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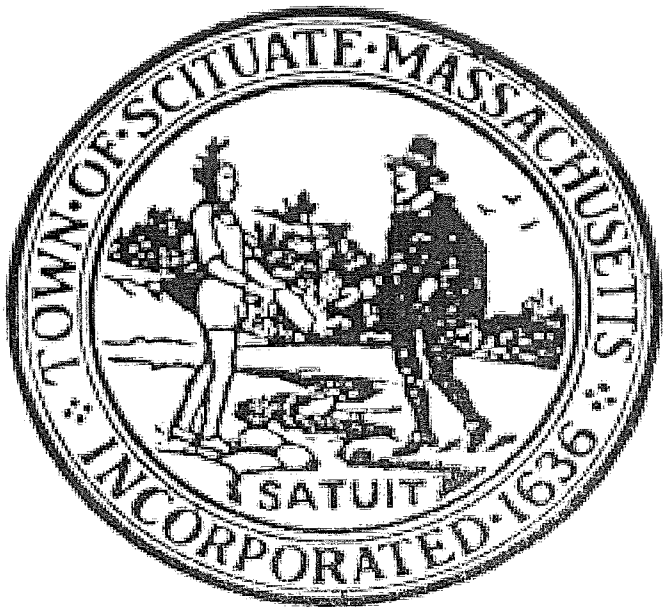
CODE OF GENERAL BYLAWS



Town of Scituate Massachusetts

Revisions voted at the Annual Town Meeting April 14, 2016

Approved by the Attorney General on June 16, 2016

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ZONING

PRINTED AND SOLD UNDER SEPARATE COVER

GENERAL INFORMATION

10100 GENERAL PROVISIONS

SECTION 10110 GENERAL BY-LAWS

A. The following provisions shall constitute the by-laws of the Town of Scituate, to be referred to hereafter as "The 1999 Code of By-Laws", which shall be in lieu of all by-laws heretofore in force, except the zoning by-laws.

B. These by-laws shall have no retroactive effect. The invalidity of any chapter or section of these by-laws shall not affect the validity of any chapter, section or by-law otherwise valid, and these by-laws shall remain in effect as amended from time to time, except for those chapters or section parts thereof which are determined to be invalid.

C. Any and all of these by-laws may be repealed or amended and other by-laws may be adopted at any Town Meeting, an article for that purpose having been accepted to be included in the warrant for such meeting.

D. Any amendments to these by-laws shall be drafted in the same form contained herein.

E. The by-laws of the town shall, at five-year intervals, after review as required by charter section 7-9, be published in a book or pamphlet form. In each year, between republications, there shall be published an annual cumulative supplement which shall contain all by-laws and amendments to the by-laws which have been adopted since the publication of the parent book or pamphlet. The Town Clerk shall be responsible for the publication of such book or pamphlet and of each annual cumulative supplement. Copies shall be kept available for distribution to the public in the office of the Town Clerk. At the discretion of the Town Clerk, the Zoning By-Laws may be published in a separate book or pamphlet.

SECTION 10120 DEFINITIONS

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the by-laws shall have the following meanings:

BY-LAWS -
The word "by-law" shall mean these general by-laws, the Zoning by-laws and any amendments adopted there-to by the town.

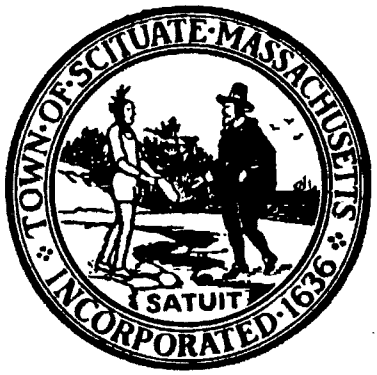
TOWN –
The word "town" shall mean the Town of Scituate.

MAJORITY VOTE –
The words "majority votes" shall mean a majority of those present and voting; provided that a quorum of the voting body is present.

MULTIPLE MEMBER BODY –
The words "multiple member body" shall mean any board, commission or committee consisting of two or more persons whether elected or appointed.

SECTION 10130 TOWN SEAL

The Town Seal shall be circular in shape and of a design as imprinted herein.
This device shall be considered the Town Seal of the Town of Scituate, effective whenever used as required.



The Town Clerk shall have custody of the Town Seal.

SECTION 10140 TOWN FLAG

A. The town flag shall be rectangular in shape and shall display design of the town seal and a pennant reading SCITUATE in blue on a field of gold. For ceremonial purposes and uses the flag may be fringed in gold.

10200 TOWN RULES AND REGULATIONS

SECTION 10210 ADOPTION

Every town officer and every multiple member body shall file with the Town Clerk a copy of its rules and regulations, if any, having the force and effect of law, and a copy of any revisions, or amendments thereto. Such copies shall be filed within two weeks of their adoption and shall not become effective until so filed.

SECTION 10220 PUBLICATION

The Town Clerk shall compile and publish the current text of such rules and regulations and make copies available for public distribution.

SECTION 10230 CRIMINAL AND NON-CRIMINAL DISPOSITION OF BY-LAW VIOLATIONS.

A. CRIMINAL COMPLAINT

Whoever violates any provision of these by-laws may, except as otherwise required by law, be prosecuted by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation brought in such manner shall be three hundred dollars.

B. NON-CRIMINAL DISPOSITION

Any provision of these by-laws, and any rule or regulation of a town officer, board or department, the violation of which is subject to a specific monetary fine or penalty, may, in the discretion of the town official who is the enforcing person and as an alternative to initiating criminal proceedings, be enforced in the manner provided in §21D of Chapter 40 of the General Laws. The term "enforcing person" shall mean the town official, if any, specifically designated in any Chapter, Section or provision of these by-laws, and any such rule or regulation, as being responsible for enforcing the same. In addition, the term "enforcing person" shall mean, with respect to any violation of any provision of these by-laws and whether or not specifically so designated, any police officer of the town. The non-criminal disposition method may also be used pursuant to this bylaw for violations of any rule or regulation of any municipal officer, board or department listed below, the violation or offense of which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following bylaws and rules and regulations are to be included within the scope of this bylaw, that the specific penalties, as listed here, shall apply in such cases and that, in addition to police officers, who shall in all cases be considered enforcing person for the purposes of this provision, the municipal positions, or person serving the functions of the same, shall also be enforcing persons for such violations or offenses. Each day on which any violation or offense exists shall be deemed to be a separate violation or offense. Nothing contained herein shall be deemed to require the use of the non-criminal disposition method. At the option of the appropriate enforcing person, criminal and/or civil action may also be utilized.

Any specific monetary fine or penalty that is set forth in any provision of these by-laws for the violation of same shall be considered to apply only to a non-criminal disposition of such violation, and shall not be construed as a limitation upon the monetary penalty recoverable through criminal proceedings.

CITE PENALTY	PROVISION (ENFORCING PERSON)	FINE
Section 30350	HOUSING STANDARDS (Director of Public Health & Personnel as designated by Director of Public Health)	First Offense - $100.00 Second Offense - $200.00 Each Additional Offense - $300.00
Section 30700	WETLANDS PROTECTION BY-LAW (Conservation & Natural Resources Officer)	First Offense - $100.00 Second Offense - $200.00 Each Additional Offense - $300.00

	BOARD OF HEALTH REGULATIONS (Director of Public Health & Personnel as designated by the Director of Public Health)	$25.00
Sections 920.1 & 930	ZONING BYLAWS (Building Commissioner and his Assistants)	$25.00
Section 32050	STORMWATER BYLAW (Town Planner and Conservation & Natural Resources Officer)	First Offense - $100.00 Second Offense - $200.00 Third Offense - $300.00 Subsequent Offense - $300.00
	SUBDIVISION RULES & REGULATIONS (Town Planner)	$300.00
	SCENIC ROAD BYLAW (Town Planner)	$300.00

C. SEVERABILITY CLAUSE

If any provision of this law is declared unconstitutional, invalid or illegal by a court, agency or body of competent jurisdiction, the offending provision shall be deemed stricken and shall not affect the validity of the remaining provisions.

SECTION 10240 LICENSING AUTHORITY

A. The Board of Selectmen shall be the licensing authority for the town. They shall grant, and have control over all licenses issued by them, except as otherwise provided in the General Laws of Massachusetts.

B. Unless otherwise provided in the General Laws or in these by-laws, no license shall be granted without at least seven days public notice of the application therefor, and a license granted under these by-laws may be revoked by the licensing authority.

C. The Board of Selectmen may license persons to be dealers in junk, old metals or second-hand articles in the town and no persons shall be a dealer without a license. Such licensees shall make their premises available to the Board of Selectmen or its designee for inspection at all times and such licensees shall keep on their premises records showing the date of each purchase of the aforesaid articles along with the name and address of the seller and a description of the article. No licensee shall purchase any article from a minor. The records and merchandise shall be available for inspection by the Board of Selectmen or its designee.

D. Except as otherwise provided by law, all license fees shall be established by the Board of Selectmen.

E. Effect of Non-Payment of Local Taxes, Fees, Etc. on Issuance of Licenses and Permits.

1. The Treasurer/Collector shall annually furnish to each department, board, commission or division that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-

month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

2. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party identified on a list of delinquent taxpayers furnished to the licensing authority by the Treasurer/Collector. Provided, however, that written notice is given by the licensing authority to the party and to the Treasurer/Collector, as required by applicable provisions of law, and further provided that the party is given an opportunity to be heard at any such hearing to be held not earlier than fourteen (14) days after said notice. In any such hearing, a certified copy of the current list of delinquent taxpayers shall be prima facie evidence in support by the licensing authority for denial, revocation or suspension of any license or permit to any party identified on the list of delinquent taxpayers. The Treasurer/Collector shall have the right to intervene in any hearing held by the licensing authority conducted with respect to such action to be taken pursuant to this section. 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.

Where the licensing authority has taken any action under this section, such license or permit affected thereby shall not be issued, renewed or reinstated until the licensing authority has received a certificate issued by the Treasurer/Collector attesting that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as of the date of issuance of the certificate.

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business of activity conducted in or on said property pursuant to M.G.L. Chapter 40, §57(d).

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

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

5. In accordance with General Laws, Chapter 40, § 57, this by-law shall not apply to the following licenses and permits: open burning permits (MGLC.48, §13); bicycle permits (MGL C. 85, §11A); sales of articles for charitable purposes (MGL C.101, §33); children work permits (MGL C. 149, §69); dog licenses (MGL C. 140, §137); fishing, hunting, trapping licenses (MGL C. 131, §12); marriage licenses (MGL C. 207, §28); and theatrical events, public exhibition permits (MGL C. 140, §181).

SECTION 10250 DELINQUENT LICENSES AND FEES

Any permit granting or licensing authority is authorized in accordance with the provisions of Massachusetts General Laws Chapter 40, Section 57 to deny any application for, or revoke or suspend any local license or permit including renewals or transfers issued to any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessment, betterments or any other municipal charge except that such bylaw shall not apply to open burning permits under Chapter 48, Section 13, bicycle helmets under Chapter 85, Section 11A; dog licenses under Chapter 140, Section

137, marriage licenses under Chapter 207, Section 28, or sales for charitable purposes under Chapter 101, Section 33, or take any other action relative thereto.

Any permit granting or licensing authority is authorized in accordance with the provisions of Massachusetts General Laws Chapter 40, Section 57 to deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise; who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of section twenty-one D or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges provided that:

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

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

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

(d) The board of selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred 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 license, section twelve of chapter one hundred

and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

10300 MULTIPLE MEMBER BODIES

SECTION 10310 REPEATED ABSENCES

Whenever a member of a multiple member body has been absent from three consecutive meetings of the same or a total of four meetings within a year, and a majority of the full membership vote that such absence has not been adequately explained, the multiple member body shall treat the absence as a resignation and shall report to the appointing authority that a vacancy has occurred.

SECTION 10320 SMOKING

No person shall smoke at any meeting to which the public has the right of access under §§23 (a) and 23 (b) of the Massachusetts General Laws, Chapter 39 (the "Open Meeting Law", so-called).

10400 FINANCES, LEGAL AFFAIRS, TOWN PROPERTY

SECTION 10410 FINANCES

A. ACCOUNTS RECEIVABLE

The treasurer-collector shall collect all accounts due the town and shall once in each week or oftener deposit in the town treasury all money received by him during the preceding week or lesser period.

B. AUDIT

The selectmen are authorized to order an annual audit of the town books under the supervision of the State Department of Revenue.

C. SALE OF DPW EQUIPMENT

In connection with the capital expenditures section of the Public Works Department budget, the town administrator is authorized to use any vehicle or piece of equipment as a "trade-in" or may sell the same at a private or public sale and the amount realized from such sale shall be returned to the Excess and Deficiency Account.

SECTION 10420 LEGAL AFFAIRS/TOWN PROPERTY

A. SUITS AND CLAIMS

The selectmen are authorized to prosecute compromise or defend any suit or suits within the Commonwealth in the name of the town and to settle any claim against the town.

B. SALE OF TAX TITLE PROPERTY

The selectmen are authorized to sell after first giving notice of the time and place of sale by publication one or more times at least one week before the sale in a newspaper published in the county of Plymouth and by posting in four public places in the town fourteen days at least before the sale, property taken by the town under tax title procedure provided that the selectmen or whomsoever they may authorize to hold such public auction may reject any bid which they deem inadequate.

C. SALE OF SURPLUS PROPERTY

The town administrator shall have the right to sell or other-wise dispose of town-owned useless or obsolete articles of personal property after the same have been appraised and after giving reasonable notice to the Board of Selectmen.

D. Gifts of Land

The selectmen are authorized to accept in the name of the Town gifts of land, easements, and interests in land for walkway and sidewalk purposes, storm drainage, including above ground and below ground drainage purposes, water and sewer purposes, slope maintenance purposes, and for the purpose of rounding street corners.

E. Disposition of Surplus Real Property

1. No officer or any public entity of the Town shall sell, lease, transfer, dispose of or make a change in the use of any town surplus real property unless such officer or town entity shall have first solicited and obtained in writing within thirty days, or for such period agreed upon by the entities involved:

   a. The advice of the Conservation Commission whether a change in the use of the property will have a detrimental effect on the natural resources and watershed resources of the town; and

   b. A recommendation from the Planning Board as to the best and highest use of such real property consistent with town-wide developments needs and priorities.

2. For purposes of this subsection, town real property shall mean any land and/or buildings owned, held, leased or controlled by the Board of Selectmen, Town Administrator, School Committee, or Conservation Commission, and that such property has been determined excess to municipal needs, but not including property referred to in Section 10420 B of this Section.

SECTION 10440 ADVISORY COMMITTEE REPORT

Whenever the warrant for any town meeting calls for the acceptance by the Town of any special or general act of the Great and General Court of the Commonwealth, the Advisory Committee shall cause the full text of such act to be made available to the voters. The Advisory Committee shall include with their report a summary and explanation of the act that shall be furnished by the Town Counsel at the request of the Advisory Committee.

10500 ACTS OF THE LEGISLATURE ACCEPTED BY THE TOWN

SECTION 10510 COMPILATION OF ACCEPTED ACTS

The Town Clerk shall compile and publish with this section a current list of all acts of the legislature accepted by the Town since 1900.

SECTION 10520 GENERAL LAWS ACCEPTED BY THE TOWN SINCE 1900 (ARRANGED BY CHAPTER)

CH.	SECTION	SUBJECT	EFFECTIVE OR ACCEPTED
6	73	Council on Aging	1969
11		Board of Health	1902
11	339	Selectmen - Three Year Term	1908
11	364, 365	Use of Official Ballots	1903
21	K	Housing Authority	1958
23		Election of Officers	1916
30B	12	Awarding contracts for up to five years	2009
31	6B	Uniforms for Police and Fire	1934
31	48	Police Department - Civil Service (Revoked ATM 2016)	1934
31	48	Fire Department - Civil Service (Repealed ATM 1992)	1937
31	49	Fire Chief - Civil Service	1934
32	89	Aid for Fire & Police & Dependents	1929
32B		Employees Contributory Group Insurance	1957
32B	8A	Employees Group Insurance Trust Fund	1976
32B	9A	Retired Employee Insurance	1971
32B	17	Terminated Employees - Continuation of Insurance	1982
32B	18	Medicare Part B retired spouses	2008
32B	20 (new)	Establish Post-Employment Benefit Liability Trust Fund	2011
39		Election of Officers	1916
39	23D	Mullin Rule	2013
40	4G	Competitive Bidding Dollar Amount	1980
40	6H	Repairs to Private Ways (Repealed. See Bylaws c.13, s.14.)	1977
40	6L	Foul Weather Gear	1972
40	8A	Development and Industrial Commission	1961
40	8C	Conservation Commission	1961
40	8D	Established an Historic Commission	2006
40	8G	Police Mutual Aid	1980
40	8J	Local Handicapped Commission	1986
40	13C	Workers' Compensation Insurance Fund (Revoked)	1992
40	13A	Workers' Compensation Self-Insured Fund	2010
40	21	Earth Removal	1970
40	22D	Police - Tow Cars	1971
40	42 A,B,C,D,E,F	Water Rates Lien on Real Estate	1935
40	57	Effect of Non-Payment of Local Taxes- Issuance of Licenses and Permits	1987
40	22F	License Fees and Service Charges	2007

40	58	Municipal Lien Charge Returned Check Replacement	2010
40A		Zoning	1977
41	19K	Compensation of Certification – Town Clerk, Treasurer/Collector	2006
41	38A	Town Collector (See Part I, Bylaws)	1931
41	41B	Direct deposit of employee paychecks	2014
41	55	Town Accountant	1924
41	81U	Finishing Subdivisions	
41	81A-J	Planning Board	1946
41	97	Police Department (Superceded 1951)	1923
41	97A	Police Department under Supervision o Chief (Repealed 1984)	1951
41	100A	Indemnification of Police and Fire (Repealed 1978)	1947
41	100F	Indemnification of Harbormaster (Repealed 1978)	1971
41	108H	Police Salary	2001
41	108L	Quinn Bill	1999
41	110A	Closing Public Offices, Saturday	1948
41	126 to 132 incl.	Police Chief Tenure (Chief Thomas Neilen)	1996
44	53C	Payment of Police - Off-Duty Details	1973
44	53D	Revolving Funds/Recreation	1994
44	53 ½	Beach Sticker revolving Fund	2010
44	53 1/2	Planning Board Revolving Fund	2003
44	53E1/2	Solar Array Revenue Revolving Fund	2011
44	53E ½	Planning Board Revolving Fund Admin. Applic. Fees	2004
44	53E ½	Council on Aging Revolving Fund	2003
44	53E1/2	Flu Vaccine Revolving Fund	2012
44	53 ½	Council on Aging Revolving Fund – Programming	2004
44	53 1/2	Board of Health - food-establishment inspection fund	2008
44	53 ½	School bus transportation fees	2008
44	53 1/2	Waterways Enterprise Fund	1995
44	53 1/2	Wind Turbine Revenue Revolving Fund	2011
44	53F ¾	PEG Access and Cable Related Special Fund	2016
44	65	Advance Vacation Pay for Town Employees	2007
44 B	3-7	Community Preservation Act/Community Preservation Committee	2002
48	638	Town Clerk's Tenure (William Wade)	1951
48	42	Appointment of Fire Chief	1930
48	42	Appointment of Fire Department; Abolition of Board of Fire Engineers	1943
48	58A	Permanent Fire Department	1947
50	22-Jan	Betterment Act	1914
59	5, Clause 17C	Exemptions - Widows & Elderly Persons	1982
59	5, Clause 17D	Exemptions - Widows (As added by Chapter 73, Acts of 1986)	1986
59	5, Clause 37A	Increase in Exemption - Blind Persons (As amended by Chapter 653, §3, Acts of 1982)	1983
59	5, Clause 41A	Exemptions - Elderly Persons (As amended by Chapter 138, §126, Acts of 1991)	1992
59	5, Clause 41B	Exemptions - Elderly Persons (As added by Chapter 653, §3, Acts of 1982)	1983
59	5, Clause 41C	Exemptions - Elderly Persons (As added by Chapter 73, Acts of 1986)	1986
59	5N	Allowance of Veteran's to Volunteer-in exchange for reduction on R.E. tax bill	2013
59	7K	Senior Citizen Tax Program	2001
59	21A	Compensation for Assessor or Assistant Assessor	1972
60	15	Demand Fees	2009
60A	1	Exempts Former Prisoners of War from Payment of Auto Excise Tax (As amended by Chapter 597, Acts of 1982)	1984
60C		Town scholarship fund: deposits, distribution	2010
64L	2A	Local Meals Tax	2013
71	40	Increases All Teacher Salaries to at least $18,000. (As amended by	1985

		Chapter 188, Acts of 1985)	
71	71F	Separate Accounts - Non-Resident Students' Tuition	1983
71	16-161	Regional School	1960
80	1	Street Acceptance Road Repair Improvements Special Revenue Fund	2012
85	11A	Bicycle Law	1943
90	20A 1/2	Parking Fines - Collection & Administration	1982
90	20C	Parking Zones and Fees	1971
103		Plumbing	1910
103A	54	Absentee Voting Procedures	1937
128		Plymouth County Extension Service	1972
130	8A	Enforcement of Marine Fisheries Laws	1966
136	21-25	Sunday Sports	1929
136	21-28	Games on Sundays	1922
138	17B	Additional Licenses Sale of Alcoholic Beverages	1993
140	147A	Removal of Town from County Dog Fund	1988
147	16B	Police Off-Duty	1945
147	16C	5-Day Week for Police	1954
148	26C	Smoke or Heat Detector – Multi-family	1980
148	26E	Smoke or Heat Detector-Residences	1980
148	26G	Automatic Sprinkler Systems-New Buildings or Additions	1984
148	26H, 26I	Automatic Sprinklers-Boarding Houses	1991
148	56	Open-Air Parking, Licensing	1933
152	69	Workmen's Compensation for Employees	1954
258	13	Indemnification for Municipal Officers	1980

SECTION 10530 ACTS AND RESOLVES ACCEPTED BY THE TOWN (ARRANGED CHRONOLOGICALLY)

CH.	SECTION	SUBJECT	EFFECTIVE OR ACCEPTED
1913	807	Workmen's Compensation (County)	1914
1914	217	Laborer's Vacation	1914
1914	688	Saturday Half-day Holiday	1914
1914	790	Party Enrollment	1914
1919	116	Savings Banks Interest	1919
1919	311	Continuation Schools	1919
1922	516	Accounting System	1922
1931	424	Sea Wall Construction	1931
1933	286	Sea Wall and Shore Protection	1933
1937	77	Absentee Voting	1937
1941	638	70 Hour Firemen's Law	1947
1937	235	Payment to Henry T. Cole	1937
1945	723	Veterans Department	1946
1946	166	Established Contributory Retirement	1946
1971	486	Beano	1972
1985	188, Sec. 13	School Improvement Act	1985
1987	236	Municipal Planning Boards – Default Funds	1988
1988	245	Subdivision Default Funds	1989

1989	235	Transfer Municipal Land – Housing	1991
1989	653	Quarterly Tax Billing	1991
1989	653, Sec. 40	Assess New Construction	1991
1990	291	Enhanced 911 Service	1991
1993	71, Sec. 83	Early Retirement: School Teachers Education Reform Act of 1993	1994
1993	481, Sec. 1,2	Common Victular License	1998
1998	456, Sec. 3	Cost of Living Adjustments (non-contributory pensioners)	1999

SECTION 10540 SPECIAL ACTS OF THE LEGISLATURE ENACTED SINCE 1900 (ARRANGED CHRONOLOGICALLY)

CH.	SECTION	SUBJECT	EFFECTIVE OR ACCEPTED
1909	423	Licenses for Sale of Perishables on Sunday	1916
1912		Pensions	1912
1913	807	Workmen's Compensation (County)	1914
1913	487	Promotion of Call Firemen	1914
1914	688	Saturday Half-day Holiday	1914
1914	217	Laborer's Vacation	1914
1914	508	Public Landing and Wharf (Repealed by Charter §8, paragraph 5b)	1914
1919	116	Savings Banks Interest	1919
1919	311	Continuation Schools	1919
1920	585	Protection of Shores of Scituate para. 1-6	1920
1923	66	Tax Collector - Three Year Term	1926
1923	66	Town Clerk and Treasurer - Three Year Term	1929
1931	424	Sea Wall Construction	1931
1933	286	Sea Wall and Shore Protection	1933
1937	77	Absentee Voting	1937
1939	3	Tree Warden - Three Year Term	1939
1946	207	Bowling Alleys - Sunday para. 4B	1948
1949	723	Veterans Department	1946
1951	529	Wire Inspector	1949
1951	781	Pensions	1952
1952	624	Pensions	1953
1955	670	Pensions	1955
1957	636	Authorizing Sewerage System (Repealed by Charter Section 8, paragraph 5b)	1963
1969	394	Use of Railroad Land for Municipal Purposes	1969
1971	486	Beano	1972
1980	60	Direction Sign, 3A and Henry Turner Bailey Road	1980
1980	344	Marina Loan	1980
1981	139	Sale of Parcel of Park Land	1981
1981	480	Marina Borrowing - Authorization & Procedures	1981
1982	245	Appropriate & Pay Money to a Police Officer	1982
1982	461	Sale of Parcel of Park Land	1982
1982	466	Town Administrator -Appointment & Removal of Employees	1982
1982	487	Additional License for Sale of Alcoholic Beverages	1982
1985	31	Old Satuit Trail	1985
1985	188, Sec. 13	School Improvement Act	1985

1985	424	Sale of Parcel of Driftway Land	1985
1985	445	User Fees Town Pier - Special Fund	1985
1985	446	Appropriate & Pay Money to a Police Officer	1985
1986	329	Conveyance of Coastal Land for Passive Recreation and Conservation Areas	1986
1987	236	Municipal Planning Boards – Default Funds	1988
1988	122	Exemption of Position of Police Chief from Civil Service	1988
1988	245	Subdivision Default Funds	1989
1989	3	Selectman Vacancy - Inclusion on Ballot	1989
1989	235	Transfer Municipal Land – Housing	1991
1989	653	Quarterly Tax Billing	1991
1989	653, Sec. 40	Assess New Construction	1991
1990	291	Enhanced 911 Service	1991
1991	385	Parking Fines	1991
1993	71, Sec.1, 2	Early Retirement: School Teachers Education Reform Act of 1993	1994
1994	78	Golf Course - Enterprise Fund	1994
1997	53	Elections - Removal of Districts	1997

10600 CLASSIFICATION AND SALARY PLAN

SECTION 10610 RESPONSIBILITY

The Town Administrator shall be responsible for preparing, and revising as necessary, a Personnel Classification and Salary Plan (hereinafter referred to as "the Plan") covering the conditions of employment and the payment of salaries and wages to the employees of the Town of Scituate covered by the Plan.

SECTION 10620 PROVISIONS

The provisions of the Plan shall apply to all positions in the employ of the Town, except (1) those filled by general election, (2) those under the control of the School Committee, (3) part-time professional services which are more appropriately contracted for on either a fee or a contractual basis, (4) those covered by collective bargaining agreements. Nothing herein, however, shall bar reference to the Plan for assistance in determining the compensation of employees not covered by the Plan.

PART 2
ORGANIZATION

20100 TOWN MEETINGS

SECTION 20110 MANNER OF CALLING THE MEETING

Notice of Town Meetings shall be given by posting an attested copy of the warrant, calling the same, in the Post Office and at the Town Hall, **at least seven (7) days** before the day appointed for an Annual Town Meeting, and **fourteen** days at least before the day appointed for a Special Town Meeting, and by publication in a newspaper, if any be published in the Town. **(Change approved by Special Town Meeting November 13, 2014).**

SECTION 20120 ORDER OF SUBJECTS TO BE ACTED UPON

A. The selectmen, at least sixty days prior to service or publication of the warrant of an annual town meeting and at least fourteen days prior to service or publication of the warrant for a special town meeting, shall submit all articles accepted for inclusion therein to the advisory committee who shall determine under the following headings the order in which said articles shall be inserted in the warrant by the selectmen:

1. Elections and Reports
2. Fiscal (Operational-General)
3. Public Safety (Police, Fire, Health, Water and Sewage)
4. Education (School, Libraries)
5. Public Works (Highways, Parks, Waterfront)
6. Town Planning (Zoning, Building Codes, etc.)
7. General (By-Laws and Articles not applicable to Specific Categories)

B. All articles in the warrant shall be acted upon in the order of their arrangement, unless a two-third majority votes otherwise.

SECTION 20130 QUORUM - 0

The number of voters necessary to constitute a quorum at town meetings, except such parts of town meeting as are devoted exclusively to the election of town officers shall be zero.

SECTION 20140 TIME OF MEETING

The Annual Town Meeting shall be held on the second Monday in April, and further sessions of said meeting as required to complete action on matters covered by the warrant thereof shall be held on any other day that is in the best interest of the business of the Town whenever the needs of the Town require. **(Change approved by Special Town Meeting November 13, 2014).**

The Selectmen may, in their discretion, call a special town meeting to be held on any Monday or any other day that is in the best interest of the business of the Town whenever the needs of the Town require **(change approved by Special Town Meeting Nov. 8, 2010)** and shall call a special town meeting, upon the request of two hundred registered voters, in writing and on a form approved by the Secretary of the

Commonwealth; such meeting to be held not later than forty-five days following their receipt of any such petition at a regular business meeting. The warrant shall include all subjects requested in the aforesaid petitions. No special town meeting shall be called earlier than fourteen days following the service or publication of the warrant thereof.

Any session of any annual or special town meeting shall, unless the meeting otherwise directs by a two-thirds vote, be adjourned at the conclusion of action on any article under consideration at 11:00 P.M.
The annual election of officers shall be held on the sixth Saturday following the Monday on which the annual Town Meeting is to convene under this bylaw. **(Change approved by Annual Town Meeting April 11, 2011).**

The Annual Report of the Town Officers and the Advisory Committee Report and Recommendations shall be printed and distributed at least fifteen days before the Town Meeting.

SECTION 20150 PARLIAMENTARY PROCEDURE

A. The duties of all Town Officers that are not specifically provided for by law nor by this code shall be determined by the rules of parliamentary law contained in Town Meeting Time so far as they are adapted to town meeting.

B. All motions shall be submitted in writing at the discretion of the Moderator or Clerk.

C. At any time there is a motion before the meeting, a member may move that the vote on said motion be taken by secret ballot. This motion for a secret ballot shall stand before the meeting until such time as debate is over on the main motion, at which time the motion for a secret ballot shall be put to the meeting to determine the method for voting on the main motion. In order to prevail, this secret ballot motion must receive an affirmative vote of ten percent of the members of the meeting present and voting, but at no time shall said motion prevail with less than fifty members voting affirmatively.

D. A vote of the town meeting may be reconsidered once and only once by a two-third vote at the same session of the town meeting.

E. A member of the meeting shall be permitted to speak only once on a question, until all other members who wish to speak have been heard on the same question. For table of motions, see Appendix at end of Chapter.

F. The Town Administrator and any non-resident department head shall have the right to sit with their respective Board, Committee, Commission.

G. 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; provided that the moderator instructs the Town Meeting prior to each session that if a vote so declared is immediately questioned by seven or more voters, the moderator shall verify such vote by polling the voters.

APPENDIX

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Rank	Table of Basic Points of Motions	Second Required	Debatable	Amendable	Vote Required	May Reconsider	May Interrupt
	Privileged Motions						
1	Dissolve or adjourn sine die	Yes	No	No	Majority	No	No
2	Adjourn to a fixed time or recess	Yes	Yes	Yes	Majority	No	No
3	Point of no quorum	No	No	No	None	No	No
4	Fix the time to (or at) which to adjourn	Yes	Yes	Yes	Majority	Yes	No
5	Question of privilege	No	No	No	None	No	Yes
	Subsidiary Motions						
6	Lay on the table	Yes	No	No	b	Yes	No
7	The previous question	Yes	No	No	b	No	No
8	Limit or extend debate	Yes	No	No	b	Yes	No
9	Postpone to a time uncertain	Yes	Yes	Yes	Majority	Yes	No
10	Commit or refer	Yes	Yes	Yes	Majority	Yes	No
11	Amend (or substitute)	Yes	Yes	Yes	Majority	Yes	No
12	Postpone indefinitely	Yes	Yes	No	Majority	Yes	No
	Incidental Motions						
*	Point of order	No	No	No	None	No	Yes
*	Appeal	Yes	Yes	No	Majority	Yes	No
*	Division of a question	Yes	Yes	Yes	Majority	No	No
*	Separate consideration	Yes	Yes	Yes	Majority	No	No
*	Fix the method of voting	Yes	Yes	Yes	Majority	Yes	No
*	Nominations to committees	No	No	No	Plurality	No	No
*	Withdraw or modify a motion	No	No	No	Majority	No	No
*	Suspension of rules	Yes	No	No	b**	No	No
	Main Motions						
None	Main Motion	Yes	Yes	Yes	Varies	Yes	Majority
***	Reconsider or rescind	Yes	***	No	b	No	No
None	Take from the table	Yes	No	No	Majority	No	Majority
None	Advance an article	Yes	Yes	Yes	b	Yes	No

***Same rank as motion out of which they arise.**
****Unanimous if rule protects minorities; out of order if rule protects absentees.**
*****Same rank and debatable to same extent as motion being reconsidered.**

20200 ELECTED OFFICIALS

SECTION 20210 ELECTED TOWN OFFICERS

At that part of the annual town meeting devoted to the election of officers, the following town officers and boards shall be elected by the voters of the town, in accordance with and as required by law and these bylaws:

Moderator
Board of Selectmen
Board of Assessors
Town Clerk
School Committee
Planning Board
Board of Library Trustees
Housing Authority

20300 TOWN ADMINISTRATOR

SECTION 20310 APPOINTMENT, TENURE

There shall be a town administrator whose mode of appointment and tenure shall be as set forth in the charter.

SECTION 20320 ADDITIONAL POWERS, DUTIES, RESPONSIBILITIES

A. His powers and duties shall include, in addition to those set forth in the charter, any reasonable assignment by the board of selectmen or town meeting that does not conflict with the powers and duties of other town officials or multiple member bodies, or the charter.

B. He shall be in general charge of all the clerical and secretarial employees except employees of the school department and may assign and re-assign them among the various departments of the town.

C. He shall be responsible for the maintenance and repair of all public buildings except schools and historical sites. He shall be responsible for the maintenance of school grounds and public lands.

D. He may appoint such temporary, uncompensated task forces preferably from the citizenry of the town as he shall deem necessary in pursuit of his duties.

20400 TO 20599 APPOINTMENTS OF THE BOARD OF SELECTMEN

SECTION 20410 FOR INDEFINITE TERMS

The following officers shall be appointed by the Selectmen for indefinite terms:

Town Administrator
Town Counsel

SECTION 20420 FOR THREE-YEAR TERMS

The following officers shall be appointed by the Selectmen for a three-year term:

Town Accountant
South Shore Regional Vocational School Committee Member
Treasurer/Collector

SECTION 20430 ANNUAL APPOINTMENTS

The following officers, boards, committees and commissions shall be appointed by the Selectmen annually in June:

Affordable Housing Trust (5 members – 2 yr. Rotating)
Archivist
Assistant Town Accountant
Veterans Agent
Burial Agent
Director of Veterans Services
Custodian of Veterans Graves
Measurer of Wood and Bark
Field Drivers (two)
Fence Viewers (two)
Mosquito Control Commissioner
Town Director, Plymouth County Extension Service
South Shore Community Action Council (one member)
Traffic Rules and Regulations Commission
Town Forest Commission
Special purpose committees, as the Board of Selectmen may deem necessary.

SECTION 20440 FOR THREE-YEAR OVERLAPPING TERMS

The following officers, boards and commissions shall be appointed by the Selectmen for three-year overlapping terms:

Animal control Board (5 members)
Beautification Commission
Board of Health (3 members)
By-Law Review (5 members)
Cable TV Committee (5 members)
Commission on Disabilities (5 members – no more than 9)
Community Preservation (4 at large, 5 comm. & bds)
Conservation Commission (7 members)
Constables
Council on Aging (9 members)
Economic Development (7 members)

Historic Commission (5 members)
Public Building Commission (5 members)
Scituate Cultural Council
Recreation Commission (5 members)
Registrar of Voters (three members and the Town Clerk)
Water Resources Commission (7 members)
Waterways Commission (nine members)
Recreation Commission (five members)
Zoning Board of Appeals (three members and two alternates)

SECTION 20450 PUBLIC BUILDING COMMISSION

A. There shall be a public building commission appointed by the selectmen consisting of a standing commission of five members appointed for overlapping three-year terms. Two additional members shall be appointed by the selectmen from the department who will use a particular building to serve from the inception of planning of said building until its acceptance by the town or school committee, but such additional members shall have a vote only with respect to the particular building to which their appointments relate. Preference in appointments to the standing commission shall be given to persons with training or experience in the fields of architecture, engineering, site planning, landscape design and contracting. The town administrator shall be an ex-officio member of the commission.

B. The commission shall oversee the planning and construction of all public buildings. The commission shall notify the town administrator at such time as a clerk of the works is needed for a building. The administrator will proceed to appoint said clerk of the works who will be compensated in accordance with the appropriation allocated by the commission.

SECTION 20460 BEAUTIFICATION COMMISSION

A. There shall be a beautification commission consisting of not less than twelve members appointed by the selectmen for over-lapping terms of three years. Preference in appointments shall be given to persons having training or experience in the fields of landscape architecture, horticulture, engineering, architecture, planning and art or other fields germane to the function of the commission.

B. The commission shall serve as advisors to the selectmen and other boards, departments and commissions of the town in matters relating to aesthetics, recommend plantings for public buildings and other public areas, and may undertake direction of projects as authorized by the selectmen. The commission shall be authorized to accept and use donations from private sources.

SECTION 20470 CONSERVATION COMMISSION

A. There shall be a conservation commission consisting of seven members appointed by the selectmen for three-year overlapping terms as provided in General Laws, Chapter 40, §8C. In addition, the commission may appoint one associate member from the planning board, and such other associate members as they deem necessary. Associate members shall have no vote.

B. The conservation commission shall have all the powers and duties conferred upon municipal conservation commissions in Massachusetts by operation of any Federal or State statute or any administrative regulation having the effect of law. In addition, the conservation commission shall advise other officers and agencies of the town in matters of land use. To administer the conservation fund, including the power to receive and apply private contributions to the same, and to administer

land purchased by or given to the town for the purpose of conservation, as well as any land placed under its jurisdiction by town meeting or by the Board of Selectmen.

SECTION 20480 BY-LAW REVIEW COMMISSION

A. There shall be a by-law review commission consisting of five members appointed by the selectmen for three-year overlapping terms.

B. The By-Law Review Commission shall conduct a continuous review and analysis of the Town By-Laws and shall recommend and present to any town meeting such changes by amendment, addition or deletion, as it shall deem to be necessary and desirable. In pursuance of said responsibility the by-law review commission shall (1) act as an advisory body to assist any voter or group of voters wishing to introduce a proposed bylaw to the town meeting, in framing or drafting any such proposal; (2) it shall report and recommend to the town meeting on any article contained in the warrant therefor which would in any way affect the By-Laws of the town.

C.

SECTION 20490 TOWN COUNSEL

There shall be an office of town counsel under the supervision of the town counsel, who shall be a member of the Massachusetts Bar, appointed by the Board of Selectmen to serve at their pleasure. The town counsel may appoint a first assistant town counsel and such other assistants as the duties of the office require, said appointments to be subject to the approval of the board of selectmen. The town counsel shall appear for the town and for the town departments, officers, boards, commissions and agencies in all suits and other civil and criminal proceedings in which the town is a party or interested, or in which the official acts and doings of said departments, officers, boards, commissions and agencies are called in question. All such suits and proceedings shall be prosecuted or defended by him or under his direction. In addition, he shall perform such other duties as shall be assigned to him and said office of town counsel by By-Law; or by the direction of the Board of Selectmen.

SECTION 20510 COUNCIL FOR THE AGING

A. There shall be a council for the aging consisting of at least seven members to be appointed by the selectmen for three-year overlapping terms. Preference shall be given to persons with training or experience in nursing, gerontology, social work, education, psychology, or business administration and people with wide contacts in the community and among the elderly. Appointments shall be made in accordance with State regulations.

B. They shall be responsible for the preparation of their budget and formulation of their overall policy. They may, in C. 6 in conjunction with the Board of Selectmen, apply for grants and they may receive and may only expend funds with the approval of the Board of Selectmen. They shall explore and define the needs of the community's elder population. They shall inform the community and enlist support in filling these needs. They shall design, promote, and implement service for the elderly, or coordinate existing services or state and federal services.

SECTION 20520 WATERWAYS COMMISSION

A. There shall be a waterways commission consisting of nine members, one of whom shall be the harbormaster or his designated representative. The members and associates shall be appointed by the Board of Selectmen for three-year over-lapping terms. Associate members shall have no vote.

B. This commission shall serve as advisors to the Board of Selectmen in matters relating to policies affecting the operation of the Scituate waterways and activities related thereto. It shall discharge this responsibility by formulating recommendations for review and approval by the Board of Selectmen.

SECTION 20530 TOWN FOREST COMMISSION

A. There shall be a Town Forest Commission appointed annually by the Board of Selectmen. The commission shall consist of three members.

B. With the approval of the Selectmen, the commission shall set rules for the use of the Town's forests and make requests and recommendations for their upkeep and maintenance to the Public Grounds Division of the DPW.

SECTION 20540 TRAFFIC RULES AND REGULATIONS COMMISSION

A. There shall be a Traffic Rules & Regulations Commission composed of five members including a representative of the Police Department, the Fire Department, the Public Works the Engineering Division, and one citizen at large. One representative of the Board of Selectmen and one representative of the Planning Board shall serve as non-voting members. Voting and non-voting members shall be appointed annually by the Board of Selectmen.

B. This Commission shall make recommendations to the Board of Selectmen for the adoption of rules and regulations in accordance with G. L. Chapter 40, §22 and additional town by-laws and other enabling acts as will provide for the safety and free flow of all traffic on the Town's public ways.

SECTION 20550 ANIMAL CONTROL BOARD

A. There shall be an animal control board consisting of five members appointed by the Board of Selectmen for three-year overlapping terms.

B. Notwithstanding the provisions of Section 10240 herein, the animal control board shall act as the special permit granting and license granting authority for purposes of Section 30400. The animal control board shall conduct hearings as outlined in Section 30400 and shall serve as advisers to the Board of Selectmen in matters pertaining to animal control.

SECTION 20560 COMMUNITY PRESERVATION COMMITTEE

A. There shall be a Community Preservation Committee consisting of nine members. At least one member shall be appointed from the Planning Board, as designated by that Board, one from the Conservation Commission, as designated by that Commission, one from the Housing Authority, as designated by that Authority, one from the Historical Commission, as designated by that Commission, one from the Recreation Commission, as designated by that Commission, and four from at large, appointed by the Board of Selectmen.

B. The committee shall be responsible for evaluating the community preservation needs of the Town and making recommendations to town meeting as part of the annual budget process. The committee shall act under the authority of and in accordance with Massachusetts General Laws Chapter 44B Sections 3-7.

C. This bylaw shall take affect only if MGL Chapter 44B Sections 3-7 are accepted at the regular town election.

20600 APPOINTMENTS OF THE TOWN ADMINISTRATOR

SECTION 20610 FOR INDEFINITE TERMS

Pursuant to the provisions of Section 4-2(b) of the charter, the following shall be appointed by the town administrator for indefinite terms:

Assistant Town Accountant
Director, Department of Public Works
Personnel, Department of Public Works
Town Engineer
Chief, Police Department
Personnel, Police Department
Chief, Fire Department
Personnel, Fire Department
Personnel, General Town Hall Departments
Health Agent
Personnel, Health Department
Civil Defense Director
Sealer of Weights & Measures
Harbor Master
Assistant Harbor Masters
Shellfish Officer
Assistant Shellfish Officers
Dog Officer
Pound keeper
Forest Warden
Superintendent, Insect and Pest Control
Building Commissioner
Electrical Inspector
Plumbing Inspector
Gas Inspector
Keeper of the Lockup
Clerks of the Works (as needed)
Department of Public Works Advisory Board

20700 APPOINTMENTS OF THE TOWN MODERATOR

SECTION 20710 SPECIAL COMMITTEES

The town moderator as the presiding officer of the legislative branch shall appoint such special committees as he is directed to do so by vote of the voters at a town meeting.

SECTION 20720 ADVISORY COMMITTEE

A. There shall be established an advisory committee for the town which shall perform duties as set forth in the following sub-sections of this by-law and be governed by the provisions of the General Laws. The advisory committee shall consist of nine citizens of the town, which committee shall be appointed as provided in the following subsection, and no person holding an elective or appointive town office or membership in a multiple member body or receiving a salary from the said town shall be eligible to serve on said committee, except that a member of said advisory committee shall serve on the capital planning committee.

B. The moderator shall appoint from the citizens of the town the members of the advisory committee who shall serve for terms of three years with terms of three members expiring with the adjournment sine die of the annual town meeting each year, or when their successor is appointed. The committee shall choose its own officers annually and serve without pay.

C. To this committee shall be referred all articles in any warrant for a town meeting hereafter issued. The selectmen after accepting any articles for a town meeting warrant, shall transmit within fourteen days of copy thereof to the advisory committee, and said committee shall consider all articles therein and shall report thereon in print to the town meeting such recommendations as it deems to be for the best interest of the town, provided, however, that to the extent such report cannot be timely made in print, it shall be made orally to the town meeting. The advisory committee shall hold a hearing on each article in the warrant before making recommendations.

D. The Advisory Committee shall require the Town Administrator to submit to them on a date acceptable to the Advisory Committee the proposed budgets for the ensuing year of all agencies and departments under his control and to come before them for consultation regarding same at such times and places as said committee shall determine. Such submission shall not be less than ninety days prior to the Annual Town Meeting.

D. All of the provisions of this advisory committee by-law shall pertain to all town meetings.

SECTION 20730 CAPITAL PLANNING COMMITTEE

There shall be established a capital planning committee for the town which shall perform duties as set forth in Article 6, Section 6-6 of the town charter. The moderator shall appoint four members for three-year overlapping terms. Each term of office shall expire at the end of the fiscal year, except that an incumbent shall continue to serve until his successor is appointed.

PART 3
GENERAL REGULATORY BY-LAWS

30100 PUBLIC SAFETY

SECTION 30110 FIREARMS

A. Hunting and the discharge of firearms, air rifles and pellet guns is prohibited on or over the waters of Tack Factory Pond and in all of that part of the Town of Scituate lying easterly of Chief Justice Cushing Highway with the exception of the marshes or meadows (so-called) bordering the North River and the Glades, all shown on a plan on file at the office of the Engineering Division at the Town Hall.

B. Violation of this section shall be punished by a fine of fifty dollars for each offense.

SECTION 30120 PUBLIC DRINKING OF ALCOHOLIC BEVERAGES

A. No person shall drink alcoholic beverages as described in Chapter 138, §1 of the General Laws while on, in or upon the public ways of the town, or any other ways to which the public has the rights of access, or any other open area under the care and control of the town, or on any beach within the limits of the town, or on any private land or place without the consent of the owner or person in control thereof.

B. Evidence of Violation

Possession of an open can, bottle or other container, which, upon analysis by the Department of Public Health, is determined to contain an alcoholic beverage as defined in Chapter 138, §1 of the General Laws, shall be prima facie evidence of drinking said alcoholic beverage. All alcoholic beverages being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person or persons summoned before the court.

C. Arrest

A police officer may arrest without a warrant anyone whom he has probable cause to believe to be in violation of this section. Whoever violates this section shall be liable to a penalty of not more than three hundred dollars for each violation.

SECTION 30130 BEACHES AND BATHING

A. No person shall use any of the bridges within the town for the purpose of diving, nor shall any person swim in the waters or channels in the vicinity of such bridges. Any person violating this section shall be liable to a fine of twenty dollars for each offense.

B. No person in a nude state shall bathe or swim in a public place in the town. Any person violating this section shall be liable to a fine of twenty dollars for each offense.

C. No person shall launch or use a surfboard or other similar device on any beach under control of the town, or in any waters within two hundred yards of such beach during the period from June tenth to September tenth of any year; except for the purpose of saving life or except that such beach or area of beach be designated.

SECTION 30140 SILENT ALARMS

The Board of Selectmen are authorized to adopt rules and regulations for the installation and maintenance of so-called "silent alarms" connected to the Police Station; said regulations to include fees for installation and a schedule of fees for false alarms.

SECTION 30141 MATERIAL SAFETY DATA

Businesses that are required by statute to have on-premises material safety data sheets shall have them stored in protective containers accessible to the Fire Department at locations determined by the Fire Chief.

SECTION 30142 KEY BOXES

New businesses or businesses undergoing substantial renovations (over 50% of assessed valuation) shall provide and install key boxes approved by the Fire Chief in order to gain access during emergency situations.

SECTION 30150 STREETS, SIDEWALKS, PUBLIC WAYS

A. The Board of Selectmen or its designee shall make rules and regulations for the opening, occupying, using, obstructing, closing and constructing of driveways, stonewalls and fences in a public way as shall provide for the public safety.

B. Whenever complaint shall be made to the Selectmen that the practice of coasting on any of the streets or sidewalks in the town has become dangerous to the public safety they may, if they shall judge it expedient, post a notice in some conspicuous place, on the side or corner of such streets, forbidding all persons to coast upon the same.

C. No unauthorized person shall operate a motorized vehicle upon any sidewalk. No horse or wheeled vehicle shall be permitted to go upon any sidewalk in such a way as to interfere with pedestrians. No obstructions which interfere with the use of sidewalks may be placed or left upon them.

No person shall operate, attempt to operate or cause to suffer to be operated on or attempted to be operated by a person for whose conduct he is legally liable, a skateboard, as hereinafter defined, anywhere in the business district of Scituate Harbor or North Scituate Village.

Definition: For the purpose of this Article, "skateboard" shall mean any wheeled vehicle intended and designed to be propelled by foot with one foot on the vehicle at the moment of initial propulsion.

Penalty: Any person convicted of a violation of this Article shall be liable to a penalty of not more than Twenty-five ($25) Dollars.

D. No person shall pipe or otherwise deposit in or upon any public street or public place, any water or substance which may freeze or otherwise create a hazardous condition. If after notice from the department of public works to correct the hazardous condition, such person shall fail to do so, a fine of fifty dollars per day, for every day the violation continues, shall be imposed.

(SECTION 30150 STREETS, SIDEWALKS, PUBLIC WAYS cont)

E. The Selectmen shall make regulations for the parking of automobiles, trailers and other vehicles or obstructions on the highways, streets and public parking areas of the town. Such regulations may provide for the issuance, upon payment of a reasonable fee, of stickers designating the holder as a person duly authorized to use such parking spaces. Violation of such regulations shall be punished by a fine of twenty dollars for each offense.

F. The Selectmen may make and rescind from time to time, rules and regulations governing all traffic upon the highways of the town. Violation of such regulations shall be punished by a fine of twenty dollars for each offense.

H. Prohibiting Parking and Leaving of Vehicles in Certain Private Ways.

1. Fire Regulations: It shall be unlawful to obstruct or block a private way with a vehicle or any other means so as to prevent access by fire apparatus or equipment to any multiple family building, stores, shopping centers, schools and places of public assembly.

2. Fire Lanes: It shall be unlawful to obstruct or park a vehicle in any Fire Lane, such fire lanes to be designated by the Planning Board or the Fire Department and posted as such. Said Fire Lanes to be a distance of twelve (12) feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk with curbing exists, the distance and location shall be established by the Head of the Fire Department or the Planning Board.

3. Any object or vehicle obstructing or blocking any Fire Lane or private way may be removed or towed by the Town under the direction of a police officer at the expense of the owner and without liability to the Town of Scituate.

4. The owner of record of any building affected by these sections shall provide and install signs and road markings as provided in Paragraph 2 of this section. Said signs shall be no less than 12" x 18" and shall read, "Fire Lane - No Parking - Tow Zone".

5. Any person violating any of the foregoing sections shall, for each offense, be punished by a fine of fifteen and no/100 ($15) dollars. Each day that such violation continues shall constitute a separate offense.

I. Handicapped Parking Regulations on Public and Certain Private Ways.

1. Designated Parking Spaces for Disabled Veterans and Handicapped Persons.

Any person or body that has lawful control of a public way or private way or of improved or enclosed property used as off street parking areas for business, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has the right of access as invitees or licensees, is hereby required, subject to the remaining provisions of this section, 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 or permit authorized by §2 of Chapter 90 of the Massachusetts General Laws, according to the following formula: If the number of parking spaces in any such area is more than 15 but not more than 25, one parking space; more than 25, but not more than 40, 5% of such spaces but not less than 2; more than 40 but not more than 100, 4% of such spaces but not less than 3; more than 100 but not more than 200, 3% of such spaces but not less than 4; more than 200 but not more than 500, 2% of such spaces but not less than 6; more than 500 but not more than 1,000, 1-1/2% of such spaces but not less than 10; more than 1,000 but not more than 2,000, 1% of such spaces but not less than 15, more than 2,000 but less than
5,000, 3/4ths of 1% of such spaces but not less than 20; and more than 5,000, l/2 of 1% of such spaces but not less than 30.

Parking spaces designated as reserved under the provisions of this section 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 12 feet wide or 2 eight foot wide areas with 4 feet of yellow cross hatch between them.

2. Parking in Designated Parking Spaces Prohibited.

No person shall leave a vehicle other than a vehicle which is owned and operated by a disabled veteran or handicapped person which vehicle bears the distinguishing license plate or permit authorized by Section A. above. No person may leave a vehicle 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 each offense of the bylaw shall be $100.00 and the vehicle may be removed in accordance with the provisions of Section 120D of Chapter 266 of the Massachusetts General Laws.

SECTION 30160 REPAIRS - PRIVATE WAYS

The Department of Public Works may make temporary repairs to private ways which have been open to public use for six (6) years or more. Such repairs shall not include resurfacing or permanent construction, but shall be limited to the installation of drainage, if necessary, the filling of holes, and minor repairs to the surface. Materials for repairs shall be the same as, or similar to, those used for the existing surfaces. The Town shall not be liable on account of any damage whatever caused by such repairs.

SECTION 30170 PEEPING TOM BY-LAW

Whoever knowingly enters upon the property of another and peeps, peers or spies into a dwelling through any door, window, or opening with the intent of invading the privacy of the occupants therein without permission or a legitimate reason shall be punished by a fine of nor more than $300.

A law enforcement officer may arrest, without a warrant, any person such officer has probable cause to believe has violated the provisions of this section.

SECTION 30180 PRIVATE WAY REPAIR FUND

The Department of Public Works may establish a Private Way Repair Program to provide assistance to abutters of a private way that has been open to the public for six (6) years or more to make temporary surface and drainage repairs in order to extend the life of the road. Such assistance may include professional engineering, contract funding assistance, materials, and/or labor, as the Department of Public Works determines based upon the nature of the specific temporary repair(s). The Department of Public Works shall establish terms and conditions for such repairs, including but not limited to the type and extent of repairs, the number or percentage abutters who must petition for such repairs, the legal liability limit of the Town on account of such damages caused by such repairs, and if a cash deposit shall be required for such repairs. All costs (including, but not limited to engineering, administration, legal, labor, materials and contractor costs, and interest on borrowed funds must be recovered by a betterment assessed on properties abutting said road and all properties on connecting roads which use said road as the sole means of access in accordance with Massachusetts General Laws Chapter 80 or its successor.

30200 PROPERTY

SECTION 30210 PRIVATE PROPERTY - DANGEROUS CONDITION

Within the area formed by the sidelines of intersecting ways and a line joining points on such lines twenty feet distant from their point of intersection, or in case of a rounded corner, the point of intersection of their tangents, no structure other than a building, and no foliage shall be maintained between a height of three feet and a height of eight feet above the plane through their curb grades. Any person in violation of this provision shall be subject to a penalty of twenty dollars.

SECTION 30220 DEFACING PROPERTY

A. Whoever posts, affixes or in any way attaches any poster, handbill, notice, advertisement or placard to or upon any wall, fence, building, utility pole or structure, shall forfeit and pay for each offense a fine of twenty dollars.

B. Whoever paints, draws or stamps any letter, notice, figure advertisement or marks upon any wall, fence, post, rock, pavement, tree, building or structure not his own, without the permission of the owner thereof, or without said permission, mars, defaces or disfigures in any way, such wall, fence, post, tree, rock, pavement, building or structure, shall forfeit and pay for each offense a fine of twenty dollars.

SECTION 30230 POSTING OF DWELLING STREET NUMBERS

At the time of the sale, rental or transfer of any dwelling house in the Town, numbers assigned to such dwelling houses by the DPW shall be affixed in such a manner that they are visible from the public way. No sale, rental, transfer of such dwelling house shall take place until the Fire Department verifies that such numbers are affixed in accordance with this By-law.

SECTION 30240 UNREGISTERED MOTOR VEHICLES

No person shall have more than one unregistered automobile or truck ungaraged on his premises in a residential district at any one time. In no event shall an unregistered automobile or truck be stored in any front yard in a residential district. Violation of this section shall be punished by a fine of twenty dollars.

SECTION 30250 JUNK AND DEBRIS

A. No owner or tenant shall keep in the public view, or any lot, in any residential district, any substantial amount of junk or debris for more than a reasonable amount of time.

B. DEFINITIONS
   1. "Junk or Debris" includes, but is not limited to, scrap metal, construction materials, unsafe and dilapidated accessory buildings, rags, plastics, batteries, paper, trash, furniture, which is not in active use for any purpose authorized in a residential district.
   2. "A Substantial Amount" shall mean a quantity of material which occupies more than 375 cubic feet
   3. "Reasonable Amount of Time" shall mean less than ninety (90) days.

C. CONDITIONS existing at the date of the By-Law enactment, which meet the definition of substantial amounts of junk or debris, must be brought into compliance within six months of the date of approval of this By-Law.

D. ENFORCEMENT
   1. The Building Commissioner shall be charged with the interpretation and enforcement of this By-Law.
   2. Anyone found in violation shall be liable for a fine of $25.00 for each day the violation persists. Days shall be counted starting thirty days after notice of violation.

E. ACTION under this General By-Law shall not bar any separate action initiated by another Town agency for health, fire safety or other violations.

SECTION 30260 TEMPORARY STORAGE TRAILERS

A building permit shall be required for all temporary storage trailers. No person shall maintain a temporary storage trailer in the public view on any residential property for more than six months. The Building Commissioner shall be charged with the interpretation and enforcement of this bylaw. Anyone found in violation shall be liable for a fine of $25.00 each day the violation persists.

30300 BUILDING BY-LAWS

SECTION 30310 CHANGES IN OCCUPANCY

Changes in occupancy from seasonal to year-round use shall require an occupancy permit.

SECTION 30320 FEES

A. Fees for plumbing permits shall be established by the Board of Health.

B. Fees for electrical permits and building permits shall be established by the Board of Selectmen.

SECTION 30330 FIRE LIMITS

The fire limits (as defined by Mass. State Building Code) shall have the same boundaries as those of the Harbor and North Scituate business zones as defined in the Zoning By-Law.

SECTION 30340 SWIMMING POOLS

Swimming pools are accessory structures subject to the Zoning By-Law. They shall be subject to, and constructed and maintained in conformity with, the requirements of the State Building Code. All private swimming pools regulated by said Code shall be enclosed by a non-climbable fence at least five feet in height and firmly secured at ground level. All gates in such fence shall be the same height as the fence and shall be self-closing and self-latching, with latches placed four feet above the ground or otherwise made inaccessible from the outside to children up to eight years of age.

SECTION 30350 HOUSING BY-LAW

A. No person shall let to another for occupancy any dwelling, dwelling unit, mobile dwelling unit, or rooming unit for the purpose of living, sleeping, cooking or eating therein, which does not comply with the requirements of 105-CMR-410.000 unless such unit is inspected by the officials as specified below in paragraph E and a Certificate of Fitness is issued to the owner of such premises, stating that the premises meets the standards set forth in State Sanitary Code, Chapter II, "Minimum Standards of Fitness for Human Habitation," adopted by the Massachusetts Department of Public Health pursuant to Massachusetts General Laws, Chapter 111, §127A as amended, and any by-law, rule, or regulation adopted by the Town of Scituate which has as its purpose the regulation of residential premises and which by-law, rule or regulation is stricter than or does not conflict with said Chapter II.

B. It shall be the duty and responsibility of any owner, his agent or lessor of such dwelling unit, upon the vacating of any premises by a tenant, to notify the Board of Health that such unit is vacant and to apply for a Certificate of Fitness in writing upon forms provided by said Board. The owner of a dwelling unit shall pay to the Board of Health for each application a uniform fee to be determined by the Town Administrator with the approval of the Board of Selectmen.

C. If after any inspection pursuant to this section, an official in paragraph E below refuses to issue a Certificate of Fitness, because the inspection has revealed that violations of Chapter II of the State Sanitary Code or of the Town by-laws, rule or regulation exist in such inspected unit, the Board of Health shall issue an order setting forth said violations existing in the premises which must be corrected before a Certificate of Fitness may be issued. It shall be the responsibility of any owner receiving such order to notify the Board of Health when such violations have been remedied.

D. Any owner subject to the provisions of this sub-section may request an inspection by the officials mentioned in paragraph E of any premises owned by him, whether vacant or occupied, for the purpose of receiving a Certificate of Fitness for said premises. If inspection of the premises reveals that violations of Chapter II of the State Sanitary Code or of the town bylaws, rules or regulations exist in the unit, no Certificate of Fitness shall be issued. At any time after such violations are corrected, an owner may request a re-inspection provided that none of the time limits provided for in paragraph B of this sub-section shall be applicable to this paragraph.

E. All inspections under this section shall be made by the Board of Health and by any or all of the following Town of Scituate officials, as in the Board's discretion, it deems necessary to assist it in the fulfillment of its duties and obligations herein: Building Commissioner, Electrical Inspector, Plumbing Inspector, Gas Inspector, and Fire Department Inspector. Each Certificate of Fitness or order issued pursuant to this section shall be signed by the Board of Health and by the other town officials, if any, making such inspection.

F. Any owner, his agents, or other lessor of such property used for dwelling purposes failing, after a warning in writing, to comply with this section, shall pay a fine of twenty (20) dollars per day for each day he suffers or allows any person or persons to live, occupy or inhabit the said premises without having received a Certificate of Fitness from the Board of Health, as required by this section.

G. The Board of Health shall be authorized to issue Certificates of Fitness. Whenever a Certificate of Fitness shall be issued for any unit, one copy shall be delivered to the owner and a copy shall be given to the occupant of said unit. On each Certificate of Fitness shall appear the date of its issuance and the name of the inspector making the inspection, and a description sufficient to identify the unit certified. Each boarding house, hotel, inn, lodging house or

dormitory for the purpose of this by-law shall be issued a single Certificate of Fitness which shall be valid for the period of one year.

H. Whenever there is a termination of gas service, of phone service, or of electric service due to the vacating of a dwelling unit by its occupant or occupants, the aforementioned companies shall immediately supply a list of said units to the Town of Scituate Board of Health.

(SECTION 30350 HOUSING BY-LAW cont)

I. Any owner aggrieved by the denial of a Certificate of Fitness to him may request a hearing by written petition to the Town of Scituate Board of Health. The filing of such petition shall not be construed to stay any of the provisions of this section. Hearings shall be established and conducted and decisions rendered so as to most nearly conform to the procedure established by Chapter II of the State Sanitary Code, or any amendment thereof. Any person aggrieved by the decisions of the Board of Health may seek relief therefrom in any court of competent jurisdiction as provided by the laws of this Commonwealth.

J. The definitions of terms in this sub-section shall be the same as are set out in Chapter II of the State Sanitary Code.

K. A Certificate of Fitness shall be valid, and no reinspection shall be required for a period of one year from the date of issue regardless of changes in tenancy in the interim. However, if there is no change in tenancy, every dwelling unit subject to this section must receive a Certificate of Fitness at least once during every six-year period commencing with the enactment of this section.

SECTION 30355 STRETCH ENERGY CODE

Definitions

International Energy Conservation Code (IECC) 2009 – The international Energy Conservation Code (IECC) is a building code created by the International Code Counsel. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.

Purpose

The purpose of 780 CMR 120 AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

Authority
A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix. 780 CMR 120 AA may be adopted or rescinded by any municipality in the commonwealth in the manner prescribed by law.

Stretch Code
The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Scituate General Bylaws, Chapter 30355. **(Approved by the Attorney General Dec. 16, 2010) Effective by vote of Special Town Meeting, July 1, 2011)**

SECTION 30360 FINES

Unless otherwise specially provided, violation of any provision of this Building Bylaw shall be punishable by a fine of $50.00.

SECTION 30361 DEMOLITON DELAY

I. Intent and purpose.
The Demolition Review By-Law is enacted for the purpose of preserving and protecting significant historical buildings within the Town of Scituate that constitute or reflect distinctive features of the architectural, cultural, economic, political, or social history of the town and to limit the detrimental effect of demolition on the character of the town.
The intent of this By-Law is not to permanently prevent demolition, but rather to provide an opportunity to develop preservation solutions for properties threatened with demolition. Through this By-Law, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings, and residents of the town are alerted to impending demolitions of significant buildings.
By preserving and protecting significant buildings, this By -Law promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Scituate Historical Commission is authorized to advise the Building Inspector with respect to the issuance of demolition permits that are regulated as provided by this By Law.

II. Definitions.
APPLICANT - Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.
APPLICATION, BUILDING PERMIT for DEMOLITION- An application submitted to the Building Inspector for the demolition of a building.
APPLICATION, DEMOLITION PERMIT REVIEW – An application submitted to the Historical Commission for Demolition Permit Review of a building 100 years of age or older.
BUILDING - Any combination of materials forming a shelter for persons, animals, or property.
BUILDING INSPECTOR - The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

COMMISSION - The Scituate Historical Commission or its designee.
DEMOLITION - Any act of pulling down, destroying, removing, dismantling, defacing, removing or razing a building or building or commencing the work of total, substantial demolition with the intent of completing same.
DEMOLITION PERMIT - The permit issued by the Building Inspector for a demolition, substantial demolition or removal of a building, excluding a demolition permit issued solely for the demolition of the interior of a building.
SIGNIFICANT BUILDING - A building determined by the Commission or its designee to be significant based on any of the following criteria:
A. The Building is listed on the National Register of Historic Places.
B. The Building has been found eligible for the National Register of Historic Places.
C. The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town of Scituate or the Commonwealth of Massachusetts or the nation.
PREFERABLY PRESERVED SIGNIFICANT BUILDING - Any significant building that the Commission determines, following a public hearing, is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve-month demolition delay period.

III. Procedure.
A. No demolition permit for a building that is in whole or in part 100 or more years old shall be issued without following the provisions of this chapter. If a building is of unknown age, it shall be assumed that the building is over 100 years old for the purposes of this By Law. Buildings identified by FEMA (Federal Emergency Management Agency) in the FIRM Velocity Zone in the Town of Scituate shall be exempt from this By-Law.
B. After reviewing an application for a Building Permit for demolition, if the Building Inspector determines the building in whole or in part is 100 years of age or older, he shall provide the applicant with a Demolition Review Application.
C. The applicant shall submit the completed Demolition Review Application to the Historical Commission.
D. The Commission shall, within 15 business days after receipt of the application, make a determination of whether the building is significant.
E. Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Inspector and applicant in writing within seven (7) days. The Building Inspector may then issue the demolition permit.
F. Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Inspector and applicant in writing with reasons for the determination. No demolition permit may be issued at this time. If the Commission does not notify the Building Inspector within the specified time period, the Building Inspector may issue the demolition permit.
G. If within seven days (7) the Commission finds that the building is significant; it shall hold a public hearing within 30 days of the written notification to the Building Inspector. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing, and the applicant and Building Inspector shall be notified in writing of the meeting time and place.
H. The Commission shall decide at the public hearing or within 14 days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed. If agreed to in writing by the applicant, the public hearing may be continued at a later date.

I. If the Commission determines that the building should not be preferably preserved, the Commission shall so notify the Building Inspector and applicant in writing within seven (7) days. The Building Inspector may then issue the demolition permit.
J. If the Commission determines that the building should be preferably preserved, the Commission shall notify the Building Inspector and applicant in writing. No demolition permit may be issued for a period of 12 months from the date of the filing unless otherwise agreed to by the Commission. If the Commission does not notify the Building Inspector within 21 days of the public hearing, the Building Inspector may issue the demolition permit.
K. No permit for demolition of a building determined to be preferably preserved shall be granted until all plans for future use and development of the site have been filed with the Building Inspector and have been found to comply with all laws pertaining to the issuance of a building permit a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this By Law.
L. The Building Inspector may issue a demolition permit or building permit for a preferably preserved building within 12 months if the Commission notifies the Building Inspector in writing that the commission finds that the intent and purpose of this chapter is served even with the issuance of the demolition permit or the building permit.
M. Following the twelve-month delay period, the Building Inspector may issue the demolition permit.

IV. Administration.
A. The Commission may adopt procedures necessary to administer the terms of this By-Law.
B. The Commission shall recommend to the Board of Selectmen a schedule of reasonable fees to cover the costs associated with the administration and review of any application that is filed under this By Law.
C. The Commission may delegate authority to one or more members of the Commission and/or may delegate authority to municipal staff, initial determination of preferable preserved, however final determination as to whether the building shall be designated as preferably preserved shall rest with the Commission.
D. The Commission may pro-actively develop a list of significant buildings that will be subject to this chapter. Buildings proposed for the significant building list shall be added following a public hearing.

V. Responsibility of owners.
A. It shall be the responsibility of the owner of record or his designee to assist in the facilitation of the above process by providing information, allowing access to the property, and securing the premises; to participate in the investigation of preservation options and to actively cooperate in seeking alternatives with the Commission and any interested parties.
VI. Emergency demolition.
A. Nothing in this chapter shall restrict the Building Inspector from immediately ordering the demolition of unsafe structures in accordance with the provisions of Massachusetts General Laws Chapter 143.
B. Whenever the Building Inspector issues an emergency demolition permit under this Section he shall prepare a report describing the condition of said building or structure and the basis of the decision to issue an emergency demolition permit and provide a copy thereof to the Commission.
C. If after an inspection, the Building Commissioner finds that the building subject to this bylaw is found to be unsafe, as provided under Massachusetts State Building Code, the Building

Commissioner may issue a demolition permit or take whatever other action deemed necessary to protect the public safety. The Building Commissioner shall inform the Commission forthwith of the issuance of any such emergency demolition permits.

VII. Enforcement and remedies.
A. The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this By Law or to prevent a threatened violation thereof.
B. Any owner of a building demolished without first obtaining a demolition permit in accordance with the provisions of this By-Law shall be subject to a fine of $300. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed, or unless otherwise agreed to by the Commission.
C. If a building is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless otherwise agreed to by the Commission.

VIII. Historic District Act.
Nothing in this By-Law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this By Law do so conflict, that act shall prevail.

IX. Severability.
In case any section, paragraph, or part of this By-Law is for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

X. Economic Hardship
A. Any owner may submit information regarding economic hardship in cases where the application of the By-Law would cause significant economic hardship to the owner. This information will be used in determining the preferably preserved status of a historic structure.

30400 ANIMAL CONTROL BY-LAW

SECTION 30410 PURPOSE

A. The purpose of this by law is to achieve the objectives of the animal control enabling legislation contained in Chapter 129, §§21-44 and Chapter 140, §147A of the Massachusetts General Laws, which includes the regulation of domesticated and regulated animals within the borders of the Town of Scituate, the licensing of dogs, and the establishment of fines for violation of this by law.

B. This by law is adopted for the above purposes under the authority provided by, and in accordance with the provisions of Chapter 140, §147A of the General Laws, as amended.

SECTION 30420 DEFINITIONS

As used in this chapter, the following words and phrases shall have the following meanings:

"Animal Control Board" –
Shall mean the five-member body appointed by the Board of Selectmen to oversee the enforcement of the Animal Control Bylaw and to serve as the permit granting authority pursuant to this Chapter.

"Animal Control Officer" –
Any officer or assistant officer appointed pursuant to this Chapter for the enforcement of animal control laws, and who shall be responsible for this Chapter.

"Breeder Kennel" –
A kennel maintained for a collection of seven to ten dogs, or for the breeding of dogs and which sells dogs from less than four litters per year; and which does not exceed ten dogs on a single premises.

(SECTION 30420 DEFINITIONS cont)

"Commercial Kennel" –
A kennel maintained as a business for the boarding of dogs, for the grooming of dogs, or one which sells dogs born and raised on the premises from four or more litters per year.

"Domesticated Animals" –
Any such animals made domestic or converted to domestic use and habituated to live in or about the habitations of men, or such as contribute to the support of a family including tamed animals; e.g. horses, sheep, dogs, cats, etc.

"Hobby Kennel" –
A kennel maintained for any collection of four to six dogs.

"Keeper" –
Any person, corporation, or society, other than the owner, harboring, or having in his possession a dog.

"Kennel" –
Any single premises on which are kept a pack or collection of four or more dogs over the age of three months.

"Kennel License" –
A license for any type of kennel.

"License Period" –
The time between July first and the following June thirtieth, both dates inclusive.

"Livestock or Fowl" –
Animals or fowl kept or propagated by the owner for food; deer, elk, cottontail rabbits and northern hares, pheasants, quail, partridge and other birds, and quadrupeds determined by the Department of Fisheries, Wildlife and Recreational Vehicles to be wild and kept by, or under a permit from said Department, in proper houses or suitable enclosures.

"Owner" –
Includes corporations, societies, associations, partnerships, individuals and any persons or agencies or political subdivisions provided they show ownership of an animal by possession of a current and valid license or other satisfactory proof of ownership.

"Regulated Animals" –

Swine, horses, cows, goats, sheep, burros, lamas, deer, chicken, ducks, pigeons or other fowl, or other farm or domesticated animals stabled outside homes within the Town.

"Stable" –
Any building, enclosure, premises or portion thereof where regulated animals over twenty (20) pounds, other than house pets, are kept.

SECTION 30430 LICENSES AND TAGS

A. The owner or keeper of a dog within the town shall cause the dog to be initially licensed when it attains the age of six months and annually thereafter. Proof of rabies vaccination shall be required prior to the issuance of any license.

B. The Clerk of the town shall issue dog licenses and license tags. The Animal Control Officer may accept applications and fees for license and shall transmit same to the Clerk who shall cause the license to be issued.

C. The owner or keeper shall state upon each license application the following description of the dog: name, age, sex, reproductive status, weight, breed, color, and special markings, as well as the name, address, and telephone number of the owner. For each license issued, the Clerk shall record the name, address, and telephone number of the owner, the description of the dog, and the license registration number.

D. The license fee for each dog registered pursuant to this section shall be determined by the Board of Selectmen each year. Failure to pay the annual review license due by July lst each year pursuant to this section shall result in a doubling of the licensing fee after October 1st.

E. A license duly recorded in another jurisdiction shall be valid in the Town of Scituate, except that, in the case of the permanent removal of a dog into the Town of Scituate, the owner or keeper shall, within fourteen days of such removal, present the original license, license tag, and proof of rabies vaccination to the Clerk, along with the sum of two dollars. The Clerk of the town shall take same and shall issue to the owner or keeper a transfer license and license tag which shall be valid until the expiration of the license period. For purposes of this subsection, "permanent removal" shall be construed to mean any period in excess of ninety days. The penalty for failure to comply with this subsection shall be twenty-five dollars.

F. The owner or keeper of any dog who intends to keep said dog within the town for a period in excess of thirty days but less than ninety days shall, within fourteen days of removal of the dog into the town, present to the Clerk of the town a completed dog license application form and proof of rabies vaccination if said dog is over the age of six months, or shall do same when said dog attains the age of six months. The Clerk shall record such information in the license registration book. If the owner presents proof of valid registration in another jurisdiction, the owner or keeper of said dog shall apply for the appropriate license as if the dog were to be kept permanently in the Town of Scituate and the fees for licensing shall be the same as those enumerated in subsection D of this section.

G. No fee shall be charged for licensing dogs specifically trained to lead or serve a blind or deaf person so long as such dog is so employed and a certificate of such training is presented to the Clerk of the town.

H. Tags and licenses shall not be transferable.

I. The fee for a replacement tag shall be two dollars.

J. No license shall be issued to any child under the age of eighteen. If a dog is owned or kept by a child under the age of eighteen, the license shall be issued in the name of the child's parent or legal guardian who shall be deemed the keeper of the animal for purposes of this Chapter.

K. A license fee shall not be refunded because of a subsequent death, loss, spaying, neutering, or removal from the town of said dog.

L. The owner or keeper of a dog shall securely attach the license tag to said dog's collar or harness. If the tag is lost, the owner or keeper shall promptly apply for a replacement tag and shall attach same to the collar or harness of the dog. The penalty for a violation of this subsection shall be fifteen dollars; the penalty for a second violation of this subsection within the same calendar year shall be thirty-five dollars; and the penalty for a third or subsequent violation of this subsection within the same calendar year shall be fifty dollars.

M. The provisions of this section shall not apply to institutions licensed under Chapter 49A of the General Laws, to pet shops licensed under §39A of Chapter 129 of the General Laws, or, except as provided herein, to any person operating a licensed kennel.

SECTION 30440 KENNEL LICENSES

Any owner or keeper of four or more dogs, three months or older, or who maintains a breeder kennel, as defined, or who maintains a commercial kennel, as defined, shall apply to the Animal Control Board for the appropriate kennel license, in writing upon forms provided to the applicant by the Clerk. The Animal Control Board shall hold a public hearing to consider any application for a Hobby Kennel license or a Breeder Kennel license. Commercial kennels shall continue to be regulated by the Zoning Board of Appeals. It shall be the responsibility of the applicant to notify all abutters within 500 feet of the premises, by certified mail not less than seven days in advance of the impending public hearing.

In granting a kennel license, the Animal Control Board shall assure, in addition to any specific requirements in the bylaws, that:

a. The specific site is an appropriate location for the kennel;

b. The kennel will not adversely affect the neighborhoods;

c. There will be no nuisance to the public; and

d. Adequate and appropriate facilities will be provided to assure public safety.

The Animal Control Board may impose such conditions, safeguards and limitations as it may deem reasonably appropriate to protect the neighborhood and otherwise serve the purpose of the by law. Such application shall specify the maximum number of dogs to be kept on the premises at any one time. The Animal Control Board shall, within sixty days of said application, approve or deny same. If the Animal Control Board denies approval of an application, it shall set forth in writing the reasons for denial.

The annual fees for kennel licenses shall be set annually by the Board of Selectmen. Failure to pay the annual renewal license fee due July lst shall result in the fee being doubled if not paid in full by October 1 each year.

The Clerk shall issue, without charge, upon written approval of the Animal Control Board, a kennel license to any domestic charitable corporation incorporated in the Commonwealth exclusively for the purpose of protecting animals from cruelty, neglect, or abuse.

A veterinary hospital shall not be considered a kennel unless it contains an area for the grooming or selling of dogs, or for boarding of dogs for other than medical or surgical purposes, in which case it shall apply in writing to the Animal Control Board for the required kennel license. If a kennel owner desires to increase the capacity of his kennel during a license period, he shall apply to the Animal Control Board for a license modification. If the Animal Control Board approves the modification, the Clerk shall issue a modified license upon payment by the owner of the difference between the existing kennel license and

the fee for the kennel license most recently approved. If the Animal Control Board denies approval of a modification, it shall set forth in writing the reasons for denial. If the Animal Control Board denies a request for a kennel license or expansion of same, the applicant may appeal said denial to the Board of Selectmen.

Kennels licensed prior to the adoption of this section shall not be required to obtain approval of the Animal Control Board.

Kennel licenses shall not be transferable.

The owner or keeper of a kennel shall renew the license annually prior to the commencement of each succeeding license period. The penalty for failure to renew a kennel license shall be twenty-five dollars.

A license issued pursuant to this section shall be in lieu of any other license required for any dog which may be kept in such kennel for any portion of the period for which the license is issued.

While at large, each dog belonging to a kennel shall wear a collar or harness to which shall be securely attached a tag upon which shall appear the number of the kennel license, the name of the town, and the year of issuance. All provisions and penalties of this chapter relating to dogs at large shall apply to the dog of a kennel when such dog is at large.

Whenever a kennel owner sells any dog or pup, he shall, within five days of such sale, notify the Clerk in writing, including in the notification the age, breed, color, identifying marks, sex, and reproductive status of the animal and address of the purchaser. The Clerk shall cause a copy of such notice to be forwarded to the Clerk of the town in which the new owner resides. The penalty for a failure to comply with this notification requirement by the seller shall be twenty-five dollars for each violation.

SECTION 30450 KENNEL LICENSE AND INSPECTION

The Animal Control Officer may at any time inspect or cause to be inspected any kennel and, if he/she believes after such inspection that the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, shall report same to the Animal Control Board. Upon receipt of such report, the Animal Control Board shall notify the kennel license holder of such report and shall convene within seven business days of the receipt of the report to determine whether the license should be temporarily suspended. Regardless of whether the license is temporarily suspended, the Animal Control Board shall, within ten business days of receipt of such report conduct a hearing at which the kennel license holder shall be permitted to defend against any suspension or revocation. Any order of the Animal Control Board suspending or revoking a kennel license may be appealed to the Board of Selectmen. If the Board of Selectmen issues an order suspending or revoking a license, the kennel license holder may, within ten days after entry of such order, bring a petition in the local district court praying that such order be reviewed by the court.

Upon the petition of twenty five citizens filed with the Animal Control Board, setting forth that they are aggrieved or annoyed to an unreasonable extent by one or more dogs at a kennel located within the town because of excessive, unprovoked barking, vicious behavior of one or more dogs, or other conditions connected with the kennel that allegedly constitute a public nuisance, the Animal Control Board shall, within ten business days of the filing of such petition, give notice to all parties signing such petition and to the holder of the kennel license of a public hearing to be held within fourteen days of such notice. Within thirty days after the public hearing, the Animal Control Board shall make an order either revoking or suspending such kennel license or otherwise regulating operation of said kennel, or shall dismiss the petition. Within seven business days following the entry of any order or dismissal by the Animal Control Board the petitioners or the kennel license holder may file an appeal to the Board of Selectmen. After hearing, the Board of Selectmen shall, by order, either affirm or reverse the action of the Animal Control

Board, by suspending, revoking or amending such kennel license, by otherwise regulating said kennel, or by dismissing the complaint. Within ten days of an order of the Selectmen, the holder of such kennel license may bring a petition in the local district court praying that such order be reviewed by the court.

The penalty for maintaining a kennel after the license has been suspended or revoked shall be fifty dollars per day.

SECTION 30460 LEASH LAW

A. No owner or keeper of a dog shall permit said dog to be in any street, including public or private ways or ways in existence prior to the adoption of these bylaws, or public place, or on the property of another without the express permission of the owner or occupant of such property, without such dog being effectively restrained by chain or leash, which chain or leash shall be under the direct and positive control of such owner, keeper or other person. No owner or keeper of a dog shall permit said dog, whether leashed or unleashed, to be on a beach between the hours of 10 a.m. and 6 p.m. from June fifteenth through September fifteenth, inclusive or on school property, playgrounds, cemeteries and athletic fields maintained by the Town at any time.

The penalty for the first violation of this subsection within a calendar year shall be twenty five dollars; the penalty for the second violation of this subsection within a calendar year shall be fifty dollars; the penalty for a third or subsequent violation of this subsection within a calendar year shall be seventy-five dollars.

B. The Animal Control Officer shall impound any dog running at large contrary to this section. If the owner of said dog is known, the Animal Control Officer shall give notice to such owner immediately. If the owner claims the dog, furnishes proof of payment of outstanding license fees, together with the current impoundment, the dog shall be returned to the owner. Said owner shall also be responsible for emergency veterinary care required during impoundment.

Whenever a dog running at large contrary to this section is quarantined pursuant to General Laws Chapter 129, §21, the animal shall be impounded for the duration of the quarantine period and its owner, if known, shall be liable for the payment of the impoundment fee. Whenever the Animal Control Officer has reason to believe that a dog running at large contrary to this section has bitten more than one person, said Officer shall be required to make a complaint in writing to the Animal Control Board, which may order impoundment of said dog and its owner, if known, shall be liable for the payment of the daily impoundment fee. Any dog which has been impounded for the mandatory holding period and which remains unclaimed by its owner or keeper may be placed for adoption. The Animal Control Officer may order the confinement of any unspayed female in estrous cycle, commonly termed "in heat," for the purpose of abating a public nuisance.

SECTION 30470 COLLAR/HARNESS

The owner or keeper of a dog shall cause same to wear around its neck or body a collar or harness of leather or other durable material. The fine for a violation of this section shall be fifteen dollars; the fine for a second violation of this section within the same calendar year shall be thirty- five dollars; the fine for the third or subsequent violation under this section within the same calendar year shall be fifty dollars.

SECTION 30480 POOPER SCOOPER

The owner or keeper of a dog shall cause to be removed any defecation made by said dog, at the time made, from any street, public way, public place or property of another. Failure to comply with this section

shall result in a penalty of twenty-five dollars; the penalty for a second violation of this section within the same calendar year shall be fifty dollars; the penalty for a third violation of this section within the same calendar year shall be seventy-five dollars.

SECTION 30490 RABIES VACCINATIONS

A. The owner keeper of a dog which has reached the age of six months shall cause the dog to be vaccinated against rabies by a veterinarian using a vaccine approved by the Department of Public Health. Unvaccinated dogs acquired or brought into the town shall be vaccinated within ten days or upon reaching the age of six months, which ever is later. Vaccinated dogs shall be re-vaccinated periodically in accordance with rules adopted and promulgated by the Department of Public Health. The penalty for failure to comply with this section shall be fifty dollars.

The Board of Health of the town shall furnish free of charge upon application of any resident without health insurance which would cover the same, thereof who has been or may have been exposed to rabies, anti-rabies vaccine and treatment in accordance with the rules of the Department of Public Health and accepted medical practice. Such person shall have the right to select his own physician who shall be paid by the town at a rate established by the Board of Health of the town. The fact that a physician is a member of the Board of Health shall not disqualify him from being so selected and paid by the town for his services.

The Board of Health of the town shall provide free of charge to the Animal Control Officer a rabies vaccination upon request of such Officer.

SECTION 30500 FAILURE TO ANSWER CENSUS

The owner or keeper of a dog within the town shall acknowledge the ownership or keeping of such dog on the annual census form promulgated by the Registrars of Voters. The penalty for failure to comply with this section shall be twenty -five dollars.

SECTION 30510 FAILURE TO ACKNOWLEDGE TO POLICE/ANIMAL CONTROL OFFICER

It shall be an offense under this Chapter for any owner or keeper of a dog to refuse to answer or to provide false information to a police officer or Animal Control Officer pertaining to said owner's or keeper's ownership or possession of a dog. The penalty for a violation of this section shall be twenty- five dollars.

SECTION 30520 VICIOUS DOGS

If any person shall make a written complaint to the Animal Control Board that any dog harbored within the town is a nuisance by reason of vicious behavior, the Animal Control Board shall investigate or cause to be investigated such complaint. Notwithstanding the provisions of Section 30460 (B) paragraph 2, the Animal Control Officer may file a complaint with the Animal Control Board if he/she believes that any dog harbored within the town poses a threat to public safety. The Animal Control Officer can order a dog to be muzzled for the following: (a) biting or menacing a person; (b) injuring a domestic animal or fowl; and (c) excessive barking as defined in Section 30530. Only the Animal Control Officer has the power to remove a muzzle order if he/she so desires; i.e., an exception is feeding time. If a dog bites a person, the animal must be quarantined subject to M.G.L. c.129, §21. Any and all violations of a quarantine order will be subject to general penalties under M.G.L. c.129, §30. The Animal Control Board shall conduct a hearing no less then seven business days after said owner or keeper has been notified by the Animal Control Board of the date of the hearing. After hearing, the Animal Control Board may make an order

concerning the restraint or destruction of said dog as may be necessary, or may dismiss the complaint. The owner shall confine within a building or secure enclosure, every fierce, dangerous, or vicious dog, and not take such dog out of such building or secure enclosure unless such dog is securely muzzled, and upon a leash, as directed by the Animal Control Board. Within seven days after the issuance of an order or dismissal, the Animal Control Board shall report the action taken, in writing, to the Board of Selectmen. Within seven days following the entry of any order or dismissal by the Animal Control Board, the complainant or the owner or keeper of the dog may file an appeal to the Board of Selectmen in writing. After hearing, the Board of Selectmen shall, by order, either affirm, reverse, or amend the action of the Animal Control Board by entering an order that the dog be restrained, that the dog be destroyed, or that the complaint be dismissed. Within ten days of an order to restrain or destroy a dog, the owner or keeper of such dog may bring a petition in the local district court praying that such order be reviewed by the court. The penalty for violating an order of the Animal Control Board if such is not appealed, for violating an order of the Board of Selectmen if such is not appealed, or for violating an order of the court made pursuant to this section shall be fifty dollars. If the Board determines a nuisance exists, fines and penalties shall accrue for each day and until final disposition of the Board or Court of the nuisance abatement. If ,following an order by the Animal Control Board to destroy an animal if such is not appealed, or an order of the Board of Selectmen if such is not appealed, or an order of court affirming an order of the Board of Selectmen to destroy an animal, said owner or keeper fails to destroy such dog, the Animal Control Officer shall enter onto the property of the owner or keeper of the dog, take the dog, and cause to be killed such dog in a manner prescribed by Chapter 140, §151A of the General Laws. The act of a dog in attacking or biting another dog or other animal, livestock, or fowl may be made the subject of a complaint under the provisions of this section.

SECTION 30530 BARKING DOGS

A. No owner keeper of a dog shall permit same to engage in excessive, barking for more than thirty (30) minutes between the hours of 10:00 p.m. to 7:00 a.m. or at any other time for more than one hour. The penalty for a violation of this subsection shall be ten dollars for the first offense in a calendar year; the penalty for a second offense within the same calendar year shall be twenty dollars; the penalty for a third offense within the same calendar year shall be thirty dollars; the penalty for a fourth offense within the same calendar year shall be forty dollars; and the penalty for a fifth or subsequent offense within the same calendar year shall be fifty dollars.

B. If any person shall make a complaint in writing to the Animal Control Board that any dog owned or harbored within the town is a public nuisance by reason of excessive barking as defined above in Section A. or other unprovoked disturbance, or by reason of excessive, unprovoked noise a source of annoyance to any sick person residing in the vicinity, the Animal Control Board or Animal Control Officer shall investigate or cause to be investigated such complaint. If the Board determines a nuisance exists, fines and penalties shall accrue for each day and until final disposition of the Board or Court of the nuisance abatement.

C. Any person lodging such a written complaint shall be required to testify at a hearing before the Animal Control Board. After hearing, the Animal Control Board may make an order requiring the silencing or removal of such dog, or dismissing the complaint. Within ten days following the issuance of such an order, either party may apply in writing to the Board of Selectmen for an appeal hearing. The Board of Selectmen, after an appeal hearing, may make an order requiring the silencing of or removal of such dog, or dismissing the complaint. Within seven days following an order of the Selectmen, the owner or keeper of such dog may bring a petition in the local district court praying that the order be reviewed by the court. The penalty for refusal to obey an order of the Animal Control Board and/or Board of Selectmen, if such is not appealed, or refusal to obey an order issued by the court, shall be fifty dollars.

SECTION 30540 DAMAGE TO LIVESTOCK, FOWL, REGULATED OR DOMESTICATED ANIMALS

The owner or keeper of a dog who has done damage to livestock or fowl shall be liable for such damage. Whoever suffers loss by the worrying, killing, or maiming of his livestock or fowl by any dog shall inform the Animal Control Officer who shall forthwith proceed to the scene to view the damage and determine whether the damage was done in fact by a dog and, if so, report the extent of damage to the Animal Control Board in writing. The Animal Control Board shall cause to be investigated and appraised the amount of damage and may hold a hearing on assessment of damage. If the owner of the dog who damaged livestock or fowl is known, the Animal Control Board shall order the owner of said dog to pay to the town the assessed amount of damages. If the owner of the dog who damaged livestock or fowl is not known, the Animal Control Board shall so state in writing. The Animal Control Board shall, after its determination, transmit to the Town Treasurer a request for payment in the amount of the assessed damages to the owner of the damaged livestock or fowl. Any person aggrieved by an order of the Animal Control Board under this section may, within seven days after issuance of said order, request in writing a hearing by the Board of Selectmen. The Board of Selectmen, after hearing, shall either affirm or reverse an order of the Animal Control Board or may reassess damages. In the event that the owner or keeper of a dog known to have done damage to livestock, fowl, regulated or domesticated animal and refuses to pay upon order of the Animal Control Board if such is not appealed, or refuses to pay upon order of the Board of Selectmen, the penalty for such refusal shall be fifty dollars. If the Board determines a nuisance exists, fines and penalties shall accrue for each day and until final disposition of the Board or Court of the nuisance abatement. In addition the Animal Control Board or Board of Selectmen whose order has been violated shall enter or cause to be entered a complaint in the local district court for the enforcement of the order. No owner of livestock or fowl shall be reimbursed by the town for damages inflicted by his own dog or dogs. No award for damages shall exceed the fair market cash value of such livestock or fowl. No reimbursement shall be made in the case of damage to deer, elk, cottontail rabbits, northern hares, pheasants, quail, partridge, or other livestock or fowl determined by the Department of Fisheries, Wildlife and Recreational Vehicles to the wild.

SECTION 30550 ENFORCEMENT

A. CRIMINAL COMPLAINT

Whoever violates any provision of this Chapter may, except as otherwise required by law, be prosecuted by indictment or a complaint brought in the district court.

B. NON-CRIMINAL DISPOSITION

Any provision of this Chapter, and any order of the Animal Control Board or the Board of Selectmen, the violation of which is subject to a specific monetary fine or penalty, may, in the discretion of the town official who is the enforcing person and as an alternative to criminal proceedings, be enforced in the manner provided in § 21D of Chapter 40 of the General Laws. The term "enforcing person" shall mean the Animal Control Officer or any police officer of the town.
Any specific monetary fine or penalty that is set forth in any provision of this Chapter for the violation of same shall be considered to apply only to a non-criminal disposition of such violation, and shall not be construed as a limitation upon the monetary penalty recoverable through criminal proceedings.

30600 ENVIRONMENTAL PROTECTION

SECTION 30610 PROTECTION OF SHORE AND PARKLAND

Any person who shall without lawful authority take or remove from the town forests, public parks, or town-owned lands of Scituate any tree, shrub, plant or portion thereof, or any material forming the forest floor, marsh, or rocky base of such land shall be punished by a fine of fifty dollars.

SECTION 30620 MOTOR VEHICLE - TOWN OWNED LAND

A. The purpose of this section is to preserve the public peace, good order, and welfare; to protect and promote the safe and convenient recreational use of public and private lands; to control and minimize soil erosion and damage to vegetation; to protect wildlife and wildlife habitats; to protect sensitive environmental areas including areas of upland, open spaces, salt marshes, dunes, beaches and tidal flats.

B. **DEFINITIONS**. The following words, as used in this section, shall have the meaning herein given, unless a contrary intention clearly appears:

1. **MOTOR VEHICLE** -

   All "motor vehicles" (including, but not limited to, automobiles, motorcycles and school or other buses) and "motorized bicycles", as defined in G.L.Chapter 90, §1; "recreational vehicles" and "snow vehicles", as defined in M.G.L.Chapter 90B, §20; and all motorized, self-propelled construction or excavation equipment not otherwise specified therein.

2. **TOWN-OWNED LAND** -

   Any land owned, held, leased or maintained by the Town of Scituate, including Conservation Land, excepting highways, streets, sidewalks and other public or private ways, and public parking areas otherwise governed under this Chapter.

3. **CONSERVATION LAND** -

   All land held, managed or controlled by the Conservation Commission, pursuant to its authority under G.L. Chapter 40; §8C; Chapter 132A, §§11 and 11A; and Chapter 184, §§31 and 32.

C. No person shall operate a motor vehicle upon any beach or any Town-owned land within the Town of Scituate without first obtaining a permit from the Town Administrator, or in the case of conservation land, from the Conservation Commission.

D. No permit issued under authority hereof shall be deemed to grant any right of entry upon any privately owned land; no person shall operate a motor vehicle upon any privately owned land without the express prior consent of the owner of the property.

E. With respect to Town-owned land, other than conservation land the Town Administrator is authorized to issue such permits upon conditions specifying the identity of the permittee, the identity of the permitted motor vehicle, and the manner, time and place of permitted operation. Such conditions shall be reasonably calculated to permit only such operation as is necessary for the construction, maintenance, or repair of the specified land or beach or any structure or structures appurtenant or adjacent thereto, or for commercial shellfishing or sea mossing.

F. The provisions of this section shall be enforced by all law enforcement officers named or described in G.L. Chapter 90B, §32. In the performance of their duties under this section, such officers may enter upon or pass over any privately owned land or property.

G. Whoever violates any provision of this Section, shall be subject to a fine of twenty-five dollars for the first offense; fifty dollars for the second offense; and one hundred dollars for the third and any subsequent offenses committed within any twelve month period.

SECTION 30630 EARTH REMOVAL

A. This section is adopted under the Authority contained in Paragraph 17, §21, Chapter 40 of the General Laws.

For purposes of this By-law, "earth" shall include soil, loam, sand and gravel, or any combination thereof.

The Board of Appeals referred to in this By-law shall be the same Board of Appeals established under §14, Chapter 40A of the General Laws or the predecessor thereto.

B. No earth shall be removed from any parcel of land not in public use, either above or under water, in any district in the town without a written permit from the Building Commissioner or from the Board of Appeals, as hereinafter provided. There shall be a fee of fifteen dollars for each permit issued.

C. The Building Commissioner, without reference to the Board of Appeals, may issue permits for the removal from the site of earth for the following purposes:

1. Where necessary in the ordinary course of farm, garden or nursery activities.

2. When incidental to landscaping or similar activities for which a building permit is not required.

3. When such earth is not necessary in connection with the construction of a building being built in accordance with a permit issued by the Building Commissioner, the approximate amount to be removed to be limited to the volume of the foundation and basement of the building.

4. When such earth is not needed in connection with the construction of a private road or drive.

D. Earth removal other than that permitted under (2) above shall not be permitted unless authorized by the Board of Appeals after public hearing and review and report within thirty days of the hearing by the Planning Board, and in compliance with the application and plans as hereinafter provided. When exercising jurisdiction under this paragraph the Board of Appeals shall conform to all the requirements of procedure applicable to a hearing and decision on a request for a special permit under Chapter 40A of the General Laws, including the requirements thereof for public notice and hearing.
Formal application shall be filed with the Board of Appeals, including seven copies of each plan involved, which application shall include the following specific information and supporting documentation:

1. The location of the proposed excavation.

2. The legal name and address of the owner of the property involved.

3. The legal name and address of the petitioner, which address shall be used by the Board for all correspondence hereunder.

4. Name and address of all abutting owners, including those across any streets.

5. A plan of the land involved, prepared by a registered land surveyor or registered professional engineer, showing topography by five foot contours of the area to be excavated and up to at least one hundred feet beyond the perimeter of the area involved and along all property lines, on Town of Scituate Datum. At least three permanent bench marks thereon must be set so that if one is disturbed, those not disturbed can be recognized.

6. A plan of the land showing five-foot contours of the site as of the proposed completion of the excavation project.

7. Plan must show no excavations, fills or side casts to be made any closer than five feet from abutter's property lines.

8. Plan must show side slopes in pit no steeper than a three (horizontal) to one (vertical) ratio.

9. Excavation lower than three feet above ground water level shall be prohibited.

10. Plan must show no excavation below the natural grade of any tract boundary nearer than fifty feet to such boundary.

11. Plan must show final elevation of floor of the pit does not exceed a 3% grade from nearest public way or ways.

12. The application shall contain a statement of plans for the disposal of rock, tree stumps, and other waste materials and for the drainage of site and excavation during and after the removal operation.

13. A proposed form of bond to be used.

E. Any permit issued hereunder shall automatically expire upon the completion of the earth removal project for which it was issued or at such time as may be specified in said permit, and in any event within one year from the date of issue thereof. A permit may be granted by the Board of Appeals with the provision that it may be renewed for one year, without a hearing if the Building Inspector finds that all conditions then applicable have been complied with and that the work has been carried on continuously and in good faith.

SECTION 30640 WASTEWATER GROWTH AND CONNECTION CONTROL PLAN

The Town, acting through the Board of Selectmen serving as sewer commissioners may permit new connections and extensions to the Town's sewage collection system in accordance with the Growth and Connection Control Plan dated January, 1996 prepared by Comprehensive Environmental, Inc., and as that plan may be amended from time to time by the Board of Selectmen with the approval of the Department of Environmental Protection.

SECTION 30650 SMOKING BY-LAW

Smoking is prohibited in any restaurant, tavern bar or other eating establishment open to the general public in the Town of Scituate as well as any public building, school property, and any other area where smoking is prohibited under MGL Chapter 270, Section 22 or Chapter 71, Section 2A.. The bylaw pertaining to school property shall be enforced by the School Department. This bylaw shall be enforced by the Board of Health Violations shall be punishable by a fine of $100.00. This Bylaw shall be effective October 1, 1999.

SECTION 30660 WATER CONSERVATION

Whenever, after due investigation, the Board of Selectmen determine that water conservation measures are necessary to conserve and manage the Town's public water supply, the Board of Selectmen may, after publication of a notice in a newspaper of general circulation, order mandatory restrictions on water use which may include, but are not limited to, restrictions on outdoor water usage, filling of swimming pools and use of automatic sprinklers. Any person who violates an order under this by-law shall be subject to a fine in the amount of $50.00 for the first offense and $100.00 for each subsequent offense. Each day of violation shall constitute a separate offense.

SECTION 30670 – SCENIC ROAD

Any person violating the provisions of the second paragraph of the Scenic Roads Act (MGL Chapter 40, Section 15C) shall be punished by a fine not to exceed three hundred dollars ($300.00.) In the case of the removal of trees, each tree of 3" diameter at breast height cut or removed in violation of the provisions of said Act shall constitute a separate violation for the purpose of assessment of fines under this Bylaw. Removal or modification of stone wall in violation of the provisions of said Act shall constitute a separate violation for the purpose of assessment of fines.

30700 ADOPTION OF LOCAL WETLANDS PROTECTION BY-LAW

SECTION 30710 PURPOSE

The purpose of this bylaw is to protect the foreshores and wetlands of the Town of Scituate by prior review and control of activities deemed to have a significant effect upon wetland values, including the following: public or private water supply, groundwater, flood control, prevention of storm damage, prevention of water pollution, fisheries, shellfish and wildlife habitat. No person shall remove, fill, dredge or alter any of the following resource areas: in or within one hundred (100) feet of any freshwater wetland, coastal wetland, marsh, wet meadow, bog or swamp; in or within one hundred (100) feet of any bank, beach, dune, or flat; in or within one hundred (100) feet of or any lake, river, pond, stream, creek or estuary; or any land under said waters; or on any land subject to tidal action, coastal storm flowage or flooding, without first filing written notice of his or her intention so to remove, fill, dredge, or alter by sending a separate letter, by certified mail, to Scituate Conservative Commission at least 21 days prior to any hearing for removing, filling, dredging or altering. Such notice of intention shall include such plans as may be necessary to describe such proposed activity and its effect on the environment. The same plans and specifications required to be filed by an applicant under Massachusetts General Laws, Chapter 131, §40, may be accepted as fulfilling the requirements of this bylaw. The said Commission, in its discretion, may hear any oral presentation under this bylaw at the same public hearing required to be held under the provisions of said Chapter 131, §40 of Massachusetts General Laws.

SECTION 30720 DEFINITION

The term "person" as used in this bylaw shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust estate, the Commonwealth or political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representatives, agents or assigns.

SECTION 30730 DETERMINATION OF APPLICABILITY

The Commission may make a determination as to whether or not this bylaw applies to a specific situation prior to the filing of a written notice of intent under the provisions hereof, upon receipt of a written request from any person desiring such determination. The Commission, its agent and employees, may enter upon the land upon which the proposed work is to be done in response to a request for a prior determination or for the purpose of carrying out its duties under this bylaw and may make or cause to be made such examination or survey as deemed necessary.

SECTION 30740 DENIAL

The Conservation Commission is empowered to deny permission for any dredging, filing, or altering of any resource areas described in Section 30710, if, in its judgment, such denial is necessary to preserve environmental quality of said resource areas. Due consideration shall be given to possible effects of the proposal on all values to be protected under this bylaw and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.

SECTION 30750 ORDER OF CONDITIONS

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

SECTION 30760 EMERGENCY PROJECTS

The twenty-one day notice required by the first paragraph in Section 30710 of this bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the citizens of Scituate and to be performed by an administrative agency of the Commonwealth or by the town. Emergency projects shall mean any projects certified to be an emergency by the Commissioner of the Department of Environmental Quality Engineering and the Conservation Commission. Within thirty (30) days after a project is certified as an emergency, a public hearing shall be held on the project at which time the Conservation Commission may require a filing of a Notice of Intent or impose remedial conditions on the work. In no case shall any filling, dredging or altering commence prior to any emergency certification nor extend beyond the time necessary to abate the emergency.

SECTION 30770 RULES AND REGULATIONS

The Conservation Commission may from time to time establish rules and regulations in order to administer and clarify this bylaw. To promulgate such rules and regulations, the Commission must first publish notice of such rules and regulations in a newspaper of local circulation. The Commission must then hold a public hearing no less than two weeks after publication of the notice.

SECTION 30771 DUMPING INTO RIVERS, CREEKS AND CHANNELS

No person shall otherwise then as permitted by law throw or place any refuse, paper, trash, glass, nails, tacks, wire, bottles, cans, yard trash, concrete, earthen fill, garbage containers, or litter or other debris in any ditch, stream, river, or retention basin that regularly or periodically carries surface water run-off. Any person(s) who deposits any of the above shall remove it or cause it to be removed immediately.

Persons violating this By-Law shall be subject to a fine of $300.00. Each day any violation of this By-Law continues shall be regarded as a new and separate offense. The penalties provided by the By-Law shall be cumulative and not exclusive.

SECTION 30780 FEES

The Conservation Commission may from time to time establish fees in order to administer this bylaw. To establish such fees, the Commission must first publish notice of such fees in a newspaper of local circulation. The Commission must then hold a public hearing no less than two weeks after publication of the notice. No fees shall be in excess of demonstrated true costs to the town of the services performed by the Commission.

SECTION 30790 MEDIATION

Any applicant, owner, abutter, ten residents of the Town, or any person aggrieved by an Order of the Conservation Commission may, within ten (10) business days of the issuance of said Order, request that the matter be settled through a mediation process conducted by an individual(s) mutually agreed upon by the applicant, the Commission and an appellant (if different from an applicant or the Commission). Any party may refuse to participate in, or may withdraw from the mediation proceeding at any time, and no settlement agreement shall be effective unless signed by all parties whose cooperation is necessary to its implementation. If no agreement to mediate is recorded within the said ten (10) business days, or for any reason mediation is abandoned before consummation, then the applicant, owner, abutter, ten residents of the Town, or any person aggrieved by an order of the Commission may appeal to Superior Court pursuant to Massachusetts General Laws, Chapter 249, §4.

SECTION 30800 PERFORMANCE BOND

The Commission may require, as a permit condition, that the performance and observance of other conditions be secured by a bond or deposit of money or negotiable securities in an amount determined by the Commission to be sufficient and payable to the Town of Scituate.

30900 WATERWAYS

SECTION 30910 DEFINITIONS

In construing this by-law the following words shall have the meaning herein given unless a contrary intention clearly appears.

"Scituate Harbor" –
The waters between the flashing red light on Cedar Point breakwater and the flagpole on the Scituate Coast Guard building on First Cliff and all the waters inside this line.

"Scituate Waterways" –
The waters within the limits of Scituate Harbor and that portion of the North River, the South River and the Gulf River lying within the town of Scituate and all other waterways within the jurisdiction of the town of Scituate, as defined in N. O. O. A. map dated February 1979.

"Harbormaster" –
Shall mean harbormaster and assistant harbor masters duly appointed by the town administrator.

"Boat" –
Shall include every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

"Persons" –
Shall include individuals, corporations, societies, associations and partnerships.

"Skin Diver" –
Shall include swimmers using fins and/or masks and/or snorkel tubes or self-contained underwater breathing devices.

"Commercial Fisherman" – An individual holding a Federal or State commercial ground fish, lobster and/or scallop license whose principal means of employment is fishing and the sale of catch.

SECTION 30920 MOORING PERMITS

A. The purpose of this section is to preserve the public peace, good order and welfare; to preserve and protect the coastal waters within the jurisdiction of the town of Scituate and all beaches, flats, tidelands and submerged lands lying seaward of the line of mean high water, and to prevent encroachments therein; to promote, preserve and protect the exercise and enjoyment of the public rights of fishing, fowling and navigation; to so regulate the use of said coastal waters as to protect and promote the public health, safety, convenience and enjoyment thereof.

B. Mooring Permits: No person shall moor any boat or shall place any block, chain, pennant or other mooring device within the limits of Scituate waterways without first obtaining a Mooring Permit from the harbor master. Such permit must be obtained for each calendar year and a mooring fee, set by the Selectmen, shall be paid for said permit to the harbormaster on a form prescribed by the Selectmen. The application shall set forth the name and address of the owner, the size and type of the boat to be moored, the size and type of the mooring, and if the mooring is already in the water,

the location thereof with sufficient details to enable the harbormaster to locate it. No person shall own more than one mooring, **except a Commercial Fisherman, as defined in Section 30910 (Definitions), and an owner of a Certified Mooring Service who may own up to two (2) moorings for the purpose of mooring Commercial (fishing) Vessels owned by said Commercial Fisherman or Commercial Vessels used in the operation of certified Mooring Service. Furthermore, a Commercial Fisherman, as defined in Section 30910 (Definitions), may also own one (1) additional mooring for the purpose of mooring a recreational vessel owned by said Commercial Fisherman, or take any other action relative thereto.**

No mooring shall be rented. Provided, however, that any yacht club or boat club or other non-profit organization having a membership of at least fifteen persons may own not more than five moorings for the use of transient guests. Occupancy of such guest moorings for more than seven consecutive days by any one vessel shall be presumptive evidence of violation thereof. The harbormaster shall not issue mooring permits or slip rentals to persons who have delinquent boat excise taxes.

Subject to the Town of Scituate Mooring Rules and Regulations and Waterways By-Laws, Subsection Mooring Rules and Regulations (H), a mooring owned by a Commercial Fisherman as defined in Section 30910 (Definitions), with the approval of the Harbormaster, may be used to moor a Commercial Fishing Vessel owned by another Commercial Fisherman for up to two years.

C. The harbormaster shall prepare regulations governing the use of moorings, applications for mooring permits, the size and specifications for moorings, their hardware and pennants. All such regulations shall be submitted to the Selectmen for approval. Upon approval, the regulations shall, for informational purposes be published once in a newspaper published in the town, and posted for seven consecutive days at the Harbormaster's Office and at the Town Clerk's Office. Copies of such regulations shall be available upon request at the Town Clerk's Office and the Harbormaster's Office. Such regulations may be amended from time to time in the same manner.

D. Any hazard to navigation or property, or any mooring placed within the limits of Scituate waterways in violation of the foregoing provisions, may be removed by the harbormaster at the expense of the owner.

E. As far as practical, the harbormaster shall require all commercial boats to be moored in a common area.

SECTION 30930 TOWN LANDINGS, PIERS, DECKS, FLOATS

A. No person carrying passengers for hire shall embark or disembark such passengers from any boat at the town landings without permission of the harbormaster.

B. No person shall tie or secure any boat to any town-owned dock, pier or float for more than sixty minutes without first obtaining a Tie-up Permit from the harbormaster. Such permit may be issued on a daily, seasonal or calendar basis and a tie-up fee, set by the Selectmen, shall be paid to the harbormaster or other agent authorized by the Town Administrator. The harbormaster shall prepare regulations governing the use of such town facilities and applications for Tie-up Permits. All such regulations shall be submitted to the Selectmen for approval subject to the procedural requirements of Section 30920C above. Nothing herein shall prohibit the harbormaster from issuing a Tie-up Permit for no fee for any disabled vessel or any transient vessel requiring temporary refuge in Scituate Harbor.

C. No person shall clean or scale fish on town floats or piers.

D. No person shall leave any boating or fishing equipment or any personal property upon town landing places, floats or piers for longer than is reasonably necessary in the act of loading or unloading same, to or from boats or vehicles, without written permission of the Harbormaster.

E. No person shall swim or dive from town-owned piers or floats unless enrolled in organizational instruction permitted by the harbormaster.

F. No major repairs or complete maintenance work shall be done at town piers, docks, or floats without the permission of the Harbormaster.

G. The town is not responsible for any loss or damage to boats at town piers. Owners will be held responsible for damage to structures and pilings owned by the town.

H. No boat shall be left in dead storage at the town pier.

SECTION 30940 SPEED LIMIT WITHIN TOWN WATERWAYS

No boat shall exceed a speed of six nautical miles per hour or cause a disturbing wake within the confines of Scituate Harbor and the North, South and Gulf Rivers.

SECTION 30950 SKIN DIVING

Skin diving shall be permitted in Scituate Harbor only for the purpose of maintenance of boats, moorings, floats, piers, ground tackle and channel markers, and only with the permission of the harbormaster
All skin divers shall:

- display an approved diver's flag of sufficient size;
- display such flag on a float or other similar device holding flag upright at a height sufficient to be visible to passing boats, but, in any event, not less than three feet;
- tow the aforesaid float and flag with him while he is submerged in the water and surface there-under, unless for commercial purposes, permission is granted in writing by the harbor master to otherwise display flags for the protection of divers in Scituate Harbor;

No skin diver shall operate in Scituate Harbor and the North, South and Gulf Rivers except from a boat and attended by another person.

SECTION 30960 WATERSKIING

No person shall operate a boat in Scituate Harbor while towing water skiers, aquaplanes or other similar devices except in connection with water carnivals and exhibitions authorized by the selectmen, or in an area designated by the selectmen. No person shall operate such boat or equipment within 150 feet of any swimmer or any of the beaches of Scituate.

SECTION 30970 DISCHARGING

Discharging or depositing, or causing to be thrown overboard, oil, refuse, waste, treated or untreated sewerage into the harbor, waterways or marinas in prohibited. All marinas will display this regulation on their wharf or ramp so as to be in the uninterrupted view of persons using this facility and to be of size to be read at a reasonable distance.

SECTION 30980 SAILING CLASSES

Sailing classes will be allowed to race within the Scituate Harbor area when under the jurisdiction of an authorized race committee recognized by the harbormaster. Such boats shall not have courses laid out which use government marks for turning buoys or use fairways as a leg of the racecourse. Such boats shall respect the maneuvering problems of larger vessels in the harbor.

SECTION 30990 TOWN LAUNCHING RAMPS

The proper usage of the town launching ramps shall be determined by the selectmen. This shall include the proper parking of trailers and motor vehicles at the approach to the ramp. Persons using town ramps for hauling of larger boats requiring cradles shall apply to the harbormaster for permission. Such cradles and/or boats shall not remain on the town ramps for more than one tide.

SECTION 31000 PENALTIES

Whoever violates any provision of this chapter or any rule or regulation adopted under Section 30920C hereof, and whoever fails to obey the lawful and reasonable orders of the harbormaster, or resists him in the execution of his duties shall be fined one hundred dollars and/or may have their mooring, dockage or commercial privileges revoked. This chapter shall be enforced by the harbormaster or his designees.

32000 MISCELLANEOUS

SECTION 32010 SELF-SERVICE GASOLINE STATIONS

A. It is hereby declared to be a public purpose to promote the health, safety, and welfare of the residents of the Town of Scituate, the prevention and control of fires, the control of traffic, and the restraint of vandalism, to regulate the conditions of operation of self-service gasoline dispensing systems. Each license heretofore or hereafter issued under the provisions of G.L. Ch.148, §13, shall be subject to the additional condition, that no gasoline shall be dispensed in or upon the licensed premises by means of self-service dispensing systems, unless during the hours when open for business there shall be on duty at all times no fewer than one person, owner or operator or employee for each four dispensing hoses. Where traffic conditions so warrant, each license heretofore or hereafter issued under the provisions of G.L. Ch. 148, §13 shall be subject to reasonable traffic control requirements as set forth by the Board of Selectmen after a full evaluation concerning such traffic conditions.

B. A violation of this section shall be punishable by a fine of twenty dollars for each offense. Evidence of repeated violations of this section shall be taken into consideration in connection with proceedings for the revocation of such a license in accordance with the provisions of said G.L. Ch. 148, §13.

SECTION 32020 SEPARATION OF HOUSEHOLD WASTE

Every Town resident shall be required to separate ordinary household waste into such categories of recyclable materials as determined by the Board of Selectmen before depositing the same for disposal at the Sanitary landfill. The Board of Selectmen shall adopt such Rules and Regulations as it deems necessary to implement this Bylaw. This Bylaw shall take effect July 1, 1992.

SECTION 32030 HYDRANTS

No person or corporation shall open any hydrant in the Town of Scituate without the permission of the Department of Public Works. Any person or corporation who violates this By-law shall be subject to a fine in the amount of $50.00 for the first offense and $100.00 for each subsequent offense. Any person or corporation who opens a fire hydrant in the Town without the permission of the Department of Public Works shall also be charged for the cost of the water at current water rate.

SECTION 32040 THE PRIVATE PROPERTY PROTECTION ACT OF 2006

The authority of the Town of Scituate and its agencies of local government, as reserved to localities under Chapter 79 of the Massachusetts General Law, to seize privately owned parcels against the expressed will of the owner through the use of eminent domain procedures, shall, in light of Kilo vs. New London, be specifically further limited as follows:
1a.) To only those proposed taking actions incorporating the transfer of private parcel(s) to the Town of Scituate or any of its authorized agencies of local government and under no circumstances to another private party, and;
2a.) To only those proposed taking actions whose purpose is the creation of a facility for actual public use and ownership to include public open spaces, parks, and watershed protection districts and never for the purposes of economic development or the enhancement of the local tax base.

Nothing in the bylaw shall limit the authority of the Town of Scituate or its authorized agencies of local government to seize property that is endangering the health and safety of its residents or which could otherwise be seized or foreclosed upon for tax delinquency in accordance with the provisions of Chapter 60 of the Massachusetts General Laws.

SECTION 32050 STORMWATER

1. **Authority**
   This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the Regulations of the federal Clean Water Act found at 40 CFR 122.34.

2. **Purpose**
   The purpose of this Bylaw is to reduce flooding, protect water quality, increase groundwater recharge, reduce erosion and sedimentation, promote environmentally sensitive site design practices such as Low Impact Development that protect vegetation and enhance town character, ensure long-term maintenance of stormwater controls and meet or exceed federal requirements under Phase II of the National Pollutant Discharge Elimination System.

3. **Definitions**

   ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: 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.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, or structural improvement that helps to reduce the rate or volume of stormwater runoff or improve its water quality.

DEVELOPMENT: Any construction or land disturbance on vacant land that is currently in a natural state and has not been disturbed.

DISTURB: To cause a change in the position, location, or arrangement of soil, sand rock, gravel or similar earth material, remove the vegetative surface cover on all or a portion of a site or make any other change which would alter drainage characteristics as per the definition above.

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 a narrative, drawings and details developed by a qualified professional engineer (PE) 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 resulting from pre-construction and construction related land disturbance activities.

GRADING: Changing the level or shape of all or a portion of the ground surface of a site.

IMPERVIOUS: Preventing water from infiltrating the underlying soil. Impervious surfaces include paved surfaces (parking lots, sidewalks, driveways,) walkways and patios of a continuous hardened surface, rooftops, swimming pools, patios, and paved, gravel and compacted dirt surfaced roads.

OPERATION AND MAINTENANCE PLAN: A plan that shows or establishes the physical, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed, including during pre- and post-construction activities.

PERMITTING AUTHORITY: For the purposes of this bylaw, the permitting authority shall mean either the Planning Board or Conservation Commission, or the Town Planner or Conservation and Natural Resource Officer.

PRE-CONSTRUCTION: All activity undertaken in preparation for construction.

POST CONSTRUCTION: All activity undertaken after a Certificate of Completion is issued.

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.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or reduce erosion.

STOP WORK ORDER: An order issued by the Permitting Authority or its designee which requires that all construction activity on a site be stopped.

STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit.

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

SUBDIVISION: As defined in the Subdivision Control Law of Massachusetts, M.G.L. – Chapter 41, Section 81L Definitions.

4. Applicability

A. Regulated Activities. This bylaw shall apply to the following activities:

1. All development and redevelopment projects that will disturb over 15,000 sq. ft. of land in a Residential zoning district; render 25% or more of an undeveloped lot impervious or increase impervious area of a developed lot by 25% or more, even if that disturbance is conducted over separate phases and/or by separate owners.

2. All development and redevelopment projects that will disturb over 1,000 sq. ft. of land on undisturbed or natural slopes greater than 25%, even if that alteration is conducted over separate phases and/or by separate owners.

3. Construction of a new drainage system or alteration of a drainage system serving a drainage area of more than 15,000 sq. ft. of land.

4. Any development or redevelopment involving "land uses with higher potential pollutant loads," as defined in the Massachusetts Stormwater Management Policy. Land uses with higher potential pollutant loads include auto salvage yards, auto fueling facilities (gas stations), fleet storage yards, high-intensity commercial parking lots, road salt storage areas, commercial nurseries, outdoor storage and loading areas of hazardous substances, and marinas.

B. Exempt Activities. The following activities shall be exempt from this bylaw:

1. a. Construction on an individual lot within a subdivision that has previously been issued a stormwater permit, or was approved under the Subdivision Rules and Regulations adopted 8/13/10 or later;

   b. Construction on a lot served by an approved Common Driveway or shown on an approved Site Plan where the proposed stormwater management system and Operation & Maintenance Plan were reviewed by the Town's consulting engineer and approved by the Planning Board, and if applicable, a current Common Driveway Agreement is on file with the Planning Board; or

   c. Construction on any lot that has previously been issued a stormwater permit, so long as that construction substantially conforms to the grading, the limit of work, impervious area and drainage characteristics shown on an approved plan. Any plan changes that would have the effect of altering drainage characteristics must be on file with the Permitting Authority prior to construction commencing. The Permitting

Authority may require that the applicant obtain an engineer's certification that drainage characteristics will not be altered by proposed changes to a plan.

2. Landscaping for a single-family home that involves the addition or removal of fewer than 100 cubic yards of soil material or alteration of less than two feet of elevation with maintenance of existing drainage characteristics.

3. Repair and replacement of existing roofs.

4. Construction of walls and fencing that will not alter existing drainage characteristics.

5. Use, maintenance, and improvement of agricultural land.

6. Construction of utilities, other than drainage, that will not alter existing terrain or drainage characteristics, including repairs to existing septic systems when required by the Board of Health.

7. Emergency repairs to any existing stormwater management facility.

8. Routine maintenance and improvement of town-owned public ways not resulting in an increase in impervious area.

5. Administration

A. This bylaw shall be administered by the Planning Board and Conservation Commission. Any activity regulated under this bylaw that is also subject to regulation by the Wetlands Protection Act and/or local Wetlands Bylaw shall also require approval of a Stormwater Permit by the Conservation Commission or its designee. Any activity regulated by this bylaw that is not subject to regulation by the Wetlands Protection Act and/or local Wetlands Bylaw shall require approval by the Planning Board. A project required to undergo stormwater review under the Subdivision Rules and Regulations or as required for a Common Driveway or Site Plan will not require a separate Stormwater Permit from the Planning Board. In practice, the Conservation Commission' jurisdiction will mostly include single family dwellings falling under the jurisdiction of the Wetland Protection Act. All other regulated activities shall require a Stormwater Permit from the Planning Board or its designee. The term Permitting Authority shall be used to refer to the board having jurisdiction over land disturbance or alteration under this bylaw.

B. The Planning Board may adopt and amend Stormwater Regulations related to the content of permit applications and the performance standards for development activities, as described in Section 6 below. Failure to promulgate such Regulations shall not have the effect of suspending or invalidating this bylaw.

C. The Planning Board or Conservation Commission as applicable, their agents or their designee shall review all applications for a Stormwater Permit, issue a Stormwater Permit, conduct necessary inspections and site investigations, monitor and enforce the conditions of the permit, and issue a Certificate of Completion, and shall be responsible for enforcement of this bylaw.

D. The Permitting Authority may refer any application for a Stormwater Permit to its consulting engineer for review.

Following receipt of a completed permit application, the Permitting Authority shall seek review and comments from the Conservation Commission or Planning Board as applicable, Board of Health, Department of Public Works, Water Resources Committee for projects within the Water Resource Protection District and other town boards or authorities as appropriate.

E. The Town Planner or Conservation and Natural Resources Officer may issue a Stormwater Permit for projects which do not disturb an area greater than 40,000 sq. ft., or greater than 1,000 sq. ft. with a slope of 25% or greater. This shall be considered an Administrative Stormwater Project Review and shall be issued according to procedures outlined in the Stormwater Regulations, which shall not require a public hearing.

F. Construction under a Stormwater Permit shall be authorized upon the date of issuance but in no case more than three years from the date of issuance unless this time period is extended by vote of the Planning Board or Conservation Commission.

6. Adoption of Regulations

A. The Stormwater Regulations shall include separate performance standards for rainwater-produced stormwater and land subject to coastal storm flowage. All regulations shall be adopted after a public hearing and public comment period, and transmitted to the Planning Board within one week of adoption for inclusion in the bylaw.

B. The public hearing shall be advertised in a newspaper of general local circulation at least seven days prior to the hearing date.

C. Other boards, commissions, and departments with responsibilities that include or are related to stormwater management are encouraged to adopt those Regulations by reference.

7. Submittal Requirements. Submittal requirements for development, site disturbance and alteration shall include an application form, application fee and plans as listed below. These may be consolidated into a single site plan. All plans and certifications shall be prepared by a licensed Professional Engineer.

A. Application Fee. Each application must be accompanied by the appropriate application fee pursuant to the Stormwater Regulations. This fee shall be sufficient to cover any expenses connected with the public hearing, where required, and review of the Stormwater Permit application. The Permitting Authority is authorized to retain a licensed Professional Engineer or other professional consultant to advise the Permitting Authority on any or all aspects of the Application.

B. Erosion and Sedimentation Control. All applications must include an Erosion and Sedimentation Control Plan to show proposed methods for properly stabilizing the site before construction begins. This plan shall show the Best Management Practices (BMP's) that will be used during construction to minimize erosion of the soil, sedimentation of stormwater and flow of stormwater onto neighboring properties, roads or drainage systems. These BMPs should include both stabilization practices such as: seeding, mulching, preserving trees and vegetative buffer strips, contouring and structural practices such as: earth dikes, silt socks, silt fences, stabilized construction entrances, drainage swales, sediment traps, check dams, and subsurface or pipe slope drains.

C. Site Plan and Narrative Showing Proposed Stormwater Measures. All applications shall include a Site Plan showing BMP's proposed to manage stormwater after construction. This

Plan shall contain sufficient information to evaluate the environmental impact, effectiveness, and acceptability of the measures for reducing adverse impacts from stormwater. All plans shall meet the Performance Standards in the Stormwater Regulations. Any easements or deed- restricted areas shall be clearly shown and identified. With the exception of plans for construction of single- and two-family homes, all plans shall be designed to meet the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, as revised, where these are otherwise applicable. A brief narrative shall be included describing the BMP's with references to their location and function.

D. Pre- and Post-Construction Operations and Maintenance Plans. Pre- and Post-Construction Operation and Maintenance Plans (O&M Plans) are required at the time of application for all projects. The required contents of these plans shall be described in the Stormwater Regulations. Pre-Construction O&M Plans shall address maintenance of erosion control and site stabilization measures; operation of equipment during construction and inspections required during construction. Post-Construction Plans shall include methods for maintaining the stormwater management system; protection of vegetation where needed to absorb and take up stormwater; responsibilities of the homeowner and any third parties; and the estimated cost of maintenance. . They shall be designed to ensure compliance with this bylaw and the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 in all seasons and throughout the life of the stormwater system. The Town shall make the final decision on what maintenance is appropriate in a given situation with consideration for natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and the need for ongoing maintenance activities. The O&M Plans shall remain on file with the Planning Board or Conservation Commission as applicable and shall be an ongoing requirement.

8. **Performance Standards.** Performance standards for site design, erosion control, stormwater management, operation & maintenance guidelines, materials, vegetation, and other aspects of developments shall be described in the Stormwater Regulations with compliance required to the extent practicable in the opinion of the Permitting Authority. Separate performance standards may be adopted for single family homes, and all other types of development. Performance standards shall reflect all requirements for stormwater in the Water Resource Protection District found in the Zoning Bylaw for properties in that district. Separate standards shall be adopted for land subject to coastal storm flowage.

A. Performance standards will include (but not be limited to) the following standards for rainwater-produced stormwater:

1. Peak Discharge Rates (flooding protection and channel protection)
2. Peak Discharge Volume
3. Retention of First 1" of Stormwater for Development and Redevelopment of One or More Acres. For new development or redevelopment of one or more acres, the first inch of runoff from all impervious surface must be retained on the site, unless pollutant removal of first inch of runoff with BMP (equivalent pollutant removal as with a biofilter) is provided. Shutoff and containment is required in the case of discharge near an environmentally sensitive area, i.e. public water.

4. Recharge Volume
5. Pretreatment and Water Quality
6. Erosion Control
7. Vegetation, Site Design, and Site Restoration

B. Performance standards shall also be adopted for coastal storm associated floodwater, to avoid channelization and minimize the velocity of flood waters.

1. Standards for land subject to coastal storm flowage.

   Preservation of the abilities of existing topography, slope, surface area, soil characteristics, erodibility, and permeability of land in the flood plain will tend to allow for the dissipation of storm wave energy, slowing of moving water, and absorption of flood waters. Standards for land subject to coastal storm flowage may include limits on creation of new pavement or other impervious surfaces, or that there shall be no adverse impact from work proposed in Land Subject to Coastal Storm Flowage. Standards may also be adopted for increases in impervious surface, removal of natural vegetation and pervious areas, filling, locating foundations or pavement so as to channelize floodwater, use of solid foundations and fill so as to deflect, reflect or redirect wave energy or channelize floodwater, or dredging or removal of soil materials within the floodplain so as to allow storm waves to break further inland and impact upland or wetland resource areas.

The Permitting Authority may seek the services of a consultant to assess compliance with the adopted standards for rainwater and coastal storm floodwater.

9. Review Process

A. Applicants are strongly encouraged to schedule a pre-application meeting with the Town Planner or Conservation and Natural Resources Officer, as applicable, to review the proposed development plans at the earliest feasible time.

B. The stormwater permit review shall not require a special public hearing, but stormwater issues may be discussed as part of other Public Hearings required for approval of the same project by the Planning Board or Conservation Commission. If no public hearing is required, the Planning Board or Conservation Commission may choose to hold a special public hearing to solicit public comment.

C. After review of the application and comments received from other boards, and following the close of a Public Hearing where a hearing is required, the Permitting Authority shall take one of the following actions:

1. Approve the application and issue a Stormwater Permit if it finds that the proposed plan meets the objectives and requirements of this bylaw.

2. Approve the application and issue a Stormwater Permit with conditions, modifications, or restrictions as necessary to ensure protection of water resources or to meet the objectives of this bylaw.

3. Disapprove the application and deny a permit if it finds the proposed plan will not protect water resources or fails to meet the objectives of this bylaw; or if it finds that the applicant has not submitted information sufficient to make such a determination.

D. Deadline for Action.
For a Stormwater Permit for a single family home or a residential duplex, the Planning Board or its designee shall file its decision with the Town Clerk and the Building Commissioner within thirty (30) days of the receipt of a completed application. For all other development, a

decision shall be made prior to approval of a Special Permit or Definitive Plan, if required, or prior to issuance of an Order of Conditions or building permit as applicable.

The review period may be extended by mutual consent of the Permitting Authority and the applicant. Failure to extend the review period or take action on the application before the deadline for action shall be deemed to be approval of such application. Upon certification by the Town Clerk that the allowed time has passed without action the Stormwater Permit shall be issued by the Permitting Authority.

E. Appeals. Decisions under this bylaw may be appealed to Superior Court or Land Court.

10. Notification, inspections.
Submittal of the stormwater permit application is construed to grant the Permitting Authority, its agent, or its designee with permission to enter the site for inspection.

The Permitting Authority may make unscheduled site visits to insure construction complies with the Operation & Maintenance Plan. If it does not comply, the Permitting Authority shall review whether to pursue remedies for enforcement of the Stormwater Permit as described in Section 12 of this bylaw.

11. Submittal of as-built plans. Submittal of as-built plans depicting the construction conditions of the stormwater management system and grading on the site shall be required. Specifications for these as-built plans are outlined in the Stormwater Regulations.

12. Surety. The Permitting Authority may require the posting of a surety bond until work is completed and satisfactorily inspected, or to ensure maintenance of the system.

13. Enforcement. The Permitting Authority shall enforce this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations, including remedies available under non-criminal disposition. Mechanisms and procedures for enforcement may be further detailed in Regulations adopted by the Planning Board pursuant to this Bylaw.

A. Orders.

1. The Permitting Authority may issue a written order to enforce the provisions of this Section or the regulations thereunder, which may include:

   a. A requirement to cease and desist the construction activity until there is compliance with the provisions of the Stormwater Permit;
   b. Maintenance, installation or performance of additional erosion and sediment control measures;
   c. Monitoring, analyses, and reporting;
   d. Remediation of erosion and sedimentation resulting directly or indirectly from land-disturbing activity.

2. If the enforcing body determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. This deadline shall be no more than twelve months from the date of the violation.

B. Any person that violates any provision of this Section may be punished, under G.L c.40 §21D as a noncriminal offense, by fines of:

1. First offense: $100
2. Second offense: $200
3. Each additional offense: $300

Each day on which any violation or offense exists shall be deemed a separate offense. No new permits shall be issued to an applicant if any permit fines are outstanding.

C. Remedies Not Exclusive. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law.

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

PART 4

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