclean matter into or upon any street or public way.

## Littering on Public Streets

**SECTION 5**. No person shall throw or place or cause to be thrown or placed upon or along any street or public way of the Town any nails, spikes, screws, glass, tin cans, garbage or other similar articles.

## Control of Snow and Water Off Buildings

**SECTION 6.** No owner or person having care of a building abutting upon any curbed or finished sidewalk, the roof of which building slants toward such sidewalk, shall permit such building to be without a barrier, snow guard or other device to prevent the falling of snow or ice from such roof to the sidewalk, nor shall the owner or person having care of any such buildings, permit water to discharge on any sidewalk from such building in such manner as to flow over the sidewalk.

## Damage to Lights and Signals

**SECTION 7.** No person shall extinguish, damage or break any street or electric light bulb, or remove any light placed to warn the public against an obstruction or defect in any street or public way, unless such persons is authorized by those having charge of such light, or of the street or way.

### Towing of Obstructing Vehicles

**SECTION 8A.** The Director of Public Works or his designee or other officer having charge of ways, for the purpose of removing or plowing snow, or removing ice, from any way, may remove, or cause to be removed, to some convenient place, including in such term a public garage, any vehicle interfering with such work, and the owner of such vehicle shall be responsible for the cost of such removal and all storage charges, if any, resulting therefrom. (T.M. 10/20/03)

### Penalty

**SECTION 8B.** Whoever violates any provisions of the previous section (8A) of the By-Laws shall be liable to a penalty of Twenty Five Dollars ($25.00) for the first offense, Fifty Dollars ($50.00) for the second offense and One Hundred Dollars ($100.00) for the third and succeeding offenses. (T.M. 3/18/74)(T.M. 10/20/03)

### Depositing Snow on Town Roadways

**SECTION 8C.**No person other than an employee in the service of the Town, or an employee in the service of an independent contractor acting for the Town, shall pile, push or plow snow or ice onto or across a Town roadway. Whoever violates this section shall be punished by a fine of One Hundred Fifty Dollars ($150.00) for each offense. (T. M. 10/20/03)

### Obstructing Public Ways

**SECTION 9.** Persons shall not congregate or stand upon any sidewalk, street or public way so as to obstruct the free passage thereof, after being directed by a police officer to move on.

### Disorderly Conduct

**SECTION 10.** No persons shall behave in a rude or disorderly manner, or use any indecent, profane, or insulting language in any street, highway, or other public place in the town, or be or remain upon any doorstep, portico, or other projection from any house or other building not his own, or any church, meeting house, railroad depot, or platform, public hall, or entrance thereto, to the annoyance or disturbance of any person. Nor shall any person at or near upon any such dwelling house, building, sidewalk, doorstep, portico, fence or projection or such meeting house, public hall, railroad depot, or platform or entrance thereto, commit any nuisance.

### Grazing on Public Ways

**SECTION 11A.** No person shall pasture any animal upon any street or way in the town, with or without keeper, except within the limit of such way adjoining his own premises, and on the same side of the street therewith.

### Animals or Vehicles in Or Upon Public Areas

**SECTION 11B.** No person shall permit any animals or vehicles to be in or upon the Common, parks or developed recreation areas of the Town except within the limit of the designated parking areas or with approval by the Board of Selectmen or their designee. (T.M. 05/14/2012)

**Bills and Posters**

**SECTION 12.** No person shall post up, or affix in any manner any bill, placard, or notice, either written or printed, upon the fence, posts or guide boards, walls, bridges, trees, stones, rocks, or any other object or upon any part of any building in the Town, without the previous consent of the occupant or the occupants, or those having charge thereof, or if there be no occupant, without the previous consent of the owner thereof. No person shall make any indecent figures, or write any indecent or obscene words upon any building structure, or public place in this town.

**Coasting, Cycling and Missile Throwing**

**SECTION 13A**. No person shall throw stones, snowballs, or other missiles, nor coast or slide down, in or along any of the sidewalks or streets of this town, upon any sled, boards, or otherwise, or ride a bicycle on the sidewalks within the Town, except at such places and under such restrictions and regulations as the Selectmen shall designate. (T.M. 10/15/01)

**SECTION 13B.** No person shall operate or ride on a skateboard, roller skates, or in-line skates on any public property, sidewalk, or street where signs are posted prohibiting such use. Any person violating this Section shall be fined Twenty-Five Dollars. (T.M. 10/15/01)

**Definition of Streets**

**SECTION 14.** Whenever the words "Streets or Street" are mentioned in these by-laws, it should be understood as including any place to which the public has a right or access.

**Bathing Restrictions**

**SECTION 15**. No person shall bathe or swim in any of the waters within the Town, in a state of nudity, in places exposed to public view, in the immediate sight of the occupant or occupants of any building.

**Licensing of Junk Dealers**

**SECTION 16.** The Board of Selectmen of the town may license suitable persons to be collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or second hand articles, may make rules and regulations relative to their business and may provide the supervision thereof. Said licensing board may make additional rules, regulations, and restrictions. Said licenses may be revoked at the pleasure of the Board.

In accordance with Chapter 140, Section 54 of the Massachusetts General Laws the following rules and regulations shall apply to all licenses issued under this Article, with reference to the purchase of gold, silver and platinum.

a. Whoever is carrying on a business of purchasing, selling or bartering of gold, silver or platinum shall keep a numbered form book approved by the Town in which shall be entered at the time of receiving any article, the name, address, date of birth and sex of the person from whom purchased and a detailed description of item purchased, date of purchase and time of purchase of any item exceeding twenty-five dollars ($25.00).

b. Any person who sells or barters gold, silver or platinum shall be required to show to the buyer prior to said sale, identification which includes a photograph of the seller. Said seller shall also sign legal signature on form provided, upon completion of said transaction.

c. The form book herein described shall be at all times open to inspection by the Chief of Police, or his designee.

d. All licenses granted under this Article shall designate the place where the person licensed may carry on his business, and he shall not engage in or carry on his business in any other place than the one designated.

e. All purchases of gold, silver or platinum shall be kept on the premises of the licensee for a minimum of (20) twenty days and shall at all times during the said (20) twenty days be available for inspection by the Chief of Police or his designee.

f. No person licensed under this Article shall purchase any article from any minor, knowing or having reasonable cause to believe that such person is a minor.

g. Any violation of this section may result in the revocation of license issued under this Article by the Board of Selectmen.

**Licensing of Hawkers and Peddlers**

**SECTION 17.** The Board of Selectmen shall license suitable persons to be hawkers and peddlers of merchandise, produce, flowers, furniture, artwork, etc. as provided in Sections 16 and 17 of Chapter 101 of the General Laws. No person or persons may engage in the activity described in this section without being licensed by the Board of Selectmen. The Board of Selectmen may make additional rules and regulations relative to this type of business and may revoke said licenses at its pleasure. (T.M. 10/16/89)

**Penalty**

**SECTION 18.** Whoever violates any provisions of this article of the By-Laws, except Sections 8A and 8B - Towing of Obstructing Vehicles, shall be liable to a penalty not exceeding Twenty Dollars ($20.00). (T.M. 3/18/74)

**Soliciting or Canvassing**

**SECTION 19.** It shall be unlawful for any solicitor or canvasser as defined in this By-Law section to engage in such business within the Town of Grafton without first obtaining a license therefore in compliance with the provisions of this By-Law section. The provisions of this By-Law

section shall not apply to any person residing within the Town of Grafton and engaged in the pursuit of soliciting for charitable benevolent, fraternal, religious or political activities, nor to any person exempted under Chapter 101 of the General Laws, or to any person duly licensed under Chapter 101 of the General Laws, or to any person exempted by any other General Law, nor shall this By-Law section be construed to prevent persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic deliveries.

A solicitor or canvasser is defined as any person, who, for himself, or for another person, firm or corporation, travels by foot, automobile or any other type of conveyance from place to place, from house to house, taking or attempting to lease or to take orders for the sale of goods, wares, merchandise, or services, or taking or attempting to take contributions for any purpose, including, without limiting, the selling, distributing, exposing for sale of soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale, whether or not he is collecting advance payment on such retail sales.

Applicants for a license shall file with the Chief of Police, on a form issued by him, a written application signed under the penalties of perjury, containing the following information:

a. Name of applicant.
b. Address of applicant (local and permanent address).
c. Applicant's height, weight, eye and hair color.
d. Applicant's Social Security Number.
e. The length of time for which the right to do business is desired.
f. A brief description of the nature of the business and goods to be sold.
g. The name and home office address of the applicant's employer. If self-employed, it shall so state.
h. A photograph of the applicant which picture shall be submitted by the applicant and be 2" x2"showing the head and shoulders of the applicant in a clear and distinguishing manner.
i. If operating a motor vehicle: The year, make, color, model, motor number, state of registration vehicle's owner and address.
j. The applicant's fingerprints.

At the time of filing the application, each applicant shall pay a fee to the Town of Grafton as set and periodically amended by the Board of Selectmen. (T.M. 3/21/73, T.M. 5/16/79, T.M. 10/19/09)

Upon receipt of the application, the Chief of Police shall investigate the applicant's reputation as to morals and integrity.

After an investigation of the applicant's morals and integrity, the Chief of Police shall approve or disapprove the application and notify the applicant of his decision. In the event that the application is approved, a license shall issue. Any applicant shall have the right of appeal to the Board of Selectmen.

Such license when issued shall contain the signature of the issuing officer and shall show the name, address and photograph of said licensee, the date of issuance and the length of time the same shall be operative, as well as the license number. The Chief of Police shall keep a record of all licenses issued for a period of six (6) years. Solicitors and canvassers when engaged in the business of soliciting or canvassing are required to display an identifying badge issued by the Chief of Police, by wearing said badge on an outer garment.

Each licensee is required to possess an individual license. The Police Officers of the Town of Grafton shall enforce this By-Law section. No license shall be transferred.

The Chief of Police is hereby vested with jurisdiction over the revoking of licenses.

Each license issued under the provisions of this By-Law section shall continue in force for one year from the date of its issue unless sooner revoked.

An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such material as required by the Chief of Police.

Any person violating any provisions of this By-Law section shall, upon conviction thereof, be punished by a fine not to exceed Fifty Dollars ($50.00) for each and every offense. (T.M. 3/21/73, T.M. 5/16/79)

## Alcoholic Beverages

**SECTION 20A.** No person shall consume any alcoholic beverage or have in possession any opened container of any alcoholic beverage or container whose seals have been broken and recapped of such beverages upon any place or building or private land or place in the Town of Grafton to which members of the public have access as invitees or licenses without the permission of the owner or person in control thereof. The burden of proving such consent shall be upon the defendant.

**SECTION 20B.** No person shall keep, use, consume or have in his possession any alcoholic beverage or any open container of alcoholic beverage or containers whose seals have been broken and recapped on such beverages as defined in Section (a) and in any public park or playground in the Town of Grafton and within one hundred (100) feet thereof except as may be provided in Section (a).

**SECTION 20C**. All alcoholic beverages being used in violation of this By-Law shall be seized and safely held until final adjudication of the charge against the person or persons so arrested or summoned before the Court at which time they shall be disposed of as directed by the Court. A Police Officer witnessing a violation of this By-Law shall have the right to arrest such person or persons without a warrant and shall bring the person or persons so arrested before the Court within twenty-four hours, Sundays and holidays excepted.

The penalty for violation of this By-Law shall not exceed Fifty Dollars ($50.00) for each offense. (T.M. 6/3/81)

## Regulating Parking Areas For The Vehicles Of Disabled Veterans or Handicapped Persons

**SECTION 21-1.** Designated parking spaces for vehicles owned and operated by disabled veterans or by handicapped persons and bearing the distinctive number plates authorized by section two of chapter ninety of the Massachusetts General Laws or special parking identification plates (i.e., placards) or any vehicle bearing the official identification of a handicapped person issued by any other state as amended by Chapter 632, Section 7 of the Acts of 1985 and as amended be provided in public and private off-street parking areas.

a. Any Town body or person that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by section two of Chapter 90, or special parking identifications plates (i.e., placards) or any vehicle bearing the official identification of a handicapped person issued by any other state as amended by Chapter 632, Section 7 of the Acts of 1985 according to the following formula:

   If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five percent of such spaces but not less than two; more than forty but not more than one hundred, four percent of such spaces but not less than three; more than one hundred but not more than two hundred, three percent of such spaces but not less than four; more than two hundred but not more than five hundred, two percent of such spaces but not less than six; more than five hundred but not more than one thousand, one and one-half percent of such spaces but not less than ten; more than one thousand but not more than two thousand, one percent of such spaces but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one percent of such spaces but not less than twenty; and more than five thousand, one-half of one percent of such spaces but not less than thirty.

b. Parking spaces designated as reserved under the provisions of paragraph (a) shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May Be Removed At Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them.

**SECTION 21-2.** This By-Law shall prohibit or regulate the leaving of unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons as authorized by Section 1 or in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or public way.

The penalty for violation of this By-Law shall be one hundred dollars and for each subsequent offense, the vehicle may be removed according to the provisions of Section One Hundred and Twenty D of chapter Two Hundred and Sixty-Six of the Massachusetts General Laws. (T.M. 10/15/01)

**SECTION 21-3.** The Town acting under the Massachusetts General Laws further regulates the parking of vehicles on ways within its said control by restricting certain areas thereon for the parking of any vehicle owned and driven by a disabled veteran or handicapped person whose vehicle bears the distinctive number plates authorized by section two of chapter ninety of the Massachusetts General Laws, or special parking identification plates (i.e., placards) or any vehicle bearing the official identification of a handicapped person issued by any other state as amended by Chapter 632, Section 7 of the Acts of 1985 or by prohibiting the parking or standing of any vehicles in such a manner as to obstruct any curb ramp designated for use by handicapped persons.

**SECTION 21-4.** Inasmuch as the Town has accepted Chapter 644 of the Acts of 1981 as herein provided, the Board of Selectmen on recommendation of the Traffic Safety Committee is empowered to establish traffic regulations, and may adopt, amend, alter or repeal rules and regulations, with such limitations, if any, as may be deemed proper, authorizing the chief of police of the Town or such sergeants or other officers of higher rank in the police department as he may from time to time designate, to remove, to some convenient place through the agency of a person or persons in the employ of the police department or by an independent contractor selected in accordance with the General Laws and this By-Law, on the basis of competitive bids, any vehicle parked or standing on any part of any way under the control of the Town in such a manner as to obstruct any curb ramp designated for use by handicapped persons as means of egress to a street or public way, or to occupy or obstruct any parking space reserved for a vehicle used by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by section two of chapter ninety of the Massachusetts General Laws, or special parking identification plates (i.e., placards or any vehicle bearing the official identification of a handicapped person issued by any other state as amended by Chapter 632, Section 7 of the Acts of 1985 or to impede in any way the removal or plowing of snow or ice or in violation of any rule or regulation which prohibits the parking or standing of all vehicles in such ways or portions thereof at such time and recites that whoever violates it shall be liable to charges for the removal and storage of the vehicles as well as subject to punishment by fine as provided in Section 2 herefore. (T.M. 5/2/83)

## Work Within a Public Street

**SECTION 22**. No work shall take place within a public street right of way except in accordance with all applicable permits. A Road Opening Permit shall be required for any excavation or alteration of an existing public street, regardless of whether such work is proposed to be temporary or permanent. A Road Opening Permit shall be required for any street proposed to intersect or access an existing street, pursuant to Grafton Zoning Bylaw. (T.M. 5/13/98; T.M. 10/20/08)

**SECTION 23.** The Board of Selectmen is authorized to create such one-way roads or streets as the Board deems appropriate on any public way in the Town of Grafton. No person shall operate a motor vehicle in the wrong direction on any public way designated as a one-way street in the Town of Grafton. (T.M. 5/14/2012)

**SECTION 24.** At the discretion of the Board of Selectmen, the Town may offer a reward for information leading to the prosecution and conviction of any person who destroys or defaces any public property owned by the Town. (T.M. 10/15/2012)

**Fingerprint Based Criminal Record Background Checks**

**SECTION 25:** The Police Department may conduct State and Federal Fingerprint Based Criminal History check for individuals applying for certain licenses including those engaged in the business of Hawker and Peddler, Manager of Alcoholic Beverage License, Door to Door Salesperson, Owner or Operator of Public Conveyance (Taxi or Livery Service), Dealer of Second Hand Articles and Ice Cream Truck Vendor.

An applicant, seeking to engage in the above employment shall submit, if required by the licensing authority, fingerprints taken by the Police Department along with a fee set by the Board of Selectmen.

Upon receipt of the fingerprints and the appropriate fee, the Police Department will transmit the fingerprints to the State Police Identification Unit through the Department of Criminal Justice Information Services (DCJIS), formerly the Criminal History System Board (CHSB). In rendering a fitness determination, the Police Department will decide whether the record subject has been convicted of [or is under pending indictment for] a crime, which bears upon his/her ability or fitness to serve in that capacity, any felony or a misdemeanor, which involved force or threat of force, controlled substances or was a sex-related offense.

A record subject may request and receive a copy of his/her criminal history record from the Police Department. Should the record subject seek to amend or correct his/her record, he/she must contact CHSB for a state record or the FBI for records from other jurisdictions maintained in its file.
The Police Department shall establish, by rule or regulation, a civilian fingerprinting system for the purpose of conducting state and national criminal history records checks of persons applying for certain licensures within the Town. Any person applying for a license for the following activities within the Town is required to submit with the application a full set of fingerprints taken by the Grafton Police Department within 3 months prior to the date of application:

- Manager of Alcoholic Beverage License
- Hawker and Peddler
- Door to Door Salesperson
- Owner or Operator of Public Conveyance (Taxi or Livery Service)
- Dealer of Second Hand Articles
- Ice Cream Truck Vendor

A person applying for a license and who is required to submit a full set of fingerprints to the licensing authority, pursuant to paragraph (a) of this section, may request and receive a copy of his criminal history records from the Police Department. Should the license applicant seek to amend or correct his record, he must contact the CHSB, or its successor, for a state record or the FBI for records from other jurisdictions maintained in its file.
The fee charged to the applicant by the Police Department for the purpose of enforcing this section shall be set by the Board of Selectmen. A portion of the fee, as specified in Chapter 172B of the Massachusetts General Laws, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Police Department for costs associated with the administration of the fingerprinting system.
The Town or any of its officers, departments, boards, committees or other licensing authorities is hereby authorized to deny any application for, or to revoke or suspend any license or permit, including renewals and transfers thereof, for any person who is determined unfit for the license, as

determined by the licensing authority, due to information obtained pursuant to this by-law. (05/13/2013)

# ARTICLE 13

# EARTH REMOVAL

## Definitions

**SECTION 1A.** For the purpose of this By-Law, "earth" shall include soil, loam, sand, gravel, borrow, rock, sod, peat, humus, clay, coal or other earth material. (T.M. 4/14/77)

**SECTION 1B.** For the purpose of this By-Law, "Board" shall mean the Board of Selectmen.

## Earth Removal Procedure

**SECTION 2A.** No earth shall be removed from any parcel of land in the Town without a written permit from the Board, except as hereinafter provided.

**SECTION 2B.** Any person wishing to remove such material from a property in Town shall file a formal application with the Board, which application shall include the following specific information and supporting documentation:

a. The location of the proposed excavation.
b. The legal name and address of the owner of the property involved.
c. The legal name and address of the petitioner, which address shall be used by the Board for all correspondence hereunder.
d. Names and addresses of all abutting property owners, including those across any streets.
e. A plan of the land, showing general topography within 100 feet of the proposed excavation or to the property line.
f. A plan of the land showing contours of the site as of the proposed completion of the excavation project.
g. A proposed form of bond to be used.
h. A plan of the land showing the maximum annual groundwater elevation as determined by the Board of Health. In every instance, the maximum groundwater elevation shall be measured during the period of January 1 to March 31 in any year for the site. (T.M. 10/16/89)

**SECTION 2C.** No permit for the removal of earth shall be issued by the Board until a public hearing has been held by the Board, notice of which shall have been given at least fourteen days in advance in a paper commonly used for such notices in the community, the posting of copies thereof on municipal bulletin boards, and the mailing of copies thereof to the abutters, and a favorable finding has been rendered by said Board.

**SECTION 2D.** Any permit issued hereunder shall automatically expire upon the completion of the earth removal project for which it was issued or at such other time as may be specified in said permit, but in no case for a period of more than three years.

**SECTION 2E**. Approval of the renewal of a permit for a period not in excess of one year may be made by the Board without hearing, if the Board finds that all conditions have been complied with and that the work has been carried on continuously in good faith.

**Exemptions**

**SECTION 3A.** No permit shall be required for the following:

a. Where moving of earth is on an individual parcel.

b. Where necessary in construction of building being built in accordance with a permit issued by the proper Town Authority and to the installation of walks, driveways and similar appurtenances to said building.

c. Where necessary as part of the construction of a road pursuant to a permit, or under agreements governing road construction in a subdivision approved by the Planning Board or by governmental authority to the extent as may be necessary to complete the project as planned.

d. Where necessary in the customary use of an operating farm, nursery, garden, landscaping activities, or cemetery to the extent that such removal is necessary to the operation of the same.

e. Where the moving and/or removal of earth for any municipal purpose is by, or on behalf of any Department of the Town of Grafton.

f. Where the removal is from a parcel for which removal was authorized under a legal permit issued prior to adoption of this Section 3A, the same may continue until the expiration date of said permit, provided that all by-laws, permits and conditions applicable prior to the adoption of this Section 3A shall be complied with. Subsequent to the adoption of this Section 3A, full compliance with all requirements of this Earth Removal By-Law must be complied with.

g. Where such earth removal is permitted under the provisions of the General Laws, Chapter 40, Section 21, Paragraph 17.

The Selectmen may require an agreement containing conditions for moving and/or removing of earth and a performance bond if in their judgment anything they deem excessive is to be done under this exemption clause. (T.M. 4/14/77)

**SECTION 3B.** Earth removal activities in lawful operation on any parcel of land at the time this By-Law is adopted may continue unless and until abandoned for more than twelve (12) consecutive months. However, unless specifically authorized by a new permit issued hereunder:

a. The depth of excavation shall not be increased below the grade of the lowest point excavated on the effective date of this By-Law.

b. The total area of excavation within the parcel shall not be increased by more than fifty (50) percent over its area on said effective date.

c. The average amount of materials extracted or removed per day shall not be increased by more than fifty (50) percent over such daily averages for the twelve (12) consecutive months preceding said effective date (or for the actual period of operation if less than twelve months).

**Specific Limitations**

**SECTION 4A.** No permit for the removal of earth shall be approved by the Board except upon condition that a cover of topsoil of not less than four (4) inches in depth shall be replaced or allowed to remain, except where, due to construction of roads, buildings or other permanent physical features, such provision is impractical.

**SECTION 4B.** No permit shall be issued for the removal of earth in any location if such removal (1) will endanger the public health or safety or constitute a nuisance; (2) will produce noise, dust or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property; (3) will result in the transportation of materials in such a manner as to cause traffic congestion or hazards, particularly on residential streets; (4) will result in the transportation over ways which will be unduly injured thereby; (5) will result in a change in topography and cover which will be disadvantageous to the most appropriate use of the land.

**SECTION 4C.** No permit shall be issued if the excavation will occur within five (5) feet of the maximum annual ground water elevation at any single location on the site. (T.M. 10/16/89)

**General Limitations**

**SECTION 5A.** No permit for the removal of earth shall be approved by the Board if the work extends within three hundred (300) feet of a way open to public use, whether public or private, or within two hundred and fifty (25) feet of a building or structure unless the Board is satisfied that such removal will not undermine the way or structure.

**SECTION 5B.** In approving the issuance of a permit, the Board shall impose reasonable conditions which shall accompany and shall constitute part of the permit, including but not limited to:

a. The finished leveling and grading.
b. The placing of top soil and planting necessary to restore the area to usable condition.
c. The duration of the removal operation.
d. The construction of necessary fencing and other protections against nuisances.
e. Method of removal.
f. Temporary structures.
g. Hours of operation.
h. Routes of transportation of material.
i. Control of temporary and permanent drainage.
j. Disposition of boulders and tree stumps.

**SECTION 5C.** Soil or loam may be removed from any parcel of land within such parcel determined by the Board to be unsuited to agricultural use, and the Board may issue a permit for such

removal; provided, however, that the Board shall in making such decision, obtain the recommendations of the appropriate Soil District Supervisor and the County Extension Director or Agent or their successors, and their recommendations, shall be made part of the records of the Board. In issuing a permit, the Board may impose reasonable conditions as to re-establishment of ground levels and grades.

**SECTION 5D**. The Board shall require a bond or other security to enforce performance of conditions imposed by this By-Law or under this section.

## General Administration

**SECTION 6A.** The Board may enter upon the premises involved from time to time to inspect and ensure proper conduct of the work.

**SECTION 6B**. Upon petition of the owner, permit holder or abutters, the Board may hold a new hearing and reissue or modify the permit, subject to any regulations not in conflict with this By-Law.

**SECTION 6C.** The Board may order the revocation of or suspension of a permit if the conditions established hereunder are not complied with; but the permit holder in such situation shall not be relieved of his obligations hereunder.

## Violations

**SECTION 7A**. The Board, if it concludes that there has been a violation of this By-Law, shall so notify the offender, at the address stated on the initial application, and if applicable shall include a notice ordering cessation of the improper activities.

**SECTION 7B.** If a permit holder or other offender persists in such violation, the Board shall seek the imposition of the penalties authorized by paragraph 17 of Section 21 of Chapter 40, G.L., through appropriate legal action; and the penalty for removing earth in violation of this By-Law shall be a fine of not more than fifty dollars for the first offense after such warning; not more than one hundred dollars for the second offense; and not more than two hundred dollars for any subsequent offense.

**SECTION 7C.** If the offender holds a permit issued under the By-Law, such permit may be revoked.

## Fees

**SECTION 8A.** The Board shall establish such fees for the issuance of permits as it shall find are necessary for the administration of this By-Law, including but not limited to the costs of advertising, clerical and policing expenses.

**SECTION 8B.** Any fees received hereunder shall be transmitted to the Town Treasurer.

# ARTICLE 14

# INSPECTOR OF GAS PIPING AND GAS APPLIANCES

## Powers

**SECTION 1.** An Inspector of Gas Piping and gas Appliances who is either a licensed gas fitter or licensed plumber, shall be appointed by the Town Administrator in accordance with the General Laws Ch. 143, Sect. 30, and shall have control of the supervision of gas piping and gas appliances and shall enforce all State Laws, By-Laws and regulations that relate thereto. (T.M. 10/20/03)

## Permits

**SECTION 2.** Before any person, firm or corporation shall install any gas piping and gas appliances, said person, firm or corporation shall make application to the Inspector of Buildings Office for a permit for that purpose, pay a fee, as determined by the Board of Selectmen, and shall file with the Inspector of Gas such information or specifications as may be required. (T.M. 1/14/85)

## Inspections

**SECTION 3.** When any work is complete or ready for inspection, the Inspector of Gas shall be notified. If, upon inspection, the work is found to comply with the requirements of this By-Lay, and all applicable state laws and regulations, approval shall be given by the Inspector of Gas Company to connect to the gas service lines the gas installations, but if the work is defective, all defects shall be remedied before such approval is issued.

## Penalty

**SECTION 4**. Whoever violates any provision of this article of the By-Laws shall be liable to a penalty not exceeding Fifty Dollars ($50.00) for each offense. Each day on which the violation continues after due notice thereof may be deemed a separate offense.

(T.M. 12/11/63)

# ARTICLE 15

# UNREGISTERED MOTOR VEHICLES

## Keeping

**SECTION 1.** The keeping of more than one unregistered motor vehicle which is assembled and road worthy, except by a person licensed under General Laws, Chapter 140, Section 59, on any premises shall not be permitted, unless said motor vehicle is stored within an enclosed building. The keeping of any motor vehicle which is disassembled except by a person licensed under General Laws Chapter 140, Section 59, shall not be permitted unless said motor vehicle is stored within an enclosed building.

## Special Permits

**SECTION 2.** A special permit to keep more than one unregistered motor vehicle on any premises not within an 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 that such keeping (1) is in harmony with the general purposes and intent of this By-Law; (2) will not adversely affect the neighborhood; and (3) will not be a nuisance.

## Limit to Number and Time

**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 not run with the land, and shall be limited to a reasonable length of time.

## Farm Vehicles

**SECTION 4.** This Article shall not apply to motor vehicles which are designed for and used for farming purposes.

## Penalty

**SECTION 5**. Whoever violates any provisions of this Article of the By-Laws shall be liable to a penalty of Twenty Dollars ($20.00) per day for each day of a violation, commencing ten days following date of receipt of written notice from the Board of Selectmen.

(T.M. 12/11/63, T.M. 5/14/80, T.M. 5/14/84)

# ARTICLE 16

# DOGS RUNNING AT LARGE

## License Fees Exemption for Seeing-Eye Dogs; Refund of Fees

**SECTION 1.** The annual fee for every dog license, except as otherwise provided by law, shall be $15.00 for a male dog, and $15.00 for a female dog and $10.00 for a spayed or neutered dog. Kennel fees shall be: $30.00 for four dogs or less; $40.00 for ten dogs or less; and $50.00 for more than ten dogs.

All the dogs in the Town of Grafton shall be licensed by April 1, of each year. An additional fee of Five Dollars ($10.00) shall be charged to each owner or keeper of a dog three months old or over who fails to license said dog on or before June 1 of any year. The fees so collected shall be deposited into the Town Treasury and become a part of the Town General Fund.

No fee shall be charged for a license for a dog specially trained to lead or serve a blind person provided that the Division of the Blind certifies that such dog is so trained and actually in the service of a blind person. No license fee or part thereof shall be refunded because of the subsequent death, loss, or removal from the Commonwealth or other disposal of the dog, nor shall any license fee or part thereof paid by mistake be paid or recovered back after it has been received by the Town. All owners must submit a certificate of vaccination for rabies to the Town Clerk on issuance of a license.

## Disturbing the Peace

**SECTION 2.** No person owning or keeping a dog in the Town shall allow such dog to roam at large upon the land of another, nor allow such dog to roam at large on any portion of any public highway. Unless on property so designated by the Town such owner or keeper of a dog in the Town which is not on the premises of the owner or upon the premises of another person with the knowledge and permission of such person shall restrain such dog by a chain or leash not exceeding six (6) feet in length. Nothing in this section shall be construed to limit or prohibit the use of hunting dogs during the open hunting season or at any other times when necessary for field training. (T. M. 10/20/03)

## Complaint of Nuisance

**SECTION 3.** If any person shall make a complaint in writing to the Dog Officer that any dog owned or harbored within the Town is a public nuisance by reason of vicious disposition or excessive barking or other disturbance, the Dog Officer shall investigate such complaint, which may include an examination under oath of the complainant and submit a written report to the Selectmen of his findings and recommendations, together with the written complaint. Upon receipt of such report and examination of the complainant under oath, the Selectmen may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. The Dog Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen days to enable the Selectmen to issue their order following receipt of the report of the Dog Officer. If the Selectmen fail to act during the period of the interim order, upon expiration of the period the order automatically is vacated.

**Restrain or Muzzle**

**SECTION 4.** The Dog Officer may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed fourteen days, any dog for any of the following reasons:

a. if found at-large or unmuzzled, as the case may be, while an order for the restraint of such dog is in effect;
b. for having bitten any person;
c. if found in a school, school yard or public recreational area not so designated for off-leash dogs ;( T.M. 10/20/03)
d. or having killed or maimed or otherwise damaged any other domesticated animal, including livestock and fowl;
e. for chasing any vehicle, horse and rider, pedestrian and bicycle upon a public way or ways open to public travel in the Town; or
f. for any violation in Section 2.

Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Dog Officer shall submit in writing to the Selectmen a report of his action and the reason therefore. Upon receipt of such report the Selectmen may make such order concerning the restraining, muzzling, or disposal of said dog as may be deemed necessary. If the Selectmen fail to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order automatically is vacated.

**Appeal of Restraint or Muzzling**

**SECTION 5.** The owner or keeper of any dog that has been ordered to be restrained or muzzled or had been restrained under this Article, may file a request in writing with the Dog Officer that the restraining order be vacated, or that the dog be released, and, after investigation by the Dog Officer, such Officer may vacate such order or release such dog, if the order or restraint was imposed by him. If the order was imposed by the Selectmen, the Dog Officer shall submit a written report of his investigation, with his recommendations, to the Selectmen who may vacate such order.

**Penalty**

**SECTION 6.** Any owner or keeper of a dog who shall fail to comply with any order of the Dog Officer or Selectmen issued pursuant to this Article shall be punishable by a fine of fifty dollars ($50.00), with a right of appeal to the District Court pursuant to MGL Chapter 140, Section 157.

**Definitions**

**SECTION 7.** The following words and phrases as used in this By-Law, unless the context otherwise requires, shall have the following meanings:

"**Keeper**" shall mean person, other than the owner, harboring or having in his possession any dog.

"**Kennel**" one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three (3) dogs three (3) months old or over owned or kept by a person on a single premises irrespective of the purpose of which they are maintained.

"**Person**" shall include corporations, societies, associations and partnerships.

"**Public Nuisance**" shall mean a dog whether licensed or unlicensed, owner or kept in the Town of Grafton which is elsewhere than on the premises of its owner or keeper or on the premises of another person with the knowledge and express permission of such person, unless such dog is:

a. attached to and restrained by a suitable restraining device and is under the care and custody of a person competent to restrain it so that it shall not be a threat to public safety, or
b. engaged in hunting, or training thereof and is supervised by a person competent to restrain it so that it shall not be a threat to public safety. The mere muzzling of a dog shall not prevent it from being a public nuisance.

**Enforcement**

**SECTION 8**. The Dog Officer shall enforce the provisions of this By-Law and to that end he shall have the authority to seek complaints in the District Court for violations thereof. He shall investigate complaints of alleged violations of this By-Law. He shall also apprehend any dog found by him to be a public nuisance and impound such dog in a suitable place or order the owner or keeper thereof to restrain it.

**Procedure Following Impoundment**

**SECTION 9.**

a. **Notice to Owner or Keeper.** The Dog Officer shall immediately notify the owner or keeper of any dog impounded by him under the provisions of this By-Law if such owner or keeper is known by him; if such owner or keeper is not known by him, no notice shall be necessary.

b. **Redemption of Impounded Dogs.** The owner or keeper of any dog impounded under the provisions of this By-Law may redeem such dog provided he first:

    1. Procures from the Town Clerk a license and tag for any such dog that is not licensed.

    2. Reimburses the Dog Officer for his expenses at the rate of fifteen dollars ($15.00) for his initial handling of such dog plus five dollars ($5.00) for each day, or a portion thereof, that he has confined such dog.

c. **Disposition of Unredeemed Dogs.** Any dog which has been impounded under the provisions of this By-Law and has not been redeemed by its owner or keeper within ten (10) days shall be disposed of in accordance with the provisions of Section 151A of Chapter 140 of the General Laws, as amended.

**Keeping Account of Monies**

**SECTION 10.** The Dog Officer shall keep an account of all moneys received by him under the provisions of this By-Law.

**Penalty - Violations of Article**

**SECTION 11.** Whoever violates any provision of this By-Law may be penalized by a noncriminal disposition as provided in General Laws, Chapter 40, Section 21D. For the purposes of this By-Law, the Dog Officer and all Town Police Officers, shall be the designated enforcing persons. Each day on which any violation of this By-Law occurs shall be deemed to be a separate offense subject to the following penalties:

First Offense ..... $10.00
Second Offense..... $25.00
Each Subsequent Offense ..... $50.00

(T.M. 5/13/96)

# ARTICLE 17

# COUNCIL ON AGING

## Membership

**SECTION 1.** There is hereby established a Council on Aging consisting of from seven to eleven registered voters of this Town, appointed by the Board of Selectmen for terms not to exceed four years for any member. Said terms shall be staggered so that not more than three appointments shall be made in any calendar year. Members can be reappointed for concurrent terms.

## Duties

**SECTION 2.** The duties of said Council on Aging shall be to:

a. Identify the total needs of the community's elderly population.
b. Educate the community and enlist support and participation of all citizens concerning these needs;
c. Design, promote, or implement services to fill these needs, or coordinate present existing services in the community;
d. Promote and support any other programs which are designed to assist elderly programs in the community.

## State Cooperation

**SECTION 3.** Said Council on Aging shall cooperate with the Commonwealth of Massachusetts Office of Elder Affairs or its successors and shall be cognizant of all state and federal legislation concerning funding, information exchange, and program planning which exists for better community programming for the elderly.

## Annual Report

**SECTION 4.** Said Council on Aging shall give an annual report to the Board of Selectmen with a copy of that report directed to the Commonwealth of Massachusetts Office of Elder Affairs, or its successors.

(T.M. 3/20/74)

# ARTICLE 18

# HOUSE NUMBERING

## House Numbering Required

**SECTION 1.** All lots, buildings and structures in the Town shall be numbered by the Principal Assessor in accordance with the following plan. The Principal Assessor shall use the Assessor's Maps, Zoning Map, By-Laws and Zoning By-law in existence and as amended and such other guides as determined necessary to ascertain and assign said number.

## Chart List

**SECTION 2.** The Board of Assessors shall keep a record showing the proper street number of every lot in the Town which shall be checked by all owners or occupants to ascertain their number, and which shall be open to inspection by anyone interested. (T.M. 10/19/92, T.M. 5/8/95)(T.M. 10/20/03)

## Numbers on Houses, Buildings and Structures

**SECTION 3.** It shall be the duty of the owners and occupants of every house, building or structure in the Town to have placed, in a place visible from the street, figures at least two and one-half inches high, showing the number thereon.(T. M. 10/20/03)

## Penalty

**SECTION 4.** Whoever violates any provisions of this Article of the By-Laws shall be liable to a penalty of one dollar ($5.00) per day for each day during or on which a failure to so number continues, commencing ten days following date of receipt of written notice from the Town Clerk.(T.M. 10/20/03)

(T.M. 5/17/75)

**SECTION 5.** The Building Inspector and the Fire Chief shall inspect properties and verify compliance with Section 3. The Building Inspector shall be responsible for enforcement of the Article. (T. M. 10/20/03)

# ARTICLE 19

## BETTERMENT PROCEDURES

**SECTION 1. Repairs on Private Ways.** The Board of Selectmen may cause temporary minor repairs to be made on private ways in the Town provided that the following conditions are complied with according to their determination:

a. The type and extent of said temporary minor repairs shall include only filling in of holes or depressions in the subsurface of set ways with gravel or other suitable materials where practical to be the same as, or similar to those used for the existing surface of such ways and grading, but shall not include surfacing or permanent construction of said ways. The scope of the work which can be performed will be no greater than that which has been done on the way previously. There will be no change in the character of the ways and no permanent expansion or improvement therein.

b. No new drainage shall be included in paragraph A.

c. A determination by vote of the Board will be made that public convenience and necessity require said repairs.

d. Such repairs can be made only if petitioned for by the abutters who own more than fifty (50) percent of the linear footage of such total way and one hundred (100) percent of the affected area on which the work is to be done.

e. The Town acting through its Selectmen is hereby authorized to assess betterments upon the owners of estates which derive particular benefit or advantage from the making of such repairs on any such private way. Such assessment shall be a sum equal, in the aggregate, to the total cost of such repairs, and in the case of each such estate, in proportion to the frontage thereof on such way. Except as otherwise provided, the provisions of Chapter eighty of the Massachusetts General Laws relating to public improvements and assessments therefore shall apply to repairs to private ways ordered to be made under this section; provided, that no assessment amounting to less than twenty-five dollars shall be apportioned and no assessment may be apportioned into more than five portions.

f. The Town in making of repairs under this section shall not be liable on account of any damage caused by such repairs. Said repairs shall not be undertaken unless the Selectmen have in their possession agreements executed by all abutting owners of the affected area to release and save the Town harmless on account of any damage whatever caused by such repairs. Such agreements to release and save harmless may be recorded in the Worcester District Registry of Deeds and shall be deemed to be covenants running with the land and shall be binding upon all subsequent owners thereof.

g. Said private way shall have been opened to public use for six yeas or more prior to adoption of this By-Law, namely open on May 10, 1972 and in such cases Section twenty-five (25) of Chapter Eighty-four (84) of the Massachusetts General Laws shall not apply.

h. No such repairs shall be commenced unless and until cash deposit, equal in amount to the estimated cost of such repairs as determined by the Board of Selectmen with the assistance of the Director of Public Works or a contractor duly authorized by the Town to do the work, is paid to said Town.

**SECTION 2. Public Street Layout and Acceptance Procedures.**

a. The laying out of a town way or private way may be initiated by the Board of Selectmen or upon the written request to the Board by at least 75% of the abutting owners of a private way. The Board of Selectmen shall refer the request to the Director of Public Works who shall cause a layout plan to be generated. (T.M. 10/20/03)

b. Upon the receipt of the plan from the Director of Public Works, the Board of Selectmen shall vote its intent to lay out the way and refer the request to the Planning Board. (T.M. 10/20/03)

c. Within 45 days from referral, the Planning Board shall make a non-binding recommendation to the Board of Selectmen.

d. Before final consideration to lay out the way, the Board of Selectmen shall hold a public hearing, notice of which shall be given to all abutting owners of the proposed way, at least 7 days prior.

e. Following the public hearing, if at least 75% of the abutting owners agree to accept the betterment costs, the Board of Selectmen may vote to adopt the layout as shown on the metes and bounds plan, and place an article on the Annual Town Meeting Warrant. The betterment authorization shall be submitted on a form approved by the Board of Selectmen. All abutters shall be assessed their proportionate share. The Town will pay 25% of the cost of the improvements and the abutting property owners will be assessed a betterment for the remaining 75%.

f. If approved by the Board of Selectmen, the layout and the metes and bounds plan of the layout shall be filed with the Town Clerk and an article placed on the Annual Town Meeting Warrant regarding acceptance of the Way. If land or easement acquisition is necessary, the acceptance article or a separate article should seek an appropriation for such purpose, as well as any necessary authorization for taking, acceptance of a gift or purchase.

(T.M. 05/08/00)

# ARTICLE 20

# PERSONNEL BY-LAW

**SECTION 1.** Pursuant to Section 4-2 of the Grafton Home Rule Charter, as amended, the Town Administrator shall be the Personnel Director of the Town of Grafton. The Town Administrator may from time to time, as deemed necessary, desirable or expedient, appoint a Personnel Advisory Committee of such number, membership and to serve for such length of term as the Town Administrator may deem appropriate, to assist in the performance of the duties and functions related to personnel, as are assigned to the Town Administrator by the Town Charter.

**SECTION 2.** The Selectmen may also authorize the Town Administrator to study and advise on specific personnel matters. All officers, boards, committees and employees of the Town shall cooperate with the Town Administrator in providing information necessary for the proper administration of this Consolidated Personnel By-Law.

**SECTION 3.** The Town Administrator shall administer the provisions of the Consolidated Personnel By-Law which shall include but not be limited to the following: definitions, job descriptions, a classification plan, a compensation plan, and rules and regulations for the administration of this By-Law according to the following:

**SECTION 4-1**. **Title - Personnel By-Law**. The provisions of this Personnel By-Law herein referred to as the By-Law shall be for the purpose of providing, creating and supervising personnel policies by the Town Administrator. Said Town Administrator's responsibilities shall include, but not be limited to, administering and interpreting the provisions of this By-Law and the creation, maintenance, and administration of any classification and compensation plan which shall by subject to approval of the Board of Selectmen for all employees of the Town of Grafton except those in positions which are exempt under Section 4-2.

The Personnel Advisory Committee shall review any position changes or additions and will provide their recommendation to the Board of Selectmen.

**SECTION 4-2.** **Application**. The By-Law shall apply to all employees except those positions filled by popular election, those under the direction and control of the School Committee and those under the jurisdiction of a collective bargaining agreement executed under the provisions of Massachusetts General Law Chapter 150E. If said collective bargaining agreement contains a provision contrary to a provision of this By-Law, the provisions of the collective bargaining agreement shall prevail. This By-Law may be used as a guide for authorized officials in determining the compensation of, and personnel policies for those excepted employees.

**SECTION 4-3.** **Definitions**. As used in these By-Laws, the following words and phrases shall have the following meanings unless a different construction is clearly required by the context or by the Laws of the Commonwealth. As used in this By-Law, the words "he" and "she" and "his" and "hers" are interchangeable.

"**Acting**" - Performing the duties and having the responsibilities of another position on a temporary basis without having officially been appointed to the position.

"**Anniversary Date**" - The official start date of an employee's service with the Town.

"**Appointing Authority**" - The official, board, committee, commission, or other authority empowered by statute, special act, or by-law to make appointments.

"**Civil Service Law**" - Chapter 31 of the Massachusetts General Laws as amended, and all rules and regulations made thereunder; and any special law enacted by the General Court regulating the classification, compensation and conditions of employment of officers and employees of the Town which may be under the jurisdiction of MGL Chapter 31.

"**Class**" - A group of positions in the Town service sufficiently similar in respect to duties and responsibilities, that the same descriptive title may be used to designate each position allocated to the class, that the same qualifications shall be required of the applicants and incumbents, that the same tests of fitness may be used to choose qualified employees, and that the same scale of compensation can be made to apply with equity.

"**Compensation Grade**" - An alphanumeric designation for a salary or wage range.

"**Continuous Employment**" - Employment uninterrupted except for required military service and for authorized vacation leave, personal leave, sick leave, bereavement leave, court leave, or other leave of absence authorized by the Town Administrator.

"**Department**" - A department, board, committee, commission, or other agency of the Town of Grafton.

"**Department Head**" - The officer, board, or other body having immediate supervision and control of a department.

"**Employee**" - Any person who receives a wage or a salary from the Town of Grafton.

"**Hours of Work**" - Consecutive daily hours, exclusive of breaks and an unpaid lunch hour.

"**Increment**" - The dollar difference between pay ranges.(TM 10/17/2011)

"**Interim**" - Performing the duties and having the responsibilities of a vacant position on a temporary basis, after having been appointed to the position until filled on a permanent basis.

"**Intermittent Service**" - Service rendered consisting of continuous employment but not rendered during prescribed working hours--daily, weekly, or annually--but rendered as required, according to the demands for such service as determined by the appointing authority.

"**Probationary Employee**" - Any new employee whose tenure in the Town service has not exceeded six months; such employees have limited rights during this stage of their employment and may be discharged at any point at which the level of performance is determined to be unacceptable by the appointing authority. At the end of the probationary period, a written review shall be prepared by the department head which will state whether the probationary employee has performed satisfactorily to be accepted as a regular Town employee. If the performance is not acceptable, the reason or reasons will be stated. The original 180-day probationary period may be extended with the written approval of the Town Administrator.

"**Promotion**" - A change from a position of lower class and compensation grade to a position with greater responsibilities in a higher class and compensation grade.

"**Range**" - The dollar difference between the minimum and maximum rate.

"**Rate**" - A sum of money designated as compensation for hourly, weekly, or annual personal services.

"**Recall**" - The requirement of any employee to report for duty at a time other than the customary hours for their position, once they have left their customary place of work.

"**Regular Position**" - Any position in the Town service which has required or which is likely to require the services of an incumbent without interruption for a period of more than six calendar months, either on a full-time or part-time employment basis.

"**Regular Full-Time Position**" - Any position in the Town service in which the incumbent is employed for not less than seven hours per diem, five days per week, fifty-two weeks per annum, less legal Holidays and authorized leave. Upon written approval of the Town Administrator, an incumbent employee may work less than the customary hours for a period of time not to exceed three months, without the loss of benefits. Said employee shall not accumulate leave, and shall in addition pay 100 percent of the monthly health insurance premium, if on leave greater than one (1) month.

"**Regular Part-Time Position**" - Any position in the Town service in which the incumbent works at least 20 hours per week, but less than 35 hours per week.

"**Seasonal Employee**" - Any employee who works on a seasonal basis in continuous employment. Any seasonal employee who works in excess of six months per year shall be eligible for both paid holidays which occur during their employment, in accordance with Section 4-19, and for paid vacation leave in accordance with Section 4-20, not to exceed two weeks.

"**Temporary Employee**" - Any employee in the Town service retained in a temporary position as defined below.

"**Temporary Position**" - Any position in the Town service which requires the services of one incumbent for a period not to exceed either six months, or a specific time period as authorized by the Town Administrator.

**SECTION 4-4. <u>New Hires</u>**

a. **<u>Vacancies</u>** - No position subject to this By-Law shall be filled--other than emergency hiring and other specified exceptions--until such vacancy has first been posted on the Municipal Center bulletin board and in the offices of the department where the vacancy occurs, and all qualified regular full-time and part-time employees have been considered and said vacancy is also advertised concurrently in an appropriate local newspaper for at least two consecutive weeks. (T.M. 10/15/01)

b. **Application Form** - Applications for employment shall be made on the Town's approved application form.

c. **Physical Examination** - All prospective new employees shall be made a conditional offer of employment, subject to passing a physical examination, commensurate with the duties they are to perform. The Town physician shall certify in writing to the department head that the new employee is capable of performing the duties of the position with or without reasonable accommodation, and shall maintain the medical records confidentially.

d. **New Hire Salary** - All employees shall be hired at the minimum range within the grade unless in the opinion of the department head, with the approval of the Town Administrator, prior experience or market conditions warrants hiring at a higher range within the grade.(TM 10/17/2011)

f. **Emergency Hires** - In an emergency, the department head may authorize the hiring of temporary employees necessary to prevent interruption of Town services essential to the health, safety, and welfare of citizens of the Town. Said temporary hire, which shall be subject to the provisions of (d) above, shall not exceed one week without the prior approval of the Town Administrator.

g. **Temporary Hires** - Subject to funding, a department head without prior approval of the Town Administrator, may hire temporary employees to replace regular employees who are on an authorized extended leave of absence. Within one week of the start date of the temporary employee, the department head shall notify the Town Administrator of the need and anticipated duration of such hiring. Any extension beyond one week shall be subject to the prior approval of the Town Administrator. The department head shall also certify to the Town Accountant the nature and duration of the emergency hiring before any remuneration shall be made. Temporary employees shall not be eligible for any employee benefits.

**SECTION 4-5. Promotions and Transfers**. The decision to hire or promote is a matter of inherent managerial policy and rests exclusively with the appointing authority. For the purpose of serving the best interests of the Town, and to provide adequate incentive to potential candidates for promotion, the Town Administrator shall monitor the hiring process set forth above with regards to seniority issues.

a **Transfers and Reclassification to a Position within the Same Grade** - Any employee who is transferred or reclassified to a position within the same classification grade shall receive the same rate of pay.

b. **Promotion and Reclassification to a Position in a Higher Grade** - When an employee is promoted or reclassified to a higher grade, he shall receive a rate of pay consistent with the classification and compensation plan. Any employee required to perform the duties of an employee of a higher grade for more than 30 days shall temporarily receive a rate of pay pursuant to this paragraph, effective on the 31st day, for the duration of the employee's absence.

c. **Transfer and Reclassification to a Position in a Lower Grade** - Any employee transferred to a position in a lower grade shall receive a rate of pay consistent with the classification and compensation plan for that position.

**SECTION 4-6. Additional Benefits**. The Town Administrator, in his sole discretion, may authorize additional time off to department and division heads to compensate for additional hours worked beyond their normal schedule. Such additional time off shall be subject to notification in writing to the Board of Selectmen. This discretion is not subject to Section 4-17.

**SECTION 4-7. Hours of Work**

a. **Customary Work Week** - The customary work week for regular full-time office and clerical employees, shall be a minimum of 35 hours. The customary work week for all others shall be 40 hours, unless otherwise provided. Employee will receive an unpaid lunch break, not to exceed one hour, if required to work more than six (6) consecutive hours in any one day.

b. **Pre-Shift and Post-Shift Work.** - Any regular full time hourly employee required to work before the beginning of his normal shift, or required to remain after the end of his normal shift, shall be paid pursuant to paragraph (c) for those hours actually worked before the beginning or after the end respectively, of his or her normal shift.

c. **Overtime.** Any regular hourly employee, whose customary work week is 35 hours, required to work in excess of seven hours in any one day or 35 hours in any one week, shall receive straight time pay for the eighth hour in any one day, or any hours worked between 35 and 40 hours in any one week, or may be given time off for the actual number of hours worked.

Any employee required to work in excess of eight hours in any one day or 40 hours in any one week, shall receive overtime pay at a rate based on one and one-half times their regular rate of pay, or may be given compensatory time off equal to one and one-half times the hours worked.

Employees will not be compensated for hours worked when required to attend scheduled Town Meetings or committee meetings to support issues or positions associated with the primary duties and responsibilities of their position. Employees shall not accumulate more than 40 hours of compensatory time, nor shall compensatory time be cumulative from one fiscal year to the next. All leave periods, with the exception of sick leave, shall be included in computing overtime. All employees are subject to the provisions of the federal Fair Labor Standards Act (FLSA), and as such, exempt employees shall not be eligible for compensatory time.

**SECTION 4-8. Bereavement Leave**. In the event of a death in the immediate family, a regular employee or probationary employee is entitled to receive paid bereavement leave not to exceed three (3) consecutive days. Such leave shall not be charged to sick leave or vacation leave, and is not cumulative from fiscal year-to-year. The term, "immediate family" is defined as: spouse, child including step-child, parent including step-parent and foster parent, sister, brother, mother-in-law and father-in-law, grandparent, grandchild, aunt and uncle, brother-in-law, sister-in-law; and shall have no other meaning within the terms of this policy. Employees may be granted additional bereavement leave of another two (2) days, at the discretion of the Town Administrator, in the event

of the death of a spouse, child or parent, which shall be taken from Personal Leave, Sick Leave or Vacation Leave. (T.M.10/20/03)(T.M. 10/19/09)

**SECTION 4-9. Jury Duty**. Any regular employee required to serve on jury duty shall be paid the difference between his regular rate of pay and the compensation received for serving on jury duty. Upon receipt of notice to serve, the employee will immediately inform his department head, and subsequently present reasonable documentary proof of actual service to the Town Accountant in order that compensation be paid. Employees shall make every reasonable attempt to report for work on the days on which they are called to serve.

**SECTION 4-10. Maternity Leave**. Any employee who has successfully completed her probationary period, shall be granted an eight (8) week maternity leave without pay, for the purpose of giving birth to a child, the adoption of a child under 18, or the adoption of a person under the age of 23 who is mentally or physically disabled. The employee must give at least a two (2) week notice of their intended departure date and intention to return to their position.

Provided she has complied with the above, at the conclusion of her maternity leave, the employee shall be entitled to return to work in her previous position or one similar with the same status as of the date her maternity leave commenced, unless during the period of her maternity leave, other employees with equal length of service and status in the same or similar positions, have been laid off due to changes in economic or operating conditions; provided, however, that such employees on maternity leave shall retain any preferential consideration for another position to which she may be entitled as of the date of her leave.

Any employee on maternity leave may use her accrued sick leave or other accrued annual leave. If she has no accrued leave available, or her accrued leave expires before her return to duty, she may apply for a leave of absence under Section 4-14 of this By-Law.

**SECTION 4-11. Military Leave**. Any regular employee called to temporary active military duty --Reserve or National Guard-- will be compensated for the difference between his regular base pay and his military pay, upon providing satisfactory evidence of completion of the training period. Military leave is in addition to vacation leave to which he/she is entitled, and shall not be charged to vacation time unless requested by the employee. Military pay shall be considered to be all pay received for the entire 14-day period, including Saturdays and Sundays. Military duty and summer training will not be considered an interruption of Town employment for the purposes of computing dates of service or seniority. Group insurance and other benefits will continue unchanged during this period of temporary active duty. If an employee is called or volunteers for longer periods of active duty, all insurance and other benefits will cease as of the date he is placed on regular military leave.

**SECTION 4-12. Armed Services Duty**. Any employee who enters the Armed Services, voluntarily or involuntarily, shall present a copy of his military orders to his department head and the Town Administrator for the employee's personnel file. Any employee who holds a regular full-time or part-time position prior to entering military service is entitled to reinstatement under the following conditions:

If upon returning from military duty, the employee presents a certificate showing satisfactory completion of service, he will be restored to his former position or a position of like status and pay, if

such application for reinstatement is submitted to his appointing authority within 90 days from the date of release from military duty.

Once an employee is reinstated, he is entitled to be restored to the original date of service he had when he entered the military, plus whatever additional seniority he would have accumulated had he remained at his job. If the rate of pay for the same position has been increased, he is entitled to the higher rate. This leave of absence will terminate upon the employee's failure to apply for reinstatement within 90 days of release from military duty.

Service time will continue to accrue for the duration of a military leave, but will not accrue beyond a maximum of five (5) years. While in the Armed Services, insurance coverage and other benefits are discontinued and will not accrue.

**SECTION 4-13. Sick Leave**. Each regular employee covered under this By-Law is entitled to sick leave with full pay in accordance with the following provisions:

a Each regular full-time employee shall accrue sick leave at the rate of one and one-quarter (1-1/4) days for each month of employment, cumulative to a maximum of 150 days. (TM04)

b. Each regular part-time employee shall accrue sick leave on a pro-rated basis at the rate of one and one-quarter (1-1/4) days for each month of continuous paid part-time employment, cumulative to a maximum of 120 days.

c. Probationary employees are eligible to accrue sick leave from their start date, but are not eligible to utilize their accrued days until their probationary period has been successfully completed. Any absence by reason of illness during the probationary period shall be considered leave without pay.

d. Sick leave shall not accrue to any employee for any month in which he has been absent for more than 20 consecutive work days. Sick leave may be taken in increments of one-half (1/2) hour. (T.M. 10/19/09)

e. Sick leave shall be granted for the following:

- Personal illness or physical incapacity to such an extent as to be unable to perform the duties of the position.
- Attending to members of the family within the household, whose illness requires the care of the employee. An employee who is absent from work by reason of illness or to care for a family member within the household for five (5) consecutive days shall be required to submit to the department head a physicians certificate authenticating the illness. (TM 10/17/2011)
- Enforced quarantine when declared by the Board of Health, or other jurisdictional agency, for the period of such quarantine only and not to exceed earned sick leave available.

f. Employees shall notify their immediate supervisor of their inability to report for duty at or prior to the beginning of a work day. An employee who is absent from work by reason of illness for five (5) consecutive days shall be required to submit to the department head

a physician's certificate authenticating the illness which shall include the diagnosis, prognosis, and estimated return to full duty. If the department head determines that the employee's use of sick leave is not consistent with the purposes of sick leave, he may at his discretion, require a physician's certificate from an employee absent from work for one day.

g. Any employee whose accrued sick leave has been depleted, and whose illness extends beyond the period noted above, may be granted an unpaid leave of absence by the Town Administrator, per Section 4-14.

h. Notification of the number of accumulated sick leave days shall be given annually to each employee at the beginning of the fiscal year.

i. Any employee receiving Workers Compensation under MGL Chapter 152 may use sick leave to supplement the difference between the amount of the Workers Compensation and his regular wages, until such time as his accrued sick leave is depleted. In no event shall the employee collect more than his regular pay.

j. Any employee who retires in accordance with Chapter 32 of the Massachusetts General Laws after reaching the age of fifty-five (55) shall receive a lump sum retirement bonus equal to thirty-three (33) percent of his accumulated sick leave at the time of retirement, up to a maximum amount equal to forty (40) days' pay. An employee shall notify the Town Administrator in writing of his retirement prior to the January 1st immediately preceding the fiscal year in which his date of retirement will occur.

**SECTION 4-14. Leave of Absence**. After one year of continuous service, any regular employee may apply for a leave of absence without pay, not to exceed 90 days. The application must be approved by both the appointing authority and the Town Administrator, and will be granted only under unusual conditions. A leave of absence under these conditions is granted to protect the length of service of the employee, but no provision of this By-Law other than seniority shall apply. All unused personal and vacation leave must be exhausted before the unpaid leave of absence begins. If the leave extends beyond thirty (30) days, sick and other annual leave will not accrue; however, any regular employee may remain covered by the Town's group health and life insurance plan, provided he pays 100 percent of the monthly premium. This section does not apply to short-term Military Leave. If the employee fails to return to full duty after the leave has expired, it will be considered a voluntary resignation effective the last day of actual employment.

**SECTION 4-15. Paid Personal Leave**. Each regular employee is entitled to receive paid leave to conduct personal business, not to exceed three (3) days in any one fiscal year. Requests for personal leave must be made in writing to the department head not later than two (2) days prior to the leave date except in case of emergency; the approval of the request by the department head is discretionary. Personal leave days can not accrue from fiscal year-to-year.

**SECTION 4-16. Separation of Employment**. There shall be three forms of separation:

a. **Release**. Release is a permanent separation of employment caused by the elimination of the position or funding for it. The employee who is released will be given first consideration for any current or future Town position for which that employee is qualified.

b. **Discharge**. Discharge is a permanent separation for cause or inability to perform the duties of the position. This action shall be initiated by the department head and the employee shall have the right to appeal pursuant to Section 7-8 of the Town Charter.

c. **Resignation**. Resignation is a voluntary, permanent separation initiated by the employee. The employee shall give his department head at least two weeks written notice in advance of the termination date.

Employees who are separated shall be paid accrued vacation time. All other fringe benefits will cease upon the date of separation.

**SECTION 4-17. Grievance Procedure**. A grievance is defined as a dispute regarding an alleged violation of an expressed provision of this By-Law. Any employee may at his discretion, discuss a potentially grievable issue with his immediate supervisor in order to settle a dispute. The grievance shall cite which section of this By-Law is alleged to be violated, and shall be processed under the following procedures:

Step 1. Within ten (10) working days of the event giving rise to the grievance, or within ten (10) working days of the time when the employee should have reasonably known of its occurrence, whichever is later, the employee so aggrieved shall file the grievance in writing on a form approved by the Town, with his immediate supervisor or department head, whichever is applicable. The supervisor or department head shall meet with the aggrieved employee and respond in writing to the employee within ten (10) working days of the date of the meeting.

Step 2. If the grievance is not settled at Step 1, or within ten (10) working days of the deadline for the response by the supervisor, the employee may submit the grievance in writing to the Town Administrator. The Town Administrator shall meet with the aggrieved employee and the department head and respond in writing within ten (10) working days of the date of the Step 2 meeting.

Step 3. If the grievance is not settled at Step 2, or within ten (10) working days of the deadline for the response by the Town Administrator, the employee may submit the grievance in writing to the Board of Selectmen. The Board shall meet with the employee and the appropriate department head at its next regularly-scheduled meeting following the date of the receipt of the grievance in the office of the Board. The Board shall render a final decision in writing within ten (10) working days of the date of the meeting with the Board.

The parties may by mutual agreement, extend any time limits stipulated above.

**SECTION 4-18. Insurance**

a. **Health Insurance** - All regular employees, including those serving their probationary period, who work at least 20 hours per week are eligible to participate in a group health insurance plan offered by the Town under the same conditions and contributions as other Town employees. For any indemnity plan that may be offered pursuant to Massachusetts General Laws Chapter 32B, the Town shall contribute 50% of the cost of the premium.

b. **Group Life Insurance Policy** - All regular employees, including those serving their probationary period, are eligible to purchase a $5,000 life insurance policy. The cost of the premium will be shared equally by the employee and the Town. (T.M. 10/20/03)

c. **Worker's Compensation** - The Town shall incur the full cost necessary to provide medical and related coverage for expense of work-related injuries for each employee injured while carrying out his duties and responsibilities at his place of work, or in any other location where his duties are performed, subject to the provisions of MGL Chapter 152.

d. **Retirement Benefits** - In accordance with Massachusetts General Law Chapter 32, as amended, all regular employees who work at least 20 hours per week shall have deductions made from their wages to enroll in the Retirement System of the Commonwealth of Massachusetts. Each retiree shall be eligible to receive group health and life insurance under the same conditions as when employed by the Town.

e. **Individual Health Insurance Contracts** - Pursuant to Article LXXXIX Amendment of the Second Article of Amendment to the Constitution of the Commonwealth and Chapter 43B of the General Laws of the Commonwealth, the Town of Grafton is hereby empowered to pay for in whole or in part, individual or family health care insurance coverage and benefits for persons unable to be covered by group health plans and health maintenance organization plans offered by the Town.

The Board of Selectmen is hereby authorized to approve reimbursement by the Town to employees and retirees of the Town who reside outside the service area of any health maintenance organization plan offered by the Town, for reasonable expenses incurred by such retirees in the purchasing of individual or family health insurance contracts, or under such contracts, in such amounts and in such manner and under such conditions as the Board of Selectmen deem to be in the best interest of the Town, subject to availability of funds.

The Board of Selectmen shall have the authority to issue rules and regulations concerning administration of this Section, including but not limited to, the type and coverage of any insurance plans to be subject to reimbursement by the Town, and the amount of such reimbursement. No person who resides within the service area of a health maintenance organization plan offered through the Town, or is otherwise eligible to be covered by any health insurance plan offered through the Town shall be eligible for reimbursement pursuant to this Section.

Reimbursement pursuant to this Section shall not be allowed in the event the Town obtains group indemnity health insurance available to all employees and retirees of the Town, or if provision is made under Chapter 32B or any comparable statute for providing health care coverage to retirees otherwise ineligible for coverage by the health insurance plans offered by the Town.

Only retirees otherwise eligible to participate in group health insurance plans of the Town under any section of Chapter 32B of the General Laws accepted by the Town, or rules and regulations promulgated pursuant to said Chapter, but unable to do so because of the lack of a group indemnity health insurance plan, shall be eligible for reimbursement under this Section.

**SECTION 4-19. Holiday Leave**. All regular employees in benefit status shall be allowed the following twelve (12) legal holidays with pay: New Year's Day, Martin Luther King Day, President's Day, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve shall be observed as a paid holiday only when it falls on a Monday through Friday, provided employees shall only be eligible for overtime compensation if they are required to work after the end of their regularly scheduled work day, and Christmas Day. When one of the foregoing falls on a Sunday, the holiday will be observed the following Monday. When one of the foregoing falls on a Saturday, the holiday will be observed on the preceding Friday. If a holiday falls on an employee's regularly-scheduled day off, or when an employee is scheduled to work on a holiday, in addition to his regular pay, he shall receive straight-time pay for the actual hours worked in addition to his holiday pay, or be given an additional day off with pay. Whenever it is impractical to give time off to an employee on a legal holiday because of the necessity of continuing essential services, the employee may be given compensatory time off for the actual number of hours worked. An employee shall be in full pay status on the preceding, and following scheduled work day of the holiday in order to qualify for holiday pay.(T.M. 10/19/09)

Nothing in this section shall apply to either elected officers or employees of the School Committee, nor does this section apply to seasonal or temporary employees who work less than six months in any one year, and nothing is intended to supersede the laws of the Commonwealth of Massachusetts.

**SECTION 4-20. Vacation Leave**. Vacation leave is earned in one fiscal year --July 1 to June 30-- of continuous regular full or regular part-time employment, to be taken once accrued and after probationary period. Any regular employee who has successfully completed his six month probationary period shall be entitled to vacation leave with pay according to the following:

| Length of Service | Vacation Allowance |
|---|---|
| one (1) year but less than five (5) years | two (2) weeks |
| five (5) years but less than ten (10) years | three (3) weeks |
| ten (10) years but less than twenty (20) years | four (4) weeks |
| twenty (20) or more years | five (5) weeks |

The employees hire date will be used to determine the rate at which leave is accrued. During the fiscal year in which the employee reaches their fifth, tenth, and twentieth year anniversaries with the Town, additional leave will be prorated at a rate of 0.5 days per month, with a maximum of 5 full working days, for each full month remaining in the fiscal year beyond the anniversary date to be taken once accrued or in the ensuing fiscal year. (TM 10/17/2011)

Vacation leave is not cumulative from year to year, except upon the written approval of the Town Administrator in cases where an employee's vacation is canceled to meet an emergency or offset a critical personnel shortage. The Town Administrator may, in his sole discretion, authorize a carryover of not more than ten (10) days. This shall be subject to notification in writing to the Board of Selectmen.

Any regular employee shall be granted an additional day of paid vacation leave if while on vacation, a holiday listed in Section 4-19 occurs.

Any regular employee who has successfully completed the probationary period, but who has been employed for less than 12 months as of July 1, shall be eligible for a vacation leave allowance at the rate of one paid vacation day for each completed calendar month of continuous employment in the prior fiscal year, not to exceed ten (10) days.

Upon the death of any employee, the Town shall pay to the employee's beneficiary an amount equal to the employee's accrued vacation allowance, up to the date of his death.

Upon the written recommendation of the department head, the Town Administrator in his sole discretion may grant to a new employee, vacation allowance of up to three (3) weeks on his start date, in recognition of prior experience and length of professional service. This shall be subject to notification in writing to the Board of Selectmen.

This section shall not apply to seasonal or temporary employees who do not work at least six months in any one year.

**SECTION 4-21. Call In Pay**. All regular employees paid on an hourly basis subject to the provisions of the federal Fair Labor Standards Act (FLSA), who are recalled to work for unscheduled hours, will be paid a guarantee of three (3) hours minimum, subject to Section 4-7(c).

**SECTION 4-22. Performance Review**. A written evaluation of each employee's performance shall be conducted annually by the department head on such form as the Town Administrator shall require. The purpose of the performance review is to provide a periodic, formal process to review the employee's performance matched against prior mutually-agreed upon goals and objectives. The written performance evaluation shall be reviewed with the employee and signed by both parties attesting to the review; however, the employee only attests to the review itself, not necessarily its contents.

Base Wage increases are based on merit and ability as determined through the annual performance review process. They are not automatic. The department head shall perform the evaluation, and the Town Administrator shall review it. Employees who receive a satisfactory or better evaluation shall be eligible for a base wage increase. The Town Administrator shall determine the amount of any increase in light of the availability of appropriated funds and the employee's overall performance. If the employee receives a satisfactory or better review from his department head and funds have been appropriated, the employee may appeal the Town Administrator's decision to award a base wage increase below the average on a percentage basis (including the decision to award the employee no base wage increase) to the Board of Selectmen, which shall confer with the employee, the department head, and the Town Administrator. The Board of Selectmen's decision on the appeal shall be final.

**SECTION 4-23. Longevity (deleted TM 10/17/2011)**

**SECTION 4-24. Miscellaneous Provisions**

This By-Law shall be consistent at all times with the provisions of the Family Medical Leave Act of 1993 (FMLA) and Massachusetts General Law Chapter 109 of the Acts of 1998, the so-called "Small Necessities Leave Act."

The Town of Grafton conforms to the requirements of the Americans with Disabilities Act (ADA). In keeping with the recommendation of the Report of the House Committee on Education and Labor (Report No. 101-485), the Town shall take all action necessary to comply with the Act.

The Town of Grafton is an Equal Opportunity Employer; it pledges that all candidates for employment, and all officials and employees of the Town will be treated equally in all actions affecting them. It also means that the Town has a policy of nondiscrimination which guarantees that all applicants for employment and all employees will not be discriminated against because of race, color or national origin, age, sex, sexual orientation, religion, political affiliation, veteran status, or disability.

**SECTION 4-25. Classification Plan - Supervisor, Professional, Clerical Positions**

The Town Administrator shall create and maintain a classification and compensation plan for all Town employees covered by this Personnel By-Law, which shall be subject to the approval of the Board of Selectmen.

# ARTICLE 21

## GRAFTON COMMON HISTORIC DISTRICT AND GRAFTON HISTORIC DISTRICT COMMISSION

**SECTION 1. Name**. This by-law shall be known and may be referred to as the Grafton Common Historic District By-Law.

**SECTION 2. Purpose**. The purpose of this by-law is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive outward appearance and characteristics of building and places significant in the history of the Town of Grafton by means of the maintenance and improvement of the appearance and settings for such buildings and places and by the encouragement of design and construction compatible therewith.

**SECTION 3. The Grafton Common Historic District**. There is hereby established pursuant to the provisions of Chapter 40C of the General Laws of the Commonwealth of Massachusetts, as amended, (the "Historic Districts Act") an historic district to be known as the Grafton common Historic District, which district is shown on a plan that is on file in the Town Clerk's office for the Town of Grafton entitled "Plan of Boundary of the Grafton Common Historic District dated November 17, 1980, drawn by Edmund Hazzard."

**SECTION 4. The Grafton Historic District Commission**. There is hereby established pursuant to the provisions of the historic District Act an historic district commission which shall be known as and may be referred to as the Grafton Historic District Commission (hereinafter called the "Commission").

**SECTION 5. Commission Membership**. The Commission shall consist of seven registered voters whose members shall be appointed by the Board of Selectmen, none of whom need be residents of or owners of property in an historic district to be administered by the Commission. Before making an appointment, the Board of Selectmen shall, in writing, request the names of two nominees from the Grafton Historic Society, or the then local historic society, or in the absence thereof, form the Society for the Preservation of New England Antiquities; two nominees form the Chapter of the American Institute of Architects covering the Town of Grafton; and two nominees from the Greater Worcester Board of Realtors, Inc., or the then local Board of Realtors, covering the Town of Grafton. If such organizations submit nominees within thirty days of such request, the Board of Selectmen must appoint one member for each such organization which submits nominees. If any such organization shall fail to name its two nominees within thirty days of such request, the Board of Selectmen may make the appointment without nomination from such organization. The remaining appointments may be made by the Board of Selectmen without nomination from any organization. When the Commission is first established, two members shall be appointed for a term of one year, two shall be appointed for terms of two years, and three shall be appointed for terms of three year. A successor to a member shall be appointed by the Board of Selectmen in the same manner as such member was appointed, except that his term shall be for three years. The Board of Selectmen may also appoint not more than three alternate members to serve for terms of three years. Such alternative members, who need not be from nominees of organizations entitled to nominate members, may attend all meetings of the Commission and participate in its discussions, but may not vote upon any matter coming before the Commission. If a vacancy on the Commission occurs, the

vacancy shall be filled, for the original term, by recommendations of the remaining Commission members to the Board of Selectmen of an alternate member to serve. Each member and alternate member shall serve without compensation. (T.M.10/20/03)

**SECTION 6. Powers and Duties of the Commission**

a. **General Powers and Duties.** The Commission shall have jurisdiction over and shall administer any historic district that is established by the Town of Grafton in accordance with and pursuant to the provisions of the Historic District Act. In this connection, the Commission shall have all the powers and perform all the duties that are conferred and imposed on historic district commissions by the Historic Districts Act and by subsequent amendments thereto and which are not inconsistent with the provisions of this by-law.

b. **Power to Adopt Rules and Regulations - Notice**. The Commission may adopt and amend such rules and regulations for the conduct of its business as are not inconsistent with the provisions of the Historic Districts Act, this by-law, and of subsequent amendments, respectively, thereto. Prior to the adoption of or the amendment to any of its rules or regulations, the Commission shall hold a public hearing for the purpose of considering such proposed rules or regulations or any amendments thereto. Notice of such public hearing shall be given by the publishing of a written notice in a newspaper have a general circulation in the Town of Grafton at least fourteen days prior to the date that has been set for such hearing. Such notice shall set forth such proposed rules or regulations or amendments thereto, in their entirety, and shall also state the date, time and place that has been set for such hearing. Such rules and regulations shall be adopted and amended only upon the compliance with any additional notice requirements that may be imposed upon the Commission after the adoption of this by-law by the Commonwealth of Massachusetts.

c. **Power to Employ Assistants, Accept and Expend Money.** The Commission may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend the same for such purposes.

d. **Additional Powers.** The Commission shall have such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of a Town Meeting and such powers, authority and duties as may be vested in it under the laws of the Commonwealth of Massachusetts.

**SECTION 7. Exclusions from Commission's Authority**. The authority of the Commission shall not extend to the review of any of the following categories (a) through (e) as hereinafter listed, of buildings, structures or exterior architectural features in the Grafton Common Historic District established by paragraph three above;

a. Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may from time to time specify, and, subject also, to applicable laws and Town By-Laws;

b. Terraces, walks, sidewalks and similar structures provided that any such structure is substantially at grade level;

c. Ordinary maintenance, repair or replacement of any exterior architectural feature which does not involve a change in design, material or color or the outward appearance thereof;

d. The reconstruction, substantially similar in exterior design, of a building, structure, or exterior architectural feature damaged or destroyed by fire, storm or other casualty, provided such reconstruction is commenced within one year from the date of such damage and is completed with due diligence; and

e. Landscaping with plants, trees or shrubs.

**SECTION 8**. **Appeals**. Any person who files an application with the Commission and who is aggrieved by a determination of the Commission may, within twenty days after the filing of a notice of such determination with the Town Clerk, file a notice of appeal with the Commission for a review of such determination by a person or persons experienced in such matters, designated by the Central Massachusetts Regional Planning Agency. Upon receipt of such notice of appeal, the Commission shall forthwith notify the Central Massachusetts Regional Planning Agency with shall thereafter designate a person or persons to hold a hearing. A written report of such person's decision shall be filed with the Town Clerk within forty-five days of receipt of notice of appeal by the Commission. The failure of the Commission and/or the Central Massachusetts Planning Agency to comply with the provisions hereof, shall entitle the applicant to such remedies as are then available under the applicable laws of the Commonwealth of Massachusetts.

**SECTION 9. Enforcement**. The enforcement of this by-law and penalties for its violation shall be as prescribed in the Historic Districts Act, as from time to time amended.

**SECTION 10. Severability**. In case any section, paragraph or part of this by-law is, for any reason declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph or part shall continue in full force and effect. Unless otherwise provided herein, all terms used in this by-law shall have the same meanings as set forth in the Historic Districts Act, as from time to time amended.

(T.M. 6/3/81)

# ARTICLE 22

## USE OF SILVER LAKE

**SECTION 1.** Only canoes or boats that can be carried on car tops are to be on said lake. No trailored watercrafts are allowed. Electronic outboard motors but no others may be used on said lake. (T.M.10/20/03)

**SECTION 2**. No person shall operate boat at a speed other than reasonable and proper or in such a manner as to annoy or endanger the occupants of other boats or others using the facilities of the lake.

**SECTION 3.** All privately-owned boats, motors and other equipment must be removed from the property of the Town at Silver Lake each day.

**SECTION 4.** All acts which pollute the water supply of Silver Lake are prohibited. No litter or refuse of any sort may be thrown or left in or on any land or water within Silver Lake.

**SECTION 5.** All acts which injure the property of the Town of Grafton at Silver Lake are prohibited. No person shall injure, deface, destroy, remove or carry off any property, real or personal under the care and control of the Town of Grafton at Silver Lake.

**SECTION 6.** Drunkenness, breach of the peace, profanity or other disorderly conduct offensive to the general public is strictly forbidden. Drinking of alcoholic beverages is forbidden.

**SECTION 7.** No person, except in any emergency, shall bring, land or cause to descend on Silver Lake any airplane.

**SECTION 8.** All persons using Silver Lake shall obey the lawful directions of regulatory signs, Police Officers, persons in charge, or of Federal, State or Local wardens, Rangers or enforcement officers.

**SECTION 9.** No open fires will be permitted on the land of the Conservation Commission at Silver lake without prior written permission from said Commission and the Fire Chief. (T.M. 5/21/84)

**SECTION 10**. <u>No diving or swimming from the dam will be permitted.</u>

**SECTION 11.** Whoever violates any provision of this Article of the By-Laws shall be liable to a penalty of Fifty Dollars ($50.00) for each offense. Each day on which the violation continues shall be deemed a separate offense."(T.M.10/20/03)

# ARTICLE 23

# SEWERS

## 1. Legislative Authority

The Grafton Board of Sewer Commissioners was established under Article 36 of the Grafton Annual Town Meeting held on May 12, 1975, in accordance with Chapter 193 of the Acts of 1946, an Act Authorizing the Town of Grafton to Construct and Operate a System or Systems of Sewers.

## 2. Powers and Duties

The powers and duties of the Board are set forth in The Town of Grafton Ordinance Regulating the Use of Public and Private Sewers and Waste Piping, the Installation and Connection of Building Sewers, and the Discharge of Water and Wastes into the Public Sewer System; and Providing Penalties for Violations Thereof, known as "the Sewer Use Ordinance," adopted by the Town of Grafton Board of Sewer Commissioners October 13, 1978 and November 20, 1978, as it may be amended from time to time.

# ARTICLE 24

## SCENIC ROADS REGULATIONS

**SECTION 1. Definitions**. In the absence of contrary meaning established through legislative or judicial action pursuant to G.L. Chapter 40 Section 15C, the following terms contained in that statute shall be defined as follows:

"**Cutting or Removal of Trees**" shall mean the removal of one or more trees, trimming of major branches or cutting of roots, but not trimming or cutting of dead trees or dead branches.

"**Repair, Maintenance, Reconstruction, or Paving Work**" shall mean any 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 a scenic road. Construction of new driveways or alteration of existing ones in also included, in so far as it takes place within the right-of-way.

"**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 within the right-of-way such as bridge structures, drainage systems, retaining walls, traffic control devises, and sidewalks, but not intersecting street 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 stone walls shall be presumed to be within the way until the contrary is shown.

"**Trees**" shall mean a tree whose trunk has a diameter of four inches or more as measured on foot above the ground.

**SECTION 2. Purpose**. These regulations are intended to ensure that:

a. Ways will be recommended for designation as scenic roads on stated criteria;

b. Trees and stone walls along scenic roads will be protected and will not be altered except after a public hearing following notification of interested parties and after consideration of the work project by the Planning Board based on stated criteria set forth in Section 6 below.

**SECTION 3. Recommending Designation as a Scenic Road**

**SECTION 3.1. Public Hearing**. G.L. Chapter 40, Section 15C authorized designation of a road as a scenic road by the Town upon recommendation or request of the Planning Board, the Conservation Commission or Historical Commission. Prior to making any recommendation or request to Town Meeting regarding designation of a particular road as a scenic road, the Planning Board, Conservation Commission or Historical Commission, as the case may be, shall conduct a public hearing regarding such proposed designation. Notice of the public hearing shall be given by the body conducting the hearing pursuant to the requirements for notice set forth in Section 5.2 of these regulations.

**SECTION 3.2. Criteria for Designation as a Scenic Road.** The Planning Board, Conservation Commission, or Historical Commission shall, in recommending which roads should be designated as scenic roads, consider the following criteria:

a. Ways bordered by trees of exceptional quality, in terms of type, age, specimen size or spread, density of stand, or related flora;

b. Ways bordered by stone walls;

c. Ways bordered by any other natural or man-made features of aesthetic value;

d. Ways for which any alteration would lessen the aesthetic value of natural or man-made features bordering them.

**SECTION 4. Notification of Designation as Scenic Road**

Upon the designation at Town Meeting of any road as a scenic road, the Planning Board shall take the following steps within 30 days of such designation:

a. Notify all municipal departments that may take any action with respect to such road;

b. Notify the State Department of Public Works;

c. Publish in the local paper by a news release that the road, or roads, have been so designated;

d. Indicate such designation on all maps currently in use by municipal departments; and

e. Notify all utility companies or other such parties which may be working on the border of such road.

**SECTION 5. Procedures for Obtaining Permits**

5.1. **Filing**. Any person, organization, state or municipal agency seeking the written consent of the Planning Board under G.L. Ch. 40. Section 15(c) (The Scenic Roads Act) regarding the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof shall file a request with the Planning Board, together with the following:

a. 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 plans or references, and describing in reasonable detail the proposed changes to trees and stone walls;

b. A statement of the purpose, or purposes, for the changes proposed;

c. A list of owners of properties located in whole or in part within 100 feet of the proposed action;

d. Except in the case of town agencies, a deposit sufficient to cover the cost of advertising and notification; and

e. Any further explanatory material as may be required by the Planning Board.

**5.2. Notice.** The Planning Board shall, as required by statue, 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 Board of Selectmen, the Conservation Commission, the Historical Commission, the Municipal Engineer, the Tree Warden, the Department of Public Works, and the owners of property within 100 feet of the proposed action. Any defect in notice required under this section, will not affect the validity of the Planning Board's decision, except to the extent c. 40, S15C so provides.

**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 14 days before the hearing. The last publication shall occur, as required by statute, at least seven days prior to the hearing.

**5.4. Timing of Hearing**. The Planning Board shall hold a public hearing within 30 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. - 5:00 p.m., Monday-Friday) so as to encourage maximum citizen participation.

**5.5. Timing of Decision**. The Planning Board shall render a written decision on the request within 21 days of the public hearing.

**5.6. Performance Guarantee**. Before endorsement of its approval on a plan, the Planning Board may require that the proposed work to be done, be secured by a bond sufficient in form and amount in the opinion of the Planning Board to ensure satisfactory performance of the proposed work.

**5.7. Tree Warden**. Whenever feasible, Planning Board hearing shall be held in conjunction with those held by the Tree Warden acting under G.L. Ch. 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 Shad Tree Law, G.L. Ch. 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:

a. The degree to which the proposed action would adversely affect the scenic, aesthetic, and historical values upon which the scenic road designation was originally based;

b. The necessity for the proposed action in terms of public safety, welfare or convenience;

c. Availability of reasonable alternatives to the proposed action which could reduce or eliminate anticipated damage to trees or stone walls;

d. Whether the proposed action would compromise or harm other environmental or historical values;

e. Compensatory actions proposed, such as replacement of trees or walls;

f. Consistency of the proposed action with previously adopted Town plans and policies.

**SECTION 7. General.** The Planning Board may adopt more detailed regulations for carrying out provisions hereunder.

**SECTION 8. Severability.** If any section or portion of this By-Law is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the By-Law.

(T.M. 5/11/87)

# ARTICLE 25

# GENERAL WETLANDS PROTECTION BY-LAW

**SECTION 1. Purpose.**

The purpose of this by-law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Grafton by prior review and control of activities deemed by the Conservation Commission likely to have a significant or commutative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, shellfish, wildlife habitat, recreation, aesthetics, agriculture, and agriculture values (collectively, the "wetland values protected by this by-law").

**SECTION 2. Jurisdiction.**

Except as permitted by the Conservation Commission or as provided in this by-law, no person shall remove, fill, dredge, build upon, or alter the following resource areas: within 100 feet of any freshwater wetland vegetative wetland, marsh, wet meadow, bog or swamp; within 100 feet of any bank, beach or flat; any lake, river, pond, stream or estuary; within 100 feet of any lake, river, pond, stream or estuary; any land under said waters; or within 100 feet of any land subject to flooding or inundation by groundwater, surface water, tidal action, or storm flowage.

**SECTION 3. Exceptions.**

The permit and application required by this by-law shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The permit and application required by this by-law shall not be required for work performed for normal maintenance or improvement of land in agricultural use or in agricultural use, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The permit and application required by this by-law shall not apply to emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement, provided that the Conservation Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this by-law. Upon failure to meet these and other requirements of the

Commission, the Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section the exceptions provided in the Wetlands Protection Act shall not apply under this by-law.

**SECTION 4. Application and Fees.**

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 s40) and Regulations (310 CMR 10.00). Notwithstanding the aforesaid such applications and plans shall be filed concurrently with any application for a special permit and/or site plan review for any projected located on a priority development site designated as such by vote of Town Meeting under the provisions of G.L. c. 43D (T.M. 5/12/08)

Notwithstanding the aforesaid, such applications and plans shall be filed concurrently with any application for a special permit and/or site plan review for any project located on a priority development site designated as such by vote of Town Meeting under the provisions of GL c. 43D (T.M. 5/11/09)

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a request for Determination (RFD) shall include information and plans as are deemed necessary by the Commission.

At the time of an application, the applicant shall pay a filing fee specified in Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and Regulations. Such filing fees shall be deposited in a municipal revolving fund established pursuant to G.L. Ch. 44 s53E1/2 for deposit and for uses set out in the vote establishing the fund. This account shall be kept separate from the account established for filing fees paid under the State Wetlands Protection Act.

The Commission may waive the filing fee and costs and expenses for a permit or other application or RFD filed by a government agency and shall waive them or a request for determination filed by a person having no financial connection with the property which is the subject of the request. (S.T.M. 5/10/04)

**SECTION 5. Notice and Hearings**

**a**. **Request for Determination**. Within 21 days of receipt of a completed request for determination, the Commission shall review the request at a regular public meeting, unless an extension is authorized in writing by the applicant. Notice of the time and place of the public

meeting shall be given by the Commission, at the expense of the applicant, not less thank five working days prior to the meeting, by publication in a newspaper of general circulation in the municipality. The Commission shall issue its determination in writing within 21 days of the public meeting, unless an extension is authorized in writing by the applicant. When the person requesting a determination is other than the owner, the request, the notice of the meeting, and the determination shall be sent by the Commission to the owner as well as to the person making the request. (T.M. 5/10/89)

**b. Applications for Permit and Hearings**. Any person filing an application herein referred to with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivery, to all abutters at their mailing addresses shown on the most recent applicable tax list of the Assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall enclose a copy of the application, with plans, or shall state where copies may be examined and obtained by abutters free of charge. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a hearing herein is other than the owner, the application, the notice of the hearing, and the permit itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any application referred to herein, with written notice given at the expense of the applicant, five working days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from receipt of a completed application unless an extension is authorized in writing by the applicant.

The Commission shall issue its permit in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this By-Law with the hearing conducted under the Wetlands Protection Act, G.L. c. 131, Section 40.

The Commission shall have authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the Commission in its discretion, or comments and recommendations of Boards and Officials listed in Section 6. In the even the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available. (T.M. 5/10/89)

Notwithstanding the aforesaid, any public hearing on a permit application for work proposed on a priority development site designated as such by vote of Town Meeting under the provisions of G.L. c. 43D, shall normally be closed within 120 days. (T.M. 5/11/09)

**SECTION 6. Coordination with other Boards**.

Any person filing a permit application or a request for determination with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Board of Selectmen, Planning Board, Board of Health, Town Engineer, Inspector of Buildings, Board of Water Commissioners and State Department of Environmental Quality Engineering. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until such boards and officials have had 20 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action. Permit applications for new construction, to include wells and septic systems where applicable, shall show the entire lot and all wetland resources delineated within 100 feet of proposed construction, and lot boundaries. Permit applications not including this information shall be returned as "incomplete".

**SECTION 7. Permits, Determination, and Conditions.**

If the Commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetlands values protected by this by-law, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.

The Commission is empowered to deny a permit for failure to meet the requirements of this by-law; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this by-law; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

A permit shall expire three years from the date of issuance, except that, if not sooner exercised, a permit issued for activities to be undertaken on a priority development site designated as such by vote of Town Meeting under the provisions of GL c. 43D, shall expire five years from the date of the expiration of the appeal period set forth in Section 13 hereof. (T.M. 5/11/09) Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration.(T.M. 5/12/08).

For good cause the Commission may revoke or modify a permit issued under this by-law after notice to the holder of the permit, notice to the public, abutters, and town boards pursuant to Section 5, and public hearing.

The Commission in an appropriate case may combine the permit or other action on an application issued under this by-law with the Order of Conditions issued under the Wetlands Protection Act.

No work proposed in any application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected thereby be registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been so recorded.

**SECTION 8. Regulations.**

After public notice and public hearing the Commission shall promulgate rules and regulations to effectuate the purposes of this by-law. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this by-law.

At a minimum these regulations shall define key terms in this by-law not inconsistent with this by-law.

**SECTION 9. Definitions.**

The following definitions shall apply in the interpretation and implementation of this by-law.

"**Person**" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town by-laws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

"**Alter**" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this by-law:

a. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
b. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution sedimentation patterns, flow patterns, or flood retention characteristics;
c. Drainage or other disturbance of water level or water table;
d. Dumping, discharging or filling with any material which may degrade water quality;
e. Placing of fill, or removal of material, which would alter elevation;
f. Driving of plies, erection or repair of buildings, or structures of any kind;
g. Placing of obstructions or objects in water;
h. Destruction of plant life including cutting of trees;
i. Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;

j. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;

Except as otherwise provided in regulations of the Commission, the definitions of terms in this by-law shall be as set forth in the Wetlands Protection Act, G.L. c. 131, Section 40.

**SECTION 10. Security.**

As part of a permit issued under this by-law, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

a. By a proper bond or deposit of money or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be release in whole or in part upon issuance of a certificate of Compliance for work performed pursuant to the permit;

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

**SECTION 11. Enforcement.**

The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this by-law and may make or cause to be made such examination, surveys or sampling as the Commission deems necessary.

The Commission shall have authority to enforce this by-law, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

Upon request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission the Chief of Police shall take legal action for enforcement under criminal law.

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

Any person who violates any provision of this by-law, regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than $300.00. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the by-law, regulation, or permit violated shall constitute a separate offense.

**SECTION 12. Burden of Proof.**

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this by-law. Failure to provide adequate

evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

**SECTION 13. Appeals**.

A decision of the Commission shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with G.L. c. 249, Section 4.

**SECTION 14. Relation to the Wetlands Protection Acts.**

This by-law is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, G.L. c. 131, Section 40, and regulations thereunder.

**SECTION 15. Severability**.

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

(T.M. 5/11/87)

# ARTICLE 26

## LICENSES AND PERMITS OF DELINQUENT TAXPAYERS BY-LAW

a. The tax collector or other town official responsible for records of all town taxes, assessments, betterments and other town 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 town taxes, fees, assessments, betterments or other town 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 form 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 licensing authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all town taxes, fees, assessments, betterments or other town charges, payable to the town 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 laws.

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

This By-Law shall not apply to the following licenses and permits: open burning, Section thirteen of Chapter forty-eight; of articles for charitable purposes, Section thirty-three of Chapter one hundred and one; children work permits; Section sixty-nine of Chapter one hundred and 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 licenses, 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 eight-one of Chapter one hundred and forty. Sections and chapters refer to the General Laws of the Commonwealth.(T.M. 5/11/87)

# ARTICLE 27

# BIOMEDICAL RESEARCH AND PRODUCTION

**SECTION 1. Purpose.**

To recognize the existence and potential growth of the biotechnology industry in Grafton and provide standardized requirements for those industries to protect the public health, safety and welfare

**SECTION 2. Definitions.**

**"Biological Agent**": Any microorganism (including, but not limited to bacteria, viruses, fungi, rickettsiae or protozoa) or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance that:

1. is classified as a Risk Group 3 through 4 Agent by NIH Guidelines;
2. requires BSL-3 through BSL-4 containment based on the Risk Assessment.; or
3. is classified by the DHHS or the USDA as a "Select Agent".

"**Biosafety in Microbiological and Biomedical Laboratories" or "BMBL**": The most current edition of Biosafety in Microbiological and Biomedical Laboratories, including any amendments, revisions, or substitutions that are adopted by DHHS, CDC and NIH.

**"BoH"** .....Board of Health

**"BoS"** .....Board of Selectmen

**"BSL"** .....biosafety level

**"CDC"** .....Centers for Disease Control and Prevention

**"DNA"** .....deoxyribonucleic acid

**"DHHS"**.....U.S. Department of Health and Human Services

**"EPA"** .....United States Environmental Protection Agency

"**Institution**": Any single individual, group of individuals, corporation, partnership, hospital, academic institution, society, association, firm, sole proprietorship, or any other legal entity, whether public or private. For the purposes of this By-Law, a corporation or non-profit entity and its laboratories, subsidiaries and affiliates shall be deemed a single institution.

"**Institutional Biosafety Committee (IBC)**": An Institutional committee, established and functioning in accordance with the NIH Guidelines, whose mandate includes reviewing and overseeing certain basic and clinical research involving rDNA or Biological Agents conducted at that Institution, evaluating safety of such research and identifying potential risk to public health or the environment.

"**Large scale**": Any research or production activity involving more than 10 liters of culture of DNA Material or a Biological Agent.

**"LEPC"** .....Local Emergency Planning Committee

**"MADEP"** .....Massachusetts Department of Environmental Protection

**"MADPH"**.....Massachusetts Department of Public Health

**"NIH**".....The National Institutes of Health

**"NIH Guidelines"**

a) Guidelines for Research Involving Recombinant DNA Molecules;

b) Recombinant DNA Research; Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules" (NIH Large Scale Recommendations); and

c) Any further amendments to (a) or (b) above, wherever published, which are adopted by NIH.

**"OSHA"**.....Occupational Safety and Health Administration

"**Principal Investigator**" The individual designated by the Institution to direct the biological research project or program conducted at BSL 3 through BSL 4. The Principal Investigator is responsible for conducting such research in accordance with applicable regulations, including NIH Guidelines and the provisions of this By-Law, as well as any conditions specified by the IBC. Principal Investigator should adhere to any serious adverse reporting requirements in accordance with federal regulations, state laws and local institutional policies.

"**Project**" A biological research experiment or biological research experiments or biological production activities, under a Principal Investigator, in which the risk assessment has been designated at Biosafety Level 3 through 4.

**"Public Records Law"** Massachusetts General Laws c. 66, and related provisions.

"**Recombinant DNA**" or "**rDNA**" Shall have the meanings specified in the current "NIH Guidelines" (as defined above).

**"rDNA Materials"** Any biological compound or materials falling within the definition of 'rDNA Molecules' specified in the current NIH Guidelines, which:

a) is classified as a Risk Group 3 through 4 Agent by NIH Guidelines;

b) requires BSL-3 through BSL-4 containment based on the Risk Assessment.; or

c) is classified by DHHS or the USDA as a "Select Agent".

**"Registration"** A written application for research protocol approval for use of rDNA Materials or Biological Agents containing the information necessary to perform a risk assessment.

"**Risk Assessment**" An evaluation of the appropriate biosafety level for research with rDNA Material or Biological Agents, conducted by the Institution's Biosafety Officer. Risk assessments resulting in a BSL-3 classification require full review and approval by the Institutional Biosafety Committee.

"**Select Agent**" Any microbial and toxic agents listed at 42 CFR 72.3 and 73.4, 42 CFR 73.5, 7 CFR 331 and 9 CFR Part 121.4, and the rulings made by the United States Centers for Disease Control and USDA relative thereto, as such regulations and rulings may be amended from time to time.

**"USDA"** .....United States Department of Agriculture.

**SECTION 3. Scope.**

This By-Law shall apply to all Institutions in the Town of Grafton engaged in research or production activities involving rDNA Materials or Biological Agents.

**SECTION 4. Restrictions.**

All rDNA Materials and Biological Agents classified as Risk Group 4 agents, or any work with rDNA Materials or a Biological Agent that requires BSL-4 containment based on the Risk Assessment, shall be prohibited in the Town of Grafton.

**SECTION 5. Regulations.**

All research or production activities involving rDNA Materials or Biological Agents by Institutions in the Town of Grafton shall be undertaken only in conformity with current and NIH Guidelines and the BMBL, as promulgated in the Federal Register and as may be amended from time to time by the NIH or DHHS or by any successor agency. Any Institution engaged in research or production involving rDNA Materials or Biological Agents shall also comply at all times with any other applicable federal and state regulations covering such work; e.g., regulations promulgated by the CDC, OSHA , EPA, MADEP and MADPH.

After public notice and public hearing, and specific written notice to any individual Institution holding or applying for a permit, the Board of Health shall have the authority to promulgate reasonable and appropriate rules and regulations, consistent with the provisions of this bylaw, to implement this bylaw, provided however, that any such rules and regulations promulgated by the Board of Health shall go no further than this Bylaw in terms of their scope, jurisdiction, or their operational, financial, compliance or other impacts on affected Institutions, and shall not grant or purport to grant the Board of Health any further power or authority, including any further power to levy or collect fees, assessments or other costs or charges on or from any Institution, or to the require the submission of any further information from Institutions, beyond what is explicitly specified in this Bylaw.

**SECTION 6. Administrative Requirements.**

Each Institution in the Town of Grafton which conducts research or production activities involving rDNA Materials or Biological Agents shall comply with the administrative practices set

forth in the NIH Guidelines. In addition, the Institution shall comply with the following additional rules, which may exceed the requirements of the NIH; provided, however, that nothing in these Bylaws shall create an obligation which would directly conflict with applicable NIH guidelines.

a. The establishment of an Institutional Biosafety Committee (IBC) which shall contain at least five members, at least two of whom (but no less than 10%) shall not be affiliated with the Institution. Additionally, an alternate non-affiliated member, who would attend meetings and vote if one of the regular non-affiliated members was unable to attend will also be appointed. When a non-affiliated representative vacates for any reason, the alternate non affiliated representative will automatically fill the vacated position and a new alternate will be chosen in accordance with the procedure outlined in 2. below. The IBC shall be considered an instrumentality of the Institution and shall not be deemed to be an "agency", "board" or "office" of the Town for the purposes of the Public Records Law.

    1. The IBC shall contain at least one representative from the Institution's biosafety staff. If any work is being done at the BSL-3 level and/or if the Institution is engaged in Large Scale research or production activities, the Institution shall appoint a Biological Safety Officer who shall be a member of the IBC.
    2. Any prospective community representatives shall submit their qualifications to the BoH and to the BoS. The non-affiliated representatives on the IBC shall be nominated by the BoS with input by BoH within 60 days after an Institution requests a permit to operate or a vacancy occurs. The non-affiliated representatives on the IBC shall be persons active in the community and shall represent the interest of the community with respect to the environment and public health.
    3. The non-affiliated representatives on the IBC shall be bound by the same rules prohibiting use and disclosure of proprietary information and trade secrets as other members of the IBC. The Institution may require that any non-affiliated representatives sign confidentiality agreements.
    4. The IBC shall establish set of rules and administrative procedures governing its operations in accordance with NIH guidelines.
    5. The Board of Health Agent or a designee of the Board of Health Agent who is a member of the Board of Health will be an ex-officio non-voting member of all IBC's.

b. The provisions of Biosafety Registrations, Standard Operating Procedures and any specific manuals, such as a Biosafety Manual and an Emergency Response Plan, shall be subject to the review and approval of the IBC.

c. The IBC shall ensure that proper training and appropriate safeguards and procedures for minimizing potential environmental and personal exposure are followed.

d. If the Institution is engaged in Large Scale activities involving rDNA Materials or Biological Agents, the IBC shall confirm that the Institution is compliant with all additional administrative requirements contained in the NIH Large Scale Recommendations.

e. Institutions should prepare IBC meeting minutes that not only serve the Institution's need for a record of the IBC's proceedings, but that also document for the NIH and the public that the IBC is fulfilling the performance expectations of the NIH Guidelines. Minutes of all IBC meetings shall be forwarded to the BoH and, upon request, the Institution shall make the IBC meeting minutes available to the public subject to the provisions of Section 11 of this bylaw.

f. In the event that two or more members of the IBC believe in good faith that approval by the IBC of a new registration of particular research or production involving rDNA Materials or Biological Agents was given in violation of NIH Guidelines, BMBL, this By-Law, or any other applicable laws or regulations, and such members have expressed their concerns at the meeting of the IBC approving such registration, such members may dispute such approval in writing to the chief research officer of the Institution and the Town, through its Board of Selectmen (with a copy to the Board of Health), no later than seven (7) days after such IBC approval was granted, setting forth specific reasons why such members believe that applicable laws, regulations or procedures have not been followed. In such event, no research or production involving the disputed procedures or alleged violation shall take place until the dispute has been resolved, in accordance with the procedures set forth in this paragraph.

This dispute resolution procedure shall not apply to re-approval of an existing Project, unless the terms on which the work or procedure is conducted have been materially changed.

During the seven (7) day period following receipt of such notice, the Board of Selectmen and the Institution will each designate a representative who shall meet and seek to resolve any such dispute.

If the Town and the Institution are not able to resolve such dispute within such seven (7) day period, the dispute shall be referred to a panel of three members experienced in scientific, medical, occupational, health and/or environmental areas. One panel member shall be selected by the Town, one by the Institution, and the third panel member selected by mutual agreement of the first two panel members. The Institution may require that panel members sign confidentiality agreements similar to those being signed by other persons who are not employees of the Institution and are being granted access to confidential information. Establishment of the panel shall be completed within an additional period of not more than fourteen (14) days. The panel's recommended decision shall be rendered within fourteen (14) days after the date such dispute is referred to it. Any costs associated with the dispute resolution shall be borne by the Institution. The panel's recommended decision shall be forwarded to the IBC, which after giving full consideration and substantial deference to the panel's recommended decision, shall take any further action it deems appropriate. Final disposition of the disputed approval shall be communicated to the Town through the Board of Selectmen.

**SECTION 7. <u>Permits, Annual Reports, Inspections and Fees</u>.**

No research or production involving rDNA Materials or Biological Agents in the Town of Grafton may be undertaken without a permit from the Board of Health. Institutions are responsible for obtaining all required federal, state and local permits and regulatory approvals for site location, construction, occupancy and use of proposed facilities before commencing operations under any permit granted pursuant to this bylaw.

Institutions shall submit a permit application to the Board of Health, signed by the Institution's Chief Research Officer and Biosafety Officer, which includes, (subject the provisions of Section 11 of this Bylaw), the following information:

- Name, address and phone number of the Institution
- Address of building at which permitted work will be performed
- Type and Biosafety Containment Level (e.g. rDNA Material at BSL-3, Biological Agents at BSL-3, Select Agents at BSL-2, or Select Agents at BSL-3) of the proposed work.
- Whether any of the proposed work will be "Large Scale"(e.g. rDNA Materials, Biological Agents, Select Agents)
- Name, address and contact information for Biosafety Officer, Chief Research Officer and Alternative Emergency Contact (if any)
- Executive Summary describing the Institution's general operations, regulated protocols, title and brief project descriptions, and the names of the Principal Investigators.
- A description of the Institution's procedures and policies relating to lab safety, including; training, inspections, transportation, waste disposal, decontamination, pest control, termination of work, evacuation and emergency response.
- Documentation of an Occupational Health program including a description of any medical surveillance required for employees.
- Institutional Biosafety Committee membership (names, affiliations and curricula vitae).

    a. Prior to commencing operation and every two years thereafter, the Institution shall complete and submit a permit application or renewal. The BOH shall issue such permit upon certification by the IBC to the Board of Health and an independent finding by the Board of Health that the Institution is in compliance with the provisions of this Bylaw and NIH Guidelines and BMBL. The submission of the IBC certification and independent finding by the BOH shall occur within sixty (60) days of submission of a completed permit application, including all information therein required. The permit shall cover all laboratories at the Institution.

    b. Each Institution's IBC shall submit an annual report on any research or production involving rDNA Materials, Biological Agents, and Select Agents to the Board of Health, which report shall include (i) a list of IBC members' names and their affiliations, a curriculum vitae and (ii) a report on quality assurance and safety efforts made during the reporting period with respect to laboratories engaged in research or production involving rDNA or Biological Agents. Any change in IBC membership, research or production should be reported within ten business days to the BoH.

    c. The Board of Health or its representative may annually inspect laboratories which have been permitted to conduct work with rDNA Materials and/or Biological Agents, to ensure compliance with the provisions of this By-Law. Such inspection shall be scheduled in advance with the Institution's Chief Research Officer or Biosafety Officer and shall be carried out in a manner that maintains the health and safety systems of such laboratories.

d. A fee shall be charged for issuance or renewal of each permit, which fee is intended to cover the expenses of the annual inspection and costs incurred by the BoH for issuance of permits.

**SECTION 8. Environmental Surveillance Programs**.

All institutions engaged in research or production involving rDNA Materials or Biological Agents within the Town of Grafton shall provide appropriate medical and environmental surveillance programs in accordance with NIH guidelines.

a. The environmental surveillance program shall include a plan for the disposal of waste to ensure that rDNA Materials or Biological Agents will not be released into the environment.

b. In accordance with the Grafton Biological Emergency Response Plan administered by the Grafton LEPC, the Institution's emergency response plan shall include provisions to train representatives or consultants of the Grafton LEPC, BoH, Grafton Fire Department and the Grafton Police Department in the procedures to be used in the event of an emergency. A copy of the Institution's list of Biological Agents registered with the IBC, included as part of the Grafton Biological Emergency Response Plan, shall also be made available annually to the BoH.

c. Any release into the environment of rDNA Materials or Biological Agents posing a threat to public health and safety must be immediately reported in accordance with the terms of the Grafton Biological Emergency Response Plan.

d. The Institution shall cooperate with the state and local public health departments by reporting any research-related illness or accident arising from such Institution's research with rDNA Materials or Biological Agents that may be hazardous to the public in accordance with the Grafton Biological Emergency Response Plan and NIH guidelines as well as MADPH regulation 105 CMR 300.000 Reportable Diseases, Surveillance and Isolation and Quarantine Requirements in accordance with MGL Chapter 111. If the affected individual(s) does not reside in Grafton, the required surveillance information will be reported to the Health Department where they reside. The results of investigations conducted into any research-related illness or accident should also be reported back to the BoH within seven days of completion.

**SECTION 9. Penalties**.

Any Institution, person, or organization that violates any provision of this By-Law shall be punished by a fine of up to $300 for each separate violation. Each day shall constitute a separate and distinct offense.

**SECTION 10. Enforcement.**

Enforcement of this By-Law shall be the duty and responsibility of the BoH. In appropriate circumstances, the Board of Health may also deem any violation of this By-Law to be a nuisance pursuant to Massachusetts General Laws c. 111 and may take such action as it deems proper. In addition to any other penalties set forth herein, the BoH, after notice to the Institution and an

opportunity for the Institution to be heard, may order a suspension of any work permitted to be conducted under this By-Law until such violations are corrected and may revoke any permit if it finds that the Institution has repeatedly, through gross negligence, or deliberately violated any of the provisions of this By-Law or regulation promulgated hereunder, or any other law, state or federal or any standards applicable thereto. The BoH reserves the right to hire a mutually agreed upon (by the BoH and the Institution) biomedical expert at a reasonable cost to the Institution in order to administer and enforce this By-Law.

**SECTION 11. Confidentiality.**

Proprietary documents as designated by an Institution will be separated from documents available to the public in accordance with the Public Records Law. The BoH shall develop procedures to protect the confidentiality of any such proprietary information and any information which, if released, could jeopardize the health and safety of the public (including, without limitation, lab locations and security measures).

**SECTION 12. Exclusions**.

The provisions of this By-Law are not intended to apply to clinical, non-research operations of doctors, dentists and veterinarians within the Town when governed by other local, state and federal agencies and regulations.

**SECTION 13. Appeals.**

Any Institution aggrieved by the final decision of the BoH with respect to the denial of a permit, failure to renew a permit, or any other order issued under the provisions of this By-Law may seek relief in the Superior Court of the Commonwealth of Massachusetts .

**SECTION 14**. **Severability**.

If any provision of this By-Law or the application thereof is held to be invalid by a court of competent jurisdiction, the invalidity of this By-Law shall be limited to said provision(s) and the remainder of this By-Law shall remain valid and effective. Any part of this By-Law subsequently invalidated by a new state law or modification of an existing state law shall be brought into conformity with the new or amended law.

(Replaced Existing Article 27, T.M. 10/20/08)

# ARTICLE 28A

## FIRE DEPARTMENT

**SECTION 1.** No member or officer shall remain an active member of the Fire Department once the member or officer turns sixty-five years of age.

(T.M. 5/7/90)

# ARTICLE 29

## USE OF LAKE RIPPLE

**SECTION 1.** Watercraft used on the Lake is limited to a maximum of five (5) horsepower motors.

**SECTION 2.** No person shall operate any watercraft or recreational vehicle at a speed greater than 20 MPH or in such a manner as to annoy or endanger lakeside residents, their property, or other recreational users of the lake or its facilities.

**SECTION 3**. No privately owned boats, motors, equipment and/or property may be beached or docked overnight on property owned by, or under the control of the Town of Grafton. Private property abutters may beach or dock boats, motors, equipment and/or property on their water frontage, if they so wish.

**SECTION 4**. All acts which pollute or litter the water supply and/or any part of the property of Lake Ripple are prohibited.

**SECTION 5.** All acts which damage the property of the Town of Grafton at Lake Ripple are prohibited. No persons shall damage, deface, destroy, remove or carry off any property, real or personal, under the care and control of the Town of Grafton at Lake Ripple. (10/20/03)

**SECTION 6**. Drinking alcoholic beverages, being drunk, breaching the peace, or other disorderly conduct offensive to the general public is strictly forbidden while using Lake Ripple or its facilities.

**SECTION 7.** No diving or swimming from the dam will be permitted.

**SECTION 8** No open fires will be permitted on the Town owned land and property abutting Lake Ripple without prior written permission from the Fire Chief.

**SECTION 9.** No person, except in an emergency, shall bring, land or cause to descend on Lake Ripple any aircraft.

**SECTION 10**. All persons using Lake Ripple or its facilities shall obey the lawful directions of Police Officers, persons in charge, Federal, State or Local Wardens, Rangers or Enforcement Officers and all regulatory signs.

**SECTION 11.** Whoever violates any provision of this Article of the By-Laws shall be liable to a penalty of Fifty Dollars ($50.00) for each offense. Each day of which the violation continues shall be deemed a separate offense. (T.M. 10/20/03)

# ARTICLE 30

# ALARM BY-LAW

**SECTION 1. Preamble.**

It is determined that the number of false alarms being made to the Police and Fire Department hinders the efficiency of those departments, lowers the morale of department personnel, constitutes a danger to the general public in the streets during responses to false alarms, and jeopardizes the response of volunteers; and that the adoption of the by-laws will reduce the number of false alarms and promote the responsible use of alarm devices in the Town of Grafton.

**SECTION 2. Definitions.** For the purpose of this By-Law the following definitions shall apply:

"**Alarm System**" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police and/or fire fighters are expected to respond. Fire alarm systems and alarms systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized instruction into a premises or an attempted break at a premises are included.

**"False Alarm"** means:

a. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents.

b. Any signal or oral communication transmitted to the Police or Fire Department requesting or requiring or resulting in a response on the part of the Police or Fire Department when in fact there has been no unauthorized intrusion, robbery, burglary, attempted threat, or fire or threat of fire, illness, injury or threat of life.

c. For purpose of this definition, activation of alarm systems by acts of vandals, by act of God, including but not limited to, power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbance shall not be deemed to be a false alarm.

**"User"** means the occupant of the premises containing the alarm systems.

**"Contractor"** means any firm or corporation in the business of supplying and installing alarm devices or serving the same.

**SECTION 3. Administrator**

a. There shall be in the Town an Administrator for alarm devices who shall have the powers and duties granted under this By-Law.

b. The Chief of Police or his designee shall be the Administrator under the direction and control of the Board of Selectmen which is authorized to adopt regulations for the administration of this By-Law.

**SECTION 4. Alarm Appeal Board**

a. There shall be in the Town an Alarm Appeal Board which shall have the powers and duties granted top it under this By-Law.

b. The Alarm Appeal Board shall consist of the Board of Selectmen

**SECTION 5. Registration Required**.

Each alarm user shall register his alarm device or devices with the Administrator prior to use; provided that alarm devices in use as of the effective date of this By-Law may be registered no later than sixty (60) days from such date.

**SECTION 6. Confidential Information.**

All information in the possession of the Administrator, the Police Department or the Fire Department concerning particular alarm users and particular alarm devices shall be confidential and shall not be divulged without the written consent of the alarm user or users concerned.

**SECTION 7. Control and Curtailment of Signals Emitted by Alarm Systems**

a. Every user shall submit to the Police and/or Fire Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed.

b. All alarm systems installed after the effective date of this By-Law which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within ten (10) minutes after activation of the alarm system.

**SECTION 8. Penalties, or violation of Section 7**.

Upon receipt of three or more false alarms within a calendar year. (T.M. 10/20/03)

a. The Police or Fire chief may in writing order the user:

1. To discontinue the use of the alarm
2. May disconnect any direct connections to the Police or Fire Department
3. May order that further connections to the communications console in the Police or Fire Station will be contingent upon the user equipping any alarm system with a device that will shut off any audible horn or bell within ten (10) minutes after activation of the alarm system.

b. The user shall be assessed a false alarm service fee for each false alarm in excess of three occurring within a calendar year. The fee schedule shall be: 4th occurrence - $25.00; 5th

occurrence - $50.00; each subsequent occurrence - $100.00. All fees assessed hereunder shall be paid to the Town Treasurer for deposit in the general fund. (T.M.10/20/03)

**SECTION 9. Notification and Appeal**

**a. False Alarm Charges**

1. The Administrator shall notify the responsible alarm user of any false alarm charge by mail. Within thirty (30) days after the mailing of such notice, the alarm user may file with the Administrator information to show that the alarm was not a false alarm within the meaning of this By-Law.
2. The Administrator shall consider such information, reaffirm or rescind the false alarm charge, and notify the alarm user of his decision by mail. Within thirty (30) days after the mailing of such notice, the alarm user may file with the Alarm Appeal Board an appeal in writing.

**b. Appeal to the Alarm Appeal Board**

Upon receipt of a timely appeal from a false alarm charge, the Alarm Appeal Board shall hold a hearing to consider it and shall mail notice of the time and place of said hearing to the alarm user taking the appeal at his last known address at least fifteen (15) days before the hearing. On the basis of information provided by the alarm user and other information introduced at the hearing, the Board shall affirm the charge if it finds that the charge was properly imposed or rescind the charge if the charge was not properly imposed.

**c. Notice to Include Instructions**

Each notice of a false alarm charge or the reaffirmation of such a charge by the Administrator shall refer to and provide instructions concerning the alarm user's right to further recourse by filing information with the Administrator or an appeal with the Alarm Appeal Board, as the case may be.

**SECTION 10. Appeal Fees**

a. There shall be a fee of $10.00 for each appeal to the Alarm Appeal Board.

b. The amount of the fee for taking an appeal may be raised or lowered from time to time at the discretion of the Alarm Appeal Board.

**SECTION 11. Charges and Fees Paid into General Fund.** Charges for false alarms and appeal fees will be collected by the Administrator and deposited in the general fund.

**SECTION 12. Town Assumes no Responsibility for Devices.** Notwithstanding the provisions of this By-Law, the Town, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any alarm device or of the alarm monitoring facilities at Police and Fire headquarters. No liability whatsoever is assumed for the failure of such alarm devices or for monitoring facilities or for failure to respond to alarms or for any other act or omission in connection with such alarm devices. Each alarm user shall be deemed to hold and save harmless the Town, its departments, officers, agents and employees from liability in connection with the alarm user's alarm device.

**SECTION 13. Penalty for Certain Violations.** Any person who performs or causes to be performed any of the following acts shall be subject to a fine for each such act:

a. Intentional causing of a false alarm - $100.00.

b Failure to register an alarm device or give notice of changes in registration information as required by this By-Law; each day of such failure shall constitute a separate violation subject to a fine of $25.00.

**SECTION 14. Enforcement of this By-Law.** The Town, upon authorization by the Administrator may institute civil proceedings to enforce the provisions of this By-Law.

**SECTION 15. Exceptions.** The provisions of this By-Law shall not apply to alarm devices on premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

**SECTION 16. Severability**. The invalidity of any part or parts of this By-Law shall not affect the validity of the remaining parts or in any way act thereon. (T.M. 5/22/92)

# ARTICLE 31

## OPEN BURNING

**SECTION 1.** No person shall set, maintain or increase a fire in the open air at any time except by permit issued by the Fire Department in accordance with Section 13 of Chapter 48 of the Massachusetts General Laws.

**SECTION 2.** In addition to any other conditions placed upon the open burning permit the fee of which shall be set by the Board of Selectmen, there shall be no open burning on Sundays.(T.M. 5-14-2012

**SECTION 3.** Whoever violates any provision of this By-Law may be penalized by a noncriminal disposition as provided in General Laws, Chapter 40, Section 21D. For the purposes of this By-Law, the Fire Chief and all Town Police Officers, shall be the designated enforcing persons. Each day on which any violation of this By-Law occurs shall be deemed to be a separate offense subject to the following penalties:

| VIOLATION | FINE |
|---|---|
| Burning without a permit | $100.00 |
| Burning after 4:00 PM | $25.00 |
| Fire Out of Control | $100.00 |

(T.M. 10/17/94)

# ARTICLE 32

# TOWN ADMINISTRATOR

## Appointment of the Town Administrator

**SECTION 1.** The Board of Selectmen shall appoint the Town Administrator as set forth in Article 4 of the Town Charter as modified by this article.

**SECTION 2.** The minimum qualifications of applicants for the position of town administrator shall, in addition to the qualifications stated in Section 4-1 of the Charter, have the specific qualifications as follows: (a) an earned bachelor's level degree from a recognized, accredited college or university, (b) served full-time as the chief administrative officer of a city or town for not less than one year, or has served full-time as an assistant chief administrative officer of a city or town for not less than three years, or has served full-time as an agent of the Board of Selectmen pursuant to G.L. Chapter 41, Section 23A for not less than three years, or any combination of the above for a period for not less than three years.

## Search Process

**SECTION 3**. There shall be a screening committee responsible for reviewing all applications for the position of town administrator consisting of nine persons who shall be chosen as follows: Board of Selectmen, School Committee, Planning Board and Board of Library Trustees shall designate one person, the Finance Committee shall designate two persons and three persons shall be chosen by the Town Moderator.

The Board of Selectmen shall, prior to the start of the search process, adopt a charge for the Screening Committee setting forth the particulars of the search process involving a time schedule, number of candidates to be selected as semi-finalists to be interviewed by the Board of Selectmen and any other directives the Board of Selectmen deems appropriate.

# ARTICLE 33

# SHADE TREE

**SECTION 1. Intent and Purpose.**

a. It is the intent of this by-law to sustain environmental health, enhance the economic well-being and maintain the quality of life for the citizens of the Town of Grafton. Shade trees make an important contribution to the character and heritage of Grafton's neighborhoods. This by-law established policy and guidelines for ensuring the health and longevity of the Town's community forest.

b. It is the policy of the Town of Grafton to encourage new tree plantings on public as well as private property and to cultivate a healthy flourishing community forest.

c. It is also the intent of this by-law to mandate the creation and implementation of a community forest plan as part of the open space and recreation plan of the Town's Master Plan. A goal of this community forest plan will be to obtain and maintain eligibility for annual recertification as a recognized "Tree City, USA."

**SECTION 2. Definitions.** Whenever the following words or terms are used in this by-law, they shall be construed to have the following meanings:

"Shade Tree" - All trees within a public way or on the boundaries thereof shall be public shade trees; and when in any proceeding in which the ownership or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until contrary is shown. Public shade trees shall also include those planted with public funds in public ways or, if deemed expedient by the Tree Warden, upon adjoining land at a distance not exceeding 20 feet in accordance with MGL Chapter 87, Section 7.

"**Person**" - Any person, firm, association or corporation.

"**Town**" - The Town of Grafton and any of its departments and/or employees.

"**Tree Warden**" - The specific individual appointed by the Board of Selectmen to fill this position. Such person shall be qualified in accordance with MGL Chapter 87.

"**Heritage Tree**" - A public shade tree specifically designated by the Department of Environmental Management, Urban Forestry Program, upon recommendation by the Town Tree Warden to be a heritage tree. Heritage trees may qualify for state funds for maintenance under this program. A tree may qualify as a heritage tree if it meets one or more of the following criteria:

a. Old Age - 100 years or greater; Size - 32 inches diameter or greater;

b. Species rarity;

c. Association with specific historical event or person;

d. Healthy abnormality; e.g., shape, etc.;

e. Scenic enhancement; e.g., trees around Grafton Common;

f. Wildlife value.

"**Public Areas**" and "**Public Property**" - Includes all public parks and other lands owned, controlled, or leased by the Town except Conservation property.

"**Public Nuisance**" - Any tree or shrub or part thereof which by reason of its condition prohibits the use of any public areas, is infected with a plant disease, is infested with injurious insects or pests, significantly threatens existing public improvements, or immediately endangers the life, health, safety, or welfare of persons or property.

"**Shrubs**" - Any woody plant, normally having multiple stems and bearing foliage from the ground up.

"**Tree**" - Any woody plant greater than or equal to 1-1/2" diameter 12" from the ground.

"**Topping**" - The practice of cutting back large diameter branches of a mature tree to stubs. Topping is prohibited.

"**Community Forest**" - The sum total of all trees and other vegetation growing within the boundaries of a community.

"**Community Forest Master Plan**" - A document that describes the goals and objectives related to the management of a community forest.

"**Green Industry**" - Any and all businesses associated with landscaping, arboriculture, etc.

"**ANSI**" - American National Standards Institute.

"**Major Alterations**" - The following terms describe major alterations requiring a permit:

- Crown cleaning is the selective removal of one or more of the following items: dead, dying, or diseased branches, weak branches and waterspouts.
- Crown thinning is selective removal of branches to increase light penetration and air movement or reduce weight.
- Crown raising is the removal of the lower branches of a tree to provide clearance.
- Crown reduction, also called crown shaping, decreases the height and/or spread of a tree.
- Vista pruning is selective trimming of framework limbs or specific areas of the crown to allow a view of an object from a predetermined point.
- Crown restoration pruning should improve the structure, form and appearance of trees which have been severely topped, vandalized, or storm damaged.

**SECTION 3. Authorization and Establishment of the Public Shade Tree Management Advisory Board.**

a. There is hereby created a Public Shade Tree Management Advisory Board which shall serve in an advisory capacity to the Tree Warden on all matters pertaining to tree and landscape planning and maintenance of shade and other public trees in the Town of Grafton. The Board shall review the Annual Work plan for tree maintenance, planting, and removal prior to its implementation. The Board shall consist of six members, appointed by the Board of Selectmen, to be composed of the following: the Tree Warden who shall be an ex-officio non-voting member, one member of the historical commission, two members of the "green industry"; i.e., landscaping, arborists, etc., and two members at large. Board members will serve 3-year terms with appointments to be staggered to ensure board continuity. Board actions shall be governed by Article 7, Section 7-9 of Town Charter.

b. Board members will be responsible for establishing rules and regulations required for the implementation of this by-law. The board shall meet on a periodic basis as determined by its membership.

c. The Tree Warden is hereby tasked to develop an Annual Work Plan for tree maintenance and replacement and removal for each fiscal year. The plan shall include locations of work, designated work to be accomplished, and resources including funds required. Such plan will be reviewed by the Advisory Board. Any public hearings required for implementation of the Annual Work Plan will be conducted in accordance with MGL Chapter 87 (Shade Tree) and Chapter 40 (Scenic Road). The Annual Work Plan shall be submitted in time for the submission of the Annual Operating Budget and Capital Budget of the Town.

d. The Advisory Board shall also be responsible for fostering educational programs regarding continued care of Shade Trees and their importance to the Town's Character, shall publicize and foster participation in grants and tree planting programs of the State and/or private corporations/foundations.

e. The Advisory Board shall support and help stimulate interest in Arbor Day and Arbor Week programs in schools, conservation organizations, and private companies and families within the Town of Grafton.

**SECTION 4. Authorization of the Tree Warden.** The Tree Warden and the Public Shade Tree Management Board shall carry out the provisions of this by-law. As per Massachusetts Law Chapter 87 and Chapter 41, the Town of Grafton must appoint a Tree Warden. This individual shall be qualified by demonstrated training and experience in the field of arboriculture. It is recommended that this person be a Massachusetts certified arborist and possess a Massachusetts pesticide license. The Tree Warden shall be appointed by the Town Administrator with the approval of the Board of Selectmen as per Town Charter.

**SECTION 5. Responsibilities and Authority of the Tree Warden.**

a. The Tree Warden and the Shade Tree Management Advisory Board shall be responsible for the creation and implementation of a Community Forest Plan to be incorporated into the Town Open Space and Recreation Plan.

b. The Tree Warden shall be responsible for the periodic inspection of public shade trees to ensure they are free from disease or other conditions that may endanger tree health, or are a clear and immediate safety hazard to the public. The Tree Warden shall make every effort to repair and maintain shade trees prior to their removal in accordance with ANSI Standard A300 most current edition.

c. The Tree Warden is responsible for conducting public shade tree hearings in accordance MGL Chapter 87, Section 3. He shall conduct joint hearings with the Planning Board when required under the Scenic Roads Law, MGL Chapter 40, Section 15c.

d. The Tree Warden shall be responsible for the location, selection, and identification of any trees which may qualify as "heritage trees" and shall promptly forward such recommendation to the Department of Environmental Management, Urban Forestry Program for consideration for future preservation. Any person may submit a petition recommending a tree which they believe qualifies as a heritage tree. Upon receipt of the petition, the Tree Warden will hold a duly advertised public hearing to acquire public input on the tree so recommended. Upon completion of the public hearing, the Tree Warden may, at his discretion, submit the tree to the Department of Environmental Management for recognition as a heritage tree. Heritage trees so designated shall be marked by the Tree Warden and located on engineering plans used by the Town.

e. The Tree Warden shall be responsible for the marking of all public shade trees on scenic roads prior to the issuance of any driveway permit or building permit to prevent the inadvertent removal or damage to public shade trees on these roads. He shall mark any public shade tree so requested by any citizen.

f. The Tree Warden shall review all proposed subdivision plans for tree locations and measures taken to protect existing trees during construction and shall recommend to the Planning Board conditions required as part of their approval process.

g. The Tree Warden shall review all proposed subdivision plans and topography to ascertain location of any recommended heritage trees. Location of same shall be furnished to the Planning Board. The Planning Board is encouraged to grant waivers of current regulations for preservation of any identified heritage trees towards required street trees on an inch-for-inch basis.

h. The Tree Warden shall keep complete and accurate records on the condition of all public shade trees and all work completed on public shade trees to include all attempts at restoration or treatment of same prior to their removal.

i. The Tree Warden, in accordance with MGL Chapter 87, is hereby given authority, control, and supervision of all trees which now or which may hereafter exist upon any public property, except Conservation Commission property, street or highway belonging to the Town of Grafton, and over all trees which exist upon any private property in the Town of Grafton, when such trees are in such a hazardous condition as to immediately

endanger the public health, safety, and welfare. This power includes, but is not limited to, the power to enforce the rules, regulations, and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges, and other plants upon the right of way of any street, alley, sidewalk, park, or other public place in the Town in accordance with this by-law and MGL Chapter 87. In addition, pursuant to MGL Chapter 87, Section 2, the Tree Warden has the additional right to make regulations for the care and preservation of public shade trees and establish fines and forfeitures of not more than that specified in MGL Chapter 87, Section 2 in any one case for violation thereof; which, when posted in one or more public places, and, in towns, when approved by the selectmen, shall have the effect of town by-laws.

k. The Tree Warden has the authority to supervise all work done by permit as described in this by-law, and to affix reasonable conditions to the granting of permits.

**SECTION 6. Permit for Maintenance and Removal of Trees and Shrubs.**

a. **Permit Required** - No person, except on order of the Tree Warden, shall remove or do major alterations specified herein and as determined by the Tree Warden on a tree or shrub in the public right of way, park areas, and other town owned lands, or cause such act to be done by others without a permit for such work from the Tree Warden as herein provided. This includes all persons engaged in the business of cutting or removing trees or shrubs. Any person may apply for and obtain a permit, but all work must be accomplished or supervised by a certified arborist. The hearing and notice process required by MGL Chapter 87, Section 3 must be complied with.

b. **Permit Required and Conditions** - When a permit is requested, the Tree Warden must decide that the proposed work is necessary and in accord with the purposes of this chapter. The Tree Warden must take into account safety, health, and welfare, location of utilities, public sidewalks, driveways, and street lights.

c. **Exemption** - In cases of emergency situations such as hurricanes, snow/ice storms, or other acts of God where immediate removal is required of downed trees or limbs, work necessary to restore safe conditions is allowed. No permit shall be required to cultivate, fertilize, or water trees and shrubs on Town property.

d. **Permit Form, Expiration, Inspection** - Permits shall be logged by the Tree Warden on a standard form and include a description of the work to be done and shall specify the location. Any work done under such permit must be performed in strict accordance with this chapter and ANSI Standard A300 (most current edition). Permits issued under this section shall expire three months after date of issuance. There is no charge for permits.

e. The applicant shall be required to pay any advertising fees for public hearings.

**SECTION 7. Permits for Planting Trees and Shrubs.**

a. Planting - All trees and shrubs planted on all public property within the Town of Grafton become the property of the Town of Grafton.

(1) The planting of the following species is prohibited on any Town of Grafton's property, except with the express written approval of the Tree Warden:

(a) Ailanthus species (Tree of Heaven)

(b) Populus species (Poplar)

(c) Salix species (Willows)

(d) Catalpa species (Catalpa)

(e) Acer negundo (Boxelder)

(f) Acer saccharinum (Silver Maple)

(g) Robinia pseudoacacia (Black Locust)

(h) Acer paltanoides (Norway Maple)

(2) There is no charge for the permit. The applicant shall be required to pay any advertising fees for public hearings. The permit will be on a standard form. Permits logged under this section shall expire 6 months after date of issuance.

(3) No person shall plant any tree, shrub, or other vegetation in the public right-of-way, park areas, and other town owned lands without first obtaining a permit for such work from the Tree Warden. The request for such permit shall specify the size, species and variety of tree, shrub, or other vegetation to be planted shall be submitted to the Town Tree Warden for approval before planting. Approved tree and shrub lists as well as guidance on planting procedures are available at the Tree Warden office.

(4) Planting locations and minimum distances will be based on the mature size and landscape variables of the plants. Proper distances and planting locations shall be determined by the Tree Warden based on the recommendation contained in the Community Forest Plan.

b. No person shall plant on any public or private premises situated at the intersection of two or more streets or alleys in the Town, any hedge, tree, shrub, or other vegetation device that may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.

c. Only small maturing trees or shrubs are authorized for planting under any overhead utility wires or cables. No trees should be planted over underground utility systems unless approved by the Tree Warden.

d. In new subdivisions or when the development of commercial property occurs, the Tree Warden shall review landscaping plans and may suggest locations of street trees to be planted in any of the streets, and other public places henceforth developed. Tree species and sizes are to be recommended by the Tree Warden. Landscaping shall conform to the Grafton subdivision regulations unless otherwise waivered by the Planning Board.

**SECTION 8. Licensing.** All work performed on town owned trees is to be done by or supervised by a Massachusetts certified arborist or ISA certified arborist.

**SECTION 9. Trimming.**

a. To ensure high quality shade trees, shaped for maximum aesthetic appreciation and to prevent interference with traffic and utility wires, all newly planted trees in public lands shall be trimmed and shaped as necessary for five years after planting.

b. Trimming (pruning) of all trees in public areas shall be done according to current technical specifications of the American National Standard for Tree, Shrub, and other Woody Plant Maintenance-Standard Practices (ANSI A300). The current safety specifications of the American National Standard for Tree Care operations (ANSI Z133) apply. All specifications and procedures are available from the Tree Warden.

c. Trimming of trees or bushes upon private property may be accomplished, upon order of the Board of Selectmen, where the same obstructs, endangers, hinders or incommodes persons traveling on streets or sidewalks.

d. Trees shall not be topped.

**SECTION 10. Removal of Trees and Stumps.**

a. **Dangerous, Obstructive, and Infected Trees** - Any dead public tree or part thereof that the Tree Warden shall find to be infected, immediately hazardous so as to endanger the public or other trees, plants, shrubs grown in the Town, or to be significantly injurious to sewers, sidewalks, or other public improvements may be removed by the Town in accordance with the procedures set forth in MGL Chapter 87. All wood must be removed from the street prior to the end of each working day, and all holes shall be filled to normal grade level with topsoil as soon as practical.

b. Any public shade tree that has been removed, except those removed as a visibility hazard, shall be replaced with one or more trees at a location to be determined by the Tree Warden. Size and species shall also be determined by the Tree Warden.

**SECTION 11. Obstructions.**

a. Trees and shrubs standing in or upon any Town land or upon any private premises adjacent to any public right of way or public areas shall be kept trimmed so that the lowest branches projecting over the public street provide a clearance of not less than sixteen feet. The Tree Warden may waive the provision of this section for newly planted trees if determined that they do not interfere with public travel or endanger public safety. The Town shall have the right to trim any tree or shrub in the Town when it interferes with the safe use of streets or sidewalks or with visibility of any traffic control and it is so ordered by the Board of Selectmen.

b. Clearance from sidewalk to lower branches shall not be less than ten feet. All trees standing upon private property in the Town, the branches of which extend over the line of the street shall be trimmed (pruned) so that no branches shall grow or hang over the line of the sidewalk lower than ten feet above the level of the sidewalk.

**SECTION 12. Prohibited Acts.**

a. **Damage to Public Trees** - No person shall, without the consent of the owners in the case of a private tree or shrub or without written permits from the Tree Warden in case of Town owned trees, do or cause to be done by others any of the following acts:

(1) Secure, fasten, or run any rope, wire, sign, unprotected electrical installation, or other devices or material to, around, or through a tree or shrub except to secure leaning or newly planted trees.

(2) Break, injure, mutilate deface, kill or destroy any tree or shrub.

(3) Remove any guard, stake, or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space above the base of a public tree or shrub designed to permit access of air, water, and fertilizer.

(4) Attach any sign, poster, notice, or other object on any tree, or fasten any guy wire, cable, rope, nails, screws, or other devices to any tree, except that the Town may authorize tying temporary signs to trees when necessary.

(5) Cause or encourage any fire or burning near or around any public tree.

b. **Excavation** - All trees on any Town owned land near excavation or construction of any building, structure, or street or utility work, shall be sufficiently guarded and protected by those responsible for such work as to prevent injury to said trees. No person shall excavate any ditches, tunnels, or trenches, or install pavement within a radius of ten feet from any public tree without a permit from the Tree Warden.

**SECTION 13. Requirements and Penalties.**

a. Any person who violates any provision of this by-law or who fails to comply with notices issued pursuant to provisions of this by-law, shall be subject to fines of up to $300 for each separate offense. Any builder, contractor, or agent who intentionally assisted in the commission of any such violation shall be liable for each separate violation. All such violations which are of a continuing nature shall constitute a separate offense for each day of such continuance, and each tree removed shall constitute a separate offense. Any tree removed in violation of this by-law shall also be replaced by the violator on an inch-for-inch basis.

b. **Fines** shall be assessed and collected under MGL Chapter 21D adopted as a part of this by-law. The Tree Warden shall have the requisite police power established under MGL Chapter 21D.

c. **Appeal** - Any person who receives any order under this by-law from the Tree Warden and objects to all or any part thereof shall have the right to appeal such order. The Board of Selectmen shall hear such appeal within 30 days of receipt of written notice of the appeal. The Board of Selectmen shall by letter notify the party appealing the order of its decision within ten days after the hearing closes and file written decision with the Town Clerk.

**SECTION 14. Evaluation and Future Update of By-Law**. A successful implemented management strategy must be monitored to ensure that progress is being made and standards are being met. Evaluation provides the feedback necessary to determine whether the management strategy is working. Periodic evaluation also provides an opportunity to reassess the needs and goals of the community. The management strategy may need to be adjusted to reflect new or altered goals. By providing for regular evaluation as part of the management process, the need for change can be identified before a crisis develops. Evaluation methods include surveys and record keeping as well as public opinion heard through polls or hearings.

The Tree Warden and the Shade Tree Management Advisory Committee shall conduct periodic evaluations of this by-law and implementing instructions and policies.

**SECTION 15. Severability.** Should any part or provision of this by-law be determined by a court of law to be invalid, the same shall not affect the validity of the by-law as a whole nor any part thereof other than the part found invalid.

(ATM 10/16/00)

# ARTICLE 34

# COMMUNITY PRESERVATION COMMITTEE

## Chapter 1: Establishment and Membership

Grafton hereby establishes a Community Preservation Committee consisting of nine (9) members pursuant to G.L. Chapter 44B. The Committee will be responsible for making recommendations to Town Meeting on Community Preservation.

The composition, terms, and appointment of the Committee shall be as follows: One member of the Conservation Commission as designated by the Commission; one member of the Historical Commission as designated by the Commission; one member of the Grafton Housing Authority as designated by the Authority; one member of the Planning Board as designated by the Board; one member of the Recreation Commission as designated by the Commission; and four at-large members as appointed by the Board of Selectmen.

At-large members shall be appointed to the following initial terms: One for a one-year term, two for two-year terms, and one for a three-year term. All subsequent terms will be for three years and all members of the Committee may be reappointed.

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

## Chapter 2: Duties and Responsibilities

The Community Preservation Committee shall have all the duties and powers as set forth in Section 5 of the Massachusetts Community Preservation Act, including but not limited to the following:

(a) The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Recreation Commission, and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities, and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding the hearing in a newspaper of general circulation in the Town.

(b) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation, and preservation of open space; for the acquisition and preservation of historic resources; for the acquisition, creation, and preservation of land for recreational use; for the creation, preservation, and support of community housing; and for rehabilitation or restoration of such open space, historic resources, land for recreational use, and community housing. The Community

Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(c) Each year, the Committee shall recommend that Town Meeting appropriate or set aside for future use at least 10 percent of all CPA revenues for open space (not including recreational open space), at least 10 percent for historic preservation, and at least 10 percent for community housing.

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

(e) Each fiscal year, the Committee shall submit to Town Meeting an operational and administrative budget which cannot exceed five (5) percent of the annual revenues of the Community Preservation Fund.

**Chapter 3: Requirement for a Quorum and Cost Estimates**

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

**Chapter 4: Amendments**

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

**Chapter 5: Severability**

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

**Chapter 6: Effective Date**

Each appointing authority shall have sixty (60) days after approval by the Attorney General to make their initial appointments. Should any appointing authority fail to make their appointment within that allotted time, the Town Moderator shall make the appointment.

(ATM 05/13/02)

# ARTICLE 35

# AFFORDABLE HOUSING TRUST BY-LAW

## Chapter 1: Purposes

The purpose of the Affordable Housing Trust Fund (hereinafter "Trust") shall be to provide for the creation and preservation of affordable housing in the Town of Grafton ("the Town") for the benefit of low and moderate income households and in furtherance of this purpose, to acquire by gift, purchase, or otherwise, real estate and personal property, both tangible and intangible, of every sort and description; to use such property, both real and personal, in such manner as the Trustees shall deem most appropriate to carry out such purpose; provided however, that all property comprising this Trust and the net earnings thereof shall be used only in the Town exclusively for the benefit of all of the inhabitants of the Town for the creation and preservation of affordable housing therein.

## Chapter 2: Tenure of Trustees and Appointment

The trustees hereunder shall be appointed by the Board of Selectmen. Trustees shall serve for a term not to exceed two years and may be reappointed at the discretion of the Board of Selectmen. Only persons who are residents of the Town of Grafton shall be eligible to bold the office of Trustee. Any Trustee who ceases to be a resident of the Town shall cease to be a Trustee hereunder provided that a written notification of the change in residence has been filed with the Town Clerk.

Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk and recorded with the Registry of Deeds and filed with the Land Registration Office. Any Trustee may be removed or suspended by the Board of Selectmen pursuant to the Town Charter, Section 7-8.

If a Trustee shall die, resign, be removed or suspended, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk and recorded with the Registry of Deeds and filed with the Land Registration Office. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees.

Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder. There shall be no more than six nor less than five Trustees of the Trust.

## Chapter 3: Meetings of the Trust

There shall be monthly meetings if the Trust at such time and at such place as the Trustees shall determine. A written notice stating the place, day, hour, and agenda of each Meeting of the Trust shall be posted at Town Hall at least 48 hours before the date of such meeting in accordance with G.L. c. 39 § 23B. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

**Chapter 4: Powers of Trustees**

1. The powers of the Trustees, all of which shall be carried on in furtherance of the purposes set forth in General Laws Chapter 44 Section 55C, shall include the following:

    a. With respect to all real and personal estate at any time held by them as if they were absolute owners thereof, and without limiting the foregoing generality:

    b. to solicit and accept grants, gifts, devices and bequest or otherwise acquire real or personal property;

    c. to invest any of the trust property in such manner as they may deem advisable without being limited as to the kind or amount of any investment;

    d. to sell and exchange any or real personal property or any interest therein for such consideration and upon such terms and conditions as they deem advisable;

    e. to join with others in the acquisition of real property or any interest therein;

    f. to borrow money and mortgage or pledge any part of the trust estate assets and issue notes or other indebtedness;

    g. to join with others in borrowings, mortgages and pledges and to guarantee and become surety on obligations of others in transactions in which the Trust has an interest;

    h. to execute, as lessor or lessee leases, including for terms expiring after the possible expiration of the Trust;

    i. to restore, construct, repair and maintain buildings and make other improvements and establish such reserves as they deem necessary therefore;

    j. to pay, compromise, or adjust all obligations incurred and rights acquired in the administration of the Trust;

    k. to obtain advice of counsel and to rely thereon;

    l. to employ such other persons, agents, brokers, managers, accountants or advisors as they may deem advisable and to pay reasonable compensation and expenses, apportioning same between income and principal as the board deems advisable; and

    m. to execute, acknowledge and deliver all such contracts, deeds, mortgages, leases, discharges, and partial releases of mortgages, or other instruments as they may deem advisable in the course of the administration of the Trust.

2. In accordance with G.L. c. 44 § 55C (16) (d), all moneys paid to the Trust shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the trust become Trust property, and to be expended, these funds need not be further appropriated. All moneys remaining in the trust at the end if any fiscal year, whether or not expended by the Trustees within one (1) year of the date that they were appropriated into the trust, remain trust property.

The Trustees shall have these and all powers set forth in G.L. c. 44 § 55C, and shall refrain from exercising any powers in such manner as to violate the provisions of said statute.

**Chapter 5: Acts of Trustee**

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effects as though executed by all the Trustees. The Trustees may, by instrument executed by all the Trustees, delegate to any attorney, agent, or employee such other powers and duties as they deem advisable, including power to execute, acknowledge or deliver instruments as fully as the Trustees might themselves and to sign and endorse checks for the account of the Trustees of the Trust. The Trustees shall not delegate the authority to amend the Trust and no such delegation shall be effective. No Trustee shall be requited to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate. No one dealing with the Trustees need inquire concerning the validity of anything the Trustees purport to do or see to the application of anything paid to or upon the order of the Trustees. No Trustee shall be liable for the acts, negligence or defaults of any other Trustee or any employee, agent, or representative of the Trustees selected with reasonable care, not for errors in judgment, nor mistakes of law or fact made in good faith nor in reliance in good faith on advice of counsel nor for other acts or omissions in good faith.

**Chapter 6: Liability**

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town. The Trust is a public employer and the Trustees are public employees for purposes of G.L. c. 268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. c. 258.

**Chapter 7: Accounts**

The books and records of the Trust shall be audited by an independent auditor in accordance with accepted accounting practices. The results of the audit shall be provided to the Town. The Trust will give an annual report of its activities to the Town

(T.M. 5/11/09)

# ARTICLE 36

# STORMWATER MANAGEMENT BY-LAW

## SECTION 1: Purpose

The purpose of this By-law is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and non-point source pollution associated with new development and redevelopment construction activity.

The Town of Grafton requires the use of Low Impact Development (LID) stormwater management practices whenever possible and better site design to minimize stormwater related impacts within the Town. The LID practices promoted in the Massachusetts Stormwater Management Regulations should be considered for use on development and redevelopment projects in the Town.

## SECTION 2: Applicability

This By-law applies to any land-disturbing activity in the Town of Grafton as defined here in §2. All other land disturbing activities below the thresholds established below do not require an administrative review but shall employ best management practices to ensure that erosion is controlled and that disturbed soil is contained on site.

**Stormwater Management Permit.** The following land-disturbing activities, whether new development or redevelopment, shall require a Stormwater Management Permit:

1. Excavating, grading, or other activity which disturbs an area of 40,000 or more square feet or a volume of earth resulting in a total quantity equal to or greater than 1,000 cubic yards.

The application for a Stormwater Management Permit shall include the submittal of a Stormwater Management Plan to the Conservation Commission. This Stormwater Management Plan shall contain sufficient information for the Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet, at a minimum, the Massachusetts Stormwater Management Standards as set forth in the DEP Stormwater Management Regulations, Volumes I and II and as amended from time to time. The Town of Grafton requires the use of nonstructural stormwater management practices, better site design practices or Low Impact Development (LID) practices, such as reducing impervious cover and the preservation of Open Space and other natural areas, to the maximum extent practicable.

## SECTION 3: Exceptions

The provisions of this By-law shall not apply to:

a. Work performed for normal maintenance or improvement of land in agricultural or forestry use;

b. The removal of hazardous and/or dead trees;

c. Routine maintenance of vegetation and removal of dead or diseased limbs or trees necessary to maintain the health of cultivated plants, to control noxious weeds or vines in accordance with a Department of Conservation and Recreation (DCR) approved Forest Management Plan, or to remedy a potential fire or health hazard or threat to public safety;

d. Repair or replacement of individual sewage disposal systems serving a single- or two-family dwelling when required by the Board of Health for the protection of public health;

e. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling, provided that such maintenance does not include the following:

- construction of any walls more than four feet in height;
- alteration of existing grades by more than two feet in elevation; or
- alteration of drainage patterns.

f. Construction of utilities other than drainage (gas, water, sewer, electric, telephone, etc.) that will not alter terrain or drainage patterns.

g. Routine maintenance and upgrade of existing municipal drainage system/stormwater system that will not significantly alter existing terrain or drainage system.

h. Routine maintenance and upgrading of existing public ways including reclamation and paving, and other routine maintenance activities that apply to roadway maintenance that will not significantly alter the existing terrain or drainage system.

**SECTION 4: Waivers**

The Commission may waive strict compliance with any requirement of this By-law or the rules and regulations promulgated hereunder, where such action:

a. Is allowed by federal, state and local statutes and/or regulations;

b. Is in the public interest; and

c. Is not inconsistent with the purpose and intent of this Bylaw.

Any applicant may submit a written request to be granted such a waiver. Such a waiver request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Bylaw does not further the purposes or objectives of this By-law.

All waiver requests shall be discussed by the Commission and a decision will be made by the Commission within 30 days of receiving the waiver request.

If, in the Commission's opinion, additional time or information is required for review of a waiver request, the Commission may continue consideration of the waiver request to a date certain

announced at the meeting. In the event the applicant refuses a continuance, or fails to provide the requested information, the waiver request shall be denied.

**SECTION 5: Administration - Permits, Determination, and Conditions**

The Grafton Conservation Commission, as established under M.G.L. C. 40, § 8C shall have authority to administer this Bylaw. The Conservation Commission shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Conservation Commission may be delegated in writing by the Conservation Commission to its employees or agents.

a. Review. The Commission and its agents shall review all applications for Stormwater Management Permits, conduct inspections, issue a final permit and conduct any necessary enforcement action. The applicant shall submit all additional information requested by the Commission to issue a decision on the application.

b. Standards. Projects shall meet the standards of the Massachusetts Stormwater Management Regulations.

c. Action. The Commission may:

   1. Approve the Stormwater Management Permit application and issue an objectives and requirements of this Bylaw;
   2. Approve the Stormwater Management Permit application and issue a permit with conditions, modifications or restrictions that the Commission determines are required to ensure that the project will protect water resources and meet the objectives and requirements of this Bylaw;
   3. Disapprove the Stormwater Management Permit application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this By-law.

d. Extensions. A Stormwater Management Permit shall be valid for three years from the date the permit is issued. The Commission may grant extensions for additional 1 year periods, upon written request for renewal no later than 30 days prior to expiration of the permit.

**SECTION 6: Coordination with other Boards**

Following receipt of a completed application, the Commission shall seek review and comments from the Planning Board, Board of Health, Building Inspector, and Department of Public Works. The Commission shall not make a decision on the Stormwater Management Permit until it has received comments from these entities or until 14 days have elapsed after receipt of the application materials without submission of comments thereon.

**SECTION 7: Notice and Hearings**

a. **Application**. A completed application for a Stormwater Management Permit shall be filed with the Commission. A permit, or a determination that a permit is not required, must be obtained prior to the commencement of land disturbing activity. The permit application requirements are specified in regulations adopted by the Commission.

In an appropriate case, the Commission may accept as the application and plans under this By-law any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

b. **Public Hearing**. The Commission shall hold a public hearing within 30 days of the receipt of a complete application, with written notice given at the expense of the applicant five days prior to the hearing. The applicant shall also notify abutters by certified mail at least five days prior to the hearing. The Commission shall make the application available for inspection by the public during business hours at the Town Hall. The Commission shall take final action within 21 days from the time of the close of the hearing unless such time is extended by agreement between the applicant and the Commission.

   In an appropriate case, the Commission may combine its hearing under this and regulations (310 CMR 10.00).

**SECTION 8: Operation and Maintenance Plans**

An operation and maintenance plan (O&M Plan) is required at the time of application for all projects subject to a Stormwater Management Permit. The maintenance plan shall be designed to ensure compliance with the permit, this By-law and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, are met in all seasons and throughout the life of the system. The Commission shall make the final decision on what maintenance option is appropriate in a given situation. The Commission will consider natural features, proximity of site to water bodies and wetland resource areas, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The operation and maintenance plan shall remain on file with the Commission and shall be an ongoing requirement. Requirements for the content of the O&M Plan and its implementation are specified in Stormwater Management Rules and Regulations associated with this Bylaw.

**SECTION 9: Certificate of Completion**

Upon the completion of the activities allowed under a Stormwater Management Permit, the applicant shall notify the Commission and request a final inspection and certificate of completion. The applicant shall submit an as-built plan prepared by a professional land surveyor or registered professional engineer along with certification from a registered professional engineer that all construction has been done in accordance with the approved stormwater management plan.

**SECTION 10: Stormwater Management Regulations**

The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this By-law after conducting a public hearing to receive comments on any revisions. After public notice and public hearing, the Commission shall have authority to promulgate rules and regulations to implement this By-law, to review permit applications, to perform monitoring and inspections, to grant or deny permits, and to enforce the provisions of this By-law, and to take any other actions reasonable and appropriate to implement this By-law.

**SECTION 11: Definitions**

The following definitions shall apply in the interpretation and implementation of this By-law:

"**Abutter**" — The owner(s) of land sharing a common property line with the owner of land that is the subject of an application and the owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of land that is the subject of the application as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town.

"**Agriculture**" — The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act (M.G.L. C. 131, §~40) and its implementing regulations (310 CMR 10.00) and any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the United States Department of Agriculture (USDA) Natural Resources Conservation Service.

"**Alteration**" —Any activity that will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alteration may be similarly represented as "alteration of drainage characteristics," and "conducting land-disturbing activities." Such changes include, but are not limited to: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

"**Applicant**" — Any "person," as defined below, requesting a Stormwater Management Permit for a proposed land-disturbing activity.

"**Best Management Practice (BMP)"** — Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

"**Clearing**" — Any activity that removes the vegetative surface cover. Clearing activities generally include disturbance or grubbing activity as defined below.

"**Cold Water Fishery**" – Environmental resources defined by Massachusetts Division of Fisheries & Wildlife as meeting at least one of three criteria:

1. Brook, brown or rainbow trout has been determined;
2. Slimy sculpin or longnose sucker are present; or
3. The water is part of the Atlantic salmon restoration effort or is stocked with Atlantic salmon fry or parr.

"**Development**" — The modification of land to accommodate a new use or expansion of use, usually involving construction.

"**Erosion**" – The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

"**Erosion And Sedimentation Control Plan**" — A document containing narrative, drawings and details developed by a qualified professional engineer (PE), a professional land surveyor (PLS), a registered landscape architect (RLA), or a certified professional in erosion and sedimentation control (CPESC), which includes best management practices or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction-related land disturbance activities.

"**Grubbing**" — The act of clearing land surface by digging up roots and stumps.

"**Land-Disturbing Activity or Land Disturbance**" — Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

"**Low-Impact Development (LID)"** — Development that results in minimized alterations of the land for a more sustainable land development pattern. The site planning process t first identifies critical natural resources and then determines appropriate building envelopes to preserve resources. LID also incorporates a range of best management practices (BMPs) that preserve the natural hydrology of the land, minimize impervious areas and preserve vegetation.

"**Massachusetts Stormwater Management Policy**" — The policy issued by the Department of Environmental Protection, as amended from time to time, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, M.G.L. C. 131, §~40, and the Massachusetts Clean Waters Act, M.G.L. C. 21, §~23-56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**"Municipal Storm Drain System or Municipal Separate Storm Sewer System (MS**4)" — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Grafton.

**"Non-Point Source Pollution"** — Pollution from diffuse sources, as opposed to discrete conveyances, caused by water, including rainfall or snowmelt, moving over or through the ground.

**"Operation and Maintenance Plan"** — A plan describing the functional, financial, and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

**"Outstanding Resource Waters (ORW)"** — Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Surface Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

**"Person"** — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

"**Point Source**" — Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

"**Pre-Development**" — Those conditions that exist at the time that plans for the land development of a site or parcel of land are submitted to the Committee. When phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

"**Post-Development**" — Those conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or parcel of land. Post-development also refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

"**Redevelopment**" — Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

"**Runoff**" — Rainfall, snowmelt, or irrigation water flowing over the ground surface.

"**Sediment**" — Mineral or organic soil material that is transported by wind or water from its origin to another location; the product of erosion processes.

"**Sedimentation**" — The process or act of deposition of sediment.

"**Site**" — Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

"**Soil** — Earth materials, including decomposed organic material, humic materials, sand, rock and gravel.

"**Stabilization**" — The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

"**Stormwater**" — Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

"**Stormwater Management Permit (SMP)"** — A permit issued by the Commission, which is designed to protect the environment of the Town of Grafton from the deleterious effects of uncontrolled and untreated stormwater runoff.

"**Stormwater Management Plan**" — A document containing narrative, drawings and details prepared by a qualified professional engineer (PE), a professional land surveyor (PLS), or a certified professional in erosion and sedimentation control (CPESC),which includes structural and nonstructural best management practices to manage and treat stormwater runoff generated from regulated development activity. A Stormwater Management Plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

"**Wetland Resource Area**" — Areas specified in the Massachusetts Wetlands Protection Act, M.G.L. C. 131, §~40, and in Article 25, General Wetlands Protection Bylaw, of the Town of Grafton.

**SECTION 12: Security**

The Commission may require the applicant to post a surety bond, cash, or other acceptable security before the start of any land-disturbing activity. The form of the bond/surety shall be approved by Town Counsel and the Town Treasurer, and be in an amount deemed sufficient by the Commission to insure that the work will be completed in accordance with the permit. Any performance bond or certificate of guarantee shall be executed and maintained by a financial institution, surety, or guaranty company qualified to do business in the Commonwealth.

**SECTION 13: Enforcement and Penalties**

The Commission or its authorized agent shall enforce this By-law, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

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

As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. C. 40, §~21D, in which case the Commission or authorized agent shall be the enforcing person. The non-criminal penalty for violations shall be $50 for the first violation, $100 for the second violation, and $300 for the third violation and each subsequent violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**SECTION 14: Inspection**

Filing an application for a Stormwater Management Permit grants the Commission, or its agent, permission to enter the site of the land-disturbing activity, as permitted by law, to verify the information in the application and to inspect for compliance with permit conditions.

**SECTION 15: Fees**

The Commission by regulation shall promulgate an application fee schedule for stormwater management permit applications and completion certificates. The fee schedule shall be reasonably related to the costs of processing, reviewing and acting upon the application. The fee specified in such a fee schedule shall be made payable to the Town of Grafton and shall accompany the permit application or request for certificate of completion. The Commission may require an additional fee for review of any change in or alteration from an approved permit. Said fee shall be paid into a special account set up by the Town Treasurer and may be expended by the Commission for the purpose allocated without further appropriation in accordance with the provisions of M.G.L C. 44, §~55E 1/2.

Pursuant to G.L. Ch. 44 §53G and regulations promulgated by the Commission, securing outside consultants, including engineers or other experts, in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

**SECTION 16: Appeals**

A decision by the Conservation Commission made under this By-law shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. C. 249 § 4.

**SECTION 17: Relation to the Clean Water Act.**

This By-law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule Statutes, and the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

**SECTION 18: Severability**

If any provision, paragraph, sentence, or clause of this By-law is held invalid for any reason by a court of competent jurisdiction, all other provisions shall continue in full force and effect.

(ATM 5/11/09)

# ARTICLE 37

# ILLICIT DISCHARGE BY-LAW

## SECTION 1: Purpose

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this by-law are:

- to prevent pollutants from entering the town's_municipal separate storm sewer system (MS4);
- to prohibit illicit connections and unauthorized discharges to the MS4;
- to require the removal of all such illicit connections;
- to comply with state and federal statutes and regulations relating to stormwater discharges; and
- to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

## SECTION 2: Definitions

For the purposes of this by-law, the following shall mean:

**"Authority"**: Board of Selectmen.

**"Authorized Administrative Agency"**: The Department of Public Works hereafter the DPW its employees or agents designated to enforce this by-law.

**"Best Management Practices (BMP)":** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**"Clean Water Act":** The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq*.) as hereafter amended.

**"Discharge of Pollutants":** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

**"Groundwater":** Water beneath the surface of the ground.

**"Illicit Connection":** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

**"Illicit Discharge"**: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit.

**"Impervious Surface":** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

**"Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System":** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the town of Grafton.

**"National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit":** A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

**"Non-Stormwater Discharge"**: Discharge to the municipal storm drain system not composed entirely of stormwater

**"Person"**: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**"Pollutant"**: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

(1) paints, varnishes, and solvents;
(2) oil and other automotive fluids;
(3) non-hazardous liquid and solid wastes and yard wastes;
(4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
(5 pesticides, herbicides, and fertilizers;
(6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
(7) dissolved and particulate metals;

(8) animal wastes;
(9) rock, sand, salt, soils;
(10) construction wastes and residues; and
(11) noxious or offensive matter of any kind.

**"Process Wastewater":** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

**"Recharge":** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**"Stormwater":** Storm water runoff, snow melt runoff, and surface water runoff and drainage.

**"Surface Water Discharge Permit":** A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

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

**"Watercourse":** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**"Waters of the Commonwealth:** All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

**"Wastewater":** Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

**SECTION 3: Applicability**

This by-law shall apply to flows entering the municipally owned storm drainage system.

**SECTION: Authority**

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

**SECTION 5: Responsibility for Administration**

The DPW shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the DPW may be delegated in writing by the Board of Selectmen to the DPW.

**SECTION 6: Regulations**

The Board of Selectmen may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the Board of Selectmen to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

**SECTION 7: Prohibited Activities**

**Illicit Discharges**. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

**Illicit Connections.** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

**Obstruction of Municipal Storm Drain System**. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from Board of Selectmen.

**SECTION 8: Exemptions**

Discharge or flow resulting from fire fighting activities.

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwater provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

(1) Waterline flushing;
(2 Flow from potable water sources;
(3) Springs;
(4) Natural flow from riparian habitats and wetlands;
(5) Diverted stream flow;
(6) Rising groundwater;
(7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;

(8) Water from exterior foundation drains, footing drains not including active groundwater dewatering systems, crawl space pumps.

(9) Discharge from landscape irrigation or lawn watering or air conditioning condensation;

(10) Water from individual residential car washing;

(11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;

(12) Discharge from street sweeping;

(13) Dye testing, provided writing notification is given to the DPW prior to the time of the test;

(14) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations,

(15) Discharge for which advanced written approval is received from the Board of Selectmen as necessary to protect public health, safety, welfare or the environment,

(16 For discharges pertaining to items defined in section 7 and 8 the Town shall require testing of currently conveyed or to be conveyed flow at the expense of the property owner. The town may also require a hydraulic capacity analysis of its drainage system to accommodate the flow conveyed or to be conveyed.

**SECTION 9: Emergency Suspension of Storm Drainage System Access**

The Board of Selectmen may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

**SECTION 10: Notification of Spills**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and [insert other appropriate departments]. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial

or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**SECTION 11: Enforcement**

The Board of Selectmen through the DPW shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

**Civil Relief.** If a person violates the provisions of this by-law, regulations, permit, notice, or order issued thereunder, the Board of Selectmen may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Orders:** The DPW may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:

(a) elimination of illicit connections or discharges to the MS4
(b) performance of monitoring, analyses, and reporting;
(c) that unlawful discharges, practices, or operations shall cease and desist; and
(d) remediation of contamination in connection therewith.

If the town determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or perform remediation, the violator and the property owner will be notified of the costs incurred by the town including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board of Selectmen within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board of Selectmen affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57 after the thirty-first day at which the costs first become due.

**Criminal Penalty:** Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than $ 250.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**Non-Criminal Disposition**: As an alternative to criminal prosecution or civil action, the Board of Selectmen may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D in which case the DPW shall be the enforcing town department The penalty for the 1st violation shall be $100.00. The penalty for the 2nd violation shall be $250.00. The penalty for the 3rd and subsequent violations shall be $300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**Entry to Perform Duties Under this By-Law:** To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Selectmen, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary.

**Appeals:** The decisions or orders of the Board of Selectmen shall be final. Further relief shall be to a court of competent jurisdiction.

**Remedies Not Exclusive**: The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

**SECTION 12: Severability**

The provisions of this by-law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this by-law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this by-law.

**SECTION 13: Transitional Provisions**

Residential property owners shall have (90) ninety days from the effective date of the by-law to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

(ATM 5/11/09)

# ARTICLE 38

# AGRICULTURAL COMMISSION

**SECTION 1. Purpose**

The mission of the Agricultural Commission, hereinafter "the Commission", is to represent the Town of Grafton's agricultural community and interests. The Commission once appointed shall develop a work plan to guide its activities. Such activities include, but are not limited to the following: serve as facilitators for encouraging the pursuit of agriculture in Grafton; promote agriculture-based economic opportunities in the Town; act as mediators, advocates, educators, and/or negotiators on farming issues for established Town Committees and Departments; and pursue all initiatives appropriate to creating a sustainable agricultural community.

**SECTION 2. Membership**

The Commission shall consist of five members who shall be Grafton residents, appointed by the Board of Selectmen. The initial term of two members shall be three years, of two members shall be two years, and of one member shall be one year. After the initial term, the term of a member shall be three years. The Board of Selectmen may appoint two alternates and any number of non-voting advisory members without residency restrictions. The term of an alternate member shall be one year. The Board of Selectmen shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments. The Commission may recommend appointees to fill vacancies.(T.M. 5/10/2010)

Adopted at Special Town Meeting, October 28, 1958 with subsequent amendments voted at Town Meetings as noted.

Approved by the Attorney General, December 26, 1958, and subsequently. Dates on file in the Town Clerk's office.

A TRUE COPY,
ATTEST:

_____

Donna Girouard Town Clerk

# APPENDIX A

## ADMINISTRATIVE CODE FOR THE CREATION OF A DEPARTMENT OF PUBLIC WORKS

In accordance with Article 5, Section 5-1 (b) of the Town Charter, a Department of Public Works is hereby created this 17th day of October, 1988.

### Background

Section 5-4 of the Town Charter mandates the creation of a department of public works, headed by a director appointed by the Town Administrator. The Department of Public Works shall assume all functions previously undertaken by the Tree Warden, Highway Department, Recreation Commission and Board of Health relating only to refuse collection and disposal.

### Structure

The Department of Public Works shall consist of the Highway and Sanitation Divisions each with the following responsibilities:

**HIGHWAY**

- Street, road, sidewalk construction and maintenance
- Storm drainage construction and maintenance
- Snow and ice control
- Park construction and maintenance
- Tree removal and other activities associated with the Tree Warden.
- All other functions relating to public works construction and maintenance not under the jurisdiction of the sewer, Cemetery or Engineering Departments

**SANITATION**

- Refuse collection and disposal
- Maintenance and/or operation of the sanitary landfill

### Director of Public Works

The Town Administrator shall be the director of public works responsible for the over-sight and administration of the department.

The superintendent of streets shall be responsible for the day to day operational aspects of the highway division as set forth in that position's job description.

The Board of Health will retain all its powers and responsibilities inherit with that body not in conflict with this code.

The Recreation Commission will retain all its powers held previously dealing with programs operated by that body. Only the construction and repair or recreational facilities will become the responsibility of the department of public works.

The Board of Selectmen, acting through the Town Administrator, shall be responsible for the overall supervision of the department of public works and for the establishment of policies and other guidelines to govern the operation of the department.

**Public Works Advisory Committee**

There shall be a public works advisory committee as set forth in Section 5-5 of the Town Charter. This body will be responsible as part of its duties to advise the Town Administrator and Board of Selectmen on matters dealing with the department of public works.

**Departments not Affected**

The Cemetery, Sewer, Building Inspector, Building Maintenance and Engineering Departments are not affected by this action and will remain separate and distinct departments of the Town.