TOWN OF CARVER

BY-LAWS

Includes:
This revision of the Town of Carver General By-Laws includes additions or changes voted at the April 14, 2021 Annual Town Meeting.

TOWN OF CARVER BY-LAWS

CHAPTER 1 TOWN ELECTIONS AND TOWN MEETINGS

1.1 TOWN ELECTIONS AND TOWN MEETINGS

1.1.1. The Annual Town Meeting shall be held for the transaction of municipal business in the month of April, May or June on a weekday to be set by the Board of Selectmen, and the Election of Officers on the fourth Saturday in April at 8:00 o'clock A.M. The polls shall be open until 6:00 P.M.

1.1.2. Seventy-five (75) qualified voters shall be necessary to constitute a quorum at any town meeting, including special town meetings; provided, however, that one hundred fifty (150) qualified voters shall be necessary to constitute a quorum at any town meeting where any bonded indebtedness is to be voted upon, and provided also, that a number less than a quorum may from time to time adjourn the same.

1.1.3. All articles in the warrant shall be taken up in order of their arrangement unless otherwise ordered by two-thirds vote.

1.1.4. No motion to adjourn without day shall be in order until all articles in the warrant have been acted upon.

1.1.5. The check list shall be used in admitting voters to a town meeting, except that non-voters may be admitted to a defined and separate portion thereof, and non-voters may address the meeting if the Town so votes.

1.1.6. The articles to be acted upon at the Annual Town Meeting shall be submitted to the Board of Selectmen at a date determined by the Board.

1.1.7. No Authority of Commission shall be created at any meeting of the Town unless each registered voter has been informed in writing at least seven (7) days before the meeting of the full powers of such Authority or Commission and the manner of dissolving same, once formed.

1.2 TOWN MEETING WARRANTS

1.2.1. The town warrant shall be posted at least seven (7) days preceding the date of the town meeting in the Town House, at each post office and fire station in the town, and at such other locations as may be designated by the Selectmen.

1.1.8 To be debatable, any motion must be seconded and any main motion or motion to amend must be in writing Moderator before the maker may speak on the subject of the motion. The maker of the motion will be recognized to begin the debate when recognized by the Moderator, unless the Moderator determines that some other person should be recognized first.

1.1.9 For warrant articles involving the expenditure of money, including transfers from available funds and borrowing, if a specific sum is stated in the warrant with the words "not to

exceed", no motion that exceeds the amount stated in the warrant shall be in order. If a specific amount is stated in the warrant but does not contain the words "not to exceed", an amendment will be in order if it is ruled as being within the scope of the article by the Moderator and is approved by a 2/3 vote.

1.1.10 Unless physically unable to do so, any person wishing to address the meeting should rise and get in line with others behind a designated microphone. Those physically unable to approach a microphone should raise their hand to signify to the Moderator that they wish to speak and a portable microphone will be brought to the voter where they are sitting. Members will be called upon in the order they rise. If the Moderator is unable to determine the order, she/he will use their discretion.

1.1.11 All speakers shall address their remarks through the Moderator and may only address others through the Moderator. No person shall speak more than twice in debate on any question and no person shall speak more than three minutes at any one time without leave of the Moderator, or unless they have obtained the consent of Town Meeting which can be granted with a motion to extend the limits of debate which requires a 2/3 vote without debate. No person shall speak a second time on an issue unless everyone who wishes to speak has been given an opportunity to do so once. Rights in regard to debate are not transferrable. A board or committee chair, member, or representative and other Town officials are not considered to be in debate when giving a report or presentation authorized by the Moderator, or answering questions directed through the Moderator, however, such individuals are bound by the rules of debate when speaking further on the question. Notwithstanding the provisions of this paragraph, the Moderator may recognize any voter who has a question concerning the matter pending before the meeting or town meeting procedures.

1.1.12 The Moderator may announce a vote as it appears by the sound of voices, including votes requiring a 2/3 majority. If the Moderator is in doubt or if the declared vote is immediately questioned by at least seven voters, the Moderator shall order a hand count.

1.1.13 The vote on any motion may be taken by secret ballot if requested moved seconded and approved by the majority of the voters present.

1.1.14 Any voter may move to reconsider the vote on any warrant article prior to adjournment of the meeting, but reconsideration can only be moved once and must be approved by a 2/3 vote.

CHAPTER 2 ELECTED TOWN OFFICERS, BOARDS, COMMITTEES AND COMMISSIONS

2.1 TOWN MODERATOR

2.1.1. The moderator shall be elected for three years, the name to appear on the official ballot. He shall serve in accordance with the provisions of Chapter 39, Section 14 of the General Laws.

2.1.2. The powers and duties of the moderator not especially provided by by-law shall be determined by rules of practice as contained within Robert's Rules of Order as far as they are adapted to the conditions and powers of the Town.

2.2 BOARD OF SELECTMEN

2.2.1. There shall be a **Select Board** composed of five (5) members elected for terms of three years each, so arranged that the term of as nearly equal number of members as is possible shall expire each year.

2.2.2. The **Select Board** shall have all the powers and duties of a Board of Selectmen for purposes of General Laws and any special acts applicable to the Town of Carver., including but not limited to the power to prosecute, compromise or defend suits for or against the Town and employ counsel at any time if, in it's judgement, the interest of the Town so require.
2.2.3. It shall be the duty of the **Select Board** to transmit a copy of any warrant for any regular or special town meeting to the Finance Committee as soon as said warrant is drawn.

2.2.4. The Town Administrator shall appoint an Inspector of Wires.

2.2.5. The **Select Board** shall notify all department heads and all committees appointed or elected by the Town of any special town meeting at least seven (7) days prior to the posting of the warrant for said meeting, except in case of emergency as determined by the **Select Board**.

2.2.6. Any committee, board, officer or department having control of town property other than real property shall notify the **Select Board** whenever any of such property becomes obsolete or in excess of the needs of that agency. The **Select Board** shall establish a procedure to make any such property available to other town agencies that may be able to use it. Any items of property which in the opinion of the **Select Board** have a value of five hundred dollars or less and which are not transferred to other town agencies by such procedure shall be disposed of by the **Select Board** by public sale following notice.

2.2.7. In order to coordinate the business of the Town, the **Select Board** shall have the authority to call a meeting of all Boards, Commissions, Committees and Departments of the Town as the Board deems in the best interest of the Town. Each Board, Commission, Committee and Department shall have at least one duly authorized representative present for such meeting, who shall be prepared to submit a progress report and to answer any questions from Board, Commission, Committee or Department Heads as well as from the **Select Board**.

2.2.8. A **Select Board** member may not hold any other elective or compensated office under government of the Town of Carver during the term, for which he/she is elected, nor any compensative appointive town office or employment for one year thereafter. Also, that any member of the **Select Board** serving in such capacity at the time of adoption of this section shall not be required to resign from any other position held and shall be allowed to complete his/her term of office on the Board.

2.2.9 In exercising its authority in making appoints to the various offices, boards, commissions and committees within its jurisdiction, the **Select Board** will honor the will of the voters and will endeavor to avoid appointing anyone to a position who ran for but was not elected to that position within one year prior to the date of the appointment.

2.3 BOARD OF HEALTH FEES

2.3.1 The Board of Health is charged with collecting users fees to reimburse the Town for costs, including monitoring costs, associated with the land filling of waste and other material within the Town of Carver. Such waste may be collected within or outside the Town of Carver. The fees will be set on a tonnage basis and collected in conjunction with the enforcement of regulations promulgated under Massachusetts General Laws, Chapter 111, Section 31A and 31B.

2.4 TREASURER/COLLECTOR FEES

2.4 FEES

Other than as specifically set forth herein, any Town board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to statutes or regulations wherein the entire proceeds of the fee remain with the Town, and may fix reasonable charges to be paid for any services rendered or work performed by the Town or any department thereof, provided, however, that in the case of a board or officer appointed by an elected board, the fixing of such fee shall be subject to the review and approval of such elected board, and in the case of any other board or officer, the fixing of such fee shall be subject to the review and approval of the Board of Selectmen or its designee. No fee shall be imposed or increased until a public hearing is held with respect thereto and such new or revised fee is then posted at the office of the Town Clerk for at least two weeks prior to the effective date thereof. All fees in effect immediately prior to the effective date of this bylaw shall continue to be applicable until revised as provided hereunder. Fee schedules shall be posted in the office of the Town Clerk and in the office of the officer or board imposing the fee.

2.5 PERMITTING AUTHORITY

2.5.1. No person who holds a position with a permitting-authority board or commission shall be eligible for appointment to another permitting-authority board or commission, unless they resign from the first position. For purposes of this bylaw, a permitting-authority board or commission shall mean any board or commission of the town that has the authority to issue licenses, permits or approvals for any activity or use of land, including, but not limited to, the Select Board, Planning Board, Zoning Board of Appeals, Board of Health and Conservation Commission, provided, however, that nothing in this bylaw shall prevent any person from holding one or more elected positions with the town, except as set forth in Chapter 2.2 of the Town's bylaws relative to the Select Board. 2. Any person holding appointed positions with more than one permitting-authority board or commission on the effective date of this bylaw may continue to hold those positions until the expiration of the earliest ending term and they shall thereafter be subject to section 1 of this bylaw. 3. Any member appointed to a permitting-authority board or commission may continue to serve beyond the expiration of

their term until the conclusion of any public hearing opened prior to the expiration of their term. In that case, the member's appointment shall be extended for purposes of that hearing only and it shall expire upon the closing of the public hearing.

CHAPTER 3 TOWN ADMINISTRATOR

3.1. PURPOSE: To establish and define the position of Town Administrator.

3.2. SUMMARY: The Town Administrator reporting directly to the Board of Selectmen, shall be the Administrative Officer for the Town of Carver and shall act as agent for the Board of Selectmen in overseeing the day -to-day operation of the Town's general government.

3.3. JOB DESCRIPTION

3.3.1. Appointment

3.3.1.1. The Board of Selectmen shall appoint a Town Administrator from a list prepared by a screening committee.

3.3.1.2. The Board of Selectmen shall appoint the Town Administrator to serve for an indefinite term and shall fix compensation for such person, annually, within the amount appropriated by the Town.

3.3.1.3. The Town Administrator shall be appointed on the basis of educational, executive, and administrative qualifications and experience.

3.3.2. Qualifications

3.3.2.1. The educational qualifications shall consist of a master's degree, preferably in public or business administration, granted by an accredited degree-granting college or university. The professional experience shall include at least three (3) years of prior full-time compensated executive service in public or business administration; or

3.3.2.2. Five (5) years or more of such professional experience and a bachelor's degree in an appropriate discipline shall qualify any applicant.

3.3.2.3. A proven ability to relate to a variety of constituencies, included but not limited to town elected and appointed officials, committees and boards and the general public.

3.3.2.4. Demonstrated ability and experience with computers, in particular databases, spreadsheets and word processing.

3.3.3. Conditions:

3.3.3.1. A Town Administrator need not be a resident of the town or of the Commonwealth at the time of appointment, nor at any time during the period of such service.

3.3.3.2. The Town Administrator shall not have served in an elective office in the town government for at least twelve months prior to appointment.

3.3.3.3. The Town may from time to time establish, by by-law, such additional qualifications as seem necessary and appropriate.

3.3.3.4. The Town Administrator shall devote full time to the office and shall not hold any other public office, elected or appointive, nor engage in any business or occupation during such service, unless such action is approved in advance by the Board of Selectmen.

3.3.3.5. The Board of Selectmen shall provide for an annual review of the job performance of the Town Administrator, which shall, at least in summary form, be a public record.

3.4 POWERS AND DUTIES

3.4.1. The Town Administrator shall be the chief administrative officer of the town, directly responsible to the Board of Selectmen for the administration of all town affairs for which the offices of Town Administrator is given responsibility by or under this by-law. The powers and duties of the Town Administrator as in regard to the police department and the fire department shall be in accordance with MGL Chapter 41, Section 97A and MGL Chapter 48, Section 42 - both having been accepted by the Town of Carver. The powers and duties of the

Town Administrator shall include, but are not intended to be limited to the following:

3.4.2. Appointment Duties:

3.4.2.1. To appoint officers, members of boards and commissions as provided by by-law. Copies of the notices of all such proposed appointments shall be posted on the Town bulletin board when submitted to the Board of Selectmen. Such appointments shall become effective on the fifteenth (15th) day following the day on which such notice of the appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall, within that period by a majority of all of its members, vote to reject such appointment, or has sooner voted to affirm it.

3.4.2.2. The Town Administrator shall also appoint, on the basis of merit and fairness alone, and except as may otherwise be provided by general law or collective bargaining agreements:

a. All town employees, including secretarial and clerical personnel; part time or full time, in consultation with the elected or appointed town officials to whom said employees report;
b. All employees of appointed town multi-member bodies;
c. One or more inspectors; and
d. All other full time, part time or seasonal employees, except those of the police and call fire departments and the school committee.

3.4.3. Financial Management Duties:

3.4.3.1. To assure that full and complete records of the financial and administrative activities of the Town are kept and to render as often as may be required by the Board of Selectmen, but not less than once a year, a full report of all town administrative operations during the period reported on, which shall be made available to the public.

3.4.3.2. To prepare and present, an annual operating budget for the Town and present a capital improvement plan, prepared by the Capital Outlay Committee for the five (5) fiscal years next ensuing.

3.4.3.3. To be the chief procurement officer for the Town, in accordance with the provisions of Chapter 30B of MGL, and to appoint such assistant procurement officers as provided in Chapter 30B of MGL.

3.4.3.4. Inspect and submit warrants for payment to the Board of Selectmen.

3.4.4. Personnel Management Duties:

3.4.4.1. To be entrusted with the administration of the Town personnel system, including, but not limited to personnel policies and procedures, rules, and regulations including provisions for an annual employee performance review, personnel by-law and collective bargaining agreements entered into by the Town.

3.4.4.2. The Town Administrator shall also prepare and keep current a plan establishing the personnel staffing requirements for each town agency, except the school department.

3.4.4.3. To negotiate, on behalf of the Board of Selectmen, all contracts and collective bargaining agreements involving any subject within the jurisdiction of the office of the Town Administrator, including contracts with town

employees,except employees of the school department, involving wages, hours and other terms and conditions of employment. All such contracts and agreements shall be subject to the approval of the Board of Selectmen.

3.4.5. Administrative Duties:

3.4.5.1. To supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of Town Administrator is given authority, responsibility or control by this by-law.

3.4.5.2. To attend all regular and special meetings of the Board of Selectmen, unless unavoidable for reasonable cause, and shall have a voice, but not vote, in all of its proceedings.

3.4.5.3. To keep the Board of Selectmen fully advised as to the needs of the Town and recommend to the Board of Selectmen and to other elected Town officers and agencies for adoption such measures requiring action by them or by the Town Meeting as the Town Administrator may deem necessary or expedient.

3.4.5.4. The Town Administrator shall be responsible for the maintenance and repair, rental and use, of all town buildings and facilities placed under the Town Administrator's control by this by-law, by vote of the Town or otherwise.

3.4.5.5. To assure that a full and complete inventory of all property of the Town, both real and personal, is kept, including all property under the control of the school committee.

3.4.5.6. To see that the provisions of the General Laws, Town By-Laws and other votes of the Town Meeting and votes of the Board of Selectmen which require enforcement by Town Administrator are faithfully executed.

3.4.5.7. Keep records of his activities and render a full report to the Board of Selectmen when required.

3.4.5.8. To coordinate the activities of all Town agencies serving under the office of the Town Administrator and the office of the Board of Selectmen with those under the control of other officers and multiple member bodies elected directly by the voters. For this purpose the Town Administrator shall have authority to require the persons so elected, or their representatives to meet with the Town Administrator, at reasonable times, for the purpose of effecting coordination and cooperation among all agencies of the Town. The Town Administrator shall have the right to attend and speak at any regular meeting of any multiple member body.

3.4.5.9. To seek and review by initiative or upon request of any town officer, those, state, federal, regional and all other grants which may be of benefit to the Town of Carver. The Town Administrator shall be the authority responsible for the reviewing and completing all applications for such grants, except as otherwise authorized by statutes. Once drafted, all grant applications shall be submitted to the Board of Selectmen for their approval and signature.

3.4.5.10. To be responsible for any and all dispositions of non-criminal citations issued in the Town of Carver. The Town Administrator will be responsible for assigning one or more assistant clerks as required.

3.4.5.11. To be responsible for the publication, maintenance and review of the Town By-Laws and of any duly authorized revisions, amendments,

additions, or other changes pertaining thereto. Subsequent to enactment by the Town Meeting, copies of the revised by-laws shall be forwarded to the Attorney General of the Commonwealth for approval, and they shall be otherwise published, all as required by general laws. Copies of the revised by-laws shall be made available for distribution to the public.

3.4.5.12. To attend all sessions of all town meetings and answer questions raised by voters which relate to warrant articles and to matters over which the Town Administrator exercises any supervision.

3.4.5.13. To inquire at anytime, into the conduct and operation of office or performance of duties of any officer of employee, department, board, commission or other Town agency.

3.4.5.14. Receive and address citizen complaints and needs.

4.4.5.15. To perform any other duties as are required to be performed by the Town Administrator by by-law, administrative code, votes of the Town Meeting or votes of the Board of Selectmen, or otherwise.

3.5. EFFECT: To the extent that the provisions of this by-law modify or repeal existing by-laws of the Town of Carver, this by-law shall govern.

CHAPTER 4 APPOINTED BOARDS, COMMITTEES AND COMMISSIONS

4.1. VACANCIES DUE TO ABSENCE

4.1.1. Three consecutive absences of any member of an appointed Board, Committee, or Council at duly called meetings shall constitute a vacancy.

4.1.2. The Chairman of any appointed agency shall notify the Town Clerk in writing with seven (7) days of any vacancy occurring in such agency. The vacancy shall be filled within fourteen (14) days of such notification by the original appointing authority. Such appointments shall be for the unexpired term of the member being replaced.

4.2 EXPIRATION OF CERTAIN COMMITTEES

4.2.1 All special committees shall report in writing to the next annual town meeting unless ordered to report to a previous special town meeting. All special committees shall be automatically dissolved at the adjournment of the next annual town meeting unless the Town votes to extend the life of such committee.

4.2.2. Unless otherwise provided for, all appointments to boards, committees, and commissions shall be concurrent with the municipal fiscal year.

4.3. FINANCE COMMITTEE

4.3.1. There shall be a Finance Committee of at least four (4), but not more than eleven (11) members. The Town Administrator, in consultation with the Moderator and Finance Committee Chair, shall appoint members for a term of three (3) years. The Town Administrator shall attempt to provide that the terms are properly staggered so that an equal number of seats expire annually. The members of the Finance Committee shall elect from their number a Chair. For voting purposes, the majority of the committee shall be deemed to be a majority of the seats currently filled at any given time. However, at no time shall the Committee conduct business with less than four voting members present. No member of the Finance Committee shall hold office for more than four (4) consecutive full terms or for a period not to exceed twelve (12) consecutive years.

4.3.2. The Finance Committee may appoint from its own membership such sub-committees as it may deem advisable.

4.3.3. The Finance Committee shall have authority at any time to investigate the Town's accounts and the management of any department. The books, records and accounts of all departments of the Town shall be open to the inspection of the Finance Committee, or any of its authorized sub-committees, or any person authorized to act for said committees.

4.3.4. All officers, boards, committees and departments authorized to expend town money shall transmit in writing to the Board of Selectmen their estimate of the appropriation necessary for the conduct of their business for the next fiscal year at least seventy-five (75) days prior to the date of the Annual Town Meeting. At least sixty (60) days prior to the date of the Annual Town Meeting, the Board of Selectmen shall assemble these requests in such form as the Finance Committee may reasonably request, and submit them to the Finance Committee and, the officers, boards, departments, or committees authorized to expend town money shall present to the Finance Committee, in writing, a detailed list of their expenditures during the previous year. At least thirty (30) days prior to the date of the Annual Town Meeting, the Board of Selectmen and Finance Committee shall vote on their budget recommendations. Said votes shall be final and shall not be subject to change except by vote at the Annual Town Meeting.

4.3.5. The Finance Committee shall prepare a report for insertion in the warrant for the annual town meeting. The report shall contain the Finance Committee's recommendations for town meeting action on all requested appropriations together with recommendations on other matters in the warrant as, in their judgment, should be brought to the attention of the Town. Reports to all other town meetings shall be in such forms, as the Finance Committee shall deem advisable.

4.3.6. The members of the Finance Committee, excepting Chairman and Secretary, shall serve without pay, but may be reimbursed for actual expenses

incurred in the discharge of their official duties. Salary for Chairman and Secretary of said committee shall be set by a vote of the Town.

4.3.7 Any registered voter of the Town shall be eligible for appointment to the **Finance Committee or Council on Aging** except that no elected or appointed town officer or regular town employee or person holding a position of financial responsibility for the town shall be eligible for membership in such agency. No member of a special town committee shall be authorized to vote as a member of such agency on any matter pertaining to the duties of a special committee of which he is a member.

4.4 COUNCIL ON AGING

4.4.1. There shall be a Council of Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in cooperation with programs of the Massachusetts Executive Office of Elder Affairs, set forth in Massachusetts General Laws, Chapter 40 Section 8B.
4.4.2. The Town Administrator shall appoint a Council on Aging consisting of five (5) members and two (2) alternates. Upon the effective date of this Bylaw, the appointed incumbents serving at the time of the adoption shall continue to serve for the remainder of their terms, unless the incumbent resigns or is removed prior to the end of the term, provided that the two most recent appointees shall be designated as the alternate members. Thereafter, The Town Administrator, in consultation with the Chair, or the Vice- Chair if the Chair is up for reappointment,, shall appoint members and alternates for three (3) year terms. The members of the Council shall serve without pay.

4.4.3. The Council on Aging shall hold an annual meeting in April of each year and shall elect from its membership a Chair, Vice-Chair, and Secretary. Each officer shall hold office until the next annual appointment.

4.4.4. The Council shall prepare and submit an annual report of its activities to the Town and shall send a copy thereof to the Commission on Aging.

4.4.5. The Council may appoint such clerks and other employees as it may require.
4.46 The alternate members shall be appointed for three (3) year terms. The Chair or Vice-Chair if the Chair is absent, may designate an alternate to sit on the Council and participate and vote as a full member in case of absence, inability to act or conflict of interest of any regular member, or in the event of a vacancy on the Council until the vacancy is filled.

4.4.7 Whenever a vacancy shall occur in the membership of the Council, by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled in accordance with the provisions of the Massachusetts General Laws, Chapter 41, Section 11. When an opening in the full membership occurs, an Alternate may be considered for appointment to full membership and a replacement alternate may be appointed in accordance with the procedure set5 forth herein.

COUNCIL ON AGING

4.5 CONSTITUTIONS AND BY-LAWS OF THE CARVER COMMISSION ON DISABILITY

4.5.1. TITLE AND PURPOSE
4.5.1.1. The name of this commission is the Carver Commission of Disability.

4.5.1.2. The purpose of the Committee is to coordinate or carry out programs in coordination with programs of the State Office of Handicapped Affairs in order to bring about full and equal participation in all aspects of life in the Town of Carver for all people with disabilities.

4.5.1.3. The purpose of these by-laws is to establish principles and procedures for the governance of this Committee.

4.5.2. POWERS AND DUTIES

4.5.2.1. Research local problems of people with disabilities.

4.5.2.3. Coordinate the activities of other local groups organized to meet the needs of people with disabilities.

4.5.2.4. Review and make recommendations about policies, procedures, services and activities of departments and agencies of the Town of Carver as they affect the people with disabilities.

4.5.2.5. Work in cooperation with the Departments and Agencies of the Town of Carver to bring about maximum participation of people with disabilities.

4.5.2.6. Initiate, monitor and promote legislation at the Town, State and Federal level which advances the equal status of people with disabilities and ensure that appropriate regulations are adopted and enforced pursuant to such legislation.

4.5.2.7. Encourage public awareness of disability issues.

4.5.2.8. Provide information, referral, guidance and advice to individuals, businesses, organizations and public agencies in all matters pertaining to disability.

4.5.2.9. Recruit and recommend prospective Committee members to the Town Administrator.

4.5.2.10. File an annual report, which shall be printed in the Town Annual Report.

4.5.2.11. Take such action as the Committee considers appropriate to ensure the equal status of persons with disabilities, or any other activity deemed appropriate.

4.5.3. MEMBERSHIP

4.5.3.1. The Committee shall consist of seven (7) members appointed annually by the Town Administrator. At least one member shall be either an elected or an appointed official of the Town.

4.5.3.2. Resignations shall be made by notifying the Town Clerk in writing.

4.5.3.3. The Town Administrator shall fill any vacancy for the remainder of the un-expired term in the same manner as an original appointment.

4.5.3.4. The Chairperson or Vice Chairperson of the Committee shall receive the approval of the Committee prior to making statements or joining activities on behalf of the Committee.

4.5.3.5. All members shall have full voting rights.

4.5.3.6. There shall be seven (7) non-voting Associate Members, who shall be appointed by the Town Administrator. In the event that an absence of a regular member creates a lack of a quorum at a meeting, an Associate Member of Associate Members shall be eligible to participate and vote to the extent required to make up a quorum.

4.5.4. OFFICERS

4.5.4.1. The officers shall include a Chairperson, Vice Chairperson, Secretary and Treasurer.

4.5.4.2. Officers shall be elected annually by a majority vote of the Committee.

4.5.4.3. Duties:

4.5.4.3.1. The Chairperson shall:

a. Develop the agenda in coordination with the other Committee members;
b. Preside over all meetings;
c. Appoint sub-committees as needed;
d. Authorize expenditures as needed.

4.5.4.3.2. The Vice Chairperson shall perform all the functions of the Chairperson in his/her absence.

4.5.4.3.3. The Secretary shall:

a. Keep records of all meeting attendance, minutes, and correspondence;
b. Post notice of all meetings forty-eight (48) hours before each meeting at the town Clerk's office.

4.5.4.3.4. The Treasurer shall:

a. Keep records of all financial matters;
b. Develop a budget in co-ordination with the Committee;
c. Prepare a financial statement for inclusion in the Town Annual Report.

4.5.5. MEETINGS

4.5.5.1. Regular meetings shall be held at least six (6) times a year, "at the call of the chair or a quorum of the Committee."

4.5.5.2. A quorum shall consist of three (3) members.

4.5.5.3. Meeting minutes will be amended and approved at the next meeting.

4.5.5.4. Special meeting can be called by the Chairperson or by any three (3) members .

4.5.5.5. Decisions will be made by a quorum of those members present, unless where otherwise noted in these by-laws.

4.5.5.6. Meetings shall adhere to Robert's' Rule of Order "and shall make such other votes as are necessary to the conduct to its business."

4.6 HISTORIC DISTRICT

4.6.1. NAME: This By-law shall be known and may be cited as the Historic Districts By-law under the authority of Massachusetts General Laws, Chapter 40C, as amended.

4.6.2. PURPOSE: The purpose of this By-law is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town of Carver or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

4.6.3. AUTHORITY: There is hereby established an Historic District Commission, under the provision of Massachusetts General Laws, Chapter 40C, as amended by Chapter 168, Acts of 1975 consisting of five members and three alternate members to be appointed by the Town Administrator.

4.6.4. MEMBERSHIP

4.6.4.1. When the Historic District Commission is first established, one member shall be appointed for a term of one year, two shall be appointed for a term of two years and two shall be appointed for a term of three years and their successors shall be appointed in like manner for terms three years. When the Historic District Commission is first established, one alternate member shall be appointed for a term of one year, one alternate member shall be appointed for a term of two years, one alternate member shall be appointed for a term of three years and their successors shall be appointed in like manner for terms of three years.

4.6.4.2. The membership of the Historic District Commission shall be made up as follows:

a. One member, if possible, from two nominees submitted by the Carver Historical Society or the Society for the Preservation of the New England Antiquities;
b. One member, if possible, from two nominees, submitted by the Massachusetts State Chapter of the American Institute of Architects;
c. One member, if possible, from two nominees, submitted by the Boston Chapter of the American Society of Landscape Architects;
d. One member, if possible, from two nominees submitted by the Plymouth County Board of Realtors;
e. One member, if possible, from two nominees submitted by the Bar Association serving Carver;
f. One member, if possible, a resident of the Historic District;
g. The remaining members without designation.

4.6.4.3. The District Commission shall elect annually a Chairperson and Vice-chairperson from its own number and a Secretary from within or without its number.

4.6.4.4. Alternates shall have all the powers and duties of regular members when called to serve by the Chairperson or Vice-chairperson of the Commission.

4.6.4.5. All members and alternates shall serve without compensation.

4.6.5. ADMINISTRATION of HISTORIC DISTRICTS

4.6.5.1. No building or structure within the Historic District shall be constructed, demolished, moved or altered in any way that affects exterior architectural features and no building shall be moved into an Historic District unless the Commission shall first have issued a certificate of appropriateness, a certificate of hardship or a certificate of non-applicability with respect to such construction, alteration or movement. The building inspector shall not issue a permit within an Historic District unless one of the certificates noted above has first been issued by the District Commission or the proposed improvement is exempted from these provisions by the following: Exemptions to Review:

4.6.5.2. The Authority of the District commission is <u>not extended</u> to the review of the following:

a. Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify.

b. Terraces, walks, driveways, sidewalk and steps, or any one or more of them, provided that any such structure is substantially at grade level.
c. Storm doors, screens, window air conditioning, and antennae.
d. Paint or stain of any color.
e. Materials of uniform color used on roofs.
f. Signs of not more than one hundred and fifty (150) square inches in area in connection with use of a residence for a customary home occupation or for professional purposes provide only one such sign is displayed in connection with each residence and if illuminated only indirectly.
g. Reconstruction of a building, structure or exterior architectural feature which has been damaged or destroyed by fire, storm or other disaster, provided that the exterior design is substantially similar to the original.

4.6.5.3. The District Commission shall have all the powers of an Historic District Commission as described in Chapter 40C of the Massachusetts General Laws. The Commission shall adopt rules and regulations for the conduct of its business, not inconsistent with Chapter 40C of the General Laws, or with the purpose of this by-law.

4.6.5.4. The District Commission may receive and accept appropriations, grants, and gifts for the furthering of the purposes of this by-law. It may establish an historic marker program, publish guides, maps, and other appropriate publications to illustrate historical and architectural resources of the Historic district and administer any properties or lesser interests which may be acquired.

4.6.5.5. The District Commission shall propose changes in the Carver Historic District boundaries and additional historic districts, as it deems appropriate. Massachusetts General Laws, Chapter 40C, will guide the procedures for these activities.

4.6.5.6. The District Commission shall coordinate historic preservation activities, and oversee the preparation and implementation of historic preservation plans.

4.6.5.7. The District Commission shall provide assistance to owners of historic structures on matters pertaining to preservation.

4.6.6. LAKENHAM DISTRICT

4.6.6.1. There is hereby established an Historic District to be known as the Lakenham Historic District under the provisions of the Historic District Act. General Laws, Chapter 40C bounded and described as follows:

Beginning at the intersection of Gates Street and Plymouth Street (Route 44), the district heads in a westerly direction along Plymouth Street, encompassing the dwellings and some portion of the land on both sides of Plymouth Street until it reaches the Lakenham Green. The district encompasses all of the properties surrounding the Green. The district encompasses all of the properties surrounding the Green, as well as the Green itself. The district continues past the Green along Plymouth Street to the intersection

with Route 58, crosses Route 58 and includes the first properties past the intersection on both the north and south sides of Plymouth Street. The district also includes the buildings and properties along Main Street (Green Street) for a distance of approximately 400 feet from the Green in a southwest direction. In total, the proposed district covers approximately 75 acres of land and encompasses one mile of heavily traveled Route 44.

4.6.6.2. The boundaries are hereby established as shown on the map entitled "Lakenham Historic District" dated April, 1980 which accompanies and is hereby declared to be a part of the By-law.

4.6.7. SAVERY DISTRICT

4.6.7.1. There is hereby established an Historic District to be know as the Savery Historic District under the provisions of the Historic District Act, General Laws, Chapter 40C bounded and described as follows:

Beginning at a point about 100m south of the intersection of Main Street, (Main Street is also known as S. Main, Rochester Road, Plymouth Street and Route 58) and Meadow Street, the district heads in a southerly direction along Main Street until it reaches the intersection of Shaw Road and Main Street where the district terminates. The district encompasses the buildings and some portion of the land on both sides of the route just described.

4.6.7.2. The boundaries are hereby established as shown on the map entitled "Savery Historic District" dated February, 1981 which accompanies and is hereby declared to be a part of the By-law.

4.6.7.3. The authority of the Commission shall be limited to exterior architectural features which are subject to view from Main Street (Route 58), Savery Avenue and the Union Cemetery.

4.6.8. THE PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS

4.6.8.1 INTENT AND PURPOSE

This by-law is enacted for the purpose of preserving and protecting significant buildings within Carver which 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. 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, streetscapes and neighborhoods, 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 Historical Commission is authorized to advise the Building

Commissioner with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

4.6.8.2 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 - An application for the demolition of a building.

BUILDING - Any combination of materials forming a shelter for persons, animals, or property.

BUILDING COMMISSIONER – The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

COMMISSION – The Carver Historical Commission or its designee.

DEMOLITION - Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total substantial destruction with the intent of completing the same.

DEMOLITION PERMIT – The building permit issued by the Building Commissioner for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED – Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the six month demolition delay of this by-law.

SIGNIFICANT BUILDING – Any building within Carver which is in whole or in part one hundred years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The Building has been found eligible for the National Register of Historic Places; or
- 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 Carver or the Commonwealth; or
- The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

4.6.8.3 PROCEDURE

1. No demolition permit for a building which is in whole or in part one hundred years or more old shall be issued without following the provisions of this by-law. If a building is of unknown age, it shall be assumed that the building is over one hundred years old for the purposes of this by-law.

2. An applicant proposing to demolish a building subject to this by-law shall file with the Building Commissioner an application containing the following information:

- The address of the building to be demolished.
- The owner's name, address and telephone number.
- A description of the building.
- The reason for requesting a demolition permit.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph or photographs of the building.

3. The Building Commissioner shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.

4. Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

5. Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Commissioner within fifteen days of receipt of the application, the Building Commissioner may proceed to issue the demolition permit

6. If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Commissioner. 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 the Building Commissioner shall be notified in writing of the meeting time and place.

7. The Commission shall decide at the public hearing or within fourteen 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.

8. If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

9. If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may then be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty one days of the public hearing, the Building Commissioner may issue the demolition permit.

10. Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no demolition permit may be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission.

11. During the six month delay period, the Applicant or the owner may work with the Commission to develop plans or locate a purchaser to preserve, rehabilitate or restore the subject building.

12. Notwithstanding anything contained in this by law, the Building Commissioner may issue a demolition permit for a preferably preserved building during the six month delay period if the Commission notifies the Building Commissioner and the applicant in writing that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building.

13. The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the six months if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this by-law is served even with the issuance of the demolition permit or the building permit.

14. Following the six month delay period, the Building Commissioner may issue the demolition permit.

4.6.8.4 ADMINISTRATION

The Commission may adopt such rules and regulations as are necessary to administer the terms of this by-law. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this by-law.

The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee.

The Commission may pro-actively develop a list of significant buildings that will be subject to this by-law. Buildings proposed for the significant building list shall be added following a public hearing.

4.6.8.5 EMERGENCY DEMOLITION

If after an inspection, the Building Commission finds that a building subject to this by-law is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Commissioner may issue an emergency demolition permit to the owner or the building or structure. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for his decision which shall be forwarded to the Commission.

4.6.8.6 ENFORCEMENT AND REMEDIES

1. The Commission and/or the Building Commissioner 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.

2. Any owner of a building subject to this by-law that demolished the building without first obtaining a demolition permit in accordance with the provisions of this by-law shall be subject to a fine of not more than Three Hundred Dollars ($300.00). 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. Such violations may be enforced by the non- criminal procedure authorized by M.G.L. c. 40, §21D.

3. If a building subject to this by-law 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 the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

4.6.8.7 HISTORIC DISTRICT ACT

Following a determination that the building is significant and preferably preserved, the Commission may recommend to Town Meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. 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.

4.6.8.8 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.

4.6.9. ADDITIONAL DUTIES OF THE HISTORIC DISTRICT COMMISSION

4.6.9.1. In addition to the powers and duties set forth in Sections 4.6.1 to 4.6.7 of this bylaw, the Commission shall have all of the powers and duties vested by the Massachusetts General Laws, Town Bylaws, Town Meeting votes and/or votes of the Board of Selectmen in the Historical Commission, Lakenham Green Preservation Committee and Marcus Atwood House Trustees and shall act as the same.

4.6.9.2. The Commission may create one or more subcommittees to serve in an advisory capacity and to make recommendations concerning the expenditure of funds relative to matters previously assigned to the Historical Commission, Lakenham Green Preservation Committee and/or Marcus Atwood House Trustees.

4.6.9.3 Any funds held by the Town as of the effective date of this bylaw, whether received, as gifts, grants, or donations, for matters previously assigned to the Historical Commission, Lakenham Green Preservation Committee and Marcus Atwood House Trustees, shall continue to be held and accounted for separately and shall only be expended for their designated purposes, all as required, and to the extent permitted, by law.

4.7 CAPITAL OUTLAY COMMITTEE

4.7.1. There shall be a Capital Outlay Committee consisting of 7 members.
One member shall be selected by the Board of Selectmen as its representative; such person may be from its own membership.
One member shall be selected by the School Committee as its representative; such person may from its own membership.
There shall be five members appointed by the Town Administrator. The term of office shall be 3 years. Unless otherwise provided no member may also be a member of any other committee, board, or commission.

4.7.2. The Capital Outlay Committee shall review all requests for capital expenditures of $10,000.00 or more. All requests shall be submitted in a format approved by the Capital Outlay Committee.

4.7.3. The Capital Outlay Committee shall review all requests and annually make a recommendation to the Board of Selectmen and Finance Committee regarding same including recommended methods of financing.

4.7.4. This by-law shall supersede all previous votes of town meeting pertaining to the Capital Outlay Committee.

4.8 COMMUNITY PRESERVATION COMMITTEE

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

a. one member of the Conservation Commission as designated by the Commission for a term of three (3) years;

b. one member of the Historical Commission as designated by the Commission for term of three (3) years;

c. one member of the Planning Board as designated by the Board for a term of three (3) years;

d. one member of the Recreation Committee as designated by the Board of Selectmen for an initial term of one (1) year and thereafter for a term of three (3) years;

e. one member of the Housing Authority as designated by the Authority for an initial term of two years and thereafter for a term of three (3) years;

f. and four members to be appointed by the Board of Selectmen, two members to be appointed for a term of one (1) year and thereafter for a term of three years, and two members to be appointed for a term of two (2) years and thereafter for a term of three (3) years.

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

Any member of the Committee may be removed for cause by their respective appointing authority after a hearing.

4.8.2. Duties

a. The Community Preservation Committee shall study the needs, possibilities, and resources of the Town regarding community preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, and the Planning Board in conducting such studies. As part of its study, the Committee shall hold one or more public information hearings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.

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

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

d. In every Fiscal Year, the Community Preservation Committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use); not less than 10% of the annual revenues in the Community Preservation Fund for historic resources; and not less than 10% of the annual revenues in the Community Preservation Fund for community housing.

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

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

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

4.8.6. Effective Date
Provided that the Community Preservation Act is accepted by the voters at the 2006 Annual Town Election, this By-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of MGL Chapter 40 Section 32 have been met; or take any other action relative thereto.

4.8.7. Application Deadline for Exemption
The application deadline for exemption from the surcharge shall be the same as for personal exemption applications, 90 days following the issuance of the actual tax bill.

4.9 CARVER MUNICIPAL AFFORDABLE HOUSING TRUST FUND

4.9.1. Authority; Establishment: Pursuant to the authority of Chapter 491 of Legislative Acts of 2004 and the Town of Carver Home Rule Charter, there is hereby created a local municipal affordable housing trust fund to be known as the "Carver Municipal Affordable Housing Trust Fund" (hereinafter, "Trust Fund").

4.9.2. Purposes. The purpose of the Trust Fund shall be:

A. To receive, hold, invest, and/or expend funds for the acquisition, rehabilitation, renovation, construction, financing or refinancing of property within the Town of Carver so that such property will be substantially

available as residential property for low- and moderate-income persons and to further provide mechanisms to ensure such use; and

B. To utilize funds for temporary consulting services that allow the Town of Carver to provide or preserve real property in the Town so that such property will be substantially available as residential property for low- and moderate-income persons and to further provide mechanisms to ensure such use.

4.9.3. Composition. The Trust Fund shall have five Trustees at all times. One member shall be, *ex officio,* chosen from the Carver Board of Selectmen and one member shall represent the Carver Housing Authority. The three remaining Trustees shall be appointed by the Board of Selectmen. In making the appointments, the Board of Selectmen shall endeavor to provide a broad-based membership including legal, banking, financial and real estate professionals, other members of the local business community, affordable housing advocates, and other interested residents.

4.9.4. Term of Office. Each Trustee shall serve for a term of two years; however, commencing at the initial creation of the Board, two members shall be appointed for a one-year term and three members shall be appointed for a two-year term.

4.9.5. Organization. The Trustees shall annually elect one Trustee who shall not be the Selectman to serve as Chairperson. The Chairperson may establish subcommittees and/or ad hoc task related committees to carry out the purposes of the Trust Fund. Chairpersons of the subcommittees may be selected by the members of the subcommittees.

4.9.6. Filling of Vacancies: In the event of a vacancy in the position of Trustee, the appointment shall be made in the same manner as the original appointment.

4.9.7. Meetings, Quorum: Meetings of the Trust Fund shall be held on a regular basis. Special meetings may be called by the Chairperson or by any two Trustees. Notice of any meeting of the Trust Fund shall be filed with the Town Clerk and posted in accordance with Massachusetts General Laws Chapter 39, §23, the Open Meeting Law. Editor's Note: See Massachusetts General Laws Chapter 39, §23B. Three (3) Trustees shall constitute a quorum but a majority vote of the full membership shall be required to approve any motion.

4.9.8. Powers and Duties: The Carver Municipal Affordable Housing Trust Fund shall have the responsibility to support the construction and preservation of affordable housing in order to secure rental and home ownership opportunities for our community's low- and moderate-income individuals and families in the future. The Trust Fund shall have the powers and duties specified in Chapter 491 of the Legislative Acts of 2004, provided that it shall have no ability to borrow money, or mortgage or pledge trust assets without prior Board of Selectmen approval. It shall have the following additional powers and duties:

A. To establish criteria and/or qualifications for recipients and expenditures in accordance with the Trust Fund's above-stated purposes.

B. To employ consultants and full or part-time staff, to contract for administrative and support goods and services, and to expend up to 10% of the Trust Fund's receipts for these purposes.

4.9.9. Treasurer-Collector as Custodian. The Town of Carver Treasurer-Collector shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds. He or she shall invest the funds in the manner authorized by Massachusetts General Laws Chapter 44, §§55, 55A and 55B. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust.

CHAPTER 5 PERSONNEL ADMINISTRATION

5.1 **Purposes and Authorization**. The purpose of the personnel by-law is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensures a uniform, fair and efficient application of personnel policies. This by-law is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Laws, Chapter 41, Sections 108A and 108C.

5.2 **Application.** All Town departments and positions shall be subject to the provisions of this by-law except elected officers, employees with personal contracts, and employees of the school department. All personal contracts with any non-union personnel must be approved by the Board of Selectmen.

5.3 **Board of Selectmen.** The Board shall be responsible for promulgating policies and procedures regarding the establishment and maintenance of a personnel system based on merit principles, the classification and reclassification of positions, an annual compensation plan, and the development of personnel policies pursuant to Section 5.5 of this by-law.

5.4 **Town Administrator.** Pursuant to Chapter 177 of the Acts of 1995 the Town Administrator is entrusted with the administration of the town personnel system, including, but not limited to personnel policies and procedures, rules and regulations, including provisions for an annual employee performance review, personnel by-law and collective bargaining agreements entered into by the town. The Town Administrator shall also be responsible for establishing a central record-keeping system compliant with applicable federal, state, and local by-laws as well as any collective bargaining provisions.

5.5 Personnel System. A personnel system shall be established by promulgation of policies pursuant to Section 6 and consistent with Chapter 177 of the Acts of 1995. The personnel system shall make use of current concepts of personnel management and shall include but not be limited to the following elements:

5.5.1 **Method of Administration.** A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of personnel policies and periodic reviews, and evaluating the personnel system.

5.5.2 **Classification Plan.** A position classification plan for all employees subject to this by-law shall be established, based on similarity of duties performed and the responsibilities assumed so that the same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same class.

5.5.3. **Compensation Plan.** A compensation plan for all positions subject to this by-law shall consist of:

5.5.3.1. A schedule of pay grades including minimum, maximum and intermediate rates for each grade; and

5.5.3.2. An official list indicating the assignment of each position to specific pay grades.

5.5.4. **Recruitment and Selection Policy.** A recruitment, employment, promotion and transfer policy which ensures that reasonable effort is made to attract qualified persons and that selection criteria are job related.

5.5.5. **Personnel Records.** A centralized record keeping system, which maintains essential personnel records.

5.5.6 **Personnel Policies.** A series of personnel policies which establishes the rights, the benefits to which personnel employed by the Town are entitled and the obligation of said employees to the Town.

5.5.7 **Other Elements.** Other elements of a personnel system as deemed appropriate or required by law.

5.6 Adoptions and Amendment of Personnel Policies. The Board of Selectmen shall promulgate personnel policies defining the rights, benefits, and obligations of employees subject to this by-law. Policies shall be adopted or amended as follows:

5.6.1 **Preparation of Policies.** The Town Administrator shall prepare policies or amendments to policies. Any member of the Board of Selectmen, Finance Committee, any three employees, or the Town Administrator may suggest

policies for consideration by the Board. The Board need not consider any proposal already considered in the preceding twelve months. Any person proposing a new or amended policy shall provide the substance and the reason for the proposed policy to the Board in writing. The Board shall hold a public hearing on any proposed policies or amendments. Any proposed policies or amendments shall be posted at least five (5) days prior to the public hearing in prominent work locations, copies of all proposals shall be provided to representatives of each employee collective bargaining unit.

5.6.2 **Public Hearing.** The Board of Selectmen shall consider the proposed policy(ies) or policy amendments at the public hearing. Any person may attend the hearing, speak, and present information. At the conclusion of the public hearing the Board may vote to adopt the policies (with or without modification), reject the policies, or indicate that further study is necessary. Failure of the Board of Selectmen to vote on the proposal within thirty calendar days shall be deemed a rejection of the proposed policy(ies).

5.7 Severability. The provisions of this by-law and any regulations adopted pursuant to this by-law are severable. If any by-law provision or regulation is held invalid, the remaining provisions of the by-law or regulations shall not be affected thereby.

5.8 Effective Date. This by-law shall take effect on July 1, 1999.
Personnel policies existing prior to said date will remain in effect for at least sixty (60) days from said date and until promulgation of new policies.

5.9 MISCELLANEOUS PROVISIONS.

5.9.1 Any permanent full time position proposed to be added to the municipal budget shall be put forth to an annual or special town meeting in the form of a warrant article. This section shall not supersede any requirements of any state or federal program or grants under which said funds may be expended without appropriation.

5.9.2 Notwithstanding the provisions of Massachusetts General Law Chapter 32B, part-time elected officials of the Town of Carver who receive a stipend shall not be eligible for participation in the town's contributory health and life insurance benefit plan, except that those part-time elected officials who were elected prior to April of 1998 and currently participate in the plan are eligible to continue until the end of their current term. Part time elected officials who receive a stipend who pay the full monthly cost to the town, plus any administrative costs that may be assessed by the Board of Selectmen, may be deemed eligible to participate.

CHAPTER 6 PUBLIC SAFTEY

6.1 LEASH LAW The Board of Selectmen are authorized to set reasonable fees for licenses, violations, penalties, and other charges under this section associated with the keeping of dogs in the Town of Carver.

6.1.1. The owner or keeper of any such dog that is not restrained shall be punishable by fine of:

$25.00 for 1st offense
$50.00 for 2nd offense
$75.00 for 3rd and all subsequent offenses.

6.1.2. It shall be the duty of the Animal Control Officer to apprehend any dog not restrained as required by Section 1 of this Article, and to confine or cause to be confined said dog as provided herein. Any unlicensed dog so apprehended shall be confined and otherwise dealt with by the Animal Control Officer as required by law. Any dog so apprehended which is licensed and owned or kept in this Town shall be confined until the earlier of its being reclaimed by said owner or keeper as provided herein, or until the tenth day following the day on which such dog is apprehended. If such a licensed dog is not reclaimed as provided herein, within said ten day period, the Animal Control Officer shall take one of the alternative courses of action which Section 151A of Chapter 140 General Laws, or any act in replacement thereof or amendment thereto, requires to be taken wit respect to unlicensed dogs not licensed, collared, or harnessed and tagged within the ten-day period provided therein.

6.1.3. Promptly following the apprehension and confinement by the Animal Control Officer of any such licensed dog, said officer shall mail to the licensed owner thereof a notice of such apprehension and confinement, which notice shall include a statement of the last date on which said dog may be reclaimed as provided herein. The Animal Control Officer shall also promptly inform the Carver Police Department of such apprehension and confinement and of the description of such dog. Licensed dogs confined by the Animal Control Officer pursuant to this Article shall be confined in a place suitable for the detention and care of dogs and kept in a sanitary condition; or they may be placed in the care of the holder of a kennel license or of a charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse.

6.1.4. The Owner or keeper of any licensed dog confined as provided for in this Article may reclaim such dog upon payment of the costs and charges incurred by the Town for such apprehension and confinement and care of such dog, said charges to be $5.00 for the apprehension of such dog, plus charges of $2.00 for each full or partial day of confinement in a pound owned or leased by, or under the control of the Town or the Animal Control Officer.

6.1.5. If the dog is confined in a place other than a pound owned or leased by or under the control of the Town or the Animal Control Officer, the care charges to be paid hereunder shall be the actual charges incurred by the Town or the Animal Control Officer for such confinement. No licensed dog confined as

provide in the Article may be reclaimed until the owner or keeper thereof shall have paid all such costs to the Animal Control Officer. The Animal Control Officer shall pay over to the Town Treasurer all sums so paid to him, said sums to be applied to the cost of enforcing this Article.

6.1.6. If the Animal Control Officer determines that a dog in its estrous cycle or "in heat" is attracting other dogs and such attraction is causing damage or disturbance to any neighborhood, the Animal Control Officer shall order in writing the owner or keeper of such dog to restrain the dog for the duration of its estrous cycle. If the Animal Control Officer determines that such owner or keeper is not complying with such order, the Animal Control Officer shall impound said dog for the duration of its estrous cycle at the expense of the owner or keeper.

SECTION 6.1A RULES & REGULATIONS FOR THE CONTROL OF DOGS

SECTION 6.1A.1

DEFINITIONS: The following words and phrases shall have the following meaning(s).

"Animal Control Officer": Any officer appointed under these Rules and Regulations for the enforcement of said Rules and Regulations.

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

"Kennel": A single premises with a collection of 4 or 5 dogs, three months or older, that are maintained for breeding, boarding, sale, training, hunting or any other purpose.

"Hobby Kennel": A single premises with a collection of six (6) to ten (10) dogs, three months or older, that are maintained for any purpose and where four or more litters per year are raised, or where the boarding of grooming of dogs is performed as a business.

"Licensed Period": The time between January 1st through the following December 31st, both dates inclusive.

"Clerk": The Town of Carver Clerk.

"Live stock or fowl": Animals or fowl kept or propagated by the owner for food: also deer, elk, cottontail rabbits and northern hares, pheasants, quail, partridge, and ocher 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 enclosed years. Such phrase shall not include dogs, cats, or other pets.

"Selectmen": Shall mean the Town of Carver Board of Selectmen.

SECTION 6.1A.2

LICENSES AND TAGS

The owner or keeper of a dog kept in the Town of Carver is subject to these Regulations when the dog attains the age of three months and annually thereafter.

The Town Clerk shall issue dog licenses and tags on a form proscribed and finished by the Town of Carver. The Animal Control Officer may accept applications and fees for licenses and shall transmit same to the Clerk who shall cause the license to be issued. Subject to the approval of the Board of Selectman, the town may permit licensure to be conducted, through the mail.

The Clerk shall record each license issued, the name of the owner or keeper or each dog so licensed, and the name, registered number and description of each dog. The owner or keeper of any dog so licensed shall state upon the license from the breed, color, weight, and special markings of the dog. Such books shall be open to public inspection during the usual office hours of the clerk.

Each tag shall include the license number, a statement that the dog is licensed in the Town of Carver, and the year issued.

The owner or keeper shall cause said dog to wear around its neck or body or a collar or harness to which the tag shall be securely attached. In the event that any tag is lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the clerk it a cost of two dollars ($2.00).

A license duly recorded in another jurisdiction shall be valid in the Town of Carver until the expiration of the licensing year, at which time the owner or keeper will cause the dog to be licensed in the jurisdiction of residence.

The fee for each dog licensed shall be ten dollars ($10.00) unless a certificate from a veterinarian stating that the dog has been spayed or neutered has been presented to the Clerk, in which case the fee shall be seven dollars ($7.00).

No fee shall be charged for a dog specially trained to lead or trained to lead or serve a blind or deaf person upon presentation to the clerk of a certificate of such training.

A license fee shall not be refunded because of a subsequent death, loss, spaying or neutering, or removal from the Town of such dog, nor because a license fee has been mistakenly paid to a city or town.

The provisions of this section shall not apply to institutions licensed under Chapter 140, Section17D of the General Laws, to shops licensed under Section

39A of Chapter 129 of the General Laws, to any person operating a kennel and where otherwise provided, by law.

SECTION 6.1A.3

KENNEL LICENSES:

Any owner or keeper of four (4) or more dogs, three months of age or over and the owner of any premises where such dogs are kept, shall obtain a kennel license under the Town's Zoning By-Law. The written approval of the Board of Appeals or special permit granting must be presented to the Town Clerk prior to the issuance of such license. Kennels are defined and classified in Section 6.1A of these Regulations.

The fees for each classification of kennel licenses, shall be as follows:

Kennel License:	$30.00 (thirty dollars) per year
Hobby Kennel License:	$60.00 (sixty dollars) per year
Commercial Kennel License:	$150.00 (one-hundred fifty dollars) per year

A kennel license 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. The owner or keeper of such kennel shall renew the license prior to the commencement of each succeeding license period.

While at large, each dog in 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 issuing such license, and the year of issuance. Such tag shall be in form proscribed and furnished by the Town of Carver and shall be issued by the Town Clerk along with the kennel license.

If a kennel owner desires to increase the capacity of his kennel during a license period, he shall apply for a license modification to the Town Clerk, and, if necessary, present the Town Clerk with the written approval of the Board of Appeals or special permit granting authority prior to the issuance of such license modification. The Clerk shall issue such modification upon payment by the owner of the difference between his existing kennel license and the fee for the kennel license most recently approved.

The Clerk shall issue, without charge, upon written application and written approval of the Board of Appeals, 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 the boarding of dogs for other than medical or surgical purposes, in which case it shall supply to the Clerk proof of obtaining a special permit from the Board of Appeals prior to the issuance of a kennel license.

All holders of kennel licenses shall notify the Town Clerk, in writing, of the sale of any dog or pup, including a description of the animal, the age, color, identifying marks, sex and whether the dog has been spayed or neutered. The kennel owner will forward a copy of such notice, to the Clerk of the city or town in which the owner resides.

SECTION 6.1A.4

KENNEL INSPECTION AND REGULATION:

The Animal Control Officer or the Chief of Police of the Town of Carver or other persons authorized under the General Laws, shall at any time inspect or cause to be inspected any kennel and if, in his or her judgment, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, the Board of Selectmen shall by order revoke or suspend said kennel license. In the case of suspension of said license, the Board of Selectmen may reinstate such kennel license and impose conditions and regulations upon the operation of said kennel.

Upon the petition of twenty-five citizens filed with the Board of Selectmen setting forth that they are aggrieved or annoyed to an unreasonable extent by one or more dogs at a kennel located in the town because of excessive barking or vicious disposition of such dogs or other conditions connected with the kennel that constitute a public nuisance, the Board of Selectmen shall, within seven (7) days of the filing of such petition, give notice to all parities concerned of a public hearing to be held within fourteen (14) days after the date of such notice. Within seven (7) days after the public hearing, the Board of Selectmen shall make an order either revoking or suspending such kennel license or otherwise regulating the operation of said kennel, or shall dismiss such petition.

Any person maintaining a kennel after the license has been suspended or revoked shall be punished by a fine of not less than fifty ($50.00) dollars per day, which fine shall be returned by the court to the town.

SECTION 6.1A.5

PENALTIES FOR FAILURE TO LICENSE:

Whoever violates any provision of Section 6.1A.2 or Section 6.1A3 of these Rules and Regulations shall be punished by a fine of not less than twenty- five dollars ($25.00) nor more than fifty dollars ($50.00) which shall be paid to the Town.

If any persons refuses to answer, or answers falsely, questions of a police officer or a Animal Control Officer pertaining to his ownership of a dog, he shall be punished by a fine of not less than twenty-five dollars ($25.00), which shall be paid to the Town.

If a dog as to which any violation occurs was unlicensed at the time of such violation, a fine of not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) shall be imposed to be paid to the Town, and the owner keeper of such dog will be required to immediately procure all delinquent licenses and tags, as well as current license and tag.

SECTION 6.1A.6

VACCINATION OF DOGS AND CATS AGAINST RABIES

A. The owner or keeper of a dog or cat four (4) months of age or older housed or sheltered in the Town of Carver shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine approved by the Massachusetts Department of Public Health. Unvaccinated dogs and cats acquired or moved into the Town of Carver shall be vaccinated within thirty (30) days after the acquisition or arrival into Carver or upon reaching the age of four (4) months, whichever last occurs. Such owner or keeper shall procure a veterinarian's certification that such animal has been so vaccinated and setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued.

B. The veterinarian shall issue a tag with each certificate of vaccination. The tag shall be secured by the owner or keeper of such dog or cat to a collar or harness made of suitable material to be worn by the dog or cat; provided however, the owner of a cat may choose not to affix a tag to his cat but shall have the tag available for inspection upon demand by the Animal Control Officers, Police Officers or other such authorized officials of the Town.

C. Vaccinated animals shall be revaccinated periodically in accordance with the rules and regulations adopted by and promulgated by the Massachusetts Department of Public Health.

D. Any person who violates the provisions of this section shall be punished by a fine of not less than fifty dollars ($50.00), which shall be paid to the Town.

SECTION 6.1A.7

DISPOSITION OF FEES, FINES, DOG FUND BALANCE:

The Town Clerk shall issue said licenses and tags and receive the money therefore. Such fees shall be paid in full into the Town treasury not later than the first Monday of each month.

The Town Clerk shall make a record in books kept therefore of each licensed issued, the name and address of the owner or keeper of each dog licensed, the registered number and description of each dog, and such books shall be open to public inspection during the usual office hours. The Town shall pay for all license forms, tags, record books and all standard operating forms.

SECTION 6.1A.8

ANIMAL CONTROL OFFICERS

The Town Administrator shall, from time to time, appoint in accordance with 3.4.2 of the General By-laws one or more Animal Control Officers who shall receive an annual salary which shall be set by the Board of Selectmen within the amount appropriated by the Town, who may be police officers or constables.

The Town may enter into a contract with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, to perform the duties of the Animal Control Officer.

SECTION 6.1A.9

ANIMAL CONTROL OFFICERS – DUTIES

The Animal Control Officer shall attend to all complaints, except as assigned to the Chief of Police, or other matters regarding dogs in the town.

The Animal Control Officer shall, at least twice in each year, inspect every premises holding a kennel license and shall issue a written report of the conditions of said kennel to the Board of Selectmen and the Board of Health of Carver, stating their opinion as to the maintenance, humane and sanitary conditions, and if records are properly kept by the owner or keeper of said kennel.

The Animal Control Officer shall be responsible for the supervision of and the maintenance and care of the animal control shelter in the Town, unless the Town otherwise contracts with a licensed animal control shelter in another municipality.

The Animal Control Officer shall be responsible for maintaining records of all animals that become the subject of any action. Shall record each complaint and the nature thereof and what action, if any, was taken by the Animal Control Officer or any other authority of the Town.

The Animal Control Officer shall maintain records of each dog confined under their care and custody for any reason whatsoever, stating the reasons for such confinement, the breed and color of the dog, the date the dog came under the control of the Animal Control Officer, the final disposition of the dog and the date of the disposition.

The Animal Control Officer shall examine any premises to be used as a proposed kennel and must submit a written report to the Zoning Board of Appeals stating their opinion as to whether or not such a site would be suitable for the type of kennel license requested.

No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture and no Animal Control Officer or any representative shall sell any animal to any licensed animal dealer registered with the United States Department of Agriculture. Whoever violates the provision of this Section shall be punished by a fine of not less than one hundred dollars ($100.00).

SECTION 6.1A.10

BARKING DOGS:

No person owning, keeping or otherwise responsible for a dog shall allow or permit said dog to annoy another person's reasonable right to peace or privacy by making loud or continuous noise, where such noise is plainly audible at a distance of one hundred fifty (150) feet from the building, premises, vehicle, or conveyance housing said dog, or such noise is continuous in excess of sixty (60) minutes. The fact that such noise is plainly audible at said distance or continuous in excess of sixty (60) minutes shall be prima facie evidence of violation.

If any person shall make a complaint in writing to the selectmen that any dog owned or harbored within the Town of Carver is a nuisance by reason of excessive barking or other disturbance, or is a source of annoyance to any sick person residing in the vicinity, the Board of Selectmen shall investigate or cause to be investigated such complaint. They may examine under oath such complainant and any or all witnesses and may require available medical evidence and they may make such order requiring the silence or removal of such dog.

Within ten (10) days after such order, the owner or keeper of such dog may bring a petition in the District Court within the judicial district for review of such order. The magistrate shall review the facts and all evidence of the matter, call witnesses, and shall affirm such order unless it shall appear that such order was made without proper cause or in bad faith, in which case the order shall be reversed.

Any person who violates the provisions of this section shall be subject to a written warning for the first offense, and shall be subject to payment of the following fines:

$25.00 for 2nd offense
$50.00 for 3rd offense
$75.00 for 4th offense and all subsequent offenses.

SECTION 6.1A.11

VICIOUS DOGS:

If any person shall make a complaint to the Board of Selectmen that any dog harbored within the Town of Carver is a nuisance by reason of a vicious

disposition, the Selectmen shall investigate or cause to be investigated all such complaints. They may examine, under oath, such complainant, and any or all witnesses and may require available medical evidence, and they may make such order concerning the restraint or destruction of such dog as may be necessary.

Within ten days after such order, the owner or keeper of such dog may bring a petition in the District Court within the judicial district for review of such order.

The magistrate shall review the facets and all evidence of the matter, call witnesses, and shall affirm such order unless it shall appear that such order was made without proper cause or in bad faith, in which case the order shall be reversed.

If, following affirmation of such order by the magistrate, the owner or keeper of the dog has not caused the dog to be restrained in keeping with such order, he shall face a complaint in District Court within the judicial district and shall be fined not less than one-hundred dollars ($100.00) for each violation of such restraint order, which shall be paid to the Town.

If, following the affirmation of such order by the magistrate, the owner or keeper of the dog has not caused the dog to be destroyed, the Animal Control Officer or Chief of Police may enter onto the property of the owner or keeper of such dog, take the dog and kill or caused to be killed such dog.

The act of a dog in attacking or biting another dog or another animal may be made the subject of a complaint under the provisions of this section.

Fines collected under this section and all other sections of these rules and regulations shall be paid to the Town.

SECTION 6.1A.12

<u>ANY PERSON MAY KILL A DOG WHEN:</u>

Any person may kill a dog, which suddenly assaults him while he is peaceably standing, walking, or riding outside the enclosure of its owner or keeper. Any person may kill a dog found out of the enclosure of its owner or keeper and not under his immediate care in the act of worrying, wounding, or killing persons, animals, or fowls. If any person shall kill or attempt to kill a dog so found, he shall not be held liable for cruelty to the dog unless it shall be shown that he intended to be cruel to the dog, or that he acted with a wanton disregard for the suffering of the dog. Any person who kills or wounds a dog under this section shall promptly report such action to the Animal Control Officer or the Police Department.

Any police officer, constable, or Animal Control Officer shall kill a dog, which the Board of Selectmen, upon review, a magistrate, or judge of the district court shall have ordered to be restrained for vicious behavior, and if such dog is

again found outside the enclosure of its owner or keeper and not under his immediate care. Any police officer, Animal Control Officer, or constable may kill a dog, which is living in a wild state.

SECTION 6.1A.13

KILLING OF DOG KNOWN TO HAVE DONE DAMAGE-BONDS:

The Selectmen of their agents duly authorized in writing, may, after written notice to the owner or keeper, enter upon the premises of the owner or keeper of any dog known to have done damage to livestock or fowl, and then and there kill such dog, unless such owner or keeper whose premises are thus encored shall give a bond in the sum of one thousand dollars ($1000.00), with sufficient sureties, approved by the Board of Selectmen, conditioned that the dog be under permanent restraint. If the owner or keeper declares his intention to provide such bond, he shall be allowed seven (7) days in which to provide said bond to the Town Clerk, exclusive of Sundays and holidays.

SECTION 6.1A.14

PROPERTY DAMAGE, APPRAISAL, REIMBURSEMENT:

Whosoever suffers loss by the worrying, killing or maiming of his livestock or fowl by dogs shall inform the Animal Control Officer and shall forthwith proceed to the scene to view the damage, who shall determine if the damage was done in fact by dogs and, if so, appraise the amount of the damage if it does not exceed fifty dollars ($50.00).

If in the opinion of the Animal Control Officer the damage exceeds fifty dollars ($50.00), the damage shall be appraised on oath by three persons, one of whom shall be the Animal Control Officer, one shall be appointed by the person alleged to be damaged and the third appointed by the other two.

The said appraisers shall consider and include such damages the number and kind of animals damaged, the extent of the damage and the approximate weight of the killed animals. The appraisers will also note in their report whether or not any animals were sent for veterinarian treatment in an effort to save them, the number, and kind of such animals. Such report will be filed in the office of the Town Clerk within ten days (10) of said appraisal, who shall submit said appraisal report to the Board of Selectmen. The Board of Selectmen may require the appraisers to provide any additional information that they deem appropriate in accordance with the report of the appraiser.

SECTION 6.1A.15

NO REIMBURSEMENT IN CERTAIN CASES:

No owner of livestock or fowl shall be reimbursed for damages inflicted by his own dog or dogs, nor shall he be reimbursed if he, himself, was the owner or

keeper of an unlicensed dog three months of age or older, nor shall he be reimbursed for damages if the owner or keeper of the dog inflecting the damage is known to him or to the Animal Control Officer. No reimbursement shall be made in the case of damage to deer, elk, cottontail rabbit, northern hares, pheasants, quail, partridge and other livestock or fowl determined by the Department of Fisheries, Wildlife and Recreational Vehicles to be wild. No reimbursement will be made for damages unless the livestock or fowl are kept in proper houses or in suitable enclosed areas. No reimbursements shall be made for damage done by a dog to dogs, cats or other pets. Awards for damages in no case shall exceed fair cash market value at such livestock.

SECTION 6.1A.16

LIABILITY OF OWNER:

The owner or keeper of a dog which has done damage to livestock or fowl shall be liable for such damage, and the Selectmen may order the owner or keeper to pay such damages after an investigation by the Animal Control Officer of the facts of the matter and an appraisal by the Animal Control Officer, one person chosen by the person sustaining the damage and a third appraiser chosen by the other two. The appraisers will submit a report to the Selectmen stating the type of damage, the number, and kind of animal damages and whether any animals required medical treatment by a veterinarian to save them.

In the event that the owner or keeper of such dog known to have done damage to livestock or fowl refuses to pay upon the order of the Selectmen, or the Selectmen shall enter or cause to be entered a complaint in district court for the enforcement of the order.

If a dog which has previously been ordered restrained by the Selectmen, or, upon review by the district court, wounds any person, or shall maim or kill any livestock or fowl, the owner or keeper of such dog will be liable to the person injured thereby in treble the amount of damages sustained by him.

SECTION 6.1A.17

WARRANT TO ANIMAL CONTROL OFFICERS:

The Selectmen shall annually within ten days after September first, issue a Warrant to the Animal Control Officer to seek out, catch and confine all dogs within the town, which then have not been licensed, collared and tagged as required by these Regulations. The Animal Control Officer shall enter and prosecute a complaint for failure to comply with the provisions of these Regulations against the owners or keeper thereof, if known. The Animal Control Officer shall kill or cause to be killed each such dog which, after a period of ten
(10) days remains unclaimed, or at the end of the ten day period each Animal Control Officer may sell any healthy dog to any person presenting a valid positive identification for a sum not less than five ($5.00) dollars, which shall be paid to the Town of Carver.

Before delivery of any dog so sold, the Animal Control Officer shall require the purchaser to obtain a license from the Town Clerk or shall require the purchaser to pay the appropriate license fee with an application for a dog license to the Animal Control Officer.

All dogs confined under this Section shall be confined in a suitable and humane detention area or they may be placed in the care of a holder of a kennel license or with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, abuse or neglect.

The Town Clerk shall annually, on September first, provide to the Board of Selectmen a listing of all dog licenses issued in the preceding year, their name and address, and a listing of all persons shown on the annual consensus who, as of January first, was the owner of the keeper of a dog and their address. The Town Clerk shall further provide to the Board of Selectmen a listing of all persons in the current year who have licensed their dogs and their addresses. The Selectmen shall attach all such lists to the Warrant.

SECTION 6.1A.18

FORM OF WARRANT

In the town, such Warrant will be in the following form:

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

To_____, Animal Control Officer of the Town of Carver, you are hereby required to catch and confine all dogs within the Town of Carver not duly licensed, harnessed or collared and tagged. You shall record in writing the date, time, and location of each apprehension and confinement, and shall describe the appearance of each dog caught, the condition under which it was caught and its final disposition. You shall maintain each record for one year following the apprehension and confinement of each such dog and such record will be available for public inspection during that one year.

You shall issue a citation against the owner or keeper of every such dog whose owner or keeper can be identified.

You shall confine every such dog for a period of not less than ten (10) days, unless during that ten days you release that dog to its owner or keeper if such dog has been licensed, collared, or harnessed and tagged and the owner or keeper has paid to you the sum of five dollars for every day the dog was in your custody, which shall be transmitted to the Town Treasurer.

At the expiration of the ten day confinement period, you may allow any person to adopt a healthy dog, upon presentation of a valid positive identification, in accordance with Section 6.1A.17 of the General By-laws.

Hereof fail not, and make due return of this Warrant with your doings thereon on or before the first day of October next, on or before the first day of January next, on or before the first day of April next and on or before the first day of June next, stating the number of dogs caught, confined and/or killed or sold, along with the names and addresses of the owners or keepers thereof, if known, and whether all unlicensed dogs in the Town of Carver have been caught, confined, killed or sold and the names of persons against whom complaints have been made.

Given under my hand and seal at (name of city or town), the_day of September 20_.

_____
Chairman, Board of Selectmen

SECTION 6.1A.19

RETURNS BY ANIMAL CONTROL OFFICERS ON WARRANT:

Each Animal Control Officer to whom such Warrant is issued shall make returns on or before October first, on or before January first, on or before April first, on or before June first and at the expiration of his term of office to the Board of Selectmen issuing same, and shall state in said returns the number of dogs which he has caught, confined, killed or sold, the name; and addresses of the owners or keepers thereof, if known, and the names of persons against whom complaints have been entered and whether complaints have been entered against all persons who have failed to comply with these Regulations since the previous report.

SECTION 6.1A.20

NON-CRIMINAL DISPOSITION:

Whoever violates any provision of these Regulations may be penalized by a non-criminal disposition process as provided in G.L.c.40 §21D and as set forth under Section 10.4(B) of the General By-laws. If non-criminal disposition is elected, then any person who violates any provision of these Regulations shall be subject to a penalty in the amount of fifty dollars ($50.00) for each offense, except as otherwise provided therein. Each day or portion thereof shall constitute a separate offense. The Animal Control Officer(s) and police officers shall be deemed to be enforcing persons under this section.

SECTION 6.1A.21

DOG WASTE REMOVAL

Removal of dog waste from public property or property of others.

No person owning or having the care, custody, or control of any dog shall permit such dog to soil or defile or commit any nuisance upon any sidewalk, street, thoroughfare, beach or wetland, in or upon any public property or in or upon the property of persons other that the owner or persons having the care, custody, or control of such dog, unless said person picks up any such waste and disposes of same in a sanitary manner.

Any person who violates the provisions of this section shall be punished by a fine of not less than twenty dollars ($20.00) for each offense.

EFFECTIVE DATE

The deletion of Sections 6.1.7 through 6.1.9 inclusive, and the insertion of Section 6.1A, shall take effect on July 1, 2003.

6.2 PARKING

6.2.1. No person shall park a vehicle in any of the following places or at any of the following times and vehicles found parked in violation of the provisions of this section may be moved by or under the direction of a police officer and at the expense of the owner to a place where parking is permitted upon the traveled ways within the Town of Carver while the Town is engaged in the removal of snow from said ways whether with Town or hired equipment.

6.3. HANDICAPPED PARKING

6.3.1. Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping mall, theaters, auditoriums, sporting or recreational facilities, cultural centers or for any other place where the public has a right of access as invitees or licensees, shall reserve park-spaces in said off-street parking area for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by Massachusetts General Laws, Chapter 90, Section 2 according to the following formula:

> If the number of parking spaces in any such area is more than twenty-five, one parking space; more than twenty-five but not more than forty-five percent of such spaces but not less than two; more than forty but not more than one hundred, four percent of such spaces but not less than three; more than one hundred but not more than two hundred, three percent of such spaces but not less than four; more than two hundred but not more than five hundred,

two percent of such spaces but not less than six; more than five hundred but not more than one thousand, one and one-half percent of such spaces but not less than ten; more than one thousand but not more than two thousand, one percent of such spaces but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one percent of such spaces but not less than twenty; and more than five thousand, one-half of one percent of such spaces but not less than thirty.

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

6.3.3. No vehicle shall be left parked or standing in any area designated for use by disabled veterans or handicapped persons as authorized by Section 19A, or in such manner as to obstruct a curb or ramp designed for use by handicapped persons as a means of egress to a street or public way.

6.3.4. The penalty for violation of this by-law shall be as follows: For the first offense, fifteen dollars; for the second offense, twenty-five dollars; for each subsequent offense, the vehicle may be removed according to the provisions of the Massachusetts General Laws, Chapter 266, Section 120D, or to do or act in any manner relative thereto.

6.4 PUBLIC WAYS AND PLACES

6.4.1. DISORDERLY CONDUCT and OBSTRUCTION by PEOPLE:
It shall be guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance, or recklessly creating a risk, they:

a. Engage in fighting, violent, or threatening behavior or,
b. Obstruct vehicular or pedestrian traffic or,
c. Use indecent, profane, or insulting language in a public place or near a dwelling, or
d. Ml make any indecent figures, or writes any words, or make any
e. Marks that shall deface any wall, post, fence, building, roadway or public property.

6.4.2. CONSUMPTION of ALCOHOLIC BEVERAGES on CERTAIN LICENSED PREMISES

6.4.2.1. No person shall consume alcoholic beverages on the premises of a commercial licensee who or which is licensed by the Selectmen or the Board of Health under General Laws Chapter 140 unless said licensee has a license for the sale of such beverages for consumption on the premises, or the Selectmen have granted an occasional and temporary permit for the

consumption by invitee on such premises of certain alcoholic beverages that have been purchased off the premises by the invitee. Whoever shall without permission as aforesaid consume alcoholic beverages on the premises of said licensee shall be fined fifty ($50.00) dollars for the first offense and one hundred ($100.00) for each subsequent offense. Each container of alcoholic beverage shall be deemed a separate offense.

6.4.2.2. No licensee under General Laws Chapter 140, who has no license to do so shall encourage, permit, or facilitate the consumption of alcoholic beverages on his, her, or its premises. Whoever encourages, permits, or facilitates the consumption of alcoholic beverages on his, her, or its premises without a temporary and occasional permit to do so shall be fined three hundred ($300.00) dollars for each offense, each day of offense being a separate offense and to the extent permitted by law, the licensing authority may with due notice suspend, revoke or revise the applicable license.

6.4.2.3. The Selectmen may upon application of a licensee grant a temporary and occasional license for the consumption of certain alcoholic beverages on the premises of said licensee, provided that same shall not be sold on the premises and the Selectmen find that adequate measures are assured to protect the public safety on and off the premises.

6.4.2.4. Nothing herein shall be construed to prohibit the consumption of alcoholic beverages on any premises licensed under General Laws Chapter 140 by an individual who has acquired such beverage elsewhere within habitable space owned or rented by the consumer thereof and his invitee and within a lodging house, recreational camp, overnight camp or cabin, motel and mobile home park licensed under General Laws Chapter 140, provided the licensee permits such consumption. The term "alcoholic beverage is as defined in General Laws Chapter 138.

6.5. BURGLAR ALARM SYSTEMS BY-LAW

6.5.1. DEFINITIONS

6.5.1.1. The term "Burglar Alarm System" means an assembly of equipment and devices or a single device such as, but not limited to, a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire Alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion to a premises or an attempted robbery at a premises are specifically excluded from the provisions of this by-law. The provisions of Section 7.5.1.3. of this by-law shall apply to all users.

6.5.1.2. The term "False Alarm" means (a) the activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his employees or agents; (b) any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery or burglary, or attempted threat. For the purposes of this definition, activation of alarm systems by acts of God, including but not limited to power outages,

hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

6.5.2. CONTROL and CURTAILMENT of SIGNALS EMITTED by ALARM SYSTEMS

6.5.2.1. Every alarm user shall submit to the Police Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of said premises to immediately notify the Carver Police Department of any changes in the list of authorized employees so named in the business listing to respond to alarms.

6.5.2.2. All alarm systems installed after the effective date of this by-law which use an audible horn, bell, or device shall be installed with a device that will shut off such bell, horn or device within fifteen (15) minutes after activation of the alarm system. All existing alarm systems in the Town of Carver must have a shut-off device installed within six (6) months of the passage of this by-law.

6.5.2.3. Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (1) of this section and which disturb the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance.

6.5.2.4. No alarm system, which is designated to transmit emergency messages or signals of intrusion to the police Department, will be tested until the Police Dispatcher has been notified.

6.5.2.5. All alarm systems which are designed to transmit emergency messages or signals of intrusion to the Police Department will be of a type approved by the Police Chief.

6.5.2.6. There will be an annual twenty-five ($25.00) dollar fee for each alarm plugged into the Police Station. This fee is aside from any penalties that might occur.

6.5.3. PENALTIES

6.5.3.1. The user shall be assessed twenty-five ($25.00) dollars as a false alarm service fee for each false alarm in excess of three (3) occurring within a calendar year. The Police Chief shall notify the alarm user either by certified mail or by service in hand by a Police officer of such violation. Fines shall be paid in accordance with applicable state and local law.

6.5.3.2. The owner of a system which occasions six (6) or more false alarms within a calendar year, and/or installer who is not in conformance with this by-law, may be ordered to disconnect and otherwise discontinue the use of the same by the Board of Selectmen.

6.5.3.3. Any user, owner or installer found to be in violation of any provision of this by-law for which no other penalty is specified shall be punished by a fine of twenty ($20.00) dollars.

6.5.3.5. In the event that any event that any provision, section or clause of this by-law is hereafter judicially found to be invalid, such decision, invalidity or voidance shall not affect the validity of the remaining portion of this by-law.
6.5.3.6. This by-law will not apply to any town-owned property.

6.6. THE USE OF PONDS AND LAKES

6.6.1. No person shall enter or leave the ponds or lakes in Carver in which bathing is permitted except at beaches where the Town owns the land, or at such other places as the Selectmen may specially designate, except abutters, their guests and servants on their own respective beaches.

6.6.2. No person shall in or on the lakes and ponds in Carver, or upon any land bordering thereon annoy another person or utter any profane, threatening, abusive or indecent language, or loud outcry, or do any obscene or indecent act or commit a nuisance.

6.6.3. No person shall throw, drop, place or deposit in the water or on any beach any waste papers, glass rubbish, refuse or garbage.

6.6.4. No person shall bathe in the lakes and ponds in Carver in which bathing is permitted unless properly attired.

6.6.5. Fishing in the lakes and ponds of Carver is subject to the existing rules and regulations of the Commonwealth of Massachusetts pertaining to fishing, and rules and regulations of any body of water used for domestic water supply.

6.6.6. Row boats, canoes and sailing boats will have the right of way at all times in any part of the lakes.

6.6.7. No person shall run, drive or operate any boat, canoe or any type of water vehicle propelled by steam, naphtha, gasoline, electricity or any motor or engine upon the lakes or ponds within the Town of Carver:

a. In a reckless, careless, or negligent manner as that the lives and safety of the public might be endangered.
b. At a speed exceeding ten miles per hour.
c. Within fifty (50) yards of any bathing beach or diving raft.
d. Within fifty feet of any rowboat, sailboat, or canoe, except where docking or where the width of the waterway prevents such distance, in which event speed shall be reduced accordingly.

6.6.8. The Board of Selectmen may prohibit the use of any boat, canoe or any type of water vehicle propelled by steam, naphtha, gasoline, electricity or any motor or engine upon any or all of the lakes and ponds within the Town of Carver for such period as is determined by the Board of Selectmen for the health and sanitation of those using the lakes and ponds; and, the Board of Selectmen of the Town of Carver, shall have the exclusive authority and absolute discretion to determine the reasons for which such a prohibition will be invoked and enforced.

6.6.9. The above rules and regulations are to be enforced by an authorized police official of the Town of Carver and the violation of any rule or regulation established under this act shall be punished by fine of not more than twenty dollars ($20.00).

6.6.10. The above regulations do not apply to use of lakes by boats involved in rescue operations by air craft in emergencies or by police in the course of their duties.

6.6.11. To decrease the speed limit for motorboats on all bodies of water within the Town of Carver from 45 m.p.h. to 35 m.p.h.

6.6.12. (a.) No motor vehicle, as defined by section 1, Chapter 90 of the Massachusetts General Laws shall be driven, towed, or pushed upon a frozen surface of any pond, lake, river, brook, stream or other permanent or semi-permanent body of water to which the public has a right of access and which is situated within the boundary lines of the Town of Carver. Any owner or operator of such vehicle refusing to remove such vehicle from such frozen surface after being ordered to do so by a police officer shall be subject to immediate arrest without warrant and said vehicle shall be towed there from at the expense of the owner.

(b.) Any violation of this section shall be punishable by a fine not exceeding two hundred dollars ($200.00).

(c.) This section shall not apply to such vehicle as shall be designated by the Board of Selectmen, Police Chief, Fire Chief, or Commissioner of Public Works as emergency vehicles when operated by duly authorized personnel in the course of an official emergency operation. This section shall not apply to motorized equipment used for the maintenance and harvest of the cranberry industry.

6.7. SOLICITOR / CANVASSER

6.7.1. LICENSE REQUIRED

It shall be unlawful for any solicitor or canvasser as defined in this by-law to engage in such business within the Town of Carver without first obtaining a license therefor in compliance with the provisions of this by-law. The provisions of this by-law shall not apply to any person exempted under Chapter 101 of the General Laws, or to any person duly licensed under Chapter 101 of the General Laws, or to any person exempted by any other General Law, nor shall this by-law be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls at the invitation of prospective customers to take an order for future periodic route deliveries.

6.7.2. DEFINITION

A solicitor or canvasser is defined as any person who, for himself, or for another person, firm or corporation travels by foot, automobile, or any other type of conveyance from place to place, from house to house, or from street to street,

taking or attempting to lease or take orders for retail sale of goods, wares, merchandise, or services, including without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment on such retail sales.

6.7.3. APPLICATION

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

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

6.7.3.2. At the time of filing the application, each applicant shall pay a fee of two ($2.00) dollars.

6.7.3.3. If in the opinion of the Chief of Police, an applicant is a not-for-profit community service, educational, or religious organization of good standing and reputation in the Town of Carver, the application fee shall be waived and a license to the organization may be issued and certified duplicate copies of the license issued to individuals to identify solicitors and canvassers for the organization. Such organization must designate a Carver resident person who shall be authorized to direct and control canvassers and solicitors and who shall be required to furnish required application information for the organization, with a list of all individual solicitors or canvassers, and the address of each. The Chief of Police may waive application items c), d), g), and h) as to the individual canvassers and solicitors for such organization who are also Town of Carver residents.

6.7.4. INVESTIGATION and ISSUANCE

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

6.7.4.2. After an investigation of the applicant's morals and integrity, but within seven (7) business days of filing of the applicant, the Chief of Police shall endorse on such application his/her approval or disapproval. Failure of the Police Chief to act on said permit within seven (7) business days of the

applicant's filing shall constitute approval. If disapproved, the applicant shall have the right of appeal to the Board of Selectmen in writing within seven (7) days of the denial by the Chief of Police. The Board of Selectmen must act upon the appeal at one of their next two regularly scheduled meetings. Failure to so act shall be deemed approval.

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

6.7.5. DUTY OF POLICE of POLICE OFFICER to ENFORCE -TRANSFER
The police officers of the Town of Carver shall enforce this by-law. No license shall be transferred.

6.7.6. REVOCATION of LICENSE
The Chief of Police is hereby vested with jurisdiction over the revoking of licenses. Any person aggrieved by such revocation may appeal to the Board of Selectmen within seven (7) business days, and a hearing will be scheduled for one of the next two regularly scheduled meetings of the Board of Selectmen.

6.7.7. EXPIRATION of LICENSE
Each license issued under the provisions of this by-law shall continue in force from the date of its issue until the thirty-first day of December following, unless sooner revoked.

6.7.8. RENEWAL of LICENSE
A license issued under the provisions of this by-law may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information as is required to obtain an initial license.

6.7.9. MISREPRESENTATION

6.7.9.1. No solicitor or canvasser, licensed or exempted from license, may misrepresent, in any manner the buyer's right to cancel as stipulated by Chapter 93, 93A and 255D of the General Laws.

6.7.9.2. No Solicitor or canvasser, licensed or exempted from license, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office or other establishment with the purpose of making a sale of consumer.

6.7.10. TRESPASSING
It shall be unlawful for any canvasser or solicitor, whether or not exempt from licensing hereunder, to enter the premises of a resident or business who has

displayed conspicuously a "no trespassing" or "no soliciting" sign or poster. Further, it shall be unlawful and cause revocation of a license for canvassers or solicitors to ignore a resident or businessperson's no solicitation directive or to remain on the premises after the owner or person in charge of the premises has indicated that the canvasser or solicitor is not welcome.

6.7.11. PENALTY
Any person violating any provision of this by-law shall, upon conviction thereof, be punished by a fine not to exceed Fifty ($50.00) Dollars for each offense.

6.8. NUMBERING OF BUILDINGS

6.8.1. Street numbers shall be assigned by the Building Commissioner/ Inspector of Buildings or his designee for every dwelling and non-residential, principal building in town.

6.8.2. Notice of any necessary changes to previously assigned street numbers shall be given by regular mail, and by posting in the office of the Town Clerk.

6.8.3. It shall be the responsibility of each property owner to obtain and display the appropriate street number(s) for their existing building(s) thirty (30) days of the effective date of this by-law or notice of change described in Section 2, whichever is later.

6.8.4. Any new building described in Section 1 erected or located in the Town shall be assigned a street number at the time a building permit is issued. The assigned street number must be displayed by the date of occupancy and no occupancy permit or smoke detector certificate of compliance shall be issued for the building unless the assigned street number has been displayed.

6.8.5. Street numbers shall be made of permanent, weather proof materials in contrasting color to the building, shall be at least three (3) inches in height, and shall be affixed to the outside of the building near the main entrance so as to be clearly visible from the street or way on which the building fronts. In cases where the number cannot be made clearly visible from a street or way, the number shall be affixed, at a height of at least thirty-six (36) inches above the ground, to a permanent sign, post or mailbox located at the property line proximate to the access way into the lot on which the building is located.

6.8.6. Any person who fails to comply with this by-law or who unlawfully removes, defaces or changes a street number which has been affixed to a building or structure in accordance with this by-law, shall be subjected to a fine of fifty ($50.00) dollars. This by-law shall be enforced by the Building Commissioner/Inspector of Buildings.

6.9 PUBLIC CONSUMPTION OR USE OF MARIJUANA OR TETRAHYDROCANNABINOL

6.9.1. No person, whether in or upon a vehicle, motor vehicle, conveyance, or on foot, shall burn, smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, § 1, as amended) while in or upon any area owned by or under the control of the Town, including but not limited to, any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school, school grounds, cemetery, or parking lot; or in or upon any place to which the public has a right of access as invitees or licensees.

6.9.2. Any marijuana or tetrahydrocannabinol burned, smoked, ingested, or otherwise used or consumed in violation of this bylaw shall be seized, held, and disposed of in accordance with M.G.L. c. 94C, § 47A.

6.9.3. Whoever is found in violation of this bylaw shall, when requested by an official authorized to enforce this bylaw, state his true name and address to said official.

6.9.4. This bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. c. 40, § 21, or by non-criminal disposition pursuant to M.G.L. c. 40, § 21D, by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer.

6.9.5. The fine for a violation of this bylaw shall be three hundred dollars ($300.00) for each offense. A penalty imposed under this bylaw shall be in addition to any civil penalty imposed under M.G.L. c. 94C, § 32L.

6.10 CIVIL FINGERPRINTING AUTHORITY FOR POLICE DEPARTMENT CIVIL FINGERPRINTING

Purpose and Scope.
Regulations.
Definitions.
Criminal History Check Authorization.
Standards for Licensing Authority Use of Criminal Record.
Fee.
Effective Date.

Purpose and Scope.

To enhance public safety, this By-law authorizes the Police Department to conduct state and national fingerprint-based criminal history checks for individuals applying for specific Town- issued licenses or permits, as authorized by G.L. c.6, § 172B½, provided, however, that such records shall not be disseminated to unauthorized entities and shall be maintained and disclosed in accordance with all applicable law.

Regulations.

The Select Board, in consultation with the Chief of Police, is authorized to promulgate regulations to implement this By-law, which regulations may include, but shall not be limited to: establishment of submission deadlines, procedures for making

recommendations to the licensing authority or making a licensing determination as a result of the criminal history check, procedures for assessing, correcting or amending any such record and establishing criteria for fitness determinations, confidentiality of information obtained and penalties for failure to comply with this By-law.

Definitions.

Criminal History Check – A state and national fingerprint based criminal history background check, as authorized by G.L. c. 6, § 172B½.
DCJIS – The Massachusetts Department of Criminal Justice Information Services.
FBI – The Federal Bureau of Investigation, United State Department of Justice.
License – A license or permit issued by the Town of Carver, or any board, officer or department thereof, which is identified in this Bylaw.
Licensing Authority – A board, officer or department of the Town of Carver authorized by the General Laws of Massachusetts or Town by-law to issue a license or permit listed in this By-law.
Town – The Town of Carver, Massachusetts

Criminal History Check Authorization.

A. Occupational Licenses. The Police Department shall, as authorized by G.L. c.6, § 172B ½, conduct state and federal fingerprint based Criminal History Checks for individuals and entities for the following occupational licenses:
   1. Hawking and Peddling, Solicitor or other Door-to-Door Salespeople
   2. Hackney and Livery Drivers
   3. Ice Cream Truck or other Mobile Food Vendors;
   4. Managers of Establishments to Sell Alcoholic Beverages or Tobacco Products;
   5. Dealers in Second-hand Articles; and
   6. Pawn Dealers.
B. At the time of fingerprinting, the Police Department shall notify the individual being fingerprinted that the fingerprints will be used to check the individual's Criminal History Records and shall obtain the individual's consent in writing prior to conducting such Criminal History Checks.
C. Following receipt of an applicant's executed consent form and payment of the applicable fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this By-law to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI or the successors of such agencies to conduct a Criminal History Check.
D. The Town authorizes the Massachusetts State Police, DCJIS and the FBI, or the legal successor of each, to conduct fingerprint-based state and national Criminal History Checks consistent with this By-law.
E. The Town authorized the Police Department to receive and utilize state and FBI records in connection with such Criminal History Checks, consistent with this By-law and the Town's implementing Regulations.
F. In accordance with applicable implementing regulations, the Police Department shall communicate the results of fingerprint-based Criminal History Checks to the appropriate Licensing Authority.

Standards for Licensing Authority Use of Criminal Record.

A. A Licensing Authority is authorized hereunder to utilize the results of fingerprint-based Criminal History Checks exclusively for the limited purpose of determining the suitability of a License applicant in connection with an application for a License identified in this By-law or for its renewal or transfer.
B. A Licensing Authority may, at its sole discretion, deny a license application on the basis of the results of a fingerprint-based Criminal History Check if it determines that the results of the check render the subject unsuitable for the proposed licensed activity. The Licensing

Authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.

C. A Licensing Authority is hereby authorized to deny an application for any license specified herein, including renewals and transfers of said licenses, from any person who is determined to be unsuitable for the license due to information obtained pursuant to this By-law.,

D. Factors that shall be considered in making a determination of suitability shall include conviction of, or under pending indictment for, a felony or a misdemeanor that involved force or threat of force, possession of a controlled substance, a sex-related offence, or other crime that bears upon the subject's ability of fitness to exercise such license.

Fee.

The fee for conducting a fingerprint-based Criminal History Check shall be one hundred dollars ($100) for each check. That portion of the fee specified in G.L. c.6, §172B½, shall be deposited into the Commonwealth of Massachusetts Firearms Fingerprint Identify Verification Trust Fund. The remainder of the Fee is to be applied by the Town for costs associated with the administration of the fingerprinting program.

CHAPTER 7 PUBLIC WORKS

7.1. TEMPORARY REPAIRS TO PRIVATE ROADS

7.1.1. The Town may make such temporary repairs on such private roads within the Town as the Board of Selectmen and Department of Public Works shall jointly deem necessary, provided, however, that:

a. Such repairs shall be only to the extent required as determined by the D.P.W.;
b. Drainage may be included when deemed necessary by the D.P.W.;
c. Such repairs shall be made only when required by public necessity as determined by the Selectmen and D.P.W. jointly;
d. No repairs shall be made unless at least 60% of the abutters to the way shall petition in writing the Selectmen or the D.P.W.;
e. No betterment charges shall be assessed unless authorized by vote of an annual town meeting;
f. The Town shall not be liable on account of damages caused by such repairs;
g. No repairs shall be made to any private way unless the way shall have

been opened to public use for 6 years prior to the date of petition for repair, unless the Selectmen and D.P.W. determine that the public safety requires such repairs; and

h. No cash deposit shall be required for said repairs.

7.2. REPAIR OF PRIVATE WAYS

7.2.1. Pursuant to General Laws, Chapter 40, Section 6N, the Town shall make repairs to private ways in the Town of Carver only if all the following requirements are first met:

a. The repair to the road surface shall consist only of grading and leveling and patching with bituminous concrete, recovered asphalt paving, or processed gravel.
b. The repair may include drainage improvements.
c. No repair or drainage improvement shall be made until the Board of Public Works Commissioners has first voted as to declare the particular repair a public necessity, provided however, that no betterment or cash deposit shall be assessed or required for a repair so declared, and there shall be no requirement of petition for abutters to the particular private way to be repaired.
d. No repair shall be made of any land except with express written permission from the owner thereof, unless such owner is not determinable on the records of the Assessors, and the Town shall not be liable for damages caused by such repair.
e. No private way shall be repaired unless said way has expressly refused to accept shall accept be eligible for repair hereunder.
f. The Town shall have no duty to repair a private way and such repairs shall be subject to the appropriation of funds therefore by Town Meeting.

7.3 STREET ACCEPTANCES (pursuant to G.L. C. 40, s.21 (1)

No private street shall be accepted by the Town as a public way unless all of the following conditions have been met:

7.3.1 The way shall have a minimum pavement width of not less than twenty- four feet for its entire length;
7.3.2 The way shall be shown on a definitive plan endorsed by the Planning Board, and shall be actually constructed in accordance with the specifications of the definitive plan approval; and
7.3.3 The way shall have been completed in accordance with said definitive plan for a period of at least twelve months, in order to ensure that the way may withstand severe winter weather.
7.3.4 Notwithstanding the above, the town meeting may accept as a public way a way that does not meet all of the conditions set forth above, upon recommendation, by a majority vote, from the Planning Board to waive such condition(s).

7.4 CURB CUT PERMITS (pursuant to M.G.L. C. 40, s. 21(1)

7.4.1 No driveway shall be constructed in such a way as to interfere with the normal flow of traffic or the drainage on any public way. In the event that said driveway has been so constructed that there exists an unsafe condition or a condition which, if not corrected, might cause or permit damage to the pavement or the drainage system of the public road, the Selectmen shall give written notice to the owner of the property, stating a reasonable time within which said defect shall be corrected. In the event that the owner does not comply with said notice, the town may take reasonable steps to correct the defect at the expense of the owner; or take any other action relative thereto.

CHAPTER 8 LICENSING AND REGULATION

8.1 DENIALS, REVOCATION OR SUSPENSION OF CERTAIN LICENSES

8.1.1. Every Town of Carver licensing authority (including without limitation every Town board, officer and department) may deny any application for, or revoke or suspend any local license or permit including renewals and transfers 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 or with respect to any activity, event or other matter 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. Such denial, revocation, or suspension shall be subject to the following limitations:

a. The name of the person, corporation or business enterprise affected shall appear on a list furnished to the licensing authority as required in section 2 of this by-law.

b. A hearing after due notice is afforded the affected person, corporation, or business enterprise as is required in section 3 of this by-law.

c. The affected person, corporation or business enterprise has been given notice of the opportunity to enter into an agreement as provided in section 4 of this by-law.

8.1.2. The tax collector and all other Town officials responsible for records of all Town taxes, assessments, betterments and other Town charges 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 town charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

8.1.3. 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 subject of such license or permit and which activity, event or matter is carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said notice 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.

8.1.4. 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.

8.1.5. Notwithstanding the foregoing, 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.

8.1.6. This by-law 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, sections one hundred and eighty-one of chapter one hundred and forty.

8.1.7. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all Town taxes, fees, assessments, betterments or other municipal charges, payable to the Town as the date of issuance of said certificate.

8.2. UNREGISTERED VEHICLES

8.2.1. No person shall permit a junk vehicle, or any major part thereof, to stand in the open on premises within the Town, which are not licensed under Chapter 140, Section 57 for a period of more than thirty (30) days.

8.2.2. For the purposes of enforcing this by-law, a junk vehicle shall be defined as:

a. Any vehicle or major part thereof, which is inoperable or unfit for vehicular use.
b. Or any unregistered vehicle in excess of one.

8.2.3. Section 'b' of the definition of junk vehicle shall not be used to prohibit the storage or recreational vehicles such as campers, trailers, skimobiles, nor shall it be applied to any other operable vehicle that its legal use does not require registration.

8.2.4. Enforcement of this by-law shall be by the Selectmen or their appointed representative.

8.3. FLEA MARKETS OR YARD SALES

8.3.1. All Flea Markets or Yard Sales held in the Town of Carver shall require a permit issued by the Board of Selectmen, at no charge.

8.4. POLITICAL/ADVERTISING SIGNS

8.4.1. No political or advertising signs shall be displayed on town property, except at polling places on the day of election. Political signs placed at polling places shall comply with the following requirements:

a. No political sign shall be placed or held inside or on the polling place building or closer than 150 feet from the entrance of the building;
b. Political signs may be displayed at polling places on the day of the election only;
c. Political signs may be displayed at polling places beginning one hour prior to the opening of the polls and must be removed no more than one hour after the polls close;
d. The candidate wishing to display such signs shall comply with Sections 8.4.2 and 8.4.4 of this Bylaw; and
e. Advertising signs shall not be permitted at polling places.

8.4.2. Any candidate wishing to place political signs within Carver's Town Boundaries, shall pay a refundable deposit of $25.00 to the Building Inspector prior to the placement of such signs.

8.4.3. No signs shall be placed sooner than thirty (30) days prior to an election and shall be removed no later than seven (7) days after an election, except where a primary election and a general election fall within sixty (60) days of one

another. In such a case the thirty (30) days prior to an election shall apply to the primary election and the seven (7) days after an election shall apply to the general election.

8.4.4. The deposit shall be returned to the candidate upon his/her removing their signs in compliance with the provisions of this by-law. Enforcement shall be by the Building Inspector.

8.5 COMMERCIAL GARAGE

8.5.1 Any person who maintains a commercial garage with facilities for the repair, maintenance, alteration, or towing of motor vehicles, or motor vehicle parts, shall first obtain a license from the Board of Selectmen after a public hearing. The applicant, at his own cost, shall give notice of the public hearing to all abutters at least seven (7) days prior to the hearing. The Board of Selectmen shall have the authority to set reasonable restrictions on any license so voted and establish a reasonable fee for said license. Each license so voted shall be renewable annually on January 1. A license granted under this by-law may be transferred by the Board of Selectmen in the same manner as the issuance of a new license.

8.6 PAWNBROKERS AND SECONDHAND DEALERS

8.6.1 PURPOSE
This Bylaw is adopted for the purpose of regulating transactions in items which have been historically shown to be subject to theft and illicit transfer. The function of this Bylaw is to discourage such theft and illicit transfer from occurring within the Town and to mandate the keeping of certain records which will assist victims of theft in recovering their stolen property and which will assist law enforcement authorities in the apprehension of perpetrators of theft and detection of regulated parties intentionally transacting business in stolen property. This chapter has been enacted pursuant to the authority granted to the Town of Carver by Massachusetts General Law, Chapter 140 sections 54 - 55, 70 – 84 and 202 - 205.

8.6.2. DEFINITIONS
As used in this chapter, the following terms shall have the meanings indicated:

COMMODITY METALS
Any metal traded on the commodity market including, but not limited to, gold, silver, platinum, brass, copper, copper alloy, aluminum, stainless steel, rhodium, palladium, titanium and magnesium.

PAWNBROKER
Any person, firm, partnership, or corporation whose business includes any transaction wherein there is the lending of money secured by taking possession of property, with interest charged thereon, with the right to sell the property if it is not redeemed. A person, firm, partnership or corporation shall be deemed to be a pawnbroker whether the transaction takes the form of a loan by the pawnbroker secured by the property or a

sale to the pawnbroker with the right to repurchase within a specified period of time. Pawnbrokers are regulated according to Massachusetts General Law, Chapter 140 sec. 70 - 84 and Chapter 140 sec. 202 - 205.

PERSON

Any natural person, two or more natural persons acting in concert, corporations, partnerships, associations, joint stock companies and all other entities of any kind.

PROPERTY

Anything of value, including but not limited to jewelry, watches, clocks, diamonds or other precious stones or gems, gold, silver, platinum, other precious metals or commodity metals, musical instruments and equipment, cameras, furs, fur coats or other kinds of wearing apparel, televisions, DVD players, videocassette recorders and other electronic equipment, tools, computers and computer equipment, firearms, auto accessories and office and store fixtures and related equipment.

SECONDHAND DEALER

Any person, firm, partnership or corporation whose business is the retail buying, selling, buy-back, exchanging, dealing in or dealing with secondhand articles and property. Secondhand dealers are regulated according to Massachusetts General Law, Chapter 140 Sections. 54 - 55 and 202 - 205.

8.6.3. LICENSING AUTHORITY

The Board of Selectmen may license such persons as they deem suitable to be pawnbrokers or secondhand dealers within the Town. All licenses so granted shall contain a clause that the person so licensed agrees to abide by and be subject to all provisions of this Bylaw and applicable provisions of the Massachusetts General Laws, as may be from time to time amended.

8.6.4. LICENSE REQUIRED; APPLICATION REQUIREMENTS

No person, firm, partnership or corporation shall operate, conduct or engage in business as a pawnbroker or secondhand dealer unless such person, firm, partnership or corporation obtains a license from the Town of Carver through the Board of Selectmen in accordance Massachusetts General Law, Chapter 140 sections 54 - 55, 70 – 84 and 202 – 205, respectively. Applications for licenses for pawnbrokers or secondhand dealers shall be made in writing to the Town of Carver on forms provided by the Town of Carver.

8.6.4.1. Investigation of applicant. All applications shall be submitted by the Board of Selectmen to the Chief of Police, who shall cause an investigation to be made of the fitness of the applicant and the applicant's employees to carry on the business of pawnbroker or secondhand dealer. The Chief of Police shall then report his or her findings to the Board of Selectmen.

8.6.4.2. Location. The license shall be issued for a specific location within the Town of Carver and is not transferable to any other person or location without the express written consent of the Board of Selectmen.

8.6.4.3. Fee. Upon approval by the Board of Selectmen, a fee of $50 shall be paid by the applicant to the Board of Selectmen prior to the issuance of the license.

8.6.4.4. Bond. The licensee shall, at the time of receiving such license, file with the Board of Selectmen a bond in the sum of three hundred dollars, with two sureties approved by the Board of Selectmen, and conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed.

8.6.4.5. Display of license. Licensees shall display their current license in a conspicuous place within the business where it may be readily viewed by the general public.

8.6.4.6. Expiration; revocation. A numbered license shall be issued in December and take effect on January 1 of each year and shall continue in full force for a period of one year unless revoked prior to this date by the Board of Selectmen at any time after notice to the licensee and hearing on the charges preferred.

8.6.5. TRANSACTION RECORDS

8.6.5.1. Every pawnbroker and secondhand dealer shall keep and maintain a complete written record of each transaction. This record, which must be kept on file for seven years, shall be in the English language and include a full and accurate detailed description, including serial numbers and identifying characteristics such as all markings, engravings, damage and gender specificity, of the item or items purchased, pawned or pledged; the date and time of such transaction; the clerk's name who conducted the transaction; the amount of money loaned and the rate of interest to be paid on said loans; the full name, date of birth and address of the seller or pledger; the name and address of the seller's or pledger's employer and a thumb print of the seller, absent smudges and smears.

8.6.5.2. All property purchased, pawned or pledged shall be photographed with a digital camera or digital image scanner. A color digital image shall be saved in a manner to allow it to be electronically sent to the Carver Police Department as part of the transaction record.

8.6.5.3. Miscellaneous amounts of jewelry will be separated and not photographed in one aggregate pile. The image shall be sent electronically in a PDF or JPG format.

8.6.5.4. Pawnbrokers and second hand dealers shall also photograph any person pawning, selling or pledging articles and keep the photographs as part of the records required pursuant to this section.

8.6.6. IDENTIFICATION OF SELLERS REQUIRED; AGE RESTRICTION

8.6.6.1. Every pawnbroker and secondhand dealer shall require every seller or pledger of items to produce, in person, a valid positive photographic identification issued by a United States federal or state government agency. The identification used must include the seller's or pledger's full name, date of birth, and current street address. The identification must have been issued in the past five years. The type of identification used shall be noted on the transaction records. At no time shall a pawnbroker or secondhand dealer accept another person's photographic identification for any transaction. The pawnbroker or secondhand dealer shall attach a photocopy of the identification shown to the transaction record.

8.6.6.2. No pawnbroker or secondhand dealer shall transact business with anyone who appears to be under the influence of drugs or alcohol.

8.6.7. HOLDING PERIOD FOR PURCHASES AND PAWNS

8.6.7.1. Every secondhand dealer shall retain possession of all property purchased for a twenty-one day period subsequent to the purchase thereof; provided, however, that any such item may be disposed of by the purchaser within such thirty-day period with the written permission of the Chief of Police.

8.6.7.2. Property, including jewelry, shall be maintained in the condition in which it was received, and shall not be altered, damaged, or destroyed during the holding period for any purpose. Property must be maintained at the dealer's licensed location during the holding period. Property with damaged or defaced serial numbers or identifying characteristics shall not be accepted for purchase, pledge or pawn.

8.6.7.3. Pawnbrokers shall retain nonperishable items for at least four months and perishable items for at least one month after the date of deposit for said article(s). Upon expiration of the holding period, said items may be disposed of in accordance with M.G.L. c. 140, §71.

8.6.8. REPORTS OF TRANSACTIONS

8.6.8.1. Pawnbrokers and secondhand dealers shall electronically file documentation of all transaction records to the Chief of Police, within 24 hours of the end of said dealer's business day in which the transaction occurred. If during any week a pawnbroker or secondhand dealer has not purchased any items, he or she shall make a report of such fact to the Chief of Police on or before 10:00 a.m. of the first business day of the following week.

8.6.8.2. The complete transaction record shall be submitted on one standard-size page. The transaction record shall include all of the information required by Section 8.6.5 of this Bylaw.

8.6.8.3. Every pawnbroker and secondhand dealer shall use the transaction record form prescribed by the Town of Carver.

8.6.9. INSPECTION OF RECORDS AND PREMISES
Pawnbrokers and secondhand dealers shall retain each original transaction record in his or her possession for a period of seven years. The records, along with the respective property, shall be kept or stored in or upon the licensed premises. The licensed premises may be inspected at any time by a duly authorized police officer. Massachusetts General Law, Chapter 140 sec. 73 provides for this inspection process and Massachusetts General Law, Chapter
140 sec 74 makes any willful obstruction of the police a misdemeanor punishable by a fine of not more than $200.00 or by imprisonment for not more than 1 year or both.

8.6.10. VIOLATIONS

8.6.10.1. No Pawnbroker or secondhand dealer shall transact business with anyone under 18 years of age.

8.6.10.2. No pawnbroker or secondhand dealer shall transact business at other any place than the one designated on the license.

8.6.10.3. No pawnbroker or secondhand dealer shall transact business after the license expires or is revoked.

8.6.10.4. No pawnbroker or secondhand dealer shall accept any property of any kind, which is distinctly and plainly marked as being the property of any person other than the person offering the property unless the person offering the property shows satisfactory evidence to show that they are the legal owner or legal representative of the person identified on the markings. This evidence shall be kept with the required records of the transaction.

8.6.10.5. Any pawnbroker or secondhand dealer and their employees who know or reasonably believe that property being offered if stolen, it shall be the duty of such person to report the same at once to the Carver Police.

8.6.10.6. All pawnbrokers and secondhand dealers shall refrain from paying cash for precious metals and articles purchased that will be liquidated, melted down or resold. The preferred method of payment should be a business check which can be traced back to the recipient.

8.6.11. PENALTIES

8.6.11.1. The Board of Selectmen may, independently or upon recommendation from the Chief of Police, suspend or revoke said license for any violation of this Bylaw, or any other applicable federal, state or local law or for reasons it deems to be in the best interest of the Town, after a hearing.
Notice of the suspension or revocation will be made, in writing, to the owner(s) of the business within five business days of said hearing.

8.6.11.2. This Bylaw may be enforced by any Town of Carver Police Officer. Any person found violating any provision of this Bylaw may be penalized by a

noncriminal disposition process as provided in M.G.L. c. 40, §21D and the Town's non-criminal disposition bylaw. If non-criminal disposition is elected, then any person who violates any provision of this Bylaw shall be subject to a penalty in the amount of $100.

8.6.11.3. Any person found violating any provision of this Bylaw may be penalized by indictment or complaint brought in the District Court. Except as otherwise provided by law and as the District Court may see fit to impose, the maximum penalty for each violation of offense shall be $100.

8.6.11.4. The Town may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through other lawful means.

8.6.11.5 Each day a violation exists shall be considered a separate offense.

8.6.12. SEVERABILITY
The provisions of this chapter shall be severable, and if any phrase, clause, sentence or provision of these regulations shall, for any reason, be held invalid or unconstitutional, the validity of the remainder of these regulations shall not be affected thereby.

CHAPTER 9 ENVIRONMENT

9.1 EARTH REMOVAL

9.1.1 PURPOSE

The purpose of this by-law is to promote the health, safety, and general welfare of the residents of the Town of Carver, and to ensure that permanent changes in the surface contours of land resulting from the removal and regrading of earth materials will leave the land in a safe and convenient condition for appropriate reuse without requiring excessive and unreasonable maintenance or creating danger of damage to public and private property, as well as to provide that earth removal activities shall be conducted in a safe manner and with minimal detrimental effect upon the district in which the activities are located. This by law pertains to all commercial mining, agricultural excavation and excavation due to construction that is not exempt pursuant to Section 9.1.8 of this by law.

9.1.2 DEFINITIONS

Earth: all forms of soil, including but not limited to clay, gravel, hard pan, loam, peat, rock, or sand.

Lot/land: a single parcel of land lying in a single body and separated from the owner's or other party's contiguous land by property lines described in a recorded plan or deed.

Removal: stripping, excavating, commercial mining, agricultural excavation, excavation due to construction or blasting earth and rearranging it on the same lot or carrying it away from that lot.

Property line: a line separating one lot from another.

Owner: the owner of the land from which earth is sought to be removed, including individual owners, realty trusts, companies and corporations, or other legal entities.

Abutters and other parties in interest: abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the site as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or Town.

Restoration: after an earth removal activity, returning the land contours to safe and usable condition and planting appropriate groundcover, or taking other measures pursuant to Section 9.1.5c of this by law.

Commercial Mining: The business of extracting ore, earth or minerals from the ground for sale or profit unless conditionally exempted under Section 9.1.8.

Agricultural Excavation: The process of removing earth or other materials that is necessary and incidental to prepare a site for specific agricultural use. Agricultural excavation may include the creation of wetland resource areas such as ponds, canals, cranberry bogs, and land subject to flooding as defined under the M.G.L. Ch. 131 §40 and as defined in Massachusetts Wetlands regulations 310 CMR 10.00.

9.1.3 EARTH REMOVAL COMMITTEE

9.1.3a. There is hereby established a seven (7) member Earth Removal Committee (E.R.C.). All members must be residents of the Town of Carver. The E.R.C. will consist of three (3) representatives of the Board of Selectmen at which no time shall more than two (2) of the Board of Selectman's representatives be actual members of the Board of Selectman, and four (4) additional members to be appointed by the Town Administrator subject to Section 9.1.3b and endorsed by the Board of Selectmen.

When the E.R.C. is established, one member shall be appointed for a term of one year, one member for a term of two years, and two members for a term of three years, and their successors shall be appointed for terms of three years.

9.1.3b. The membership of the E.R.C. shall be made up as follows:

Three (3) representatives of the Selectmen;

Two (2) members from three (3) nominees submitted by the Cape Cod Cranberry Growers Association;

One (1) member from nominees submitted by the Carver Board of

Health.
One (1) member of the trucking industry, nominated by the E.R.C.

In the absence of nominees from one or more of these groups, the Town Administrator shall choose members without designation. In no case shall more than two of the appointed members represent the same trade, profession, occupation, or business interest. All members shall serve without compensation and must be endorsed by the Board of Selectman.

9.1.3c. No committee action shall be taken without a quorum of four (4) members, (except to continue a hearing in the absence of a quorum), and no decision shall be made without the vote of a majority of the members present.

9.1.3 d. The committee shall meet, at a minimum, once a month at a place and time to be determined by the committee.

9.1.4 EARTH REMOVAL PERMIT REQUIREMENTS

9.1.4a. Except as provided otherwise in this By-law (see Section 9.1.8), no earth shall be removed from any lot in the Town of Carver without the issuance of a permit from the E.R.C.

9.1.4b. Before a permit for earth removal can be issued or denied, application shall be submitted on such forms or in such manner as the E.R.C. may specify in its rules and regulations. The regulations adopted shall include, but are not limited to: the method of application, filing fees, required exhibits, site plans, site plan review fees, monitoring fees, bond requirements, and the means of compliance, inspection and administration. This By-Law shall be effective notwithstanding the absence or invalidity of rules adopted by the E.R.C.

9.1.4 c. An expedited permit, as outlined in the E.R.C.'s Rules and Regulations, may be issued by the E.R.C provided that the proposed excavation is more than 1000 cubic yards per year, and less than 5,000 cubic yards per year. If deemed necessary by the E.R.C., an expedited permit may be required to have a Public Hearing as outlined in Section 9.1.6 of this by law.

9.1.5 SITE PLAN

9.1.5a. A site plan shall be submitted in the quantities and in the form required by the rules and regulations of the E.R.C. Such plan shall be submitted by the E.R.C. to the Planning Board, Agricultural Commission, Conservation Commission, Board of Health, Board of Selectmen, and Fire Department, Police Department, D.P.W., Board of Assessors and other officers and official boards of the Town for review and comment, as the E.R.C. may direct. A plan shall also be filed with the Town Clerk.

9.1.5b. The site plan shall be prepared by a registered professional Engineer.

9.1.5c. The plan shall include, but not be limited to, pertinent information on the following: lot boundaries, names of abutting owners and other parties in interest, streets contiguous to the site, vegetation, existing and proposed roadways, existing and proposed buildings, location of sources of water, wetlands, primary recharge areas, the Natural Heritage & Endangered Species Program Priority Habitat of Rare and Endangered Species, sewage disposal, parking, loading areas, easements and rights-of-way, walls, fences, ditches, streams, ponds, and known permanent monuments, and other cross-sections, profiles, and contour maps needed to describe the proposal. The site plan shall show existing intermediate and final ground levels with those of adjacent properties and shall indicate natural surface water flows and drainage ditches if any. The site plan shall also show groundwater elevations before and after removal. The E.R.C. may require drainage computations based on D.E.P. drainage program TR-55 and a sediment control plan for during and after the operation with phasing as required. These computations shall indicate 10 and 100-year storm effects. The plan shall also show a fully complete restoration plan which complies with sound engineering practices and either the Natural Resources Conservation Service Conservation Practice Standard "Land Reclamation, Currently Mined Land", Code 544 or the Natural Resources Conservation Service Conservation Practice Standard "Critical Area Planting" Code 342, as determined by the E.R.C. These requirements are on file at the Board of Selectmen's Office and the Town Clerk's Office.

9.1.5 d. In certain instances as outlined in Section 9.1.4c of this By-Law, the applicant shall be allowed to submit an abbreviated application instead of the full application and site plan described above. The E.R.C. shall specify the exact form of the abbreviated application in its rules and regulations. The abbreviated application shall include, but is not limited to: the name of the owner, the location of construction, the volume of earth to be removed, the rate and time frame of removal, the removal contractor and the time frame of restoration. The application shall be designed in such a way that the applicant can file without assistance from an engineer or other professional. Within 60 days of the filing, the E.R.C. may notify the applicant that the circumstances of the project warrant a full permit application.

9.1.6 PUBLIC HEARING

9.1.6 a. The E.R.C. shall, within 65 days after the filing of a full or abbreviated application hold a public hearing on said application. No permit shall be issued or denied until the public hearing has been held. Notification of the public hearing shall be advertised for two consecutive weeks in a newspaper generally circulated in Town beginning at least 14 days before such hearing, and by written notice to the Board of Health, Board of Selectmen, Board of Assessors, Agricultural Commission, Conservation Commission, Planning Board, Police, and Department of Public Works. The applicant shall notify all abutters and other parties in interest of the hearing by certified mail and present receipts to the
E.R.C. Advertising and related expenses shall be borne by the applicant, in addition to filing fees.

9.1.7 EARTH REMOVAL PERMIT CONDITIONS

9.1.7a. The E.R.C. shall determine that the proposal generally conforms to the principles of good engineering, sound planning, correct land use, and provides for the proper and reasonable reuse of available topsoil if appropriate.

9.1.7b The applicant shall be required to cover all costs for review of the proposal by a Registered Engineer or other expert as the Earth Removal Committee sees fit and chosen by the Earth Removal Committee. The applicant shall also be required to cover the cost of monitoring the project by an agent of the committees' choosing.

9.1.7c A fifty (50) foot undisturbed buffer along all property lines must be maintained at all times. The E.R.C. may in certain instances provide relief from this restriction, if the applicant shows a significant hardship and /or shows that the proposed excavation would not have a detrimental impact on the abutting property.

9.1.7d The E.R.C. shall set hours of operation, specify special truck routes, require bonds for restoration, road repair or other purposes, require monitoring fees, and impose safety-related conditions. The board shall establish provisions for monitoring the permitted earth removal activity on a regular basis, and may, to the extent permitted by law, enter the premises at any time to inspect for compliance with the conditions set forth in the permit.

9.1.7e A bond or other performance guarantee acceptable to the E.R.C. shall be established by the E.R.C. based on the estimated cost of restoration for the project as may be deemed appropriate and shall be held by the Town of Carver until all work has been completed and conditions of the special permit have been met. The E.R.C. shall require the applicant to submit status reports every 90 days to the E.R.C. on an appropriate form as outlined in the E.R.C. rules and regulations and shall require the site to be inspected by the E.R.C. authorized agent and a report filed to the E.R.C. at the end of every 12 month period.

9.1.7f In the event that the subject property is not used for said agricultural purposes after the removal, the E.R.C. may require that a bond or other performance guarantee acceptable to the E.R.C., pursuant to Section 9.1.7e, be provided, based on the estimated cost of restoration that is consistent with NRCS Conservation Practice Standard "Land Reclamation, Currently Mined Land," Code 544.

9.1.7g Applications for permits may be granted, denied, or granted in part and denied in part. The E.R.C. shall have 45 days to render a decision after the last session of the public hearing closes, provided that any continuation of the hearing beyond the date and time noticed in the advertised hearing notice shall be announced at the hearing for a date, time, and place certain. The conditions of the permit, including the expiration date, shall be clearly set forth on the permit. The E.R.C. shall file its decision with the Town Clerk and notify the

applicant of its decision within 21 days after the decision is made at a Public Meeting of the E.R.C.

9.1.7 h No permit shall be issued for a period in excess of 12 months. However, permits shall be extended beyond 12 months if the E.R.C. is satisfied with all quarterly reports regarding the project and that the work is carried out under the plans, specifications, and conditions previously approved after public hearing, and does not entail earth removal of a larger quantity or from a larger land area than allowed in the original permit. No project may be extended beyond a five (5) year period without a full hearing of the E.R.C.

9.1.8 EARTH REMOVAL CONDITIONAL EXEMPTIONS

An earth removal permit shall not be required for the following activities, provided the operation does not constitute a nuisance or danger to the public, and conforms to accepted engineering and/or agricultural practices:

A. Earth removal involving less than 200 cubic yards for a single or two family lot or less than 1000 cubic yards for an industrial, multi-family and/or commercial project.

B. Removal necessary for the reconstruction of existing streets and the installation of utilities;

C. Removal performed in connection with any Town, state and/or federal projects;

D. Removal necessary for normal cranberry related activities or other agricultural uses as defined under M.G.L. c131, s 40, 310 CMR 10.04: (a) land in agricultural use, (b) normal maintenance of land in agricultural use, and (c) normal improvement of land in agricultural use. This agricultural-related work is further defined as earth necessary to maintain or improve the applicants/owner's contiguous or non-contiguous land for agricultural purposes, and does not include the removal of earth for sale, trade or other considerations. This practice must use best management practices as outlined in the Natural Resources Conservation Service Conservation Practice Standard "Land reclamation, Currently Mined Land", Code 544 or the Natural Resources Conservation Service Conservation Practice Standard "Critical Area Planting" Code 342, as determined by the E.R.C.. Notification of this practice must be given to the
E.R.C. in a timely manner. This also includes the removal of earth for sale, trade or other considerations, under this section, less than 1,000 cubic yards per year.

9.1.9 GENERAL PROVISIONS

9.1.9a. If the E.R.C. believes that there is a violation of approved plans, specifications and conditions, or believes that the actual conditions or operations on the premises constitute a nuisance or public danger, the E.R.C. shall order the operator to immediately cease and desist specific activities or the entire operation, pending a review at a posted public meeting after at least 48 hours

notice thereof to the operator, which meeting shall be held within 7 days following the initial E.R.C. order. If the violation is immediately brought into compliance, as determined by the E.R.C. and/or their agent, then no public hearing will be necessary. However, the applicant shall have the right to request a public hearing at any time during the review of any purported violation of approved plans. If, after review, the E.R.C. is satisfied that the alleged violation, nuisance, or public danger was corrected or unfounded, it shall revoke or revise its cease and desist order as appropriate. If after such review the E.R.C. finds that the permit conditions may be inadequate to protect the public interest and to carry out the purpose of this By-Law, or that a conditionally exempt earth removal activity may require the imposition of conditions to protect the public interest, it shall schedule a public hearing upon the same notice and hearing requirements as for an original permit. Seven (7) days after the operator receives certified mail notice, the E.R.C. may revise, revoke, or continue the permit or permit conditions after such hearing, or may impose permit conditions on a previously exempt operation.

9.1.9b. All existing earth removal operations shall comply with this By-Law after sixty days of the effective date of the Annual Town Meeting vote hereof, or prior to the applicant's annual review which ever comes later and no further earth shall be removed after that date without a permit hereunder. The Earth Removal Committee shall hear and decide all applications from existing earth removal operations before the expiration of sixty days following the effective date of this By-law, if a complete application thereof is received by the Earth Removal Committee within thirty days following said effective date.

9.1.9c. The Enforcement Officer for the provisions of this By-Law shall be the E.R.C. or their designee of the Town of Carver.

9.1.9d. Criminal Penalty. Any person who violates any provision of this by-law, regulation, order or permit issued there under, shall be punished by a fine of not more than $100.00 each day or part thereof that such violation occurs or continues shall constitute a separate offense.

9.1.9e. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40 §21D and Section 10.4 of the Town of Carver By-laws, in which case Zoning Enforcement Officer of the Town shall be the enforcing person. The penalty for the 1st violation shall be $100.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

9.1.9f. If any earth shall be removed without obtaining earth removal permit or otherwise in violation of this section, the E.R.C. may order the restoration of the property involved in accordance with the provisions of this section. Such an order of restoration will not constitute a waiver of any other fines or penalties for such violations. Anyone aggrieved by such order may within seven days of the receipt thereof may request a hearing before the E.R.C. to be held within 30 days. At such hearing the Board may modify, rescind, or uphold its order. The Board's

order, if not appealed within seven days of receipt, or as modified, rescinded, or upheld after hearing shall be deemed final action by the E.R.C.

9.1.9h. The provisions of this By-Law are severable; and if any provision or application of such provision to any person or circumstance is held invalid or unconstitutional, this shall not affect the remaining provisions.

9.2. WETLANDS PROTECTION

9.2.1 GENERAL PROVISIONS

9.2.1.1 Introduction

These regulations are promulgated by the Carver Conservation Commission pursuant to the authority granted to the Commission under Massachusetts General Law Chapter 40, Section 8C.

9.2.1.2 Purpose

The purpose of this By-law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Carver by controlling activities deemed by the Carver Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following:

a. Public or private water supply,
b. Groundwater and groundwater quality,
c. Surface water and surface water quality,
d. Flood control,
e. Erosion and sedimentation control,
f. Prevention of water pollution,
g. Storm drainage,
h. Fisheries,
i. Wildlife habitat,
j. Recreation,
k. Agriculture,
l. Aesthetics,
m. Fish/shellfish habitat,
n. Rare plant and animal species,
o. Riverfront areas.

In addition, the Commission shall provide clear guidance to applicants regarding the policies that the Commission has determined are necessary to protect wetland Resource Areas based upon Carver's particular topography and hydrology, by the unique and special value these resource areas have to the Carver residential and agricultural community, and the significant past experience of the Commission with wetlands protection.

9.2.1.3 Statement of Jurisdiction

(1) Except as permitted by the Commission as provided by this By-law, no person shall remove, fill, dredge, alter or build upon or within 100 feet of: any bank, wetland, marsh, swamp, bog, beach, or wet meadow, pond or lake; any land under said waters; any land subject to flooding or inundation by groundwater or surface water; or the 100 year flood plain.

(2) Except as permitted by the Commission as provided by this By-law, no person shall remove, fill, dredge, alter, or build upon or within 200 feet on each side of perennial rivers and streams.

(3) Except as permitted by the Commission through the issuance of a variance as defined in Section V of this By-law and the issuance of a permit as defined by Section II of this By-law, no person shall build or enlarge any structure, parking lot or impervious surface upon or within 65 feet of: any wetland, marsh, meadow, bog or swamp; any bank; any lands bordering on any lake, river, pond, stream or creek; or any land under said waters; or any land subject to flooding or inundation by groundwater or surface water.

(4) Except as permitted by the Commission through the issuance of a variance as defined by Section V of this By-law and the issuance of a permit as defined by Section II of this By-law, no person shall build any residential dwelling within 100 feet of a cranberry bog.

9.2.1.4 Exceptions: Public Utilities and Emergency Repairs

(1) The permit and application required under this By-law shall not be required for maintaining, repairing or replacing an existing and lawfully place structure or facility used in the service of the public to provide electric, gas, water, sanitary sewer, storm drainage, public roadway, telephone, telegraph, or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged.

(2) Written notice must be given to the Commission at least 14 days prior to the commencement of such work and written permission must be granted by the Commission before any work begins.

(3) The permit application process required by these by-laws shall not be required for emergency work necessary for the protection of the health or safety of the public provided that the work is performed or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof.

(4) The Commission shall be notified prior to the commencement of emergency work or within 24 hours after commencement in order to certify the work as an emergency project and that the work is performed only for the time and place certified by the Commission for the limited purpose to abate the emergency.

9.2.2 FILING PROCEDURES

9.2.2.1 Request for Determination of Applicability

(1) A Request for Determination of Applicability shall be submitted to the Commission by certified mail or hand delivery to the Commission office located at the Town Hall.

(2) The Request for Determination of Applicability shall be in the form shown in the Appendix marked "Form A".

(3) The Request for Determination of Applicability shall be accompanied by 4 complete copies the applicant's plan which should include sufficient information to enable the Conservation Commission to determine the applicable scope of the project. The Commission may request up to 4 more copies of plans for each project.

(4) The Request for Determination of Applicability shall be accompanied by a check or money order made payable to the Town of Carver for $35.00 to cover administrative costs.

(5) The Request for Determination of Applicability shall be accompanied by a check or money order made payable to the local newspaper designated by the Commission to cover the publication costs required in accordance with the open meeting law, M.G.L. c. 39, sec.23B.

(6) The Request for Determination of Applicability shall be accompanied by a certification in the form of an affidavit of service shown in the Appendix marked "Form B" informing the Department of Environmental Protection and the owner, if the owner is not the applicant, that a determination is being requested under M.G. L. c. 131, sec. 40.

(7) The Conservation Commission shall hold a public hearing within 21 days of its determination that the applicant's filing is complete. Prior to making such determination, the Conservation Commission may request additional information pertinent to the application.

9.2.2.2 Notice of Intent

(1) A Notice of Intent shall be submitted to the Commission by certified mail or by hand delivery to the Commission office located at the Town Hall.

(2) A Notice of Intent shall be in the form shown in the Appendix as "Form C".

(3) The Notice of Intent shall be accompanied by 8 complete copies of the applicant's plan, which should include sufficient information to enable the Commission to determine the applicable scope of the project.

(4) The Commission at all times reserves the right to require that applicant's Notice of Intent be submitted by a professional person such as a land surveyor or civil engineer.

(5) The Notice of Intent shall be accompanied by a filing fee the amount of which shall be determined by 801 CMR 4.02(310) (Executive Office for Administration and Finance) plus an additional cost of $70.00 to cover administrative expenses. Payment shall be in the form of a check or money order.

(6) The Notice of Intent shall be accompanied by a check or money order made payable to the local newspaper designated by the Commission to cover the publication costs required in accordance with the open meeting law, M.G.L. c. 39, sec. 23B.

(7) The Commission shall have the authority to deny any project in which it determines that the application is incomplete or requires additional information not provided by the applicant.

(8) Any person filing a Notice of Intent with the Commission shall provide the Commission with an affidavit confirming that all appropriate town officials, committees, or boards having joint jurisdiction over the proposed project have been provided with a copy thereof by certified mail or hand delivery.

(9) The Commission shall not take final action pursuant to a Notice of Intent until all officials and boards having joint jurisdiction over the proposed project have had at least 14 days from receipt of notice to file written comments and recommendations with the Commission.

(10) The Commission shall have the authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant and deemed necessary by the Commission in its discretion or by other town boards and officials, as appropriate.

9.2.2.3 Notice To Abutters and Property Owners

(1) Any person filing a permit application with the Commission shall also give written notice thereof, by certified mail or hand delivery, to all abutters using the most recent applicable tax list of the assessors.

(2) Abutters shall include owners of land directly opposite on any public or private street or way, and the abutters to abutters within 100' of the property line of the applicant, including in any other municipality.

(3) The notice to abutters shall include a complete copy of the applicant's plan if the Commission so requests or shall state where copies may be examined or obtained by the abutters.

(4) The applicant shall submit a complete copy of both the permit application and the determination by the Commission regarding the application to the property owner and any other persons determined by the Commission as eligible to receive such information.

(5) The applicant shall inform all persons designated by the Commission as land owners other than the applicant, abutters, or persons determined by the Commission to be eligible to receive such information of the time and location of the public hearing scheduled by the Commission. Notice shall be given by certified mail or hand delivery at least 14 days prior to the public hearing.

(6) The applicant shall provide the Commission with an affidavit confirming that all appropriate person or persons have been provided with the appropriate notice and plans as determined by the Commission.

9.2.2.4 Consultant Fee

(1) Upon receipt of a permit application or request for determination of applicability, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "Consultant Fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydro geologic, and drainage analysis; and researching environmental or land use law.
(2) The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. If a fund for consultant expenses and fees is authorized by the town meeting, or by any general or special law, the applicant's fee shall be put into such fund, and the Commission may draw upon that fund for specific consultant services approved by the Commission at one of its public meetings. Any unused portion of the consultant fee shall be returned to the applicant unless the Commission decides at a public meeting that additional services will be required.
(3) The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

(4) The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit application or request for determination filed by a government agency.
(5) The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

	Project Cost	Maximum Fee
Up to	$100,000	$500
$100,001	$500,000	$2,500
$500,001	$1,000,000	$5,000
$1,000,001	$1,500,000	$7,500
$1,500,001	$2,000,000	$10,000

Each additional $500,000 project cost increment (over $2,000,000) shall be charged an additional $2,500 maximum fee per increment.
(6) The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this by-law. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee."

9.2.2.5 Rules and Regulations

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

9.2.3 PLANS

9.2.3.1 General

The applicant shall provide the following information upon submission of the application:

1. All drawings shall be drawn with the title designating the name of the project, location and names of the person or persons preparing the drawings, and the date prepared, including the last revision date

2. Drawings shall be stamped and signed by a duly qualified Registered Land Surveyor of the Commonwealth of Massachusetts. Plans depicting proposed drainage or septic systems must be stamped by a Registered Professional Engineer.

3. An 8 ½" x 11" photocopy of the U.S.G.S. quad sheet, showing location of the proposed activity and the outline of the area in which the activity is located.

4. An 8 ½" x 11" section of the Town of Carver property map on which the site of the proposed activity is outlined in red.

9.2.3.2 Technical Data

The technical data shall be in narrative form with calculations submitted as necessary to substantiate the designs proposed and shall include:

1. A description of any alterations to the 100 year flood storage capacity of the site. If a change of flood storage capacity is proposed, demonstrate compensatory storage at every elevation in the flood plain.

2. Maximum groundwater elevations must be given. The calendar dates of measurement, samplings and percolation tests shall be included.

3. Soil characterizations in representative portions of the site, including depth of peat, muck and organic matter in wetland areas.

4. A storm water management plan and calculations of runoff characteristics based on the following criteria:
   a. on-site drainage systems - 10 year
   b. roadway cross-culverts - 25 year
   c. retention/detention - 2 year & 100 year

5. Runoff characteristics should be calculated for pre- and post development conditions using the standard methods described in the U.S. Soil Conservation Service National Engineering Handbook.

6. Hydrographs that illustrate runoff characteristics before and after the proposed activity.

7. An erosion control plan shall be submitted describing all methods to control erosion and siltation on site, temporarily and permanently.

9.2.3.3 Site Plan

The applicant shall submit a site plan, at a scale of 1" = not more than 50', showing the following items:

1. Existing and proposed contours (in contrasting symbols) shall be expressed in feet above sea level with intervals no greater than 3 feet. Date of ground survey shall be given

2. The delineation of all wetlands, lands subject to flooding, water bodies, waterways, ditches, creeks, rivers, streams, ponds, whether natural or manmade, continuously or intermittently flowing. The upland boundary of all bordering vegetative wetlands shall be shown. The 100-year flood elevation shall be shown.

3. A delineation of all alterations proposed in or having an impact on wetlands.

4. Existing stonewalls; buildings, rock ridges and outcroppings shall be shown.

5. Location, extent, and area of all existing and proposed structures, roadways, paved areas, septic systems, wells, tanks, and utility easements.

6. Proposed lowest elevations of cellars or floors.

7. Existing and proposed location, rim elevation and invert elevation of all catch basins, drains, culverts, and other drainage structures immediately upstream and downstream of the site, as well as those on site.

8. Details and locations for all temporary erosion controls proposed.

9. Proposed permanent pollution control devices on site, such as: hooded catch basins flow dissipaters, or vegetative buffers.

10. Cross-sections showing existing and proposed slope, elevations, bank and bottom conditions of each water course to be altered. Locations of cross-sections shall be specified.

11. Proposed location of any fill material, which will be stored on site.

12. State on plan the location and elevation of benchmark used for survey and datum.

13. The "limit of work" line shall be shown.

9.2.3.4 Rules and Regulations

After due notice and public hearing, the Commission may promulgate rules and regulations to fulfill the purposes of this section. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by

a court of law shall not act to suspend or invalidate the effects of this section"; or take any other action relative thereto.

9.2.4 ENFORCEMENT AND SECURITY

9.2.4.1 Enforcement

(1) No person shall remove, fill, dredge, build upon, degrade or otherwise alter resource areas protected by this By-law, or cause , suffer or allow such activity to continue or allow such fill or other alteration to be left in place without the required authorization pursuant to this by-law.

(2) Enforcement Orders shall be issued by Commission members or the Conservation Agent in order to secure prompt and continued compliance with the Carver Wetlands By-law or work performed under Superseding or Final Orders issued by the Department of Environmental Protection.

(3) The Enforcement Order shall be in the form shown in the Appendix marked "Form D".

(4) The Commission or its agent or other duly authorized employee shall have authority to enter upon privately owned land for the purpose of performing their duties under this By-law and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary.

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

(6) Any person who violates provisions of this By-law may be ordered to restore the property to its original condition and take any other action that the Commission deems necessary to remedy such violations.

(7) Upon the request of the Commission, the Board of Selectmen and Town Counsel shall take legal action for enforcement under civil law.

(8) Upon the request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.

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

(10) Any person who violates any provision of this By-law, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of $50 (fifty dollars)

(11) Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the By-law, regulations, permits or administrative orders violated shall constitute a separate offense.

(12) Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the By-law, regulations, permits or administrative orders violated shall constitute a separate offense.

9.2.4.2 Security

As part of a permit issued by this By-law, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be wholly or in part by one (1) or more of the methods described below:

1. By a proper bond with sureties satisfactory to the Commission payable to the town or deposit of money or negotiable securities to be held by the Town Treasurer or other undertaking of financial responsibility sufficient in the opinion of the Commission to secure compliance with the Order of Conditions. Such bond or deposit shall be released upon issuance of a Certificate of Compliance.

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

3. A Certificate of Compliance may extinguish only those bonds, securities, covenants, restrictions, or easements listed in Section IV (B) (1) and (2), but shall not extinguish any other conservation restriction(s) that might run with the land.

9.2.5 DEFINITIONS

The definitions applicable to the Carver Wetlands By-law shall be the same as set forth in 310 CMR 10.00 except for the following modifications to those definitions and additional definitions.

Aesthetics -
The relevant qualities to be protected under the Carver Wetlands By-law are those natural and natively scenic impressions of our ponds, lakes, streams, rivers, and the lands bordering them. The aesthetic trust of the Commission shall be the preservation of a perception of the land, which is most conducive to

a continued wildlife habitat, a natural aquatic system, and a protective buffer between our wetland recourses and human development activities.

Alter-
Alter means to change the condition of any area subject to protection by this By-law. Examples of alterations include, but are not limited to, the following:

- Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- Changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patters, flow patterns, or flood retention characteristics;
- Drainage or other disturbance of water level or water table;
- Placing of fill, or removal of materials, which would alter elevations;
- Driving of piles, erection or repair of buildings, or structures of any kind;
- Placing of obstructions or objects in water;
- Destruction of plant life, including the cutting of trees;
- Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- Use of chemicals for plant or pest control.

Applicant-
Any person who files a permit application or request for determination or applicability, or on whose behalf such an application or request is filed, is an applicant.

Conservation Commission Agent-
The Agent shall be the duly authorized representative of the Commission, with the authority to carry out certain of the Commission's functions. These shall include, but not be limited to, executing the administrative duties of the Commission, site visits, determination of filing requirement for applicants, determination of filing requirements of all property under the jurisdiction of this By-law, determination of application completeness and filing requirements.

Issuing Authority-
In the Town of Carver, both under the state wetland regulations and under the local By-laws, the issuing authority is the Conservation Commission.

Recreation-
Recreation under the Carver Wetlands By-law is defined as the use and enjoyment of our natural surroundings in a manner consistent with their preservation. Activities shall not hinder access to wetlands and related water recourses.

Variance-
The Commission shall have the power, after the filing of a Notice of Intent and the conduct of a public hearing, to issue a variance to an applicant requesting to perform activities as described in Section I (C)(3) or Section I(C)(4) of this By- law. Such variance shall be set forth by the issuance of an Order of Conditions by the Commission. In order for the Commission to issue a variance with respect

to a particular project, it must specifically find, based on clear and convincing evidence set forth by the applicant, that owing to circumstances relating to the soil conditions, hydrological conditions, topography of such land and especially affecting such land but not generally affecting wetlands within the Town, a literal enforcement of the provisions of this By-law would involve substantial hardship, financial or otherwise, to the applicant, and that desirable relief may be granted without material detriment to the values protected by this By-law and without substantially derogating from the extent or purpose of this By-law. The Commission may impose conditions, safeguards and limitations in a variance to protect or further the interests protected by this By-law. Variances are intended to be granted only in rare and unusual cases.

Person-

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

9.2.6 SEVERABILITY

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

9.3 SOLID WASTE FACILITY PUBLIC PROCESS BY-LAW

9.3.1 **Preamble.** This Section establishes public participation requirements to improve the public process following the filing of a site assignment application for a new solid waste facility.

9.3.2 **Purpose.** The purpose of this Section is to protect the rights of the people of Carver to clean air and water guaranteed by Article 97 of the Articles of Amendment to the Massachusetts Constitution, and to protect their right to petition government guaranteed by the Massachusetts Constitution, Article 19 of the Declaration of Rights, and by the First Amendment to the United States Constitution.

9.3.3 **Authority.** This Section is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article 89 of the Articles of Amendment, independent of the provisions of Section 150A of Chapter 111 of the General Laws and regulations promulgated thereto.

9.3.4 **Proposed Solid Waste Facilities - Public Process.** This by-law establishes procedures to require an informational meeting by the Board of Health which is held following the filing of an application for a site assignment for a proposed solid waste facility.

(1) The Board of Health shall hold a public informational meeting no later than fourteen (14) days prior to the commencement of a public hearing

on a site assignment application for a proposed solid waste facility, where the applicant shall be invited to give a short presentation and answer questions from attendees.

(2) At least fourteen (14) days prior to commencement of said informational meeting, the Board of Health shall require the applicant place a large 4 foot by 8 foot sign at the proposed site, on the nearest public way, which states in a clearly readable typeface that "*This is a proposed site of a (type of facility) proposed by (name of applicant). An informational meeting on the application will be held (date)(time) at (location). For more information, contact (name, title, phone number and address of Board of Health contact),"* and which shall contain a brief description of the proposed project and where application materials can be reviewed.

(3) At least seven (7) days prior to commencement of said informational meeting, the Board of Health shall send notice of said meeting, which shall include a brief description of the project, the date, time and location of the meeting, how residents can participate in the meeting, and where application materials can be reviewed, by first class mail to all residents and landowners located within one mile of the proposed site, including residents and landowners in an abutting town if the proposed site is within one-half mile of that town (an "abutting town").

(4) At least seven (7) days prior to commencement of the informational meeting, the Board of Health shall forward a copy of the application for site assignment to the Carver Public Library and to the public library in an abutting town, if any, and place a copy on the internet.

(5) At least seven (7) days prior to commencement of the informational meeting, the Board of Health shall publish notice as a display advertisement in a non-legal section of one or more newspapers of general circulation in Carver and an abutting town, if any, which shall include notice of the informational meeting and where the application materials may be reviewed, and shall send the notice as a press release to all newspapers and media outlets which circulate in the town(s).

(6) The Board of Health shall provide for either live public broadcast of the informational meeting on the local cable access channel, or if that is not feasible, for the videotaping of the informational meeting for later broadcast.

(7) The Board of Health may assess upon the applicant the costs for complying with the provisions of this subsection relative to the informational meeting and providing notice thereof. Said applicant may contest the amount so assessed and may request a hearing before the Board, who may then reconsider the amount of the assessment thereof.

9.3.5 **Severability.** Each of the paragraphs within this Section shall be construed as separate to the end that if any sentence, clause or phrase thereof shall be held invalid for any reason the remainder of that paragraph and all other paragraphs of this Section shall continue in force.

9.4 REGULATION OF SOLID WASTE FACILITIES

9.4.1 **Preamble.** General Laws Section 150A, Chapter 111 requires that every person maintaining or operating a solid waste facility shall operate the facility in such manner as will protect public health and safety and the environment. Upon determination by the Board of Health that the operation or maintenance of such a facility results in a threat to public health and safety or the environment, the Board may rescind, suspend, or modify the site assignment following due notice and a public hearing.

9.4.2 **Purpose**. This section establishes the following procedures in addition to the procedures required by state law and regulation, to protect the rights of the people of Carver to clean air and water guaranteed by Article 97 of the Articles of Amendment to the Massachusetts Constitution.

9.4.3 **Authority**. This Section is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article 89 of the Articles of Amendment, independent of the provisions of Section 150A of Chapter 111 of the General Laws and regulations promulgated thereto.

9.4.4 **Petition**. Any ten (10) or more residents of Carver may petition the Board of Health in writing alleging that said solid waste facility is operating in violation of its site assignment or of any applicable law, regulation, order, or by-law or that the maintenance or operation of a solid waste facility results or may result in a threat to public health or safety or the environment.

9.4.5 **Burden of Proof**. When an allegation is made that a solid waste facility is in violation of any applicable law, regulation, order, or by-law or that the maintenance or operation of a solid waste facility results in or may result in a threat to public health or safety or the environment, the burden of proof shall be on the owner or operator of said solid waste facility to prove that the facility is not in violation or that the operation of the facility does not result in a threat to public health, safety, or the environment, as the case may be.

9.4.6 **Preliminary Hearing.** No later than twenty-one (21) days following receipt of such a petition, the Board of Health shall schedule a preliminary hearing. The purpose of the preliminary hearing shall be to decide whether the Board should schedule a site assignment hearing pursuant to Section 150A of Chapter 111 of the General Laws to consider whether to rescind, suspend, or modify the site assignment of said facility. The preliminary hearing shall be held no later than sixty (60) days following receipt of the petition.

9.4.7 **Hearing Notice**. Notice of the preliminary hearing shall be made at least twenty-one (21) days prior to the commencement of the hearing by notice printed in a display advertisement in every newspaper of general circulation in Carver and an abutting town, if any. Said notice shall include the entire text or a concise summary of the petition, the date, time, and place of the preliminary hearing, how residents can participate in the meeting, and where application materials can be reviewed and the deadline for submitting written comments on the

petition to the Board of Health. At least fourteen (14) days prior to commencement of said preliminary hearing, the Board of Health shall send a copy of said notice of said preliminary hearing by first class mail to all residents and landowners located within one mile of the proposed site, including residents of an abutting town, if any.

9.4.8 **Hearing Procedure**. The preliminary hearing shall be conducted as follows: (i) The petitioners shall first describe the basis for their petition. (ii)Then, the owner or operator of the affected facility shall be given a reasonable opportunity to respond. (iii)The Board shall then allow public testimony, and shall accept written comments for a specific period of time that shall be announced at the preliminary hearing. The hearing shall be conducted as informally as possible, and shall not follow the rules of evidence commonly followed in the courts. Any resident of Carver or an abutting town, if any, and of the general public, shall be allowed to present oral or written testimony during the hearing.

9.4.9 **Written Decision**. No later than thirty (30) days following the conclusion of the preliminary hearing, the Board shall render a written decision whether or not to convene a site assignment hearing pursuant to Section 150A, Chapter 111 of the General Laws to consider whether the site assignment should be rescinded, suspended, or modified.

9.4.10 **Severability**. Each of the paragraphs within this Section shall be construed as separate to the end that if any sentence, clause or phrase thereof shall be held invalid for any reason the remainder of that paragraph and all other paragraphs of this Section shall continue in force and effect.

9.5 RIGHT TO FARM BY-LAW

9.5.1 Legislative Purpose and Intent

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

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmland within the Town of Carver by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within Town.

9.5.2 Definitions

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

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

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

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

a. operation and transportation of slow-moving farm equipment over roads within the Town;
b. control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plant and animals;
c. application of manure, fertilizers and pesticides;
d. conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
e. processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
f. maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
g. on-farm relocation of earth and the clearing of ground for farming operations.

9.5.3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Carver. The above- described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the

neighborhood, community, and society in general. The benefits and protections of this By- law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

9.5.4 Disclosure Notification

Within 30 days after this By-law becomes effective, the Board of Selectmen shall prominently post in the Town Hall and make available for distribution the following disclosure:

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

In addition to the above, copies of this disclosure notification shall be available in a public area at the Town Hall.

9.5.5 Resolution of Disputes

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

The Board of Health, except in cases of imminent danger or public health risk, shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

9.5.6 Severability Clause

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

9.6 STORMWATER MANAGEMENT AND LAND DISTURBANCE BY-LAW

9.6.1 PURPOSE

A. The harmful impacts of soil erosion and sedimentation are:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;

2. contamination of drinking water supplies;

3. alteration or destruction of aquatic and wildlife habitat;

4. flooding; and

5. overloading or clogging of municipal catch basins and storm drainage systems.

B. The objectives of this by-law are to:

1. protect water resources;

2. require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities;

3. promote infiltration and the recharge of groundwater;

4. ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;

5. require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

6. comply with state and federal statutes and regulations relating to stormwater discharges; and

7. establish the Town's legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

9.6.2 DEFINITIONS

ABUTTER: The owner(s) of land abutting the activity.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

AUTHORIZED ENFORCEMENT AGENCY: The Planning Board, hereafter the Board, its employees or agents designated to enforce this by-law.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC): A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

CLEARING: Any activity that removes the vegetative surface cover.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

LAND-DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

MASSACHUSETTS ENDANGERED SPECIES ACT: (G.L.c.131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, and as amended, that

coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 §. 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or municipal storm drain system: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Carver.

OWNER: A person with a legal or equitable interest in property.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the Federal Government, to the extent permitted by law, and any officer, employee, or agent of such person.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

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

SOIL: Any earth, sand, rock, gravel, or similar material.

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

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

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act G.L. c. 131, § 40 and in the Town of Carver's wetland by-law.

WETLANDS: Tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps and bogs.

9.6.3 AUTHORITY

This by-law 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

9.6.4 APPLICABILITY

This by-law shall apply to all activities that result in disturbance of one or more acres of land that drains to the municipal separate storm sewer system. Except as authorized by the Planning Board in a Land Disturbance Permit or as otherwise provided in this by-law, no person shall perform any activity that results in disturbance of an acre or more of land. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.4, are exempt. In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the above activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this by-law.

9.6.5 RESPONSIBILITY FOR ADMINISTRATION

A. The Carver Planning Board shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Carver Planning Board may be delegated in writing by Carver Planning Board to its employees or agents.

B. Waiver. The Carver Planning Board may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder, where:
(1) such action is allowed by federal, state and local statutes and/or regulations,
(2) is in the public interest, and
(3) is not inconsistent with the purpose and intent of this by-law.

C. Rules and Regulations. The Carver Planning Board may adopt, and periodically amend rules and regulations to effectuate the purposes of this by-

law. Failure by Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

9.6.6 PERMITS and PROCEDURE

A. Application: A completed application for a Land Disturbance Permit shall be filed with the Carver Planning Board. A permit must be obtained prior to the commencement of land disturbing activity that may result in the disturbance of an area of one acre or more. The Land Disturbance Permit Application package shall include:

1. a completed Application Form with original signatures of all owners;

2. a list of abutters, certified by the Assessors Office;

3. twelve (12) copies of the Erosion and Sediment Control Plan as specified in Section VI of this by-law;

4. payment of the application and review fees; and,

5. one (1) copy each of the Application Form and the list of abutters filed with the Town Clerk.

B. Entry: Filing an application for a permit grants Planning Board or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

C. Other Boards: The Planning Board shall notify the Town Clerk of receipt of the application, and shall give one copy of the application package to the Board of Health, Board of Public Works, Town Engineer, Conservation Commission and Building Commissioner.

D. Public Hearing: The Planning Board shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the time of the close of the hearing unless such time is extended by agreement between the applicant and Planning Board. Notice of the public hearing shall be given by publication and posting and by first- class mailings to abutters at least seven (7) days prior to the hearing. The Town Clerk shall make the application available for inspection by the public during business hours at the Carver Town Hall, 108 Main Street, Carver MA 02330.

E. Information requests. The applicant shall submit all additional information requested by the Planning Board to issue a decision on the application.

F. Action by Carver Planning Board.

The Planning Board may:

1. Approve the Land Disturbance Permit Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this by-law;

2. Approve the Land Disturbance Permit Application and issue a permit with conditions, modifications or restrictions that the Planning Board determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this by-law;

3. Disapprove the Land Disturbance Permit Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this by-law.

G. Failure of the Planning Board to take final action upon an Application within the time specified above shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without the Planning Board's action, the Land Disturbance Permit shall be issued by the Planning Board.

H. Fee Structure: Each application must be accompanied by the appropriate application fee as established by the Planning Board. Applicants shall pay review fees as determined by Planning Board sufficient to cover any expenses connected with the public hearing and review of the Land Disturbance Permit Application before the review process commences. The Planning Board is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Planning Board on any or all aspects of the Application.

I. Project Changes: The permittee, or their agent, must notify the Planning Board in writing of any change or alteration of a land-disturbing activity authorized in a Land Disturbance Permit before any change or alteration occurs. If the Planning Board determines that the change or alteration is significant, based on the design requirements listed in Section 7.B. and accepted construction practices, the Planning Board may require that an amended Land Disturbance Permit application be filed and a public hearing held. If any change or alteration from the Land Disturbance Permit occurs during any land disturbing activities, the Planning Board may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

9.6.7 EROSION AND SEDIMENT CONTROL PLAN

A. The Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements listed in Section 7.B. below.

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

1. Minimize total area of disturbance;

2. Sequence activities to minimize simultaneous areas of disturbance;

3. Minimize peak rate of runoff in accordance with the Massachusetts Stormwater Policy;

4. Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;

5. Divert uncontaminated water around disturbed areas;

6. Maximize groundwater recharge;

7. Install and maintain all Erosion and Sediment Control measures in accordance with the manufacturers specifications and good engineering practices;

8. Prevent off-site transport of sediment;

9. Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);

10. Comply with applicable Federal, State and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;

11. Prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species from the proposed activities;

12. Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site;

13. Properly manage on-site construction and waste materials; and

14. Prevent off-site vehicle tracking of sediments.

C. Erosion and Sedimentation Control Plan Content. The Plan shall contain the following information:

1. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;

2. Title, date, north arrow, names of abutters, scale, legend, and locus map;

3. Location and description of natural features including:

(a) Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps;

(b) Existing vegetation including tree lines, canopy layer, shrub layer, and ground cover, and trees with a caliper twelve (12) inches or larger, noting specimen trees and forest communities; and

(c) Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.

4. Lines of existing abutting streets showing drainage and driveway locations and curb cuts;

5. Existing soils, volume and nature of imported soil materials;

6. Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed;

7. Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed;

8. Drainage patterns and approximate slopes anticipated after major grading activities (Construction Phase Grading Plans);

9. Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;

10. Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;

11. Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;

12. Stormwater runoff calculations in accordance with the Department of Environmental Protection's Stormwater Management Policy;

13. Location and description of an implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;

14. A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;

15. A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed;

16. Plans must be stamped and certified by a qualified Professional Engineer registered in Massachusetts or a Certified Professional in Erosion and Sediment Control; and

17. Such other information as is required by the Planning Board.

9.6.8 INSPECTION AND SITE SUPERVISION

A. Pre-construction Meeting: Prior to starting clearing, excavation, construction, or land disturbing activity the applicant, the applicant's technical representative, the general contractor or any other person with authority to make changes to the project, shall meet with the Planning Board, to review the permitted plans and their implementation.

B. Board Inspection: The Planning Board or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the land disturbance permit as approved. The Permit and associated plans for grading, stripping, excavating, and filling work, bearing the signature of approval of the Planning Board, shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Planning Board at least two (2) working days before each of the following events:

1. Erosion and sediment control measures are in place and stabilized;
2. Site Clearing has been substantially completed;
3. Rough Grading has been substantially completed;
4. Final Grading has been substantially completed;
5. Close of the Construction Season; and
6. Final Landscaping (permanent stabilization) and project final completion.

C. Permittee Inspections. The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Planning Board or designated agent in a format approved by the Planning Board.

D. Access Permission. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and may make or cause to be made such examinations, surveys or sampling as the Planning Board deems reasonably necessary to determine compliance with the permit.

9.6.9 SURETY

The Planning Board may require the permittee to post before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town counsel, and be in an amount deemed sufficient by the Planning Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until [the Board] has received the final report as required by Section 10 and issued a certificate of completion.

9.6.10 FINAL REPORTS

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.), surveyor, or Certified Professional in Erosion and Sediment Control (CPESC), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

9.6.11 ENFORCEMENT

A. The Planning Board or an authorized agent of [the Board] shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders
The Planning Board or an authorized agent of the Planning Board may issue a written order to enforce the provisions of this by-law or the regulations thereunder, which may include:
(a) a requirement to cease and desist from the land-disturbing activity until there is compliance with the by-law and provisions of the land-disturbance 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 the land-disturbing activity.

C. Criminal Penalty. Any person who violates any provision of this by-law, regulation, order or permit issued there under, shall be punished by a fine of not more than $100.00 each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, 21D and Section 10.4 of the Town of Carver By-laws, in which case Zoning Enforcement Officer of the Town shall be the enforcing person. The penalty for the 1st violation shall be $100.00. The penalty for the 2nd violation shall be $200.00. The penalty for the 3rd and subsequent violations shall be $3,000.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. Appeals. The decisions or orders of the Planning Board shall be final. Further relief shall be to a court of competent jurisdiction.

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

9.6.12 CERTIFICATE OF COMPLETION

The issuing authority will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this by-law.

9.6.13 SEVERABILITY

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

9.7 ILLICIT CONNECTIONS AND DISCHARGES TO THE MUNICIPAL STORM DRAIN SYSTEM BYLAW

9.7.1 PURPOSE

Increased and contaminated stormwater run-off are major causes of:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. contamination of drinking water supplies;
3. alteration or destruction of aquatic and wildlife habitat; and
4. flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of Carver's water bodies and groundwater, and to safeguard the public health, safety, welfare, and the environment.

The objectives of this by-law are:

1. to prevent pollutants from entering Carver's municipal separate storm sewer system or municipal storm drain system (MS4);
2. to prohibit illicit connections and unauthorized discharges to the MS4;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to stormwater discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

9.7.2 DEFINITIONS

For the purposes of this by-law, the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY: The Department of Public Works, its employees, or agents designated to enforce this by-law.

BEST MANAGEMENT PRACTICIES (BMPs): Activities, prohibitions of practices, general good housekeeping practices, structural and non-structural controls, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge, or waste disposal, or drainage from raw materials storage.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) as hereafter amended

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER: All water beneath the surface of the ground.

ILLEGAL DISCHARGE: Any direct or indirect non-stormwater discharge to the municipal storm drain system, except as specifically exempted in Section 6,subsection 4, of this by-law. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or resulting from fire-fighting activities exempted pursuant to Section 6, subsection 4, of this by-law.

ILLICIT CONNECTION: Any surface or subsurface drain or conveyance that allows an illegal discharge into the municipal storm drain system. Illicit connections include conveyances that allow a non-stormwater discharge to the municipal storm drain system including sewage, process wastewater or wash water, and any connections from indoor drains sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water from infiltrating the underlying soil.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OR MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Carver.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE: Any discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON: Any individual, partnership, association, firm, company, trust, corporation, and, any agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT: Any element or property of sewage, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include:
(1) paints, varnishes, and solvents;
(2) oil and other automotive fluids;
(3) non-hazardous liquid and solid wastes and yard wastes;
(4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations, and floatables;
(5) pesticides, herbicides, and fertilizers;
(6) hazardous materials and wastes; sewage, fecal coliform, and pathogens;
(7) dissolved and particulate metals;
(8) animal wastes;
(9) rock; sand; salt, soils;
(10) construction wastes and residues;
(11) and noxious or offensive matter of any kind.

PROCESS WASTEWATER: Any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of run-off and surface water through the soil.

STORMWATER: Run-off from precipitation or snow melt.

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

WATERCOURSES: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

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

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

9.7.3 APPLICABILITY

This by-law shall apply to flows entering the municipally-owned storm drainage system.

9.7.4 RESPONSIBILITY FOR ADMINISTRATION

The Department of Public Works shall administer, implement, and enforce this bylaw. Any powers granted to or duties imposed upon the Department of Public Works may be delegated in writing by the Superintendent of Public Works to employees or agents of the Department of Public Works.

9.7.5 REGULATIONS

The Department of Public Works may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the Department of Public Works to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

9.7.6 PROHIBITED ACTIVITIES

1. Illegal Discharges
No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, watercourse, or into the waters of the Commonwealth.
2. Illicit Connections
No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
3. Obstruction of Municipal Storm Drain System
No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior approval from the Department of Public Works.
4. Exemptions
This section shall not apply to discharges or flows resulting from fire-fighting activities, nor to to any of the following non-stormwater discharges or flows provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
(1) Waterline flushing;
(2) Flows from potable water sources;
(3) Springs;
(4) Natural flows from riparian habitats and wetlands;
(5) Diverted stream flows;
(6) Rising groundwaters;
(7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
(8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;

(9) Discharges from landscape irrigation or lawn watering;
(10) Water from individual residential car washing;
(11) Discharges from de-chlorinated swimming pool water (less than one ppm chlorine) provided it is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
(12) Discharges from street sweeping;
(13) Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test;
(14) Non-stormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
(15) Discharges for which advanced written approval is received from the Department of Public Works_if necessary to protect public health, safety, welfare, or the environment.

9.7.7 EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

The Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened illegal discharge that presents or may present imminent risk of harm to the public health, safety, welfare, or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare, or the environment.

9.7.8 NOTIFICATION OF SPILLS

Notwithstanding any other requirements of local, state, or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials at that facility or operation that is resulting or may result in illegal discharge of pollutants, that person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Fire Department, the Police Department, the Department of Public Works, and the Conservation Commission. In the event of a release of non-hazardous material, said person shall notify the Authorized Enforcement Agency no later than the next business day. Written confirmation of all telephone, facsimile, e-mail, or in-person notifications shall be provided to the Authorized Enforcement Agency within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

9.7.9 ENFORCEMENT

9.7.9.1. The Department of Public Works, or an authorized agent of the Department of Public Works (as designated by the Superintendent of Public Works) shall enforce this bylaw, and the regulations promulgated thereunder, as well as the terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.

9.7.9.2 Civil Relief
If anyone violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Department of Public Works may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities that would create further violations or compelling the person to abate or remediate the violation.

9.7.9.3 Orders
The Department of Public Works may issue a written order to enforce the provisions of this by-law or the regulations thereunder, that may include: (a) elimination of illicit connections or discharges to the storm drainage system; (b) termination of access to the storm drainage system; c) performance of monitoring, analyses, and reporting; (d) cessation of unlawful discharges, practices, or operations; and (e) remediation of contamination in connection therewith. If the Department of Public Works determines that abatement or remediation of contamination is required, the order shall set forth a deadline for completion of the abatement or remediation.

9.7.9.4 Criminal and Civil Penalties:
Any person who violates any provision of this by-law, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed $300.00 for each day such violation occurs or continues or subject to a civil penalty not to exceed $300.00 for each day such violation occurs or continues, which may be assessed in an action brought on behalf of the Town of Carver in any court of competent jurisdiction.

9.7.9.5 Non-Criminal Disposition
As an alternative to criminal prosecution or civil action, the Town of Carver may elect to use the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and Section 10.4 of the Town of Carver By-Laws, in which case the Department of Public Works or its Superintendent of Public Works or other authorized agent of the Town of Carver shall be the enforcing person. The penalty for the 1st violation shall be $50.00. The penalty for the 2nd violation shall be $150.00. The penalty for the 3rd and subsequent violations shall be $ 300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

9.7.9.6 Entry to Perform Duties Under this By-Law
To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Department of Public Works, its agents, officers, and employees may enter upon privately-owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys, or sampling as the Department of Public Works deems reasonably necessary

9.7.9.7 Appeals
The decisions or orders of the Department of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.

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

9.7.10 SEVERABILITY

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

9.7.11 TRANSITIONAL PROVISIONS

Residential property owners shall have 60 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

9.8. STRETCH ENERGY CODE

1. Definitions:

a. International Energy Conservation Code (IECC) –The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. 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, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

b. Stretch Energy Code- Codified by the Board of Building Regulation and Standards as 780 CMR Appendix 115.AA of the Massachusetts Building Code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Code (IECC) to improve the energy efficiency of buildings built to this code.

2. Purpose: The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to relevant sections of the building code for both new construction and existing buildings.

3. Applicability: This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

4. Stretch Energy Code: The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Carver General Bylaws. The Stretch Code is enforceable by the building commissioner, or take any action relative thereto.

CHAPTER 10 MISCELLANEOUS PROVISIONS

10.1. ANNUAL TOWN REPORT

All town meeting proceedings and results of all elections shall be included in the Annual Town Report.

10.2. VALUATION LIST

Valuation lists for the Town of Carver shall be published every five (5) years unless otherwise voted by the Town.

10.3. FEES OF SEALERS

10.3.1. The sealer of weights and measures shall receive the following fees for sealing the following weighing or measuring devices:

a. Each scale with a weighing capacity of more than ten thousand pounds, Fifty dollars ($50.00).
b. Each scale with a weighing capacity of five thousand to ten thousand pounds, Thirty dollars ($30.00).
c. Each scale with a weighing capacity of one thousand to five thousand pounds, Twenty dollars ($20.00).
d. Each scale with a weighing capacity of one hundred to one thousand pounds, Ten dollars ($10.00).
e. Scales and balances with a weighing capacity of ten pounds and less than one hundred pounds, Ten dollars ($10.00).
f. Scales and balances with a weighing capacity of ten pounds or less, Ten dollars ($10.00).
g. Each liquid capacity measure, except vehicle tanks, of the capacity of more than one gallon and measures on pumps, Five dollars ($5.00).
h. Each liquid measuring meter, except water meters, the diameter of the inlet pipe of which is one half inch or less, Ten dollars ($10.00), more than one-half inch but not more than one inch, Ten dollars ($10.00); for each such type of liquid measuring meter, the diameter of the inlet pipe of which is more than one inch, the following shall apply, vehicle-tank pump Twenty-five dollars ($25.00), vehicle-tank gravity Twenty dollars ($20.00), bulk storage Fifty dollars ($50.00), bulk storage user furnishes certified proven, Ten dollars ($10.00).
i. Each taximeter or measuring device used upon vehicles to determine the cost of transportation, Twenty dollars ($20.00).
j. Each machine or other mechanical device used for determining linear or area measurement, Ten dollars ($10.00).
k. Milk bottle or jars, Ten dollars ($10.00) per gross.
l. Vehicle tanks used in the sale of commodities by liquid measure shall be charged for each hundred gallons or fraction thereof, Ten dollars ($10.00). An additional fee of Ten dollars ($10.00) per sealed indicator shall be received.
m. All weights and other measures, One dollar ($1.00).

10.4 NON-CRIMINAL DISPOSITION

10.4.1 ENFORCEMENT.

A. Criminal Complaint

Whoever violates any provisions of these by-laws may be penalized 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, or offense, brought in such manner, shall be three hundred dollars.

B. Non-Criminal Civil Disposition

Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in General Laws, Chapter 40, section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board, or department, 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 by-laws and sections of by-laws are to be included within the scope of this subsection, 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 persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections: each day on which any violation exists shall be deemed to be a separate offense.

10.4.2 RULES AND REGULATIONS SUBJECT TO M.G.L. CH. 40,S 21D

Board of Health: Smoking Regulations

(1) Fine allowed: Fifty dollars ($50).

(2) Enforcement Agent: Board of Health or Agent, Smoking Grant Coordinator, High School and Middle School Principals and Vice Principals, and Dare Officers.

(3) Fine Schedule: first offense, written warning; second offense, twenty-five dollars ($25); third and subsequent offenses, fifty dollars ($50).

Building Inspector: Zoning Violation Fines

Type	Fine Amount
Sign	$ 50.00
Missing or Wrong House #	$ 50.00
Unregistered Vehicles	$ 25.00
Illegal Apartment	$ 50.00
Earth Removal	$100.00
Other By-law Violations	$ 50.00
Work Done Without Permit	Double Permit Fee

10.5 TAX TITLE PAYMENT PLANS

The Treasurer shall have the authority to enter into written installment payment agreements with persons entitled to redeem parcels in tax title in accordance with Massachusetts General Laws Chapter 60 and 62A. This bylaw shall apply only to owner-occupied residential properties within the Town of Carver with tax title accounts in excess of Five Thousand Dollars ($5,000.00) and which have an assessed value of Two Hundred Thousand Dollars ($200,000.00) or greater and have been in tax title for more than three years. All installment payment agreements shall comply with the following minimum requirements:

1. The installment payment agreement shall have a maximum term of five (5) years.

2. The installment payment agreement may include a waiver of up to 50% of the interest that has accrued in the tax title account, but only if the taxpayer complies with the terms of the agreement (no taxes or collection costs may be waived).

3. The installment payment agreement must state the full amount owed by the taxpayer at the time of execution of the agreement. This amount shall not include any waivers of interest, but shall be the full amount owed to the Town by the taxpayer before such waivers are applied.

4. The taxpayer must pay at least 25% of the amount set forth in paragraph 3 above at the time of execution of the agreement.

5. The installment payment agreement must be in writing and signed by the taxpayer and the Treasurer.

6. The installment payment agreement must include the amount due upon the execution of the payment agreement and a schedule of all remaining payments to be made by the taxpayer throughout the term of the installment payment agreement.

10.6 REVOLVING FUNDS

10.6.1 There are hereby established in the Town of Carver, pursuant to the provisions of Massachusetts General Laws, Chapter.44, Section 53E½, the following	**Dept., Board, Committee, Commission Authorized to Spend from Fund**	**Fees, Charges or other Receipts Credited to Fund**	**Program or Activity Expenses Payable from Fund**	**Restrictions or Conditions on Expenses Payable from Fund**

Revolving Funds:**Revolving Fund**				
Library Fines and Passports	Library Director	Overdue fines, damaged/lost books levies and passport revenues	Purchasing library materials	Salaries or wages of full-time employees shall be paid from the annual budget appropriation of the Library Dept. and not from the Fund
Council on Aging Nutrition	COA Director	Receipts from the lunch Meals on Wheels programs, and any other COA sponsored meal functions	Lunches, Meals on Wheels programs, and other COA sponsored meal functions.	Salaries or wages of full-time employees shall be paid from the annual budget appropriation of the COA Dept. and not from the Fund
Earth Removal Fees	Earth Removal Committee	Fees collected for earth removal inspections	Making road repairs	
Fire Dept. Revolving Acct for Fire Prevention/Code Enforcement	Fire Chief	Revenue and reimbursable incidents allowed under MGL Ch. 21E involving hazardous materials releases	Replace, repair or purchase equipment and supplies and to fund administrative and firefighter wage expenses associated with Fire Prevention /Code Enforcement	
Recreation Committee	Recreation Committee	Funds from services provided to Town residents for recreation activities	Services provided to Town residents for recreation activities	Salaries or wages of full-time employees shall be paid from the annual budget appropriation of the Recreation Dept. and not from the Fund
Solar Net Metering Credits	BOS	Funds from Eversource net metering revenue	Payments to Fisher Road solar for electricity generated and payment for installation of energy efficient and /or led light upgrades on the Town –owned properties and electric charges	

10.6.2 Expenditures from each revolving fund set forth herein shall be subject to the spending limits established by Town Meeting or any increase therein as may be authorized in accordance with M.G.L. c.44, §53E½.

Revolving Fund	Spending Limit
Library Fines and Passports	$20,000

Council on Aging Nutrition	$30,000
Earth Removal Fees	$250,000
Fire Dept. Revolving Acct for Fire Prevention/Code Enforcement	$50,000
Recreation Committee	$100,000
Solar Net Metering Credits	$500,000

10.7 DUE DATES AND INTEREST ON MUNICIPAL CHARGES

All municipal charges and bills shall be due and payable within thirty (30) days of the date of mailing by the Treasurer/Collector or other Town official empowered to do so. All receivables which remain unpaid after said 30 days shall accrue interest payable to the Town at the rate charged on tax bills under provisions of Massachusetts General Laws, Chapter 59, Section 57.

CHAPTER 11 PRIVATE WATER SUPPLY SYSTEMS

11.1 PURPOSE

The purpose of this Bylaw is to provide a mechanism for the Town of Carver to manage the supply of water to its inhabitants and to ensure that the citizens of Carver have an adequate volume and quality of water, now and in the future.

11.2 DEFINITIONS

When used in this Bylaw, the following terms shall have the following meanings:

Person shall mean every natural person, partnership, association or corporation, excluding the Town of Carver and the North Carver Water District and excluding a landlord supplying water to its tenant, a condominium association supplying water to its members, cranberry growers, and co-ops.

Private Water Supply System shall mean any operation or undertaking by any person engaged in the sale of water to another through pipes or mains.

Water Works shall include dams, wells, reservoirs, pumping and filtration plants, buildings, standpipes, tanks, fixtures and other structures, including purification works, aqueducts, conduits, pipes and other works necessary for the conveyance of water.

Aquifer shall mean the Plymouth/Carver Aquifer as designated by the United States Environmental Protection Agency, Sole Source Aquifer Designation for the Plymouth-Carver Aquifer, Massachusetts (55 FR 32137), August 7, 1990.

11.3 APPLICABILITY

This Bylaw shall apply to any Private Water Supply System with a whole or part of its Water Works within the Town of Carver, but shall exclude the Town of Carver and the North Carver Water District and excluding a landlord supplying water to his tenant, a condominium association supplying water to its members, cranberry growers, and co-ops.

11.4 WATER SUPPLY ADVISORY COMMITTEE

There shall be established a Water Supply Advisory Committee consisting of seven members, each of whom shall be a resident of the Town of Carver.

Members of the Committee shall be appointed as follows: two by the Board of Selectmen, one by the Industrial Development Committee, one by the North Carver Water District Commission, one by the Board of Health, one by the Conservation Commission, and one by the Planning Board.

Members of the Committee shall serve for a term of three years.

The Committee shall review all applications for Private Water Supply Permits submitted to the Board of Selectmen and shall issue written reports and recommendations thereon, as set forth in Section 11.6 of this Bylaw.

The Committee shall study and report to the Board of Selectmen and other Town boards and officers on all matters involving the use of water in the Town, including but not limited-to proposed inter-municipal agreements and the establishment of public water supplies.

11.5 PRIVATE WATER SUPPLY PERMIT

No Person shall operate a Private Water Supply System, or any portion thereof, within the Town of Carver without first receiving a permit from the Board of Selectmen in accordance with the procedure set forth in Section 11.6 of this Bylaw. The Board of Selectmen shall not issue any such permit unless the applicant proves that issuance of the permit will not adversely affect the Aquifer or the Town's ability to serve its inhabitants with water, now or in the future.

11.6 PROCEDURE

Private Water Supply System Permits shall be issued in accordance with the following procedure.

11.6.1 APPLICATION

Applications for Private Water Supply Permits shall be in writing on a form prescribed by the Board of Selectmen. Within ninety days of the effective date of this Bylaw, the Water Supply Advisory Committee shall submit to the Board of Selectmen a proposed application form. At a minimum, said application form shall require the applicant to furnish sufficient information for the Board to make the determination required by Section 11.5 of this Bylaw.

All applications for Private Water Supply System permits shall be accompanied by a fee established by the Board of Selectmen.

11.6.2 REVIEW FEES

Upon receipt of a completed application, the Board of Selectmen shall, by majority vote, require that the applicant pay a reasonable "review fee" of a sufficient sum to enable the Board to retain consultants chosen by the Board alone. The Board may require that the property owner and/or occupant deposit a lump sum in order to retain consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits.

The Board of Selectmen shall adopt a Review Fee Regulation for administration of this Section.

11.6.3 REVIEW BY THE WATER SUPPLY ADVISORY COMMITTEE

Within thirty days of receipt of a completed application, the Board of Selectmen shall forward a copy of the application to the Water Supply Advisory Committee.

The Water Supply Advisory Committee shall review the application and provide a written report and recommendation to the Board of Selectmen.

The Water Supply Advisory Committee may consult with such other Town officers, boards or committees or third parties, including but not limited to the Plymouth/Carver Aquifer Advisory Committee, as it deems appropriate. After completion of its review, the Committee may recommend that the permit be denied, that the permit be granted, that the permit be granted with conditions, or that the applicant be asked to provide additional information prior to the public hearing.

The Water Supply Advisory Committee shall submit its written report and recommendation to the Board of Selectmen within sixty days of its receipt of the application.

11.6.4 PUBLIC HEARING

The Board of Selectmen shall convene a public hearing within thirty days of receipt of the Water Supply Advisory Committee's report and recommendation.

The Selectmen shall provide at least fourteen days written notice of the hearing to the applicant, the North Carver Water District, and all abutters to the proposed project. Notice of the hearing shall be published at least once in a newspaper of general circulation in the Town, at least seven days prior to the date of the hearing.

At the hearing, the applicant shall present sufficient evidence for the Board to determine that the proposed Private Water Supply will not adversely affect the aquifer or the Town's ability to serve its inhabitants with water.

After considering all evidence and input it deems appropriate, the Chair shall entertain a motion to close the hearing.

Within sixty days of the close of the hearing, the Board of Selectmen shall issue a decision in writing supported by written findings of fact. The Board may rule that the permit be denied, that the permit be granted, or that the permit be granted with conditions. One such condition shall include a requirement that all infrastructure and rights to access and control of the Private Water Supply System shall be conveyed to the Town upon creation of a public water supply system for any part of Town abutting or near the area served by the Private Water Supply System.

If the Board does not issue a written decision within said sixty day period, the application shall be deemed denied on the sixty-first day.

11.7 PENALTIES

Any person who operates a Private Water Supply System without a permit from the Board of Selectmen may be punished of a fine of up to $300 for each offense, and each day a Private Water Supply System is operated without a permit shall constitute a separate offense.