# CITY OF WOBURN

# 1989 MUNICIPAL CODE, AS AMENDED

**With Amendments Through**

**February 12, 2018**

**A True Copy Attest:**

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**William C. Campbell, City Clerk**

**SEAL**

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6-7 Penalties and Enforcement.
6-8 Unpaid Tickets – Municipal Charges Lien.
6-9 Non-Waiver of Statutory Remedies.
6-10 License Period.

6-11 License Required; rabies vaccination.
6-12 License Fees.
6-13 Charge for lost tags.
6-14 Kennel licenses; fees.
6-15 Kennel Inspections.
6-16 Collection and Disposition of Fees.
6-17 Adoption Requirements and Conditions.
6-18 Penalty and Enforcement.

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6-31 Penalty and Enforcement.

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## WETLANDS PROTECTION AND CONSERVATION

**I. WETLANDS PROTECTION**

7-1 Purpose.
7-2 Jurisdiction.
7-3 Exceptions.
7-4 Applications for Permits.
7-5 Notice and Hearings.
7-6 Coordination with Other Boards.
7-7 Permit and Conditions.
7-8 Regulations.
7-9 Definitions.
7-10 Security.
7-11 Enforcement.
7-12 Burden of Proof.
7-13 Relation to the Wetlands Protection Act.
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## HEALTH AND SAFETY

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**I. BOARD OF HEALTH**

8-1 Authority generally.
8-2 Contracts.

8-3 Monthly report.
8-4 Inspector of animals and slaughtering.
8-5 Inspector of milk.
8-6 Inspector of provisions.

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**III. INFLAMMABLES AND EXPLOSIVES**

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8-8 Annual Renewal; Fee; Revocations; Transfers.
8-9 Flammables in Excess of Amounts Provided Under Subsection 8-8; Fees.
8-10 (Reserved).
8-11 Flammables--Applications--Exceptions.
8-12 (Reserved).
8-13 Secondhand storage tanks.

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**V. ABANDONED WELLS**

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**VI. DANGEROUS EXCAVATIONS**

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**VIII. SANITARY LANDFILLS**

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8-19 Establishment.
8-20 Use.
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8-22 Application for flood insurance.

## X. ALARM REGULATIONS

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8-24 Administrator for alarm devices.
8-25 Alarm appeal board.
8-26 Confidentiality.
8-27 Automatic dial alarm--Police department interconnection.
8-28 False alarm report to administrator.
8-29 False alarm charges--Schedule.
8-30 False alarm charges--Notification and appeal.
8-31 Alarm user registration required.
8-32 Registration procedure.
8-33 Charges and fees to be paid into general fund.
8-34 Penalty for violations.
8-35 Nonliability of city.
8-36 Exceptions for alarms on city premises.
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# PUBLIC PEACE, MORALS AND WELFARE

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9-2 Noise Control.
9-3 Ball Playing in Streets.
9-4 Penalty for Violation
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9-9 Urination and exposure of person in street.
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9-11 Drinking liquor on public property.
9-12 Window peeping.
9-13 Penalty for violation.

## III. OFFENSES PERTAINING TO PROPERTY

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9-15 Making of indecent figures or writing obscene words, etc.
9-16 Trespass--Delivery personnel to use walkway.
9-17 Posting of handbills and signs.
9-18 Litter.
9-19 Water.
9-20 Penalty for violation.

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## VEHICLES AND TRAFFIC

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10-1 Placement upon property--Penalty for violation.

**II. IMPOUNDMENT OF VEHICLES**

10-2 Removal.

**III. OVERLOADING OF VEHICLES**

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**IV. PARKING IN FIRE LANES**

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**V. MOTORIZED SCOOTERS**

10-6 Definitions
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# BROWNFIELDS TAX ABATEMENT AGREEMENTS

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**I. PURPOSE**
**II. DEFINITIONS**
**III. ABATEMENT AGREEMENTS**

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# STREETS, SIDEWALKS AND PUBLIC PLACES

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**I. STREET NAMES AND BUILDING NUMBERS**

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12-2 Recordation of street names.
12-3 Designation of street names and building numbering.

**II. NOTICE OF STREET DEFECTS**

12-4 Notice by city employees.

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12-5 Methods for laying out, altering, widening or discontinuing streets.
12-6 Conditions as to width and grade–Approval.
12-7 Sidewalk, grass plot and edgestone requirements.
12-8 Taking of land–Compensation for damages.
12-9 Recordation of order.
12-10 Filing of plans and profiles.
12-11 Erection of permanent bound stones or monuments.
12-12 Removal of bounds prohibited.
12-13 Preparation of proposed streets—Conditions required.
12-14 Installation of hydrants in new subdivisions.
12-14A Improvements to sidewalks, streets and ways; tree plantings.
12-14B Temporary Repairs to Private Ways.
12-14B City Road Maintenance Schedule *[numbered as passed]*

## IV. EXCAVATIONS

12-15 Digging up or obstructing ways–Permit required.
12-16 Protection of streets required when dirt, gravel or other material is disturbed.
12-17 Employment of police officer in certain cases.
12-18 Approval required for opening of public way.
12-19 Permits for placing of poles.
12-20 Maintenance of lanterns, railing and fences.
12-21 Street excavation–Placement of metal plate.
12-22 Removal of protective devices prohibited.
12-23 Tampering with lights prohibited.
12-24 Notice to utilities required.
12-25 Contractors to post bond for utility company work.
12-26 Excavations adjoining public way to have protective devices maintained.
12-27 Permit required for coal holes or apertures in or under sidewalks.
12-28 Permit issuance to occupy street.

## V. OBSTRUCTIONS ON STREETS AND SIDEWALKS

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12-30 Projection of gates and doors prohibited.
12-31 Projection of awnings and signboards.
12-32 Posts and bulletin boards--Permit required.
12-33 License required for erection of steps, bay windows, porticos, etc.
12-34 Placing of obstructions in public way prohibited.
12-35 Temporary obstructions–Allowed when.
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## VI. SNOW AND ICE REMOVAL FROM STREETS AND SIDEWALKS

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12-39 Placing of ice or snow on a street, public or private property.

## VII. CONSERVATION AREA USE REGULATIONS

12-40 Rules and regulations designated.

## VIII. PARK AND RECREATION AREA USE REGULATIONS

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12-42 Regulation of Horn Pond.

**IX. GREENBELTS**

12-43 Ballplaying or golfing prohibited.

**X. COVE STREET AND WOBURN PARKWAY**

12-44 Rules and regulations designated.
12-45 Penalty for violation.

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12-47 Penalty for violation.

**XII. DISPOSITION OF CITY LAND**

12-48 Disposition of City Land.

**XIII. MUNICIPAL PARKING LOTS**

12-49 Municipal Parking Lots in the Business Downtown District.
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12-51 Purpose.
12-52 Definitions.
12-53 Special event permit required.
12-54 Permit application fee.
12-55 Permit application.
12-56 Considerations.
12-57 Sale, service or consumption of alcohol during special event.

## TITLE 13

## PUBLIC SERVICES

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13.1.2 Administration.

13.1.3 Construction Standards.
13.1.4 Water/Sewer Application/Connection Fees.
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13.1.6 Emergency Repair Costs.
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13.1.8 Powers and Authority of Inspectors.
13.1.9 Severability
13.1.9 Validity. (numbered as passed)
13.1.10 Appeals.
13.1.11 Assessments.
13.1.12 Changes in these Regulations.
13.1.13 Pipes, sewer, conduit, poles or other structures on, above, or under streets

**II. WATER SYSTEM**

13.2.1 Billing for Water Service.
13.2.2 Water Charges – Payable.
13.2.3 Use of Public Water Required.
13.2.4 Private Water Supply.
13.2.5 Right of Entry.
13.2.6 Conditions Under Which Service is Furnished.
13.2.7 No Liability for Interruption of Service.
13.2.8 No Liability for Dirty Water.
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13.2.12 Application for Service
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13.2.14 Water Meters.
13.2.15 Unauthorized Connections.
13.2.16 Alterations to Fixtures.
13.2.17 Alterations to Pipes.
13.2.18 Protection of Pipes, Fixtures, and Meters.
13.2.19 Installation of Meters.
13.2.20 Small Meter Testing.
13.2.21 Large Meter Testing.
13.2.22 Stopped Meters.
13.2.23 Owner's Responsibility.
13.2.24 Transferring Water.
13.2.25 Water for Construction.
13.2.26 Operation of Fire Hydrants.
13.2.27 Water for Power Purposes.
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13.2.31 Water Shut Offs.
13.2.32 Reserved.
13.2.33 Cross Connection Control.
13.2.34 Water Use Restrictions.
13.2.35 Rates for Various Types of Services.
13.2.36 Water Inspection Fees.
13.2.37 Water Supplied to Emergency Connections.
13.2.38 Hydrants – Semi-annual Inspection and Flushing.
13.2.39 Reserved.

**III. SEWER SYSTEM**

13.3.1 Billing for Sewer Service.
13.3.2 Sewer Charges – Payable.
13.3.3 Use of Public Sewers Required.
13.3.4 Private Sewage Disposal.
13.3.5 Building Sewers and Installation.
13.3.6 Sewer Line Construction and Maintenance.
13.3.7 Use of Public Sewers.
13.3.8 Penalties.
13.3.9 Rates for the Use of Common Sewers.
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**IV. STORMWATER, ILLICIT DISCHARGE/CONNECTION AND CONSTRUCTION SITE MANAGEMENT**

13.4.1 Purpose.
13.4.2 Applicability.
13.4.3 Stormwater Management of New Development & Redevlopment.
13.4.4 Illicit Connections.
13.4.5 Erosion/Sedimentation and Materials Management.
13.4.6 Drainage Pattern Alterations.
13.4.7 Responsibility for Administration.
13.4.8 Enforcement.
13.4.9 Rules & Regulations.
13.4.10 Severability.

## TITLE 14

## RECYCLING AND MUNICIPAL SOLID WASTE

**I. RECYCLABLE MATERIALS**

14-1 Recyclable Materials.
14-2 Definitions.
14-3 Municipal Program

14-4 Placement of Bins.
14-5 Enforcement.
14-6 Recycled Paper Products Procurement Policy.
14-7 Trash Removal and Recycling – Condominium Associations.

# TITLE 15

# BUILDINGS AND CONSTRUCTION

**Articles and Sections**:

## I. BUILDING AND OCCUPANCY PERMITS

15-1 Building permit issuance--Report to City Council.
15-2 Publication of weekly list of building permits.
15-3 Occupancy permit--Submittal of copy to fire department.
15-4 Building permit--Removal of gravel or loam fill.
15-5 Building permit fees.

## II. ELECTRICAL PERMITS

15-6 Electrical permit fees.

## III. MOVING OF BUILDINGS

15-7 Permit issuance--Notice to railroad.
15-8 Violation--Penalty.

## IV. MISCELLANEOUS BUILDING REQUIREMENTS

15-9 Plan of gas line installation.
15-10 Alarm systems--Control of signals.
15-11 Air conditioning systems to have water recirculation system.
15-12 Installation and use of exhaust system components.
15-13 Plumbing and gas permit fees.
15-14 Security gates, grilles and shutters on storefronts, office buildings and other buildings and/or structures used for commercial purposes

## V. DEMOLITION DELAY – THE PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS

15-15 Intent and Purpose
15-16 Definitions
15-17 Procedure
15-18 Alternatives to Demolition

15-19 Minimum Maintenance of Significant Buildings/Demolition by Neglect
15-20 Administration
15-21 Emergency Demolition
15-22 Enforcement and Remedies
15-23 Historic District Act
15-24 Severability

**VI. MAINTENANCE OF VACANT PROPERTY**

15-25 Intent and purpose
15-26 Definitions
15-27 Registration
15-28 Maintenance and Inspectors
15-29 Penalties
15-30 Notice
15-31 Severability

**VII. STRETCH ENERGY CODE**

15-32 Definitions
15-33 Purpose
15-34 Applicability
15-35 Authority
15-36 Enforcement

**VIII NUISANCE CONTROL**

15-37 Purpose
15-38 Definitions
15-39 Nuisances Prohibited
15-40 Maintenance of Vacant Properties – Requirements
15-41 Enforcement
15-42 Notice to Complainant
15-43 Other Action
15-44 Reports by Building Commissioner
15-45 Nuisance Event or Condition
15-46 Violation
15-47 Notice of Nuisance Event or Condition
15-48 Applicability
15-49 Penalty and Enforcement
15-50 Reports by Police Chief
15-51 Lien

## TITLE 16

## SEXUAL HARASSMENT POLICY AND PROCEDURE

**Articles and Sections**: (numbered as passed)

**I. POLICY STATEMENT**

**II. DEFINITION OF SEXUAL HARASSMENT**

**III. EXAMPLES OF SEXUAL HARASSMENT**

**IV. SEXUAL HARASSMENT INVESTIGATION**

**V. SEXUAL HARASSMENT INVESTIGATION**

**VI. DISCIPLINARY ACTION**

**VII. STATE AND FEDERAL REMEDIES**

## TITLE 17

(Reserved)

## TITLE 18

## AMERICANS WITH DISABILITIES ACT POLICIES AND PROCEDURES

18-1 Public Notice of Americans with Disabilities Act (ADA) Compliance.
18-2 Equal Employment Opportunity And Reasonable Accommodation Policies.
18-3 ADA Coordinator.
18-4 ADA Grievance Procedure.
18-5 Equal Opportunity Policy.
18-6 Reasonable Modification Policy.
18-7 Eligibility And Safety Requirements Assurance.
18-8 Surcharges Prohibition Policy.
18-9 Integrated Services Policy.
18-10 Significant Assistance Policy.

18-11 Accessible Transportation Policy.
18-12 Contracted Services Provider Policy.
18-13 Effective Communication Policy.
18-14 Alternative Format Assurance And Procedures.
18-15 Interpreter Services Policy.
18-16 Assistive Listening Device Assurance.
18-17 Effective Communication Training Assurance.

## TITLE 19

## HISTORIC DISTRICT COMMISSION

**Articles and Sections**:

19-1 Purpose.
19-2 Definitions.
19-3 District.
19-4 Commission.
19-5 Commission Powers and Duties.
19-6 Alterations and Construction Prohibited Without a Certificate.
19-7 Procedures for Review of Applications.
19-8 Criteria for Determinations.
19-9 Exclusions.
19-10 Categorical Approval.
19-11 Enforcement and Penalties.
19-12 Validity and Separability.
19-13 Appendices.

## TITLE 20

## SEALER OF WEIGHTS AND MEASURES

**Articles and Sections**:

20-1 Purpose
20-2 Appointment
20-3 Qualifications
20-4 Duties and Responsibilities
20-5 Sealer Standards
20-6 Enforcement and Penalties
20-7 Fees of Sealers

# TITLE 1

# GENERAL PROVISIONS

**Articles and Sections**:

**I. CODE ADOPTION**

1-1--1-10 (Reserved)

**II. GENERAL PROVISIONS**

1-11 Bylaws to be termed ordinances -- Style of enactment.
1-12 Effect of repeal.
1-13 Employers and other persons liable to penalty.
1-14 Acts prohibited without license may be licensed.

**III. CITY SEAL**

1-15 City seal.

**IV. FINANCIAL YEAR**

1-16 Financial year designated.

**V. GENERAL PENALTY**

1-17 Penalty.
1-18 Alternative Non-Criminal Proceedings for Violation of these Ordinances

**VI. CITY FLAG**

1-19 City Flag
==========

## I. CODE ADOPTION

1-1--1-10 (Reserved)

## II. GENERAL PROVISIONS

1-11 Bylaws to be termed ordinances--Style of enactment.

All bylaws of the City shall be denominated ordinances and the enacting style shall

be: "Be it ordained by the City Council of the City of Woburn, as follow:--." (Prior Ch. 1 sec. 2).

1-12 Effect of repeal.

The repeal of any ordinance shall not have the effect of reviving any ordinance theretofore repealed or superseded. (Prior Ch. 1 sec. 3).

1-13 Employers and other persons liable to penalty.

When anything is prohibited in any ordinance, not only the persons actually doing the prohibited thing, but also their employers and all other persons concerned therein, shall be liable for the penalty prescribed therefor. (Prior Ch. 1 sec. 4).

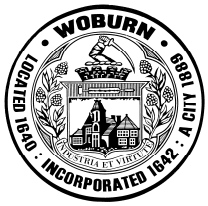
1-14 Acts prohibited without license may be licensed.

When in an ordinance anything is prohibited from being done except in accordance with a license or permit from a board or officer, such board or officer shall have the power to license or permit such thing to be done. (Prior Ch. 1 sec. 5).

**III. CITY SEAL**

1-15 City Seal.

The following shall be the device of the seal of the City of Woburn:




The seal is round and two inches in diameter. In the outer circle, over the top, is the word “Woburn." In the lower circle, "Located, 1640: Incorporated 1642: A City, 1889." In the center a coat of arms. On a chief gules, a currier's knife argent. In base, a view of the public library, ppr.; crest, a mural coronet, ppr., and the crest of Massachusetts, an arm vested brandishing a long sword, ppr. Motto: "Industria et virtute." Supporters on the dexter and sinister sides of the arms, sprigs of sumac, ppr. (Prior Ch. 1 sec. 7).

## IV. FINANCIAL YEAR

1-16 Financial year designated.

The financial year of the City shall begin with the first day of July and end with the last day of June. (Prior Ch.1 sec. 6).

## V. GENERAL PENALTY

1-17 Penalty.

Except as herein otherwise provided, whoever violates the provision of any ordinance or the Charter of the City shall be punished by a fine not exceeding three hundred dollars. (Prior Ch. 1 sec. 9).

1-18 Alternative Non-Criminal Proceedings for Violation of these Ordinances.

Any Ordinance of the City of Woburn herein contained, or rule or regulation of any of its Boards, Commissions or Committees, the violation of which is subject to a penalty, may, in the discretion of the City Official who is the appropriate enforcing person, be enforced in the method for which provision is made and a procedure is set forth in M.G.L. Chapter 40, Section 21D, that is, Non-Criminal Disposition. For purposes of this section, "City Official" shall mean "Enforcing Person" and by the term "Enforcing Person" is meant any Police Officer of the City of Woburn, and any other individual in charge of a department, board or commission of the City of Woburn which has the responsibility for the administration or enforcement of the given Ordinance alleged to been violated. (Ord. dated 07/23/87).

## VI. CITY FLAG

1-19 The official city flag of the City of Woburn shall be a white background. In the center in a gold circle shall be a coat of arms. On a chief gules, In the center a coat of arms. On a chief gules, a currier's knife argent. In base, a view of the public library, ppr.; crest, a mural coronet, ppr., and the crest of Massachusetts, an arm vested brandishing a long sword, ppr. Motto: ‘Industria et virtute.’ Supporters on the dexter and sinister sides of the arms, sprigs of sumac, ppr. Above the gold circle the words ‘City of Woburn’ in gold lettering. Below the gold circle the numerals ‘1642’ in gold numbers. (Added June 26, 2000)

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# TITLE 2

# ADMINISTRATION AND PERSONNEL

**Articles and Sections**:

## I. CITY OFFICERS, BOARDS AND COMMISSIONS GENERALLY

2-1 Acceptance of office subject to statute and ordinance-- Statement required.
2-2 Bonds required of officers
2-3 Removal of officers.
2-4 Boards and meetings--Organization.
2-5 Keeping of records.
2-6 Hours of business.
2-7 Accident reports.

## II. APPOINTMENT OF OFFICERS, EMPLOYEES, COUNCILS AND COMMISSIONS

2-8 Appointments and terms.
28A Appointment of Constables
2-9 Appointments to fill vacancies.

## III. MAYOR

2-10 Execution of conveyances, leases and other instruments.
2-11 Authority to release City from deeds.
2-12 Authority to close buildings--Display of flags.
2-12A Mayor, Clerical Assistance
2-12B Administrative Assistant to Mayor
2-13 State of the City address.

## IV. CITY CLERK

2-14 Duties.
2-15 Attendance at general meetings.
2-16 Records of elections and appointments.
2-17 Notices to auditor and treasurer.
2-18 Issuance of licenses.
2-19 Custody of City records and documents.
2-20 Recording of ordinances.

2-21 Department personnel.
2-22 Display of flags at elections.
2-23 Clerk to swear in city engineer.
2-24 Contacting of newly elected Councillors.

## V. CITY TREASURER/COLLECTOR - DUTIES AS TREASURER

2-25 Duties as Treasurer; Signing of Notes & Bonds
2-26 Keeping of accounts--Payment of funds only upon order.
2-27 Monthly statement--Annual report.
2-28 Authority to cancel and reissue bonds--Countersignatures.
2-29 Receipt and exchange of bonds -- Countersignatures.
2-30A Deputy Treasurer/Collector – Treasurer/Collector functions.
2-30B Clerical Assistance – Treasurer functions.
2-31 Discharge of mortgages.
2-32 Authority to vest City's title in persons redeeming estate purchased for nonpayment of taxes.
2-33 Majority vote of Council required for assignment of tax-title property.

## VI. TREASURER/COLLECTOR - DUTIES AS COLLECTOR

2-34 Duties as Collector.
2-35 Bond Required.
2-36 Collection of Accounts
2-37 Annual report.
2-38 Deputy Collectors.
2-39 Clerical assistance - Collector's functions
2-40 (Reserved).
2-41 Notice of zoning changes

## VII. HUMAN RESOURCES DIRECTOR

2-41 Human Resources Director; Planning and Direction of Personnel Program.
2-42 (Reserved).

## VIII. CITY PHYSICIAN

2-43 Duties--Generally.
2-44 Vaccinations.
2-45 Examination of police candidates, officers and prisoners.
2-46 Annual report.

## IX. CLERK OF COMMITTEES

2-47 Duties.

2-48 Contacting of newly elected Councilors.

**X. LAW DEPARTMENT.**

2-49 City Solicitor--Qualifications.
2-50 Drafting of bonds, deeds and other official documents.
2-51 Signing of contracts.
2-52 Prosecution of actions and suits.
2-53 Furnishing of legal opinions.
2-54 Annual report.
2-55 Compensation in excess of established salary-- Vote of Council.
2-56 Clerical and Professional Assistance.
2-57 City Council approval required for settlements in excess of one thousand dollars.
2-58 (Reserved).

**XI. POLICE DEPARTMENT**

2-59 Composition of department.
2-60 Appointment of chief and other officers.
2-61 Oath required.
2-62 Physical and mental examinations required.
2-63 Rules and Regulations of the Department.
2-64 Chief of police--Duties.
2-65 Chief of police--Appearance in court for prosecution of violations.
2-66 Chief of police--Record of arrests and disposition of complaints.
2-67 Chief of police--Report to treasurer of fines and fees--Removal of nuisances.
2-68 (Reserved)
2-69 (Reserved)
2-70 Duties of members.
2-71 Enforcement of laws and ordinances
2-72 (Reserved)
2-73 Uniforms and equipment.
2-74 (Reserved)
2-75 (Reserved)
2-76 (Reserved)
2-77 (Reserved)
2-78 Use of weapons.

**XII. FIRE DEPARTMENT**

2-79 Personnel—Appointing Authority – Reserve List.
2-80 Fire Chief – Powers and Duties.
2-81 Deputy Fire Chief -- Duties.
2-82 Fire apparatus not to be removed from City.

2-83 Driving over hoses.
2-84 Right-of-way.
2-85 Mutual Aid – Immunities and Privileges.
2-86 Cleaning of snow from fire hydrants.
2-87 Fees for inspections and permits.
2-88 Fees for False Alarms.
2-89 Fire Stations – Number and Location.
2-90 [Reserved].
2-91 [Reserved].
2-92 [Reserved].
2-93 [Reserved].
2-94 [Reserved].
2-95 [Reserved].
2-96 [Reserved].
2-97 [Reserved].
2-98 [Reserved].
2-99 [Reserved].

**XIII. AUDITING DEPARTMENT**

2-100 Election of City Auditor.
2-101 Powers, duties and responsibilities.
2-102 Books and records to be kept.
2-103 Filing of records and reports with City Auditor.
2-104 Bill collection schedules to be filed with City Auditor.
2-105 Statement of departmental receipts to be filed with City Auditor.
2-106 Countersigning of bonds, notes and certificates; Records to be kept.
2-107 Custodian of bonds, contracts and other legal instruments--Register of sureties of bonds.
2-108 Annual report to Mayor and City Council.
2-109 Examination of bills and demands.
2-110 Committee on Audits and Accounts to examine accounts to Mayor.
2-111 Presentation of accounts to Mayor.
2-112 Approval of certain large bills.
2-113 Appropriations.
2-114 Accounts with Treasurer/Collector.
2-115 Signing of orders and bonds drawn by Mayor.
2-116 Examination of accounts of other officers.
2-117 Deputy Auditor.
2-118 Clerical Assistance
2-119 [Reserved]
2-120 [Reserved]

## XIV. VETERANS' BENEFITS DEPARTMENT

2-121 Appointment of Director Agent.
2-122 Clerks.

## XV. CEMETERY DEPARTMENT

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## I. CITY OFFICERS, BOARDS AND COMMISSIONS GENERALLY

2-1 Acceptance of office subject to statute and ordinance- Statement required.

Every officer appointed by the Mayor, with or without the confirmation of the City Council, or elected by the City Council, or appointed by any administrative officer or municipal board, shall be notified of his/her appointment and if said appointee does not, within three (3) months after the date of such appointment, take and subscribe the oaths of office, his/her appointment shall be deemed void. (Prior Ch. 16 sec. 1). (Ord. amended 5/3/94)

2-2 Bonds required of officers.

A. The several officers named in this subsection shall annually give bonds to the City in such form as the City Solicitor shall approve, and in such form and sums as are required by law as follows: 1. The treasurer, according to General Laws, Chapter 41, section 35; 2. The assistant treasurer, according to General Laws, Chapter 41, section 39A; 3. The City collector, according to General Laws, Chapter 60, section 13.

B. The following persons shall give bonds in the form and amount as shall be fixed by the Mayor and Council: 1. The clerk in the office of the City collector; 2. The clerk in the office of the treasurer; 3. The assistant clerk in the office of the City collector; 4. The City Clerk, according to General Laws, Chapter 41, section 13A.

C. The condition of each of the bonds in addition to any condition required by law shall be that the officer therein named shall well and truly perform and discharge all the duties of his office and shall account for as required by law and ordinance all moneys and other property coming into his hands by virtue of his office, and that he shall immediately inform the Mayor whenever any surety on his bond has died or become insolvent.

D. The bond of every officer shall continue in force while he continues to hold the office to which he has been elected or appointed, whether by reelection, reappointment or otherwise.

E. Each of the bonds shall be signed by an incorporated surety company, approved by the Mayor, as surety, unless the Mayor is satisfied that a satisfactory surety of this kind cannot be obtained at a reasonable premium, in which case he may accept three individuals as sureties (except where the law requires a corporate surety) but in such case the sureties shall be executed and approved and delivered before the officer enters upon the duties of his office, and within the

time prescribed by law, or in absence thereof, within thirty days. Any person required to give bond as aforesaid shall give a new bond satisfactory to the Mayor whenever required by him. Failure to furnish such bond within thirty days after request by the Mayor shall be a sufficient cause for removal.

F. The amount paid as premium for the corporate surety upon any bond aforesaid shall be allowed and paid as an expense of the department of which the principal on the bond is an officer or employee.

G. The bond of the treasurer shall be filed with the City Clerk. The bonds of other City officials shall be filed with the treasurer.

H. The City Council shall annually by vote designate a depository or depositories for City funds. (Ch.16 sec. 2).

2-3 Removal of officers.

The method of procedure in the removal of officers removable by the City Council shall be as follows: The petition, order or other paper asking for such removal, or containing charges or inquiries against any officer shall be referred to a special committee, consisting of members of the City Council. The committee shall give a hearing forthwith to all parties interested; and a meeting of the City Council shall be held within one month after the receipt of report of such committee for its consideration and determination; no testimony shall be heard in such meeting. (Prior Ch. 16 sec. 3).

2-4 Boards and meetings--Organization.

A. Every board shall, unless otherwise provided, organize annually by designating one of its members as chairman, and by designating a secretary or clerk.

B. Every board shall, unless otherwise provided, meet at least once a month and may be called together at any time by the chairman or a majority of the members thereof, or by the Mayor.

C. Should any of the boards and commissions have issues of interest to a particular alderman, or to the Council as a whole, the issue will be brought to their attention. (Prior Ch. 16 sec.10).

2-5 Keeping of records.

A. Every officer and board in charge of a department shall keep a record of the acts and doings of the department in books kept specially for the purpose, including a

book in which shall be recorded all changes and alterations made in all contracts and specifications for work and materials furnished for each department, and files of its papers. The records of every board shall be made by the clerk thereof upon the day of the meeting, and be read and approved at the next meeting and shall give the names of the members present at the meetings, and their votes and proceedings thereat. All such records and files may be at any time examined by the City Council and with the exception of medical records and files shall, under the supervision of the officer or board in charge, be open to public inspection.

B. All officers and boards entrusted with the receipt and expenditures of money shall keep the books, records, accounts and papers belonging to their several departments in such manner as the director of accounts in the Department of Revenue of the Commonwealth shall direct, making the same conform as far as practicable to the accounts of the auditor. (Prior Ch. 16 sec. 11).

C. Exemptions from Conflict of Interest Education Training

The following municipal employees shall be exempt from the mandatory conflict of interest education and training requirements set forth in Sections 27 and 28 of Massachusetts General Laws Chapter 268A. This does not exempt the municipal employees from any other requirement of the so-called conflict of interest law. The list of exempt employees are as follows:

1. Unpaid volunteer positions in which employees do not have or exercise governmental authority and do not participate in or have responsibility for government decision-making, contracting, hiring, investigation or any other discretionary governmental action including:
   a. Public Library volunteers;
   b. School volunteers;
   c. Conservation Commission volunteers at clean-up days or similar events;
   d. Senior Center, Parks and Recreation volunteer teacher positions;
   e. Volunteers at any city sponsored celebration or field day events.

2. Short-term temporary or seasonal compensated positions in which employees do not have or exercise governmental authority and do not participate in or have responsibility for government decision-making, contracting, hiring, investigation or any other discretionary governmental action including:
   a. Poll worker positions;
   b. Non-supervisory seasonal positions of lifeguards and snowplow operators;
   c. Substitute teachers who work less than one day per week;

d. Participants in the senior citizen tax abatement program, veterans tax abatement program or similar tax abatement programs established by the city from time to time;
e. Medical Reserve Corps volunteers;
f. High school, college and graduate students participating in summer and work-study employment, whether paid or unpaid;
g. Participants in programs of the Department of Mental Health who are patients in a therapeutic program that includes employment;
h. Individual vendors and contractors to the city who provide one day or less of services per calendar year;
i. Participants in volunteer programs whose names are not available or known to any public agency, such as, city residents who help shovel snow or clean up after a flood.

(added 6/10/2011; amended 3/22/2013)

2-6 Hours of business.

The offices of the City Clerk, the City treasurer, the superintendent of public works, the board of health and the assessors shall, except as hereinafter provided, be open for the transaction of public business on every day except Saturdays, Sundays and legal holidays from nine a.m. until four-thirty p.m. with the exception of the office of the City collector which shall close at four p.m. and which office shall be opened from seven p.m.to eight-thirty p.m. on Thursday evenings. The office of the chief of police shall be open at all hours of the day and night. All other City offices shall be open for the transaction of public business at such hours and times as the Mayor in writing filed with the City Clerk shall from time to time appoint. It shall be one of the duties of the Superintendent of Public Works to be present at City Hall on all nights when the City Council holds its regular meetings so that he may be available to furnish such information as the City Council may request. (Prior Ch. 16 sec. 12).

2-7 Accident reports.

Any City employee, department head or otherwise, involved in an accident while operating a City-owned vehicle or other equipment shall within twenty-four hours following the accident file a written report with the chief of police. (Prior Ch. 16 sec. 22).

## II. APPOINTMENT OF OFFICERS, EMPLOYEES, COUNCILS AND COMMISSIONS

2-8 Appointments and terms.

The Mayor shall appoint annually, subject to confirmation by the City Council, eleven members of the local Council on aging for a term of one year (GL Ch. 40, sec. 8B).

1. The Mayor shall appoint, annually during March, subject to confirmation by the City Council and approval of the commissioner of the animal industry, an inspector of animals for the term of one year.
2. The Mayor shall appoint, annually in the month of May, subject to confirmation by the City Council, one member of the board of appeals who shall hold office for a term of three years from the first day in June, in the year of appointment (MGLA Ch. 40A, Sec.12).
3. The Mayor shall appoint three principal assessors who shall constitute the board of assessors, annually in January from the first Monday in February, next ensuing, for a term of three years.
4. The Mayor shall appoint, annually, one of the members of the board of assessors who shall be designated as chairman, and one as secretary. (Charter VI, Title VI, Sec. 32; Prior Ch. II; MGLA Ch. 41, Sec. 24).
5. The Mayor shall appoint a Building Commissioner who shall be a person specially fitted by education, training and experience.
6. The Mayor shall appoint a board of five cemetery commissioners subject to confirmation by the City Council, from the first Monday in April next ensuing for a term of five years. (Charter - Title VI, Sec. 32)
7. The Mayor shall appoint a director of civil defense (no definite term specified).
8. The Mayor shall appoint, annually in the month of May, a weigher of coal, who shall hold office for a term of one year from the first day of May in the year of his appointment.
9. The Mayor shall appoint a chairman and five members of the conservation commission for a term of three years from May 21st.
10. (Deleted in its entirety 8/15/95)
11. The Mayor shall appoint annually, not earlier than July 15th nor later than August 15th, election officers for each voting precinct: a minimum of one warden, one clerk and two inspectors, all of whom shall be registered voters of the City, subject to confirmation by the City Council, and subject to General Laws Ch. 54, sec. 36.
12. The Mayor shall appoint a fire chief of the fire department, subject to state Civil Service Commission Rules and Regulations (GL Ch. 31).
13. (Reserved)
14. The Mayor shall appoint, three fence viewers for one year from the first day of May next ensuing.
15. The Mayor shall appoint, annually in June, a forest warden, subject to confirmation by the state forester, for one year and until his successor is appointed and qualified.
16. The Mayor shall appoint nine members of the golf and ski authority on January first, subject to confirmation by the City Council, three members for six years, three members for four years and three members for two years (Chapter 526, Acts of 1968).
17. The Mayor shall appoint, annually in the month of April, measurers of grain, who shall hold office for a term of one year from the first day in May in the year of their appointment.

18. The Mayor shall appoint three members of the board of health, one of whom shall be a physician practicing in the City. He shall appoint as provided in Chapter 87 of the Special Acts and Resolves and consistently with MGLA Ch. 111, sec.26, for three years from the first Monday in February.
19. The Mayor shall appoint seven members of the historical commission, who shall serve for three years from the first day in June in the year of their appointment (MGLA Ch. 40, Sec 8D).
20. The Mayor shall appoint four members of the housing authority, subject to the confirmation of the City Council, who shall serve for a term of five years from the first day in April in the year of their appointment.
21. The Mayor shall appoint five members of the industrial development financing authority subject to confirmation by the City Council, who shall serve for a term of five years from the first day in April in the year of their appointment (MGLA Ch. 40D).
22. The Mayor shall appoint a superintendent of insect pest control for a three year term, subject to confirmation by the City Council (MGLA Ch. 132, Sec. 13).
23. The Mayor shall appoint, annually in the month of January, a trustee of the Eunice Thompson Library, for a term of three years from the tenth day of January in the year of his appointment. Such appointee shall hold office until his successor is appointed and qualified.
24. The Mayor shall appoint a library trustee for three years from the first Monday in April, subject to confirmation by the City Council.
25. The Mayor shall appoint three members of the licensing commission, subject to the confirmation of the City Council, for a six-year term from June 30th (MGLA Ch.140, Sec. 1).
26. The Mayor shall appoint, annually in the month of April, surveyors of lumber, who shall hold office for a term of one year from the first day of May in the year of their appointment.
27. The Mayor shall appoint, subject to confirmation by the City Council, a public health nurse who shall perform such duties in the office as the board of health may prescribe, who shall hold office until removed in the manner provided by GL Chapter 31.
28. The Mayor shall appoint a City physician, consistent with the Charter, Title VI, Section 32, annually in the month of January, who shall perform duties consistent with Sections 2-43 through 2-46 of this code.
29. The Mayor shall appoint, subject to confirmation by the City Council, annually in the month of April, a member of the planning board of the City, who shall hold office for a term of five years from the first day of May in the year of his appointment (MGLA Ch. 41, Sec. 81A).
30. The Mayor shall appoint the chief of police and subordinate officers in accordance with the Charter, Title VI, Section 32, paragraph six, in so far as it is consistent with MGLA Chapter 31.
31. The Mayor may appoint special police officers in accordance with civil service commission rules and regulations.

32. The Mayor shall, annually in the month of April, appoint the poundkeeper, who shall hold office for a term of one year from the first day of May in the year of his appointment.
33. The Mayor shall appoint a superintendent of public works for a term of two years, who shall be a person specially fitted by education, training and experience to perform the duties of the position, and in so far as the appointment is consistent with the civil service commission rules and regulations.
34. The Mayor shall appoint a purchasing agent annually in the month of January, whose duties are prescribed by Sections 3-12 through 3-19 of this code (MGLA Ch. 41, Sec. 103).
35. The Mayor shall appoint an assistant purchasing agent in accordance with MGLA Chapter 41, section 103, and relative ordinances and civil service commission rules and regulations.
36. The Mayor shall appoint two members of the recreation commission for a term of five years, in accordance with sec. 2-153 through 2-159 of this code and MGLA Chapter 45 as modified by Chapter 358 of the Acts of 1945.
37. The Mayor shall appoint four members of the redevelopment authority, for five years from November 15th, subject to confirmation of the City Council (MGL Ch. 121B).
38. The Mayor shall appoint a board of registrars, subject to confirmation by the City Council, consisting of the City Clerk and three other persons according to the provisions of MGLA Chapter 51, Section 15.
39. The Mayor may annually in the month of January appoint a secretary-receptionist to the Mayor.
40. The Mayor shall appoint a City Solicitor consistent with the Charter, Title VI, Section 32, annually in the month of January, who shall be in charge of the legal department.
41. The Mayor shall appoint annually a tax title custodian.
42. The Mayor shall, annually in the month of April, appoint a veterans' agent, to act in the disbursement of veterans' benefits, consistent with MGLA Chapter 115. (By City-wide vote, tenure was granted to the present agent.)
43. The Mayor shall appoint, annually in March or April, subject to confirmation by the City Council, a registrar of voters, for a term of three years.
44. The Mayor shall appoint, annually in the month of April, a public weigher, who shall hold office for a term of one year from the first day of May in the year of appointment.
45. The Mayor shall appoint, subject to City Council confirmation, a sealer of weights and measures.
46. The Mayor shall appoint, annually in the month of April, measurers of wood and bark, who shall hold office for a term of one year from the first day of May in the year of their appointment.
47. The Mayor shall appoint, subject to City Council confirmation, annually in the month of January, a parking clerk (MGLA Ch. 90, Sec. 20A½ ). (Ords. dated 4/12/86; 2/4/86 [part]; 4/20/84 [part]; prior Ch. 14 sec. 1).

48. All such appointed members of boards, commissions, committees and authorities shall not be entitled to Health Benefits. All members of boards, commissions, committees and authorities who are presently receiving Health Benefits shall be removed from the City of Woburn's offered Health Plans within ninety (90) days of the effective date of this Ordinance. All appointed members of boards, commissions, committees and authorities shall not work more than twenty (20) hours a week. All appointed members of boards, commissions, committees and authorities may elect, after ninety (90) days, to continue in the group health plan by paying the full rate. (Ord. added 5/3/94 effective 5/16/94)

2-8A <u>Appointment of Constables</u>.

1. The Mayor may appoint constables in January, for a term not exceeding three years, beginning on the first day of February.

2. The total number of constables at any one time, shall not exceed the number which is the equivalent of one constable per 3,000 Woburn residents, according to the latest City of Woburn Census.

3. At least seventy-five percent (75%) of all constables shall be residents of the City of Woburn. For the purpose of this subsection of this ordinance, each such applicant must be able to prove that he has lived in the City of Woburn for at least one (1) year prior to the date of his application.

4. Applicants for constable must submit a written resume and completed application to the Mayor containing such information reasonably required by the City of Woburn for use in determining the fitness, reputation and character of the applicant to hold the office of constable. The Chief of Police shall, upon request, give the Mayor and the City Council all possible assistance in making such investigation. The application shall also include a statement as to the moral character of the applicant signed by a minimum of five (5) citizens of the community in which he resides, one of whom must be an attorney.

5. Immediately upon appointment, a constable must submit to the City Clerk a surety bond in the maximum amount specified under the provisions of M.G.L., Chap. 41, Sec. 92. Said bond to be maintained throughout the term of the constable's appointment.

6. Each constable appointed by the City of Woburn shall annually, on or before the fifteenth of April, file with the Office of the City Clerk, a true copy of the account required to be filed with the office of the County Treasurer in accordance with the provisions of M.G.L., Chap. 262, Sec. 8A.

7. Upon application for renewal of appointment as a constable, each constable

appointed by the City of Woburn shall submit a written statement describing the types of writs and processes served by him under the provisions of M.G.L., Chap. 41, Sec. 92 and any actions undertaken by him in accordance with the provisions of M.G.L. Chap. 41, Sec. 94, during the term of appointment immediately preceding the term for which said application for renewal is submitted.

8. The City Clerk for the City of Woburn shall retain on file in his/ her office and shall attach to each application and reappointment submitted by any constable, the account referred to in Paragraph 6 and the statement referred to in Paragraph 7. Each said account and said statement shall become a permanent part of the record of activity of each constable appointed by the City of Woburn in accordance with the provisions of Section 2-30 (5) of the General Ordinance of the City of Woburn.

9. The Mayor may, with the approval of the City Council, revoke the appointment of a constable for gross misconduct. In any case where a constable has been convicted of a crime, the Mayor shall review such matter to determine if such conviction amounts to a gross misconduct, and if he so determines, he shall revoke said constable's appointment as provided in this section.

10. No constable appointed by the City of Woburn shall carry on his person or be in possession of any firearm while in the exercise and performance of the powers, duties and responsibilities of the position of the constable for the City of Woburn.

11. Any constable found guilty of violating the provisions of Paragraph 10 shall be punished by a fine of $250.00.

12. All individuals now holding valid constable appointments will continue as constables as long as he so desires and continue to file for reappointment under the ordinance procedure.

13. No additional constables shall be appointed until the list is downsized to the ordinanced number, i.e., one constable per three thousand (3,000) residents. (Ord. added 8/15/95)

2-9 <u>Appointments to fill vacancies</u>.

1. Pursuant to Mass. Gen. L. Ch. 41, § 61A, if the office of city auditor, city treasurer, city collector of taxes, or other officer having charge of a city department, or its deputy, is vacant, or if any such officer, because of disability or absence, is unable to perform his duties, the Mayor, without confirmation by the city council, shall appoint a temporary officer to hold such office and exercise the powers and perform the duties thereof until another is duly elected or appointed

and has qualified according to law, or the officer who was disabled or incapacitated resumes his duties. The Mayor shall notify the City Council of such temporary appointment within forty-eight (48) hours. No such temporary officer shall be appointed by the Mayor under this provision for a period longer than sixty (60) days. If after the sixty (60) days, such office is still vacant, the appointment shall be filled in accordance with the following:

a. Mayor Appointed Offices: Whenever a vacancy occurs in any office now filled by appointment by the Mayor, the Mayor shall appoint a person in the manner of the original appointment, to fill such a vacancy and to hold office for the balance of the unexpired term and until a successor is appointed and qualified. Whenever any person holding office appointed by the Mayor shall be temporarily unable to discharge the duties of the office, the Mayor may appoint a person to discharge such duties until the Mayor determines that such inability has ceased. The Mayor shall notify the City Council of such appointment within forty-eight (48) hours.

b. City Council Appointed Offices: Whenever a vacancy occurs in any office now filled by appointment by the City Council, the City Council shall appoint a person in the manner of the original appointment, to fill such a vacancy and to hold office for the balance of the unexpired term and until a successor is appointed and qualified. Whenever any person holding office appointed by the City Council shall be temporarily unable to discharge the duties of the office, the City Council may appoint a person to discharge such duties until the City Council determines that such inability has ceased. The City Clerk shall notify the Mayor of such appointment within forty-eight (48) hours.

2. Definitions – The following shall apply to Section 2-9:

a. "Appointed" shall mean the act of naming or designating someone to a position or office.

b. “Temporarily unable to discharge the duties of the office” shall mean the position holder is not able to perform the duties required of the office. Any officer that is unable to perform the duties required of the office due long-term illness, long-term sickness, long-term disability, or leave under the Family Medical Leave Act (“FMLA”), shall be determined by the Human Resources Director. After such determination, the Human Resources Director shall notify the Mayor and the City Council of such determination.

c. “Temporary vacancy” shall mean the position holder is unable to discharge the duties of the office. A temporary vacancy may occur as a result of a suspension, serious illness of long duration, or a leave of absence. An example of such an absence includes situations under the FMLA. A temporary

vacancy is not created when the position holder is on vacation or out sick for a short period of time.

d. “Vacancy" or “vacant” shall mean the position is currently unoccupied. If permanent, a position is rendered vacant usually, as a result of the resignation, retirement or termination of the occupant, leaving the position to be newly filled or appointed.”

(Prior Ch. 14 sec. 2; amended 3/21/2017).

**III. MAYOR**

2-10 Execution of conveyances, leases and other instruments.

The Mayor after being authorized by majority vote of the City Council may execute on behalf of the City all conveyances, leases and other instruments to be executed by the City. This provision shall not be construed to prevent any officer from executing any conveyance, lease or other instrument in performing the duties required of him by the General Laws or by any special act of the General Court of the Commonwealth. (Prior Ch. 14 sec. 3).

2-11 Authority to release City from deeds.

The Mayor after being authorized by majority vote of the City Council may execute and deliver to any party holding lands, the title of which is derived under a deed given by the City, and creating an estate upon condition, a deed or release, acknowledging that up to the time when such deed or release is given, such condition has been fully complied with, and releasing such land from the possibility of forfeiture to the City for any breach of condition happening prior to the date of release. (Prior Ch.14 sec. 4).

2-12 Authority to close buildings--Display of Flags.

The Mayor may order the public buildings or any of the public offices to be closed for any period, not exceeding one day at a time, whenever he deems it expedient to do so, and may order flags to be displayed thereon at any time. (Prior Ch. 14 sec. 7).

2-12A Mayor, Clerical Assistance.

The Mayor may appoint a person who shall hold the title of Secretary-Receptionist to the Mayor; the person so appointed shall perform such duties and assume such responsibilities as the Mayor in his/her sole discretion may from time to time, deem

fit; the person so appointed shall serve in such position solely at the pleasure of the Mayor and shall be deemed a "Confidential" employee as that term is used in G.L. C. 150E; the position of Secretary - Receptionist to the Mayor shall be a full-time position except that (i) the working hours shall be established and may, from time to time, be changed or varied by the Mayor and (ii) the position shall not be covered by a Collective Bargaining Agreement nor included, or includible, within a Collective Bargaining Unit within or without the City of Woburn; the renumeration for such position shall be duly established, but may from time to time be varied, by Ordinance; Employee Benefits incidental to the position of Secretary - Receptionist to the Mayor shall be solely and exclusively determined by the Mayor. (Added 2/6/96)

2-12B Administrative Assistant to Mayor

The Mayor may appoint a person who shall hold the title of Administrative Assistant to the Mayor; the person so appointed shall perform such duties and assume such responsibilities as the Mayor in his/her sole discretion may, from time to time, deem fit; the person so appointed shall serve in such position solely at the pleasure of the Mayor and shall be deemed a CONFIDENTIAL employee as that term is used in G.L. C. 150E; the position of Administrative Assistant to the Mayor shall be a full-time position except that (I) the working hours shall be established and may, from time to time, be changed or varied by the Mayor and (ii) the position shall not be covered by a COLLECTIVE BARGAINING AGREEMENT nor included, or includible, within a COLLECTIVE BARGAINING UNIT within or without the City of Woburn; the remuneration for such position shall be duly established, but may from time to time be varied, by Ordinance; Employee Benefits incidental to the position of Administrative Assistant to the Mayor shall be solely and exclusively determined by the Mayor. The position of Administrative Assistant to the Mayor shall also include the role of Grant Writer/Co-Ordinator for the City. The Administrative Assistant to the Mayor shall not, for any reason, become Acting Mayor for the City. The City Council President, as per the City Charter, shall become Acting Mayor in the case of illness or absence of the Mayor. (Added 7/23/97)

2-13 State of the City address.

A. At the first regularly scheduled meeting of the City Council in every odd-numbered year the Mayor shall appear before the City Council for the purpose of addressing them on the general welfare and state of the City.

B. The Clerk of the City Council shall cause the address to be placed first on the agenda, preceded only by a roll call of the members, and no parliamentary vote of the City Council shall change the position of the address on the agenda.

C. The Clerk of the Council shall also invite the members of the school committee to be present in the legislative area of the Council chambers for that portion of the meeting in which the Mayor makes his address. (Prior Ch. 14 sec.10).

## IV. CITY CLERK

2-14 Duties

The City Clerk shall perform all duties which are now, or may hereafter be, required of him by the laws of the Commonwealth, the City Charter or the ordinances of the City. (Prior Ch. 6 sec. 1).

2-15 Attendance at general meetings.

The City Clerk shall attend all general meetings of the citizens which may be held by virtue of notices issued by the City Council, and open every such meeting by reading the notice therefor, and preside thereat until a moderator is chosen. He shall keep a record of the proceedings of the meetings, including copies of all reports or other documents upon which the proceedings were founded. (Prior Ch. 6 sec. 2).

2-16 Records of elections and appointments.

The City Clerk shall keep a book containing the dates of the election of all officers elected by the City Council, or appointed by the Mayor, and a statement that the officer signing the same accepts his office subject to the statutes and ordinances. (Prior Ch. 6 sec. 3).

2-17 Notices to auditor and treasurer.

The City Clerk shall notify the auditor and treasurer, in writing, of all orders authorizing appropriations, expenditures, assessments, apportionments or abatements immediately after such orders are approved. He shall also notify committees and municipal boards of any orders affecting the appropriations under their control. (Prior Ch. 6 sec. 4).

2-18 Issuance of licenses.

Except as herein otherwise provided, the City Clerk shall issue all licenses authorized by the City Council and shall keep a complete record of all such licenses. (Prior Ch. 6 sec. 5).

2-19 Custody of City records and documents.

The City Clerk shall have custody of all journals, records, papers, contracts and documents of the City and he shall perform such other duties as shall be prescribed by the City Council. The City Clerk shall obtain from the local cable television provider a copy of each video tape recording of the City Council meetings produced by the local cable television provider and retain such copy as a permanent record. The City Clerk shall notify the City Council of any summons pertaining to a federal or state court proceeding served on the city in care of the City Clerk within 48 hours of service. (Prior Ch. 6 sec. 6; amended October 6, 2000; amended 9/19/2014).

2-20 Recording of ordinances.

The City Clerk shall keep a record of all ordinances in a book properly indexed, and shall number such ordinances consecutively in each year. He shall annex to his annual report copies of all ordinances enacted during the year, which shall be published with the annual reports. Failure to comply with this section shall not affect the validity of any ordinance. (Prior Ch. 6 sec. 7).

2-21 Department personnel.

The office of the City Clerk shall consist of a City Clerk, an assistant City Clerk, one principal clerk, one assistant supervisor of census, elections and registration and one senior clerk, appointed by the City Clerk, and who shall do the clerical work in the office of the City Clerk and perform such other duties in the office as the City Clerk may prescribe. (Ords. dated 12/24/86, 12/04/86; Charter, Sec. 37, Prior Ch. 6 sec. 8).

2-22 Display of flags at elections.

The City Clerk shall have American flags placed at or near the ballot boxes in each ward the day of a primary or an election. (Prior Ch. 6 sec. 9).

2-23 Clerk to swear in City engineer.

The City engineer shall be sworn to the faithful performance of his duties by the City Clerk. (Prior Ch. 6 sec. 10).

2-24 Contacting of newly elected Councilors.

The City Clerk, following a City election in November, shall contact by mail, all newly elected members to the City Council and invite them to attend Council

meetings, and to sit at the Council table for the purpose of orientation, without the privilege of speaking or casting a vote. (Prior Ch. 6 sec.11).

## V. CITY TREASURER/COLLECTOR - DUTIES AS TREASURER **

2-25 Duties as Treasurer; Signing of notes and bonds.

The City Treasurer/Collector shall sign all notes or bonds issued by authority of the city council.(Prior Ch. 27 sec. 1).

2-26 Keeping of accounts- Payment of funds only upon order.

The treasurer/collector shall keep an accurate and true account of all receipts and payments on behalf of the city, making the same conform with the accounts of the auditor. He/she shall pay no money, except upon orders of the mayor drawn in the manner prescribed, or except for special purposes, as provided in Section 3-1 of this code. (Prior Ch. 27 sec. 2)

2-27 Monthly Statement--Annual Report.

The treasurer/collector shall, on the first day of each month, furnish to the auditor a statement, in detail, of all collections, receipts and disbursements during the preceding month and on what account the same were received or paid. His/her annual report to the City Council shall contain a statement in detail of receipts and expenditures for the preceding financial year; a copy thereof shall be furnished to the finance committee. (Prior Ch. 27 sec. 3)

** Sections 2-25 through 2-42 were extensively revised by combining the positions of treasurer and collector, by ordinance passed 12/20/90.

2-28 Authority to cancel and reissue bonds counter-signatures.

Pursuant to the Massachusetts General Laws, Chapter 107, Section 4, the city treasurer/collector at the request of the owner or holder of any bond, promissory note or certificate of indebtedness issued by the city payable to the bearer, is authorized at any time more than one year before the maturity thereof, to issue in exchange thereof a bond, note or certificate of the same effect payable to the owner or holder by name. Coupons or registered bonds, notes or certificates of the city may be surrendered to the city treasurer/collector for cancellation, and in exchange thereof one or more registered bonds, notes or certificates having the same maturity and rate of interest may be issued to the owner or to a new owner or owners. The new bonds, notes or certificates shall be signed by the treasurer/collector and countersigned by the city auditor and the mayor and shall express on their face that they are exempt from taxation in Massachusetts, if it is so

stated in the bonds, notes or certificates of indebtedness surrendered for exchange. The expense involved in surrendering and in making the cancellation and reissue of any bond, promissory note or certificate of indebtedness pursuant to this order or to any law applicable therto shall be borne by the party requesting such cancellation and reissue. (Prior Ch. 27 sec. 4).

2-29 Receipt and exchange of bonds--countersignatures.

Under the authority of and in compliance with Massachusetts General Laws Chapter 107, Section 4, and Chapter 29, Section 39, and acts in amendment thereof and in addition thereto, the City Treasurer/Collector is authorized from time to time to receive for cancellation coupons or registered bonds, notes or certificates of the city which have been or may be issued at any time, and in exchange thereof issue one or more registered bonds, notes or certificates having the same maturity and rate of interest, to the same or new owner or owners. The bonds or certificates shall be denominated the same as the bonds, notes or certificates surrendered in exchange therefor, and shall be for an aggregate amount no greater than the aggregate amount of the principal of bonds, notes or certificates surrendered as the treasurer/collector is authorized to issue, and shall be signed by the treasurer/collector, countersigned by the city auditor and the mayor. Other particulars as to form and issuance of the bonds, not inconsistent with legal requirements shall be determined by the city treasurer/collector who is authorized in his/her discretion to waive the right of the city to the fee of fifty cents for issuing such bonds, notes or certificates as provided in the General Laws, Chapter 107, Section 6. The City Treasurer/Collector is instructed to cancel such surrendered bonds,notes and certificates as may be exchanged for new bonds or certificates in such form and manner as shall comply with the General Laws, Chapters 106 or 107, Article 8.(Prior Ch. 27 sec. 5).

2-30 A Deputy Treasurer/Collector – Treasurer/Collector functions

The treasurer may in writing appoint, with the approval of the mayor a deputy treasurer/collector who may be an employee in the treasurer/collector's department. The deputy treasurer/collector shall be sworn to the faithful performance of those duties, and a record shall be made of the appointment and oath so taken. The deputy treasurer/collector shall be a citizen of the United States and a resident of the Commonwealth, and shall give bond annually for the faithful performance of these duties in a form approved, and in an amount determined, by the commissioner of revenue. Unless a temporary treasurer/collector is appointed in accordance with law, the deputy treasurer/collector may, in the absence of the treasurer/collector, perform those duties and when performing those duties shall have the powers and be subject to the requirements and penalties applicable to him or her provided, however, that the deputy treasurer/collector shall not be authorized to sign for the collector instruments of taking pursuant to section fifty-

four of chapter sixty. The deputy treasurer/collector shall assist in the daily management of both the treasurer's and collector's office and is authorized to direct and supervise the employees in their tasks and the conduct of the office. The person appointed as deputy treasurer/collector may receive a salary from the city for service as such in an amount of $50,000.00. This position shall be considered a management position and therefore is not associated with a collective bargaining unit. (Prior Ch. 27 Sec 6; Amended 5/10/2004; 12/10/2004)

2-30 B Clerical Assistance – Treasurer functions

The city treasurer/collector may appoint an assistant treasurer and a head clerk who shall do the clerical work in the office of the city treasurer/collector and perform other such duties in the office as the city treasurer/collector may prescribe. (Prior Ch. 27 sec 6; amended 5/10/2004)

2-31 Discharge of Mortgages.

When a person entitled to redeem an estate mortgaged to the city treasurer/collector makes application for such redemption, the treasurer/collector may, upon payment of the amount due of the mortgage, discharge or release the mortgage, or assign the same without liability of or recourse to the city, and may execute and deliver on behalf of the city all legal instruments that may be necessary for the purpose. (Prior Ch. 27 sec. 7).

2-32 Authority to vest City's Title in persons redeeming estate purchased for nonpayment of taxes.

When a person entitled to redeem an estate sold for nonpayment of taxes or other assessments and purchased by the city makes application for such redemption, the city treasurer/collector may, on payment of the amount due on the estate, execute and deliver on behalf of the city any and all legal instruments that may be necessary to vest in such person the city's title to such estate. (Prior Ch. 27 sec. 8)

2-33 Majority vote of council required for assignment of tax-title property.

The city treasurer/collector shall not assign tax-title property to anybody until authorized by a majority vote of the City Council and the approval of the Mayor. (Prior Ch.27, sec. 9).

## VI. TREASURER/COLLECTOR - DUTIES AS COLLECTOR

2-34 Duties as Collector.

The treasurer/collector of the city shall do and perform all the duties required of

him/her as the tax collector of the city as embodied in Chapters 31, 41, 44, 58, 59, 60, 100, 132 and any other pertinent chapters of the Massachusetts General Laws and any amendments thereto, together with any ordinances of the city relating to the same. (Prior Ch. 8 sec. 2).

2-35 Bond required.

The city treasurer/collector shall give bond for the faithful performance of his/her duties in accordance with the provisions of M.G.L. Chapter 60, sec.13. The premium for such bond shall be paid by the city. (Prior Ch. 8 sec. 3).

2-36 Collection of accounts.

The city treasurer/collector shall, in addition to the duties specifically provided for in the above sections, collect all accounts and other sums payable to the city, together with interest, costs and charges thereon, in accordance with Massachusetts General Laws Chapter 41, Section 38A. The treasurer/collector shall have authority to make such rules and regulations, comformable to law, as will assist him/her in carrying out the provisions of Massachusetts General Laws Chapter 41, Section 38A and any other powers vested in him/her by law or by these ordinances. With such accounts, the City Treasurer/Collector shall prepare a statement of all moneys received or collected by him/her during the preceding week or lesser period of time on account of taxes, accounts and other sums, together with interest, costs and charges thereon, and the purposes for which the moneys were received and collected. Such statement shall include all fees, charges, costs and commissions allowed by law received or collected by him/her or any deputy collector, clerk, sheriff, deputy sheriff or constable acting under authority of law by their appointment and shall certify collection of the same. A copy of this statement shall be filed with the City Auditor. (part, Prior Ch. 8 sec. 4).

2-37 Annual report.

The treasurer/collector shall make an annual report on or before the fifteenth day of July, to the mayor and the city council, being a complete statement ot the financial transactions of his/her department for the preceding financial year. A copy shall also be furnished to the finance committee of the city council. (Prior Ch. 8 sec. 6).

2-38 Deputy collectors.

1. The Treasurer/Collector may appoint, subject to the provisions of Massachusetts General Laws Chapter 60, Section 92, such deputies as he/she deems expedient and they shall have all the powers of collectors.

2. Each Deputy Collector so appointed shall keep a cash book, in which such

Deputy Collector shall enter all sums so collected, specifying the total amounts of each tax collected, all interest, charges, and fees received, the name and address of each party from whom money was received and the date of each such receipt. The Deputy Collector shall prepare a report to the Treasurer/Collector of all uncollected warrants issued to the Deputy Collector at least once each month. Deputy Collectors shall give bond for the faithful performance of their duties. The Deputy Collector shall, at least weekly, turn over sums collected to the Treasurer/Collector, or deposit said funds into an account which is separate from any other account of the community for the purpose of clearing checks and earning interest on deposits. The Treasurer/Collector shall transfer funds which have cleared from such account to the City treasury at least once a week along with any interest earned. The Deputy Collector shall then be paid through the treasury for salary and compensation.

3. The Deputy Collector shall be required to pay all fees received by him/her by virtue of their office into the City treasury and report the amount collected thereof from time to time to the City Council. The report of the Deputy Collector shall be published with the Treasurer/Collector's report in the Annual Report of the City.

4. The salary and compensation of the Deputy Collector shall be established by ordinance of the City Council and such funds necessary to pay such salary and compensation shall be provided for in the Annual Budget of the City effective July 1 of each year.

5. All collection agencies or private entities engaged or hired by the Treasurer/Collector for the purpose of assisting in the collection of delinquent taxes, shall be in accordance with the competitive bidding process on an annual basis in accordance with Massachusetts General Laws Chapter 60, Section 2B.

(Amended 6/26/2000)

2-39 Clerical assistance - Collector's functions.

The City Treasurer/Collector may appoint four clerks; one assistant collector; one head clerk; one principal clerk and one senior clerk to do clerical work as he/she may prescribe. Said appointments shall not be for any specified term but shall run during the term of the appointing treasurer/collector and his/her successors, or until removal as provided in this section. Any clerk shall be removable only by the treasurer/collector or his/her successor and in the manner provided for in the removal of persons holding office classified under the Civil Service Rules and

Regulations and Laws of Massachusetts, or by collective bargaining procedures, if applicable. (Prior Ch. 8 sec. 8; amended 5/10/2004) (Prior Ch. 8 sec. 8).

2-40 ( Reserved )

2-41 Notice of zoning changes (numbered as passed)

The tax collector or his successor shall include a notice on a form prescribed by the City Clerk, in the October tax bill informing all taxpayers of their right and the procedure to receive notice of proposed zoning changes, in accordance with the 1985 Woburn Zoning Code, as amended. (Ord. amended 4/10/98)

## VII. HUMAN RESOURCES DIRECTOR

2-41 Human Resources Director; Planning and Direction of Personnel Program.

Section 1 Purpose

The system of personnel administration established herein shall be consistent with the following merit principles:

a. Recruitment from all segments of society and selection and advancement on the basis of ability, knowledge and skills under fair and open competition.
b. Compensation shall be established on an equitable basis.
c. Training and development opportunities shall be provided as needed to assure high-quality performance buy all employees.
d. Retention of employees shall be on the basis of their performance. A reasonable effort shall be made to assist employees in inadequate performance, and if, following such effort, inadequate performance can not be corrected, separation shall occur.
e. Fair treatment of applicants and employees shall occur in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, handicap or other non-merit factors and with proper regard for their privacy and constitutional rights,

Nothing in this ordinance or the administration regulations promulgated hereunder shall be construed to limit any right of employees pursuant to Chapter 31 or Chapter 150E of the General Laws of the Commonwealth of Massachusetts.

Section 2 Application

All city departments and all positions in the City shall be subject to the provisions of hie ordinance with the following specific exceptions:

a. The School Committee and all of it's employees.
b. The City Council and all of it's employees.
c. All elected officials.
d. Members of boards, committees and commissions who are not employees of the City.

Section 3 Personnel Department

A. Establishment

There shall be in the City of Woburn a Personnel Department, the head of which shall be the Personnel Director.

B. Appointment and Qualifications of the Personnel Director

The personnel director shall be qualified for this appointment by reasons of previous education, training and experience and shall be appointed by the City Council.

C. Duties of the Personnel Director

1. Administer all functions specified in this ordinance and administrative regulations.
2. Provide advice and assistance to the Mayor, department heads, supervisory personnel and employees in all aspects of personnel management specified in this ordinance.
3. Recommend to the Mayor and to the City Council such changes in this ordinance as may be considered necessary as conditions and situations change.
4. Supervise and maintain, on a centralized basis, all records pertaining to personnel management in the city.
5. Administer the recruitment, interviewing, hiring and promotions and/or transfers, orientation, training and employee development programs whether funded by the City, the Commonwealth, the United States Government or any other source.
6. Establish incentives for improving the performance and productivity of all employees.
7. Oversee the implementation of the City's Affirmative Action Plan as it applies to personnel.
8. Evaluate periodically the effectiveness of the city's personnel system and recommend any changes to the Mayor and the City Council.
9. Administer Employee Benefit Plans as they apply to personnel procedures.
10. Administer the City's Worker's Compensation Program.
11. Serve as the Chair-person of the City's Safety Committee.
12. Recommend to the Mayor and the City Council on an annual basis which system of Unemployment Insurance Payment would be in the best interest of the city.

13. Act as the Mayor's chief negotiator in the Department of Public Works, City Hall Employees, Police Patrolmen, Police Superior Officers and the Firefighters union contract proceedings with direction from the Mayor.
14. Will act as the liaison for the city with the Department of Personnel Administration (Civil Service).
15. Will be the City's Labor Service Director.
16. Will administer the Psychological Testing Program for the Police Department and the Fire Departments new appointees.
17. Will serve on the Drug and Alcohol Screening Program Review Committee.
18. Will coordinate with the Employee Assistance Program Provider to make all employees aware of the program and coordinate the arrangement of training sessions for department heads.
19. Will coordinate personnel procedures for the City's Police Department's Accreditation Plan and the City's Fire Department's Certification Plan.
20. Will act as the liaison to the Massachusetts Commission against Discrimination as it applies to personnel.

D. Support

The City shall furnish such staffing, services, office space, equipment and other support as may be necessary for the proper functioning of a Personnel Department.

Section 4 <u>Centralized Record Keeping</u>

All personnel record will be kept on a calendar basis and be kept in a confidential manner.

A. Individual Personnel Files

Information required to be given to the Personnel Department by employees for their individual personnel records are: Name, address, telephone number, social security number, date of birth, marital status, dependents and information for notification in case of an emergency and other information the Personnel Director determines necessary for the proper functioning of a personnel system.

The personnel director will exercise due diligence to keep the required information within any federal or state laws.

B. Sick Leave, Personal Leave, Bereavement Leave and Vacation

Every department head shall submit to the personnel department daily, the required absentee report for every employee within their department that was absent for any period the previous work day.

The personnel department will notify the Treasurer's Office every Monday morning whether an employee will be entitled to be paid for an absence or not.

The personnel department's system will include accumulation of sick leave, vacation leave, personal days and bereavement leave for each employee.

No information contained in any personnel file can be given to anyone without one of the following:

1. Written request or authorization by the Mayor or the City Council.
2. Written request from a department head authorized by the personnel director.
3. Written request by the City Solicitor's Office.
4. Written authorization of the employee to release the information.
5. Court Order with the City Solicitor's opinion that it must be adhered to.
6. An employee's written request for information contained in their file and authorized by the personnel director.

Section 5 <u>Recruitment, Interviewing, Hiring, Orientation, Promotions and/or Transfers</u>

The Personnel Department will be notified by department heads when there is an open position within his/her department.

The Personnel Department will decide if the position is Civil Service. If Civil Service, personnel will follow proper procedures under Chapter 31.

Whether the position is Civil Service or not the Personnel Department will follow the guidelines below to fill the position.

A. Recruitment

Every reasonable effort shall be made to attract qualified person for the employment opportunities within the city. Every recruitment effort will encourage minorities and women to apply.

B. Interviewing/Selection Procedures

The personnel director shall utilize any one or a combination of the following interviewing/selection procedures which in his or her professional judgment will best determine the fitness and ability of applicants for entry-level and promotional positions:

1. Written Examination
2. A structured oral examination
3. A practical/performance test
4. A formal evaluation of education and/or experience

5. A structured interview
6. A physical test of strength, ability and dexterity
7. Any other consistent appropriate measure to judge the applicant's ability to perform the job requirements.

The personnel director, after consultation with the appropriate department head shall determine in each instance what procedures or combination of procedures shall be used and the relative weight assigned to each part f the examination. The personnel director shall also assure that all selection procedures are job related and that they emphasize, to the maximum extent possible, validity, reliability and objectivity.

Every applicant for the same position will be administered the same test or tests. There will be no exceptions other than to make allowances required by law for disabilities.

C. (Reserved)

D. Interviewing by Department Head

After the initial interviewing is done by the Personnel Department and the appropriate tests have been given, the most qualified applicants will be interviewed by the department head for final selection.

The personnel department will supply the department head with the following information in each applicant:

1. Application
2. Resume if available
3. Type of tests given and results
4. Information received from references
5. Any other information that would assist the Department Head in making a decision.

E. Offering of a Position to an Applicant

1. The Department Head will notify the Personnel Department of his/her decision.
2. The Personnel Department will notify the successfully applicant and will send a written job to the applicant that will state:

    a. The position being offered
    b. The salary being offered
    c. Enclose a booklet or statement describing benefits and policies
    d. Stating the offer is being made subject to the applicant passing a pre-employment physical which will include drug screening and the production of documents required by the Immigration Reform and Control Act of 1986

e. Requesting signature of the applicants acceptance or rejection of the offer and that it be returned within seven (7) business days.

F. Orientation

The Personnel Department will hold an Orientation meeting for new employees when necessary. The personnel department will request that the following departments send a representative:

1. Retirement
2. Employee Insurance Benefits
3. Treasurer's Office/Payroll Procedures

The representative will explain their programs and assist the new employee in the filing of all necessary forms.

Representative form personnel will explain procedures within City Hall and bring the employee to meet individuals he/she will be working with or would have contact with.

The employee will be given a sheet with the names of all Department Heads and their assistants listed as well as the location of each department.

G. Promotions and/or Transfers

The Personnel Department, when notified by a department head of an open position, will follow the following procedures:

1. Post the position on a bulletin board outside the Personnel Office.
2. Notify the proper union.
3. If a current employee shows an interest and is believed eligible for the position, if applicable Civil Service Rules or Collective Bargaining requirements will be followed.
4. If there isn't a current employee eligible for transfer and/or promotion to the open position then the procedures established under Section 5 will be followed.

Section 6 <u>Training and Employee Development Program</u>

Section A Training Policy

It shall be the policy of the city to encourage employees at all levels to participate in Training and Development Programs designed to improve their skills; to increase their knowledge of new federal and state laws and programs; new technology, and new

methods of operations; and to reduce gaps between actual and expected performance levels as determined by regular evaluations of performance.

Section B Training Needs

The Personnel Director shall, from time to time, conduct a formal or informal training needs assessment to determine the range of needs that exist and develop a priority order for meeting those needs.

Section C Developing Training Programs

Wherever practical, the Personnel Director shall develop on-site training programs using the training skills of employees, local experts and various college, universities and vocational schools within or outside the region.

Section D Education Incentive Program

The Personnel Director will be available to discuss with employee courses that would be considered as job related and eligible for reimbursement under the Employee Incentive Program.

Section 7 Performance Evaluation

A. Performance Evaluation Guidelines

Performance Evaluations shall be the continuing responsibility of all department heads and they shall discuss evaluations informally with each employee as often as necessary to insure effective performance. Except where provided otherwise in collective bargaining agreements, each supervisor shall make an appraisal in writing and shall discuss with each employee his or her overall work performance at least once a year. The format and process of such appraisals shall be established by the personnel director after consultation with each department head. Written appraisals shall be filed with the personnel department and each employee shall be supplied with a copy.

B. Uses of Performance Evaluations

Performance evaluations shall be used to provide a continuing record of an employee's development; as a means of identifying effective performance and areas needing improvements; as a form for encouraging effective supervisor-employee communications; as a basis for making decisions on merit raises and promotions; provided such evaluation procedures are not in conflict with any collective bargaining agreement.

Section 8 Disciplinary Action and Separation

A. Applicability

The provisions of this section shall apply to all permanent employees provided any employee covered by Civil Service shall be subject to Civil Service rules governing suspension, demotion and dismissal and any employee covered by a collective bargaining agreement shall be subject to the disciplinary procedures of said agreement.

B. Suspension

A department head, following consultation with the Personnel Director, may suspend, without pay and for just cause, any permanent employee in his or her department covered by this ordinance for such length of time as he or she considers appropriate. In any suspension, the Personnel Director shall furnish immediately with a written statement specifically setting forth the reasons for such suspension. A copy of the statement shall be furnished immediately to the employee and the employee shall be informed of his/her rights to a hearing under Civil Service and/or Collective Bargaining agreement and/or before the Mayor.

C. Demotion and Dismissal

A permanent employee may be demoted or dismissed for just cause, provided the following procedures are adhered to:

1. The employee shall be notified in writing of the contemplated sanction and the reasons for such action five (5) working days prior to the effective date of such action and a copy of said notice shall be filed with the personnel director.

2. The employee shall be granted a hearing before the mayor within five (5) working days after the notification of dismissal or demotion and the mayor will render a decision five (5) working days thereafter.

D. Just Cause Standard

For purpose of this article, just cause shall be defined to include, but not be limited to, any of the following:

1. Incompetency
2. Inefficiency
3. Inexcusable neglect of duty
4. Failure to perform in one or more critical elements of the job.
5. Fraud in securing appointment
6. Insubordination

7. Drunkenness
8. Addiction to narcotics or habit-forming drugs
9. Inexcusable absence without leave
10. Sick Leave Abuse
11. Conviction of a felony dismeanor involving moral turpitude.
12. Willful disobedience
13. Misuse or unauthorized use of municipal property
14. Other misconduct or violation of work rules or regulations

E. Layoff

An appointing authority may layoff a permanent employee when he or she deems it necessary by reason of shortage of work or funds, material change in the departmental organization, or for other related reasons which are outside the employee's control and which do not reflect discredit upon the services of the employee. The employee shall be provided with a written notice of such layoff fourteen (14) working days prior to the effective date of such action.

The order of layoffs shall be determined by the personnel director, in consultation with the mayor, based upon past performance, current and projected employment needs, abilities and length of service in the City.

The duties performed by any employee being laid off may be reassigned to other employees already working who hold position in appropriate classes. No temporary or permanent separation of an employee as a penalty or disciplinary action shall be considered a layoff. The names of employees affected shall be kept on a special employment list and said employees shall be recalled in the same order and based upon the same criteria as were used in determining the original layoff.

F. Resignation

To resign in good standing, an employee must give the City at least fourteen (14) calendar days prior notice unless the City, because of extenuating circumstances agrees to permit a shorter period of notice.

A written resignation shall be supplied by the employee to the City giving reasons for leaving. The resignation shall be forwarded to the personnel director with a statement by the department head as to the rescinded employee's service performance and pertinent information concerning the cause for resignation. Failure to comply with the rule shall be entered on the service record of the employee and may be reason for denying future employment by the City.

Section 9 Employee Benefits

The personnel department will administer the Employee Benefit Plan as the apply to Personnel Procedures:

1. They will inform new employees of the various benefits to which they are entitled
2. They will assist new employees in the filing of forms
3. They will assist employees in resolving questions and problems with benefit plan providers
4. They will inform the treasurer's office of the plans employees have chosen so that proper payroll deductions will be made.
5. They will assist employees in making amendments to their benefits when necessary
6. They will act as liaison between the city and the benefit plan provider.

Section 10 Workers Compensation

1. Administer the City's Self Insurance Program
2. Verify that the Accident's forms submitted by the Department heads are completed properly
3. Forward all information requested by any/all legal firms handling our Worker's Compensation claims.
4. Verify all vouchers for payment
5. Verify the balance of sick time available to an employee until the Workers Compensation payments begin
6. Notify the Treasurer's Office when the employee is off the payroll and when to resume payments
7. Notify Retirement Board when to cease deduction and when to begin deductions again
8. File all records in an easily retrievable manner
9. Act as a liaison between the employee and any/all legal firms in any situation whether it be the payment of bills, necessary reports and disputes concerning the employee's availability for work, etc.

A. Safety Committee

The Director of Personnel will be the Chairperson for the Safety Committee.

The Personnel Department will do the follow-up on recommended safety improvements the safety Committee votes to implement.

The Personnel Department will be responsible for the typing of minutes and forwarding a copy of the minutes and a copy of the meeting agenda to each member of the committee before the meeting.

Section 11 Employee Assistance Program

The Personnel Department will coordinate with the Employee Assistance Program provider procedures to make all employees aware of the program. They will coordinate training sessions for Department Heads. These sessions will assist the Department Heads in recognizing employee problems and will offer suggestions for discussing with the employee.

The personnel department will monitor the use of the program and report once a year on it's effectiveness to the mayor.

Section 12 Drug and Alcohol Screening Program

The Personnel Department will write procedures for a Drug and Alcohol Screening Program to become part of the union contracts. They will periodically check the procedures to insure that the procedures are updated to meet current legal requirements.

The Director of Personnel will serve on the Drug and Alcohol Screening Program Review Committee. The discipline actions being reviewed by this committee will be kept in a locked file with only the Director having access. The employee's file that has been reviewed will be destroyed when:

1. The Committee did not agree the discipline was warranted
2. The Civil Service Commission rules against the city.
3. The Department Head has informed the director that he employee is following the procedures of the program
4. After one (1) year of the review or the Civil Service ruling whichever is later.

Section 13 Union Contracts

The Personnel Department will have current copies of all union contracts on file.

A. Negotiations

The Director of Personnel will act as Chief Negotiator for the City, with direction from the Mayor in the following negotiations:

1. DPW Local RI-96 NAGE
2. Superior Officers – IBOP Local 528
3. Patrolmen – IBOP Local 313
4. Firefighter – Local 971
5. City Hall Workers – Local RI-263 NAGE
6. And/or any other union recognized by the City of Woburn

The director will discuss all union's proposals with the Mayor before the start of any negotiation meeting.

The director will supply the Mayor, the City Solicitor and the Department Head with a summary of each negotiation meeting.

The director will submit all proposed union contracts to the City Solicitor before forwarding a copy to a union.

Section 14 Department of Personnel Administration (Civil Service)

A. Labor Service

The Personnel Department will be responsible for:

1. Applications:
   a. Time and date stamping
   b. Assigning the number to each application
   c. Following the procedures for filing and updating procedures established by the Department of Personnel Administration
   d. Supply list to departments with a Labor Service open position.

B. Appointments

The Director of Personnel will be the Labor Service Director. The director will be the appointing authority for all Labor Service positions for all departments.

C. Liaison

The Director of Personnel will act as the liaison to the Department of Personnel Administration.

D. Minorities and Women

The Personnel Department will notify the residents of the City of Woburn monthly of scheduled Civil Service Exams by television, newspaper and the posting of notices at social agencies within the city. These notices will encourage minorities and women to take the exams.

The Director of Personnel will utilize all methods of free advertising to accomplish this, but if said sources are insufficient to meet the requirements of the City's Affirmative Plan, then the Director will place monthly notices in local publications at the least possible cost.

Section 15 Massachusetts Commission Against Discrimination and A.D.A.

The Director of Personnel will act as the liaison to the Massachusetts Commission against Discrimination and for compliance with the ADA Act in the City of Woburn.

Section 16 Police Department

A. The Director of Personnel will be the coordinator of personnel procedures for the City of Woburn's Police Department Accreditation Plan.

B. The Director of Personnel will be the Administrator of the Psychological Testing for new appointees.

Section 17 Fire Department

A. The Director of Personnel will be the coordinator of personnel procedures for the City of Woburn's Fire Department Certification Plan.

B. The Director of Personnel will be the Administrator of the Psychological Testing for new appointees.

Section 18 Unemployment Procedures

A. Send inquiries from Department of Employment Security as received to the necessary department for completion.

B. File copies of benefits payments monthly.

C. Study once a year the cost of the program and submit report to the Mayor and City Council with a recommendation as to which program should be adhered to.

Section 19 Reserved

Section 20 Standards of Conduct

A. Prohibited Practices

No officer or employee of the City of Woburn, whether covered by this ordinance or exempt from it, shall:

1. Make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under any provision of their ordinance or the administrative regulations promulgated hereunder, or in the administrative regulations promulgated hereunder, or in any manner commit, or attempt to commit

any act preventing the impartial execution of this ordinance and attendant regulation.

2. Directly or indirectly, give, render, pay, offer, solicit or accept any money, service ort other valuable consideration for any appointment, proposed appointment, promotion to or advantage in a position in the service of the City of Woburn.
3. Use, or attempt to use official authority to coerce political actions to influence selections or promotions, to require political contributions or to retaliate for refusal to do such things.

B. Political Rights

Nothing in this ordinance shall be construed to limit the rights of officials or employees to express their views as citizens and to pursue their legitimate involvement in the political system.

Section 21 Amendments and Administrative Regulations

A. Amendments

The Director of Personnel shall from time to time recommend to the Mayor and/or the City Council amendments to this ordinance. If approved by the Mayor and/or the City Council such amendments shall become part of this ordinance.

B. Administrative Regulations

The Personnel Director shall recommend and the Mayor shall promulgate administrative regulations for the purpose of interpreting or giving effect to the provisions of this ordinance and insuring the proper functioning of the personnel system. Any regulation so promulgated shall be consistent with accepted merit principles as stated in Section 1.

Section 22 Reserved

Section 23 Severability

If any provision of this ordinance or of the administrative regulations hereunder shall be held invalid, the remainder of their ordinance and the administrative regulations shall not be affected hereby.

Section 24 Effective Date

This Ordinance shall take effect on _____. [written as passed]

(Ord. dated 2/4/86, B[part]; prior Ch. 14 sec. 149.; Ord. dated 3/14/89; Ord. dated 12/19/97)

2-42 (Reserved)

## VIII. CITY PHYSICIAN

2-43 Duties--Generally.

The City physician shall, under the direction of the board of health, visit and prescribe for all the sick and poor within the City. (Prior Ch. 17 sec. 1).

2-44 Vaccinations.

The City physician may vaccinate, free of charge, all persons sent to him by the board of health for that purpose. (Prior Ch. 17 sec. 2).

2-45 Examination of police candidates, officers and prisoners.

The City physician shall, when requested by the Mayor, the City Council or the chief of police, examine candidates for appointment upon the police force, the condition of officers absent from duty, applicants for pensions, and all cases of injury whereby the City may become liable. He shall, at the request of the chief of police, attend prisoners who require medical or surgical treatment. (Prior Ch. 17 sec. 3).

2-46 Annual report.

The City physician's annual report shall contain a statement of the amount of professional service rendered during the year preceding and such suggestions and information as he may deem proper or he may be requested to give. (Prior Ch. 17 sec. 4).

## IX. CLERK OF COMMITTEES

2-47 Duties.

The Clerk of committees shall act as the Clerk of all the committees of the City Council, either standing or special; and shall make proper records in books kept for the purpose of all the proceedings and transactions of each committee and shall notify the members of the committee, and shall perform such other clerical services as may be required of the Clerk from time to time by the committees. (Prior Ch. 7 sec. 1; Acts of 1900, Ch. 114).

2-48 Contacting of newly elected Councilors.

The Clerk of committees, following a City election in November, shall contact by mail all newly elected members to the City Council and invite them to attend all subcommittee meetings, with the privilege of speaking but not casting a vote, for the purpose of orientation. NOTE: The position of Clerk of committees was established under Chapter 114, Acts of 1900 as amended by Chapter 61, Acts of 1926, providing that a majority of all the members of the City Council shall elect such Clerk for a term of three years from the first Monday in February. (Prior Ch. 7 sec. 2).

## X. LAW DEPARTMENT.

2-49 City Solicitor--Qualifications.

The law department shall be under the charge of the City Solicitor who shall be an attorney and counselor of the Courts of the Commonwealth. The City Solicitor, whoever it may be, shall appoint an assistant City Solicitor. (Prior Ch. 13 sec. 1).

2-50 Drafting of bonds, deeds and other official documents.

The City Solicitor shall draft all bonds, deeds, obligations, contracts, leases, conveyances, agreements and other legal instruments of whatever nature which may be required of him by any ordinance, or order of the Mayor, the City Council, or may be required of any person contracting with the City and which, by law, usage or agreement, the City should furnish. (Prior Ch. 13 sec. 2).

2-51 Signing of contracts.

All contracts entered into by the City shall be signed by the City Solicitor as to the legality of such contract. (Prior Ch. 13 sec. 2A).

2-52 Prosecution of actions and suits.

The City Solicitor shall prosecute all actions and suits commenced by the City before any tribunal in the Commonwealth, whether at law or in equity, and he shall also appear in, defend and advocate the rights or interests of the City, and when directed by the Mayor and/or the City Council shall defend any of its officers in any suit or prosecution for any act of the City government, or any breach of any ordinance which may be brought in question. (Prior Ch. 13 sec. 3).

2-53 Furnishing of legal opinions.

The City Solicitor shall furnish, when so requested in writing, to the Mayor, the City Council or any committee thereof, or any officer or board that may require it in the official discharge of its duties, his legal opinion on any subject touching the duties of the respective offices, and all opinions furnished by him, having reference to matters of public interest, shall be printed annually with the documents usually printed by order of the City Council. (Prior Ch. 13 sec. 4).

2-54. Annual report.

The annual report of the City Solicitor shall include a brief statement of cases pending or decided during the preceding year, to which the City was a party. (Prior Ch. 1 sec. 5).

2-55 Compensation in excess of established salary--Vote of Council.

The City Council, on recommendation of the Mayor, may in any fiscal year vote the City Solicitor compensation for services rendered in excess of the salary now provided in Section 2-180 of this code. (Prior Ch. 13 sec. 6).

2-56 Clerical and Professional Assistance.

The City Solicitor shall appoint a secretary/paralegal to the City Solicitor and a part-time clerk who shall do the clerical work in the office of the law department and perform such other duties in the office as the City Solicitor may prescribe, and may appoint outside counsel when authorized by the Mayor or by law.(Prior Ch. 13 sec. 7; Ord. dated 12/31/88).

2-57 City Council approval required for settlements in excess of one thousand dollars.

All claims, liens, suits, at law or in equity, and/or all other related matters wherein the City seeks money damages, no settlements, adjustments and/or compromise of any claim or suit in excess of one thousand dollars shall be effected without a 2/3 vote of approval of the City Council of the City. Any such settlement, adjustment and/or compromise effected without the aforementioned vote of approval of the City Council shall be null and void and not binding on the City. (Prior Ch. 13 sec. 8).

2-58 (Reserved)

**XI. POLICE DEPARTMENT**

2-59 Composition of Department.

The Police Department shall consist of the following personnel divisions:

A. Regular and Reserve Force. This division shall consist of the Chief of Police; three (3) Captains; four (4) Lieutenants; nine (9) Sergeants; fifty-eight (58) Police Officers; sixteen (16) Reserve Police Officers, and five (5) Civilian Dispatchers.

B .Clerical. This division shall consist of one (1) Secretary; two (2) Principal Clerks, and one (1) Junior Clerk.

C. Other. Other personnel shall include one (1) full-time Dog Officer, and one (1) part-time Parking Clerk.
(Prior Ch. 18 sec.1; Ord. dated 02/08/88).

2-60 Appointment of Chief and other Officers.

So far as it is consistent with Massachusetts G.L., Chapter 31, the Chief of Police shall be appointed by the Mayor in accordance with the Charter, Title VI, Section 32, paragraph six, as well as any subordinate Officers as may be prescribed by ordinance. (Prior Ch.18 sec. 2).

2-61 Oath required.

Each member of the Police Department shall be sworn to the faithful discharge of his duties. All persons selected for appointment to the Police Department, either as a Reserve Officer or a Permanent Officer of such Department, shall take and subscribe to the Oath of Office contained in the "Rules and Regulations for the Government of the Police Department of the City of Woburn" , as adopted by the City Council on July 1, 1980, and approved by the Mayor on July 8, 1980. (Prior Ch. 18 sec. 3)

2-62 Physical and mental examinations required.

Before confirming any person to be a member of the Police Department, either as a Reserve Officer or a Permanent Officer of such Department, such person shall be examined both physically and mentally by a physician or physicians designated by the appointing authority, who shall report his examination to the Mayor. (Prior Ch. 18 sec. 4)

2-63 Rules and Regulations of the Department.

"The Rules and Regulations for the Government of the Police Department of the City of Woburn" are hereby adopted for the Woburn Police Department.(Ord. dated July 8, 1980).

2-64 Chief of Police--Duties.

The Chief of Police is the chief administrative officer of the Police Department and the final authority in all matters of policy, operations, and discipline. He exercises all lawful powers of his office and issues such lawful orders as are necessary to assure the effective performance of the Department. Through the Chief of Police the Department is responsible for the enforcement of all laws coming within its legal jurisdiction. The Chief of Police is responsible for planning, directing, coordinating, controlling, and staffing all activities of the Department. He is also responsible for its continued and efficient operation, for the enforcement of rules and regulations within the Department, for the completion and forwarding of such reports as may be required by competent authority, and for the Department's relations with local citizens, the local government, and other related agencies. He is responsible for the training of all members of the Department and shall perform his duties in a manner consistent with the Job Description for the Chief of Police Chief contained, in the "Rules and Regulations for the Government of the Police Department of the City of Woburn ", as adopted by the City Council on July 1, 1980 and approved by the Mayor on July 8, 1980. He shall report to the Mayor, annually in the month of January, the condition of the Department, with a synopsis of its doings for the preceding year. (Prior Ch.18 sec.5).

2-65 Chief of Police--Appearance in court for prosecution of violations.

The Chief of Police shall have charge of all complaints made to the Police Department by citizens or by members thereof for any breach of the criminal law and the ordinances of the City, and either he or his designee shall appear in court to prosecute all violations thereof. (Prior Ch. 18 sec.6).

2-66 Chief of Police--Record of arrests and disposition of complaints.

The Chief of Police shall keep a record, with a suitable index, of all persons arrested, with the name of the arresting officers and the place of birth, age, height, complexion, residence and offense of the person arrested, with such other description or data as may be useful for identification. When complaints are made, the Chief of Police shall make a record of the result thereof, together with the fees of officers and witnesses. (Prior Ch. 18 sec.7).

2-67 Chief of Police--Report to Treasurer of fines and fees--removal of nuisances.

In the months of March, June, September and December, the Chief of Police shall give to the Treasurer correct lists of all fines and fees which inure to the City. Upon notice from the office of public works, the Chief of Police shall cause all nuisances and obstructions to be removed from any highway, lane, square, sidewalk, or bridge in the City and shall perform such other duties as may be required of him by ordinance. (Prior Ch. 18 sec.8).

2-68 (Reserved)

2-69 (Reserved)

2-70 Duties of members.

Each member of the Police Department shall perform his duties in a manner consistent with the Job Description for his position contained in the " Rules and Regulations for the Government of the Police Department of the City of Woburn ", as adopted by the City Council on July 1, 1980 and approved by the Mayor on July 8, 1980. (Prior Ch.18 sec.11).

2-71 Enforcement of laws and ordinances.

It is the duty of all members of the Police Department to enforce the laws of the Commonwealth, the laws and ordinances of the City, and to do or perform such other acts as may be connected with their office or incidental thereto. (Prior Ch. 18 sec.12).

2-72 (Reserved)

2-73 Uniforms and equipment.

All of the members of the Police Department, except plainclothes men, so-called, shall wear the prescribed police uniform and badge while on duty and shall carry a loaded firearm and police baton, as issued and authorized by the Chief of Police in accordance with the " Rules and Regulations for the Government of the Police Department of the City of Woburn ", as adopted by the City Council on July 1, 1980 and approved by the Mayor on July 8, 1980. (Prior Ch. 18 sec.14).

2-74 (Reserved)

2-75 (Reserved)

2-76 (Reserved)

2-77 (Reserved)

2-78 Use of weapons.

A. No person shall, except as authorized or required by law, fire or discharge any gun, fowling piece or other firearm or an air rifle in the City, but the provisions of this section shall not apply to the Chief of Police or other police officer in the performance of their duties, nor to the use of such weapons at any military exercise, or at an established rifle range, or in the lawful defense of the person, family or property of any citizen, nor to the rights and privileges of an owner or lessee of land as set forth in Chapter 131 of the Massachusetts General Laws; nor shall the provisions of the ordinance codified in this section be applied against any incorporated or unincorporated group of individuals who are organized under the auspices of, and supervised by, the New England Field Trial Association, and when such group, endorsed and supervised by said association, convenes for the purpose of holding field trials.

B. Whosoever violates the provisions of this section shall be punished by a fine not exceeding two hundred dollars for each offense. (Prior Ch. 18 sec.19).

## XII. FIRE DEPARTMENT

2-79 Personnel – Appointing Authority - Reserve List

A. The Fire Department shall consist of the Fire Chief, one Deputy Fire Chief, five Captains, seventeen Lieutenants, forty-eight Firefighters, two administrative staff positions, and as many other officers and members as the City shall from time to time determine. The Fire Chief shall be the appointing authority for all members of the Fire Department with the exception of the Deputy Fire Chief who shall be appointed by the Mayor. (amended 9/3/2015)

B. There is established a reserve fire force consisting of up to eighteen Firefighters.

2-80 Fire Chief—Powers and Duties.

A. The Fire Chief shall be the chief administrator of the Fire Department, shall devote his entire time to the service of the Fire Department, shall be responsible for its efficiency and discipline, and shall have control and supervision of all City property used by the Fire Department.

B. The Fire Chief shall have sole and absolute control and command of the Fire Department and the Ambulance service and shall be responsible for assigning the members of the Fire Department to their respective duties.

C. The Fire Chief shall have absolute control at fires and alarms, or whenever the Fire Department is on duty, and shall direct such measures as are necessary for the protection of life and property and for the control and extinguishment of fires.

D. The Fire Chief or his designee shall issue or revoke all permits required by the provisions of M.G.L. c.148, §1 et seq., or the NFPA Fire Code (NFPA 1, 12th Edition) as amended.

E. Any additional duties as enumerated in the Fire Chief's employment contract with the City.

2-81 Deputy Fire Chief – Duties

A. The Deputy Fire Chief shall work under the direction of the Fire Chief and will be responsible for the advanced administrative and management responsibilities related to planning, directing, and reviewing the activities and operations of the Fire Department.

B. The Deputy Fire Chief serves to assist the Fire Chief by assuming administrative responsibility for the operations and resource management of the Fire Department in overseeing areas of fire suppression, emergency medical services (EMS), fire prevention, training, administrative support, and related activities. The Deputy Fire Chief provides highly responsible and complex executive level support to the Fire Chief as part of the management team and performs tasks that require the application of considerable independent judgment and discretion in carrying out daily duties and operations.

C. Under the direction of the Fire Chief, the Deputy Fire Chief assists in the planning, organizing and directing activities of the Fire Department to ensure uniformity, efficiency and safety.

D. The Deputy Fire Chief assists in carrying out all operations (emergency and non-emergency) of the Fire Department and assumes the duties of the Fire Chief in his absence.

E. The Deputy Fire Chief assists with the development and administration of policies and procedures.

F. The Deputy Fire Chief administers and supports an effective chain of command for flow of information from each work group and their companies to the Fire Chief, and vice versa; placing considerable emphasis on keeping informed of all significant activity within the Fire Department.

(amended 9/3/2015)

G. The Assistant Fire Chief is on call 24 hours a day: responds to emergencies as necessary and assumes an appropriate role within the Incident Management System on scene.

H. The Assistant Fire Chief assists the Fire Chief in preparing proposed budgets for each fiscal year, serves as a member of the Fire Chief's staff; attends meetings, conferences and workshops as required, and is responsible for delivering and upholding the mission, vision, and organizational values of the Fire Department with the highest ethical and moral standards.

I. The Assistant Fire Chief shall perform any other duties assigned by the Fire Chief.

2-82 Fire apparatus not to be removed from City.

Except in cases where mutual aid assistance is requested, no part of the fire apparatus shall be taken from the City without special permission from the Mayor or the Fire Chief. (Prior Ch. 11 sec.12).

2-83 Driving over hoses.

Whenever any hose is placed in any street by order of an officer of the Fire Department, no person shall drive any vehicle upon or over the same without the consent of an officer of the Fire Department. (Prior Ch.11 sec.13).

2-84 Right-of-way.

The members of the Fire Department, with the engines, ambulances and other apparatus thereof, shall have the right-of-way while going to a fire or responding to an alarm or medical emergency call through any street in the City. Owners and drivers of motor vehicles in any street in which any fire or emergency apparatus is approaching while going to a fire or responding to an alarm or medical emergency shall without delay move such vehicles to such positions as will not interfere with a free and unobstructed passage for such fire apparatus. Operators of motor vehicles upon the approach in either direction of any apparatus going to a fire or responding to an alarm or medical emergency shall as quickly as passenger safety will permit bring such motor vehicle to a full stop until the fire apparatus has passed a reasonable distance beyond the motor vehicle. (Prior Ch. 11 sec.14).

2-85 Mutual Aid – Immunities and Privileges

While providing mutual aid assistance to another City, town or fire district and while in the performance of their duties in extending such aid, the members of the Fire Department shall have the same immunities and privileges as if performing the same within the City of Woburn. (Prior Ch. 11 sec.18).

2-86 Cleaning of snow from fire hydrants.

The Fire Department shall be responsible for the cleaning of snow from around the fire hydrants after a snow storm. (Prior Ch. 11 sec.20).

2-87 Fees for inspections and permits.

TYPE OF PERMITS OR INSPECTIONS FEE/TIME

1. Oil burner completions, inspection and permit .....$25.00 per job
   and tank installation for oil burner
2. Propane storage, inspection and permit .....$50.00 per job
3. Flammable fluids and gases (M.G.L. c.148, §9) ..... $40.00 one year
4. Storage of black or smokeless powder ..... $25.00 one year
5. Blasting Permit ..... $50.00 per job
6. Tank Removal ..... $50.00 per tank
7. Installation of combustible/flammable liquid tank..... $50.00 per tank
8. Fireworks display ..... $50.00 per event
9. Flammable decorations (NFPA 1)…… .....$15.00 one year
10. Tar kettle ..... $50.00 per job
11. Tar truck ..... $50.00 per job
12. Tank truck inspections ..... $75.00 two years
13. Copies of fire or ambulance reports ..... $25.00 per copy
14. Smoke and/or Carbon Monoxide detectors (M.G.L. c.148, §26/NFPA 1)
    One Unit .....$50.00 per inspection
    Two Unit ..... $100.00 per inspection
    Three to Six Unit .....$150.00 per inspection
    Over Six Units ..... $500.00 per inspection
15. Buildings, as defined by M.G.L. c. 148, §1 .....$50.00 per inspection
16. Motel and hotel .....$25.00 per inspection
17. Theatres ..... $50.00 per inspection
18. Fire Alarm master box connection .....$250.00 per year
19. Central office and other signal to fire alarm ..... $125.00 per year

All other fees not listed, but required by M.G.L. c.148, §10A….$25.00

2-88 Fees for False Alarms

A. For buildings which have an Automatic Fire Alarm System (AFAS) connected directly to the Fire Department or connected indirectly to said Department through a private alarm company, a fee will be charged by the Fire Department for all responses by the Department to such buildings, where the response is caused by the activation of the AFAS. The fee may be assessed against the owner or tenant of the building.

B. No fee will be charged in the following circumstances:

1. Where the AFAS was activated by an actual fire.
2. Where the AFAS was activated by smoke from a source such as burning food or an overheated motor or overheated electrical appliance or other equipment.
3. Where someone with reasonable cause, activates a manual pull station.
4. For 60 days following the installation of a new AFAS.

C. No fee will be charged for the first 3 responses in any six-month period, i.e., between January 1 and June 30, or between July 1 and December 31. After the third response in any six-month period as stated above, the following fees will be assessed for subsequent responses within that period:

Fourth response:…….$ 50.00
Fifth response:……...$ 75.00
Sixth response:……..$100.00
Seventh response:……$150.00
Eighth and subsequent responses:……$200.00

2-89 Fire Stations – Number and Location

Five fire stations shall be maintained as follows:

A. Station 1 on corner of Main and Hudson Streets;
B. Station 3, located on Main Street, opposite Clinton, also called Central Fire Station;
C. Station 4 on Central Street, East Woburn;
D. Station 5 on corner of Lexington and Willow Streets;
E. Station 7, Main Street and corner of Nichols Street.(Prior Ch. 11 sec.2).

2-90– 2-99 (Reserved)

(Amended 4/20/84; 9/28/84; 06/24/87; 03/09/90; 07/19/91; 12/17/91; 3/23/2007; 1/22/2015; Prior Ch. XI, Secs. 2-19, 20, 23.)

## XIII. AUDITING DEPARTMENT

2-100 Election of City Auditor

In accordance with Title III, Section 14, of the City Charter, the City Council shall elect a City Auditor. The City Auditor shall have charge of the auditing department, and to the extent consistent with statutes, be subject to supervision of the standing Committee on Audits and Accounts. (Prior Ch. 3 sec.1).

2-101 Powers, duties and responsibilities

In addition to the powers, duties and responsibilities imposed upon the City Auditor by the City Charter, M.G.L. c.41, §§ 48 through 54A, and any other applicable general and special statutes, the City Auditor shall have such additional powers, responsibilities and duties as are established by ordinance. (Prior Ch. 3 sec.2).

2-102 Books and records to be kept

The City Auditor shall cause a complete set of books to be kept, consistent with the uniform accounting systems prescribed by M.G.L., c.44, §38, in which books shall be entered the amount of each specific appropriation, the amounts and purpose of expenditures made therefrom, and receipts from all sources of income, and disbursements therefrom. In such books shall also be entered records of charges against the Treasurer/Collector and other administrative officials for accounts for which they are responsible and collections or other credits applicable thereto. Such records shall also include a detailed record of the City debt, showing the purpose for which it was incurred, maturity date and the rate of interest. (Prior Ch. 3 sec.3).

2-103 Filing of records and reports with City Auditor

All administrative boards, commissions and officers shall keep such records and reports of bills, payrolls and accounts as may be prescribed by the Auditor and in such form as he may determine, consistent with M.G.L. c.44, §38, the uniform accounting system. . All administrative boards, commissions and officers shall furnish the City Auditor with such records and reports as the City Auditor may require. (Prior Ch. 3 sec.4).

2-104 Bill collection schedules to be filed with City Auditor

All administrative boards, commissions and officers shall file with the City Auditor a schedule of bills which are to be committed to the Treasurer/Collector for collection. The Treasurer/Collector shall report to the City Auditor, in prescribed detail, collections to be credited thereto. (Prior Ch. 3 sec.5).

2-105 Statement of departmental receipts to be filed with City Auditor

All boards, officers and departments receiving fees, costs, charges, commissions or other moneys allowed by law for and in behalf of the City shall, upon paying the same to the Treasurer/Collector, file with the City Auditor an itemized statement of the sources from which such fees or moneys were received, together with the amount thereof.(Prior Ch.3 sec.6).

2-106 Countersigning of bonds, notes and certificates; Records to be kept

The City Auditor shall countersign all bonds, notes and certificates of indebtedness issued by the Treasurer/Collector, as authorized by the Mayor and the City Council. The City Auditor shall keep a record of all bonds, notes and certificates which have been countersigned and approved. (Prior code Ch. 3 sec.7).

2-107 Custodian of bonds, contracts and other legal instruments--Register of sureties of bonds

The bonds of the Treasurer/Collector, City Clerk, assistant City Clerk and any other administrative officials and employees and all other contracts, deeds, agreements and other legal instruments to which the City may be a party shall be in the custody of the City auditor, unless otherwise specifically provided for in the Charter, General or Special Laws, or in this code. The City auditor shall direct the keeping of a register of the sureties of all bonds of indemnity given to the City. (Prior Ch.3 sec.8).

2-108 Annual report to Mayor and City Council

A. The City Auditor shall make an annual report to the Mayor and the City Council which shall include a statement of the following: 1. All receipts and expenditures of the City for the preceding financial year; 2. Trust and investment funds; 3. Debt transactions during the year including the outstanding debt as of the end of financial year; 4. The reduction or increase of the City debts; 5. Detailed amounts of each specific appropriation and the expenditures therefrom; 6. The receipts from each source of income.

B. The statement shall be arranged as far as practicable to conform to the accounts of the Treasurer/Collector, and shall be accompanied by a schedule of the property belonging to the City, and by an exhibit showing the debts due from the City, the interest thereof, and the years in which such debt will become due. (Prior Ch. 3 sec.9).

2-109 Examination of bills and demands

The City Auditor shall examine all bills and demands against the City, shall see that the clerical computations are correct, and that there are on hand funds appropriated for such purpose sufficient for the payment of such demand or bill. In case of any error or informality, the City Auditor shall make note of the fact, and return the bill or demand, with his objections, to the officer or board presenting the same. Such bills as the City Auditor approves, he shall present to the Committee on Audits and Accounts as provided in Section 2-110. Such bills shall be subject to deduction for any and all sums due to the City and the City Auditor shall certify the

amount to be deducted to the Treasurer/Collector who shall thereupon withhold such amount due the City. (Prior Ch. 3 sec.11).

2-110 Committee on Audits and Accounts to examine accounts and claims

The City Council's standing Committee on Audits and Accounts shall meet weekly, and carefully examine all accounts and claims against the City which shall be presented to it by the City Auditor, and after comparing them with his record, shall allow and pass the same if found to be properly entered; but no bill shall be allowed or passed by the committee unless the same shall have been approved and certified in the manner prescribed by M.G.L. c.41, § 52, and by the provisions of this Article. When the Committee on Audits and Accounts has doubt concerning any bill or account, it shall return the same to the board or committee approving, for explanation, and if not satisfactorily explained, it shall be reported to the City Council for consideration and final decision. (Prior Ch. 3 sec.12).

2-111 Presentation of accounts to Mayor

A. Each week the City Auditor shall present to the Mayor all accounts against the City which have been allowed and passed by the Committee on Audits and Accounts, or which have been approved by him if the Committee on Audits and Accounts has failed to hold the meeting provided for in Section 2-110. The provisions of this section shall not limit the authority of the Mayor to draw orders on the Treasurer/Collector for payment of accounts and claims approved by the City Auditor or the authority of the Treasurer/Collector to pay such accounts and claims in any week in which the committee on Audits and Accounts does not hold the meeting as provided for in Section 2-110.

B. The City Auditor shall examine and, if he finds them correct and in conformity with the provisions of M.G.L. c.41, §52, he shall approve all weekly payrolls submitted to him under the provisions of Section 3-8 of this code, and on Tuesday of each week he shall present to the Mayor such payrolls as he approves. (Prior Ch. 3 sec.13).

2-112 Approval of certain large bills

Whenever a contract with the City or any department thereof is in excess of one hundred thousand dollars, the City Auditor may approve and present to the Mayor such bill or part thereof as may be set forth in a properly approved requisition for prompt payment without requiring that a discount be given, provided that the officer or agent of the City or department thereof who contracted the bill shall have approved. (Prior Ch. 3 sec. 15)

2-113 Appropriations

A. The City Auditor shall keep a complete set of books, in which shall be entered the amount of each specific appropriation and of sums accredited thereto, and each amount that has been expended on account of such appropriation. He shall notify the Mayor whenever the expenditure of a department has been wholly expended, immediately make a report of the fact to the department, to the Mayor and to the Committee on Audits and Accounts, which Committee shall not pass or allow any claim or account chargeable against such appropriation until the City Council provides the means of paying for same with the Mayor's approval. The City Auditor shall once in each month, furnish the Mayor and City Council with a statement, showing the condition of each account, giving the amount of appropriation, expenditures and unexpended balances under the same, and showing the amount of receipts itemized in the same manner as estimated receipts in the annual budget.

B. In accordance with Section 40 of the City Charter, the annual budget, together with any supplemental appropriations passed by the City Council, shall be considered to have been passed as, and shall be set up and maintained as, a line item budget. Each line and separate account, as shown on the annual budget, shall be considered a separate and distinct appropriation. (Prior Ch. 3 sec.16).

2-114 Accounts with Treasurer/Collector

The City Auditor shall keep an account with the Treasurer/Collector, charging him with the whole amount of taxes assessed for collection, and the amount of loans and sums that may be borrowed for the City and with all securities and such receivables. He shall also keep a schedule of all property belonging to the City. (Prior Ch. 3 sec.17)

2-115 Signing of orders and bonds drawn by Mayor.

The City Auditor shall sign all orders drawn by the Mayor on the Treasurer/Collector as provided in Section 3-1 of this Code; and with the Mayor and Treasurer/Collector shall sign all bonds and certificates of indebtedness issued by the City. (Prior Ch. 3 sec.18).

2-116 Examination of accounts of other officers

The City Auditor shall from time to time examine the books and accounts of all officers of the City entrusted with the receipt, custody or expenditures of money, and all original bills and vouchers on which moneys have been or may be paid from the Treasurer/Collector to the City. The City Auditor shall have free access to the

books, accounts, bills and vouchers at all times and may make examination thereof, but he shall examine the same at least once a year. (Prior Ch. 3 sec.19).

2-117 Deputy Auditor

The City Auditor may in writing appoint, with the approval of the Mayor, a Deputy Auditor, who shall be sworn to the faithful performance of his/her duties, and a record shall be made of his appointment and oath so taken. Unless a temporary officer is appointed in accordance with law, the Deputy Auditor may, in the absence of the City Auditor, perform those duties and when performing such duties shall have the powers, not in derogation of the statute and be subject to the requirements and penalties applicable to him/her. The Deputy Auditor shall assist in the daily management of the office and is authorized to direct and supervise the employees in their tasks and the conduct of the department. The person appointed as Deputy Auditor hereunder may receive a salary from the City for services as such in the amount of $59,000. (Prior Ch. 3 sec.21; amended 5/10/2004; 12/10/2004; 9/12/2006; 12/23/2010).

2-118 Clerical Assistance

The City Auditor shall appoint one administrative assistant, one head clerk and one junior clerk who shall do the clerical work in the office of the City Auditor and perform such other duties in the office as the City Auditor may prescribe. (Ord. dated 06/10/88. Prior Ch. III sec.21; amended 7/10/98). (Prior Ch. 3 sec.21; amended 5/10/2004).

(Sections 2-119 through 2-120 reserved)

(amended 6/4/2015)

## XIV. VETERANS' BENEFITS DEPARTMENT

2-121 Appointment of Director Agent.

The Mayor shall annually appoint in April, in accordance with Massachusetts General Law, Chapter 115, a veteran's agent who shall be titled Veterans Director-Agent, and be the head of the Veterans' Benefits Department. Said Director-Agent shall be a veteran as provided by (Chapter 68, Acts of 1984.) Said Director-Agent shall make disbursements of veterans' benefits by the City as provided by law and regulations. The Director-Agent shall assume all the duties and powers heretofore performed by the Investigator of the Department, by investigating all applications for benefits, and render such aid and assistance as is in his or her judgement necessary. He or she shall also perform all the duties imposed by the provisions of said Chapter 115, as from time to time amended, insofar as the same may be

applicable to the title and the Department. (Ord. dated 03/12/87; Prior Ch. 28 sec.1).

2-122 Clerks.

The said Department shall have one Head Clerk with name to be taken from the Civil Service List and appointed by the Department Head. (Ord. 03/12/87; Prior Ch.28 sec.2). (Amended 11/16/93)

## XV. CEMETERY DEPARTMENT

2-123 Composition of department.

The cemetery department shall consist of the following:

A. The superintendent of cemeteries;
B. One permanent work foreman;
C. One permanent heavy equipment operator;
D. One permanent motor equipment operator;
E. One permanent maintenance man;
F. One permanent intermittent mason;
G. Four permanent intermittent laborers; and
H. One permanent senior clerk. (Ord. dated 8/20/84(part)).

2-124 Appointment of superintendent and other employees.

Consistent with civil service rules and regulations, the superintendent and other cemetery employees shall be appointed by the cemetery commission. (Ord. dated 8/20/84 [part]).

2-125 Burial of still-borns.

All residents, present and past, and those individuals employed by the City, are entitled to burial rights for still-borns in a lot maintained for such burial, by the City and coming under the management of the board of cemetery commissioners of the City. (Prior Ch. 30 sec.4).

## XVI DATA PROCESSING DEPARTMENT

2-126 Manager of Information Systems.

A. The Mayor shall appoint a person to be the Manager of Information Systems. The Manager shall be responsible for all management information systems, all voice and data systems, all hardware, software and vendor systems for the City

of Woburn. The Manager will work with all City departments to determine their requirements for information systems support. The Manager shall implement the selected systems and provide support for operation and maintenance of the systems on an on-going basis.

The Manager of Information Systems will establish plans, policies and procedures; will install and implement all phases of the required systems; provide daily support for the systems, sub-systems, methods and necessary training.

(Ord. added 10/9/98)

**XVII. PLANNING BOARD**

2-127 Establishment.

A. A planning board for the City is established under the provision of Massachusetts General Laws, Chapter 41, Section 81A.

B. The planning board shall have the powers and authority and perform the duties set forth in Massachusetts General Laws, Chapter 41, Section 10, et seq., and amendments thereto.

C. The planning board shall consist of seven members, two with the following qualifications: 1. An attorney; 2. An individual who has a civil engineering degree, or equivalent civil engineering work experience.

D. Each member of the planning board shall serve for a term of five years and shall be a resident of the City.

E. The planning board shall cause to be published in the local newspaper of general circulation a list of all plans approved or denied by it on Wednesday next following its meeting. Included shall be any plans submitted under the subdivision control law not required. (Two ords. Dated 8/20/84: prior Ch. 16 sec.9).

2-128 Director of the Planning Board.

1. The position shall be full-time, five days per week, with attendance at Planning Board meetings.

2. The qualifications, duties and responsibilities shall be: a. formal schooling with a Bachelor's Degree from an accredited college or university in public administration or allied study. Equivalent work experience may be substituted

for a degree; b. experience of at least one year in office supervision and related duties; knowledge of building construction, building and zoning codes, plan reading, community planning and development; c. directing all the activities of the Planning Board; receive and coordinate all applications and plans filed with the Board; attend all meetings of the Board; supervise all other employees of the Board; maintain files and records of the Board; inspect any land or subdivision as required; assist other municipal officials in matters related to the Planning Board, including the other boards and City Council; d. responsible for organizing all materials for the meetings of the Planning Board; for the Board's minutes, its agendas and the carrying out of its decisions; representing the Board's interests, views and authority before other local officials or tribunals, and before state or federal tribunals or agencies; and such other duties and responsibilities as set forth by the ordinances and the Planning Board.

3. Appointment is to be made by the Mayor, subject to the City Council's confirmation. (Ords. dated 1/22/87, 11/26/90; 3/7/95; prior Ch. XVI, sec.9; amended 12/20/2001).

2-129 Secretary of the Planning Board.

A. There shall be a secretary to the planning board.

B. The experience of the secretary shall be as required by the planning board.

C. The duties of the secretary shall include typing, filing and other related secretarial duties as assigned by the planning board.

D. The secretary must attend night meetings. (Editorially amended during 1987 recodification: Ord. dated 9/27/84; also Ord. dated 08/24/87, setting position of secretary at junior clerk level; Ord. dated 10/24/97 “setting position of secretary at principal clerk level”).

2-129A Grant Writer.

This position shall be responsible for writing and overseeing grant proposals on behalf of the City of Woburn. The range of proposals researched shall be consistent with the policies of the Mayors Office. This individual shall work with all city departments at the direction of the Mayor. The duties of this position require this person to collaborate with internal and external groups to fashion the best proposals possible. This includes research and writing of proposals, obtaining written commitments from internal and external groups, lobbying state and federal representatives on behalf of active proposals. It also includes tracking existing grants for the purpose of resubmission. It also includes notifying department heads of funding opportunities.

The grant writer shall not be responsible for financial and managerial reporting requirements of state and federal grants unless specifically designated and approved by the Mayor. All financial and progress reports shall be handled by the designated program director or department head.

The grant writer will be required to garner at least his or her salary and all other compensation in grant awards within the first 18 months and the same every 12 months thereafter. It will be the right of the city council and or the Mayor to conduct a performance review if this award level is not met. These hearings may result in termination of further employment. This person shall be appointed by the Mayor with confirmation from the city council. A B.A. degree shall be required and two years of grant-writing experience preferred. (added 7/22/2002)

## XVIII. BOARD OF ASSESSORS

2-130 Mayor to appoint board.

As required by Title VI, Section 32, fourth paragraph of the Charter, and subject to Massachusetts General Laws, Chapter 41, Section 24, the Mayor shall appoint a board of assessors consisting of three persons. A vacancy may be filled for the unexpired term in the same manner as the original appointment. (Prior Ch. 2 sec.1).

2-131 Organization.

The board of assessors shall organize as provided for by General Laws, Ch.41, Sec. 24, consistently with the applicable provisions of the Charter.(Prior Ch. 2 sec.2).

2-132 Assistant assessors.

The board of assessors may appoint assistant assessors according to the provisions of the General Laws, Chapter 41, Section 25A. (Prior Ch. 2 sec.3).

2-133 Duties--Generally.

The board of assessors shall cause all taxes to be computed that are required by the City to meet the annual expenditures, and perform all other duties as required under the General Laws, Chapter 59 and 60A, applicable to boards of assessors. (Prior Ch. 2 sec.4).

2-134 Chief Appraiser/Department Manager.

There shall be a full-time Chief Appraiser who shall act also as Department

Manager, appointed by the Board, with the approval of the Mayor. The qualifications and duties of said position shall be as set forth in the Personnel Manual of the Personnel Committee of the City Council. The salary range shall be between 50,000 and 60,000 dollars per year.

2-135 Senior Appraiser/Assistant Assessor.

There shall be a full-time Senior Appraiser/Assistant Assessor, appointed by the Board, with the recommendation of the Chief Appraiser. The qualifications and duties of said position shall be as set forth in the Personnel Manual of the Personnel Committee of the City Council. The salary range shall be between 36,000 and 42,000 dollars per year.

2-136 Appraiser/Assistant Assessor.

There shall be a full-time Appraiser/Assistant Assessor, appointed by the Board, with the recommendation on the Chief Appraiser. The qualifications and duties of said position shall be as set forth in the Personnel Manual of the Personnel Committee of the City Council. The salary range shall be between 30,000 and 34,000 dollars per year.

2-137 Department Systems Manager.

There shall be a full-time Department Systems Manager, appointed by the Board, with the recommendation of the Chief Appraiser. The qualifications and duties of said position shall be as set forth in the Personnel Manual of the Personnel Committee of the City Council. The salary range shall be between 30,000 and 34,000 dollars per year.

2-138 Office Supervisor/Assessment Analyst.

There shall be a full-time Office Supervisor who is also an Assessment Analyst, appointed by the Board, with the recommendation of the Chief Appraiser. The qualifications and duties of said position shall be as set forth in the Personnel Manual of the Personnel Committee of the City Council. The salary range shall be between 22,000 and 26,000 dollars per year.

2-139 Principal Clerk/Personal Property and Excise Tax Analyst; Senior Clerk/Word Processing Clerk.

A. There shall be a Principal Clerk who also acts as a Personal Property and Excise Tax Analyst, and who shall be appointed by the Board upon the recommendation of the Chief Appraiser, and according to any collective bargaining provisions in force covering clerical positions.

B. There shall be a Senior Clerk who shall also be the Word Processing Clerk, appointed by the Board upon the recommendation of the Chief Appraiser, and according to any collective bargaining provisions in force covering clerical positions.(Ord. dated 06/24/87; prior Ch II, sec.sec.4-10).

2-140 Bimonthly report of assessors to City Council.

A. The assessor's department shall be required to submit to each member of the City Council a bimonthly report of all abatements given within the past calendar month. They are required also to list the name, address and total amount of the money involved with each transaction.

B. This ordinance shall not apply to statutory abatements pertaining to disabled veterans, handicapped people, widows, senior citizens and elderly over 70 years of age. (Prior Ch. II sec.11).

## XIX. DEPARTMENT OF INSPECTION SERVICES

2-141 Personnel.

There is established in the government of the City a department of inspection services, which department shall be comprised of the following personnel:

A. Building Commissioner. The term "building commissioner" shall mean as that term is defined and used in Massachusetts General Laws Annotated, Chapter 143, Sections 1 and 3. The building commissioner shall have all the powers, duties and responsibilities more particularly outlined and defined in said Massachusetts General Laws Annotated, Chapter 143, and such other duties and responsibilities as may elsewhere be specified within the General Laws of Massachusetts for the office. Additionally, the Building Commissioner shall have the duties, responsibilities and obligations which are described, specified and outlined in the 1985 zoning ordinance, Section 3.

B. Local Inspector--Residential. The term "local inspector" shall mean as that term is defined and used in Massachusetts General Laws Annotated, Chapter 143, Sections 1 and 3. The local inspector shall have all the powers, duties and responsibilities more particularly outlined and defined in said Massachusetts General Laws Annotated, Chapter 143, except that the local inspector under this subsection shall be more primarily involved with residential uses of real property.

C. Local Inspector--Commercial. The term "local inspector" shall mean as that term is defined and used in Massachusetts General Laws Annotated, Chapter 143, Sections 1 and 3. The local inspector shall have all the powers, duties and

responsibilities more particularly outlined and defined in said Massachusetts General Laws Annotated, Chapter 143, except that the local inspector under this subsection shall be primarily involved with commercial uses of real property.

D. Inspector of Wires. The term "inspector of wires" shall mean as that term is used and employed in Massachusetts General Laws Annotated, Chapter 166, Section 32. The inspector of wires shall have the powers, duties and responsibilities more particularly outlined, described and specified in said Massachusetts General Laws Annotated, elsewhere in this code and in the state building code.

E. Inspector of Plumbing. The term "inspector of plumbing" shall mean as that term is used and employed in Massachusetts General Laws, Chapter 142. The inspector of plumbing shall have the powers, duties and responsibilities more particularly outlined, described and specified in said Massachusetts General Laws, elsewhere in this code and in the state building code.

F. Head Clerk. The term "head clerk" shall mean as that term is commonly used and understood elsewhere in this code.

G. Principal Clerk. The term "principal clerk" shall mean as that term is commonly used and understood elsewhere in this code. (Ords. dated 4/7/86; 12/20/85 [Part A]: prior Ch. 16 sec.10 [part]).

H. Clerk-Stenographer. (Ord. dated 03/08/88).

I. Local Inspector – Zoning Enforcement. The term “local inspector” shall be defined and used in accordance with Massachusetts General Laws Chapter 143, Section 1 et. seq. The local inspector shall have all the powers, duties and responsibilities more particularly outlined in said Chapter 143, the state building code and as proscribed elsewhere in this ordinance, except this local inspector shall primarily assist the Building Commissioner with the enforcement of Massachusetts General Laws Chapter 40A, Section 1 et. seq. and the 1985 Woburn Zoning Ordinances, as amended, which duties and responsibilities are more specifically set forth in Massachusetts General Laws Chapter 40A Section 7. (Ord. added 1/22/99).

2-142 Acceptance of state law.

The City specifically accepts the provisions of General Laws, Chapter 143, Section 3Y relating to the tenure of the building commissioner and local inspectors.(Ord. dated 12/20/85; prior Ch.16 sec.10[part]).

2-143 Compensation.

The persons holding the positions listed in Section 2-141 shall be paid compensation in an amount which shall be from time to time listed in Sections 2-179 through 2-192 of this code. (Ord. dated 12/20/85 [Part D]: prior Ch. 16 sec.10[part]).

**XX CONSERVATION COMMISSION**

2-144 Establishment.

Under the provisions of Chapter 40, Section 8C of the General Laws of the Commonwealth, there is established a conservation commission for the City, hereinafter in this part called the commission. (Prior Ch. 9-A sec.1).

2-145 Organization.

A. Pursuant to MGL Ch. 40 sec. 8C, the commission shall consist of not less than three nor more than seven members, one of whom shall serve as chairperson, who shall be appointed by the Mayor for a term of three years.

B. Any member of the commission so appointed may, after a public hearing, if requested, be removed for cause by the Mayor.

C. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.(Prior Ch. 9-A sec.2).

2-146 Powers, duties and responsibilities.

A. Pursuant to Chapter 40, Section 8C of the General Laws of the Commonwealth, the commission shall be responsible for the promotion and development of the natural resources and for the protection of the watershed resources of the City.

B. The commission may adopt rules and regulations governing the use of land and waters under its control, and may prescribe penalties, not exceeding a fine of one hundred dollars for any violation thereof.

C. The commission shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the annual report of the City.

D. The commission may appoint a director, clerks, consultants and other

employees and may contract for materials and services within the available funds insofar as the same are not supplied by other departments.

E. The commission may receive gifts, bequests or devises of personal property or interests in real property in the name of the City, subject to the approval of the City Council. (Prior Ch. 9-A sec.3).

2-147 Assistants.

There shall be a senior clerk to assist the Administrator and the Commission, appointed by the Administrator, with duties and responsibilities as prescribed by the Administrator and Commission. (Ord. dated 06/09/89)

2-148 Conservation Administrator.

Definition: This position involves supervisory, managerial, administrative and technical work in connection with the requirements of the job description.

Duties:

1. Manage and operate the Conservation Commission office, including supervision of all other personnel assigned to the Conservation Department; Hires and Dismisses support staff as required.
2. Administer the provisions of Mass. General Laws, Chapter 131 s. 40, as amended and the Woburn Wetlands Ordinance.
3. Maintain liaison with other relevant Federal, state and municipal offices and departments, and environmental organizations.
4. Supervise the management of conservation lands in the City.
5. Develop and present educational programs for the youth and adults of the city on issues related to the preservation and promotion of natural resources.
6. Maintain a working knowledge of relevant laws and regulations which affect the environment.
7. Coordinate the City's participation in Federal, State or private funding programs relevant to the Commission's mandate.
8. Complete special tasks which may from time to time be assigned by the Conservation Commission.

Distinguishing Characteristics:

* Works fairly independently under the general supervision of the Conservation Commission;
* Is in frequent contact with other officials of the city, staff from Dept. of Environmental Quality Engineering and professional developers, engineers, the general public, including youth;
* Exercises judgement which, if applied incorrectly, could result in damage to

private property and in negative reactions from the general public; and in environmental degradation to the community;

* Is required to engage in occasionally extended periods of moderate physical effort which is required under varying weather conditions and on weekends from time to time;
* Is required to have excellent written and oral communication skills.

Desirable Qualifications:
A Bachelor's Degree in area related to the requirements of the position, such as Land Use Planning, Natural Science, Business Administration plus two years experience in a position related to environmental protection; or two years of college (or an Associate Degree) with a concentration in environmental studies plus five years experience in a position related to environmental protection; or a Master's Degree in an environmental field plus one year of experience in a position related to environmental protection; or any equivalent combination of education or experience. (Ord. dated 06/24/87; prior Ch. 9-A sec.6).

## XXI. HISTORICAL COMMISSION

2-149 Establishment.

Under the provisions of Chapter 40, Section 8D of the Massachusetts General Laws, there is established a historical commission for the City, hereinafter in this part referred to as the commission. (Prior Ch. 9-B sec.1).

2-150. Organization.

A. The commission shall consist of seven members, who shall be appointed by the Mayor for a term of three years each.

B. Any member of the commission so appointed may, after a public hearing, if requested, be removed for cause by the Mayor. A vacancy otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

C. The commission shall organize annually for the purpose of electing a chairman, vice-chairman and a secretary from among the membership. (Prior Ch. 9-B sec.2).

2-151 Powers, duties and responsibilities.

A. The commission shall be responsible for the preservation, protection and development of the historical assets of the City. For the purpose of protecting and preserving such places, the commission may make such recommendations

as it deems necessary to the City Council and, subject to the approval of the City Council, to the Massachusetts Historical Commission, that any such place be certified as a historical landmark.

B. The commission shall conduct researches for places of historic value.

C. The commission may hold hearings, may enter into contracts with individuals, organizations and institutions for services furthering the objectives of the commission's program; may enter into contracts with local or regional associations for cooperative endeavors furthering the commission's program; may accept gifts, contributions and bequests of funds from individuals, foundations, and from federal, state or other governmental bodies for the purpose of furthering the commission's program.

D. The commission may appoint such clerks and other employees as it may from time to time require.

E. The commission may acquire in the name of the City by gift, grant, bequest, lease or otherwise the fee or lesser interest in real or personal property of significant value and may manage the same.

F. The commission shall administer the Loammi Baldwin Mansion and certain sections of the Old Middlesex Canal.

G. The commission shall be responsible for the National Register of Historic Places within the City.(Prior Ch.9-B sec.3).

2-152 Records of meetings--Annual report.

The commission shall keep accurate records of its meetings and activities and shall file an annual report which shall be published in the annual report of the City. (Prior Ch. 9-B sec.4).

## XXII. RECREATION COMMISSION

2-153 Appointment of commission.

A. Under the provisions of Chapter 45 of the General Laws of Massachusetts and the provisions of Chapter 358, Acts of 1945, there is created a recreation commission.

B. The commission shall consist of five persons. Two members are to be appointed by the Mayor, two members are to be appointed by the City Council and one member is to be appointed by the school committee.

C. The term of office shall be for five years or until their successors are appointed and qualified.

D. Any vacancy occurring in the commission shall be filled for the remainder of the term by the same authority whose appointees have vacated the positions. (Prior Ch. 9-C sec.1).

2-154 Organization.

Immediately after their appointment, the members of the commission shall meet and organize by electing one of their members chairman and such other officers as may be necessary. The commission shall have the power to adopt by-laws, rules and regulations for the proper conduct of public recreation for the City. (Prior Ch. 9-C sec.2).

2-155 Powers of commission.

The recreation commission shall provide, conduct and supervise public playgrounds, athletic fields, recreation centers and other recreational facilities and activities on any of the properties owned or controlled by the City, or on other properties with the consent of the owners and authorities thereof. It shall have the power to conduct any form of recreational or cultural activity that will employ the leisure time of the people in a constructive and wholesome manner. (Prior Ch. 9-C sec.3).

2-156 Appointment of director and personnel.

The recreation commission shall have the power to appoint or designate someone to act as director who is trained and properly qualified for the work and such other personnel as the commission deems proper.(Ch. 9-C sec.4).

2-157 Commission to submit budget.

Annually the recreation commission shall submit a budget to the Mayor and City Council for approval. The commission may also solicit or receive any gifts or bequests of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for playgrounds or other recreational purposes. (Prior Ch. 9-C sec.5).

2-158 Commission to make full reports.

The recreation commission shall make full and complete monthly and annual reports to the governing body of the City and other reports from time to time as requested. (Prior Ch. 9-C sec.6).

2-159 Clerical personnel.

The clerical personnel of the recreation commission shall be one junior clerk. (Ord. dated 4/20/84: prior Ch. 9-C sec.7).

2-160 Recreation Wellness Coordinator. [numbered as passed]

The Recreation Commission may in writing appoint, with the approval of the Mayor, a Recreation Wellness Coordinator who shall be under the direct supervision of the Recreation Director. The Recreation Wellness Coordinator shall be trained and properly qualified possessing a Bachelor's of Science degree from an accredited four year college with a core emphasis on Wellness programs; Public Health, Physical Education, Sports Management, Medical Wellness or Nutrition. The Recreation Wellness Coordinator shall be responsible for developing, administering, and managing new and established Wellness programs for the City of Woburn through a variety of recreation services and nutritional and sports programs for all age groups, and shall assist with on site administration of recreation programs as may be required by the Recreation Director. (added 7/12/2012)

## XXIII. LOCAL COUNCIL ON AGING

2-160 Establishment--Purpose.

Under the provisions of Chapter 40, Section 8B of the General Laws of Massachusetts, there is established a local Council on aging. (Prior Ch. 9-D sec.1).

2-161 Organization.

The local Council on Aging shall consist of ten voting members appointed by the Mayor with City Council confirmation. The appointed members shall serve without compensation for terms of three years. The first terms under this Section shall be for one, two or three years, and so arranged that the terms of one third of the members will expire each year, and their successors shall be appointed for terms of three years each. The Council shall elect annually at their first meeting in any new year(calendar)four of its members to the positions of chairperson, vice-chairperson, treasurer and secretary. The Council shall be responsible to the Mayor. (Ch. 9-D sec.2; amended 9/4/98, 11/30/2000; 9/7/2017).

2-161A Director of Council on Aging.

There is hereby established the position of Director of Council on Aging who shall be appointed by the City Council and who shall manage, direct and superintend all matters coming within the purview and jurisdiction of the Council of Aging and shall

have such other duties and responsibilities with respect to Senior Citizens in Woburn as the City Council, from time to time, determines. The City Council may appoint to the position of Director such person as it, in its sole discretion, deems to be suited by formalized training, particularized experience, or combination thereof, to the carrying out of the subject duties and responsibilities. The Director shall hold a Masters Degree in Human Services, preferably in Social Work, Gerontology or Health Administration. Compensation for this position shall be established by Ordinance. (Added 9/30/1999).

2-162 Powers and duties.

A. The Council may appoint such clerks and other employees as it may require within the limits of available funds.

B. It shall be the responsibility of the Council to: 1. Identify the needs of the community's elderly population and available resources; 2. Educate the community at large in the needs of the elderly; 3. Design, promote and implement needed services and coordinate with existing services for the elderly. (Prior Ch. 9-D sec.3).

## XXIV. PUBLIC HEARING NOTICES

2-163 Cost of advertising.

The cost of all advertising and all notices of any public hearing held before the City Council with reference to the issuance of a permit or license by the City Council whether such public hearing is required by law, ordinance, vote of the City Council or otherwise, shall be paid by the applicant for the permit or license with reference to which such public hearing is held. (Prior Ch. 19 sec.1).

2-164 Deposit required from applicant.

All applications filed with the City Council for a license or permit which by law or ordinance cannot be issued until after a public hearing before the City Council shall be accompanied by a deposit sufficient in amount in the judgment of the City Clerk to pay the costs of all advertising and notices required by such law or ordinance. Any excess of the amount of the deposit over the actual cost of such advertising and notices shall be returned to the applicant. (Prior Ch. 19 sec.2).

2-165 Costs of advertising to be paid before issuance of license or permit.

No permit and no license granted by the City Council after a public hearing with reference thereto, whether such public hearing was required by law, ordinance, vote of the City Council or otherwise shall be valid unless the records of the City

Council show that the applicant therefor has paid the actual costs of all advertising and all notices of such public hearing. (Prior Ch. 19 sec.3).

## XXV. CIVIL DEFENSE

2-166 Civil defense preparedness agency.

There is established a civil defense preparedness agency (hereafter in this part called the "agency"). The agency shall perform the functions of civil defense as that term is defined in General Laws Chapter 33, Section 13-1, Appendix, and any other functions promulgated under law and executive order. (sec.1 of Ord. dated 3/9/84).

2-167 Co-directors--Appointment--Responsibility.

The agency shall be under the direction of two directors, each of whom shall be called a co-director. The co-directors shall be appointed by the Mayor and shall have direct responsibility for the administration and operation of the agency, subject to the direction and control of the Mayor. (sec.2 of Ord. dated 3/9/84).

2-168 Police and fire chiefs may be appointed as co-directors--Duties of co-directors.

The Mayor may designate the police and fire chiefs as co-directors. The co-directors shall have the power to appoint area coordinators, and may accept or receive on behalf of the City, any services, equipment, supplies, materials, funds, grants or loans, for purposes of civil defense, offered by the federal or state governments or any agencies thereof, or by any person, firm or corporation or organization offering the same. The co-directors shall cause appropriate records to be kept of all receipts of goods and moneys for civil defense. (sec.3 of Ord. dated 3/9/84).

2-169 Fire and police protection.

The Mayor and City Council may establish, through appointments, volunteer or unpaid public protection units as may be approved by the state's civil defense agency, and as provided in General Laws Chapter 33, Section 13-11, Appendix. (sec.4 of Ord. dated 3/9/84).

2-170 Clerical personnel.

The Mayor may appoint, subject to applicable law and ordinance, a secretary to assist in civil defense matters. The duties of the secretary shall be those duties prescribed by the co-directors, with the approval of the Mayor, and such other duties as the co-directors and the Mayor may require. (sec.5 of Ord. dated 3/9/84).

## XXVI. CITY AMBULANCE SERVICE

2-171 Maintenance and operation of service.

A. Effective July, 1976, the responsibility of maintenance and operation of the ambulance service is transferred from the police department to the fire department.

B. The operation of the ambulance department shall be for emergency transport only; the transport shall be to the nearest full-service hospital. (Prior Ch. 11 sec.21).

2-172 Authority of fire department.

The emergency rescue vehicle/ambulance shall be in the charge of the fire department. In case of emergency, requiring immediate medical care, the fire chief or his designee shall direct control and make such vehicle available for the transportation of sick, injured or disabled persons. (Prior Ch. 11 sec.21-2(1)).

2-173 Limits of service.

A. Transportation shall be provided in cases of emergency only to the nearest full-service hospital or to a hospital designated by an emergency room physician.

B. Transportation shall be provided only within the City of Woburn boundaries, notwithstanding reciprocal agreements with any other cities or towns. The ambulance service shall provide emergency medical care and transportation to any person requesting it regardless of their ability to pay. (Prior Ch. 11 sec.21-2(2)). (Amended 9/6/94)

2-174 Rates of service.

A. The following fees shall be charged for all persons transported to the hospital by the City ambulance service: Current Medicare Fee Schedule plus 200%.

As of 5/1/2011:

| | |
|---|---|
| BLS Emergency Base Rate | $1196.25 |
| BLS Non-Emergency Base Rate | $747.66 |
| ALS1 – Emergency Base Rate | 1420.56 |
| ALS Non-Emergency Base Rate | 897.18 |
| ALS2 Emergency Base Rate | 2056.05 |
| Specialty Care Transport | 2429.88 |
| Mileage | 20.58 |

Airway..... 173.30
Cardiac Monitor ..... 214.07
Defibrillation..... 352.87
Oxygen ..... 164.69
MAST..... 235.27
IV/Drugs..... 352.87

Such fees shall be charged for one-way transportation only.

(Prior Ch. 11 sec.21-2(3); new Ord. dated 5/18/88; amended 9/6/94; amended 2/18/2005; amended 4/22/2011)

2-175 Responsibility of fire department--Procedures.

A. It shall be the responsibility of the fire chief or his designee to obtain all information necessary for the proper processing of each transport service call charge.

B. The following procedure shall be adopted for the maintenance of such records:
   1. For each trip of the ambulance, the operator(s) of the ambulance shall be responsible for making a record on a call sheet containing, but not restricted to, the following information: Trip number; Date; Patient's name age and sex; Time of call received; Time of arrival at scene; Time of transport; Time of arrival at hospital; Name of doctor attending; Medicare number; Welfare number Category, City--if any Driver Attendants First aid administered; Mileage Hospital Time; secured Insurance company Number.
   2. If the information is not immediately available, it shall be the duty of the fire department clerk to obtain the information within forty-eight hours of the ambulance transport service.
   3. The original of the permanent record card shall be retained by the fire department and shall become a permanent part of their records.
   4. A duplicate copy shall be forwarded daily to the office of the collector. The duplicate copy shall be referred to as the "ambulance report." (Prior Ch. 11 sec.21-2(4)). (Amended 9/6/94)

2-176 Billing--Responsibilities, procedures and abatements.

A. Responsibility. The office of the fire department shall be responsible for the processing, mailing and record keeping.

B. Procedures. 1. All bills shall be processed daily upon receipt of the ambulance report. 2. A copy of the bill shall be retained by the office of the collector to be a part of the permanent records. 3. All bills shall be due and payable immediately and shall read: City of Woburn-Ambulance. 4. Bills shall be

payable at the office of the tax collector. 5. All moneys collected shall be deposited into the account "Receipts reserved for appropriation - Ambulance." 6. Waiver or abatement of charges shall be made by a special committee including the auditor, collector and fire chief, to meet on a monthly basis at a time prescribed by the committee. 7. Medicare and Medicaid charges shall be billed directly to the office of the fire department. 8. It shall be the duty of the fire department to apply for the provider number for the billing of Medicare and Medicaid. 9. The fire chief shall designate and appoint a representative or representatives to visit each elderly housing complex and explain this legislation to them, to let them know that there is an abatement feature to the ordinance codified in this section, if payment cannot be made. (Prior Ch. 11 sec.21-2(5)).

C. Review Committee. A committee consisting of the Auditor, Collector of Taxes and Fire chief shall meet monthly on outstanding bills and collections. (Prior Ch.11, sec.21-2(10)).

## XXVII. CITY VEHICLES

2-177 City-owned Vehicles.

A. All motor vehicles owned by the City of Woburn, including vehicles assigned to all Department Heads, shall be lettered with the words "City of Woburn" and shall include the city seal shall be twelve inches in diameter and orange in color and the department to which the vehicle is assigned. The lettering shall be orange and is to be no smaller than two-and-one-half inches in height and is to be placed on both front doors. (amended 3/10/2006; 6/11/2007)

B. All marked police vehicles shall be ordered, lettered and painted the same color scheme as determined by the Chief of Police upon approval of the mayor. All unmarked and undercover police vehicles shall be ordered and painted or repainted as determined by the Chief of Police. Undercover, Unmarked and Surveillance Police vehicles are not required to be lettered. All fire vehicles shall be lettered in accordance with Paragraph A and shall be painted red, or red and white, or black as determined by the Fire Chief upon approval of the mayor. All other vehicles, new vehicles only, shall be painted black and shall be lettered in accordance with Paragraph A. (amended 6/11/2007)

C. At the end of every calendar year, each member of the City Council shall receive a list of all city-owned vehicles in service; with make, model, VIN number, year, mileage and color to ensure compliance.

D. The Mayor shall receive on at least a weekly basis, a separate written account of the total number of gallons of gasoline used by each city-owned vehicle.

Each member of the City Council shall receive on at least a monthly basis, a separate written account of the total number of gallons of gasoline used by each city-owned vehicle.

E. With the approval of the Mayor, designated personnel who are assigned city-owned vehicles may park their vehicles at their place of residence, at the end of each work day, provided that the place of residence is within 15 miles of the City limits. The Mayor shall provide each member of the City Council with a copy of the approved list, including reasons for approval. All other city-owned vehicles shall be parked in city-owned parking lots at the end of each day.

F. Personnel who are assigned City-owned vehicles shall only have the use of such vehicles while on official City business. Under no circumstances shall a City-owned vehicle be used for personal or private uses, unless the individual who is assigned said vehicle is on official City business. No city-owned vehicle shall be taken on vacation by any person. City-owned vehicles shall not leave the City of Woburn except for the conduct of official business of the person assigned said vehicle. City-owned vehicles shall be operated only by those individuals assigned said vehicles, or other designated employees, in the carrying out of their official duties. The mayor may, during an emergency or any other unusual event as the mayor determines, temporarily authorize certain city employees to retain their assigned city vehicles at all times to facilitate their response or recall to the emergency or other unusual event. The mayor will notify the city council in writing, within 24 hours, when he/she exercises this discretion. (amended 6/11/2007)

G. Misuse of a City-owned vehicle or any violation of this ordinance by any employee of the City of Woburn shall be just cause for discipline up to and including dismissal of said employee.(Ords. 02/20/87; 03/07/91; prior Ch.1 sec.8; Ch. 16 sec.21).

H. At the end of each year, the City Council is to obtain a list of city owned vehicles from each department, including vehicle identification number, gas, mileage, excluding undercover vehicles which information is kept in the mayor's office. (amended 6/11/2007)

2-178 <u>Employee Use of Personal Vehicles in the Conduct of Official City Business</u>.

A. Any City employee assigned a City-owned vehicle shall only have the use of that vehicle while on official City business and shall not use their personal vehicle for any use in the conduct of their City employment unless such assigned City vehicle is temporarily inoperable and the City employee must use their personal vehicle for travel in order to conduct official City business. Such

use must have the written approval of the employee's Appointing Authority/Department Head.

B. Any City employee not assigned a City vehicle may not use their personal vehicle for any use other than pre-approved travel in order to conduct official City business. Such use must have the written approval of the employee's Appointing Authority/Department Head.

C. The City of Woburn shall not be liable for any damage to the personal vehicle of any City employee used in violation of this Ordinance. If an employee uses their personal vehicle as part of an emergency situation such use shall not constitute a violation of this ordinance.

D. The only circumstance for which a City employee can be monetarily reimbursed for use of their personal vehicle in the official conduct of City business shall be for travel purposes. (added by Ord. dated 04/08/91).

## XXVIII. COMPENSATION OF OFFICERS AND EMPLOYEES

2-179 Salaries of Mayor, members of City Council, officers and employees.

The officers and employees while in the service of the City shall receive yearly as established by statute, ordinance or contract, and at the same rate for any portion of a year, which shall, unless otherwise specifically provided by ordinance be in full for all services which the officers are authorized or required by statute or ordinance or contract to perform, and shall be subject to the deduction of any and all sums due the City from the officers entitled thereto. (Prior Ch. 15 sec.1; amended 11/12/2015).

2-180 Base salaries.

Base salaries for City employees and officers not otherwise covered by contract, and stipends for members of the City's boards, committees and commissions shall be as designated in this section:

| | |
|---|---|
| Appeals, Board of.....Chair (1) | $ 4,950.00 |
| Appeals, Board of.....Members (5) | $ 4,500.00 |
| Appeals, Board of……Alternate (1) | $ 1,350.00 |
| Assessors------Chairman | $ 7,800.00 |
| Board Member | $ 7,200.00 |
| Cemetery Commissioners (5) | $ 2,000.00 |
| City Auditor | $100,853.81 |
| (effective January 1, 2018) | $102,618.75 |
| Deputy Auditor | $ 61,997.44 |

City Clerk..... $ 82,779.50
(effective January 1, 2018) $ 84,228.14
City Council--------Members (8) ..... $ 12,000.00
President (1)..... $ 14,000.00
Clerk of..... $ 11,644.19
(effective January 1, 2018) $ 11,847.96
City Solicitor ..... $ 98,753.07
(effective January 1, 2018) $100,481.24
Assistant City Solicitor..... $ 49,710.40
Secretary/Paralegal..... $ 42,872.80
Conservation— Members, per year, each member (7) ..... $ 4,000.00
Fire Chief..... $106,802.77
Deputy Fire Chief ..... $ 92,099.48
Board of Health—Chairman ..... $ 5,000.00
Members (2)..... $ 4,500.00
Human Resources Director ..... $ 97,891.63
(effective January 1, 2018) $ 99.604.73
Human Resources Assistant ..... $ 49,281.79
Library --
Director..... $ 99,235.29
(effective January 1, 2018) $ 100,971.91
Assistant Director ..... $ 68,411.45
Licensing Commission--Members (3)..... $ 4,500.00
Mayor ..... $113,000.00
(effective July 1, 2018) $123,000.00
Secretary/Receptionist ..... $ 40,174.35
Administrative Assistant to the Mayor ..... $ 59,302.80
Parking Clerk (part-time) ..... $ 17,038.70
Planning Board--
Members (7)..... $ 4,500.00
Police Chief ..... $ 101,771.50
Records Access Officer (MGL Ch. 66, §6A)(2)(Provided
the RAO is the City Clerk and/or City Solicitor) ..... $ 6,500.00
Recreation--
Members (5)..... $ 2,100.00
Cell Monitors….per hour ..... $ 16.00
Reserve police officers, per hour..... $ 18.00
School Committee--
Chairman..... $ 4,950.00
Members ..... $ 4,500.00
School Traffic Guards.....per hour ..... $ 16.00
Sealer of Weights and Measures ..... $ 15,848.56

| | | |
|---|---|---|
| Superintendent of Public Works - | $107,769.52 | |
| (effective January 1, 2018) | $109,655.49 | |
| Deputy Superintendent | $ 86,096.53 | |
| Tax Title Custodian | $ 50.00 | |
| Voters, Board of Registrars of | | |
| Members (3) | $ 3,500.00 | |
| Clerk of | $ 11,644.19 | |
| (effective January 1, 2018) | $ 11,847.96 | |
| Machine Custodians (2) | $ 2,505.88 | |
| Supervisor of (1) | $ 3,194.79 | |
| Warden, each election | $ 220.00 | |
| Clerk, each election | $ 175.00 | |
| Inspectors, each election | $ 100.00 | |
| Substitute election workers, each election cycle | $ 20.00 | |
| Early Voting Clerks | $ 50.00 | per shift |
| Water Treatment Plant Manager | $ 84,931.09 | |

The police chief is to submit a monthly report of hours that the parking clerk works to the City council. (Ord. dated 12/29/86 (part); two Ords. dated 4/12/86; Ord. dated 11/7/86; two ords. dated 10/24/86; Ord. dated 6/6/86; two ords. dated 5/14/86; Ords. dated 5/6/86; 4/18/86; 4/7/86; 2/10/86; two ords. dated 12/20/85; Ords. dated 9/20/85; 6/21/85 (part); two ords. dated 4/16/85; Ords. dated 4/15/85; 12/21/84; 12/6/84; two ords. dated 9/27/84; two ords. dated 8/20/84; Ord. dated 7/20/84; two ords. dated 6/21/84; Ord. dated 4/20/84 and ord. dated 4/20/84 (part); Ord. dated 9/9/83 (part); prior Ch. 15 sec.1(A)); Ord. dated 3/12/87; Ord. dated 06/16/87; Ord. dated 09/09/88; Ord. dated 03/31/88; Ords. dated 05/18/88, 06/10/88, 07/25/88, 06/16/87, 02/02/88; 08/19/88, 09/06/88, 09/09/88; Ord. dated 11/18/88; Ords. dated 12/21/88; 3/21/89; 06/09/89; 7/21/89; 10/18/90; 11/26/90; 04/19/91; 8/15/95; 11/22/96 7/23/97; 1/6/98; 6/19/98; 6/26/98; 9/1/98; Human Resources Director salary amended 1/6/98 effective 12/8/97; amended 6/4/99; amended 9/30/99; amended 6/6/2000; amended 8/16/1999; amended 8/24/2000; amended 8/24/2000; amended 8/27/2001 effective 7/1/2001; amended 9/26/2001 effective 9/1/2001; amended 7/22/2002 effective 7/1/2002; amended 4/8/2004; amended 5/10/2004; amended 9/27/2004; amended City Clerk, Clerk of Council, Clerk of Board of Registrars of Voters, Human Resources Director, City Auditor, Library Director 6/16/2008; amended Police Matrons, Reserve Police Officers, School Traffic Guards, Election Warden, Election Clerk, Election Inspector, Election Substitute 8/19/2008; amended City Auditor, Human Resources Director, Library Director, City Solicitor, City Clerk, Clerk of the Council, Clerk of Board of Registrars of Voters 7/8/2010; Administrative Assistant to Mayor 12/15/2011; amended City Auditor, City Clerk, Clerk of City Council, Clerk of Board of Registrars of Voters, Human Resources Director, Library Director, City Solicitor, Human Resources Clerk 7/12/2012; Recreation Wellness Coordinator

7/12/2012; amended City Auditor, City Clerk, Clerk of the City Council, Clerk of Board of Registrar of Voters, Human Resources Director, Library Director, City Solicitor 6/20/2013 eff. 7/1/2013; Mayor amended 4/29/2014; amended City Auditor, City Clerk, Clerk of the City Council, Clerk of Board of Registrar of Voters, Human Resources Director, Library Director, City Solicitor 4/23/2015 eff. 7/1/2014 and 7/1/2015; Deputy Fire Chief 9/3/2015; .Superintendent of Public Works amended 2/15/94; 1/6/98; amended 4/22/2011; amended 6/8/2012; amended 7/12/2012; 6/20/2013 eff. 7/1/2013; amended 5/7/2015, eff. 7/1/2014 and 7/1/2015; amended 11/12/2015; amended 6/9/2016, eff. 7/1/2016; amended 11/1/2016 Cell Monitor and School Traffic Guards; amended 10/24/2016 Early Voting Clerks; amended 4/21/2017 Records Access Officer eff. 1/1/2017; amended 4/6/2017 City Auditor, City Clerk Clerk of Council, Clerk of Registrars of Voters, Human Resources Director, Library Director, City Solicitor, DPW Superintendent; amended 4/18/2017 School Committee Member and Chair, Board of Appeals Member and Chair, Conservation Commission Member, Planning Board Member, License Commission Member, City Council Member and President; amended 5/16/2017 License Commission Member; amended 8/29/2017 Deputy DPW Superintendent).

2-181 Part-time and seasonal employees – Compensation

The following rates shall be paid for part-time/seasonal employees. At the Library the Bookkeeper shall be paid $20.75 per hour, the Archivist shall be paid $20.55 per hour and the two Custodian positions shall be paid $16.47 per hour. For seasonal help, the Department of Public Works Summer Crew shall be paid $10.00 per hour, Park Laborers shall be paid $9.00 per hour, Park Instructors shall be paid $10.00 to $11.00 per hour, and Lifeguards shall be paid $11.00 to $12.00 per hour. (prior Ch. 15 sec.2(A); 6/21/84 [part]; 12/21/84 [part]; 6/21/85 [part]; 4/7/86; 12/29/86 [part]; amended 2/15/94; 1/6/98; 6/19/98; 6/6/2000; 8/27/2001 effective 7/1/2001; amended 7/22/2002 effective 7/1/2002; amended 4/22/2011; amended 6/8/2012; amended 7/12/2012; 6/20/2013 eff. 7/1/2013; amended 5/7/2015, eff. 7/1/2014 and 7/1/2015; amended 11/12/2015).

2-182 Temporary/seasonal help in the Department of Public Works - Age

No person under seventeen years of age shall be employed by the department of public works under any circumstances. (prior Ch. 15 sec.2(B); 6/21/84 [part]; 12/21/84 [part]; 5/24/85; 6/21/85 [part]; amended 11/12/2015).

2-183 Full-time salaried employees--Overtime.

The following listed full-time employees of the City are considered by their employer, namely the City of Woburn, as salaried employees holding salaried positions. Non-union, salaried employees may temporarily adjust their hours with

the approval of the Mayor to reflect the needs of the City as a result of an excessive amount of required hours within a time period.

A. Department Heads.
B. Non-union, non – Department Head employees.

(Prior Ch. 15 sec. 7; Prior Ch. 15 sec. 13; 6/24/1987; Amended 8/27/2001 effective 7/1/2001; amended 11/12/2015)

2-184 Miscellaneous salary restrictions – non-union full-time employees.

A. Any officer or person temporarily holding or performing the duties of any office by authority of the Mayor or by any ordinance for a period of not less than two weeks shall receive a salary at the rate fixed in this chapter for the office he holds.

B. Every officer shall be allowed a reasonable compensation for expenses actually incurred in performing the duties of their office.

C. All non-union employees, including full and part time, except department heads, elected officials and appointed members of commissions and boards, shall be entitled to the same rate of increase as is negotiated in the collective bargaining agreement between the City of Woburn and SEIU Local 888, City Hall Union. The increase shall take effect on July 1 of each fiscal year. (Ord. dated 6/19/86; prior Ch. 15 sec.8; amended 2/15/94)

D. The City Council shall, by the second meeting in March determine the rate of increase, if any, of the non-union department heads' salaries. This provision shall not preclude the City Council from adjusting the salaries at other times during the year. (added 6/3/2014 effective 7/1/2014)

(Prior Ch. 15 sec.3; amended 8/27/2001 effective 7/1/2001; amended 11/12/2015).

2-185 Reserved. (amended 11/12/2015)

2-186 Reserved. (Prior Ch. 15, sec 5; amended 5/21/1996; amended 3/29/2005 with effective date 7/1/2005; amended 11/12/2015)

2-187 Reserved. (Prior Ch. 15 sec.1; amended 11/12/2015).

2-188 Reserved. (Prior Ch. 15 sec. 7; 6/24/1987; Amended 8/27/2001 effective 7/1/2001; amended 11/12/2015)

2-189 Reserved. (Prior Ch. 15 sec.8; 6/19/86; amended 2/15/94; amended 11/12/2015)

2-190 Sick leave, attendance records, vacation and other incentives.

A. All full time non union employees, except for department heads, will be entitled to the Vacation Leave, Bereavement Leave, Personal Days and Education Incentive Benefits as negotiated in the City Hall Workers Union Contract. All non-union department heads who are not under written personal contract shall be entitled to the Vacation Leave, Bereavement Leave, Personal Days and Education Incentive Benefits as negotiated in the Department Head Union Contract. (amended 8/27/2001 effective 7/1/2001; amended 6/3/2014 effective 7/1/2014; amended 3/19/2015)

B. All full time non-union employees will be entitled to the Sick Leave, Accumulation of Sick Leave and Buy Back of Sick Leave as negotiated in the City Hall Workers Union Contract. All non-union department heads who are not under written personal contract shall be entitled to the Sick Leave, Accumulation of Sick Leave and Buy Back of Sick Leave as negotiated in the Department Head Union Contract for all days earned on or after January 1, 2014. All days accumulated prior thereto shall be compensated as provided under Section 2-190(D). The effective date as to retirement shall be on or after April 12, 1986. Excluded from the provisions of this ordinance are the Police and Fire Chiefs, at their request. (Ord. dated 12/5/85; Ord. dated 08/19/88; amended 6/3/2014 effective 7/1/2014; amended 3/19/2015).

C. The City Engineer and Public Works Department full-time non-union employees will also be entitled to Education Incentive Benefits as negotiated for Water Certification Levels. (Ords. dated 04/14/90-8/9/94)

D. Employees of the City of Woburn shall be eligible for compensation of unused Sick Days as follows:

1. All union employees shall be treated in accordance with the provisions for sick leave, sick leave accumulation and sick leave buyback negotiated in their respective collective bargaining agreements.
2. All full-time, non-union employees, Department Head and non–Department Head employees, will continue to earn sick leave of one and one-quarter days each month of full-time employment with the City of Woburn and may accumulate sick leave on an unlimited basis.
3. Department Head and other full-time, non-union employees who were employed full-time by the City of Woburn on or before December 1, 1993 shall be entitled to the sick leave buyback benefits based on Section 2-191(A)(3) of the 1989 Woburn Municipal Code.
4. Department Head and non-Department Head employees, those employed full-time on or before or after December 31, 1993, will be eligible to buyback a maximum of fifty sick leave days at ½ the rate of

pay and any additional sick leave days at ¼ the rate of pay in effect at the time of a resignation, retirement or other non-disciplinary termination.

5. Those non-union employees who were employed on or before December 31, 1993 shall be eligible for the buyback of sick leave outlined in paragraph #4, but only to the extent that it supplements the buyback for which they were "frozen" in 1993.
6. Proof of the number of accumulated days is an approved record of sick leave usage and accumulation on file in the Human Resources Department. At the time of retirement, resignation or other non-disciplinary termination the employee must sign a copy of the record with the statement that it is a true and correct copy of the records and must have the signature notarized.

(Ord. dated 1/19/1993 became effective 2/1/1993 without the signature of the Mayor; amended 8/27/2001 effective 7/1/2001)

2-191 Unused accumulated sick days--Payment.

A. Compensation. All department heads, upon retirement, resignation or death (to their estate), shall be eligible for compensation for unused accumulative sick leave on the following basis: 1. Department heads who have over one hundred days accumulated as of January 1, 1986, shall be entitled to compensation for those days at the rate of pay established at the time the department head retires, resigns or dies. 2. Department heads who have not accumulated one hundred days as of January 1, 1986, shall be allowed to accumulate to that amount, and be entitled to compensation for those days at the rate of pay established at the time the department head retires, resigns or dies. 3. Department heads who accumulate days over the amounts established in subdivision 1 of this subsection or over the one hundred days in subdivision 2 of this subsection shall be entitled to compensation for those days at the rate of pay established when they were earned. 4. Sick leave compensation shall be based upon a five-day work week. 5. Proof of attendance record. Proof of the number of unused accumulative sick days shall be furnished by the employee to the City auditor. The proof record shall be a notarized statement of his or her record of unused sick days, days furnished by his or her department head. In the case of department heads themselves, the record of unused sick days must be approved by the Mayor and notarized. (Ords. dated 2/17/86; 08/19/88; prior Ch.15 sec.10).

2-192 Longevity benefits.

Effective July 1, 2001 all City of Woburn Department Head and other full-time, non-union employees will be eligible for the following Longevity benefits.

1. Employees currently receiving longevity on the basis of a "frozen

percentage" will continue to receive the appropriate "frozen percentage" calculated against the base salary. If an individual employee has reached an additional five or more years of service beyond the number of years indicated by the "frozen percentage" based on three percent per five years of service, the employee will be entitled to $650.00 per each additional five year increment.

2. Employees who are not receiving longevity as a result of not being eligible for any or part of the longevity when the percentages were frozen will receive the set dollar amount as follows:

| Years of Full Time Employment | Annual Amount of Payment |
|---|---|
| Less than 5 full years | No payment |
| Upon completion of 5 full years | $850.00 |
| Upon completion of 10 full years | $1,500.00 |
| Upon completion of 15 full years | $2,150.00 |
| Upon completion of 20 full years | $2,800.00 |
| Upon completion of 25 full years | $3,450.00 |
| Upon completion of 30 full years | $4,100.00 |
| Upon completion of 35 full years or more | $4,750.00 |

(Ord. amended 5/3/94; 8/27/2001 eff. 7/1/2001; 9/6/2013 eff. 7/1/2013)

## XXIX. PERSONNEL

2-193 Regular full-time employee work hours--Exceptions.

A. The following shall be classified as regular full-time employees and shall work daily from nine a.m. until four thirty p.m. with the exception of Saturdays, Sundays and legal holidays, and with exceptions as provided in Section 2-6:
1. City Appraisers, Systems Manager, Assessment Analyst.
2. City Clerk.
3. City Auditor.
4. City Treasurer/Collector.
5. Director of Human Resources.
6. Building Commissioner.
7. Local Inspectors
8. Inspector of Wires.
9. City Engineer.
10. Health Agent
11. Public Health Nurse.
12. Plumbing and Gas Inspector.
13. Purchasing Agent.
14. Director of Recreation.
15. Secretary/Paralegal to the City Solicitor.

16. Assistant City Treasurer.
17. Assistant City Clerk.
18. Assistant Purchasing Agent.
19. Mayor's Secretary and Receptionist.
20. Veterans' Agent.
21. Telephone Operator.
22. [Reserved].
23. Assistant City Solicitor.
24. Deputy Superintendent of Public Works. (Deleted 5/21/96)
25. Administrative Assistant in Public Works.
26. Computer operator.
27. Director of the Planning Board (amended 11/20/90).
28. Code Enforcement Inspector.
29. Manager of Information Systems.
30. Superintendent of Public Works.
31. Conservation Director.
32. All Junior clerks, Senior clerks, Principal clerks, Head clerks, Secretaries and Administrative Assistants as established by ordinance.

(amended 8/27/2001 effective 7/1/2001; amended 8/18/2006)

B. Included in the ordinance codified in this chapter as regular, full-time City employees, but excluded from the same hours (as hours are regulated separately) are:
   1. Regular members of the police department, as established by ordinance, including the dog officer.
   2. Regular members of the fire department, as established by ordinance.
   3. Regular library employees.
   4. Regular public works employees as established by ordinance.
   5. (reserved)
   6. Secretary to the license commission, board of appeals, and Clerk of committees. The person holding these positions shall serve a minimum of twenty hours during the normal workweek and those hours in the evening which require the person's presence to serve such boards or commissions. (Ord. dated 4/20/84 [part]; Ord. dated 03/12/87, [part] deleting Investigator in Veterans' Department; Ord. dated 11/26/90; prior Ch. 16 sec.4; amended 8/27/2001 effective 7/1/2001).

2-194 <u>Public works department personnel</u>.

The public works department shall consist of the following personnel:

A. Administration Division (a total of nine persons): One superintendent of public works; One deputy superintendent of public works; One administrative assistant to the superintendent of public works; One head clerk; One principal clerk; One senior clerk/typist; One telephone operator; One junior clerk/typist;

One computer operator. (amended 5/7/96; amended 11/27/2001)

B. Engineering Division (DELETED 10/23/92)
C. Public Building Maintenance and Service Division: This division shall consist of seven employees including custodial workers.
D. Water and Sewer Pumping Station Division: This division shall consist of eight employees, including water meter readers.
E. Water Service and Maintenance Division. This division shall consist of nine employees.
F. The operations division shall consist of sixty-three employees, making a total in the public works department of one hundred one employees.
G. The public works department shall have a complement of one hundred one employees. (Ords. dated 6/19/86; 6/21/85 2; 12/20/85 [part]; prior Ch. 16 sec.5).
H. Deputy Superintendent of Public Works shall be appointed by the City Council with a recommendation of the Superintendent of Public Works and the Human Resources Director. This individual under direction of Superintendent of Public Works: Supervises on-going daily work activities of DPW including Water, Sewer, Highway, Public Buildings and Maintenance Divisions, assigning work and making on-site reviews. Organize, direct, control and monitor policies and priorities for the above referenced programs. Coordinate with other City departments and agencies, as necessary to ensure that the City's priorities are met and work is completed as required. Must be able to handle multiple projects, make quick and supportable decisions and supervise large groups to meet shifting priorities.

   The position requires a valid motor vehicle operator's license. An advanced degree in civil engineering, environmental studies, construction management, public administration or similar field of study is preferred.

   Licenses and/or certifications in Water Operations, and/or water distribution are preferred. Experience in construction supervision, preferably in a municipal environment, or combination of relevant education and experience are preferred.

   Essential functions include:

   - Ability to consult with State officials relative to Chapter 90 funding and obtaining grants.
   - Ability to work with federal and state officials and agencies in the absence of the Superintendent and/or at the direction of the Superintendent.
   - Ability to supervise the street light program, assess and anticipate the ongoing condition and needs of the public buildings in the City as it relates to general maintenance, including the maintenance of mechanical and electrical systems.
   - Ability to communicate clearly and concisely verbally and in writing;

- Knowledge and familiarity with the use of computers and software including AutoCAD, GIS, Excel, and Word;
- Ability to evaluate, document and address issues that arise through the complaint tracker system. Respond to customer requests, complaints, investigate issues and develop solutions to resolve problems and prevent future issues. Communicate and coordinate with other town departments, contractors, and the public to provide responsive and high quality service;
- Oversee the implementation of long-range maintenance and repair plans for the town's roads, sidewalks, drainage systems, water and sewer systems and fleets.
- Ability to assess and evaluate the department fleet and equipment as well as future regulatory requirements relating to emissions.
- Ability to work beyond normal business hours to attend meetings, make presentations, or other needs as determined by the Director of DPW.
- General knowledge of DPW, water and sewer operations and the applicable laws and regulations related to public works.
- Direct the implementation of construction projects, maintenance activities, and other work on public infrastructure including roads, storm water systems, parks and grounds, trees, cemetery, and fleet maintenance.
- Ensure all necessary materials, supplies, and equipment are available for projects and activities planned. Maintain and inventory of resources and proactively identify needs, shortages, and issues, on a timely basis.
- Perform project management duties for various special City Projects. Job responsibilities include supervision of public safety efforts, including snow removal, water control, etc.

Any other duties as delegated by the Superintendent.
(added 5/7/96, amended 11/27/2001; amended 8/29/2017 numbered as passed).

2-195 Clerical help for various departments.

The below-named municipal offices shall have the following clerical help:
A. Assessor's Office: One principal clerk, One senior clerk.
B. Auditor's Office: One administrative assistant, One head clerk.
C. Building Commissioner's Office: One Head Clerk, one Principal Clerk, One Clerk-Stenographer.
D. Cemetery: One Senior Clerk.
E. City Clerk's Office: One Assistant City Clerk, One Senior Clerk, one Assistant Supervisor of Elections, Registration Census (Principal Clerk's level), One Principal Clerk.
F. Civil Defense Office: One Secretary.
G. Collector's Office: One Head Clerk, One Principal Clerk and Two Senior Clerks.
H. Conservation: One Senior Clerk.
I. Data Processing Department: One Junior Clerk.

J. Engineer's Office: One Principal Clerk.
K. Fire Department: One Secretary; One Senior Clerk.
L. Health Department: One Junior Clerk.
M. Law Department: One Secretary-Paralegal
N. Planning Board: One Secretary (Junior Clerk level).
O. Police Department: One Secretary, two Principal Clerks, One Junior Clerk.
P. Public Works Department: One Administrative Assistant, One Head Clerk, One Principal Clerk, One Senior Clerk, One Relief Telephone Operator, Junior Clerk Typist, One Junior Clerk-Typist, One Computer Operator (at Senior Clerk's salary rate), Telephone Operator.
Q. Purchasing Department: One Assistant Purchasing Agent, One Senior Clerk.
R. Recreation Commission: One Senior Clerk.
S. City Treasurer's Office: One Assistant Treasurer; One Secretary, One Senior Clerk, One Part-time Clerk (Ord. 12/20/90).
T. Veterans' Benefit Department: One Principal Clerk.
U. Personnel Department: One part-time clerk.
(Ords. dated 06/09/89, 06/24/87, 03/03/87; 06/19/86; 12/24/86 [part]; 12/4/86; 8/16/85 [part]; 5/24/85: 7/20/84: 5/4/84; 4/20/84 [part]; 9/9/83; prior Ch. 16 sec.6); 3/9/90; 6/19/98.

2-196 Bond counsel--Special employee status.

The position of bond counsel and any individual or firm employed as bond counsel or to any municipal agency thereof or thereunder shall be classified as a special municipal employees pursuant to Chapter 268A of the General Laws, to the extent that they are "municipal employees" under that law. Employment as bond counsel shall, for the purpose of this code, include the rendering of advice, the drafting of documents, the rendering of an opinion approving the legality of bonds or notes issued by the City and the provisions of other legal services with respect to financing and the authorization and issuance of indebtedness. (Prior 16 sec.8).

2-196A Equal Opportunity and Affirmative Action Policy

The City of Woburn is an Equal Opportunity and Affirmative Action employer.

The City of Woburn values the culture and background of all people. Each and every individual will be considered and treated solely on the basis of qualification and performance of the job. The City of Woburn recognizes the right of individuals to work and advance based on merit, ability and potential. The City of Woburn will not tolerate discrimination on the basis of age, employment status, income, disability, educational background, gender, race, color, national origin, religion, sexual orientation or identity, citizenship or veteran status.

All levels of municipal government will make every effort to create a work

environment that welcomes and includes everyone, that treats each resident, business, visitor and employee fairly and with dignity, and that challenges all employees to perform at their best.

The City's workforce must strive to reflect the diversity of the City's population. Therefore, as an equal employment opportunity employer, the City will actively recruit employees from all segments of Woburn's labor force. The City of Woburn is committed to fostering and encouraging a workplace comprised of individuals of diverse backgrounds, races, genders, abilities, religious beliefs, sexual orientation and ages.

Non-discrimination and equal opportunity will be the policy of the City of Woburn. This policy applies to all personnel practices including employee recruitment, hiring, transfers, promotions, demotions, compensation, training, discipline as well as termination.

All City of Woburn employees are responsible for maintaining and enforcing the City's policies on equal opportunity and affirmative action. The City of Woburn will actively seek the full participation and inclusion of all employees in understanding, upholding and promoting these policies.

(added 9/8/2011)

**XXX. PARKS DIVISION**

2-197 Personnel.

There shall be within the Recreation Department, a Parks Division, consisting of seven (7) full-time personnel: one (1) Superintendent of Parks Recreation Maintenance, one (1) Working Foreman/Truck Driver, one (1) Special Heavy Motor Equipment Operator/Laborer, and four (4) Laborers/Ground Maintenance and such other temporary or part-time help as appropriations and funds may allow. (amended 2/4/97; amended 3/19/99; amended 12/20/2000)

2-198 Appointment, Supervision.

All personnel within the Parks Division shall be appointed by the Recreation Commission and shall work under the general supervision, control and direction of the Recreation Commission.

2-199 Duties.

The Parks Division shall have the primary responsibility for the upkeep, care and maintenance of the public parks, playgrounds, athletic fields, Commons and other

parks and recreational areas, including the Horn Pond area.

2-200 Compensation.

The four full-time personnel in the Parks Division shall be permanent employees under applicable Civil Service laws and rules. The Superintendent's salary and other benefits shall be set by ordinance or the Recreation Commission, and shall not be determined by any collective bargaining group or agreement. The position of Superintendent shall be managerial under the direction of the Commission. The working Foreman/truck driver, the special heavy equipment operator/Laborer and the Laborer/Ground Maintenance positions and employee benefits shall be covered by the collective bargaining unit and agreements as are in force from time to time. Said employees are solely responsible to the Parks Superintendent and the Recreation Commission. Temporary employees and summer help as may be hired by the Commission for the Parks Division shall receive hourly compensation and benefits as may be set by ordinance and the Recreation Commission they shall work under the direct supervision of the Parks Superintendent. (Ord. dated 05/26/87; Prior Ch. 9-C, sec. 10 a) and b); amended 2/4/97).

## XXXI PURCHASING

2-201 Department personnel--Appointments.

A. There shall be a purchasing department consisting of a purchasing agent, an assistant purchasing agent and one senior Clerk for the City, subject to the provisions of the City Charter and Massachusetts General Laws. Normal steps in progression of grade will be taken.

B. The purchasing agent, and one assistant purchasing agent necessary for the proper performance of the functions of this office, shall be appointed by the mayor.

C. Pursuant to the provisions of G.L. C. 41, Sec. 103, the respective terms of office of the Purchasing Agent and Assistant Purchasing Agent are hereby established as being year to year without limit after appointment, subject to removal only for just cause by the Mayor; for purposes of this section, the term "JUST CAUSE":shall have the same meaning as in G.L. 31, and court decisions construing it. (Ord. dated 8/16/85 [part]; Prior Ch. 21 sec.1). Ord. amended 7/20/93.

## XXXII. BOARD OF HEALTH

2-202 Membership.

As required by Chapter 87 of the 1918 Special Acts and Resolves of Massachusetts there shall be a board of health consisting of three members, one of whom shall be a physician practicing in the city. The members shall be appointed by the mayor annually as provided for in said chapter and consistent with Massachusetts General Laws Chapter 111, Section 26 insofar as said section is applicable. (Prior Ch. 12 sec.1).

2-203 Annual organization and naming of officers, agents and assistants.

The board of health shall organize annually in accordance with the provisions of Massachusetts General Laws Chapter 111, Section 27, and name the necessary officers, agents and assistants subject to civil service regulations to perform its duties. (Prior Ch. 12 sec.3; see other appointments under TITLE 8 of this Code).

2-204 Appointment of clerks.

A. The board of health shall appoint clerks whose names shall be selected from a civil service list and who shall perform the clerical work in the office of the board and such duties as the board may prescribe. Said clerks shall be removable only by the board and in the manner provided for in Massachusetts General Laws Chapter 31, Section 43 and 54 as amended. The salaries of said clerks shall be determined by ordinance and civil service regulations.

B. The office of the board of health shall consist of one Senior Clerk. (Amended 11/16/93)

2-205 Health Agent and Inspectors.

The Board of Health shall have one (1) Health Agent, one (1) Health Inspector, and one (1) Code enforcement Inspector; both to have suitable professional credentials or experience as may be required by the Board and by State law or regulation. (Prior Ch. 12 sec.10; Ord. date 06/24/87; amended 8/24/2000).

## XXXIII . WOBURN COMMISSION FOR HANDICAPPED AND DISABLED CITIZENS

2-206 Establishment.

There is hereby established under the provision of Massachusetts General Laws, Chapter 40, Section 8J, a Commission for Handicapped and Disabled Citizens, hereinafter called the Commission.

2-207 Purpose.

The Commission shall have as its primary purpose the responsibility for seeing that the terms of applicable State and Federal Laws and Regulations regarding all handicapped and disability issues are monitored and enforced in the City of Woburn. The commission shall study the needs of all handicapped and disabled citizens in the City in relation to housing, public accessibility, transportation, employment, education, health, recreation and all other relevant matters. The Commission shall work in conjunction with all City Departments and Agencies to assist public and private enterprises in complying with applicable Laws and Regulations concerning the handicapped and disabled.

The Commission shall assure that no otherwise qualified individual with a handicap or disability shall, solely by reason of his or her handicap or disability, be excluded from participation in the benefits of, or otherwise be subjected to discrimination under any program or activity within the City of Woburn.

The Commission shall hear complaints from citizens regarding the non-enforcement of all relevant Federal and State Laws and Regulations. The Commission shall make appropriate recommendations to the Mayor, City Council or other City Administrators.

The Commission shall foster a program of public awareness and information in regard to the rights of all handicapped and disabled citizens.

2-208 Membership; Vacancies; Officers.

The Commission shall consist of not more than eleven (11) members and not less than seven (7) members who shall be appointed by the Mayor. One member shall be either an elected or appointed official of the City of Woburn. Commission members shall serve without compensation and shall initially be appointed in the following manner: 1. Three members shall serve for a one year term. 2. Four members shall serve for a two year term. 3. Four members shall serve for a three year term. (Above paragraph amended 5/21/93).

After the initial terms, all Commission members shall be appointed for a term of three years. In the event of death or resignation of any member, a successor shall be appointed to serve the unexpired term by the mayor, subject to confirmation by the City Council.

The Commission shall annually elect a chairperson, vice-chairperson, secretary and treasurer. A majority of the Commission shall constitute a quorum in the exercise of any of the Commission's powers and duties. The Commission shall establish by-laws which designate such rules, practices and regulations as it

deems necessary to effectuate the purposes and provisions of the Ordinance.

The Commission may raise and receive funds, bequests and gifts of property, both real and personal, public and private, in the name of the City, subject to the approval of the City Council. Any such funds shall be deposited in a separate fund or account and shall be designated as the "Woburn Commission for Handicapped and Disabled Citizens Fund", such fund shall be reviewed on an annual basis by the City Auditor. Any expenditure of funds shall be made in accordance with the law, policies, and ordinances of the City of Woburn. Any expenditures of funds shall be subject to the approval of the majority vote of the Commission members. Management and control of such funds and gifts is hereby vested in said Commission.

2-209 Definition of a Person with a Handicap or Disability.

For the purposes of this Ordinance, a person with a handicap or disability shall be defined as any person who: (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such impairment; or (3) is regarded as having such impairments by the Commission.

2-210 Powers and Duties

The powers and duties of the Commission shall include the following:

a. To seek equal status for the handicapped and disabled in education, employment, economic, political, health, legal and social spheres.
b. To design and implement programs that promote equality for all handicapped and disabled citizens in the City.
c. To review and evaluate recommendations and policies of all City Departments and Agencies in order to more appropriately reflect the needs of the handicapped and disabled.
d. To initiate, coordinate and monitor the enactment of Legislation which promotes equal status of the handicapped and disabled on the City, State and Federal levels.
e. To obtain from all City Departments and Agencies any and all information necessary to carry out the functions, purposes, programs and activities of the Commission.
f. To participate in an advisory capacity and make recommendations in the hearing of complaints brought alleging discrimination against the handicapped and disabled.
g. To assist in public awareness of the handicapped and disabled through participation in public and media events sponsored by the Administrative and/or Legislative bodies of the City, including, but not limited to City-sponsored recreational, educational and development activities.

h. To be an active and participating member of appropriate organizations dealing with issues affecting the handicapped and disabled.
i. To acquire, analyze, use and store handicapped related statistics and related materials in an accessible location.
j. Such other powers as may be agreed on by the Mayor and City Council. (Ord. dated 12/3/91).

## XXXIII SIGN REVIEW BOARD (SRB) FOR DOWNTOWN AND BUSINESS NEIGHBORHOOD ZONING DISTRICTS (amended 2/15/2005)

2-211 Purpose for Sign Review Board

To regulate the use and design standards of signs in the Downtown Business (B-D) and Business Neighborhood (B-N) zoning district.

2-212 Membership

The Sign Review Board shall be composed of five (5) members, three (3) members shall be residents of the City of Woburn and two (2) members shall be members of the downtown business community, appointed by the Mayor and confirmed by a majority vote of the City Council to serve for a term of five (5) years. At least two (2) members of said Board shall be representatives of the downtown business community of the City. In addition, a resident of the City of Woburn shall be appointed by the Mayor and confirmed by the City Council for a two (2) year term to serve as an associate member of the Sign Review Board. The associate shall sit in place of any member incapacitated by personal interest, illness or absence. All members of the SRB shall serve on a volunteer basis.

2-213 Annual organization, naming of officers and adoption of rules and regulations

Within seven (7) days after the appointment, confirmation and swearing in of the initial Board, the Board shall meet and elect one (1) of its members as Chairman, a Vice-Chairman, and a Secretary. Within thirty (30) days of the foregoing action the Board shall promulgate rules and regulations for the conduct of its business. Such rules and regulations shall be made available in printed form through the Department of Inspection Service of the City of Woburn.
(Ordinance added 7/15/97)

## XXXIV ENGINEERING DEPARTMENT (amended 2/15/2005)

There is established in the government of the City a department to be known as, "Engineering Department" with following new Sections:

2-214 City Engineer - Qualifications

The Engineering Department shall be under the charge of the City Engineer who shall be a registered Civil Engineer/Land Surveyor in Massachusetts with a minimum of five (5) years experience in municipal engineering projects. The City Engineer shall be appointed by the City Council.

2-215 Duties and Responsibilities

Supervises operations of the Engineering Department - performs professional engineering work in the areas of water, wastewater, storm water, roads and other Civil engineering projects. Provides support to other departments, boards, commissions and officials, including the City Council or any Committee thereof, in all matters pertaining to engineering.

2-216 Personnel and Professional Assistance

The City Engineer may appoint one (l) Head Clerk, one (1) Junior Engineering Aide, one (l) Senior Engineering Aids, one (1) Assistant Civil Engineer, the Sealer of Weights and Measures. (Ord. approved 10/23/92; Amended 11/16/93; Amended 8/18/2006)

**XXXV BIOMEDICAL OVERSIGHT COMMITTEE** (amended 2/15/2005; repealed 2/8/2007; amended 5/1/2009)

2-217 Purpose

The purpose of this ordinance shall be the establishment of the Biomedical Oversight Committee (BOC) which will be responsible for issuing permits to Biomedical Facilities located in the City of Woburn and carrying out the requirements of this Article. (prior section repealed 2/8/2007; added 5/1/2009)

2-218 Definitions

BIOMEDICAL FACILITY – Any facility or research laboratory engaged in the use of Recombinant DNA, live animals for testing, the use of potentially infectious cell lines, or infectious material.

FACILITY REPRESENTATIVE – Each Biomedical facility will appoint one employee of the facility to act as a company representative to the BOC. This person shall be the same individual who is designated as the institution's Safety Officer.

GUIDELINES – Unless otherwise specified, are defined as:

a) *National Institute of Health (NIH) Guidelines for Research Involving recombinant DNA molecules* as published in the Federal Register on May 7, 1986.

b) Any amendments, revisions, or substitutions subsequent to the above referenced “Guidelines”.

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

RECOMBINANT DNA MOLECULES (RDNA) – are those defined in the “Guidelines”, as defined above.

ORGANISMS AND VIRUSES CONTAINING RDNA – are those defined in the “Guidelines”, as defined above.

Any other terms, not specifically defined herein, shall have the meaning as defined in the “Guidelines”. If the “Guidelines” do not define the term, it shall have the meaning as is commonly used.

(prior section repealed 2/8/2007; added 5/1/2009)

2-219 Biomedical Oversight Committee

A. Biomedical facilities are required to apply and receive a permit from the Biomedical Oversight Committee (BOC). This Committee shall consist of three members:

1. The City of Woburn Health Agent, and
2. Two citizens of the City of Woburn, appointed by the Mayor subject to confirmation by the City Council, at least one of the citizens shall be well versed in the area of Recombinant DNA and the federal regulations that apply to it.
3. The BOC shall appoint a clerk.

B. All members and the clerk of the BOC shall have the compensation as approved in the City’s budget. The initial citizen appointees to the BOC shall be one for two years and one for four years. Thereafter, all citizen appointments shall be for a term of four years.

(prior section repealed 2/8/2007; added 5/1/2009)

2-220 Duties

The responsibilities of the BOC shall include:

A. Establishing policies procedures and criteria to aid in the implementation of this ordinance.

B. Determining the manner in which permit holders make reports or applications to the BOC and the type of information required in such reports or applications. Reviewing reports applications and recommendations by the facility representative and approving them where appropriate. Carrying out site visits to permitted facilities.

C. Reviewing manuals and worker training programs, approving health-safety programs and monitoring the procedures required by this ordinance.

D. Developing a procedure for persons to report to the BOC violations of this ordinance, the guidelines or any health regulations.

(prior section repealed 2/8/2007; added 5/1/2009)

2-221 Permit Requirements

A. All persons proposing to establish a Biomedical facility must obtain a permit from the BOC. Permits shall, at a minimum, include written agreement to:

1. Follow the guidelines as defined in this ordinance.
2. Follow other conditions set forth by the BOC.
3. Allow reasonable inspections of facilities and pertinent records by the BOC or the Board of Health.
4. Demonstrate the establishment of a comprehensive safety procedure and an emergency contingency plan relevant to the use of Biomedical Technology at all levels of containment in use at the facility, and a program for waste disposal in compliance with all applicable, federal, state and local laws and regulations. This procedure shall be submitted to the BOC for review.
5. Demonstrate the establishment of a training program of safeguards and procedures for all personnel that is in compliance with all applicable, federal, state and local laws and regulations. This program shall be submitted to the BOC for review.

B. Permits shall be issued and renewed on an annual basis by the BOC. All fees for the permit shall be set by the BOC. All Biomedical facilities in existence

before this ordinance is accepted shall be required to apply for a permit and comply with this ordinance within 365 days. Compliance with this ordinance is in addition to any requirements or prohibitions under the Woburn Zoning Ordinance or State Building Code.

C. The BOC shall reserve the right to refuse a permit to any individual or any firm whose presence in the City is deemed not to be in compliance with this ordinance or in the best interest of the health and safety of the City as determined by the BOC.

(prior section repealed 2/8/2007; added 5/1/2009)

2-222 Reports

The applicant shall present a report which will outline their compliance to state and federal laws and the guidelines of this ordinance. Each holder of a permit shall file annual update reports with the BOC at the time of renewal. The requirement of this report shall be set by the BOC and given to the petitioner at the time an application is requested. Copies of building department and fire department certifications will be forwarded to the BOC for review.

(prior section repealed 2/8/2007; added 5/1/2009)

2-223 Restrictions

A. Any use defined as “BL3” and “BL4” by the NIH Guidelines promulgated in the Federal Register on May 7, 1986 and any subsequent federal amendments shall not be permitted in the City of Woburn.

B. Any accidental release which represents a potential hazard to employees, the public, or the environment shall be reported to the Board of Health, the police department, fire department and the BOC immediately, and in no case more than twenty-four hours after the release.

(prior section repealed 2/8/2007; added 5/1/2009)

2-224 Violation – Notification

The permit holder shall report, within thirty days, any problems with or violations of this ordinance or any local, state or federal law or regulation. Any accidents or illnesses involving individuals involved in activities regulated by the BOC shall be reported to the BOC within thirty days.

(prior section repealed 2/8/2007; added 5/1/2009)

2-225 Enforcement

The enforcement of this ordinance shall be interpreted by the BOC and carried out by the Board of Health, who shall undertake the enforcement themselves or report the violation to the appropriate state or federal agencies, who will initiate their own enforcement procedures.

A. Any person who violates the provisions of this ordinance shall be subject to a fine of three hundred dollars per violation. Each day of the violation shall constitute a separate and distinct offense.

B. Once a permit has been issued, it may be revoked, suspended, or modified by the BOC after due notice that the permit holder has materially failed to comply with this ordinance or the permit agreements. Appropriate state and federal offices shall be notified of this action.

C. Notwithstanding the above, the Health Agent for the City of Woburn, upon determination of the BOC that any violation constitutes an immediate and severe threat to the public health and safety, may order the immediate closure of any premises engaging in or contributing to such threat, without prior notice and hearing but with subsequent notice and hearing. Appropriate state and federal offices shall be notified of this action.

(prior section repealed 2/8/2007; added 5/1/2009)

2-226 [Repealed 2/8/2007]

**XXXVI SPECIAL MUNICIPAL EMPLOYEES** (amended 2/15/2005)

2-227 School Committee Members

A member of the School Committee shall be considered a special municipal employee under Massachusetts General Laws Chapter 268A. (added 4/10/98)

2-228 Human Rights Commission Members

A member of the Human Rights Commission shall be considered a special municipal employee under Massachusetts General Laws Chapter 268A. (added 11/30/2000)

2-229 Cemetery Commission Members

A member of the Cemetery Commission shall be considered a special municipal employee under the Massachusetts General Laws Chapter 268A. (added 6/18/2003).

2-230 Woburn Handicapped and Disabled Citizens Commission

A member of the Woburn Handicapped and Disabled Citizens Commission shall be considered a Special Municipal Employee under Massachusetts General Laws Chapter 268A. (added 12/10/2004)

2-231 Advisory Traffic Commission

A member of the Advisory Traffic Commission shall be considered a special municipal employee under Massachusetts General Laws Chapter 268A.

2-232 Woburn Historical Commission

A member of the Woburn Historical Commission shall be considered a special municipal employee under Massachusetts General Laws Chapter 268A. (added 5/23/2006)

2-233 Woburn Golf and Ski Authority

A member of the Woburn Golf and Ski Authority shall be considered a special municipal employee under Massachusetts General Laws Chapter 268A. (added 5/23/2006)

2-234 Reserved

2-235 Reserved

**XXXVII HUMAN RIGHTS COMMISSION** (amended 2/15/2005)

2-236 Establishment of the Human Rights Commission; mission, membership, terms

1. There is hereby established a municipal board to be known as the Human Rights Commission in the City of Woburn (hereinafter known as the Commission). The Commission shall consist of 11 members appointed by the Mayor and approved by the City Council for a term of 3 years. Of the members first appointed to the Commission, four shall be appointed for terms of one year, four for terms of two years and three for the term of three years.

   Upon the expiration of the term of any such member his successor shall be appointed for a term of three years. The members of the Commission shall be citizens of the City of Woburn or employees working in the City of Woburn and shall, so far as practicable, be so selected as to provide representation from, but not limited to, the fields of religion, education, behavioral sciences, medicine industry, law, commerce and labor.

2. Chief of Police; Patrolman from Community Policing Unit; City Human Resource Director; Director of the Council on Aging or his/her member designee from the Council on Aging; Member Handicapped Commission;

Executive Director, Housing Authority; Superintendent of Schools (or designee); Woburn High School Student Member of Gay-Straight Alliance appointed by the Superintendent of Schools; Local Clergy Member; a member of the Council on Social Concern; Local Real Estate Agent.

3. The Commission members shall be Special Municipal Employees of the City of Woburn under Commonwealth of Massachusetts General Law Chapter 268A, Section 20.

2-237 Purpose

The City of Woburn Human Rights Commission shall work toward mutual respect and understanding among all individuals and groups in the city through education, improving the quality of public disclosure and helping to eliminate unlawful discrimination. To assure that each person shall have equal access to and benefit from all public services and licensing; to protect each person in the enjoyment of his/her civil rights; and to encourage and bring about mutual understanding and respect among all persons in the City of Woburn by the elimination of unlawful discrimination

2-238 Function and Role of the Commission.

1. The members of the Commission shall serve without compensation. The Commission shall elect one of its members as chairperson, one as secretary and may elect other officers, as it deems necessary. The commission will adopt its own set of bylaws; in accordance and in compliance with City of Woburn ordinances. The commission shall meet at least 6 times per calendar year at regular intervals. The general public, Mayor and all Commission members shall be given notice of said meetings. Meetings shall be conducted in accordance with Commonwealth of Massachusetts open meeting law and Robert's Rules of Parliamentary Order.

2. The first function of the Commission shall be to improve the life of the city by enlisting community based groups in educational programs and campaigns to increase mutual self-respect, harmonious inter-group relations, and the peaceful enjoyment of life in the City of Woburn.

3. The second function of the commission shall be to respond to complaints by persons in the city who believe that their human or civil rights, as defined by existing local, state and federal law have been violated in the City of Woburn.

4. The third function of the Commission shall be to initiate investigations into circumstances, which appear to the commission to unlawfully discriminate any of the people of the City of Woburn. This in accordance with the powers and duties Section 2-201.

5. The fourth function of the Commission shall be to work with the municipal government departments, the school department, other commissions and boards, to increase compliance with appropriate local, state and federal laws and to raise the level of awareness and sensitivity to human rights issues in municipal business with the public through training programs and seminars.

6. The fifth function of the Commission shall be to act as advisory to the Mayor of the City of Woburn on any and all issues pertaining to human and/or civil rights.

2-239 Powers and duties:

1. The powers and duties of the commission shall include the following:

   a. To obtain information and documents, request support and other help as necessary from other city departments.

   b. To publish reports and other documents.

   c. To initiate investigations into the existence of unlawful discrimination in the city which may deny or tend to deny equal access or opportunity in matters of housing, employment, education, contracts, purchasing or public accommodations, on the basis of age, ancestry, citizenship, color, disability, economic status, ethnicity, family/marital status, gender, military status, national origin, race, religion, sexual orientation, or political affiliation; and in connection therewith to hold administrative hearings; per the following:

      i. In order to conduct its investigations the commission shall have the power to: Summons witnesses (pursuant to M.G.L. c. 233, S 8-11); administer oaths; serve written interrogatories; take testimony under oath; require the production of evidence; publish findings; insert complaints and resolutions into municipal personnel files; consistent with the numerous collective bargaining agreements; recommend actions to the Mayor.

   d. To attempt by mediation to resolve all complaints that come before it and recommend to all appropriate governmental agencies, federal, state or local, such action as it feels will resolve such complaint.

   e. To refer complaints to the Massachusetts Commission Against Discrimination (MCAD), or other appropriate agency for resolution.

   f. To create appropriate committees and task forces for the purposes of the Commission.

g. To raise funds/grants for the use of the Commission.

h. To publish its rules, bylaws, policies and practices for both internal and external activities, excluding those documents which are confidential under federal, state or municipal law.

i. To publish its rules and procedures for the conduct of its investigations, hearings, and negotiations. These rules shall insure the due process rights to all persons and/or entities involved in an investigation. At any hearing before the Commission or any committee thereof, a witness or any individual involved shall have the right to be advised and represented by counsel.

j. The Commission shall be responsible to recognize social changes which may affect Human/Civil rights in the City of Woburn. This may be accomplished by assessing and reporting the ethnic, cultural and social demographics of the City of Woburn using the U.S. Census Department and City and State resources. This may be done every ten (10) years.

2. All Commission records shall be public except those that are necessary to ensure privacy rights under other federal, state and/or local laws, and those records, which must be kept confidential in compliance with the rules of evidence.

4. To render to the Mayor, City Council and School Committee a full written annual report of its activities and its recommendations not less than once a year for the calendar year. This should include, but not be limited to, the following: Investigations, hearings, rulings, actions or any programs, seminars or educational classes conducted over the past year.

5. To expend, with the approval of the Mayor, such funds as may be appropriated for the aforementioned purposes. The Commission shall annually prepare and operating budget in a timely manner.

2-240 <u>Construction of aforementioned article and Severability</u>

1. The provisions of this aforementioned article shall be construed liberally for the accomplishments of the purposes thereof, and any ordinance inconsistent with any provision hereof shall not apply, but nothing contained in this article shall be interpreted to contravene the General Laws of the Commonwealth of Massachusetts or the United States of America.

2. If any section of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, that section

or portion shall be deemed severable and shall not affect the validity of the remaining portions of the Ordinance.

(Article added 8/24/2000)

## XXXIX ADVISORY TRAFFIC COMMISSION

2-241 Establishment; Membership

There is hereby established in the city of Woburn, an Advisory Traffic Commission to consist of nine commissioners, one of whom shall be the chief of police or his/her designee, one of whom shall be the superintendent of public works or his/her designee, one of whom shall be the fire chief or his/her designee, one of whom shall be the city engineer or his/her designee, one of whom shall be the planning director or his/her designee, two of whom shall be Aldermen selected by the City Council President, one of whom shall be a resident member to be appointed by the City Council, and one of whom shall be a member of the business community to be appointed by the City Council. That the City Clerk or his/her designee shall serve as administrative clerk of the Advisory Traffic Commission. The members of the Advisory Traffic Commission shall serve without compensation.

2-242 Expenses; Applicability of Other Sections

All expenses incurred for the purposes of this Ordinance shall be paid by the city. All statutes and ordinances applicable generally to the departments of the city shall apply to the Advisory Traffic Commission.

2-243 Term of Membership

When the Advisory Traffic Commission is first constituted, the term of the resident member shall be for one year, the business member for two years. Any subsequent appointments shall be for a term of two years; except that an appointment to fill a vacancy shall be for the unexpired term of the member who is being replaced. The two Aldermen shall be selected by the City Council President as soon after organization of the City Council as possible.

2-244 Powers and Duties

The Advisory Traffic Commission shall be charged with, except as otherwise herein provided, recommending to the City Council the adoption, amendment, alteration and repeal of rules and regulations by a majority vote, not inconsistent with General Laws, relative to vehicular street traffic, pedestrian traffic, and parking in the city and to the movement, stopping or standing of vehicles on and their exclusion from, all or any street, ways, highways, roads and parkways, under the control of the city, including rules and regulations designating any way or part thereof under the control of said city as a throughway under and subject to the provisions of sections 8 and 9 of chapter 89 of the

General Laws and may recommend penalties, not exceeding the maximum established by the General Laws, for the violation of any rule or regulation adopted as a result of any recommendation. Said commission shall be charged with recommending the erection, and making and maintaining to be erected as it deems necessary traffic and parking signs, signals, markings and other devices for the control of such traffic, pedestrian movement,and parking in said city and for informing and warning the public as to rules and regulations adopted hereunder, subject, however to sections 2 of chapter 85 and to sections 8 and 9 of chapter 89 of the General Laws. Nothing in this act shall be construed to authorize said Advisory Traffic Commission to recommend the adoption of any rule or regulation excluding the Massachusetts Bay Transportation Authority from any way or part thereof in which it has a route or to recommend the modification or limit of any power or authority of the metropolitan district commission, or the state department of public works or the state department of public utilities or any power now vested in the mayor, city council or heads of departments with reference to the issuance of licenses or permits for the opening, using or occupying of streets and sidewalks.

2-245 Affect on Prior Ordinances and Regulations

All existing ordinances and regulations, relating to the control of vehicular traffic and parking shall remain in full force and effect until superseded by ordinances, rules and regulations adopted by the City Council and the adoption thereof by said City Council shall not affect any act done or right accrued or penalty incurred or any suit, prosecution or proceeding pending, at the time of said adoption.

2-246 Rules and Regulations

All rules and regulations governing the Advisory Traffic Commission will be established by the Advisory Traffic Commission and approved, changed, or amended by the City Council.

2-247 Special Municipal Employees

A member of the Advisory Traffic Commission shall be considered a special municipal employee under Massachusetts General Laws Chapter 268A.

2-248 Amendment, Alteration and Repeal

The Advisory Traffic Commission shall be established in an advisory role to the City Council and shall remain constituted as such until: 1. A special act of the Great and General Court of the Commonwealth is adopted establishing a Traffic Commission in the City of Woburn which will be authorized to carry out the above duties and conveyed the above powers and upon implementation of every condition precedent required by the Great and General Court of the Commonwealth for the establishment of such Traffic Commission at which time this Ordinance will be repealed without further action being necessary, or 2. Upon amendment, alteration or repeal at any time by majority vote of the City Council of this Ordinance or any section hereof as it deems necessary and proper.

(added 2/18/2005)

## XL. WOBURN AGRICULTURAL COMMISSION

2-249 Woburn Farmers' Market at Spence Farm

This Ordinance establishes the Woburn Farmers' Market at Spence Farm ("Farm"), the Woburn Agricultural Commission ("the Commission") and further sets forth the operating parameters for the Farm.

2-250 Location

The Farm shall be located on the parcel of land owned by the City of Woburn at Wyman and Lowell Streets consisting of approximately 7.497 acres, also known as Spence Farm, and such other agricultural parcels the City may acquire from time to time.

2-251 Purposes

The Farm shall be operated by the city for the purposes of:

(1) Making available to the general public the following: locally-grown produce, fruits, plants, honey, jams, jellies and maple syrup, fresh cider, herbs and spices, dairy products, poultry, fish and meat products, baked goods in which the majority of the ingredients are produced by the Vendor and locally produced specialty food products;
(2) Educating the public about sustainable and ecologically-sound agricultural and environmental practices, including serving as an outdoor classroom for students to learn about locally-grown produce and ecologically-sound agricultural practices; and
(3) Preserving the historic character and culture of the farm;
(4) Making the premises available for use by the public as determined by the Commission;
(5) Such other purposes that benefit the community.

2-252 Duties of the Commission

This ordinance establishes the Woburn Agricultural Commission. The Commission shall implement the purposes set forth in this Ordinance and manage the operation of the Woburn Farmers' Market at Spence Farm, as herein described.

The Commission's duties shall include but not be limited to:

(1) Developing a business plan for the operation of the Farm that is designed to achieve the purposes set forth in this section without placing an additional burden on the operating budget of the city;
(2) Promulgating rules and regulations for the management and use of the Woburn Farmers' Market at Spence Farm that shall be acceptable to the Massachusetts Commissioner of Agriculture as set forth in M.G.L. Chapter 40, Section 10. The

Commission shall also provide in writing to the Mayor, City Council, and City Clerk the final version of the policies and procedures upon their adoption.

(3) Determining, developing and implementing uses of the Farm for the benefit of the public. This may include, but is not required to include, a farmers market, community garden, seasonal special events, educational programs and activities, hay rides, skating, and such other uses that are in compliance with the purposes set forth above.

(4) The ability to lease some or all of the premises provided the intent of the lease complies with the purposes set forth in this ordinance and the lease restricts the use of the premises to those purposes. Any such lease shall be subject to approval by the Mayor and City Council.

(5) The Commission shall provide the Mayor and City Council with annual written reports pertaining to the Farm's operation and performance including a statement of operating expenses and revenue associated with the operation of the Farm for each fiscal year. Said reports shall be submitted within ninety (90) days of the end of the fiscal year.

2-253 Composition of the Commission

Composition: The Commission shall consist of five (5) members who shall be appointed by the Mayor subject to City Council confirmation. The Commissioners shall all be Woburn residents and at least one shall be a Ward 3 resident and one shall be a Ward 4 resident. Of the first members first appointed to the Commission, the initial term of one Commissioner shall be until December 31, 2011, two Commissioners shall be until December 31, 2012 and two commissioners shall be until December 31, 2013. Upon the expiration of the initial term, all subsequent terms shall be three (3) years or until their` successor is duly appointed and confirmed by the City Council. Commissioner terms shall commence January 1st. Appointments to fill vacancies shall be made as set forth in Title 2, Article II, Section 2-9. The members of the Commission shall serve without compensation.

2-254 Supervision of the Farmers' Market

Supervision: The Farmers' Market shall be under the supervision of the Woburn Agricultural Commission ("Commission") who shall designate a Market Manager as provided in M.G.L. Chapter 40, Section 10, to operate and manage the market in accordance with the terms of this Ordinance.

The Commission shall make rules and regulations for the management and use of the Woburn Farmer's Market at Spence Farm that shall be acceptable to the Massachusetts Commissioner of Agriculture as set forth in M.G.L. Chapter 40, Section 10.

The Commission shall establish and enforce all rules and regulations relative to the Farmers' Market; and shall promptly remove or cause to be removed any person who is

disorderly or who refuses to obey any rule or regulation made for the management or conduct of the Farmers' Market.

The Commission shall require any Vendors at the Woburn Farmers' Market at Spence Farm to have liability insurance.

(added 2/17/2011)

## XLI. MAYOR'S SUBSTANCE ABUSE TASK FORCE COORDINATOR

2-255 Establishment/Salary

There is hereby established the position of Substance Abuse Task Force Coordinator who shall be appointed by the Mayor. The position shall be compensated at $25.00 per hour.

2-256 Qualifications and Duties

A. The Substance Abuse Task Force Coordinator shall at a minimum, have a Bachelor's Degree from an accredited college or university; or have equivalent experience in a field related to youth development such as education, psychology, nursing, or sociology, and have a working knowledge of substance abuse treatment programs and substance abuse prevention curriculum, meeting coordination and facilitation practices, and laws and regulations related to substance abuse.

B. The duties of the Substance Abuse Task Force Coordinator shall be to identify and expand resources for educating the community and its families; identify resources for treatment access; foster competent community collaboration in prevention planning, action and evaluation; and involve young people in peer-oriented prevention efforts in a common goal to remain drug-free. The Substance Abuse Task Force Coordinator shall identify state, federal or other sources of funding and apply for grants to supplement city funding. The Substance Abuse Task Force Coordinator shall coordinate with the Police and Fire Departments, the School Department, Recreation Commission and Board of Health and any other necessary agency to further the City's mission to prevent drug abuse and provide support, treatment, access and education to the public.

(Added 2/5/2015)

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# TITLE 3

# REVENUE AND FINANCE

**Articles and Sections** :

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3-3 Budget.
3-4 Fees, charges and commissions to be paid into the treasury.
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**VII REVOLVING FUNDS**

3-35 Establishment.

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## I. FISCAL PROCEDURES GENERALLY

3-1 Authority of Mayor to draw orders--Execution of notes and bonds.

A. The Mayor is authorized to draw orders on the treasurer for the payment of accounts and claims allowed and certified by the committee on accounts or approved by the auditor, as provided in Sections 2-112 through 2-117, and as otherwise provided by law.

B. No money shall be paid out of the City treasury except upon the written order of the Mayor, countersigned by the auditor; provided, however, that the treasurer may pay any sum of money due upon orders drawn by the board of cemetery commissioners out of its funds in accordance with the provisions of Chapter 109 of the Acts of 1884, as amended.

C. The Mayor shall sign all notes and bonds issued by authority of the City Council. (Prior Ch. 14 sec. 6).

3-2 Annual audit.

A. On or before February 1st of each year the Mayor shall order a complete audit of the books of the City and a report of such audit, in triplicate, shall be presented to him, one copy of which shall be referred to the City Council immediately after receipt of the same. (Prior Ch. 14 sec. 8).

B. That the independent auditor engaged by the City pursuant to Section 3-2(A) shall present on an annual basis to the each Alderman a copy of the Independent Auditor's Report, including financial statements, recap sheets, deficiencies and recommendations, and the independent auditor shall on an annual basis meet with the City Council Finance Committee to present an explanation of the Independent Auditor's Report.

3-3 Budget.

A. The Mayor shall furnish to the City Council, individually, a copy of the annual budget for the current year, setting out therein an itemized and detailed statement of the money required for each department, clearly specifying the amount to be spent for each particular purpose.

B. Each department of the City, excluding the school department, shall set forth in its annual budget the name of each employee of the department, together with the amount of the annual salary paid to and the job title of each employee. This information is to be contained in the annual budget when submitted to the City Council for action thereon. (Prior Ch. 14 sec. 9).

C. The City Auditor shall, on a monthly basis, submit to the City Council a copy of all receipts accounts. (Added 5/18/93)

D. The City Council shall hold a Public Hearing on the annual budget on the second Monday in June commencing at 7:00 p.m. in the City Council Chambers. The City Clerk shall advertise in at least one (1) newspaper in the City of Woburn during the month of May the date, time and purpose of the Public Hearing. A copy of the annual budget shall be posted in the Rotunda of City Hall for inspection by the public. (Added 10/9/98, 8/24/2007)

E. Water and Sewer Enterprise Fund

The allocation of Indirect Costs to each department in the annual budget of the City of Woburn Water and Sewer Enterprise Fund shall be as follows:

City Council.....2.00%
Mayor.....4.50%

City Auditor .....7.00%
Purchasing Agent.....7.00%
Assessors .....1.00%
City Treasurer/Collector .....12.50%
City Solicitor ..... 5.00%
Data Processing..... 5.00%
City Clerk ..... 1.00%
Human Resources ..... 2.55%
Conservation..... 4.50%
Planning..... 5.00%
City Engineer .....40.00%
DPW Administration Salary.....35.00%
DPW Building Salary..... 8.00%
DPW Highway Salary.....18.00%
DPW Overtime .....20.00%
DPW Admin Maintenance .....20.00%
DPW City Hall Maintenance..... 0.00%
DPW Vehicle Insurance .....25.00%
DPW Surface Drainage..... 0.00%
DPW Street Maintenance.....10.00%
DPW Snow Removal ..... 5.00%
DPW Traffic Control ..... 0.00%
DPW Street Lighting ..... 0.00%
DPW Repair and Resurface.....10.00%
DPW Sidewalk Repair.....20.00%
DPW City Garage .....20.00%
DPW Telephone..... 0.00%
DPW Gas and Oil.....20.00%
DPW Vehicle Maintenance…… 25.00%
DPW Public Buildings Maintenance.....10.00%
DPW Outlays .....20.00%
Board of Health ..... 5.00%
Unemployment Compensation..... 1.00%
Health Insurance..... 1.00%
Worker's Compensation…… . 1.00%
Retirement…… . 1.00%
Non-Contributory Retirement…… 1.00%
Medicare ..... 1.00%
(added 9/17/2003; amended 8/24/2007; 10/28/2008)

F. Appropriations, Transfers or Loans

Any original appropriation or appropriation by transfer or loan in a sum in excess of Ten Thousand Dollars ($10,000.00) filed with the city council for

approval shall have attached thereto a written report prepared by the department head setting forth a reasonable cost estimate of the project, materials, supplies and/or labor for which the appropriation shall be used and any supplemental documentation that will support the estimate. (added 8/24/2007)

G. Review of Appropriations and Transfers

Before final action may be taken, any original appropriation or appropriation by transfer or loan in a sum in excess of One Hundred Thousand Dollars ($100,000.00) filed with the City Council for approval shall be referred to and reported upon by the City Council Committee on Finance after a presentation of the particulars of the matter by the City Auditor and such other department heads as the City Council may direct. The City Council may, by unanimous vote, vote to suspend this provision. (added 4/16/2013)

3-4 Fees, charges and commissions to be paid into the treasury.

Every officer receiving a salary from the City, for whose services any fees, charges or commissions are allowed by law, shall, on or before the fifth day of each month pay such fees, charges or commissions into the City treasury to become the property of the City, and shall at the same time send to the auditor a detailed statement of the amount of the moneys collected by him, including the money received for all licenses. (Prior Ch. 16 sec. 13).

3-4A Department money receipts to be paid into the treasury

All City departments shall turnover to the City treasurer any taxes, fees or other monetary receipts daily, and shall at the same time send to the City auditor a detailed statement of the amount of the monies collected and turned over to the Treasurer. Any department, with prior approval from the treasurer, shall deposit all cash receipts directly to the account specified by the treasurer, providing the treasurer with a written notice of each deposit together with the deposit receipt provided by the bank. (added 2/9/2006)

3-5 Annual report of officers, boards and committees.

All officers, boards and committees having charge of City property or entrusted with the receipt and expenditure of money shall, unless otherwise provided, report to the City Council annually on or before the 15th day of January. They shall, whenever requested by the City Council report to it in writing, information with respect to their respective departments, and the officers, boards and committees, upon the request of any member of the City Council, shall disclose to him such information. (Prior Ch. 16 sec. 14).

3-6 Disposal of old and unnecessary material.

A. Every officer, department head or board in charge of a department who decides that a vehicle or any material coming under the supervision of such department or board or officer is no longer useful or needed by that department shall so notify the City Council of that decision.

B. The City Council shall decide, after deliberations with any other department which may be interested in the obtaining or transfer of said vehicles and material for their department whether the City shall sell, convey or put up for public auction any vehicle or material that the City Council decides by a majority vote is no longer needed by the City.

C. The vote of the City Council shall require the approval of the Mayor as prescribed in the Charter.

D. After the approval of the City Council by a majority vote of its members and after the approval of the Mayor as governed by the structure and procedure of Section 25 of the City Charter, the officer, department head or board who had the supervision of the vehicles and material shall record in a book kept for the purpose the manner of the disposal of the vehicles and materials.

E. The records shall show the manner in which the vehicles and material was disposed of and the money received, if any, for the vehicles and material.

F. The board or officer shall make out bills for the sale of the same and he shall deliver them to the treasurer, and at the same time deliver them to the auditor who shall record them in a book kept for the purpose.

G. In no case shall the City sell, convey, lease or put up for public auction any vehicle or material unless approved by a majority vote of the City Council. (Prior Ch. 16 sec. 15).

3-7 Bills and demands against City.

Every officer and board in charge of a department and every committee of the City Council in whom is vested the approval of bills, shall, on or before the fifth day of each month, send to the auditor all bills and demands against the City which have been received and approved by such officer or board, in such form and with such approval as the auditor may require, together with such vouchers, schedules, requisitions and evidences of authority under which the expenditure was incurred, as the auditor may require. (Prior Ch. 16 sec. 16).

3-8 Weekly and monthly payroll.

A. Every officer and board in charge of a department shall prepare a weekly payroll of all the employees in the department, to and including Saturday of each week, and shall send the same to the auditor within forty-eight hours after the close of the period covered by such payroll; but the name of any person whose payment weekly is not required by law, shall not be placed on such payroll, and if such person desires to have his name on the monthly payroll.

B. Every officer and board in charge of a department shall prepare a monthly payroll for the payment of all officers and subordinates not paid on the weekly payroll, and send the same on the third day of each month to the City auditor. (Prior Ch. 16 sec. 17).

3-9 Auditor to authorize purchases.

No department head or board shall authorize any work or purchase of any vehicle or material without first having written authorization from the City auditor, stating that the money is available by way of a duly passed appropriation by the City Council in the budget. (Prior Ch. 16 sec. 18).

3-10 Travel and expense accounts in election year.

A. No travel or expense account, in a City election year, shall be expended beyond the month of December of said year, by more than 1/2, for any elected or appointed position.

B. If the ordinance codified in this section is violated, the City solicitor shall take necessary steps to recover any amount of money so over expended. (Prior Ch. 16 sec. 9).

3-11 Hiring of carriages and automobiles.

No carriage or automobile shall be hired at the expense of the City except upon an order signed by the Mayor, the president of the Council or the acting chairman of a board or of a committee of the City Council. The order shall state the purpose for which the carriage is required and shall accompany the bill as a voucher. (Prior Ch. 16 sec. 20).

## II. PURCHASING

3-12 Duties--Purchasing procedures.

In accordance with the provisions of the Uniform Procurement Act, M.G.L. Chapter 30B

(including Amendments), the Purchasing Agent is designated as the Chief Procurement Officer for the City and shall oversee the procurement function in conformity with the Statute.

A. The Purchasing Agent shall, upon the written requisition in writing by the Head of any City Department, purchase all supplies required by such Department. The Purchasing Agent shall approve all work/service orders prior to their presentation to the City Auditor that sufficient funds are appropriated for the order.

B. Formal written contracts shall be required for procurements of $5000 or more. The Purchasing Agent shall maintain a file on each such contract and shall include in the file a copy of all written documentation required by Statute. The City shall make no payment for a supply or service rendered prior to the execution of the formal written contract.

C. The procurements of all supplies or services exceeding Ten thousand dollars, but less than Twenty five thousand dollars, shall be made by seeking written quotes from at least three prospective suppliers who customarily provide such supply or service. A record of the names and addresses of all persons from whom quotations were sought, the names of the persons submitting quotations, the date, and the amount of each quotation shall be kept with each procurement. The Purchasing Agent shall award the contract to the responsible person offering the needed quality of supply or service at the lowest quotation. (amended 10/6/2000; amended 5/23/2014)

D. Procurement contracts in the amount of Twenty five thousand dollars or more, other than the contracts for procurement of real property, shall conform to the competitive sealed bidding procedures set forth in the Statute (M.G.L. 30B, as amended). The invitation for bid shall include the following information:

   a. The time and date for receipt of bids, description of what is to be purchased, all evaluation criteria that will be used in determining acceptability, and the contract terms and conditions applicable to such purchase.

   b. Give public notice by posting in a conspicuous place, publication in a local newspaper, and, if the amount is at a threshold level set by the Secretary of State, publication in the Goods and Services Bulletin.

   c. Open the bids publicly; evaluate the bids on the requirements and criteria set forth in the invitation for bids; unconditionally accept a bid without alteration or correction, except as provided by Law and award the

contract to the lowest responsible and responsive bidder.

(amended 10/6/2000)

E. The Purchasing Agent may enter into procurement contracts in the amount of twenty five thousand dollars or more by utilizing competitive sealed proposals. The Purchasing Agent shall not solicit competitive sealed proposals unless he has determined in writing that selection of the most advantageous offer requires comparative judgments of factors in addition to price specifying the reasons for his determination. The solicitation and public notice requirements for competitive proposals shall be the same as for the process outlined for competitive bids except that:

a. The Purchasing Agent shall not open the proposal publicly, but shall open them in the presence of one or more witnesses at the time specified in the request for proposals.

b. The Purchasing Agent shall designate the individual or individuals responsible for the evaluation of the proposals on the basis of criteria other than price. The designated individuals shall prepare their evaluations based solely on the criteria contained in the request for proposals. The evaluations shall be in writing and include a rating for each proposal and the reasons for the rating.

c. The Purchasing Agent shall determine the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals.

d. If the Purchasing Agent awards the contract to an offeror who did not submit the lowest price, he/she shall explain the reasons for the award in writing.

(amended 10/6/2000)

G. Sole source procurements may be undertaken on all procurements under Twenty five thousand dollars upon certification by the Purchasing Agent that only one practicable source for the supply or service exists. In addition, library books, school textbooks and public utility services may be procured noncompetitively in any amount upon certification by the Purchasing Agent that only one practicable source exists. All such certifications shall be on file for public inspection at the Purchasing Agent's office. (amended 10/6/2000)

H. Unless authorized by a majority vote by the City Council, the Purchasing Agent may not solicit or award a contract for a term greater than three years, including renewals, extensions or options.

I. The Purchasing Agent may make an emergency procurement without following M.G.L. Chapter 30B whenever the time required for compliance with the requirement would endanger the health or safety of the people or their property. Documentation must be kept on file for public inspection in the Purchasing Agent's office relating to any emergency procurement.

J. The Purchasing Agent shall procure all supplies and services for the School Department in accordance with all procedures and regulations defined in this section 3-12.

K. The Purchasing Agent shall assist the Mayor and the City Council in applying for and administration of Federal or State Grant Programs. (Ords. dated 10/21/86; 5/4/84; Ord. dated 8/18/87, prior Ch. 21, {2); Ordinance dated 4/17/90, without Mayor's Signature; *Subsections D., E. F., amended August 15, 1990, by substituting ten thousand for Six Thousand Five Hundred.).

3-13 Requisitions for supplies--Emergency situations.

A. Every officer in charge of a department requiring materials and other supplies shall obtain the same from the purchasing agent by means of a requisition therefor on blanks to be prepared by the purchasing agent.

B. No officer, department head, board or commission authorized to spend money shall make requisitions on the purchasing agent for purchasing of supplies or materials until funds are available therefor unless an emergency arises and supplies and materials are needed, the emergency to be determined by the department head. (Prior Ch. 21 sec. 3).

3-14 Account books--annual report.

The purchasing agent shall in his annual report include a statement of the cost of all supplies furnished each department and officer. (Prior Ch. 21 sec. 4).

3-15 Rejection of bids.

The purchasing agent, with the approval of the Mayor, may accept or reject any bid, when to do so the best interests of the City will be furthered. (Prior Ch. 21 sec. 5).

3-16 Contracts and bidding--Definitions--Conditions.

A. Every contract for the construction, reconstruction, alteration, remodelling or repair of any public work in the City, all contract work done by a private contractor, the contractor shall furnish his own material and equipment. The word "material," as used in this section, means and includes pipes (water and

sewer), brick, mortar, concrete, wood, sand, plaster, gravel, loam, bituminous, sand, etc. It also includes any article, assembly, system or any component part thereof.

B. Rental of equipment for construction, reconstruction, alteration, remodelling, repair or plowing of streets, or any public work for the City shall be awarded to the lowest responsible and eligible bidder.

C. The term "lowest responsible and eligible bidder" means the bidder whose bid is of the lowest of those bidders possessing the skill, ability and integrity necessary for the faithful performance of the work. (Prior Ch. 21 sec. 6).

3-17 Full disclosure in connection with lease or sale of property.

No agreement to lease or sell real or personal property to the City shall be valid and no payment shall be made to the lessor or seller of such property until a statement has been filed, under the penalties of perjury, with the City auditor and the City Clerk, by the lessor or seller, giving the true names and addresses of all persons who have a direct or indirect beneficial interest in the property. (Prior Ch. 21 sec. 7).

3-18 Advertising of legal notices.

All advertising required by law for contracts, projects, materials, services and notification for taxpayers of the City must first be inserted by the officials, departments, agencies and authorities in a newspaper of general circulation in the City. A newspaper becomes eligible for advertising only immediately after twelve (12) consecutive months of circulation. Said newspaper must be printed and distributed daily or weekly and contain news articles of opinion, features and advertising pertaining to the City of Woburn. (Prior Ch. 21 sec. 8). (Amended 7/24/92).

3-18A Conflict

If there is a conflict between any of the provisions contained in Sections 3-12 through 3-18 of the 1989 Woburn Municipal Code and any of the provisions of M.G.L. Ch. 30B, the provisions of M.G.L. Ch. 30B shall be deemed to supercede the provisions of the 1989 Woburn Municipal Code. (added 10/6/2000)

3-18B Designer Selection Procedures

A. The provisions of this section shall apply to contracts for design services for any building construction, reconstruction, alterations, remodeling or repair project that has both an estimated construction cost of more than $100,000 and a

estimated design fee of $10,000 or more, provided, however, that the estimated said dollar amount thresholds may be increased pursuant to General Laws, Chapter 7, Section 38C. The provisions hereof shall apply only to such contracts for design services at or in excess of said dollar threshold amounts.

The terms “design services” and “designer” shall have the meanings as set forth in General Laws, Chapter 7, Section 38A 1/2, as the same may be amended from time to time.

B. The City of Woburn, acting by and through its Mayor, (“Approving Authority”) has the authority to conduct the design selection process for the City, the Approving Authority may delegate any duties described herein to the extent such delegation is permissible by law.

C. The Approving Authority may designate the individual or group of individuals (hereinafter referred to as “the Committee”) who will conduct the design selection process.

No member of the Committee shall participate in the selection of a designer for any project if the member, or any of the member’s immediate family:

a. has a direct or indirect financial interest in the award of the design contract to any applicant;

b. is currently employed by, or is a consultant to or under contract to, any applicant;

c. is negotiating or has an arrangement concerning future employment or contracting with any applicant; or

d. has an ownership interest in, or is an officer or director of, any applicant.

D. A Request for Qualifications (RFQ) for each contract subject to these procedures shall be advertised in a newspaper of general circulation in the locality of the building project, in the Central Register published by the Secretary of the Commonwealth, and in any other place required by the Approving Authority, at least two weeks before the deadline for filing applications.

E. The advertisement shall contain the following information:

a. a description of the project, including the specific designer services sought, the time period within which the project is to be completed, and if available, the estimated construction cost;

b. if there is a program for the building project, a statement of when and where the program will be available for inspection by applicants;

c. when and where a briefing session (if any) will be held;

d. the qualifications required of applicants;

e. the categories of designers' consultants, if any, for which applicants must list names of consultants they may use;

f. whether the fee has been set or will be negotiated; if the fee has been set, the amount of the fee must be listed in the advertisement;

g. when and where the RFQ can be obtained and the applications must be delivered.

F. The RFQ shall include the current "Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction," which is available for download from the Massachusetts Designer Selection Board website at Designer Selection Board (DSB) Procedures for Municipalities.

The Application Form may be amended to include additional information on a project-specific basis.

G. The Committee shall evaluate applicants based on the following criteria:

a. prior similar experience;

b. past performance on public and private projects;

c. financial stability;

d. identity and qualifications of the consultants who will work with the applicants on the projects; and

e. any other criteria that the Committee considers relevant to the project.

H. The Committee shall select at least three finalists. Finalists may be required to appear for an interview or provide additional information to the Committee, provided that all finalists are afforded an equal opportunity to do so.

I. The Committee shall rank the finalists in order of qualifications and transmit the list of ranked finalists to the Approving Authority. In the alternative, the Approving Authority my allow the Committee to select the designer and/or

negotiate the fee, provided, however, in any event that no selected fee shall be final until approved by the Approving Authority.

No person or firm, including applicants' listed consultants, debarred pursuant to M.G.L. Chapter 149, section 44C shall be included as a finalist on the list.

The list must be accompanied by a written explanation of the reasons for selection including the recorded vote, if any. The written explanation and recorded vote, if any, shall be public records and shall be maintained in the contract file.

J. If the fee was set prior to the selection process, the Approving Authority shall select a designer from the list of finalists. If the Approving Authority selects a designer other than the one ranked first by the Committee, the Approving Authority shall file a written justification for the selection with the Committee and maintain a copy in the contract file.

K. If the fee is to be negotiated, the Approving Authority shall review the list of finalists and may exclude any designer from the list if a written explanation of the exclusion is filed with the Committee and maintained in the contract file. The Approving Authority shall request a fee proposal from the first ranked designer remaining on the list and begin contract negotiations. If the Approving Authority is unable to negotiate a satisfactory fee with the first ranked designer, negotiations shall be terminated and undertaken with the remaining designers, one at a time, in the order in which they were ranked by the Committee until agreement is reached. In no event may a fee be negotiated which is higher than the maximum fee set by the Approving Authority prior to selection of finalists.

L. If the Approving Authority is unable to negotiate a satisfactory fee with any of the finalists, the Approving Authority shall recommend that the Committee select additional finalists.

M. The Approving Authority may allow a designer who conducted a feasibility study to continue with the design of a project. However, the Approving Authority may commission, at its discretion, an independent review, by a knowledgeable and competent individual or business doing such work, of the feasibility of the designer's work to insure its reasonableness and its adequacy before allowing the designer to continue on the project, provided the Approving Authority otherwise complies with the statutory requirements for selecting a designer under Chapter 7 of the General Laws, including those set forth in M.G.L. 7, S38K(a)(1).

N. Every contract for design services shall include the following:

a. certification that the designer or construction manager has not given, offered, or agreed to give any person, corporation, or other equity any gift, contribution, or offer of employment as an inducement for, or in connection with, the award of the contract for design services;

b. certification that no consultant to, or subcontractor for, the designer or construction manager has given, offered, or agreed to give any gift, contribution, or offer of employment to the designer or construction manager, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the designer or construction manager;

c. certification that no person, corporation, or other entity, other than a bona fide full-time employee of the designer or construction manager, has been retained or hired by the designer or construction manager to solicit for or in any way assist the designer or construction manager in obtaining the contract for design services upon an agreement or understanding that such person, corporation, or other entity be paid a fee or other consideration contingent upon the award of the contract to the designer; and

d. certification that the designer has internal accounting controls as required by M.G.L. Chapter 30, Section 39R( c ) and that the designer has filed and will continue to file an audited financial statement as required by M.G.L. Chapter 30, Section 39R (d ).

All fees shall be stated in design contracts and in subsequent amendments thereto, as a total dollar amount. Contracts may provide for equitable adjustments in the event of changes in scope or services.

O. The Approving Authority shall not enter into a contract for design services unless the Approving Authority or the designer has obtained professional liability insurance covering negligent errors, omissions, and acts of the designer or of any person or business entity for whose performance the designer is legally liable arising out of the performance of the contract. The total amount of such insurance shall at a minimum equal the lesser of one million dollars or ten percent of the project's estimated cost of construction, or such larger amounts as the Approving Authority may require, for the applicable period of limitations. A designer required by the Approving Authority to obtain all or a portion of such insurance coverage at its own expense shall furnish a certificate or certificates of insurance coverage to the Approving Authority prior to the award of the contract.

P. Every contract for design services shall include a provision that the designer or its consultants shall not be compensated for any services involved in preparing

changes that are required for additional work that should have been anticipated by the designer in the preparation of the bid documents, as reasonably determined by the individual responsible for administering the design contract.

Q. In the event of an emergency that precludes the normal use of these designer selection procedures, the Approving Authority may elect to authorize expedited procedures to address the emergency. The Approving Authority shall document in writing the reasons for the emergency declaration, the proposed scope of work, the estimated cost of construction, the established fee for the needed design services, and any other relevant information.

   The Approving Authority may select three finalists from any standing list of designers who have applied for projects of a similar nature, or may otherwise select three designers to be considered as finalists for the project. The Approving Authority shall rank the finalists in order of qualification and select the designer for the emergency work.

R. The Approving Authority shall publish the name of any designer awarded a contract in the Central Register.

S. The following records shall be kept by the Approving Authority:

   a. all information supplied by or obtained about each applicant;

   b. all actions taken relating to the project; and

   c. any other records related to designer selection.

   All records shall be available for inspection by the state Designer Selection Board and other authorized agencies.

T. The Approving Authority shall evaluate designers' performance on contracts using the Designer Selection Board evaluation form(s) in accordance with M.G.L. Chapter 7, Section 38E(g), and file completed evaluations with the Board and any other agency named in M.G.L. c.7, Section 38E(g).

U. Nothing in these Procedures shall be interpreted to require the establishment of a board or waive or reduce the requirements of any other applicable law or regulation.

V. For any municipal design or construction project that includes funding provided by the Commonwealth, in whole or in part (such as reimbursements, grants and the like), the City shall incorporate minority-owned business enterprise and women-owned business enterprise participation goals, and in such instances,

the Approving Authority shall take steps to assure that it complies with all State Office of Minority and Women Business Assistance requirements.

(added 2/9/2010)

## III. FEES FOR LICENSES, PERMITS AND RECORDS

3-19 Schedule of fees for licenses and permits.

Fees for licenses or permits shall accompany the application for such license or permit and shall be paid to the City Clerk or officer or board issuing the same, and shall be as follows:

| | |
|---|---|
| Auctioneer--Resident | $ 25.00 Annually |
| Auctioneer--Special—Limited | $ 15.00 per day |
| Auction | $ 10.00 per |
| Automobile Graveyard | $ 50.00 Annually |
| Automatic Amusement Device | $ 20.00 per machine Annually |
| Billiard Rooms/Parlor | $ 25.00 for the first table, plus 10.00 per each additional table |
| Bowling Alley | $ 20.00 for the first alley, plus $10.00 for each per each additional alley |
| BUILDING FEES AND ELECTRICAL FEES CAN BE FOUND IN CH.15. | |
| Carnival/Circus | $ 10.00 per |
| Coffee and/or Tea House | $ 25.00 Annually |
| Commercial Parking Lots | $ 6.00 per space annually |
| Drug--Third Class | $ 50.00 Annually |
| Entertainment Activities on Sunday | $ 10.00 single event |
| Entertainment Activities on Sunday | $200.00 annual events |
| Flea Market | $ 2.00 Annually |
| Garage Auto Repair Shop | $ 50.00 Annually |
| Hawkers/Peddlers | $ 20.00 |
| Peddlers of vegetables, fish, fruits | $ 10.00 Annually |
| Hotel | $ 25.00 Annually |
| Holiday--Sunday Necessary Work | $ 10.00 Annually |
| INFLAMMABLES--SEE SECTION 8-12 | |
| Innholders | $ 25.00 Annually |
| Junk Collector | $ 50.00 Annually |
| Junk Dealer--Keeper of Shop | $ 50.00 Annually |
| Leasing of Automobiles/Trailers | $ 50.00 Annually |
| Lodging House | $ 20.00 Annually |
| Mobile Vending Vehicle--Food Vehicle | $ 50.00 Annually |

| | |
|---|---|
| Motel | $ 10.00 Annually |
| Motor Vehicle Licenses 1st Class, 2d Class or 3d Class | each year, 200.00 application fee plus 100.00 Annually |
| Public Amusements..(GL Ch.140, Sec.181) | $200.00 Annually |
| Single Event | $ 10.00 |
| Rooming House | $ 10.00 Annually |
| Secondhand Articles—Furniture | $ 50.00 Annually |
| Secondhand Lumber, Building Materials | $ 50.00 Annually |
| Secondhand Metals | $ 50.00 Annually |
| Razed Building Materials, selling of (Temporary License) | $ 50.00 Annually |
| Recording Cemetery Deed Lots | $ 5.00 |
| Declaration of Trust | $ 10.00 |
| Recording Order granting locations of poles, conduits, etc. (flat rate) | $ 25.00 |
| Street Musicians | $ 25.00 |
| Taxi | $ 20.00 each Annually |
| Taxi Stands | $ 10.00 each Annually |
| Tennis Courts | $ 10.00 per court |
| Transient Vendor | $ 50.00 |

For the following, the fees charged shall be those which are prescribed by MGLA: Birth Records, Death Records, Marriage Records, Registration Fees, Business Certificates. (Prior Ch. 10 sec. 1; amended 1/19/2017; amended 3/23/2017).

3-20 Licenses and permits--Conditions.

A. Every officer or board in charge of a department issuing a license or permit shall insert therein a condition that the person accepting the same shall conform to the statutes and ordinances and the specifications in the license or permit, and that the violation of any of its specifications shall work an immediate revocation of the license or permit and that such person shall indemnify and hold harmless the City from any damage it may sustain or be required to pay, by reason of the doing of any of the work licensed or permitted by reason of any act or neglect of himself or any of his employees relating to such work or by reason of any violation of any specification, provided that nothing contained in this section shall be construed to prevent the insertion of any other specification deemed advisable by the authority issuing such license or permit.

B. Such officer or board may require a bond with sureties satisfactory to him or it, to secure the performance of the conditions of the license or permit.

C. The fee for issuing such licenses shall be according to the schedule of fees as listed in Section 3-20. (Prior Ch. 10 sec. 4).

3-21 Charges for certified copies kept by City Clerk.

For certified copies of records kept by the City Clerk fees may be charged which are commensurate with the fees charged by the registry of deeds for similar copies. (Prior Ch. 10 sec. 5).

3-22 Disposition of moneys paid for special permits.

A. All moneys paid by petitioners for advertising of special permits, zoning amendments, variances and planning board petitions shall be applied to defray the cost of the advertising, with any balance accruing to help defray the cost of postage, stationary and clerical work, and to be retained in a general ledger account set up for that purpose.

B. When the balance of any such account reaches the amount of one thousand dollars for each of said accounts, any balances thus accrued shall inure to the general fund.

**C.** There shall be no refund of any excess over advertising costs to any petitioner. (Ord. dated 2/6/85; prior Ch. 10 sec. 6).

## IV. DISPOSITION OF LAND ACQUIRED PURSUANT TO TAX LIENS

3-23 Custody, management and sale of land--Powers and authority.

The following regulations are established for the custody, management and sale of land acquired by the City under the provisions of Massachusetts General Laws, Chapter 60, and acts in amendment of or in substitution therefor:

A. The City collector, upon the performance of the duties imposed by Chapter 60 of the General Laws shall report his doings concerning such land in writing to the City treasurer in such form as may be approved by the Mayor, which report shall contain a description of the several parcels of land, the amount for which the same was offered for sale, the expense of the sale, the amount named in the collector's deed or instrument of taking, as due when the same was executed, all interest and subsequent taxes and assessments thereon.

Such report shall be filed in the office of the City Treasurer, and kept by him as a record concerning land so acquired and held.

B. The City Treasurer, under the direction of the Mayor, may advertise such land

for sale by public auction, and the cost thereof shall be apportioned equally among all the parcels or lots specified in the advertisement. The cost of the sale shall be apportioned equally among all lots sold.

C. The Mayor, after being authorized by majority vote of the City Council, may from time to time, sell or cause to be sold at public auction or private sale, any such land at such price and upon such terms as may be so authorized or, after being so authorized, he may cause the same to be leased or let in like manner, in case of inability to make a satisfactory sale and, after being so authorized, he may sign, seal, acknowledge and deliver in the name and behalf of the City, all proper deeds and instruments therefor, and the proceeds of such sales, conveyances, leases or letting shall be paid into the City treasury, subject to the necessary costs and charges incident thereto, and held, as provided in and by said chapter 60 of the General Laws.

D. Upon a sale, conveyance, lease or letting of any parcel of land so held, the treasurer shall enter upon the record the name of the purchaser, lessee or tenant, the consideration or rental paid, the date of sale or other disposition, the cost of advertisement, sale and the taxes assessed thereon, as shown by the records of the assessors from and subsequently to the date of acquiring the same under said statute, in a form convenient for the preservation of a record of the transactions by the City and the state of the account of the City concerning the same.

E. The tax title custodian of the City purporting to act under the authority conferred by Massachusetts General Laws, Chapter 60, Section 77A, shall, in addition to the notice required by this chapter and sections of the General Laws of the Commonwealth, give notice by publishing of his intent to act. The publishing shall be made in a newspaper of general circulation in the City for three consecutive weeks, the last publication date to be at least twenty-one days prior to the intended date of action. The notice published shall contain a title reference to the subject property, as well as the name of the nearest public way to the property. (Prior Ch. 14 sec. 5).

F. Any Real Estate tax bill that has been past due for three hundred and sixty five days shall be placed in Tax Title. The Collector's office has six months from the acceptance of this ordinance to be in compliance with this ordinance. (Added 5/18/94)

3-24 <u>Suspension, Revocation or Denial of Local Licenses and Permits</u>.

A. The Tax Collector or any other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter collectively referred to as the Tax Collector, shall monthly, and at

such other times as may be requested furnish each department, board, commission or division, hereinafter collectively referred to as the Licensing Authority, that issues building permits, or licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the Party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges including amounts assessed under the provisions of section twenty-one D, 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 has a pending petition before the Appellate Tax Board. (amended 9/27/2004)

B. The Licensing Authority may deny, revoke or suspend a building permits, or any license or permit, including applications for renewals, transfers, and original applications of any party whose name appears on said list furnished to the Licensing Authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such building permit or license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the Licensing Authority from the tax collector; provided, however, that written notice is given to the Party and the Tax Collector, as required by applicable provisions of law, and the Party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said building permit or license or permit to any Party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such building permit or local permit or license or denial, revocation or suspension. Any findings made by the Licensing Authority with respect to such building permit or license or permit 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 building permit or license denial, revocation or suspension. Any building permit or license or permit denied, suspended or revoked under this section shall not be issued or renewed until the Licensing Authority receives a certificate issued by the Tax Collector that the Party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the municipality as of the date of issuance of said certificate.

C. Any Party shall be given an opportunity to enter into a payment agreement with the Tax Collector, thereby allowing the Licensing Authority to issue a certificate indicating said limitations to the building permit or license or permit and the validity of said building permit or license or permit 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 building

permit or license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

D. The City Council, upon application made specifically thereof, may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A, in the business or activity conducted in or on said property. This section shall not apply to the following licenses and permits granted under the General Laws of the Commonwealth of Massachusetts: 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 licenses, section twelve of Chapter one hundred and thirty-one; marriage licenses, section twenty-eight of Chapter two hundred and seven; and theatrical events, public exhibition permits, section one hundred eighty-one of Chapter one hundred and forty.

E. Notice, Hearing and Appeals Procedure

Section I – Definitions

“Party” includes, but is not limited to, the following:

(a) Any person or entity whose name appears on the Tax Delinquent List furnished by the Treasurer/Tax Collector.

(b) Any person or entity who makes or has made application for a building permit or local license or permit, or to whom such a permit has been issued, by virtue of which any activity, event or other matter is or is to be carried out or exercised on or about real estate owned by any party whose name appears on the list furnished to the licensing or permitting authority from the Treasurer/Tax Collector.

(c) The Treasurer/Tax Collector shall be a party in all cases.

Section II - Authority

The ordinance requires that the Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and

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

The licensing or permitting authority may deny, revoke or suspend any building permits or local license or permit, including renewals and transfers in accordance with the provision of Title III, WMC, §3-24.

Section III - Form of Notice

(a) The licensing or permitting authority shall give written notice to the party or parties as described in paragraphs (a), (b) and (c) of Section 1, by mailing a copy of said notice, first class mail, postage prepaid, return receipt requested.
Notice to a party as defined in paragraph (a) of Section shall be mailed to the party at (1) the property address; (2) the address to which the unpaid bill was sent by the Treasurer/Tax Collector, and (3) to the address, if different from those just described, as appears on the most current mailing address list compiled by the Board of Assessors.

(b) Notice to a party as defined in paragraph (b) of Section 1 shall be sent to the person or entity by first class mail, postage prepaid, return receipt requested, at the mailing address as shown on the application being made or, if the application has been granted, to the mailing address as appears on both the application made and the building permit or local license or permit that was issued.

(c) Notice to the Treasurer/Tax Collector shall be sent to the Collector's office at City Hall by first class mail, postage prepaid, return receipt requested.

(d) All "notices" referred to herein shall be sent at least twenty-one days prior to the scheduled hearing date. The notice shall specify the date, time and location of the hearing and shall identify the parcel(s) of real estate to which it pertains. All notices shall contain the following language:

*"If special services, assistance or accommodation are required to participate in this hearing, please contact the undersigned at the phone number shown above."*

Section IV – Agreements entered into with the Treasurer/Tax Collector

Every party has an absolute right to enter into a payment agreement, as provided by state statute, with the city Treasurer/Tax Collector. When an agreement is entered into with the Treasurer/Tax Collector, the permit or license shall issue and be conditioned upon full compliance with said agreement.

The following language shall be inscribed upon every permit or license issued upon the condition that an agreement entered into with the Treasurer/Tax Collector be complied with:

*"This permit [or license] is issued upon the condition that the terms of an agreement entered into between _____ and _____ the Treasurer/Tax Collector be complied with. Failure to comply with the terms of said agreement shall result in the suspension or revocation of this permit [or license] following notice and a hearing ."*

Any permit or license sought by a person or entity who has already entered into a payment agreement with the Treasurer/Tax Collector shall, if issued, be conditioned upon compliance with any and all agreement(s) previously entered into between the person or entity and the Treasurer/Tax Collector

Any party who fails to comply with the terms of such an agreement upon which a license or permit is conditionally issued shall be subject to all of the provisions for denial, revocation or suspension as provided herein, i.e. upon receipt of notice from the Treasurer/Tax Collector that said agreement has been breached. Said notice shall contain a hearing date on which said license or permit may be revoked or suspended. All of the provisions as to notice and hearing, as contained herein, shall apply to a hearing held to revoke or suspend a permit or license issued upon the condition that an agreement with the Tax Collector be complied with.

Section V - Hearings

No hearing shall be held earlier than fourteen (14) days, excluding the day of mailing, after "Notice" has been mailed. Every party shall have the right to be represented by counsel and present evidence at such hearing.

The hearing shall be conducted by the permit granting or licensing authority to whom or to which application would be made in the first instance. In the case of a building or occupancy permit, the Building Inspector shall conduct the hearing; permits or licenses within the jurisdiction of the Woburn License Commission by said commission; those permits or licenses within the jurisdiction of the Board of

Health, by the Board of Health Director; permits or licenses within the jurisdiction of the Department of Public Works, by the Superintendent of Public Works, and in like manner for the city's other departments.

Hearings to revoke, suspend or deny licenses or permits issued by the Building Inspector, Department of Public Works, Board of Health, Fire Department, Police Department may be conducted by the person who issues said permits in the first instance. The vote to revoke, suspend or deny any license or permit which may be issued by any council, board or commission of the city shall be the same as that required to issue said license or permit in the first instance.

Section VI - Waivers

Waivers, as authorized under WMC, Title III, SECTION 3-24, par. (d) shall be granted or denied by the City Council following notice and a hearing, as provided for and described above. The vote to grant a waiver shall be made by a majority of the council.

Section VII - Decisions

A written decision shall issue not later than forty-five (45) days from the conclusion of the hearing, and a copy of which shall be filed with the City Clerk. The City Clerk shall mail a copy of said decision to all parties within five (5) business days of its filing.

Section VIII – Appeals

A party's appeal from action which results in the denial, revocation or suspension of a license or permit, or an appeal from the denial of a waiver by the City Council, shall be by Writ of Certiorari filed in the Superior Court.

In the event that the permitting or licensing authority refuses to deny, revoke or suspend a license or permit, or the city council grants a waiver with which the Treasurer/Tax Collector disagrees, the city Treasurer/Tax Collector shall have the right to appeal said refusal or action of the council by filing a Writ of Certiorari with the Superior Court.

(added by Ord. dated 08/15/90; amended 3/20/2003; amended 4/9/2003).

## V. ASSISTANCE PROGRAMS

3-25 Senior Citizen Property Work-Off Program

A. Program Goals

1. To assist senior citizens of the City of Woburn with payment of residential property tax bills.
2. To increase the involvement of senior citizens in the municipal government and the school system of the City of Woburn.
3. To acknowledge and affirm the skills and abilities of Woburn senior citizens and the community's continuing needs for their services.

B. Eligibility Requirements

1. An applicant must meet or exceed the following requirements in order to be eligible to participate in the program:

    a. Must have attained the age of 60 years.
    b. Must own and reside in a home in the City of Woburn or be the current spouse of such a homeowner residing in the same household.
    c. Must be a resident of the City of Woburn.
    d. Must own and occupy the residential property for which real estate taxes are paid to the City of Woburn by the applicant and on which a reimbursement is requested. (amended 6/25/2008)

C. Employment Opportunities

1. There must be a request for assistance under the program by municipal or school department offices based upon the needs of the municipal or school department offices.
2. The employment opportunities include but are not limited to municipal offices, classrooms, libraries, clinics and special projects.

D. Selection Process

1. An applicant must meet eligibility requirements set forth in 3-25(B) herein.
2. The applicant must have the appropriate skills necessary for the position.
3. The department head and the applicant must agree and assent to the assignment of an applicant to a particular department.
4. The Council on Aging Director may coordinate and execute the program.

E. Exemption Guidelines

1. The hourly rate for services shall be set to the state's current minimum wage in effect at the time the services are provided.
2. The maximum exemption available to any individual or per household during a program year shall be $1,000.00 per fiscal year, or the maximum allowed by M.G.L. c.59, §5K as that statute may from time to time be amended.

3. Upon completion of the required hours of work service, or a fraction thereof, the number of hours worked will be verified by the appropriate department head and submitted to the Council on Aging Director for submission to the Board of Assessors.
4. This program is exempt from state income taxes, but not federal income taxes. Federal and Medicare taxes must be withheld. Participants must complete a W-4 and the Treasurer/Collector will issue a W-2 form to each participant for federal tax purposes only.
5. Only thirty (30) individuals or households may participate in any program year.
6. Participants are not eligible for City benefits.
7. Current City employees are not eligible.
8. An individual or household may participate in only one Tax Work off Program (Senior or Veterans).

(Amended 10/23/2006; amended 6/25/2008; amended 5/23/2014)

F. Applications

1. The City of Woburn Council on Aging Director shall monitor and supervise the program.

2. Applications for such program, including but not limited to the forms of application, required supporting documentation and limitations on time period for the application process each fiscal year, shall be prepared by the Council on Aging Director in conjunction with the Human Resource Director in a form suitable to meet the goals of this Ordinance.

G. Applicant Limitations

1. Participants from previous years are encouraged to apply, however their applications shall be considered after all new program applicants have participated in the program in order to permit more senior citizens an opportunity to participate in the program.
2. Acceptance is based on the ability of the applicant to perform tasks required in available positions.
3. Placements are decided by the Council on Aging Director and the Human Resource Director based on skills and interest of the applicants and needs of the various departments. Requests for certain position by applicants will be considered, however applicants must be willing to accept a position when offered based on the offer made by the Council on Aging Director.
4. Applicants have the right to refuse placements, but each applicant will be taken on a maximum of two interviews. Applicants may have the option to defer placement in a position pending the possibility of other opportunities, however, there is no guarantee other positions will become available.

H. Additional Rules

1. Income limitations on eligibility shall be $45,000.00 for single household and $55,000.00 for a couple. (amended 6/22/2009)
2. State the Senior Citizens Property tax Work-Off Program so no more than thirty (30) individuals participate in the program. Positions will be offered on the basis of qualification, availability, location and physical limitation. No job will require heavy physical exertion.

(amended 2/27/2004; 6/27/2005; 10/23/2006)

## VI. MUNICIPAL LIEN CHARGES

3-26 Authority

This chapter is adopted pursuant to the authority of Chapter 40, Section 21, and Chapter 40, Section 58 of the General Laws, as amended, and any other relevant statutes and regulations promulgated pursuant thereto.

3-27 Purpose and intent

The purpose of this chapter is to establish a municipal charges lien program to provide a cost effective method of collecting a charge and/or fee assessed against an owner of real property in the City of Woburn who fails and/or refuses to pay said charge and/or fee when due, by placing a lien upon the real estate owned by the property owner.

3-28 Charge and/or fee

The Municipal Charges Lien together with interest shall accrue at 14 percent a year, and shall apply to the following Municipal Charges and/or fees that are outstanding for more than 30 days:

(a.) Charges or penalties for violations of the general ordinances of the city including interest and all cost to record said lien(s) in the Middlesex County Registry of Deeds.

(b.) Charges or penalties for violations of the zoning ordinances of the city including interest and all cost to record said lien(s) in the Middlesex County Registry of Deeds.

(c.) Charges or penalties for violations of the Massachusetts state sanitary codes including interest and all cost to record said lien(s) in the Middlesex County Registry of Deeds.

(d.) Charges or penalties for violations of the Massachusetts state building codes including interest and all cost to record said lien(s) in the Middlesex County Registry of Deeds.

3-29 Effective date

The municipal charges lien will take effect upon the recording of a statement of unpaid municipal charges and fees, setting forth the amount due, including recording cost, and any administrative fee, the address(es) of the land to which the lien is to apply and the name of the assessed owner.

3-30 Collection of lien

The tax collector shall be in charge of collecting the lien.

3-31 Unpaid municipal charges liens

(a.) If the charge or fee secured by the lien is unpaid when the assessors are preparing the real estate list and warrant, the tax collector shall certify the charge, fee or penalty to the assessors' department and the assessors shall add the charge, fee or penalty together with interest accrued to date to the next property tax bill to which it relates, and commit it with the warrant to the tax collector as part of the tax or as an encumbrance on the property.

(b.) If the property to which the charge fee relates is tax exempt, the charge or fee shall be committed as an encumbrance on said property.

3-32 Release of lien

The municipal charge lien may be discharged by the filing of a certificate from the tax collector that all municipal charges or fees constituting a lien, together with any interest and costs, have been paid or legally abated.

3-33 Abatement

The Mayor with majority votes of the City Council may abate any charge or fee.

(added 9/23/2011)

**VI DEMAND FEES – UNPAID TAXES** [numbered as passed]

3-34 Demand fees - unpaid taxes

The Treasurer/Collector shall charge a fee of $10.00 for each written demand

issued for unpaid real estate, personal property and excise tax, which fee is to be added to and collected as part of the tax, as authorized by M.G.L. c.60, §15, effective as of July 1, 2014. (added 7/17/2014)

## VII REVOLVING FUNDS

3-35 Establishment

Pursuant to M.G.L. c.44, §53E½, as amended by Section 86 of Chapter 218 of the Acts of 2016, the following revolving funds are hereby established:

| Revolving Fund | Spending Authority | Revenue Source | Purpose |
|---|---|---|---|
| Conservation | Conservation Commission | Fees, gifts and donations | Support of environmental education programs and acquisition of open space |
| School Resource Officer | Police Department | Fees, charges, gifts and donations | Support of programs and purchase of program materials |
| Landfill Closure | Board of Health | Fees and charges | Expenses associated with the closure and monitoring of the landfill |
| Senior Center | Council on Aging | Program fees | Senior Center programs |
| Recreation Travel Basketball | Recreation Commission | Program fees and donations | Expenses of the travel basketball league |
| Liberty Elm Tree Program | DPW | Fees, charges and donations | Purchase of trees |
| Spence Farm | Mayor | Permit or program fees, and donations | Spence Farm activities and programs |
| Energy | Mayor | Revenue from Green Energy Programs | Expenditures for Green Energy programs and consultants |
| Immunizations and Clinical Services | Board of Health | Gifts, donations, charges and medical insurance reimbursements | Expenditures for purchase of vaccines and clinical supplies |
| Historical Plaques | Historical Commission | Fees, gifts and donations | Purchase and installation of historical plaques |

Expenditures from each revolving fund shall be subject to the annual limitation established in the annual budget, and to any additional limitations as otherwise set forth in M.G.L. c.44, §53E½.

(Added 5/18/2017)

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# TITLE 4

(Reserved)

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# TITLE 5

# BUSINESS LICENSES AND REGULATIONS

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5-2 License required.
5-3 Application for License/Procedure.
5-4 Fee.
5-5 License to be displayed.
5-6 Operation of amusement devices.
5-7 License commission rules and regulations.
5-8 Penalty and enforcement.
5-9 (deleted)
5-10 (deleted)
5-11 (deleted)
5-12 (deleted)
5-13 (deleted)

## II. CARNIVALS

5-14 Clean-up deposit required.

## III. SECONDHAND DEALERS AND SECONDHAND COLLECTORS

5.3.1 Definitions.
5.3.2 License required.
5.3.3 Grounds for denial of issuance or renewal.
5.3.4 Suspension or revocation of license.
5.3.5 Business permitted only at licensed premises.
5.3.6 Transportation/storage or regulated property.
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## I. AUTOMATIC AMUSEMENT DEVICES

5-1 Definitions.

The following terms shall have the meanings indicated:

AMUSEMENT DEVICE ROOM- A building or place containing five or more amusement devices, as defined herein.

AUTOMATIC AMUSEMENT DEVICE — any mechanism whereby, upon the deposit therein of a coin or token, credit card, debit card or swipe card, any apparatus is released or set in motion or put in a position where it may be set in motion for the purpose of playing any game involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as pinball machines including free play pinball machines, electronic video games, computer generated video games and all game

machines or devices similar thereto. The term "automatic amusement device " shall not include not include keno, beano, bingo, or other like games of chance with cash rewards or prizes, or any game established or licensed by the Massachusetts State Lottery, nor shall it include jukeboxes, rides, bowling alleys, or any device maintained within a residence for the use of the occupants thereof and their guests.

OWNER- A record owner, contract purchaser, lessee, assignee, bailee, receiver or trustee.

PERSON - One or more individuals, a corporation, partnership, association, trust or firm and any trustee, receiver or assignee.

5-2 License required.

A. It shall be unlawful for any person having title to or responsibility for the maintenance or operation of any restaurant, public hall, store, place of amusement or any other place to which members of the public are invited, to maintain, operate or permit to be operated or maintained in the premises, any automatic amusement device without having first obtained a valid license from the License Commission, pursuant to the provisions of the ordinance.

B. No person shall maintain or operate an amusement device room as the exclusive use of any premises in the City.

C. Nothing in this ordinance shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the Commonwealth of Massachusetts, as may be amended from time to time.

D. An amusement device room may be allowed as an accessory use to a restaurant, as that term is defined by the Zoning Ordinances, subject to a permit(s) issued by the License Commission, and provided the amusement device room shall occupy no more than 49% of the total square footage of the licensed establishment which is open to the public. For the purposes of this chapter, the total square footage of the licensed establishment shall not include the kitchen, employee rooms, utility closets, storage areas, loading docks, or any other area which is not open to the public.

5-3 Application for License/Procedure.

A. Any application for a license will be acted upon after a hearing before the License Commission (the "Commission") in accordance with the rules, regulations and procedures of the License Commission.

B. The license commission shall conduct a public hearing in accordance with the provisions of M.G.L. c. 39, §23B, within forty-five days of the receipt by the License Commission of a properly completed application.

C. The License Commission shall grant a license based upon the merits of each application.

D. The application shall be accompanied by a plan identifying the street and number, all entrances and exits, the type of establishment and the exact location and number of the amusement device(s) to be licensed.

E. No license shall be issued to any applicant unless he/she is over eighteen years of age and provides proof of United States citizenship or legal residence status as an alien. This provision shall similarly apply to any applicant acting as the authorized agent of a corporation, partnership, association or other business entity. In the case of a corporation, partnership, association or other business entity, the applicant shall provide a Certificate of Good Standing from the Office of the Secretary of State.

F. When acting upon an application to operate an amusement device room, the License Commission shall consider, among other factors it may deem relevant, the following factors:

1. The overall type of business conducted on site.

2. Whether alcohol is to be served on the premises.

3. Whether the Building Commissioner has approved the proposed layout of the automatic amusement devices after consideration of the applicable Building Codes including Plumbing and Electrical.

4. The layout of the restaurant and amusement device room and whether the amusement device room is separated from the rest of the establishment.

5. The means by which the applicant proposes to restrict minors under the age of 18 on the site or as required by MGL c. 140, §. 179.

6. The presence and use of public safety details as an integral part of the establishment's business plan.

7. Whether granting the license will increase the incidence of illegal or disruptive conduct in the area in which the premises are located.

8. Whether granting the license will unreasonably increase the level of noise in the area in which the premises are located.

5-4 Fee.

The license fee per machine shall be one hundred dollars ($100.00) per year.

5-5 License to be Displayed.

A. The license shall be posted permanently and conspicuously in the premises wherein the amusement devices are to be located

B. If the licensee moves the place of business to another location within the City, the license may be transferred to the new location only upon reapplication to the License Commission in accordance with the provisions of this ordinance.

C. The license shall not be transferred or assigned. Specifically, but not by way of limitation, a license shall not run with the premises, nor shall sale of the premises effectuate a transfer of the license.

5-6 Operation of Amusement Devices.

A. The owner of any amusement device within the City shall comply with all provisions of law, ordinance, rule or regulations applicable thereto and relating to the conduct of the business in connection with which the game is used and the use and maintenance of the premises where it is located.

B. The owner of the amusement device shall maintain good order on the premises at all times. The failure to maintain good order may be grounds for the suspension of revocation of the license. The lack of good order on the premises shall include but not be limited to the following.

1. Fighting and rowdy behavior.
2. Possession or consumption of alcoholic beverages, except where the premises are licensed for on-premises consumption thereof.
3. Gambling.
4. Permitting the use of any controlled substance possession of which is prohibited by Massachusetts Law.

C. The owner of an amusement device shall not permit it to be played or operated after 10:00 p.m. by a person under the age of 16 unless accompanied by and under the supervision of a parent or other guardian over the age of 2 I.

D. The owner of an amusement device shall not allow it to be available for use or used unless it is under the control of and supervised by a person at least I 8 years of age, who shall ensure that it is operated in compliance with this ordinance.

E. A person under the age of 16, unless accompanied by and under the supervision of a parent or other guardian over the age of 21, is not permitted to operate amusement devices during normal school hours (as established by the School Committee or appropriate authority) on weekdays only exclusive of holidays.

F. No cash awards shall be offered or given in any contest, tournament, league or individual play on any amusement device, and no such game shall be permitted.

G. Any premises in the City containing an amusement device or devices, when open for the transaction of business, shall be subject to inspection by any police officer.

5-7 License commission rules and regulations.

A. All meetings convened by the Licensing Commission shall take place no earlier than 5:30 P.M. on a week day.

B. The license commission may issue rules and regulations for the use of automatic amusement devices consistent with the Massachusetts General Laws and applicable ordinances, in the interest of public safety to guard against creation of a nuisance or to insure adequate safety and security for the patrons or the affected public.

5-8 Penalty and Enforcement

Violations of this Ordinance shall be subject to a fine of two hundred ($200.00) for each violation. Each violation of this Ordinance shall constitute a separate offense, and each day that any such violation continues shall constitute a separate offense. The Police Chief or his designee, and any Woburn Police Officer and the Building Commissioner shall have authority to enforce the provisions of this title. Any alleged violation of this Ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L.c.40, §21D.

(Prior Ch. 22 sec. 12(m); amended 7/19/2013).

## II. CARNIVALS

5-14 Clean-up deposit required.

A. Whenever a permit is issued for a carnival or similar entertainment, a clean-up deposit of one thousand dollars is required from the owners of the carnival to

ensure that when the affair is over and before the carnival owner leaves the City, the grounds where the carnival or similar entertainment was conducted will be cleaned up and left in a satisfactory condition by the owners of the carnival.

B. The required deposit shall be in cash or a certified check made payable to the City and deposited in the treasurer's office, and the treasurer shall hold it in escrow. Failure to clean up the grounds to the satisfaction of the ward alderman will cause the deposit to be forfeited to the City.

C. It is also required that some type of public sanitation facilities be available on the grounds.

D. All permits will require a majority vote of the City Council. (Prior Ch. 30 sec. 7).

## III. SECONDHAND DEALERS AND SECONDHAND COLLECTORS

5.3.1 Definitions

As used in this ordinance, the following terms shall have the meanings indicated:

Acceptable Identification — Either:

A. A current driver's license, issued by a governmental agency, that includes the date of birth, photograph, and physical description of the person offering the identification; or

B. Two other pieces of current identification, at least one of which is issued by a governmental agency or subdivision and includes the date of birth, photograph and physical description of the person offering the identification.

Police Chief — The Chief of Police of the City of Woburn or his designee.

Regulated Property — The following used property:

A. Precious metals, which are any metal valued for its character, rarity, beauty or quality, including but not limited to gold, silver, copper, platinum or other metals, whether as a separate item or in combination with other items.

B. Precious gems, which are any gem valued for its character, rarity, beauty or quality, including but not limited to diamonds, rubies, emeralds, sapphires or pearls, or other precious or semiprecious gems or stones, whether as a separate item or in combination with other items or as a piece of jewelry.

C. Watches and jewelry containing precious metals or precious gems, including but not

limited to, rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wristwatches, or stopwatches.

D. Sterling silver flatware, including but not limited to knives, forks, spoons, candlesticks, coffee and tea sets, or ornamental objects.

E. Any electronic audio, video or photographic and optical equipment, along with computer or computer equipment or recordings in any form (collectively "electronics").

F. Any power tools or equipment.

G. Musical instruments.

H. Sporting equipment.

I. Collectibles, including objects of art, coins, currency and antique objects, but not including those items identified in Section 5.3.

Secondhand Collector - Has the same meaning as the term "junk collector" in M.G.L. c. 140, § 56.

Secondhand Dealer — Has the same meaning as the term "junk dealer" and "keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles" in M.G.L. c. 140, § 54.

5.3.2 License required.

A. No person shall conduct business as a secondhand dealer or secondhand collector, unless licensed by the City Council. (Prior CH.22 sec 1(A)). The license shall be conspicuously posted in an accessible place on the licensed premises.

B. Licenses under this bylaw may be issued only after notice and a public hearing, notice of the time and place of which hearing shall have been given, at the expense of the applicant, by the clerk of the city, by publication, not less than seven days prior thereto, in a newspaper of general circulation in the city.
C. Licenses under this bylaw may be issued for a period of one (1) year, from April until May, unless sooner revoked by the City Council.
D. A one time, non-refundable, application fee of $200 shall apply.
E. An annual renewal fee of $100 shall apply. A public hearing is not required for a license renewal.
F. The police department shall be notified by the Office of City Clerk of all license applications and renewals.

5.3.3 Grounds for Denial of Issuance or Renewal

The City Council may, after notice and a public hearing, deny an original or renewal application for a secondhand dealer or secondhand collector license if it has probable cause to believe any of the following conditions exist after a public hearing:

1. The applicant, or any person who in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business, has owned or operated a secondhand dealer or secondhand collector business regulated under this regulation or any substantially similar license and, within the five years prior to the application date:

    a. Has had a secondhand dealer or secondhand collector license revoked for a reason that would be grounds for a denial or revocation pursuant this chapter; or

    b. The secondhand dealer or secondhand collector business has been found to constitute a public nuisance.

2. The applicant, or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business, has been convicted of a felony or any crime involving a false statement within 15 years prior to the application date.

3. The applicant has:
    a. Knowingly made a false statement in the application;
    b. Knowingly omitted information requested to be disclosed in the application; or
    c. Completed the application with reckless disregard for the truth or accuracy of the statements made therein.

4. A lawful inspection of the secondhand dealer or secondhand collector business premises by the Chief of Police or his designee has been unjustifiably refused by a person who, in part or whole, manages or operates the business.

5. The applicant or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business has more than five violations of this ordinance; any state or federal law, or any combination thereof within a two-year period, including the two years prior to the application date.

6. The secondhand dealer or secondhand collector business, the applicant or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business has been convicted of any law of the Commonwealth of Massachusetts that is contrary to the type of secondhand business to be conducted, such as, but not limited to, receiving stolen property, any form of breaking and entering, larceny from a person or any other form of larceny, or any form of aggravated assault, as verified by a CORI by the Chief of Police or his designee.

5.3.4 Suspension or Revocation of License

The City Council may, after notice and a public hearing, suspend or revoke a secondhand dealer or secondhand collector license if it has probable cause to believe any of the following conditions exist after a public hearing:

1. Any secondhand dealer or secondhand collector business, or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business knowingly writes or records the wrong name, date of birth, address, or identification number of a person offering any item for sale or knowingly permits the signing of such wrong name, date of birth, address, or identification number shall be subject to suspension or revocation of the license by the City Council.

2. Any secondhand dealer or secondhand collector business, or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business is found to have purchased any stolen article shall be liable for the loss incurred by such purchase, and the purchased article may be reclaimed by the owner of the same, at no cost, and the license may be subject to suspension or revocation by the City Council.

3. Any secondhand dealer or secondhand collector business, or any person, who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business knowingly alters, obliterates or removes and part of an item purchased prior to the end of any holding period may have their license suspended or revoked by the City Council.

4. Any secondhand dealer or secondhand collector business, or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business knowingly violates any other provision of this ordinance may have their license suspended or revoked by the City Council.

5.3.5 Business permitted only at licensed premises

A. No secondhand dealer or secondhand collector shall carry on his business in any other place than that designated in his license.

B. Every secondhand dealer or secondhand collector shall have readily available for public view at his/her shop a copy of the statutes, ordinances and police regulations relating to the dealers in gold, silver, coins, precious and semi-precious gems, platinum or electronics, to be furnished upon the issuance of the license by the Office of the City Clerk.

5.3.6 Transportation/Storage of Regulated Property

A. No person shall collect or transport regulated articles from place to place within the City limits unless specifically licensed by the City Council to do so.

B. Every vehicle used in the collection or transportation of regulated articles shall be listed on the license granted by the City Council. The contents of such vehicle, while transporting regulated articles, shall be subject at all times to the examination of the Chief of Police or his designee.

5.3.7 Recordkeeping.

A. Every secondhand dealer or secondhand collector shall maintain a book or other method of recording, which shall be of a size, style and method approved by the Chief of Police. Entries shall be legibly written, photographed or typed in the English language and shall show the amount paid for each article and the number attached to each article where required in accordance with Subsection C hereof. All forms of electronic record keeping shall be approved by the Chief of Police. No entry shall be erased, obliterated, altered or defaced.

B. Secondhand dealers and secondhand collectors shall require that acceptable identification be provided prior to purchasing any regulated property.

C. At the time of every purchase of any regulated property, a detailed description thereof including weights, karat, inscriptions, serial number, together with the name, date of birth, address, identification number and signature of the individual selling the regulated property, and the day and hour when such purchase was made, shall be entered in said book before the regulated property is purchased. In the event that such person is unable to write, the secondhand dealer, secondhand collector or their employee, shall enter a notation in the book stating that such person was unable to do so.

D. When the regulated property is gold, silver, coins, precious and semi-precious gems, platinum, or electronics, the secondhand dealer or secondhand collector shall, at the time of making any purchase, attach a number to each article bought, and shall make entry of such number in the book provided for herein.

E. In those transactions where precious metals, coins and or gems, regardless of form, weight or appearance, are purchased, a digital photograph of the item purchased shall be retained together with the acceptable identification.

F. A list of all purchases and acquisitions shall be submitted to the Woburn Police Department within one (1) week of such purchase or acquisition.

5.3.8 Testing of Weighing and Measuring Devices

All weighing or measuring devices used by a licensee in the conduct of the licensed business shall be tested and sealed by the City of Woburn Sealer of Weights and Measures prior to being placed into service. All weighing and measuring devices shall thereafter be inspected and tested on an annual basis.

5.3.9 Purchases

A. No secondhand dealer or secondhand collector or any employee thereof shall directly or indirectly purchase or receive by way of barter or exchange any regulated article from a person under the age of eighteen (18) years.

B. A secondhand dealer or secondhand collector shall not purchase or receive by way of barter or exchange any regulated property whose serial number or other identifiable marking has been wholly or partially tampered with or removed.

C. Any regulated property that is taken under "consignment" where the secondhand dealer or secondhand collector receives any type of gain, profit, trade of property, or the recovery of expenses shall be considered regulated property and shall be subject to the provisions of this ordinance.

D. No secondhand dealer or secondhand collector may purchase or sell any property of any type without the consent of the owner.

5.3.10 Retention Periods for Regulated Property; Exemptions

A. Where the regulated property purchased is gold, silver, coins, precious and semi-precious gems, platinum or electronics, no secondhand dealer or collector shall permit the same to be altered, broken up, taken apart, defaced, melted, sold or otherwise disposed of until at least thirty (30) days from the date of its purchase or receipt has elapsed, unless permission has been obtained from the Chief of Police or his designee.

B. All other regulated property purchased by a secondhand dealer or secondhand collector shall be held by said secondhand dealer or secondhand collector for at least 15 days from the date of purchase.

C. The secondhand dealer or secondhand collector shall maintain the property in substantially the same form as when purchased and shall not alter, exchange or commingle the property. During the holding period the regulated property shall be kept on the business premises during normal business hours and shall be subject to inspection by the Chief of Police or his designee.

D. The Chief of Police or his designee may give written notice to a secondhand dealer or secondhand collector holding regulated property that the Chief of Police or his designee has reasonable grounds to believe that more likely than not a specific item of regulated property is associated with criminal conduct. The secondhand dealer or secondhand collector holding the regulated property shall then continue to hold the property specified in the notice in the same manner and place as required under Subsection A of this section until released by the Chief of Police Chief. The holding period for any item of regulated property shall not exceed 180 days from the date of purchase, unless the item is subject of a pending civil or criminal proceeding.

E. A secondhand dealer or secondhand collector may from time to time request, in writing that the Chief of Police shorten the length of the holding period. If the Chief of Police or his designee determines relief from the holding period is appropriate due to unreasonable hardship, the Chief of Police or his designee shall provide the secondhand dealer or secondhand collector who requested relief with written authorization to sell, transfer or otherwise dispose of the regulated property. The request shall identify the property and state the basis or bases of the unreasonable hardship or hardships. The authorization shall be effective only upon delivery of the written authorization to the secondhand dealer.

F. Secondhand dealers or secondhand collectors retailing or wholesaling used property limited to the following are exempt from Subsection B above:

1. Used clothing, furniture, knickknacks, footwear, and houseware items such as dishes, pots, pans, cooking utensils, and cutlery; or
2. Any person who knowingly writes or records the wrong name, date of birth, address, or identification number of a person offering any item for sale or knowingly permits the signing of such wrong name, date of birth, address, or identification number shall be subject to suspension or revocation of license by the City Council.
3. Used clothing, furniture, footwear and houseware items such as dishes, pots, pans, cooking utensils and cutlery, obtained only from or through a registered charity or by donations; or
4. Used books, papers, or magazines.

5.3.11 <u>Inspection of Licensed Premises and Records</u>

A. The book or other means of recording shall at all times be open to the inspection of the Chief of Police or his designee. When the Police Chief or his designee has reasonable grounds to believe that a specific item of regulated property held by a secondhand dealer or secondhand collector is associated with criminal conduct.

B. Whenever necessary to make an inspection to enforce the provisions of this ordinance, or when the Chief of Police or his designee has reasonable grounds to believe more likely than not that a specific item of regulated property held by a secondhand dealer

or secondhand collector is associated with criminal conduct, the Chief of Police or his designee may enter the premises of the secondhand dealer or secondhand collector at any reasonable time, provided that the premises is occupied at the time of entry and the Chief of Police or his designee presents proper official identification at or near the time of entry. If entry is refused, the Chief of Police or his designee shall have recourse to every remedy provided by law to secure entry, including an administrative search warrant or a criminal search warrant.

C. Authority to inspect secondhand dealer or secondhand collector premises under this ordinance is in addition to and not in limitation of the authority the City or the Chief of Police or any police officer would otherwise have to enter the business premises.

5.3.12 Penalty and Enforcement

Violations of this Ordinance shall be subject to a fine of two hundred ($200.00) for each violation. Each violation of this Ordinance shall constitute a separate offense, and each day that any such violation continues shall constitute a separate offense. The Police Chief or his designee, and any Woburn Police Officer shall have authority to enforce the provisions of this Ordinance. Any alleged violation of this Ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c.40, §21D.

5.3.13 Severability

If any provision of this ordinance is held to be invalid, it shall not affect the validity or application of the remaining provisions, or take any other action relative thereto.

(amended 9/6/2013)

**IV.** (deleted 9/6/2013)

## V. TRANSIENT VENDORS, HAWKERS AND PEDDLERS

5-30 Definitions.

"Hawker and peddler": any person, either principal or agent, who goes from place to place within the City selling or bartering, or carrying for sale or barter or exposing therefore, any goods, wares or merchandise, either on foot, on or from any vehicle.

"Transient vendor": any person, either principal or agent, who engages in a transient business selling goods, wares or merchandise, either in one locality or in traveling from place to place.

"Transient business":, any exhibition and sale of goods, wares or merchandise which is carried on in any tent, booth, building or other structure, unless such place is open for business during usual business hours for a period of at least twelve consecutive months.
(amended 8/20/2009)

5-31 License required—Exceptions.

No person shall go place to place in this City selling goods, wares, or merchandise or establish a transient business, as defined above, unless duly licensed by the Director of Standards of the Commonwealth and/or licensed by the City of Woburn except for those articles permitted to be sold without a license under MGLA, c. 101,§ 16 & 17. These regulations shall not apply to any City of Woburn resident selling second-hand goods at a yard sale or garage sale at his or her own residence provided that the sale of items does not exceed two days, nor shall the regulations apply to any members of, or agent of, a not-for-profit organization incorporated under Chapter 180 of Massachusetts General Law. Persons acting on behalf of not-for-profit organizations must notify the Office of the City Clerk of their intent to sell goods, wares, or merchandise prior to conducting any such transactions in the City. A sign or badge displaying the name of the not-for profit organization benefiting from the fundraising sales must be visible during all such transactions. (amended 8/20/2009)

5-32 Procedures for state license holders.

A transient vendor, hawker or peddler who has obtained a license from the Director of Standards of the Commonwealth may not sell, or offer or expose for sale, any of the articles enumerated in Section 17, Chapter 101 of the General Laws, or any acts in 5-14 amendment thereof or in addition thereto, until he or she has recorded his or her name, residence, phone number and a brief description of the business to be conducted within the City with the Office of the City Clerk and provided a copy of his or her state license. Nothing in the ordinance codified in this part shall be construed as conflicting with any license issued under the authority of the commonwealth. (amended 8/20/2009)

5-33 Procedures for obtaining a transient vendor, hawker or peddler license from the City of Woburn.

The City Clerk shall have authority to grant a license to any person of good repute for morals and integrity, who is, or has declared his intent to become, a citizen of the United States, upon the approval of the Chief of Police, and where applicable, the Sealer of Weights and Measures and the Board of Health. Persons not licensed by the state shall make an application to the Office of the City Clerk, on a form containing the following information: The applicant's name, type of license (transient

vendor or hawker/peddler), signature, home address, the name and address of the owner or parties in whose interest the business is to be conducted, their business address and phone number, cellular telephone numbers for the applicant and business; a brief description of the business to be conducted within the City; the applicant's social security number; the description and registration of any motor vehicles used by the applicant; their sales tax number, and whether the applicant has ever been charged with a felony. The applications shall be made under oath.

A licensing fee in the sum of $100.00 shall be payable to the City of Woburn at the time of application.

The Chief of Police shall approve the application within 3 business days of its filing unless he determines either that the application is incomplete, or that the applicant is a convicted felon, or is a fugitive from justice.

No person shall receive a license, as provided in this part, until he presents a certificate from the sealer of weights and measures stating that all weighing and measuring devices intended to be used by such person have been duly inspected and sealed as required by law. The use of, or possession by such person with intent to use, any false or unsealed weighing or measuring devices shall be sufficient cause for the revocation of his license, or the cancellation of his registration.

Any food selling requires approval from the Board of Health.

The City Clerk shall issue to the transient vendor, hawker or peddler, a decal or sticker containing the vendor number and expiration date which shall be affixed to the vehicle used by the transient vendor, hawker or peddler in the transaction of business.
(amended 8/20/2009)

5-34 Expiration and Revocation of licenses.

The licenses, unless sooner revoked by the City Council for due cause after hearing, shall expire one year after the granting thereof. (amended 8/20/2009)

5-35 Number to be displayed on badge.

Every transient vendor, hawker and peddler licensed by the City of Woburn shall be assigned a number and shall wear a badge in a conspicuous place of such type and design as may be approved by the City Clerk, and which shall contain his number, photograph and the words "hawker"  "peddler" or “vendor “and "Woburn”. (amended 8/20/2009)

5-36 Vehicles to bear number and expiration date of license.

Every vehicle or other receptacle used by a licensee as a conveyance for articles offered or exposed for sale by him shall have attached to it on each side a number plate of such type and design as may be approved by the City Clerk, and bearing the number and the date of expiration of the license. (amended 8/20/2009)

5-37 License to be signed--Exhibit of license on demand.

Every person licensed as described in this part shall endorse his usual signature upon his license. Any licensee who fails, neglects or refuses to exhibit his license when the same is demanded of him by a police officer shall be subject to the same penalty as if he had no license. (amended 8/20/2009)

5-38 Conduct of business.

(1) All transient vendors, hawkers and peddlers, whether licensed by the State or the City of Woburn, shall be governed by the following restrictions unless otherwise noted and must further comply with the provisions of M.G.L. Ch. 101:

(2) No person hawking, peddling or carrying or exposing any articles for sale shall cry his wares to the disturbance of the peace and comfort of the inhabitants of the City, nor carry or convey such articles in any manner that will tend to injure or disturb the public health or comfort nor otherwise than in vehicles and receptacles which are neat and clean and do not leak. (Prior Ch. 22 sec. 2(D)).

(3) Hawkers and peddlers may only remain stationary for fifteen minutes at any given location to sell their goods, wares, and merchandise on public land, including without limitation, public streets, public parks, public parking lots, public playgrounds, and public ways. Between such transactions, hawkers and peddlers shall be moving at all times. For vendors on foot, moving shall be walking in a normal manner along a street, path or way with all goods, wares, and merchandise, or service. For vendors operating from vehicles, moving requires the vehicle to be driven along a street, path or way, stopping only to service customers and allow traffic to pass.

(4) Transient vendors may not sell goods, wares, or merchandise on public land, including without limitation, public streets, public parks, public parking lots, public playgrounds, and public ways.

(5) Transient vendors may sell goods, wares, merchandise or services at fixed locations on private commercial property only if such property is properly zoned for such activities and the vendor has written permission to conduct such transactions from the owner of the private land.

(6) Transient vendors may not sell goods, wares, merchandise or services on residential property.

(7) All transient vendors, hawkers and peddlers shall clearly and prominently post prices for all foods, beverages, goods, merchandise and services offered for sale. Transient vendors, hawkers and peddlers are prohibited from selling or offering goods, wares, merchandise or services between the hours of 8:00 pm to 6:00 am.

(8) Transient vendors, hawkers and peddlers shall provide suitable receptacles for the placement of any trash and litter that may be expected to result from the sale of their wares and shall remove said trash and litter.

(9) The provisions of sub-paragraphs (3), (4) and (6) shall not apply to vendors authorized by the City to sell goods, wares or merchandise at a Woburn Farmers' Market at Spence Farm as set forth in Title 2, Article XL.

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(amended 8/20/2009; amended 2/17/2011)

5-39 Penalties for violation.

Whoever violates any of the provisions described in this part (Sections 5-30 - 5-40), shall be subject to the following civil penalties enforceable by the Police Department:

a. $150 for the first offense
b. $200 for each subsequent offense".

(amended 8/20/2009)

5-40 Reserved (amended 8/20/2009)

5-41 Reserved (amended 8/20/2009)

## VI. MOTOR VEHICLE LICENSES

5-42 Licenses--Definitions and classes.

A. Licenses granted under the provisions of Chapter 140, Section 57-69, of the General Laws shall be classified and defined as follows:

1. Class 1. Any person who is a recognized agent or motor vehicle manufacturer or seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with each such manufacturer or with some person authorized in writing by such

manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of secondhand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to secondhand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new vehicles, such dealer shall be subject to all provisions of this chapter and of the rules and regulations made in accordance therewith applicable to holders of licenses of class 2. The fee for said license, either original or renewal, shall be $100.00. In addition, a charge of $200.00 shall be paid by each applicant for a new or renewed license to cover the costs of processing and inspections, before the license is issued by the City Clerk's Office. The charge for a transfer of a license shall be $300.00 to cover the $100.00 license fee and the $200.00 costs of processing and inspections.

2. Class 2. Any person whose principal business is the buying or selling of secondhand motor vehicles may be granted a used car dealer's license. The fee for said license, either original or renewal, shall be $100.00. In addition, a charge of $200.00 shall be paid by each applicant for a new or renewed license to cover the costs of processing and inspections, before the license is issued by the City Clerk's Office. The charge for a transfer of a license shall be $300.00 to cover the $100.00 license fee and the $200.00 costs of processing and inspections.

3. Class 3. Any person whose principal business is the buying of secondhand motor vehicles for the purpose of remodeling, taking apart or rebuilding the same, or the buying or selling of parts of secondhand motor vehicles or tires, or the assembling of secondhand motor vehicles' parts may be granted a motor vehicle junk license. The fee for said license, either original or renewal, shall be $100.00. In addition, a charge of $200.00 shall be paid by each applicant for a new or renewed license to cover the costs of processing and inspections, before the license is issued by the City Clerk's Office. The charge for a transfer of a license shall be $300.00 to cover the $100.00 license fee and the $200.00 costs of processing and inspections.

B. 1. The City Council of the City may grant licenses under the provisions of Chapter 140, Section 59, of the General Laws.

2. a. The licenses shall expire on January 1st, following the date of issue unless sooner revoked.

b. No such license shall be granted unless the City Council is satisfied from the investigation of the facts stated in the application and any other information which they may require of the applicant that such applicant is a proper person to engage in the business specified in subsection A of

this section in the classifications for which he has applied that said business is or shall be his principal business, and that he has available a place of business suitable for the purpose.

3. The license shall specify all the premises to be occupied by the licensee of the purpose of carrying on the licensed business.

4. Permits for a change of situation of the licensed premises or for additions thereto may be granted at any time by the City Council in writing, a copy of which shall be attached to the licensee, see further Section 5-44 below.(Prior Ch.22 sec. 6(A); Ords. dated 04/10/87).

5-43 Prices of used and/or secondhand vehicles to be displayed.

All used and/or secondhand vehicles to be sold by a person, company or corporation having a 1st Class or 2nd Class vehicle license, the price of said vehicle shall be displayed on said vehicle for visual inspection by any prospective buyer or purchaser of said vehicle. (Prior Ch. 22 sec. 6(B).

5-44 Public hearing required; Transfer of License.

No original license for the sale of new motor vehicles and no original license for the sale of secondhand motor vehicles as authorized by Chapter 140, Section 59 of the General Laws shall be granted until after the City Council has held a public hearing thereon, first causing notice of the time and place of such hearing to be published in a newspaper of general circulation in the City once in each of two successive weeks, the first publication being not less than twenty-one days before the day of such hearing. The expense of such publication to be borne by the applicant. This part shall have no application to licenses presently being exercised. (Prior Ch. 22 sec. 6(C)). No license once granted can be transferred, conveyed or otherwise given to any other person or entity without first obtaining approval of the City Council, and payment of a transfer fee of $300.00 dollars. Whenever any holder of a license granted under this section wishes to transfer such license, or convey the premises for which the license was granted, the new owner or occupant must make an application to the City Council before a renewal license can be granted. No license, once granted, can be used at or for another location other than the one specified in the original license or in the application. (Ords. dated 04/10/87).

5-44(a) Maximum number of licenses

Notwithstanding any other provision or section of this Municipal Code, the City Council shall not issue or grant more than thirty (30) second class motor vehicle licenses at any one time. Holders of second class motor vehicle licenses upon the effective date of this Sub-section, may retain all rights under their licenses as long

as they are in compliance with state and local statutes, ordinances and regulations and that the renewal of such license has been granted before the expiration of their current license; further no such license may be transferred to a new holder unless the total number of licenses issued and outstanding within the City of Woburn at the time of the requested transfer does not exceed thirty (30). (Added 5/22/98; amended 9/14/98)

## VII. SECONDHAND LUMBER YARDS

5-45 License required.

Except as provided in this part, no person, firm, partnership, or corporation shall operate or deal in the purchase, sale or barter of old or secondhand lumber of building materials, or old metals, within the City, unless a license to do so is first obtained from the City Clerk after being granted by the City Council annually. Each such license shall bear on the face thereof such restrictions or regulations as the City Council shall direct and impose. (Prior Ch. 22 sec. 7(A)).

5-46 Temporary license for demolition of buildings.

The City Council may when, in its judgment, necessity requires it, grant a temporary license for a period of not over thirty days, to a person, firm, partnership or corporation who is about to be engaged in demolishing or razing a building after a proper permit has been secured, to sell at the location specified in the permit for demolition or razing only those materials obtained from that building. (Prior Ch. 22 sec. 7(B)).

5-47 Revocation of licenses.

The City Council may revoke any license granted under this part at any time. (Prior Ch. 22 sec. 7(C)).

5-48 Business prohibited within five hundred yards of highways.

No secondhand lumberyard shall be operated or maintained within five hundred yards of any public highway. (Prior Ch. 22 sec. 7(E)).

5-49 Violation--Penalty.

Any person, firm, partnership or corporation, violating the provisions of this part shall be punished by a fine of not more than twenty dollars in accordance with the provisions of Section 55 of Chapter 140 of the General Laws, Terr. Ed. (Prior Ch. 22 sec. 7(D)).

## VIII. MOBILE VENDING VEHICLES

5-50 Definition.

For the purpose of this section and the following sections, "mobile vending vehicle" is construed to mean a mobile vehicle, lunch cart or food vehicle which is used in the business of selling or exposing for sale, prepared food, meals or lunches or beverages intended to be consumed by the purchaser without further preparation or processing thereof by the purchaser. (Prior Ch. 22 sec. 8(A)).

5-51 License required.

No person shall carry on the business of selling or exposing for sale from a mobile vending vehicle prepared food, meals, lunches, or beverages within the City unless said person(s) are licensed to do so by the City Council of the City. (Prior Ch. 22 sec. 8(B)).

5-52 Fees due and payable with application--Expiration of License.

The fee for the aforementioned license shall be fifty dollars which is due and payable to the City Clerk upon the filing of an application for said license. Said license shall expire one year from the date of issuance by the City Council. (Prior Ch. 22 sec. 8(C)).

5-53 Council may establish certain conditions.

The City Council, if in their opinion public convenience so requires, may license a reputable person to maintain a vehicle for the sale of food in such part of any public way and during such hours as they may designate, provided that public travel is not discommoded thereby. Any such license may be revoked by the City Council at any time after a hearing with the licensee for any violations of any conditions so stated on the license. (Prior Ch. 22 sec. 8(D)).

5-54 Violation--Penalty.

Any violation of the above sections or conditions set forth on the license for operation shall be punishable by a fine of not more than one hundred dollars. (Prior Ch. 22 sec. 8(E)).

## IX. GASOLINE SERVICE STATIONS

5-55 Attendant to be on duty.

A. Self-service gasoline station: Any building or premises wherein or upon which

gasoline or other motor fuel is sold at retail and wherein the licensed motor vehicle operator dispenses his or her own motor fuel at any or all of the pumps. (Prior Ch. 22 sec. 11(a)).

B. The dispensing of motor fuel by means of self service automated dispensing systems shall be permitted, provided that the applicant for such a system has submitted complete plans and specifications of the proposed installation to the City Council of the City of Woburn under the provisions of Section 11 of the Woburn Zoning Ordinance, that a special permit shall have been granted under the said provisions of the Woburn Zoning Ordinance and that there is compliance with Section 5.08 of the Code of Massachusetts regulations as certified by the State Fire Marshal.

C. Every self-service gasoline station shall dispense motor fuel from the self-service pump or device for any owner-operator of a motor vehicle bearing handicapped person or disabled veteran number plates in compliance with M.G.L., Chapter 90, Section 2.

D. Every self-service gasoline station shall dispense motor fuel from the self-service pump at self-service prices, by request, for any owner-operator of a motor vehicle age 62 and over.

E. At any self-service station full service shall be made available to the retail customer as an option. (Prior CH 22 - 11(a)). (Ord. amended 5/17/94)

5-56 Underground storage tanks at gasoline service stations.

A. The following are required on all installations of underground tanks for flammable liquid storage at gasoline service stations:

1. An inspector of the Woburn fire department shall be on the site during the installation or removal of all underground tanks.
2. All tanks are to be installed according to 527 CMR-9, NFPA Code 30, and the requirements of the Woburn fire department.
3. All steel tanks shall be cathodically protected and coated i.e., STI-P3.
4. Piping to tanks shall have swing joints and malleable fittings.
5. All tanks shall have wear plates on bottom of tank under fill holes.
6. At least two observation wells for tank. Pipe shall extend a minimum of twelve inches below bottom of tank.
7. Reinforced concrete over tanks in traffic areas.
8. All other requirements of the Woburn fire department shall be followed.

B. The maximum amount of storage on any one site shall be twelve thousand gallons per product. Ord. 8/15/90.

C. The maximum amount of flammable liquid stored underground at any one location shall be forty thousand gallons. (Ord. dated 9/27/84: prior Ch. 22 sec. 11(c)).

## X. LODGING HOUSES

5-57 Definitions.

For the purpose of this part:

A. Boarding, Rooming or Lodging House: a building or structure or portion thereof arranged or used for lodging with or without meals for compensation by three (3) or more lodgers or boarders. This definition shall not include hotels, motels or inns." (Ord. 6/27/91) .

B. "Lodging unit" means a rented room or group of rooms containing no cooking facilities, used for living purposes by a separate family or group of persons living together or by a person living alone, within the dwelling. (Prior Ch. 20 sec. 1).

5-58 Licenses.

The chief of police may license persons to keep lodging houses or lodging units therein. The fee shall be twenty dollars annually and shall expire on the thirty-first day of December next after the granting of the same. Such license shall specify the street and number, if any, of the building where the business is to be carried on, or give some other description thereof, and the license shall not protect a licensee who carries on his business in any other place. (Prior Ch. 20 sec. 2).

5-59 Certification of inspector of buildings and wire.

No such license shall be granted or renewed until the inspector of buildings and wire inspector thereof has specified in writing that the buildings and wiring meet the requirements of the local laws regarding buildings and wiring. (Prior Ch. 20 sec. 3).

5-60 Certification by fire chief.

No such license shall be granted or renewed until the chief of the fire department has certified in writing that the building has sufficient means of escape in cases of fire and that suitable appliances are supplied for extinguishing fires and for giving an alarm to the inmates in case of fire and the chief of the fire department may from time to time require such alterations to be made, or additional appliances to be provided as may in his judgment be necessary for the protection of life and property in case of fire. (Prior Ch. 20 sec. 4).

5-61 Certification by Board of Health.

No licenses shall be granted or renewed until the board of health thereof has certified in writing that the building is provided with a sufficient number of water closets and urinals and with good and sufficient means of ventilation; and the board may from time to time require the licensee thoroughly to cleanse and disinfect all parts of said building and the furniture therein to the satisfaction of such board. (Prior Ch. 20 sec. 5).

5-62 Register to be kept.

In every public lodging house or lodging unit a register shall be kept in which shall be entered the name and address of each lodger, together with the time of his arrival and departure, and such register shall at all times be open to the inspection of the police. (Prior Ch. 20 sec. 6).

5-63 Access to be given to City officials.

The keepers of every public lodging house or lodging unit shall at all times, when so required by the inspector of buildings, the health department, the fire department, the police department, or wire inspector, give him free access to said house or any part thereof.(Prior Ch.20 sec. 7).

5-64 Revocation.

Any license issued under this part may be revoked at any time by the chief of police for any violation of this part or any other ordinance or law. (Prior Ch. 20 sec. 9).

5-65 Violation--Penalty.

The owner and whoever keeps or holds himself out as keeping a public lodging house or lodging unit without being duly licensed as hereinbefore provided, and whoever is concerned or financially interested in any public lodging house or lodging unit, the keeper of which is not so licensed, shall be punished by a fine of not less than five hundred dollars. (Prior Ch. 20 sec. 8).

## XI. POOL AND BILLIARD ROOMS AND BOWLING ALLEYS

5-66 Licenses required--Conditions.

Licenses to keep a billiard, pool or bowling alley shall be granted subject to the conditions that the licensed premises shall not be open or in use later than twelve midnight, in any day, that no curtains, opaque screens or other obstructions shall be

placed at the doors or windows or inside the room or rooms occupied in any way that shall prevent a complete view of the premises from the outside, that no spirituous or intoxicating liquors shall be sold or kept on the licensed premises, that the arrangements of the premises shall be subject to the approval of the chief of police, and that the license shall be forfeited upon violation of any condition thereof or any ordinance of the City, law of the Commonwealth, or police regulation of the City applicable thereto. The license shall be placed in a conspicuous position occupied by the licensee.(Prior Ch. 22 sec. 4(A); Ord. amended 5/21/99).

5-67 Bowling alleys--Hours of operation.

Bowling alleys shall not be in operation for business on any day of the year between the hours of 12:01 a.m. and eight a.m. (Prior Ch. 22 sec. 4(B)).

## XII. TAXIS AND LIVERIES

5-68 Definitions.

For the purpose of this section, the following words shall have the following meanings:

A. Livery Car Service or Livery Limousine Service - an unmarked vehicle with a seating capacity not to exceed the manufacturer's recommended seating capacity that is operated for hire and used to provide livery service, by or on behalf of a named insured, or by an employee of the named insured, and which displays a livery registration number plate issued by the Massachusetts Registry of Motor Vehicles. A livery car service shall:

1. be hired on a prearranged basis only, with a minimum of 2-hour notice; (amended 6/30/2015)

2. not pick up fares on the street;

3. not take on-demand requests for transportation;

4. manage on a prearranged, scheduled business day and return to the vehicle's base of operation (fixed business address) for a continuous period of least 4 hours in each 24 hour period;

5. be operated by the licensed, named insured or a licensed employee of the named insured, who shall be in attendance as a chauffeur;

6. be managed from a base of operation, which is a fixed business address within the City of Woburn that is properly insured and zoned for said business

or is a licensee who is allowed to operate at the location as may be otherwise permitted under the Zoning Code and whose vehicles shall each have two-way radio, telephone or mobile phone communications systems. (amended 4/9/2015)

B. Taxicab - a motor vehicle with a seating capacity not to exceed manufacturer's recommended seating capacity, displaying on its exterior, permanently painted or decal identification markings, a light, which shall be affixed to the roof of said vehicle, and a taxi registration number plate issued by the Massachusetts Registry of Motor Vehicles, operated for hire by or on behalf of the named insured or by an employee or independent contractor of said named insured; but which does not pickup, transport, or discharge passengers along a route. A taxicab shall be hired on a hailed, on an on-demand or on a prearranged basis and shall:

1. Must charge for service based upon time and miles traveled or on a prearranged billed basis;

2. be operated by the licensed, named insured, a licensed employee, or licensed independent contractor of the named insured, and who is in attendance as the driver of the taxicab;

3. be managed from a base of operation, which is a fixed business address within the City of Woburn that is properly insured and zoned for said business or is a licensee who is allowed to operate at the location as may be otherwise permitted under the Zoning Code;

4. have vehicles with a two-way radio, telephone or mobile phone communications system; (amended 4/9/2015)

5. maintain at the start and end of each shift, waybills including all of the following information for each vehicle:

   a. current date-by-date, month and year;

   b. the name of the vehicle's associated company and/or licensed owner;

   c. the name of the vehicle's driver,

   d. the vehicle's license, Permit, or medallion number,

   e. the time of pick-up of passenger(s),

   f. the place of origin by number, street and city of each passenger;

g. the place of destination by number, street and city of each passenger; and

h. the form of primary payment method and amount received.
(amended 6/30/2015)

C. Special Operator License a document granting formal permission to operate a taxi or livery vehicle in the City of Woburn.

5-69 Licenses/Fees.

A. The number of taxicab licenses to be issued shall not be in excess of twenty-eight. The number of livery licenses to be issued shall not be in excess of forty-one.

B. No person shall engage in the business of transporting persons for hire in a vehicle within the limits of the City of Woburn without first having obtained a license from the Woburn City Council. This Ordinance shall apply both to businesses located within the city or to vehicles employed for transportation trips originating within the city.

C. No license shall be required for:

1. hearses and grieving-family transport vehicles used by funeral homes for funerals and burials.

2. taxis/livery vehicles lawfully licensed in other communities, provided that such taxis/livery vehicles shall not originate transportation trips within the city unless:
   a. no taxi licensed by the City of Woburn is available to respond to a request for transportation; or
   b. use of such taxi is originated by a Woburn Police Officer.

D. No person having charge of a vehicle licensed hereunder shall demand or receive a rate or fare other than as established by the City Council for the class of license issued hereunder.

E. The following provisions relate to all taxi and livery licenses:

1. The date of expiration for all taxi and livery licenses set to expire April 30, 2015 shall be extended up to and including July 15, 2015. Each taxi and livery license issued on or after April 1, 2015 shall be effective for one year only, expiring each year on April 30th. (amended 4/23/2015; amended 6/30/2015)

2. Each license shall specify the Massachusetts motor vehicle registration

number, the Vehicle Identification Number (VIN) and the make and model of the vehicle that may be used under said license.

Before a license may be issued for a vehicle, a copy of the registration issued by the Massachusetts Registry of Motor Vehicles shall be filed with the City Clerk. Said registration shall contain the name of the license holder, the principal place of business and of garaging that is identical to that approved by the City Council, the name of the insurance company through which the vehicle is insured, and the VIN, make and model of the vehicle referenced in the application and approved by the City Council. No amendment of the registration may be made during the term of the license without the approval of the City Council.

3. For every vehicle license so granted each year there shall be paid for the use of the City the following license fees:

| | |
|---|---|
| Taxis | $50.00 per year |
| Livery Car Service and Livery Limousine Service | $50.00 per year |

4. No person shall be eligible to receive such a license who cannot demonstrate familiarity with the streets of the City of Woburn and unless they are either a citizen of the United States or a person lawfully documented for work in the United States. With respect to corporations and business entities, no such corporation or business entity shall be eligible to receive such a vehicle license unless (1) such corporation or business entity can produce a Certificate of Good Standing in the Commonwealth of Massachusetts, (2) the manager or principal representative in charge of the business can demonstrate familiarity with the streets of the City and (3) is either a citizen of the United States or a person lawfully documented for work in the United States. Proof of residence within the City by the applicant shall be prima facie evidence of familiarity with the streets of the City.

5. In addition to any insurance requirements established by state law or regulation, any person seeking a license to operate within the City of Woburn shall be required to maintain a minimum limit of automobile liability insurance coverage as follows:

| | |
|---|---|
| Taxis | $100,000 combined single limit, each occurrence |
| Private Livery | $150,000 combined single limit, each occurrence |
| Limousines | $300,000 combined single limit, each occurrence |

a. Upon cancellation, the motor vehicle insurance coverage amounts as required herein or the reduction of the motor vehicle insurance coverage amounts to levels that are less than what are required herein, or upon the motor vehicle no longer being registered with the Massachusetts Registry of Motor Vehicles, or a name change, then the license shall be void with one exception. If the termination of motor vehicle insurance coverage or the termination of the motor vehicle registration is solely due to the acquisition of a replacement motor vehicle, then the license may be suspended for a period not to exceed 3 months pending the satisfactory inspection of the replacement vehicle, as provided herein and the approval of a new license by the City Council.
b. Written notice of cancellation, non-renewal, or of any limits reduction change in said policy shall be mailed to the City Clerk, City Hall, 10 Common Street, Woburn, MA 01801 at least ten (10) days in advance of the effective date thereof.
c. The license holder must provide their insurance company with a copy of this ordinance.
d. The insurance requirement provisions of this part shall be effective immediately upon adoption, and all licensees shall be required to comply with these provisions within ninety (90) days thereof. The failure to comply with this provision shall be grounds for the suspension or revocation of the license.

All licensees are required to submit a certificate of insurance satisfactory to the City Clerk or his designee, indicating therein the amount of coverage and the maximum number of persons to be carried in each vehicle. (amended 10/21/2014)

6. No license shall be sold, assigned or transferred directly by conveyance, assignment or transfer of the license itself, nor indirectly by sale of the business or ownership interests in a corporation holding the license without City Council approval.

7. Any person in whose name a license is taken out for one or more vehicles for hire, for all purposes of this Ordinance shall be considered as the owner of the same and liable to all forfeitures and penalties herein contained.

8. There shall be no advertisements or other displays or any references to products or services on or about the licensed vehicles other than references to the licensee's operation.

9. Primary payment method shall be by cash, voucher, credit or debit card, check, or prearranged billing including name of billed individual or company.

10. All vehicles for hire and registered in the city shall have the name, trade name, and telephone number of the owner and the word "Woburn" painted on both sides of the exterior body of the taxicab in standard letters not less than four (4) inches high and one-half (1/2) inch wide.

11. All vehicles must be managed from a base of operation, which is a fixed business address within the City of Woburn that is properly insured and zoned for said business and be equipped with two-way radio or mobile phones.

F. Credit Card Payments:

1. No Taxicab Driver shall refuse to accept a credit card as payment for a fare after May 1, 2015 and no Driver may demand a fee above the fare in return for accepting a credit card payment. (M.G.L. c. 140D, §28A).
2. All Taxicabs shall accept credit cards at all times. If a Taxicab does not have a functioning credit card reader or ability to process the credit card through the taxi licensee's base of operations, it shall be deemed unfit for service as a taxicab.
3. All licensed taxi companies shall comply with all applicable state and federal laws when accepting credit card payments.

(amended 6/30/2015)

G. Be Equipped for Credit Card Processing:

1. Effective May 1, 2015 all taxicabs shall be equipped with an electronic credit card processing capability. Such equipment shall allow the passenger to swipe the card in the rear compartment of the taxicab without handing the card to the Driver. Such equipment shall list fare, tolls, fees, and tips separately for processing purposes. Such equipment shall have the ability to electronically authorize the transaction in a timely manner. Such equipment will provide a printed, or electronic receipt that includes:

   a. Woburn Licensed Taxi Number,
   b. Date,
   c. Time,
   d. Charge Amount,

2. All Taxis shall have a functioning credit card reader at all times. If a Taxi does not have a functioning credit card reader, it shall be deemed unfit for service as a taxi.

5-70 <u>Operation of all licensed vehicles</u>.

A. No person to which a license has been granted shall suffer or allow any person

other than the driver licensed pursuant to Section 5-74 hereof by the Chief of Police to drive such a vehicle for hire.

B. All vehicles licensed hereunder shall be kept in a good condition suitable for occupancy and mechanically fit for the safety of the passengers. The interior and exterior shall be clean and sanitary at all times. Owner and driver shall each be held responsible for violations of this provision as the case may be.

C. No license shall be issued until each vehicle intended to be used has been inspected by the Chief of Police or his designee, as follows:

1. No license shall be issued until each vehicle intended to be used shall have been thoroughly inspected by the Chief of Police or his designee. A list of items to be inspected by the police department shall be furnished to all license applicants by the City Clerk. If the vehicles are found to be safe and suitable for hire and being in the same condition as supplied by the manufacturer with reasonable wear and tear being excepted, the Chief of Police or his designee shall issue a certificate of inspection, which shall designate by registration number, make, model, VIN, seating capacity and intended use of each so approved. Such certificate shall be filed in triplicate with each application with the City Clerk for any license established by this Ordinance. When and if issued by the City Council, any license shall be deemed to cover only the vehicle described in such certificate.

2. Each vehicle shall be inspected each year before any license is renewed by the Woburn Police Department. The certificate of inspection shall be filed with the renewal application. Any vehicle that fails to pass such inspection shall not be used for transportation of persons or things for hire until repaired, or the conditions which caused the inspection failure are addressed, and the vehicle passes re-inspection. The cost of re-inspection shall be $25.00 per vehicle payable to the City of Woburn.

D. In no event may any vehicle licensed hereunder carry more persons than the number of available seat belts permanently equipped in such vehicle; every child under forty pounds (40 lbs.) shall be transported only in approved child safety restraint devices.

E. No vehicle licensed under this Ordinance as one classification of license shall be further licensed or used at the same time as another classification of license.

F. No smoking shall be permitted, by anyone at any time, in any taxi so licensed and a "no smoking" sign shall be displayed in plain view of the rear passenger seats of every licensed vehicle.

G. A Taxi or Livery License, once issued, shall include a sticker or other marker as determined by the City Clerk that shall be displayed and affixed to the back left corner of the vehicle. The sticker or marker shall be provided by the City Clerk and the actual cost of the sticker or marker, which is in excess of the license application fee, shall be paid by the licensee upon the license being issued. The shape, color and the form of the sticker or other marker shall be determined by the City Clerk and shall identify the effective dates of the license. The color of the sticker or marker shall change annually.

5-71 Taxi Fares.

1. The fares shall be a fixed rate and the same rate for all classes of riders (senior citizens and children discounts are recommended). Each licensee shall present its base rate structure at the time of licensing, and file any changes to said structure with the office of the City Clerk, and such structure shall go into effect unless the City Council determines otherwise. The City Council reserves the right to review taxi rates for reasons, including but not limited to, if a passenger voices a complaint.

2. Every taxi licensed hereunder shall display such fares along with a photocopy of the applicable taxi license in a conspicuous location within the passenger compartment of the licensed vehicle.

(amended 6/30/2015)

5-72 Livery Car Service.

A. Any vehicle operated as a livery car service as defined by Section 5-68 (A) must be licensed prior to operation. A Livery Car License may only be issued to those applicants who meet the qualifications below:

1. Rate Qualification: the fares charged for a vehicle is to be exclusively the rates specified as "private livery rates" in Section B below; any private livery vehicle charging taxi rates shall be considered an unlicensed taxi and shall have its private livery license revoked;
2. Size Qualification: a public vehicle of any type with a seating capacity not in excess of eight passengers excluding the driver;
3. Use Qualification: such private livery vehicle may be rented only from a garage or the residence of the owner, with the owner or an employee of the owner in attendance as a chauffeur, for use only in connection with social functions, funeral, touring, shopping trips and similar purposes. This type of license DOES NOT APPLY to taxis (5-71), scheduled limousine service (Section 5-73), or any vehicle that is used in any of the following ways:

A. stationed at a railroad, bus or gasoline station, club, stand, parking lot, street, highway, or airport.
B. operated with a fare structure determined by zones or taximeter or primarily by distance traveled.
C. used to pick up, transport and discharge passengers along a route or on a schedule.

Any private livery engaged in the foregoing not applicable uses shall be considered an unlicensed taxi. (amended 6/30/2015)

4. Vehicles licensed as Private Liveries shall have a livery license plate issued by the Massachusetts Registry of Motor Vehicles, bear no light but shall display at least one of the following methods of identification:
   1. A removable identification card, with the name of the livery company and/or the client printed thereon;
   2. Bear on the right and left side rear windows a livery sign containing only the name of the livery service in letters not to exceed two inches (2") in height;
   3. Small logo on front doors on both driver and passenger sides.

B. Fares for Livery Car Service and Livery Limousine Service

1. The fares for Livery Car Services shall be established primarily by time used rather than distance traveled. The fares shall be a fixed rate and the same rate for all classes of riders (senior citizens and children discounts are recommended). Each licensee shall present its base rate structure at the time of licensing and such structure shall go into effect unless the City Council determines otherwise. The City Council reserves the right to review livery rates if, among other things, a passenger voices a complaint.

C. Every Livery Car Service vehicle licensed hereunder shall have in the vehicle, a chart setting forth the fare and rate schedule and a photocopy of the livery license.

5-73 Special Operator's Licenses.

A. No person shall drive or operate a taxi, livery car service or livery limousine service within the limits of the City of Woburn without first obtaining a special operator's license from the Chief of Police or his designee. No person shall be eligible to receive such a license that cannot demonstrate familiarity with the streets of the City of Woburn and must be either a citizen of the United States or a person lawfully documented for work in the United States.

B. For every such special operator's license so granted there shall be paid the sum of $20.00. Applications for such license must be filed in person, on a form furnished by the Chief of Police or his designee. The license shall include the name, address and photograph of the licensed driver.

C. No such license shall be granted unless the applicant shall possess a current and valid Massachusetts Motor Vehicle Driver's License, and be at least 18 years of age.

D. Every licensed operator having charge of a licensed vehicle shall at all times have in his/her possession a special operator's license. A copy of this Ordinance shall also be maintained in each vehicle. Every operator of a licensed vehicle while engaged in the operation of the vehicle shall display his Special Operators License in one of the following four ways:

1. a suitable frame or other device upon the dashboard or
2. sun visor of said vehicle where it is in plain view and can be viewed by passengers riding in the rear seat of the vehicle;
3. As an identification badge either pinned on the drivers shirt/jacket, or
4. on strap around his/her neck.

E. Every licensed operator shall be courteous and respectful to the passengers of such vehicles and shall operate the same with due regard to the safety of such passengers, the rights of pedestrians, the occupants of these vehicles and the public generally. Said drivers shall be clean and appropriately dressed.

F. An applicant may be barred from receiving or holding a special operator's license under this Ordinance for any of the following reasons:

1. shows evidence of the use of intoxicating liquors or narcotic drugs while driving;
2. has a criminal record within the past seven years for any of the following:
   a. Conviction of a felony;
   b. Violation of parole or probation;
   c. Illegal possession of firearms;
   d. 3 or more moving violations of motor vehicle laws in one year.

G. No person shall be licensed as a driver who:
1. Is not at least 18 years old;
2. Does not possess Massachusetts RMV driver's license;
3. Is registered as a sexual offender;
4. Is neither a citizen of the United States nor a person lawfully documented for work in the United States.

H. All applicants are required to have a registry of motor vehicle background check and/or CORI check to be conducted by the Woburn Police Department. The Chief of the Woburn Police Department shall provide to the City Council notice of his approval or disapproval of the license application based on the background and/or CORI check to the extent allowed by law.

I. The Chief of Police may suspend or revoke the special operator's license upon any conviction or a finding of responsibility for a moving violation. Any suspension or revocation of a special operator's license may be appealed to the City Council within seven (7) days of the date of notification.

J. Notwithstanding the preceding subsections, where evidence shows that the applicant's or license holder's other activities or condition would present a danger to the health, safety, welfare or morals of the inhabitants of the City of Woburn, the City Council may reject an application, or may suspend, revoke or refuse to renew an existing license.

K. All Special Operator Licenses shall expire 2 years after issuance and may be renewed.

5-74 Enforcement/Temporary Suspension of Licenses/Hearings.

A. It shall be the duty of the Woburn Police Department to enforce the provisions of this Ordinance. Whoever violates any provision of this Ordinance shall be punished by a fine of Seventy Five dollars ($75.00) for the first offense, one-hundred dollars ($100) for the second offense and two-hundred ($200) for each subsequent offense within a 12 month period. This penalty may be enforced by means of the noncriminal disposition provisions of M.G.L. c. 40, § 21D or by filing of a criminal complaint by any enforcing persons in the Woburn District Court.

B. In addition to the foregoing, the City Council may, following notice and an opportunity for a hearing, enforce this Ordinance by means of suspension or revocation of any license issued hereunder.

C. Upon a determination that the public good and safety so requires, the Chief of Police and/or his designee is authorized to immediately suspend any license issued hereunder for up to two weeks, pending a hearing before the City Council,

D. The Woburn Police Department shall have the authority to impound any vehicle in violation of these sections.

5-75 Effective Date.

This Article shall become effective on June 15, 2015. (amended 4/23/2015)

5-76 (deleted)

5-77 (deleted)

5-78 (deleted)

5-79 (deleted)

5-80 (deleted)

5-81 (deleted)

(Section 5-68 to 5-81 prior Ch. 26, Secs. 1 to 14; amended 3/15/2011; amended 5/1/2009; amended 7/10/2008; amended 5/20/2014; amended 10/21/2014; amended 4/9/2015; amended 4/23/2015; amended 6/30/2015)

## XIII. BUSES

5-82 Licensees subject to orders, rules and regulations.

No person shall operate any motor vehicle upon any public way for the carriage of passengers for hire, or for transporting passengers for hire, in such manner or for such purposes as is set forth in Section 1 of Chapter 159A of the Massachusetts General Laws, without first obtaining a license therefor from the City Council. Any person receiving such license and operating thereunder shall, in respect to the operation of such a vehicle, be subject to the following orders, rules and regulations.

A. Every application for such a license shall be in writing and signed by the applicant, who shall be the owner of the vehicle or vehicles proposed to be under such license, and shall state:

1. The owner's name and address;
2. The maker's name and number of vehicle;
3. The model or type of the vehicle;
4. The rate of horsepower;
5. The seating capacity of passengers as indicated by the manufacturer;
6. The Massachusetts Automobile Registry number;
7. The route over which said vehicle is to be operated.

B. If the vehicle is to be operated by any person other than the licensee, the name of every such operator, his address, and Massachusetts license number, shall also be stated in such application.

C. No person other than the licensee or than the operator named in the application, shall drive any such vehicle unless his name is first recorded in the office of the City Clerk, with his address and his Massachusetts license number.

D. Every such license so granted shall also be subject to the following further conditions:

1. First. The licensee shall pay to the City Clerk as a license fee before said license shall be operative as required by Section 1 of said Chapter 159A.
2. Second. The security to be deposited by the licensee under the provisions of Chapter 159A of the General Laws, shall be as required by said Chapter 159A and as set forth in Section 6 thereof. (Prior Ch. 26 sec.15).

## XIV. SUNDAY SALES

5-83 Licenses for necessary work on Sundays.

A. Certain Sales on Sunday to Be Licensed. As provided for in sec. 6(25) of Chapter 136 of the Massachusetts General Laws, the sale of certain items and foods as enumerated in said chapter of the General Laws is prohibited without first obtaining a license from the City Council for the performance on Sunday of necessary work or labor.

B. City Council to Set Conditions--Expiration. Said licenses shall be subject to any and all conditions so set by the City Council and shall be printed on the license.

   Said license shall expire on May 1st following the date of issue unless sooner revoked. (Prior Ch. 22 sec.9).

## XV. MISCELLANEOUS BUSINESS REGULATIONS

5-84 Pawnbrokers.

No person shall carry on a business as a pawnbroker in the City. (Prior Ch. 22 sec. 5; amended 3/23/2017).

5-85 Leasing of motor vehicles and trailers.

All leasing of motor vehicles or trailers in the City shall require a permit from the City Council. (Prior Ch. 22 sec. 10).

## XVI. CANVASSERS AND SOLICITORS

5-86 Definitions and Procedures.

A. As used in this article, the term "canvasser" or "solicitor" shall mean any individual, whether a resident of Woburn or not, traveling either by foot, automobile, motor truck or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the

future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales or not; provided, that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, motel room, lodginghouse, apartment, shop or any other place within the city for sole purpose of exhibiting samples, taking orders for future delivery, and or any type of soliciting. Persons ordinarily engaged in the business of delivering newspapers door-to-door are exempted from the operation of the ordinance as are persons engaged in soliciting and/or organizing with respect to religious and/or political matters, as well as local organizations engaged in fund-raising activities.

B. Permit and License Required - It shall be unlawful for any solicitor or canvasser to engage in such business without first obtaining a permit and license therefore in compliance with the provisions of the article.

C. License Application Contents; Filing Fees –

(a) Applicants for a permit and license under this article must file with the City Clerk, which shall give the following information:

(1) Name and description of the applicant
(2) Permanent home address and full local addresses of the applicant;
(3) A brief description of the nature of the business and the goods to be sold;
(4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
(5) The length of time for which the right to do business is desired;
(6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time such application is filed and the proposed method of delivery;
(7) The names of at least two (2) reliable property owners of the county who will certify as to the applicant's good character and business respectability or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;
(8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(b) At the time of filing the application, a fee of two hundred and fifty dollars ($250.00) shall be paid to the City Clerk for each solicitor or canvasser.

D. Same Investigation; Issuance of License –

(a) Upon receipt of a license application under this article, the original shall be referred to the chief of police who shall cause an investigation of the applicant to determine the following facts:

(1) Whether or not fraud, misrepresentation or false statements have been made in the application for license;

(2) Whether or not the applicant has been convicted of any crime or misdemeanor involving moral turpitude.

(b) If, as a result of such investigation, the chief of police shall find that either paragraph (a) (1) or (a) (2) is answered in the affirmative, he shall endorse on such application his reasons therefor, and return the same to the City Clerk who shall notify the applicant that his application is disapproved and that no license will be issued.

(c) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief or police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return such permit along with the application to the City Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the class of license issued, the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The clerk shall keep a permanent record of all licenses issued.

E. Exhibition of License - Solicitors and canvassers are required to exhibit their licenses in such a manner to be visible at all times.

F. Enforcement - It shall be the duty of any police officer of the city to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license, and to enforce the provisions of this article against any person found to be violating the same.

G. Record of Violations - The chief of police shall report to the City Clerk all citations for violation of this ordinance, and the City Clerk shall maintain a record for each license issued and record the reports of violation therein.

H. Revocation of Licenses –

(a) Permits and licenses issued under the provisions of this article, may be revoked by the City Clerk after notice and hearing for any of the following causes:
(1) Fraud, misrepresentation or false statement contained in the application for the license ;
(2) Fraud, misrepresentation or false statement made in the course of carrying on his business as solicitor or as canvasser;
(3) Any violation of this article;
(4) Conviction of any crime of or misdemeanor involving moral turpitude;
(5) Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

(b) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (5) days prior to the date set for hearing.

A. Appeal - Any person aggrieved by the action of the chief of police or the City Clerk in the denial of a permit or license, or the action of the City Clerk in the assessing of the fee, shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the Council, within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth full the grounds for the appeal. The Council shall set a time and place for a hearing on the appeal and notice of such hearing shall be given to the appellant in the same manner as provided for notice of hearing on revocation.

B. Expiration Dates of Licenses - All annual licenses issued under the provisions of this article shall expire on December 31 in the year when issued; other than annual licenses shall expire on the date specified in the license. (Article XVI added 10/18/90).

## XVII. REGULATION OF COMMERCIAL PARKING LOTS

5-87 Definitions.

As used in this article, “commercial parking lot” shall mean any open air parking lot or parking garage used in whole or in part for parking three (3) or more motor vehicles and where a fee for parking is charged.

5-88 Procedures.

No person shall engage in the business of conducting or maintaining a commercial parking space without a license therefore granted by the City Council, approved in all cases by the head of the fire department. Each license granted under this section and the application therefore shall specify all the premises to be occupied by the licensee for the purpose of conducting the licensed business, the total area of the space therein to be actually used for parking or storing vehicles, and the maximum number of vehicles to be parked or stored in such area. The annual fee for a license for any space, lot, parcel or yard, used in whole in part for parking three (3) or more motor vehicles shall be six dollars ($6.00) per parking space annually. Each license shall bear such restrictions or regulations as the City Council shall direct and impose, including but not limited to restrictions on hours of operation, lighting, and signage. Licenses granted hereunder shall expire on April thirtieth following the date of issue, or on such date as may be specified therein, and may be suspended or revoked by such authority and by the head of the fire department. Whoever, not being licensed, engages in a business required by this section to be licensed, or is concerned therein, or, being licensed, violates any condition of his license or engages in such business, or is concerned therein, and any other place than that designated in his license or after notice to him that his license has been suspended or revoked, shall be punished by a fine of not more than three hundred dollars.

(added 1/26/2004)

**XVIII MARIJUANA ESTABLISHMENTS**

5-89 Forbidden.

The operation of any marijuana establishment, as defined in G.L. c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, within the City is prohibited. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012. (added 9/21/2017)

# TITLE 6

# ANIMAL CONTROL

**Articles and Sections**:

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## I. REGULATION OF CONDUCT - DOGS

6-1 Authority and Purpose

This Article is adopted pursuant to the authority of M.G.L. c.140, §§136A to 137A, inclusive, and any other relevant statutes and regulations promulgated pursuant thereto. The purpose of this Article is to establish regulations for the keeping of dogs in the City of Woburn. The definitions of all words and terms used herein shall be as set forth in M.G.L. c.140, §§136A to 137A.

6-2 Restraint of Dogs (leash law)

The owner, keeper, or person otherwise in control of a dog shall not suffer or allow it to run at large in any of the streets or public places in the City, or upon the premises of any person other than the owner or keeper, unless the owner or occupant of such premises grants permission. Under no circumstances shall a dog, even on a leash, be on private property of another, unless specific permission has been granted. No dog shall be permitted in any public street or place within the City unless it is effectively restrained by a chain or leash not exceeding eight (8) feet in length.

6-3 Impoundment

Included within his/her authority to impound a dog, the Animal Control Officer has the authority to impound a dog found running at large in violation of Section 6-2. The Animal Control Officer, upon apprehending any dog, shall make a complete registry, entering the breed, color and sex of such dog, its license number, and the name and address of the owner, if known. If the owner of an impounded dog is known, such owner shall be given notice of the impounding. Such owner may reclaim the dog upon payment of a $100 administrative fee, together with any unpaid license fees, late fees, and fines, as well as the reasonable costs incurred by the City for impounding and maintaining the dog.

6-4 Removal and Proper Disposal of Dog Feces

The owner, keeper or person otherwise in control of a dog shall immediately pick up and properly dispose of any feces left by such dog on any street, sidewalk, or other public area, or on any private property that is not owned or occupied by such person. Any person who takes a dog onto a street, sidewalk, or other public place shall carry a container, tool, implement or other device to be used for picking up and containing dog feces and the person shall dispose of said dog feces in a designated receptacle or otherwise properly. The provisions of this section shall not apply to a person who employs a “service dog” as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

6-5 Prohibited Behavior

The owner, keeper, or person otherwise in control of a dog shall not cause or permit a dog:

a. To be unrestrained as required by Section 6-2;
b. To be unlicensed when a license is required by law.
c. To be without current license and rabies vaccination tags when off the owner’s property.

d. To bite, physically injure, assault or threaten any person, without legally-recognized justification or provocation.
e. To bite or physically injure any domestic animal, without legally recognized justification or provocation.
f. To chase any motorist, bicyclist, or pedestrian on any public way, street, or sidewalk or in any public place.
g. To be off the property where the dog resides, if subject to a confinement order.
h. To be off the property where the dog resides, unmuzzled, if subject to a muzzle order.
i. To disturb the peace and quiet enjoyment of any residential neighborhood by continuous or repeated barking, yelping, howling, or whining, without legal justification.
j. To be present on school or cemetery property.

6-6 Confinement or Muzzling

The Chief of Police or his designee may order a dog confined to the premises where it resides or to other premises or to be muzzled when off said premises if he finds, after a hearing that the dog has:

a. Bitten, physically injured or assaulted any person, without legally recognized justification or provocation.
b. Bitten or physically injured any domestic animal, without legally recognized justification or provocation.
c. Chased any motorist, bicyclist or pedestrian on any public way, street, or sidewalk or in any public place on at least two occasions.

Said order may be in addition to or in lieu of any fine authorized by Section 6-7.

Nothing in this section shall preclude the Chief of Police from utilizing the procedure contained in M.G.L. c. 140, §57, as amended by Chapter 193 of the Legislative Acts of 2012, to determine that a dog is a nuisance dog or a dangerous dog and from employing one or another of the remedies specified in that statute.

6-7 Penalties and Enforcement

The owner, keeper and/or person otherwise in control of a dog shall be subject to a fine for each violation of this title as follows:

1. For a violation of Section 6-5(d) or (e):

   a. First offense: $100
   b. Second offense: $200
   c. Third and subsequent offense: $300

2. For all other violations of Section 6-5:

   a. First offense: $ 50
   b. Second offense: $100
   c. Third and subsequent offense: $150

3. For a violation of Section 6-4:

| | | |
|---|---|---|
| a. | First offense in any calendar year: | $25.00 |
| b. | Second offense in any calendar year: | $50.00 |
| c. | Third and subsequent offense in a a calendar year | $75.00 |

In the case of a continuing offense, each day shall constitute a separate violation.

(amended 10/25/2013)

6-8 Unpaid Tickets – Municipal Charges Lien

The ACO shall maintain a record of all tickets issued which remain unpaid, and submit a quarterly report thereof to the Treasurer/Collector for inclusion in the list of municipal charges liens in accordance with Title 3, Article IV, Section 3-24 and Article VI of the Woburn Municipal Code.

6-9 Non-Waiver of Statutory Remedies

The provisions of this title are intended to be in addition to and not in lieu of those contained in M.G.L. c.140, §§136A, et seq., as amended by Chapter 193 of Legislative Acts of 2012; nothing contained in this title shall deprive the City from employing the remedies provided in those sections, including but not limited to disposition of a dog found to be a dangerous dog or nuisance dog, as provided in §157 of c.140, as amended.

To the maximum extent possible, the provisions of this title shall be deemed to be consistent with and/or supplemental to those contained in M.G.L. c.140, as provided in §§173 and 173A, as amended.

6-10 License Period

Any person owning, harboring or having custody (keeper) or control of a dog shall license said dog annually for the period beginning January 1 of each year. Renewal of licenses must be obtained by March 15th of the following year. If a dog remains unlicensed after March 15, the owner shall be fined the sum of $15.00 in addition to the original license fee.

6-11 License required; rabies vaccination.

The owner or keeper of a dog six months old or over shall cause it to be registered, numbered, described and licensed with the City Clerk. Proof of rabies vaccination shall be shown at the time of issuing the license.

6-12 License fees

Fees for licenses shall, except as otherwise provided, be as follows:

A. The fee for every dog license shall be:

   Ten dollars ($10.00) for every spayed or neutered dog.
   Fifteen dollars ($15.00) for every intact (unspayed or unneutered) dog.

   There shall be no licensing fee for “service dogs” as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

   Proof of spaying or neutering shall be shown at the time of licensing.

B. A license duly recorded shall be valid throughout the Commonwealth, except that in the case of the permanent moving of a dog into the City, the owner or keeper thereof shall, within thirty days after such moving, present the original license and tag issued by another city or town in the Commonwealth to the City Clerk and the said City Clerk shall take up the same and issue to such owner or keeper a transfer license and a tag for such dog upon payment of two dollars. The provisions of this Article relative to the form and furnishing of licenses and tags shall apply to licenses and tags issued under this paragraph. (added 4/23/2015)

6-13 Charge for lost tags

The charge for replacing lost dog tags shall be $3.

6-14 Kennel licenses; fees

The fee for each kennel license shall be as follows:

Forty dollars ($40.00) for kennels with 4 dogs or less;

Eighty dollars ($80.00) for kennels with 5 – 10 dogs;

One hundred fifty dollars ($150.00) for kennels with 11 dogs or more, but not more than 25 dogs;

Two hundred fifty dollars ($250.00) for kennels with 26 dogs or more.

(amended 3/22/2013)

6-15 Kennel Inspections

Regular kennel inspections shall be conducted no less than twice each year by the Animal Control Officer.

6-16 Collection and Disposition of Fees

The City Clerk shall issue dog licenses and tags and collect the appropriate fees and turn all moneys over to the Treasurer/Collector on a weekly basis.

6-17. Adoption Requirements and Conditions

A dog which has been kept by the Animal Control Officer for seven (7) days and remains unclaimed shall become available for adoption. A dog adopted from a pound or shelter may be sold for not less than $25.00. Monies so received shall be paid forthwith to the Treasurer/Collector. A condition of sale, before delivery of any dog so sold, shall require the purchaser to license the dog and certify in writing the intention to spay or neuter the animal within ninety (90) days.

6-18. Penalty and Enforcement

The Police Chief and his designee, including the Animal Control Officer, and any Woburn Police Officer shall have authority to enforce the provisions of this title. Any alleged violation of this ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c.40, §21D.

## II. MISCELLANEOUS ANIMAL REGULATIONS

6-19 Feeding or baiting of migratory waterfowl

A. No person, except the Director of the Division of Fisheries and Wildlife, or his agent, designee, as authorized pursuant to Chapter 131 of the General Laws, shall feed or bait any WATERFOWL or of the family of Anatidae (including, but not restricted to ducks, geese and swans) at any place within the City of Woburn. As used in this paragraph, “feeding” and “baiting” shall mean placing, exposing, depositing, distributing, or scattering, directly or indirectly, of shelled, shucked, or unshucked corn, wheat, or other grain, bread, salt, or any other

feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attraction, or enticement to, on, or over any such areas where such feed items have been placed, exposed, deposited, distributed, or scattered.

B. Nothing in this ordinance shall be construed to limit the feeding of domesticated waterfowl, as defined by the Division of Marine Fisheries and Wildlife, by a farmer as defined in M.G.L. c.128, §1A on property owned or leased by him, or the feeding of waterfowl or other birds by propagators licensed under M.G.L. c.131, §23 when such waterfowl or other birds are confined in such a manner as may be required pursuant to said §23 and any Rules and Regulations issued under authority thereof; or the feeding by any person or his agents, invitees or licenses of waterfowl lawfully kept as a pet by that person.

C. Notwithstanding any of the above, the Director of the Division of Fisheries and Wildlife, or his agent, designee, may authorize the emergency feeding of waterfowl and other birds when, in his opinion, such action is necessary in order to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The director may authorize such action by such means as he deems necessary and expedient, but such means shall include the immediate notification of the City Council thereof by first class mail.

6-20 Penalty and Enforcement

Any person who violates any provision of this ordinance shall be subject to a fine of Five Dollars ($5.00) for each offense thereof. The Police Chief and his designee, including the Animal Control Officer, or any Woburn Police Officer shall have authority to enforce the provisions of this article. Any alleged violation of this ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c.40, §21D.

(amended 12/20/2012)

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# TITLE 7

# WETLANDS PROTECTION AND CONSERVATION

**Articles and Sections:**

**I. WETLANDS PROTECTION** (numbered as passed)

7-1 Purpose.
7-2 Jurisdiction.
7-3 Exceptions.
7-4 Applications for Permits.
7-5 Notice and Hearings.
7-6 Coordination with Other Boards.
7-7 Permit and Conditions.
7-8 Regulations.
7-9 Definitions.
7-10 Security.
7-11 Enforcement.
7-12 Burden of Proof.
7-13 Relation to the Wetlands Protection Act.
7-14 Severability.

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## I. WETLANDS PROTECTION

7-1 Purpose.

The purpose of this ordinance is to protect the wetlands, related water resources, and adjoining land areas in the City by controlling activities deemed to have significant effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, recreation, agriculture, aquaculture, and historic values, (collectively, the "interests protected by this ordinance").

7-2 Jurisdiction.

Except as permitted by the Conservation Commission or as provided in this Ordinance, no person shall remove, fill, dredge, alter or build within 150 feet of any fresh water wetland, marsh, meadow, bog or swamp; upon or within 150 feet of any lake, river, pond, stream; upon or within any land under said waters; or upon any

land subject to flooding or inundation by groundwater or surface water. (Prior Ch. 9-A, sec.4; new Ord. dated 06/24/87).

7-3 Exceptions.

The permit and application required by this ordinance shall not be required for maintaining, repairing, or replacing an existing and lawfully located 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, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

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

Other than stated in this section, the exceptions provided in the "Wetlands Protection Act" (G.L. Ch. 131 Sec.40, as amended) shall not apply.

7-4 Applications for Permits.

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

The application and plans shall contain data as required by this ordinance and regulations adopted by the Commission.

The Commission in an appropriate case may accept as the application and plans under this ordinance the Notice of Intent and plans filed under the Wetlands Protection Act, MGL ch. 131, Sec. 40.

At the time of application the applicant shall pay a filing fee specified in regulations of the Commission.

Any person desiring to know whether or not proposed work on the area is subject to this ordinance may in writing request a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.

7-5 Notice and Hearings.

Any person filing an application or a request for determination with the Commission at the same time shall give written notice thereof, by certified mail or hand delivery, to all abutters according to the most recent records of the assessors, including those across a traveled way, or railroad bed. The notice shall enclose a copy of the application or request, with plans, or shall state where copies may be examined by abutters. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any application or request for determination, with written notice given at the expense of the applicant five working days prior to the hearing, in a newspaper of general circulation in the City.

The Commission shall commence the public hearing on any application or request for determination within 21 days from receipt.

The Commission shall issue its permit or other action, or determination in writing within 21 days of the close of the public hearing thereon.

The Commission in an appropriate case may combine its hearing under this ordinance with the hearing conducted under the Wetlands Protection Act, M.G.L. ch. 131, Sec. 40.

For reasons announced by the Commission at the hearing, the Commission shall have authority to continue or postpone the hearing to a date certain announced at the hearing, either for receipt of additional information offered by the applicant or others, or for information required of the applicant, deemed necessary by the Commission in its discretion. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

7-6 Coordination with Other Boards.

Any person filing a permit application or request for determination with the

Commission shall provide one complete copy, including appropriate plans, at the same time, by certified mail or hand delivery, to the Clerk of the City Council, Planning Board, Board of Health and Building Commissioner. The Commission shall not take final action until such boards and officials have had 14 days from receipt of the notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission.

7-7 Permit and Conditions.

If the Commission after a public hearing determines that the area which is the subject of the application is likely to be significant to the interests protected by this ordinance, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the work requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those interests, and all work shall be done in accordance with those conditions.

If the area is deemed not likely to be significant to the interests protected by this ordinance, the Commission shall so inform the applicant that the work does not require a permit.

Permits shall expire three years from the date of issuance. Any permit may be renewed once for an additional one year period, provided that a request for an extension is received in writing by the Commission prior to expiration.

For good cause the Commission may revoke or modify a permit issued under this ordinance, provided, however, that no such revocation or modification shall occur until the Commission has conducted a public hearing on the matter.

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

7-8 Regulations.

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

At a minimum these regulations shall define key terms in this ordinance not inconsistent with this ordinance.

7-9 Definitions.

The following definitions shall apply in the interpretation and implementation of this ordinance.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth of political subdivision thereof to the extent subject to city ordinances, administrative agencies, public or quasi-public corporations or bodies, the City of Woburn, and any legal entity, its legal representatives, agents, or assigns.

The term "alter" shall include, without limitation, the following actions when undertaken in resource areas subject to this ordinance:

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

7-10 Security.

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

(a) By a proper bond or deposit of money or negotiable securities sufficient in the opinion of the Commission;

(b) By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the City and members of the public, whereby

the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

7-11 Enforcement.

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

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

Upon request of the Commission, the City Solicitor shall take legal action for enforcement under civil law. Upon request of the Commission the Chief of Police shall take legal action for enforcement under criminal law.

In the alternative to criminal prosecution the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, Section 21D.

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

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

7-12 Burden of Proof.

The applicant for a permit shall have the burden of proof by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this ordinance. Failure to provide evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this ordinance shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

7-13 Relation to the Wetlands Protection Act.

This ordinance is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L. ch. 131, Section 40, and regulations thereunder.

7-14 Severability.

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof, nor shall it invalidate any Order of Conditions which previously has been issued. (Ord. dated 4/19/85).

7-15 Consultant Fees.

Pursuant to M.G.L. c.44, §53G and regulations adopted by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. The cost of such review shall be paid for by the applicant. Such funds shall be deposited with the city treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services. Any consultant hired under this provision shall be selected by the Commission, and shall report exclusively to the Commission and/or its administrator. (added 2/7/2014)

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# TITLE 8

# HEALTH AND SAFETY

**<u>Articles and Sections</u> :**


**I. BOARD OF HEALTH**

8-1 Authority generally.
8-2 Contracts.
8-3 Monthly report.
8-4 Inspector of animals and slaughtering.
8-5 Inspector of milk.
8-6 Inspector of provisions.

**II. ENVIRONMENTAL TOBACCO SMOKE ORDINANCE**

8-6B Environmental Tobacco Ordinance

**III. INFLAMMABLES AND EXPLOSIVES**

8-7 Flammable Categories; Fees; Licenses
8-8 Annual Renewal; Fee; Revocations; Transfers.
8-9 Flammables in Excess of Amounts Provided Under Subsection 8-8; Fees.
8-10 (Reserved).
8-11 Flammables--Applications--Exceptions.
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8-13 Secondhand storage tanks.

**IV. Reserved**

8-14 Reserved.

**V. ABANDONED WELLS**

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**VI. DANGEROUS EXCAVATIONS**

8-16 Barriers required--Penalty for violation.

## VII. DUMPSTERS

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## VIII. SANITARY LANDFILLS

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## IX. FLOOD HAZARD PROTECTION

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8-35 Nonliability of city.
8-36 Exceptions for alarms on city premises.
8-37 School bus driver requirements.

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## I. BOARD OF HEALTH

8-1 Authority generally.

The board of health shall make reasonable health regulations for the city and shall publish them in accordance with the provisions of General Laws Chapter 111, Section 31. The said board shall issue permits, upon proper application for the removal of and transportation of garbage; it shall make rules and regulations for the control of the removal, transportation or

disposal of garbage or other offensive substances; it shall have jurisdiction to regulate and control atmospheric pollution, all as provided for in G.L. Chapter 111, sec.sec. 31A-31C; and shall exercise all other functions as provided by law. (Prior Ch. 12 sec.2).

8-2 Contracts.

The board of health shall make all regulations for the cleaning of private cesspools, vaults and privies when public health is in danger and such regulations shall contain the condition that such work shall be performed to the satisfaction of said board. (Prior Ch. 12 sec.4).

8-3 Monthly report.

The board shall furnish monthly to the mayor and city council a report of its expenditures during the month preceding and shall in an annual report, give a detailed statement to the mayor and city council of its doings and expenditures for the preceding municipal year with such information and suggestions as may be deemed proper or requested to give. (Prior Ch. 12 sec.9).

8-4 Inspector of animals and slaughtering.

The inspectors of animals and of slaughtering shall make annual reports to the city council, which shall contain a statement of the number and kind of animals inspected by him, the number and the result of all prosecutions. (Prior Ch. 12).

8-5 Inspector of milk.

A. The inspector of milk shall have and exercise all the powers and authority and be subject to all the duties and limitations which the statute imposes upon or requires of inspectors of milk.

B. The annual report of said inspector shall include a statement of the number of seizures made by him, the places from which and the persons from whom the seizures were made; the number of samples taken for the purpose of obtaining analyses, and the result of analyses made; and the number and result of all prosecutions. (Prior Ch. 12 sec.12).

8-6 Inspector of provisions.

A. The inspector of provisions will be the health inspector or others designated by the board of health and shall perform such duties and have such powers as are prescribed by the statutes of the Commonwealth and shall perform such further duties as may be required by the board of health.

B. The inspector of provisions shall make an annual report to the city council of activities for the preceding year. (Prior Ch. 12 sec.13).

## II. ENVIRONMENTAL TOBACCO SMOKE ORDINANCE

8-6B Environmental Tobacco Smoke Ordinance

A. Statement of Purpose:

Whereas conclusive evidence exists that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and whereas the harmful effects of tobacco smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers; and whereas environmental tobacco smoke [hereinafter ETS], which includes both exhaled smoke and the side stream smoke from burning cigarettes, causes the death of 53,000 Americans each year; and whereas in 2000, the Public Health Service's National Toxicology Program listed environmental tobacco smoke as a known human carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997), now, therefore, the City of Woburn recognizes the right of those who wish to breathe smokefree air and establishes this ordinance to protect and improve the public health and welfare by prohibiting smoking in public places.

B. Definitions:

For the purposes of this ordinance, the following words shall have the meanings respectively ascribed to them by this paragraph:

Board: The Board of Health of the City of Woburn.

Electronic Cigarette: An electronic cigarette (or e-cigarette), personal vaporizer (PV), or electronic nicotine delivery system (ENDS) is an electronic inhaler meant to simulate and substitute for tobacco smoking.

Health Care Facility: Any office or institution providing care or treatment of

diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited to rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions.

Indoor Sports Arena: Any sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar recreational facilities where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or designees of any of the foregoing.

Pouring License: A Section 12 License, as defined by the Massachusetts Alcoholic Beverages Control Commission, that permits the sale of alcoholic beverages to be drunk on the premises.

Private Clubs: A not-for-profit establishment with a defined membership.

Public Place: Any building or facility owned, leased, operated or occupied by the municipality, including school buildings or grounds; any area open to the general public including, but not limited to, libraries, museums, theaters, auditoriums, indoor sports arenas and/or recreational facilities, inns, hotel and motel lobbies, educational facilities, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrances, elevators accessible to the public, and licensed child-care locations.

Public Transportation: Buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the town including indoor platforms by which such means of transportation may be accessed.

Restaurant: Any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and other eating establishment which gives or offers food for sale to the public, guests, or employees for on-premises consumption, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

Retail Food Store: Any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary activity is the sale of food items to the public for off-premises consumption.

Retail Store: Any establishment whose primary purpose is to sell or offer for sale to consumers, but not for resale, any goods, wares, merchandise, articles or other things, including retail food stores. "Retail store" shall not include restaurants as defined herein.

Smoking: Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, electronic cigarette or other tobacco product in any form.

C. Posting Notice of Prohibition:

Every person having control of premises upon which smoking is prohibited by and under the authority of this ordinance shall conspicuously display upon the premises "No Smoking" signs provided by the Massachusetts Department of Public Health and available from the Woburn Board of Health or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) and comparable in size to the sign provided by the Massachusetts Department of Public Health and available from the Woburn Board of Health.

D. Smoking Prohibited:

No person shall smoke, including electronic cigarettes, nor shall any person, employer, or other person having control of the premises upon which smoking is prohibited by this ordinance, or the agent or designee of such person, permit a person to smoke, including electronic cigarettes, in any of the following places as defined herein: health care facilities, public places, public transportation, retail food stores, restaurants and retail stores except as otherwise provided in Paragraph E of this ordinance.

Additionally, no person shall smoke, including electronic cigarettes, in any place in which a sign conforming to the requirements of Paragraph C of this ordinance is posted. No person shall remove a sign posted under the authority of Paragraph C of this ordinance.

E. Exceptions:

Notwithstanding the provisions of Paragraph D of this ordinance, smoking may be permitted in the following places and/or circumstances:

I. Private residences, except those portions used as a child care or health care office when operating as such.
II. Hotels and motels shall designate a minimum of 75% of their rooms rented to guests as non-smoking rooms. The rooms so designated will have signs posted indicating that smoking is prohibited therein. Room designation information will be provided to the Woburn Board of Health.
III. Hotel and motel conference/meeting rooms and private and public assembly rooms while these places are being used for private functions.
IV. Private or semiprivate rooms of nursing homes and long term care facilities, occupied by one (1) or more patients, which are separately ventilated and all of whom are smokers who have requested in writing to be placed in rooms where smoking is permitted.
V. Retail tobacco stores, which are primarily for the sale of tobacco products and paraphernalia, in which the sale of other products is merely incidental, prohibit minors from entering the establishment and are not required to possess a retail food permit.
VI. Private clubs (except when the private club is open to the public).

F. Conflict with Other Laws or Regulations:

Notwithstanding the provisions of the foregoing Paragraph E of this ordinance, nothing in this ordinance shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire, health or other regulations.

G. Violations:

Any person who violates this ordinance shall be subject to a written for a first offense, one hundred dollars ($100) for a second offense within one year of the date of the first offense and two hundred dollars ($200) for a third or subsequent offense within one year of the date of the first offense.

H. Enforcement:

Whoever violates any provision of this ordinance, the violations of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

Each day on which any violation exists shall be deemed to be a separate offense. Violations by establishments holding a Pouring License will be reported to the city's Licensing Commission.

Penalty: A warning for first offense $100 for second offense within one year from the date of the first offense $200 for third or subsequent offense within one year from the date of the first offense

Enforcing persons: Woburn Police Department
Woburn Board of Health and its designees

One method of enforcement may be periodic, unannounced inspections of those establishments subject to this ordinance. Any citizen who desires to register a complaint under this ordinance may request that the Board of Health initiate enforcement.

I. Severability:

If any paragraph or provision of this ordinance is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

J. Effective Date: This ordinance shall go into effect _____, 2001.

(Added 3/28/2001; amended 10/15/2013)

**III. INFLAMMABLES AND EXPLOSIVES**

8-7 Flammable Categories; Fees; Licenses.

1. Except as otherwise provided for, no flammable or combustible liquids, flammable solids or flammable gases may be kept, stored, manufactured or sold without first obtaining a permit from the head of the Fire Department. The application for the permit shall clearly set forth the amounts of various flammable and combustible liquids, flammable solids or gases proposed to be kept or stored. The permit shall prescribe the conditions and specify the amounts to be kept or stored.

2. In accordance with the provisions of Massachusetts General Laws Chapter 148, Section 13, the following amounts of flammable and combustible liquids, flammable solids or flammable gases may not be kept, stored, manufactured or sold without obtaining a license from the local licensing authority, that being the City Council. All amounts greater than the permit requirements shall require a license.

   A. Any Class I Flammable Fluids, as defined in 527 CMR 14.02(2) in an amount exceeding 793 gallons, in containers of 60 gallons capacity

or less, or in portable tanks over 60 gallons capacity not intended for fixed use, including intermediate bulk containers (IBCs) designed for mechanical handling. Or in fixed containers in an amount exceeding 10,000 gallons in storage tanks having a liquid capacity that exceeds 60 gallons capacity, intended for fixed installation, and not used for processing: $120.00.

B. Any Class II Flammable Fluids, as defined in 527 CMR 14.02(2) in an amount exceeding 10,000 gallons: $120.00
C. Any Class III Flammable Fluids, as defined in 527 CMR 14.02(2) in an amount exceeding 10,000 gallons: $120.00
D. Any Flammable Solids, as defined in 527 CMR 14.02, in an amount exceeding 100 pounds: $120.00.
E. Any Flammable Gas, as defined in 527 CMR 14.02, flammable compressed gas in an amount exceeding 3,000 cubic feet or 88.44 gallons within a building: $120.00.
F. Any Flammable Gas, as defined in 527 CMR 14.02, in an amount exceeding 10,000 cubic feet stored outside a building: $120.00
G. Any Class A Explosive, as defined in 527 CMR 13.03:(2)(a), in an amount not exceeding 100 pounds: $120.00.
H. Any Class A Explosive, as defined in 527 CMR 13.03:(2)(a), in an amount exceeding 100 pounds: $150.00.
I. Any Class B Explosives, as defined in 527 CMR 13.03:(2)(b), in an amount not exceeding 100 pounds: $120.00.
J. Any Class B Explosives, as defined in 527 CMR 13.03:(2)(b), in an amount exceeding 100 pounds: $150.00.
K. Any Class C Explosives, as defined in 527 CMR 13.03:(2)(c), in an amount exceeding 60,000 rounds of small arms ammunition: $150.00; under 60,000 rounds: $120.00.

The above fees are established for original licenses and for a Certificate of Registration, renewable annually, as provided for by General Law Ch. 146, 13, as amended. The Certificate of Registration fees are payable on or before April 30 in each year. In addition, each applicant for new or increased storage shall submit a $100.00 application fee for advertising and processing costs. (Prior Ch. X, sec.2; Ord. dated 04/10/87, eff. 05/01/87; amended 4/13/2006; amended 6/11/2007; amended 5/19/2016).

8-8 Annual Renewal; Fee; Revocations; Transfers.

Licenses granted under Section 8-8, above are subject to annual renewal by a Certificate of Registration. Such Certificates shall be issued by the City Clerk only after payment of the fees prescribed in Section 8-8. Failure to notify the City Clerk of any changes in storage or discontinuances of

storage shall not relieve the licensee of renewal fees. Failure to pay the said fees, or failure to notify the City Clerk, before April 30 of each year, of changes in storage, shall result in a doubling of the required fees; such failure from year to year shall result in cumulative fees, and possible revocation after notice by the City Council. Where a licensee intends to convey the licensed premises, the new owner or occupant must pay as a transfer fee one-half of the current chargeable fees to cover costs of processing and recordkeeping. No transfer of a license to any other person or entity is allowed, nor a transfer to another location, without the approval of the City Council. (Prior Ch. X, sec. 2C, 3, 3A and 3B; Ord. dated 04/10/87, eff. 05/01/87).

8-9 Flammables in Excess of Amounts Provided Under Subsection 8-8; Fees.

A. Flammable Fluids in excess of 10,000 gallons are licensed at $10.00 per 1,000 gallons additional or portion thereof, whether for a new license or for a Certificate of Registration (amended 4/13/2006);

B. Flammable Gases in excess of 3,000 cubic feet or 88.44 gallons within a building, or 72.78 cubic feet or 2,000 gallons outside a building are licensed at $10.00 per 1,000 cubic feet additional or portion thereof, whether for a new license or for a Certificate of Registration (amended 4/13/2006; 4/22/2008);

C. Flammable Solids in excess of 100 pounds are licensed at $10.00 per 100 pounds additional or portion thereof, whether for a new license or for a Certificate of Registration. (Prior Ch. X, sec.sec.2A and 2B; Ord. dated 04/10/87, eff. 05/01/87; 4/22/2008).

8-10 [Reserved]

8-11 Inflammables--Application--Exceptions.

All provisions of Sections 8-8 - 8-10, above, shall not apply to the storage of fuel oil products used for household storage tanks or for apartment storage tanks. (Prior Ch. 10 sec.2B; see Ord.dated 04/10/87; eff. 05/01/87).

8-12 [Reserved]

8-13 Secondhand storage tanks.

A. No secondhand storage tank can be installed, fuel-chemical, in the city, in industrial areas, aboveground or underground.

B. Violation will result in a three-hundred-dollar fine and mandatory removal. (Prior Ch. 22 sec.11(b)).

## IV. RESERVED

8-14 Reserved. (Prior Ch. 30 sec.5); deleted 5/9/97).

## V. ABANDONED WELLS

8-15 Covering required--Penalty for violation.

A. By virtue of the authority in the city council of the city by Chapter 40, Section 21, as amended by subsection 20, effective June 11th, 1954, General Laws of the Commonwealth of Massachusetts, it is ordered as set out in this section:

B. Owners, or owner of land located within the boundaries of the city whereon is located an abandoned well, or well in use, are ordered to either provide a covering for such wells which is capable of sustaining weight of three hundred pounds, or else in the case of an abandoned well, fill the same to the level of the ground surrounding.

C. Failure to comply with this section shall be penalized by a fine of not less than one hundred dollars and not more than five hundred dollars. (Prior Ch. 30 sec.3).

## VI. DANGEROUS EXCAVATIONS

8-16 Barriers required--Penalty for violation.

A. Owners of land which has been excavated are required to erect barriers or take other suitable measures within two days after such owners have been notified in writing by the mayor and the city council that in their opinion such excavation constitutes a hazard to public safety.

B. The penalty for any violation of this section is two hundred dollars. (Prior Ch. 30 sec.6).

## VII. DUMPSTERS

8-17 Regulations generally.

A. Each dumpster must be located at a distance inside the lot line of the owner or agent being serviced so as not to interfere with the safety, convenience or health of abutters or residents. (amended 12/16/97).

B. When deemed necessary by the fire department, it may be required that a dumpster be enclosed or screened.

C. Dumpsters shall not be filled after 9:00 p.m. for residential property, and at the close of the business day for commercial property, at which time the lids are to be locked. Lids must be closed at all other times when dumpster is not in use. (amended 10/18/2004)

D. Each dumpster must be of sufficient size and capacity to eliminate overflowing, and the property owner or authorized agent of the premises utilizing the service must immediately empty the contents when full.

E. Each dumpster must be situated so as not to obstruct the view of flowing traffic.

F. It shall be the responsibility of the property owner or agent being serviced to maintain the dumpster and the dumpster area free of scattered debris, overflowing and all other nuisances.

G. The contractor shall have his/her name and business telephone number conspicuously displayed on the dumpster.

H. The emptying of the dumpster contents by the property owner, contractor or their agents or employees shall not commence before 7:00 a.m. nor after 9:00 p.m. on any day. (amended 10/18/2004)

I. These regulations shall apply to all dumpsters in the city, whether for residential or commercial, or industrial use.

J. Any person, firm or corporation violating any provision of this section shall be subject to a fine of not less than $25.00 nor more than $1,000.00 for each offense and a separate offense shall be

deemed committed on each day or on which a violation occurs or continues. (amended 10/18/2004)

K. It shall be the responsibility of the fire department to enforce the provisions of this section. (Prior Ch. 22 sec.13).

## VIII. SANITARY LANDFILLS

8-18 (Reserved)

8-19 Establishment.

A. There shall not be deposited in any open sanitary landfill, any waste material which in the opinion of the board of health may become a menace to health or property. No sanitary landfill shall be maintained unless and until permission from the board of health may prescribe. Upon assignment by the board of health of an area as a dumping ground as provided by General Laws Chapter 111, Section 150A and subject to zoning laws, it shall be subject to approval by the city council with respect to any conditions or limitations to the extent, character, and method of operation which shall be stated in a permit issued by the city council, subject to prior state approval.

B. Before passage, a public hearing shall be held, after publication of the aforesaid hearing on two successive weeks, the first publication to be at least twenty-one days before final passage. (Prior Ch. 12 sec.6).

8-20 Use.

The sanitary landfill shall be used exclusively by city residents with the execution that outside contractors deriving materials from city residents' homes be allowed to use said sanitary landfill, the fee for which use to be established by the city council or the board of health. (Prior Ch. 12 sec.6A).

8-21 Authority to assign incinerator site.

The board of health shall have the power to assign a site as a sanitary landfill for garbage, rubbish and other refuse or for a refuse disposal incinerator, subject to the provisions of Massachusetts General Laws Ch. 111, sec.150A. The board shall also have power to rescind, suspend or

modify such assignment after due notice and hearing, subject to Massachusetts General Laws, Ch. 111, sec.150A. No public or private premises within the limits of the city shall be used as a sanitary landfill without a permit from the board of health. (Prior Ch. 12 sec.5).

## IX. FLOOD HAZARD PROTECTION

8-22 Application for flood insurance.

A. The City Council assures the Federal Insurance Administration that it will enact as necessary, and maintain in force those areas having flood or mudslide hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 1910 of the National Flood Insurance Program Regulations; and

B. The City Council appoints the city engineer with the responsibility, authority and means to:

1. Delineate or assist the administrator, at his request, in delineating the limits of the areas having special flood and/or mudslide hazards on available local maps of sufficient scale to identify the location of building sites,
2. Provide such information as the administrator may request concerning present uses and occupancy of the floodplain and/or mudslide area, M
3. Maintain for public inspection and furnishing upon request, with respect to each area having special flood hazards, information on elevations (in relation to mean sea level) of the lowest floors of all new substantially improved structures, and
4. Cooperate with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplain and/or mudslide areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or mudslide areas in order to prevent aggravation of existing hazards,
5. Submit on the anniversary date or the community's initial eligibility an annual report to the administrator on the progress made during the past year within the community on the development and implementation of floodplain and/or mudslide area management measures;

C. The City Council will take such other official action as may be reasonably necessary to carry out the objectives of the program;

D. The City Council hereby appoints the city engineer with the overall responsibility, authority and means to implement all commitments made herein. (Prior Ch. 30 sec.8).

## X. ALARM REGULATIONS

8-23 False alarm designated.

A false alarm shall be any activation of an alarm to which the police department responds and which is not caused by a criminal act, fire or other emergency, except an activation caused by:

(1) malfunction of telephone company equipment or lines off premises as verified by monitoring facilities at police headquarters, or
(2) power failure as verified by the administrator. A series of such activations attributable to the same cause and occurring under circumstances beyond the control of the responsible alarm user shall be deemed a single false alarm. (Ord. dated 5/24/85 (a): prior Ch. 4 6(A)[part]).

8-24 Administrator for alarm devices.

There shall be in the city, an administrator for alarm devices who shall have the powers and duties granted under these regulations. The chief of police or his designee shall be the administrator of these regulations. (Ord. dated 5/24/85 (b): prior Ch. 4 sec.6(A)[part]).

8-25 Alarm appeal board.

The Alarm Appeal Board shall be made up of the three (3) members of the Committee on Police and License. Ord. dated 5/24/85 (c): prior Ch. 4 sec.6(A)[part]; amended 5/8/98).

8-26 Confidentiality.

All information in the possession of the administrator, for alarm devices concerning particular alarm users and particular communication method shall be confidential and shall not be divulged without the written consent of the alarm user of users concerned. (Ord. dated 5/24/85 (d): prior Ch. 4 sec.6(A)[part]).

8-27 Automatic dial alarm--Police department interconnection.

No automatic dial alarm may be installed after the effective date of the ordinance codified in this part without communication device approval of the administrator. Within six months after the effective date of the ordinance codified in this part, all automatic dial alarms presently in use shall be reprogrammed to dial a designated number with the police department. The automatic dial alarm shall be regulated so as not to repeat the message more than two times. Service for having automatic dial alarm reprogrammed and regulated shall be at the user's expense. (Ord. dated 5/24/85 (e): prior Ch. 4 sec.6(A)[part]).

8-28 False alarm report to administrator.

Police personnel shall report false alarms to the administrator. (Ord. dated 5/24/85 (f): prior Ch. 4 sec.6(A)[part]).

8-29 False alarm charges--Schedule.

A. When the administrator determines that the police department has responded to a false alarm the administrator shall impose a charge on the responsible alarm user according to the following schedule: 1. For the first three false alarm responses within the calendar year, no charge; 2. For the fourth and subsequent of such false alarms, twenty-five dollars each alarm response.

B. In addition to the provisions of this section there shall be no charge for the first false alarm occurring within one month after installation of an alarm device, and such false alarm shall not be considered in determining charges in accordance with the schedule set forth in this section (Ord. dated 5/24/85 (g): prior Ch. 4 sec.6(A)[part]).

8-30 False alarm charges--Notification and appeal.

A. The administrator shall notify the responsible alarm user of any false alarm charge by mail. Within thirty days after the mailing of such notice, the alarm user may file with the administrator, information to show that the alarm was not a false alarm within the meaning of these regulations.

B. The administrator shall consider such information, reaffirm or rescind the false alarm charge, and notify the alarm user of his

decision by mail. Within thirty days after the mailing of such notice, the alarm user may file an appeal, in writing to the appeal board.

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

D. Notice to Include Instructions. Each notice of false alarm charge or the reaffirmation of such a charge by the administrator shall refer to and provide instructions concerning the alarm user's right to further recourse by filing information with the administrator or an appeal with the alarm appeal board, as the case may be.

E. False Alarm Charge. The false alarm charge need not be paid until the user has exhausted his right of appeal. The false alarm charge then must be paid within thirty days from the date of the hearing, and if not paid, will be subject to the same late charges as the Real Estate Tax Bill effective on the date of the hearing. (Ord. dated 5/24/85 (h): prior Ch. 4 sec.6(A)[part]).

8-31 Alarm user registration required.

Each alarm user shall register his alarm device or devices with the administrator prior to use; provided, that the alarm devices in use as of the effective date of the ordinance codified in this part may be registered no later than sixty days from such date. (Ord. dated 5/24/85 (i): prior Ch. 4 sec.6(A)[part]).

8-32 Registration procedure.

A. Alarm device registration shall be accomplished by filling out a form provided by the administrator to include such information concerning the identity of the prospective alarm user, the identity of the alarm user's contractors, if any, and the nature of the proposed communication method, as the administrator may require.

B. It shall be in the responsibility of each alarm user to notify the

administrator in writing of changes in registration information. (Ord. dated 5/24/85 (j): prior Ch. 4 sec.6(A)[part]).

8-33 Charges and fees to be paid into general fund.

Charges for false alarms will be collected by the administrator and placed in the general fund. (Ord. dated 5/24/85 (k): prior Ch. 4 sec.6(A)[part]).

8-34 Penalty for violations.

Any person who performs or causes to be performed any of the following acts shall be subject to a fine of up to one hundred dollars for each such act:

A. Intentional causing of a false alarm;
B. Failure to register an alarm device or give notice of changes in registration information as required by this part;
C. Use of automatic dial alarm or an exterior audible alarm device in violation of the provisions of this part. (Ord. dated 5/24/85 (l): prior Ch. 4 sec.6(A)[part]).

8-35 Nonliability of city.

Notwithstanding the provisions of these regulations, the city, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any alarm device or of the alarm monitoring facilities at police headquarters. No liability whatsoever is assumed for the failure of such alarm devices or monitoring facilities, or for failure to respond to alarms or for any other act or omission in connection with such alarm devices. Each alarm user shall be deemed to hold and save harmless the city, its departments, officers, agents and employees from liability in connection with the alarm user's alarm device. (Ord. dated 5/24/85 sec.(m): prior Ch. 4 sec.6(A)[part]).

8-36 Exceptions for alarms on city premises.

The provisions of these regulations shall not apply to alarm devices on premises owned or controlled by the city, nor to alarm devices installed in a motor vehicle or trailer.(Ord. dated 5/24/85 sec.(n): prior Ch. 4 sec.6(A)[part]).

8-37 School Bus Driver Requirements

A. All school bus drivers operating within City limits with passengers under the age of 12 years old are required to walk the length of the interior of the bus after the last stop of their route. Drivers are required to carefully inspect each seat on the bus to ensure that every passenger has exited the bus before the driver may depart the bus.

B. All municipal departments that utilize school buses for the transportation of children under the age of twelve (12) years old shall be furnished a copy of this ordinance. It is the responsibility of said municipal departments that any and all bus companies providing services to, through or under their department be furnished a copy of this ordinance.

C. The penalty for any violation of this section shall be not less than $500.00.

[Note: Title 8 numbering amended 5/19/2016]

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# TITLE 9

# PUBLIC PEACE, MORALS AND WELFARE

**<u>Articles and Sections</u> :**

## I. OFFENSES AGAINST PUBLIC PEACE

9-1 Disorderly conduct in street.
9-2 Noise Control.
9-3 Ball Playing in Streets.
9-4 Penalty for Violation
9-5 [reserved].
9-6 [reserved].
9-7 [reserved].

## II. OFFENSES AGAINST PUBLIC DECENCY

9-8 Nude swimming or bathing in certain waters.
9-9 Urination and exposure of person in street.
9-10 Games of chance.
9-11 Drinking liquor on public property.
9-12 Window peeping.
9-13 Penalty for violation.

## III. OFFENSES PERTAINING TO PROPERTY

9-14 Throwing snowballs, stones, etc., on streets.
9-15 Making of indecent figures or writing obscene words, etc.
9-16 Trespass--Delivery personnel to use walkway.
9-17 Posting of handbills and signs.
9-18 Litter.
9-19 Water.
9-20 Penalty for violation.

## IV. CURFEW

9-21 Loitering--Authority to invoke curfew.
9-22 Penalty for violation

## V. SMOKING

9-23 Prohibited at public meetings.
9-24 Free Standing Cigarette Vending Machines.

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## I. OFFENSES AGAINST PUBLIC PEACE

9-1 Disorderly conduct in street.

No person shall behave in a disorderly manner, or utter any obscene or indecent language in any public street or public place in this city; and no person shall, without right, stand or remain upon a wall or fence, or upon any doorstep or other projection from a house, or obstruct any passage to or from such house or building, after having been requested by a police officer of the city, or by the owner or occupant of any such building, to depart and stay therefrom. (Prior Ch. 25, sec. 5(E)).

9-2 Noise Control.

A. Declaration of Findings and Policy: Whereas excessive sound is a hazard to the public health, safety, welfare and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and, whereas people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health, safety, welfare or degrade the quality of life; now, therefore, it is the policy of the City of Woburn to prevent excessive sound which may jeopardize the health, safety or welfare of its citizens or degrade the quality of life.

B. Scope: This Ordinance shall apply to the control of all sound originating within the limits of the City of Woburn except as follows:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work or in the training exercises related to emergency activities.
2. All snow clearance activities by the City, its agencies or departments or any person under a contractual arrangement with the City.
3. Any program or activity supervised by the Recreation Commission of the City of Woburn.
4. Non-commercial public speaking and public assembly activity conducted on private property, public space or public right of way, except those activities otherwise regulated by Subsection B.
5. Parades, public gatherings or sporting events for which the proper permits have been issued.
6. Emission of sound in the discharge of weapons or in fireworks displays from 8:00 a.m. until 12:00 midnight when licensed by the City.

7. Emergency vehicles, such as police, fire, ambulance or civil defense apparatus.
8. Devices as required by federal or state law.

C. Definitions.

In construing this Ordinance, the following words shall have the meanings herein given, unless a contrary intention clearly appears:

1. Background noise level - the ambient noise level which exists prior to or exclusive of the beginning of generation of a source of noise pollution and which would exist if said noise source were quieted and which does not include sound or noises which would qualify as noise pollution hereinafter defined.
2. City - the City of Woburn.
3. City agencies - any agency named directly or indirectly shall be agencies of the City of Woburn.
4. Construction and demolition - any site preparation, assembly, erection, substantial repair, alteration, destruction or similar action for public or private rights of way, structures, utilities or similar property.
5. Electronic devices - any radio, tape recorder or player, television, phonograph, public address system, loudspeaker, amplified musical instrument or other similar device.
6. Emergency - any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
7. Emergency work - any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
8. Motorcycle - any unenclosed motor vehicle having two or three wheels in contact with the ground, including but not limited to, motor scooters, minibikes and mopeds, and so-called "dirt-bikes" and other off-road motorcycles.
9. Motor vehicles - any vehicle which is propelled or drawn on land by a motor, such as passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies or racing vehicles, but not including motorcycles.
10. Noise pollution - a condition caused by a noise source that increases noise levels ten(10) decibels measured on the A-Weighted system (dB(A)) or more above background noise levels, except that if the noise source produces a tonal sound, an increase of five(5)dB(A) or more above background noise levels at any time of the day or night it shall be deemed sufficient to cause noise pollution.
11. Person - an individual, partnership, association, firm, syndicate, company, trust, corporation, department, bureau, agency or any entity

recognized by law as the subject of rights and duties, including the City and its agencies and departments, and any person as herein defined operating under a contractual agreement or other agreement with the City.

12. Tonal sound - any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

D. Time Restrictions.

1. All electric motors and internal combustion engines employed in yard or garden maintenance shall be prohibited from use on Sunday through Thursday evenings from 9:00 p.m. until 7:00 a.m. the following morning, and on Friday and Saturday evenings from 9:00 p.m. until 9:00 a.m. the following morning.

2. All electric motors and internal combustion engines employed in outdoor construction, demolition or earth moving shall be prohibited from use every evening from 7:00 p.m. until 7:00 a.m. the following morning, without permit issued by the Board of Health allowing such operation, except on Sunday when all such devices shall be prohibited from operating at any hour without a permit issued by the Board of Health in accordance with the provisions of Subsection F, unless declared emergency work pursuant to Subsection B(1).

3. All public address loudspeakers, either mobile or stationary, shall be prohibited from operating every evening from 9:00 p.m. until 7:00 a.m. the following morning, except when in use by emergency services personnel in the performance of duty, or by permit issued by the Board of Health pursuant to Subsection F.

4. No automobile, motorcycle, truck, or vehicle-mounted refrigeration equipment shall be left running within three hundred (300) feet of a dwelling, hotel or residence for a period of greater than five (5) minutes, except when in traffic or when in the control of a garage, service station or similar facility for repairs, maintenance or safety inspection.

5. No person shall cause, allow, suffer or permit the unnecessary foreseeable idling of a diesel locomotive for a continuous period of time longer than thirty (30) minutes. This regulation shall not apply to locomotives being serviced, provided that the idling is essential to the servicing.

E. Noise Sources Causing Noise Pollution.

1. No person shall willfully, negligently or through failure to provide necessary

equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution caused by a noise source owned, leased, kept or controlled by such person, or caused by any activity of such person, its agents, employees or servants.

2. When the offending noise source is located in public spaces, noise measurements shall be made at and noise pollution determinations made in relation to any location a passerby might reasonably occupy. When the offending noise source is located on private property, noise measurements shall be made at and noise pollution determinations made in relation to the boundary line of the property within which the offending source is located, or as close thereto as feasible.

F. Specific Prohibitions.

1. It is the intent and purpose of this Section to prevent excessive noise and to limit, control and eliminate excessive noise in general and from whatever source. Nothing in this Ordinance shall be construed as limiting the rights of any person to seek redress in a court of law or equity for any injury to a person or damage to real or personal property caused by excessive noise.

2. The following noise sources are hereby declared noise pollution and forbidden:
   a. Horns, signaling devices - the sounding of any horn or signaling device on any motor vehicle, except as a danger warning or in an emergency, the creation by means of any such signaling device of an unreasonably loud or harsh sound, and the sounding of any such signaling device for an unnecessary and unreasonable period of time.
   b. Defect in vehicle or load - the use of any motor vehicle or motorcycle so out of repair, loaded in such a manner or with material of such nature as to create loud and unnecessary grating, grinding, rattling or other noise.
   c. Loading, unloading, opening boxes - the creation of loud and excessive noise in connection with loading or unloading any vehicle, or the opening or destruction of bales, boxes, crates or containers, without exercising reasonable care to limit such noise and to confine the same.
   d. Construction, repairing of buildings – the erection (including excavation), demolition, alteration or repair of any building at any time other than between 7:00 a.m. and 9:00 p.m. on any day except Sunday, unless a permit is obtained from the Board of Health pursuant to Subsection F.
   e. Transportation of materials - the transportation of rails, pillars or columns of iron, steel or other material, upon a motor vehicle or in any manner so loaded as to cause loud noises or as to disturb the peace and quiet of a neighborhood.

G. Permits for Exemption and Extensions of Time

1. The Board of Health may grant a permit for any activity otherwise forbidden by the provisions of this Ordinance upon a determination by the Board of Health that compliance in the conduct of such activity would cause undue hardship on the person or persons conducting such activity, or upon the community, taking into account the extent of noise pollution caused by not requiring compliance. The Board of Health shall establish appropriate procedures for the processing of requests for such permits, including such hearings as the Board of Health deems appropriate. Copies of all such permits shall be filed with the Clerk of the City Council and the Board of Health promptly after issuance.

2. The Board of Health may extend to a specified date the time for compliance with this Ordinance in the case of any particular activity with respect to which a determination is made that such extension is necessary to provide a reasonable opportunity for such activity to be brought into compliance.

3. No such extension shall be granted which has the effect of exempting such activity from compliance with this Ordinance. The Board of Health shall establish appropriate procedures for the processing of requests from such extension of time, including such hearings as the Board of Health deems appropriate.

G. Judicial Review.

Any person aggrieved by the grant or denial of a permit pursuant to Subsection F or an extension of time pursuant to Subsection F may seek relief therefrom by a civil action in any court of competent jurisdiction as provided by the laws of the Commonwealth of Massachusetts.

H. Penalties.

1. Violation of any of the provisions of this Ordinance shall constitute a misdemeanor. If a person is deemed to be in violation, he shall be notified in writing that he is in violation and shall be allowed a reasonable period of time to come into compliance. If the allotted time period has elapsed and the person has failed to come into compliance, he shall be tried in the District Court and if convicted, fined in an amount not to exceed three hundred ($300.00). Each day such violation continues shall be considered a separate offense.

2. Notwithstanding the foregoing, any alleged violation of any of the provisions of this Ordinance may, in the sole discretion of the Board of Health, be made

the subject matter of proceedings initiated by the Board of Health pursuant to the provisions of M.G.L. Chapter 40, Section 21D, that is, Non-Criminal Disposition. If the Board of Health so elects to proceed under said Ch. 40, sec. 21D, all the terms and provisions of such Chapter and Section shall thereafter govern said action.

I. Severability.

If any provision(s) of this Ordinance or the application of this Ordinance to certain circumstances shall be held to be invalid, the validity of the remainder of this Ordinance and the application of such provision to another person or circumstances shall not be affected thereby.

J. Enforcement.

The Board of Health shall be responsible for the administration and enforcement of this Ordinance, shall have the power to effect compliance by warning or order commanding necessary actions or forbearances, by issuing fines consistent with this Ordinance or by initiation of appropriate legal proceedings in a court of competent jurisdiction, shall investigate complaints about excessive noise, make observations and maintain necessary surveillance. The Police Department shall cooperate and assist the Board of Health to insure proper compliance with this Ordinance. (Prior Ch. 25, sec. 9(A, B, C, D); new Ord. dated 05/18/88).

9-3 Ball playing in streets.

No person shall in any street or on any dedicated memorial area play ball, throw stones or shoot with or use a bow and arrow or sling. (Prior Ch. 25 9(E)).

9-4 Penalty for violation.

Any violation of the provisions of Section 9-1 shall be punishable by a fine of not more than two hundred dollars. (Prior Ch. 25, sec. 5(K) (part)).

9-5 - 9-7 [Reserved]

## II. OFFENSES AGAINST PUBLIC DECENCY

9-8 Nude swimming or bathing in certain waters.

No person shall swim or bathe in nude state in any waters within the city so as to be visible from any dwelling house or street therein. (Prior Ch. 25, sec. 5(B)).

9-9 Urination and exposure of person in street.

No one shall urinate in or upon any public street, way or place within the city in such a manner as to expose his person. (Prior Ch. 25 , sec. 5(C)).

9-10 Games of chance.

No person shall expose in any street or public place any game or device of any kind intended for playing a game of hazard or chance; and no person shall play such a game or any unlawful game in any street or public place. (Prior Ch. 25, sec. 5(F)).

9-11 Drinking liquor on public property.

A. No person shall drink any alcoholic beverages as defined in M.G.L. c. 138, **§** 1, or possess an open container full or partially full of any alcoholic beverages while on, in, or upon any public way, upon any way to which the public has right of access, in any place to which members of the public have access as invitees or licenses, in any park or playground, conservation area, or recreation area, except as otherwise authorized by the issuance of a special event permit from the City Council or Recreation Commission, and the issuance of a special one-day alcoholic beverage license by the License Commission in accordance with M.G.L. c.138, §14, or private land or place without consent of the owner or person in control thereof. Under no circumstances shall any person sell, serve, or consume alcohol beverages on, in or upon any land or property under the jurisdiction of the School Department, publicly owned property adjacent to property under the jurisdiction of the School Department and property under the jurisdiction of the Conservation Commission, except for the Mayor's Annual Senior Dinner and neighborhood block parties adjacent to publically owned properties. (amended 7/19/2013)

B. Any person convicted of violating this section shall be punishable by a fine not exceeding two hundred dollars for each offense. (Prior Ch. 25 , sec.9(I)).

9-12 Window peeping.

No person, except an officer of the law in performance of his duties, shall enter upon the premises of another with intention of peeping into the windows of a house or of spying upon in any manner any person or persons therein. Whoever violates this section may be arrested without a warrant by a police officer and detained in jail, or otherwise, until a complaint can be made against him for the offense. (Prior Ch. 25, sec. 9(J)).

9-13 Penalty for violation.

Any violation of the provisions of Sections 9-8 through 9-10 shall be punishable by a fine of not more than two hundred dollars. (Prior Ch. 25, sec. 5(K)(part)).

## III. OFFENSES PERTAINING TO PROPERTY

9-14 Throwing snowballs, stones, etc., on streets.

No person shall, in any public way, throw any snowball, stone or other substance, or engage in any amusement, game, or exercise, interfering with the free, safe and convenient use of such public way. No person shall promote or encourage the fighting of birds or animals in any public way. (Prior Ch. 25, sec. 5(A)).

9-15 Making of indecent figures or writing obscene words, etc.

No person shall make any indecent figures, or write any indecent or obscene words upon, or wantonly mar, injure, deface, or destroy any building, fence, wall, guidepost, signboard, awning, lamppost, pole, lamp, or lantern in any public way. (Prior Ch. 25, sec. 5(D)).

9-16 Trespass--Delivery personnel to use walkway.

A. No person without lawful authority, or without the express or implied consent of the owner or his agent, shall enter any building or enter on any enclosed or improved real estate, lot or parcel of ground in the city; or, being upon the land of another, shall fail, or refuse to leave the same when requested to do so by the person lawfully in possession thereof, his agent or representative; or deposit on the premises of another, or remove therefrom any material, substance, earth, dirt, ashes, refuse, turf or other article or thing whatsoever.

B. Provided further, all delivery personnel, including letter carriers, whether employed by a private firm or government agency or government-supported corporation shall use sidewalks and accepted and approved walkways and shall refrain from traversing lawns or other private property not normally used as a walkway by the general public in order to effect delivery. (Prior Ch. 25, sec. 5(H)).

9-17 Posting of handbills and signs.

A. Posting of Handbills, etc., Upon Buildings, Walls, etc., Prohibited Without Permit. No person shall post any placard, handbill, poster, or notice upon any building, tree, tree-guard, fence, or any other thing, without the consent of the owner, agent, or occupant, nor upon any buildings, wall, fence, tree, or tree-

guard belonging to the city without a permit from the superintendent of public works.

B. Political Signs.

1. Definition - A political sign is a sign designed, used or intended to induce voters to vote for either the passage or defeat of a measure appearing on the ballot of any election, or for either the election or defeat of a candidate for nomination or election to any public office in any election, and includes without limitation banners, campaign signs, posted handbills and notices of any kind.

2. Time limitations - Political signs may be displayed in connection with an election beginning no earlier than thirty days prior to the primary or preliminary election and continuing up to five days after the date of the election. If election signs pertain not only to a primary or preliminary election but also to a succeeding general election, they may be displayed until the general election and shall be removed within five days after the date of the general election.

3. Signs on private property - Political signs erected on private property shall be no larger than four (4) square feet in area. No person shall erect or display, or cause or authorize any person to erect or display, any election sign on any property not owned or controlled by such person, unless authorized to do so by the owner or other person in control of such property.

4. Prohibited on public property - No person shall erect or display, or cause or authorize any person to affix, erect, display, place or post any political sign on any public property or utility pole or within a public right-of-way, on traffic signs, signals, or devices including directional signs, advisory signs, regulation signs and traffic-signalized intersections, or where signs may be obstructed from the driver's view. Election signs on public property may be removed without notice by members of the Police Department or the Department of Public Works. The Chief of Police or the Superintendent of Public Works, as the case may be, shall cause a list of election signs removed from public property to be filed with the City Clerk for public information. The City Clerk shall retain such lists for a period of thirty (30) days following the general election or until any litigation is concluded.

5. Traffic hazards - No political sign shall be placed in a manner that would obstruct visibility to pedestrian or vehicular traffic or which shall constitute a traffic hazard in the discretion of the Chief of Police or his subordinate officers.

(Added 6/19/2000)

C. Portable Signs.

1. Portable sign: Any sign not permanently attached to the ground or a building.

2. Portable or wheeled signs are prohibited on public ways and on public property. This shall not be interpreted to prohibit lettering on motor vehicles or buses traveling on a public way.

3. Any portable sign that is being transported or driven within or through the city shall not be illuminated with lighting fixtures that are not factory installed lighting fixtures, such as head lights and tail lights.

(Added 4/6/2007)

D. Signs on Woburn Common

No unattended sign shall be affixed, erected or placed in any manner for any length of time on any portion of the area commonly referred to as Woburn Common, and further including the sidewalks immediately contiguous thereto, or on any post, pole, tree or other structure of any type or nature on said Common or contiguous sidewalks.

This Ordinance shall not be construed so as to apply to:

1. Hand-held, hand-carried, or other actively attended signs;
2. Traffic, directional, or public safety signage erected by the City of Woburn;
3. Government or military service flags, historical signs and markers, “Welcome to Woburn” signs, or titles or lettering on monuments.

This Ordinance shall also not prohibit the Mayor from authorizing signs expressing seasonal greetings or signs associated with seasonal community events, which events utilize the Common.

Violations of this Section 9-17D shall be enforced by the penalty established under Section 1.17 herein. Each sign in violation and/or each day of such violation shall constitute and be considered a separate violation.

(Added 11/30/2010)

9-18 Litter.

A. No person in any public way, public alley or other public place shall, whether in or upon a vehicle or on foot, deposit, drop, or throw upon such way, alley or place

B. upon any roadway or walk thereof, and suffer to remain there, any filth, rubbish, wrapping paper or other substance unless it is deposited, dropped or thrown into a receptacle provided for the purpose by the city.

C. Violation--Penalty. For violation of this section there shall be a two hundred dollar fine for the first offense, and a three hundred dollar fine for second and subsequent offense.

D. The superintendent of public works shall set up a general rubbish pickup week, for bulky rubbish, in every ward in the city, and this shall be done every other year. (Ord. of 4/5/84; prior Ch. 25, sec. 7).

E. No person shall sell, distribute or use a self-contained propellant shot out of a can during a parade within the boundaries of the City. Each violation shall be subject to a penalty of $200.00, and such product and its container shall be considered "Litter". (Added by Ord. dated 08/15/90).

F. Sale of Spray Paint to Minors:

a. No person shall knowingly sell to any child under eighteen (18) years of age any aerosol container of paint capable of defacing property.

b. For purposes herein, bona fide evidence of majority, identity of majority and identity of the person is a document issued by a federal, state, county or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operators license, a registration certificate issued under the Federal Selective Service Act (50 App. U.S.C. *451 et seq.), identification card issued to a member of the Armed Forces or a birth certificate. Proof that the defendant, or his employee or agent, demanded, was shown and acted in reliance upon such bona fide evidence in any sale transaction forbidden hereby, shall be a defense to any criminal prosecution therefor.

c. Any person who owns, manages or operates a place of business wherein aerosol containers of paint capable of defacing property are sold shall conspicuously post notice of this law in such place of business in letters at least one inch (1") high.

d. Any person violating the provisions of this ordinance shall be fined not less than fifty dollars ($50.00) for each offense.

Possession and Manufacture of Spray Paint by Minors:

a. It shall be illegal for any person under eighteen (18) years of age to possess

and manufacture any aerosol container of paint capable of defacing property, unless otherwise accompanied by a parent or legal guardian.

b. Any person under the age of eighteen (19) found violating the provisions of this ordinance shall be fined not less than fifty dollars ($50.00) for each offense.

c. Possession shall be defined as having on or about a person, spray propellant type paint unless otherwise accompanied by a parent or legal guardian. (Ord. 2/4/94).

9-19 Water.

A. Watering Street Regulated. No person shall water any public way by or with a watering cart, without a license from the superintendent of public works, subject to such conditions as may be prescribed by said superintendent.

B. Shedding of Water from Building to Street Prohibited. No person shall suffer his or her building to shed water on any public way. (Prior Ch. 25, sec. 8).

9-20 Penalty for violation.

Any violation of the provisions of Sections 9-14 through 9-16 shall be punishable by a fine of not more than two hundred dollars. (Prior Ch. 25, sec. 5(K)(part)).

## IV. CURFEW

9-21 Loitering--Authority to invoke curfew.

A. The chief of the police department, or the officer in charge may invoke this section whenever he deems it in the best interest of public safety.

B. No person shall loiter, or remain upon any street, highway, public off-street parking lot or other outdoor public place in the city, in groups of two or more after the hour of ten p.m., unless attending a lawful assembly or function, in which case this time limit shall be extended to the time said assembly or function terminates. This curfew may be imposed in part or in all parts of the city as deemed necessary for the public safety.

C. If the curfew is imposed through the city it shall need the sanction of the mayor. The city council shall have the authority to revoke or modify any such curfew. (Prior Ch. 25, sec. 5(G)).

9-22 Penalty for violation.

Any violation of the provisions of Section 9-21 shall be punishable by a fine of not more than two hundred dollars. (Prior Ch. 25, sec. 5(K) (part)).

## V. SMOKING

9-23 Prohibited at public meetings.

No person shall smoke, either pipe, cigar or cigarette, at any public meeting of any city board, commission, committee, council, or subcommittee thereof, established under or by the city Charter or this code. The penalty shall be as provided in Section 1-17. (Ord. dated 12/2/86: prior Ch. 1, sec. 10).

9-24 Free Standing Cigarette Vending Machines.

No individual or company shall install or cause to have installed within the City of Woburn, any Free Standing Vending Machines, the purpose of which is the dispensing of cigarettes. (Ord. dated 2/7/95).

# TITLE 10

# VEHICLES AND TRAFFIC

**Articles and Sections**:


**I. UNREGISTERED MOTOR VEHICLES**

10-1 Placement upon property--Penalty for violation.

**II. IMPOUNDMENT OF VEHICLES**

10-2 Removal.

**III. OVERLOADING OF VEHICLES**

10-3 Escape of vehicle contents unlawful.

**IV. PARKING IN FIRE LANES**

10-4 Prohibited--Penalty.
10-5 Prohibited Truck Deliveries to Woburn Nursing Center on Frances Street before 8:00 A.M.

**V. MOTORIZED SCOOTERS**

10-6 Definitions
10-7 Regulations


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## I. UNREGISTERED MOTOR VEHICLES

10-1 Placement upon property--Penalty for violation.

A. Unregistered motor vehicles which are unfit for use and permanently disabled, or have been dismantled or are otherwise inoperative, shall not be stored, parked or placed upon land in the city unless the same shall be within a building or in an area unexposed to the view of the public and abutters or in an area properly approved for the keeping of the same by licensed junk dealers and automobile dealers. The board of health will investigate complaints and advise violators. Failure to rectify the situation should be reported to the police for further action.

B. For violation of this Section, a notice shall be delivered by the Board of Health to the landowner of record, according to the records on file with the Board of Assessors, ordering that the property shall be brought in compliance with this Section within fourteen (14) days after delivery of said notice. The Board of Health may serve the notice by delivering in hand to the landowner or by leaving the notice at the property in a conspicuous location. If at the expiration of the said fourteen (14) day period, the condition is not remedied, a penalty shall be imposed upon the landowner in the amount of fifty dollars ($50.00) per vehicle per day for violation of this Section. (Prior Ch. 30 sec.2(A); amended 5/8/98).

## II. IMPOUNDMENT OF VEHICLES

10-2 Removal.

Any vehicle on the public way violating the all night parking ordinances of the city or interfering with the work of removing or plowing snow, or removing ice therefrom, may be removed by or under the direction of either the chief of police or the superintendent of public works to a public garage or any convenient place. If time allows, an attempt should be made to contact the owner of said vehicle and warn him of the action. If the removal is under the direction of the superintendent of public works he shall, within a reasonable time, notify the chief of police of the removal of any such vehicle and of the place to which it has been removed and the chief of police in all cases shall give notice to the registered owner of the vehicle. The owner, before being permitted to remove the vehicle, shall establish his right to do so and pay to the city or to the keeper of the place of storage, the cost of removal not exceeding thirty ($30) dollars and any storage charges resulting therefrom, not exceeding three ($3.00) per day. (Prior Ch. 30 sec. 2(B)); new Ord. dated 03/12/87).

## III. OVERLOADING OF VEHICLES

10-3 Escape of vehicle contents unlawful.

A. No vehicle shall be driven or moved on any street or highway nor shall any owner of any vehicle knowingly permit such vehicle to be driven or moved on any street or highway unless such vehicle is so constructed or so loaded as to prevent its contents from spilling, dropping, sifting, leaking or other wise escaping therefrom. Vehicles loaded with any material which may be blown about by the wind shall be suitably covered with canvas or some other suitable covering to prevent the contents from being blown upon the streets.

B. A penalty shall be provided as set forth in Ch. 40, Massachusetts General Laws. (Prior Ch. 30 sec. 2(C)).

## IV. PARKING IN FIRE LANES

10-4 Prohibited--Penalty.

A. It is unlawful to leave any vehicle unattended within the limits of private ways furnishing means of access for fire apparatus to any building.

B. It is unlawful to leave any vehicle unattended within the limits of private ways furnishing means of access for fire apparatus to any building or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities or for any other place where the public has a right of access as invitees or licensees.

C. The penalty for violation of any ordinance or bylaw made hereunder shall be as follows: fifteen dollars. In addition the vehicle may be removed according to the provisions of Sections 120D of Chapter 266, Massachusetts General Laws. (Ord of 2/5/85).

10-5 Prohibited Truck Deliveries to Woburn Nursing Center on Frances Street before 8:00 A.M.

There shall be no truck deliveries to the Woburn Nursing Center on Frances Street before 8:00 A.M., with a sign being posted at the entrance of the street indicating such restriction as imposed on the Special Permit granted August 14, 1989 by the Woburn City Council.

Said Ordinance to be enforced by the Woburn Police Department, and the expense of purchase, installation and maintenance of the sign shall be borne by the Woburn Nursing Center. (Added 6/19/92)

## V. MOTORIZED SCOOTERS

10-6 Definitions

MOTORIZED SCOOTER – Any two wheeled device that has handlebars, designed to be stood or sat upon by the operator, powered by electric or “gasoline powered” motor that is capable of propelling the device with or without human propulsion, and which is not a “motor vehicle” or “motorized bicycle” as defined in Chapter 90 of the Massachusetts General Laws, except that a “Segway” personal mobility assistance device that is intended for use and operated by a person with a disability shall be exempt from the provisions of this regulation.

10-7 Regulations

A. A person may not operate a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn unless he or she has a valid driver's license.

B. A person may not operate a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn at a speed in excess of twenty-five miles per hour.

C. A person may not operate a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane alley, square, and place under the control of the City of Woburn in a careless, reckless, or negligent manner so as to endanger the life or safety of any person or the property of any other person.

D. A person may not operate a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn while under the influence of alcohol as set forth in Massachusetts General Laws Chapter 90, Section 24.

E. A person may not operate a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn in violation of any federal, state, or local traffic and parking laws, ordinances, rules, or regulations.

F. Every person operating a motorized scooter shall operate such motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn in designated bicycle lanes, where such lanes are provided within ten (10) yards of the location at which such motorized scooter is operated.

G. Every person operating a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn shall wear protective headgear conforming with standards governing bicycles.

H. A person operating a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn may not permit any person to ride as a passenger on such scooter.

I. A person may not operate a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the

City of Woburn unless such motorized scooter is equipped with a braking system to enable the operator to bring the scooter traveling at a speed of fifteen miles per hour to a smooth safe stop within thirty feet on a dry, clean, hard level surface.

J. A person may not operate a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn during the hours of darkness (one half hour before sunrise or one half hour after sunset), unless the motorized scooter is equipped with white lighting at the front visible from a distance of at least 300 feet, and a red reflector or light mounted on the rear, or attached to the rider, visible from a distance of at least 500 feet.

K. A person may not operate a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn unless the handlebars are below shoulder height of the operator.

L. A person operating a motorized scooter upon any way, street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn may not pass or overtake another motorized scooter traveling in the same direction.

M. A person may not operate a motorized scooter in the following locations under the control of the City of Woburn:

1. Any sidewalk, except as may be necessary to enter or leave adjacent property.
2. On any way, street, highway, boulevard, avenue, court, lane alley, square, and place under the control of the City of Woburn prohibiting bicycles.
3. Any street, highway, boulevard, avenue, court, lane, alley, square, and place under the control of the City of Woburn with a posted speed limit greater than 35 m.p.h.

N. A person who is charged with violating this regulation shall give his or her name and address to the enforcing authority.

O. A person who violates this section or knowingly permits another to violate this section shall be punished by a fine in the manner provided by Massachusetts General Laws Chapter 40, Section 21D and Title 1, Article V, Section 1-18 of the 1989 Woburn Municipal Code, as amended. The police department is the enforcing authority for violations of this section. Each day a violation occurs shall be a separate violation subject to another fine. The fine shall be $25.00 for the first violation and $50.00 for each subsequent violation.

P. This section shall not be constructed to impair any common law or statutory cause of action or other legal remedy available to the City.

(Added 11/30/2004)

# TITLE 11

# BROWNFIELDS TAX ABATEMENT AGREEMENTS

**<u>Articles and Sections</u>**:

**I. PURPOSE**

**II. DEFINITIONS**

**III. ABATEMENT AGREEMENTS**

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## I. PURPOSE

It is the intent of the City of Woburn to encourage the adaptive reuse of abandoned and underutilized industrial and commercially zoned properties which have been subject to a release of oil or hazardous material, by providing the opportunity to execute tax abatement agreements with eligible persons as an incentive to continued environmental cleanup and redevelopment.

## II. DEFINITIONS

11-1 For the purpose of this Ordinance the following words shall be defined as meaning:

A. Brownfields – A property or portion of a property contaminated by a release of oil or hazardous material.

B. Eligible Person – An owner or operator of a site or a portion thereof from or at which there is or has been a release of oil or hazardous material who did not cause or contribute to the release of oil or hazardous material from or at the site and did not own or operate the site at the time of the release.

C. Eligible Property – A property which meets all of the following conditions:

1. The property is a site or portion of a site from or at which there has been a release of oil or hazardous materials;
2. The property is owned by an eligible person, as that term is defined in G.L. Chapter 21E, Section 2;

3. The property is located in the one of the following zoning districts as defined by the 1985 Woburn Municipal Code, as amended, and as it is amended from time to time:
    a. B-N, Neighborhood Business District,
    b. B-H, Highway Business District,
    c. B-D, Downtown Business District,
    d. B-I, Interstate Business District,
    e. I-P, Industrial Park District,
    f. IP-2, Industrial Park Two District,
    g. I-G, General Industrial District,
    h. S-1, Mixed Use District,
    i. O-P, Office Park District,
    j. OP-93, Interstate 93 Office Park District, and
    k. Any other commercial or industrial district which the City of Woburn may adopt from time to time by amendment of the Zoning Ordinances.

D. Hazardous Material – Material including but not limited to, any material, in whatever form, which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed.

## III. ABATEMENT AGREEMENTS

A. The Mayor is hereby authorized to negotiate agreements from the abatement of real estate taxes (hereinafter “Abatement Agreements”) with owners of eligible properties, the terms of which Abatement Agreements shall be subject to approval by a 2/3 vote of the City Council.

B. Abatement Agreements may allow for reductions in outstanding taxes, interest, and/or penalties.

C. Abatement Agreements shall include, but nor be limited to:

1. The amount of outstanding real estate taxes;
2. The percent of interest to accrue if determined applicable by the Mayor;
3. The description of quantifiable monthly payments;
4. The inception date of monthly payments;
5. The date of the final payment;

6. The late penalties to be imposed;
7. A plan for remediation of the oil or hazardous materials which is the subject of the agreement;
8. A finding by the Mayor that the reduction in outstanding taxes, interest, and/or penalties provided in the Abatement Agreement is necessary for the successful completion of the remediation plan; and
9. Any and all other contractual terms as arranged between the Mayor and the property owner.

D. All Abatement Agreements shall be signed by the Mayor and the property owner, whose signatures shall be notarized, and attested to by the City Clerk.

E. Such Agreements shall contain any other provisions as may be required by law, ordinance, or regulation of the Massachusetts Department of Revenue.

F. Copies of all Abatement Agreements shall be provided to the Massachusetts Department of Environmental Protection, the United States Environmental Protection Agency, the Massachusetts Commissioner of Revenue, the Woburn City Council, the Woburn Board of Assessors, and the property owner.

(added 4/10/2002)

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# TITLE 12

# STREETS, SIDEWALKS AND PUBLIC PLACES

**Articles and Sections**:

## I. STREET NAMES AND BUILDING NUMBERS

12-1 Naming of streets.
12-2 Recordation of street names.
12-3 Designation of street names and building numbering.

## II. NOTICE OF STREET DEFECTS

12-4 Notice by city employees.

## III. STREET CONSTRUCTION AND IMPROVEMENTS

12-5 Methods for laying out, altering, widening or discontinuing streets.
12-6 Conditions as to width and grade–Approval.
12-7 Sidewalk, grass plot and edgestone requirements.
12-8 Taking of land–Compensation for damages.
12-9 Recordation of order.
12-10 Filing of plans and profiles.
12-11 Erection of permanent bound stones or monuments.
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## I. STREET NAMES AND BUILDING NUMBERS

12-1 Naming of streets.

The several streets, ways and squares in the city shall continue to be called and known by the names heretofore established; and all streets, ways and squares hereafter laid out and accepted shall be named by the City Council after a man and woman killed in action in World War II, the Korean War, the Vietnam War or any other armed conflict involving the United States military forces. A list of those who were killed in action in war shall be assembled by the Veteran's Agent and filed with the City Clerk. The city council may change the name of any street or way at any time, and the superintendent of public works shall place and maintain suitable street signs on each street heretofore and hereafter named by the city council.(Prior Ch.24, sec.1; amended 10/9/98).

12-2 Recordation of street names.

The city clerk shall keep a book, in which shall be recorded and alphabetically arranged the names of all the streets and ways in the city which are laid out and accepted with the date of such laying out and acceptance, the width of such streets and ways, and all alterations made therein from time to time by the city council.
(Prior Chapter 24 {2}).

12-3 Designation of street names and building numbering.

A. The superintendent of public works shall place and maintain in suitable conspicuous places on the streets, the names of the several street of the city, as shown by the records of the Assessors; the Building Inspector shall require the number of each building on a street when he issues a building permit which said Building Inspector shall be required to number, to be affixed to or inscribed on the building by the owner or occupant at least five inches in height and may determine the form and material of any such number, and the place and mode of affixing or inscribing it, and no such owner or occupant shall affix or retain on such building for more than three days any number contrary to the direction of the Building Inspector. Said numbers shall each cover a frontage fifty feet more or less at the discretion of said Building Inspector, and be measured continuously from end to end of the street. Any owner or occupant of a building who, after notice from the said Building Inspector neglects or refuses for a period of more than three days to affix to the same or to inscribe thereon the street number lawfully designated therefor or who affixes or inscribes upon such building or retains thereon for a similar period any number other than the one so designated shall, for each offense, be liable to a penalty not exceeding one hundred dollars. (amended 10/6/2000)

B. No person or persons shall erect, or cause to be erected, any sign or signs designating the name of any street, road, avenue, park or other artery, to be traversed by foot or by vehicle, within the limits of the city without a permit issued and approved by the public works department, subject also to the approval of the mayor and the city council.

C. For violation of this part, there shall be imposed a fine of one hundred dollars for each offense. (Prior Chapter. 14 sec. 2).

## II. NOTICE OF STREET DEFECTS

12-4 Notice by city employees.

Every person in the employ of the city shall send to the said superintendent of public works not of any defect in any street which may come to his notice, and said superintendent shall keep a record of the notices of defects sent in with the name of the person giving the notice, and the time when given, and said superintendent shall without delay cause the locality of the alleged defect to be examined and, if the defect is of such a character as to endanger safety of public travel, shall do whatever may be necessary to protect the public from injury by the defect, and cause it to be immediately repaired. (Prior Chapter 25, sec.1).

## III. STREET CONSTRUCTION AND IMPROVEMENTS

12-5 Methods for laying out, altering, widening or discontinuing streets.

A. The city council may lay out any new street or way, or widen or otherwise alter, or discontinue any street or way, and estimate the damages any individual may sustain thereby; all in the manner and form prescribed by law.

B. All applications or petitions for laying out, altering, widening or discontinuing any street or way shall be made in writing and addressed to the city council upon such forms or blanks as they shall prescribe, and must be signed by ten or more citizens or taxpayers. Such petitions shall state the names of the owners, if known, of the property affected by the proposed laying out, alteration, widening or discontinuance of the particular street or way named therein.

C. Upon receipt of such petitions the city council shall refer the same to the committee on highways, who shall make report thereon to said council. If such report recommends the laying out, widening, alteration or discontinuance petitioned for, it shall be accompanied by a plan and profile thereof, showing accurately and definitely the proposed line and grade, together with an estimate of the cost of construction made by the city engineer and/or the superintendent of public works.

D. The report shall also state the names of the persons over whose lands such as laying out, altering, widening or discontinuance is recommended, with the amount of damages, if any, which should be allowed to each, the manner in which said work should be performed, and whether or not the same should be done under the laws authorizing the assessment of betterments.

E. If a favorable report of the committee is accepted, or an unfavorable report is rejected, the city council shall by an order appoint a time and place for hearing all parties interested therein, and direct that notice of their intention to lay out, alter, widen or discontinue such street or way, and to do the same under the provisions of law authorizing the assessments of betterments, if such be the case, be given in the manner provided by law. Notice of the intention of the city council to act thereon shall be published in a newspaper published in the city seven days at least before the said hearing and shall be otherwise served in the manner prescribed by law.

F. The city council shall hear all parties interested and all persons claiming damages by reason of such proposed laying out, alteration, widening or discontinuance, at the time and place appointed as aforesaid. (Prior Chapter 24 (3}).

12-6 Conditions as to width and grade–Approval.

No street or way shall hereafter be accepted by the city as a public street or way unless the same is at least forty (40) feet in width except such streets or ways as were in public use or which appear on any plan recorded in the registry of deeds or approved by the planning board in the manner provided by Section 81A et seq. of Chapter 41 of the Massachusetts General Laws, nor which have a grade exceeding fifteen percent, nor unless the same leads from some accepted street or way; provided, that a street or way which was in public use prior to the year 1906 and is less than 40 feet in width as may be so accepted. (Prior Chapter 24 sec. 4).

12-7 Sidewalk, grass plot and edgestone requirements.

A. Any street or way hereafter ordered by the city council to be constructed as a public way shall have a space reserved on each side thereof, extending not more than nine feet from the inside line of the street as ordered to be laid out by said council, for a sidewalk, grass plot and edgestone. (Prior Chapter 24, sec. 5). (amended 2/9/2006)

B. All newly constructed houses not governed by the Woburn Planning Board Subdivision Rules and Regulations shall have at least two shade trees with a caliper of at least two inches planted ten feet outside of the right of way spaces not more than forty feet apart in one-half cubic yard of topsoil. There shall be one tree for every fifty feet of frontage. Such trees at full growth are not to exceed forty feet in height. In the case of a new house constructed on a corner lot bounded by two intersecting streets, one additional tree shall be planted on the secondary street for every fifty feet of frontage. All newly constructed houses not governed by the Woburn Planning Board Subdivision Rules and Regulations shall have a minimum of six shrubs planted in the front of the houses along the front foundation which shall be at least two feet tall. If the builder of a new house believes that the planting of trees or shrubs is inappropriate due to special circumstances, the Woburn Tree Warden may grant an exemption. (added 2/9/2006)

12-8 Taking of land–Compensation for damages.

A. If, after hearing all the parties interested, the city council is of the opinion that the laying out, altering, widening or discontinuance of the street or way as prayed for is of common convenience and public necessity, it shall request the city solicitor to draft and present to said board, for action thereon, an order to the effect that said street or way be laid out, altered, widened or discontinued, as the case may be, which order shall define the boundaries, grade and measurements of the street or way to be laid out, altered, widened or discontinued and shall also state the names of all persons sustaining damages

by such laying out, alteration, widening or discontinuance, and the amount of compensation which such persons shall receive therefor, and the time allowed the owners of land taken to remove all property which may obstruct the building of such street or way.

B. The engineer and/or superintendent of public showing accurately and definitely the line and grade as finally adjusted and fixed by the board of aldermen, showing date of final action by said board and signed by him.

C. If such street or way is laid out, altered, widened or discontinued under the provisions of law authorizing assessment for betterments, said order shall be in the form and shall be recorded in the manner provided by Chapter 80, Section 2, of the Massachusetts General Laws.

D. Whenever any taking is made under the provisions of this section, the city council shall immediately, after the land is entered upon, cause notice thereof to be given to every person whose property has been taken or who is otherwise entitled to damages on account of such taking, in the manner provided by Chapter 79, Section 7C, of the Massachusetts General Laws.

E. Such notice shall be in writing and shall for an award of the same, and also the time within which he may petition the Superior Court to determine his damages. Such notice may be served by personal service or by leaving an attested copy thereof at the last and usual place of abode of the person to be notified, if he is a resident of the Commonwealth, by any person authorized to serve civil process, or notice may be given to persons within or without the Commonwealth by registered mail or other suitable means. (Prior Chapter 24, sec. 6).

12-9 Recordation of order.

Every order for the laying out, altering, wideningor discontinuing of any street or way shall be recorded by the city clerk in a book for that purpose, and a copy thereof shall be filed with the engineer and/or superintendent of public works. (Prior Chapter 24, sec. 7).

12-10 Filing of plans and profiles.

Plans and profiles relating to the laying out, altering, widening or discontinuing of any street or way shall be filed in the office of the engineer and superintendent of public works. (Prior Chapter 24, sec. 8).

12-11 Erection of permanent bound stones or monuments

The superintendent of public works shall cause permanent bound stones or

monuments to be erected as provided by statute, at the terminal and angles of all streets or ways laid out or altered by the city council. (Prior Chapter 24, sec. 9).

12-12 Removal of bounds prohibited

No person shall disturb or remove any mark stake or bound set by order of the city council or superintendent of public works to determine the line or location of any street or way or other property of the city whether said mark, stake or bound be permanent or temporary.(Prior Chapter 24, sec. 10).

12-13 Preparation of proposed streets–Conditions required.

No new street or way hereafter constructed on private lands by the owners thereof shall be laid out or accepted as a public street of the city, unless previously constructed and completed in accordance with the specifications hereinafter set forth.

A. A plan and profile prepared at the expense of the petitioner of every proposed street shall be filed in the office of the City Clerk, showing the present length, width, lines and grade of the street which they desire to have laid out, widened, altered or discontinued; the abutting lands, with the fences and buildings thereon, and the length of frontage of each estate; the lands to be taken, and the names of the owners of said lands, and also showing, in red ink, the proposed lines and grade of said street.

B. Every such street shall be constructed not less than forty feet in width, and conform to a cross-section plan to be approved by the city engineer, and shall have a road bed equal to two-thirds of the width of said street.

C. The entire area of every such street shall first be cleared of all stumps, roots, brush and like material, and all trees not intended for preservation.

D. All loam and loamy material shall be removed from the limits of the street, inclusive such depth as may be approved by the city engineer; and shall be carefully deposited by piles or spread on either side of the street, but in no case within the limits of such street.

E. All work in excavation or embankment shall be brought accurately to a subgrade of not less than eight inches for the roadway and four inches for the sidewalk below finished grade. All side slopes in excavation and on adjoining land shall be at the ratio of at least two horizontal to one vertical, to a subgrade twelve inches below finished grade.

F. All rock and boulders in excavation shall be removed from the street or used in

embankments. Embankments shall be made of clean sand, gravel, cinders, furnace clag, owner or owners, or collected against the security so deposited.

G. Above said subgrade and to finished grade good binding gravel or broken stone shall be used. Both the roadway and sidewalks shall be well wetted and rolled. A street may be accepted as a public street of said city before being finished above the subgrade provided the owner or owners pay into the city treasury a sum sufficient to complete the street after the installation of sewer or water pipes, said sum to be determined by the city engineer, or the owner or owners may give to the city treasurer security to his satisfaction for said amount. If within thirty days after the city installs said sewer or water pipes, the owner or owners fail to complete said street to the satisfaction of the city engineer, the superintendent of streets shall proceed to complete said street and the cost thereof shall be paid from the amount deposited by said owner or owners, or collected against the security so deposited.

H. All corners of intersecting streets shall be rounded as approved by said city engineer, and granite bounds shall be set at all angles and curves by the owners, at their own expense, before being accepted. (Prior Chapter 24 , sec. 11).

12-14 Installation of hydrants in new subdivisions.

In all new subdivisions hereafter approved all hydrants shall be installed at the expense of the developer, operational and tested by the fire department before any building permits are issued. (Prior Chapter 24 , sec. 13).

12-14A Improvements to sidewalks, streets and ways; tree plantings

Whenever a public street or public way in the City of Woburn, including improvements to sidewalks, are reconstructed or resurfaced, it shall be the duty of the Superintendent of Public Works to plant and maintain along said improved public street or public way a tree of a size and type as selected by the Conservation Commission and that would be appropriate for sidewalk planting. (added 8/27/2001)

12-14B Temporary repairs to private ways

A. General.

In accordance with Massachusetts General Law Chapter 40 Section 6N, and as the same may be amended, the City Council may authorize temporary repairs to be made to private ways, in accordance with this Ordinance.

B. Type of Repairs.

The repairs may include, but not are limited to: filling, grading, patching and surface coating, and may include repairs to drainage swales, conduits, systems and structures as are necessary to preserve the roadway. All repairs must be determined by the City Engineer and Superintendent of Public Works to be required for public health, safety, or welfare.

C. Petition.

The City Council may make a determination on the need for said repairs, and may authorize the making of said repairs, with or without a petition of abutter(s) to the private way. Such determination, as well as any determination to assess Betterment Charges, as set forth hereafter, shall only be made after a hearing duly called and scheduled, notice of which is published in a newspaper of general circulation in the City at seven days prior thereto, and of which written notice is mailed to record owners abutting said way, as determined from Assessors records. The cost of publication and mailing shall be paid by or assessed to the petitioners, if any, and in the absence of any petition, may be added to the Betterment Charges, if any be assessed by the Council pursuant to Section D, below. The City Council may establish, by Rule or Regulation, filing fees and procedures not inconsistent herewith for the processing and hearing of any such petition for temporary repairs.

D. Betterment Charges.

Betterment charges may be assessed by the City Council on the abutter(s) of such way up to an amount equal to the cost of such repairs. If betterments are to be assessed, they shall be assessed upon each parcel of land benefiting from such repair in proportion to linear frontage on the portion of the way to be improved or other proportional method as may be approved by the City Council.

Betterments shall be apportioned over such a period as the City Council deems appropriate, after considering such matters as the estimated useful life of the proposed repairs and the source of funds to be used for the same.

E. Deposit.

The Superintendent of Public Works may require a cash deposit up to the amount of the estimated cost of such repairs, as determined by the City Engineer and said Superintendent of Public Works, to be paid to the City prior to the commencement of such repairs. The Superintendent may use any appropriate collection process deemed necessary in collecting such deposit from the abutter(s). The Superintendent, with the approval of the Mayor, may enter into contracts on behalf of the City with abutters or associations of abutters providing for other methods of payment for such repairs by

abutters, upon such terms as the Superintendent, with the approval of the Mayor deems reasonable.

F. Status of Way.

This Ordinance does not confer any obligation or duty on the City or its agents to either initially place or to thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or want of repair. The making of any such temporary or necessary repairs to private ways, no matter how often or to what extent, does not constitute an acceptance by the City of such ways as public ways, nor does it constitute a way being “maintained and used as a public way” under the Massachusetts Subdivision Control Law.

G. Liability.

It is intended that the City shall have no liability as a result of any such repairs, and no repairs to a private way shall be undertaken until the City Council has determined that satisfactory arrangements have been made to appropriately reduce or eliminate any liability to the City arising from the same. Such arrangements may include, but are not necessarily limited to, the provision of insurance by repair contractors and/or by abutters or associations of abutters insuring the City’s interests or the provision of suitable indemnity agreements by abutters or by associations of abutters.

H. Indemnity Agreement.

The indemnity agreement contemplated by Section G, above, shall indemnify and hold the City harmless from additional damage and claims arising from repairs undertaken hereunder, shall provide that the making of such repairs does not constitute a commitment by the City, express or implied, to provide any maintenance or repair to the way in the future, and shall provide that the making of such repairs shall not constitute “maintenance” of such ways so as to give the way the status of a way “maintained and used as a public way” under the Massachusetts Subdivision Control Law.

(added 6/3/2010)

12-14B <u>City Road Maintenance Schedule</u> *[numbered as passed]*

A. By June 1st of each year, the Superintendent of Public Works shall provide an anticipated road maintenance plan of those roads to be maintained, repaired, improved or constructed during the following fiscal year using funds provided to the city in accordance with the Chapter 90 local transportation aid funding (hereinafter “the Road Maintenance Plan”).
B. On or before June 15th of each year, the Superintendent of Public Works shall submit to the Mayor with a copy to the City Council the aforementioned Road Maintenance Plan.

C. On or before July 30th of each year, the Superintendent of Public Works and City Auditor shall submit to the Mayor with a copy to the City Council a report of all work performed or expenditures made in accordance with the Road Maintenance Plan of the preceding fiscal year.

(added 9/30/2014)

## IV. EXCAVATIONS

12-15 Digging up or obstructing ways--Permit required.

A. No person shall break or dig up the ground or pavement in any public way, or erect thereon any staging for building, or place thereon any building material, without a permit from the superintendent of public works. Said permit shall express the time for which it shall continue, and any person permitted as aforesaid, who shall break or dig up the ground or pavement as aforesaid, shall, before the expiration of the permit, restore the same, to the satisfaction of the superintendent of public works. Any person who shall break or dig up the ground or pavement of a sidewalk in any manner must, in addition, restore and replace the sidewalk to a new condition using concrete, hot top or other finish material that existed prior to the excavation. (amended 9/8/2003)

B. Whosoever violates this section, by failing to obtain a permit from the superintendent of public works, shall be subject to a fine of three hundred dollars. (Ord. of 8/20/84; prior Ch. 25 sec. 2A).

C. Regulation for Street and Sidewalk Openings.

1. Fees:

a) A $100.00 (one hundred dollar) non-refundable application fee is required.

b) A $500.00 (five hundred dollar) certified check refundable deposit is required and will be held until the municipal contractor completes the permanent patch and payment is received. Interest on retained money is considered to be the property of the City of Woburn. Trenches not inspected due to the failure of the permitee to properly notify the Department of Public Works, shall be subject to loss of deposit and/or repeat of reconstruction procedures.

c) A $5,000.00 (five thousand dollar) Performance and Payment Bond is required for each street opening permit granted. The City of Woburn may allow a blanket bond commensurate with anticipated permit activity for routine excavators. Under no circumstances will this blanket bond be less than $50,000. (fifty thousand dollars).

d) The Contractor must furnish the City of Woburn with a Certificate of Insurance for General Liability in the amount of $500,000. (five hundred thousand dollars).

2. Notification:

a) The Department of Public Works shall be notified 24 hours before the commencement of any work.

b) Dig Safe must be notified and ticket number obtained by the Contractor.

3. Construction Procedures:

a) The pavement shall be pre-cut and may only be disturbed within the area requiring excavation for repair, replacement or new installation. When the opening occurs within two (2) feet of the curb and/or edge of the hardened surface, the paved area between the excavation and the curb and/or edge must also be removed.

b) In the backfill process, the backfill shall be comprised of suitable material (subject to approval of the Superintendent of Public Works or his authorized representative). Concrete should be used around all electric and telephone conduit in trenches. Controlled Density Fill (CDF) may be required. Compaction, (when CDF is not in use) will be executed in six inch layers. Each layer shall be 95% compacted by mechanical means. When the total surface area of an individual opening in bituminous concrete is less than nine (9) square feet, all backfill material/s will be placed to within a minimum of six (6) inches of the pavement surface, or the thickness of the original pavement structure, whichever is greater, For individual openings with surface areas of nine (9) square feet and larger, the backfill material/s will be installed to within four (4) inches of the pavement surface or the thickness of the existing structure whichever is greater. "Pavement Structure" will incorporate all previous paving materials used above the gravel sub-base, including but not limited to bituminous concrete, cement, concrete, cobblestone, macadam, etc.

c) Edges will be cut perpendicular to the surrounding surface and have a clean vertical face, particularly in the corners. All utility structures shall

be leveled to the adjacent surfaces. The cut back shall be in straight lines with 90 degree angels at the point/s of intersection.

d) All surplus and/or unacceptable excavated materials shall be removed from the job site immediately. The excavation site shall be maintained in a clean and safe condition at all times. Sidewalks and streets shall be cleaned and opened to traffic at the end of each working day, unless otherwise authorized by the Superintendent of Public Works. Access to properties are to be maintained. The removal and disposal of materials, including pavement, is the responsibility of the permitee. This shall be achieved in such a manner to minimize interference with pedestrian and vehicular traffic.

e) The permittee shall be liable for the condition of the street and sidewalk openings and protection thereof prior to the temporary repair, and will be held responsible for all damage due to any failure of barricades, barriers, warning signs, lights or steel plates to properly protect the work from traffic, pedestrians or other causes. Other than while work is actually being performed, all open ditches shall be protected by uniform traffic control devices in conformance with the Massachusetts Highway Department Manual. All excavations must be properly secured to insure the safety of the travelling public and immediately reported to the designated Department of Public Works Coordinator.

f) Temporary patching shall be performed by a contract representative of the City of Woburn and shall be the financial responsibility of the permitee. All barricades and or safety devices shall be immediately removed from the vicinity upon completion of the temporary bituminous patching application by the permitee.

g) Any improperly prepared excavations, including those left with unacceptable backfill material or insufficient pavement depth, shall be temporarily paved by the City of Woburn contract representative and charged to the refundable deposit of the permitee. The deposit shall immediately be replenished to the original amount. At a later date, the trench shall be re-excavated and prepared correctly by the permitee. Under these conditions the permitee may also be subject to permit cancellation inspection fees, fines and loss of deposit and bond.

h) All excavations will be required to settle and/or consolidate for a period of time before the City of Woburn Pavement Restoration Contractor is directed to perform a permanent repair. This term will be defined as a minimum of thirty days when Controled Density Fill was used as a backfill material. Compacted gravel sub-base must experience at least

90 (90) days. The Department of Public Works reserves the right to address any sub-base deficiency within or adjacent to, the original excavated area with whatever measure deemed effective, during this period. These corrective procedures will be the financial responsibility of the permitee.

i) Immediately after the specified settling and/or consolidation period, all excavations shall be permanently restored by the contract representative of the City of Woburn. The following procedures shall be strictly adhered to:

1. The infrared process shall be utilized as the primary method of permanent restoration in bituminous concrete surfaces.

2. Temporary asphalt patches installed in cement concrete surfaces shall be re-excavated to the extremities of the square/s in which the excavation is contained. The finished concrete shall be replaced to the depth, strength and contour of the original structure. Any concrete surface damaged during construction shall also be replaced in a like manner.

3. All other surfaces, including but not limited to ashpalt, brick, grass and wood shall be replaced consistent with the original and in strict accordance with Department of Public Works specifications. The permitee shall also be responsible for any and all necessary appurtenant measures including but not limited to, complete surface reconstruction, curbing, resetting utility structures, "bar holes", compatible crackfilling tack coating and infrared thermal integration of the pavement. All processes required shall be determined by a site inspection with an authorized representative of the Department of Public Works. All restoration procedures shall be the financial obligation of the permitee.

j) The permitee shall be responsible for any settlement, sub-base failure and pavement cracks that develop in, or adjacent to, the original excavated area for a period of three (3) years from the date of the final accepted permanent repair or, if Controlled Density Full is used, for a period of one (1) year from the date of the final accepted permanent repair. Any surface disorder caused by settlement and/or sub-base movement within the general area containing a street or sidewalk opening, shall be addressed by the City of Woburn contract representative at the direction of the Department of Public Works. All related corrective measures will be charged to the permitee, and the term of obligation will begin again.

k) Excavations opened without the permit will be dealt with directly and may be subject to cancellation and refusal of existing and future permits, and associated fines.

l) Police protection, if required, shall be paid by the permitee directly to the Police Department.

m) All surface, restorations, bituminous concrete replacement and permanent repairs will be done by a contract representative of the City of Woburn and billed directly to the permitee.

4. Billing and Collections:

A. The Department of Public Works shall bill the permittee for the above mentioned services. All invoices must be paid within 30 (thirty) days. On past due invoices, a service charge of 1 1/2% per month will be allowed on accounts 30 (thirty) days past due, provided that the rate does not exceed that which is permitted by law, in which case the highest allowable legal rate will apply. Outstanding invoices exceeding ninety (90) days shall be paid by the City of Woburn. The refundable deposit will be forfeited and applied to payment for services rendered by the municipal contract representative. All bonds will be attached and the City of Woburn will initiate fines in the amount of $100.00 per day and continue to accrue service charges on uncollected monies together with all costs of collection including reasonable attorney's fees. On ninety (90) days past due invoices, the City of Woburn will revoke existing and future permits until payment of such invoices, including all service charges and fines.

B. The City of Woburn reserves the right to assume the billing function, including assessment and conveyance of reasonable handling charges, as provided by Massachusetts General Laws.

5. Administration/Interpretation:

The City of Woburn reserves the right to make changes or exceptions to this regulation, and retains sole jurisdiction in its interpretation and administration.

_____
Permitee Signature

_____
Excavator Signature

If only signed by one party, that party accepts responsibility and liability for both parties but in no way limits the right of the City of Woburn to enter into litigation enjoining both parties. The permitee and excavator are both, individually and severally, responsible for all action under the above agreement and permit system.

12-16 Protection of streets required when dirt, gravel or other material is disturbed.

The superintendent of public works may issue permits to persons having authority in the premises to open, occupy, obstruct, and use portions of the streets, and every such permit shall specify the time, place, size and use of such opening, occupation or obstruction, and the time within which the street must be put in good condition, and shall be on a condition, the terms of which shall be those stated in Section 3-21 of this code, and, in addition, that the person applying for the permit shall place and maintain from the beginning of twilight, through the whole of every night, over or near the place so occupied, opened, obstructed or used and over or near any dirt, gravel or other material taken therefrom, or to be used by him, a light or lights sufficient to protect travellers from injury; shall place and maintain a safe and convenient way for the use of foot-travellers, and a safe and convenient passage for public travel around or over such place; shall, if he does not, within the time prescribed by said superintendent, put the street into good condition, satisfactory to said superintendent, pay whatever sum the said superintendent shall expend for putting it into such condition, and that he shall deliver up the permit at the office of the superintendent of public works on or before the expiration of the time fixed in the permit for completing such work. Said superintendent may, in addition to said specification, specify in the permit, or after the issuing thereof, in writing, the kind of rail or fence to enclose the place, and the kind of way over or around such place, and manner of constructing the same. A permit to open a street paved with a granite block pavement shall only be granted upon the further condition that the opening shall be repaved with a granite block pavement of the same specifications as the original granite block pavement, by a contractor or paver approved by the superintendent of public works, and that the work of repaving shall be done in a thoroughly workmanlike manner and shall be subject to the approval of the superintendent of public works. The superintendent of public works shall require a bond with sureties satisfactory to him to secure the performance of these conditions. (Prior Ch. 25 sec. 2(B)).

12-17 Employment of police officer in certain cases.

Where the passage and flow of pedestrian, or vehicular traffic will be impeded or rerouted, the person receiving the license or permit, at his expense, sufficient police detail, furnished by the police department as the chief of police or his duly authorized agent may require. (Prior Ch. 25 sec. 2(C)).

12-18 Approval required for opening of public way.

No person or persons shall open for public travel any street or private way the location, width, grade and plans of drainage of which have not previously been approved by the superintendent of public works and the board of aldermen in the manner provided in the previous sections of this code of the city nor shall any other public authority so place any public sewer, drain, water pipe, or light in, or do any public construction work of any kind, or make repairs on such street or private way, provided that this section shall not prevent the laying of a trunk sewer, drain, water or gas main if required by engineering necessities for the accommodation of other territory. (Prior Ch. 25 sec. 2(D)).

12-19 Permits for placing of poles.

A. The superintendent of public works, when a petition praying therefore has been granted by the city council, shall issue permits to open and occupy portions of the streets, for the purpose of placing and maintaining poles therein, for the support of wires, on a condition, the terms of which shall be those hereinbefore stated in Sections 12-15 and 12-16 of this chapter, and in addition, that the person applying for the permit shall place the pole in such a manner that does not create a sight-view impediment for vehicular traffic, shall place the pole in such a manner that there is at least 36 inches clear, unobstructed path of travel between the base of the pole and the inside edge of the curbing and said path of travel should be at least 52 inches in width where achievable; shall keep said poles well painted and in good condition, to the satisfaction of the superintendent of public works; shall place the wires on said poles not less than twenty feet from the ground; shall keep the name of the person or corporation owning the wires distinctly marked on said poles; shall allow the departments of the city the exclusive use of the upper crossbar and top of each pole, free of all charge, for the purpose of placing wires thereon; shall not suffer or permit any other person to place or keep wires on said poles or upon the fixtures thereto affixed, without permission being first obtained in writing from the city council; shall not remove any pole erected under this order until, and shall remove any pole when, directed by the city council so to do, and that on violation of any term of this condition the said superintendent shall remove the poles at the expense of the person or corporation owning them. (Prior Ch. 25 sec. 2(E); amended 7/22/2002; 12/19/2003; 9/29/2007).

B. A distribution company or a telephone company engaging in the removal of an existing pole and the installation of a new pole in place thereof shall complete the transfer of wires, all repairs, and the removal of the existing pole from the site within 90 days from the date of installation of the new pole; provided, however, that for any approved commercial or industrial construction project, the completion of which is expected to take longer than one year, said company shall be required to remove such pole within six months from the date of installation of the new pole. The owner

of such pole shall notify all other users of the starting date of such removal and installation work at least 48 hours prior to the commencement of such work, and said owner shall require all other users to remove their wiring and other attachments from the poles in a timely manner. (added 12/19/2003)

12-20 Maintenance of lanterns, railing and fences.

Whenever any public way shall, under any permit granted as aforesaid, be dug up, obstructed, or otherwise rendered unsafe or inconvenient for travel, the person so permitted shall maintain a railing or fence satisfactory to the superintendent of public works around the section or part so dug up or obstructed as long as the same shall be unsafe or inconvenient as aforesaid, and shall also keep lighted lanterns affixed to such railing or fence, or in some other proper manner, from twilight in the evening through the night, as long as such railing or fence shall be kept standing. (Prior Ch. 25, sec. 2(F)).

12-21 Street excavation--Placement of metal plate.

Excavations in public streets must be covered by a metal plate during the hours of darkness unless the person or contractor shall receive a permit from the superintendent of public works or his authorized agent. Said plate shall be of such specifications as the superintendent of public works may order. Persons failing to properly cover such excavations shall be subject to a fine of up to five hundred dollars. (Prior Ch. 25 sec. 2(G)).

12-22 Removal of protective devices prohibited.

A. No person shall, except as authorized or required by law, remove, alter the position of, deface or disturb in any manner, any barrier, sign, protective cover, or grating, placed or installed in the interests of safety or necessity.

B. Whoever violates this part may be arrested without a warrant by a police officer and detained in jail, or otherwise, until a complaint can be made against him for the offense. (Prior Ch. 25, sec. 2(H)).

12-23 Tampering with lights prohibited.

No person shall remove or extinguish a light placed in any public way in accordance with the provisions of this chapter. (Prior Ch. 25, sec. 2(I)).

12-24 Notice to utilities required.

A. Whenever the city is about to construct a new street or to break up the surface of any street, it shall, at least two weeks before beginning such work, notify the

Boston Edison Company of Boston, Massachusetts, the New England Telephone and Telegraph Company, the Eastern Massachusetts Street Railway Company, and the Mystic Valley Gas Company and all public service corporations that may have occasion to do work in the streets of the city in the future.

B. Any public service corporation or any of the said companies having any work to be done in any of the streets so designated shall consult and arrange with the superintendent of public works in order that such work may be done before the surface of the street is again prepared for and open to public travel.

C. After such notice and opportunity have been given no public service corporation or any of the companies herein mentioned shall for a space of five years break up such street within the area of such previous disturbance except in the case of obvious necessity to be certified to and approved by the mayor and a majority of the whole city council.

D. This section of this part shall not apply to any of the said companies of public service corporations in the event of an accident to the property of the said companies or public service corporations, if in the judgment of the mayor or superintendent of public works, the work of preparing the same constitutes an extraordinary emergency. In the event that it is deemed an extraordinary emergency the mayor and the superintendent of public works may permit said companies and public service corporations to do the work without bringing the matter before the city council. (Prior Ch. 25, sec. 2(J)).

12-25 Contractors to post bond for utility company work.

A. All utility companies (Telephone, Edison, Gas, etc.) doing any contractural work in the city in respect to the excavation and repairing of any street, sidewalk or other public lands, shall, after receiving a permit by a major vote of the city council, if required, enter into a contract with a contractor of their choice to do said work.

B. On all contractual work, if for some reason not requiring a permit from the city council the utility companies shall also hire their own contractor.

C. All contractors doing contractual work for utility companies in said city shall post a performance bond with the superintendent of public works, as required by law to cover said work.

D. The superintendent of public works shall not release the performance bond covering said work until the work is satisfactorily finished.

E. If, for some reason, after the performance bond is released, and the work proves to be defective within two years of the release of said bond, the utility company shall correct the defective work at their expense. (Prior Ch. 25, sec. 2(K)).

12-26 Excavations adjoining public way to have protective devices maintained.

Whenever any person shall dig or sink any well, cistern, or other cavity in the ground near to or adjoining any public way, he shall maintain, as long as it shall be necessary, a sufficient and suitable railing or fence, well lighted at night. (Prior Ch. 25, sec. 2(L)).

12-27 Permit required for coal holes or apertures in or under sidewalks.

No person shall make, or cause to be made, an aperture in or under any sidewalk for the purpose of constructing coal-holes, or receptacles for other articles, or for any other purpose, without the permit of the superintendent of public works; and no person shall leave such coal-hole or aperture opened or unfastened, except while actually in use, in which event it shall be properly guarded. (Prior Ch. 25, sec. 2(M)).

12-28 Permit issuance to occupy street.

Said superintendent of public works shall, when authorized thereto by an order of the city council, issue permits to open and occupy portions of the streets, for the purposes of laying, maintaining, and using wires, or rails thereon, or wires, pipes, or conduits under the surface thereof, on a condition the terms of which shall be those stated in Sections 12-15 and 12-16 of this chapter, and in addition, on condition that the person applying for the permit shall furnish in his conduits for wires accommodations for all wires belonging to or to be used by the city free of charge, whenever requested so to do by the mayor; shall remove the conduits and wires whenever directed, and not until directed to do so by the city council, and shall not disturb or interfere with any wires, pipes, or sewers lawfully laid in such street or connected therewith. (Prior Ch. 25, sec. 2(N)).

## V. OBSTRUCTIONS ON STREETS AND SIDEWALKS

12-29 Sidewalk obstruction regulated.

A. No person shall obstruct a public street or public sidewalk or way to which the public has a right of access or endanger travellers on a public sidewalk or public street or way to which the public has a right of access but nothing in this part shall be construed to curtail, abridge or limit the right or opportunity of any

person to exercise the right of peaceful persuasion guaranteed by Section 24 of Chapter 149 of the General Laws or to curtail, abridge or limit the intendment of any statute of the Commonwealth of Massachusetts.

B. Violation of this part shall result in a fine not less than fifty dollars. (Prior Ch. 25, sec. 3(A))

12-30 Projection of gates and doors prohibited.

No person shall allow any gate or door belonging to premises owned or occupied by him and adjoining any public way to swing on, over or into said public way. (Prior Ch. 25, sec. 3(B)).

12-31 Projection of awnings and signboards.

A. No person shall establish or maintain any wooden or metallic shade or awning, sign, signboard, or inscription of any kind, before his or her place of business or dwelling house, over any portion of a public way, unless the same be safely and securely supported, and the lowest part of said sign, signboard, inscription, shade or awning is at least eight feet above the public way. No person shall establish or maintain over any part of any public way any other awning or shade unless the lowest part of the same be at least seven and one-half feet above the public way, and unless the same shall be securely fastened to a building; provided, however, the city council may order any sign, signboard, awning or shade which may project over any part of a public way to be removed at any time.

B. No person shall erect or maintain any wooden or metallic signs or signboards of any kind or an awning of any sort before his or her place of business or dwelling over any portion of a public way until he has first filed in the office of the city clerk a bond running to the city with sureties approved by the treasurer thereof, for such sum not exceeding five thousand dollars as the city treasurer may determine to be necessary in order to cover the risk of damage to the public that might ensue from the maintaining of said sign, signboard or awning, and each year on or before April 1st, a certificate or registration of the intention of the person to continue the maintaining of said sign, signboard or awning shall be filed in the office of the city clerk. The fee for said certificate of registration shall be one dollar for the original certificate and fifty cents for each renewal.

C. The bond shall be conditioned upon the payment of any loss, damage or injury resulting to persons or property by reason of the establishing or maintaining of said sign or signboard.

D. A person establishing or maintaining such sign or signboard may in lieu of filing

said bond with sureties, present to the city clerk satisfactory evidence that he has liability insurance in a company authorized to do business in this Commonwealth, covering claims for loss, damage or injury which may result to person or property on account of the establishing or maintaining of such sign or signboard.

E. The city clerk shall keep a record of the names of persons presenting such evidence of insurance in lieu of said bond together with the address at which said sign or signboard is established or maintained, and the name of the insurance company in which said person has a policy. (Prior Ch. 25, sec. 3(C)).

12-32 Posts and bulletin boards--Permit required.

No person shall erect any post nor maintain bulletin boards in any public way without a permit from the superintendent of public works. (Prior Ch. 25, sec. 3(D)).

12-33 License required for erection of steps, bay windows, porticos, etc.

No person shall erect or maintain any doorstep, portico, entrance, bay window, or other projection, or a passageway to any cellar, basement or other structure, in or upon any public way, without a license from the city council. No person shall suffer the platform or grate of the entrance or passageway to a cellar or basement in any public way to rise above the even surface of such public way; and every such entrance or passageway shall be kept covered with a suitable platform or grate, or shall be guarded and protected by a sufficient railing on both sides thereof, at least two and one-half feet high, and well lighted at night. (Prior Ch. 25, sec. 3(E)).

12-34 Placing of obstructions in public way prohibited.

No person shall place or deposit, or permit to be placed or deposited, in any public way, any impediment or obstruction of any kind, and suffer the same to remain more than one hour; nor occupy or obstruct any public way to interfere with the convenient use of the same for public travel. No person shall drive or conduct any vehicle in such condition, or so constructed, or so loaded, as to allow its contents to fall, blow, leak, or sift, upon the public streets. (Prior Ch. 25, sec. 3(F)).

12-35 Temporary obstructions--Allowed when.

The foregoing prohibitions shall not prevent the unloading or temporary deposit in any public way of merchandise, fuel, building materials, or other articles in the course of carriage to and from premises adjacent or neighboring; provided, that such articles shall in no case be suffered to remain more than twelve hours, nor after twilight in the evening without keeping a sufficient light over the same through the night, or at any time in such manner as to obstruct said way, without a permit

as hereinabefore provided in Sections 12-15 and 12-16 of this chapter. (Prior Ch. 25, sec. 3(G)).

12-36 Sawing or piling wood on public way prohibited.

No person shall saw wood or pile the same on any public way. (Prior Ch. 25, sec. 3(H)).

## VI. SNOW AND ICE REMOVAL FROM STREETS AND SIDEWALKS

12-37 Snow removal from certain sidewalks--Required.

A. The tenant, or occupant or any person having the care of a building or lot of land abutting a sidewalk bordering on:

1. Main Street between Salem Street and High Street;

2. Montvale Avenue to a point opposite Prospect Street, on the northerly side, and to the westerly end of the Old Cemetery on the southerly side;

3. Pleasant Street between Winn Street and Abbot Street (East) on the northerly side and between Winn Street and the Boston and Maine Railroad crossing on the southerly side;

4. Common Street; or if there is no tenant, occupant or other person having care of the whole of such building or lot, the owner thereof shall within two hours after a fall of snow ceases to fall in the daytime and before ten a.m. after a fall of snow during the night, cause all snow that may be on such sidewalk to be removed therefrom, by shoveling or otherwise; and if he fails so to do he shall be liable to a penalty not exceeding fifty dollars.

B. From the following named streets the highway department shall remove the snow in the same manner and within the same time after snowfall as is required from the abutters of the above-named sidewalks:

1. Main Street from Conn Street to High Street, westerly side;
2. From Salem Street to Hammond Square, easterly side;
3. Pleasant Street from Abbott Street to Lexington Street, northerly side;
4. Winn Street from Pleasant Street to the Railroad crossing, northerly side;
5. Montvale Avenue from Prospect Street to Union Street, southerly side.

C. The provisions of this section shall apply to snow that falls from buildings as well as to that which falls from the clouds, also to snow which may be blown by the wind upon such sidewalk during or after a storm. (Prior Ch. 25, sec. 4(A)).

12-38 Ice to be removed or covered on certain sidewalks.

When any portion of a sidewalk bordering on the street designated in Section 12-37 is encumbered with ice, the occupant of the building or lot of land abutting on such sidewalk, or in the case there is no occupant of the whole of such building or lot, the owner or other person having the care of the same, shall cause such sidewalk to be made safe and convenient by removing the ice therefrom, by shovelling or other wise, or by keeping the same covered with sand or some other suitable substance; and if such occupant, owner or other person neglects to do so for the space of six hours during the daytime, he shall be liable to a penalty not exceeding fifty dollars. (Prior Ch.25, sec. 4(B)).

12-39 Placing of ice or snow on a street, public or private property.

A. Any person who shall throw or place, or permit to be thrown or placed, any snow or ice in any public way, shall cause the same to be broken up and spread evenly over the surface of the street. (Prior Ch. 25, sec.4(C)).

B. Any person, or hired company, who removes ice or snow from public or private property and who places such ice or snow without permission on public or private property shall be subject to a fine of not more than $300.00. A complaint for the breach of this ordinance shall be filed with the police department for prosecution. (Ord. dated 02/20/87).

## VII. CONSERVATION AREA USE REGULATIONS

12-40 Rules and regulations designated.

As conservation areas are meant to be preserved in their natural state for their environmental value, their aesthetic importance and the public enjoyment, the following rules and regulations are established for the areas under the control of the Woburn Conservation Commission whether such control is by deed, Ordinance, or formal arrangement with other City officials or departments:

A. Signs designating those areas which are conservation lands are to be posted at the entrances to each area.

B. The conservation areas are open without charge or special permit (unless otherwise posted) to the general public from sunrise to sunset, to be used and enjoyed in conformity with these regulations.

C. The following activities are expressly prohibited:

1. The use of firearms.

2. Hunting and trapping. Excepted from this prohibition is the temporary netting/capture of wildlife for research/public health purposes, i.e., banding or blood sampling, by qualified individuals pursuant to a plan approved by the Conservation Commission; and the capture of wildlife by the City when there is a verifiable threat to public health or safety;
3. Open fires, except for organized scout groups with a camping permit issued by the Conservation Commission and a fire permit issued by the Woburn Fire Department;
4. Littering or dumping;
5. The use of motor vehicles or motorized vehicles, including off-the-road vehicles such as trail bikes and snowmobiles. Excepted from this prohibition are authorized city vehicles, emergency vehicles, and motorized wheelchairs;
6. The cutting, removing, damaging or defacing of any plant life, animal life, rocks or soils, except with the written permission of the Conservation Commission;
7. The defacement, destruction or removal of Conservation Commission signs and property or other structures such as dams, walls, fences, gates, etc., except with the written permission of the Conservation Commission;
8. The posting of unauthorized signs, advertisements or notices selling or giving away goods or circulars, or engaging in commercial activities of any nature;
9. The making of loud or disturbing noises. Excepted from this prohibition are authorized activities which have received a Special Event Permit in accordance with Title 12, Article XIV (such as the concert series), organized scout groups with a camping permit, authorized eagle scout projects, City organized activities such as Conservation Day, and work performed or ordered by the City such as repair of bridges and removal of hazardous trees or limbs which pose a threat to public health and safety; and
10. The installation of unauthorized structures including birdhouses, bird feeders or memorials.

D. In its sole discretion, the Conservation Commission may authorize trails being cut or marked, dams to be built or any structure such as a bridge, tower or handrail to be constructed.

E. Dogs or other pets must be leashed at all times. Pet waste shall be picked up and properly disposed of.

F. Fishing is allowed in accordance with state and local regulations.

G. Overnight camping in designated areas is allowed only by written permit of the Conservation Commission to be obtained in the Conservation Commission office.

H. The Conservation Commission does not assume for itself or for the City any liability of any kind for injuries to persons or damage done to their property while on conservation lands; persons entering thereon do so at their own risk.

I. These rules are in addition to any applicable state and other local regulations.

J. Visitors to conservation areas are urged to leave them cleaner than they were found, and to report violations of these rules to the Conservation Commission and the Woburn police.

K. Violations of these regulations are punishable by a fine of fifty dollars. (Prior Ch., sec. 9-A 5).

(amended 2/8/2018)

## VIII. PARK AND RECREATION AREA USE REGULATIONS

12-41 Areas under control of recreation commission.

A. No person shall enter or leave any park, playground, beach or other areas except at designated entrances or exits.

B. No person shall injure, deface, dig up or displace, cut, break, remove, fill in, raise, destroy, or tamper with any road, walk, lawn or beach; or deface, defile, injure, destroy or ill use any building, bridge, structure, fence, sign, bench, seat, platform, plant, flower, bush, tree, shrub, turf, rock or other property or equipment, real or personal, belonging to the city under the care and custody of the recreation commission or have possession of any part thereof.

No person shall within any park or playground area throw any stone or missile; or have possession of or discharge any destructive weapon, firearm, fireworks, torpedo or explosive; or make a fire except by written consent of the recreation commission; or post, paint, affix, distribute or display any sign, notice, circular, program, placard or any other advertising device except by written consent of the recreation commission; or drop or place and suffer to remain any piece of paper, garbage or other refuse, except in the receptacles designated therefor, nor throw a lighted match, cigar or cigarette or other burning substance in said receptacles or upon the ground; nor bring or cause to be brought within any area under the control of said recreation commission any garbage, refuse or material for the purpose of depositing same within said receptacles; or bring or cause to be brought within any area under control of the recreation commission glass containers or any articles made of glass; or break or cause to be broken any glass containers or any articles made of glass within any area under the control of the recreation commission.

C. No person shall within a park or playground area solicit the acquaintance of or annoy another person; or utter loud outcry; or solicit alms or subscriptions; or have possession of or drink any intoxicating liquor; or make a harangue; or make any undue noise or disturbance.

D. No dumping of any kind shall be made within any park or playground area.

E. All areas under the care and control of the recreation commission are considered to be closed at nine p.m., unless extended by the written consent of the recreation commission.

F. No person unless properly clothed, shall be on any beach, or swim, bathe or wade in any water within or adjoining any area under the care and control of the recreation commission and then only at such times and in such places as the recreation commission may designate; nor loiter or walk on a sidewalk or roadway or in an area, other than a bathing beach, in a bathing costume, unless wearing a closed covering; nor lower from their shoulders or remove any part of their bathing costume on any beach; nor disrobe for bathing in a public area or within public views.

G. No person shall cause or permit any animal owned by him or in his custody or under his control, to roam or be at large in, on, or through any part or playground under the care and control of the recreation commission except a dog when restrained by a leash not exceeding seven feet in length. No animals are allowed on any beach under the care and control of the recreation commission.

I. No person shall ride a motorcycle, or ride or drive a motor car or other vehicle upon or over any area under the care and control of the recreation commission which has been closed to travel by the placing therein or the erection thereon of a barrier, fence, light or sign indicating that such area is closed for public travel.

J. No person shall refuse or neglect to obey any rule, posted by sign, concerning the use of any area under the care and control of the recreation commission, nor shall they refuse or neglect to obey any reasonable direction of a police officer or a person in charge of such area.

K. Any person violating any of the foregoing subsections shall, for each offense, be punished by a fine of not more than twenty dollars.

L. Golfing, the driving of golf balls or the playing of golf in any form on Leland Playground is prohibited. The penalty for violation of this subsection shall be fifty dollars for each offense. (Prior Ch., sec. 9-C 8).

12-42 Regulation of Horn Pond.

A. Boating on the Surface of Horn Pond.

1. The use of any boat, watercraft of any nature, which is powered or propelled by a mechanical device of any nature is forbidden on what is commonly known as "Horn Pond."

2. For a violation of the above provision, any owner, operator, or user of such a boat or water craft shall be fined not less than one hundred dollars, nor more than two hundred dollars.

3. Any boat or watercraft operated, powered or propelled by electric, or battery trolling motors shall be specifically exempted from the provisions of this subsection.

D. Bathing at Horn Pond. Bathing is forbidden in what is commonly known as "Horn Pond" except when specifically authorized by the Woburn recreation commission. Any violation of this regulation shall be punished by a fine of fifty dollars for the first offense and one hundred dollars for the second or subsequent offense.

E. Prohibition of Ski-mobiles from Horn Pond. The use of vehicles commonly know as ski-mobiles is likewise prohibited on the surface of Horn Pond.

F. Vehicles commonly known as ski-mobiles are excluded from all area under the control and direction of the recreation commission and the conservation commission. (C.2-1971).(Prior Ch., sec. 9-C 9).

## IX. GREENBELTS

12-43 Ballplaying or golfing prohibited.

A. Whereas the section of land located east of the Woburn Parkway, south of Pleasant Street, west of Water Street, and north of the intersection of Sturgis and Water Streets, has been developed over the years as a greenbelt meant to serve as a scenic and passive recreational as opposed to an active recreational area, and whereas recent efforts have been made by the city, through its conservation commission and department of public works, to revitalize and beautify the area; and whereas it is the intent to preserve this natural greenbelt; now, therefor, it is ordered by the terms of this part that ballplaying and golfing of any type is prohibited on said strip of land.

B. A violation of this part shall be punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars. (Prior Ch. 31, sec. 4).

## X. COVE STREET AND WOBURN PARKWAY

12-44 Rules and regulations designated.

A. The two roadways known as Cove Street and the Woburn Parkway (from the Winchester end to Sturgis Street) shall be closed to all motor vehicles (except for emergency vehicles) for the complete year.

B. A sturdy gate shall be erected at a point just north of the beach parking lot, said gate shall remain closed year-round to all but city-owned vehicles.

C. A sturdy gate shall be erected just south of the Cove Street-Woburn Parkway intersection, and said gate shall remain closed year-round to all but city-owned vehicles.

D. There shall be no parking allowed on either side of the Woburn Parkway or Cove Street.

E. All side roads leading off the Woburn Parkway (between the Winchester end and Sturgis Street) shall be blocked by granite barriers.

F. Signs noting the parking and time restrictions shall be placed at appropriate places by the public works department.

G. It shall be the responsibility of the police department to enforce the provisions of this part, which shall take effect June 1, 1978.

H. The police chief shall have the authority to close down Horn Pond for any day or part thereof if an emergency warrants it. (Prior Ch. 31, sec. 1).

12-45 Penalty for violation.

Any violation of the provisions of Section 12-44 shall be punishable by a fine of fifty dollars. (Prior Ch. 31, sec. 3).

## XI. LAKE AVENUE PARKING LOT

12-46 Rules and regulations designated.

A. The parking lot at Horn Pond directly opposite 48 Lake Avenue shall be closed at four p.m. to eight a.m. from October 1st of each year to April 30th of each

year, and at eight p.m. to eight a.m. from May 1st to September 30th of each year.

B. Posted signs shall be maintained by the public works department.

C. A permanent barrier shall be installed at the entrance to the parking lot, with a gate entrance for vehicles. (Prior Ch. 31, sec. 2).

12-47 Penalty for violation.

Any violation of any of the provisions of this part shall be punishable by a fine of fifty dollars. (Prior Ch. 31, sec. 3).

## XII. DISPOSITION OF CITY LAND

12-48 Disposition of city land

Prior to the disposition of any city land, the sub-committee of the City Council known as, "Municipal Lands Committee", shall seek a recommendation from the Open Space and Recreation Planning Committee. (Ord. 7/20/93)

## XIII MUNICIPAL PARKING LOTS

12-49 Municipal Parking Lots in the Business Downtown District

Municipal parking lots are intended to serve the business and residential uses in the downtown district. These lots are not to be used for vehicle storage for periods longer than 24 hours except as outlined below. Vehicle maintenance is not to be conducted in municipal lots.

Any individual that uses a municipal lot in the business downtown district for residential purposes must purchase a parking permit sticker annually by the first day of the calendar year from the city clerk's office for a fee of $5. The city clerk's office shall not issue more parking permits than were allowed by any special permitted site in the Business Downtown District. Business Downtown Residential dwellings that do not require special permits shall have no more than two parking permits per dwelling. Any vehicle parked overnight without a permit shall be considered a parking violation and shall be issued a parking citation accompanied by a $20 fine.

(added 8/27/2001)

12-50 Restrictions in Municipal Parking Lots

A. No vehicle in excess of 2½ tons in weight shall be permitted to park in any municipal lot. A vehicle in excess of such weight engaged in loading or unloading of goods or materials from the vehicle for delivery to an abutting business or residence may be permitted to park but only for the length of time necessary to complete the loading or unloading of such goods or materials but in no event for a period greater than two consecutive hours within a 24 hour period. If such loading or unloading of a vehicle, in the discretion of the Chief of Police or one of his officers, shall create a hazard to pedestrians, motor vehicle traffic or to the buildings abutting such municipal parking lot or the occupants of such buildings, then the Police Chief or one of his officers may order the motor vehicle moved from the municipal parking lot. In no event shall a motor vehicle in excess of 2½ tons be permitted to park in a municipal lot between the hours of 9:00 p.m. and 7:00 a.m. for any purpose. (amended 10/19/2004)

**ARTICLE XIV. SPECIAL EVENTS PERMIT**

12-51 Purpose.

This ordinance establishes the procedures and requirements for allowing the use of public property for special events in the City of Woburn, by providing for traffic and crowd control, for street, park, and property maintenance, and for the protection of the public health, safety and welfare.

12-52 Definitions.

A. Special Event- An event that is open to the general public and held on public property; it may feature entertainment, amusements, food and beverages; it may be classified as a festival, concert, fair, road race, carnival or some other gathering or assembly, whether or not it involves fundraising. This definition shall not include parades.

B. Permit Granting Authority - For any event conducted on public property under the sole jurisdiction and control of the Recreation Commission the Permit Granting Authority shall be the Recreation Commission and for events conducted on all other public property the Permit Granting Authority shall be the City Council. For any event held on property under separate jurisdiction and control, the applicant shall obtain approval from both the Recreation Commission and the City Council with respect to the land under their respective jurisdictions by separate applications.

12-53 Special Event Permit Required.

No Special Event, including festivals, concerts, fairs, road races, carnivals,

demonstrations, marches, assemblages, or other gatherings, shall be held upon any City street, park or other public area of the City unless a permit is first obtained for such event. Peaceful demonstrations, including lawful picketing, conducted on public sidewalks so as not to impede pedestrian or vehicular traffic are not considered special events.

12-54 Permit Application Fee.

The Permit Application Fee shall be twenty-five dollars ($25.00) per event sponsored by non-profit entities and fifty dollars ($50.00) per event sponsored by commercial and for profit entities. The Permit Application Fee shall be paid upon filing of the application to the City Clerk's office unless otherwise under the sole jurisdiction of the Recreation Commission in which case the fee shall be paid to the Recreation Commission. The permit application fee shall not apply to block party events. (amended 3/6/2014)

12-55 Permit Application.

Application to conduct a special event shall be made to the Permit Granting Authority, in writing, by the person or persons in charge or responsible therefore. All applications for special event permits shall be made at least forty-five (45) days prior to the date on which the special event is sought to be held, unless the Permit Granting Authority waives the time requirement for good cause shown. The application shall be on a form approved by the City Clerk which shall set forth the following information:

1. The name, address and telephone number of the person requesting the permit.
2. The name and address of the organization or group sponsoring the event.
3. The name, address and telephone number of the person who will act as director or person in charge of the special event and be responsible for the conduct thereof.
4. The purpose of the event and the number of persons expected to attend.
5. The date the event is to be conducted and the hours it will commence and terminate.
6. The specific assembly and dispersal locations, and specific route plans, if any.
7. Such other information as the Permit Granting Authority reasonably deems necessary to properly prepare for and/or evaluate the potential impact on the public health, safety and welfare.
8. The applicant shall have a continuing responsibility to advise the Permit Granting Authority in writing of any material changes to the information provided in the initial application.

12-56 Considerations.

The Permit Granting Authority shall consider an application for the Permit based upon factors it may deem relevant including, but not limited to the following:

A. Approval shall have been affixed by writing on the application by the department, if applicable, that has jurisdiction over the property.

B. The Applicant shall provide proof of liability insurance with a minimum of $1,000,000.00 in commercial general liability and a policy endorsement that indemnifies and holds the City harmless for all liability for any accidents or damages to persons or property resulting from the Special Event. The City Council may require a different amount, higher or lower, of insurance upon good cause shown.
C. Approval affixed by writing on the application shall have been granted by the Police Department, Fire Department, Department of Public Works, Department of Inspectional Services and Board of Health including satisfactory arrangements as to the provision of public services and compliance with applicable codes, ordinances and laws by those departments and for the payment/reimbursement for the cost of public services if appropriate.

12-57 Sale, Service or Consumption of Alcohol During Special Event.

1. The sale, service and consumption of alcohol during a Special Event shall require a special one-day alcoholic beverage license issued by the License Commission in accordance with M.G.L. c.138, §14 and Section 9-11 of the 1989 Woburn Municipal Code, as amended. If such license is issued, the outdoor area where alcohol is to be sold or served is to be enclosed by fencing or other barrier set-up for the purpose of restricting the removal of alcoholic beverages by patrons/guests, and such other conditions as the City Council, Recreation Commission and License Commission may impose.

2. Under no circumstances shall such special one-day license to sell, serve, and consume alcohol beverages on public property be available for and/or upon any land or property under the jurisdiction of the School Department , publicly owned property adjacent to property under the jurisdiction of the School Department and property under the jurisdiction of the Conservation Commission, except for the Mayor's Annual Senior Dinner and neighborhood block parties adjacent to publically owned properties.

(added 7/19/2013)

# TITLE 13

# PUBLIC SERVICES

**Articles and Sections**:

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## I. GENERAL

13.1.1 Definitions.

Abate – Refer to "abatement."

Abatement – a reduction in costs associated with water use or construction of water infrastructure, relates to money.

Agriculture – shall mean farming in all its branches and agriculture, as defined at M.G.L. c. 128, s 1A.

Air-Gap – The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other container and the flood rim of said vessel. An approved air-gap shall be required by Department standards.

Approved – Accepted by the Department of Public Works as meeting an applicable specification cited in this regulation, or as suitable for the proposed use.

Aquifer – An underground geological formation, or group of formations, containing water. Are sources of groundwater for wells and springs.

Authority - shall mean Massachusetts Water Resources Authority.

Authorized Enforcement Agency – The Department of Public Works, its employees or agents designated to enforce this municipal code.

Authority Sewerage System - shall mean the sewerage works under the control of the Authority including sewers, pump stations, treatment plants and all other works under the control of the Authority used in collection, storage, transport, treatment, and discharge of waters and wastes and in the operation of the residuals program.

Auxiliary Water Supply- Any water supply on or available to the premises other than the approved public potable water supply overseen by the Department of Public Works.

Backflow - The flow of water or other liquids, mixtures or substances under pressure into the distribution pipes of a potable water system from any source other than an approved supply source.

Back-Flow Preventer - A device or means designed to prevent backflow or siphonage.

Back-Siphonage - The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water system from any source other than an approved supply source, causes by the sudden reduction of pressure in the potable water system.

Best Management Practices (BMP) - An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

BOD (Biochemical Oxygen Demand) - shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at $20^{o}C$, expressed in milligrams per liter.

Building Drain - shall mean that part of the lowest piping of a drainage system, which receives the discharge of wastewater from inside the walls of the building and extends to ten (10) feet outside the inner face of the building wall. The maintenance, repair, and replacement of a Building Drain are the sole responsibility of the property owner.

Building Sewer - shall mean the extension from the building drain to the public sewer or other place of disposal, also called house or building connection. The property owner owns the Building Sewer up to and including its intersection with the public sewer pipe, and its maintenance, repair, and replacement are the sole responsibility of the property owner.

City - shall mean the City of Woburn, Massachusetts or any duly authorized officer, agent or representative of the City of Woburn.

Clean Water Act - The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq*.) as hereafter amended.

Cooling Water - shall mean the water discharged from any system of condensation, air conditioning, cooling, refrigeration, or other system of heat transfer.

Consumer – The term “consumer” shall mean the individual, firm or corporation listed.

Contact Cooling Water - shall mean water used in a process for cooling purposes that has come in direct contact with a raw material, intermediate product, waste product, or finished product.

Contamination - An impairment of the quality of the potable water to a degree which creates an actual hazard to the public health through poisoning or the spread of disease.

Cross Connection - Any physical connection or arrangement of piping or fixtures between two otherwise separate piping systems one of which contains potable water and the other non-potable water or industrial fluids of questionable safety, through which, or because of which, back flow or back-siphonage may occur into the potable water system.

Cross Connection- Controlled- A connection between a potable water system and a non-potable water system with an approved backflow prevention device properly installed that will continuously afford the protection commensurate with the degree of hazard.

Cross Connection Control by Containment - The installation of any approved backflow prevention device at the water service connection to any premises, or the installation of an approved backflow prevention device on the service line leading to and supplying a portion of a private water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of cross connection.

Curb Stop - The part of the water system, usually located at or near the Owner's property line, where the City of Woburn has complete access and control to shut off the water supply to the premises. Beyond this point, the water system belongs to and is the responsibility of the Owner.

DEP - shall mean the Massachusetts Department of Environmental Protection.

Department - The Department of Public Works or its designated agent in charge of water safety for the City of Woburn, Massachusetts vested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this bylaw.

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.

Double Check Valve Assembly - An assembly of two independently operating approved check valves with tightly closing shutoff valves on each side of the check valves, and properly located test cocks for the routine testing of the assembly.

DPW - shall mean the Department of Public Works.

Easement - shall mean an acquired legal right for the specific use of land owned by others.

EPA - shall mean the United States Environmental Protection Agency.

Floatable Oil - shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pre-treatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

Grease, Oil and Sand Interceptors - shall mean devises used to prevent grease, oil and sand from entering the waste stream.

Groundwater - Water beneath the surface of the ground.

Hazard, Degree of- The term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

Hazard - Health (High Hazard) - Any conditions, device or practice in the water supply system and its operation which could create, or, in the judgment of the Department of Public Works, may create a danger to the health and well being of the water user.

Hazard - Plumbing (High Hazard) - A plumbing type cross connection in a private potable water system that has not been properly protected by a vacuum breaker, air-gap separation or backflow prevention device. Unprotected plumbing type cross connections are considered to be a health hazard.

Hazard - Pollution (Low Hazard) - An actual or potential threat to the physical properties of the water system or to the potability of the public or the consumers which would constitute a nuisance or be aesthetically objectionable or could

cause damage to the system or its appurtenances, but, would not be dangerous to health.

Illicit Connection - A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this ordinance.

Illicit Discharge - Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 13.4.5. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 13, subsection 4, of this ordinance.

Impervious Surface - Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

Industrial Fluids System - Any system containing a fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollution or plumbing hazard if introduced into an approved water supply.

Industrial Wastes - shall mean the wastewater from industrial processes, trade, or business as distinct from domestic (sanitary) wastes.

Infiltration - shall mean water other than wastewater that enters any sanitary sewer (including building sewers) from the ground through means which include, but are not limited to, defective pipes, pipe joints, service connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

Infiltration and Inflow - (I/I) shall mean the quantity of water from both infiltration and inflow.

Inflow - shall mean water other than wastewater that enters a sewer (including building sewers) from sources which include, but are not limited to, roof leaders, cellar drains, yard drains, area drains, sump pumps, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

Locus – The place where something is situated or occurs.

Main – A “main” shall mean the supply pipe laid in the street from which house connections are made.

May - is permissive (see “Shall”).

Meter – An instrument for measuring and recording the amount of water entering a property. Shall also refer to any attached meter reading device.

MWRA - shall mean Massachusetts Water Resources Authority.

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 City of Woburn.

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.

Natural Outlet - shall mean any outlet, including storm sewers into a watercourse, pond, ditch, lake, or other body of surface or ground water.

Non-Stormwater Discharge - Discharge to the municipal storm drain system not composed entirely of stormwater.

Outdoor watering - shall mean any residential, municipal, industrial, or commercial watering of non-agricultural lawns, trees or shrubbery; or residential car washing.

Owner - The person or persons who own, maintain and control a private water system. Also, any person maintaining a cross connection or owning or occupying premises on which a cross connection can or does exist.

Person - shall mean any individual, firm, company, association, society, corporation, partnership, group, department or any political subdivision of the Commonwealth or federal government, or entity of any sort, and any officer, employee or agent of such person.

pH - shall mean the negative logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of $10^{-7}$.

Pollution - The presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade the water quality so as to constitute a hazard to impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.

Pollutant - Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

(1) paints, varnishes, and solvents;

(2) oil and other automotive fluids;

(3) non-hazardous liquid and solid wastes and yard wastes;

(4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;

(5) pesticides, herbicides, and fertilizers;

(6) hazardous materials and wastes; sewage, fecal coliform and pathogens;

(7) dissolved and particulate metals;

(8) animal wastes;

(9) rock, sand, salt, soils;

(10) construction wastes and residues; and

(11) and noxious or offensive matter of any kind.

Pressure Vacuum Breaker - A device containing one or two independently operating loaded check valves and an independently operating loaded air inlet valve located on the discharge side of the check valve(s).

Private Sewer - shall mean the building drain and the building sewer, which shall be owned, operated, and maintained by the owner of the property on which the private sewer is located.

Private Storm Drain – shall mean the building storm drain and connection, yard piping and other drainage systems, which shall be owned, operated, and maintained by the owner of the property on which the private storm drain system is located.

Process Wastewater – Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

Properly Shredded Garbage - shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

Public Sewer - shall mean a common sewer controlled by a governmental agency or public entity. The public sewer does not include any portion of any building sewer or building drain and does not extend to the property line.

Public Storm Drain – shall mean a common storm drain controlled by a government agency or public entity. The public storm drain does not include any portion of any building storm drain (or extension up to the property line) or connection or any private storm water drainage system.

Public Water – Water supplied by the City of Woburn Department of Public Works.

Recharge - The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

Reduced Pressure Principle Device - An assembly of two independently operating check valves with an automatically operating differential relief valve between the two check valves, tightly closing shutoff valves on either side of the check valves, and properly located test cocks for the routine testing of the device.

(Sanitary) Sewer - shall mean a conduit that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

Sanitary Survey – an on-site review of the water sources, facilities, equipment, operation and maintenance of a public water system to evaluate the adequacy of those elements for producing and distributing safe drinking water.

Septage - shall mean the wastes from holding tanks such as chemical toilets, campers, or trailers, and wastes from septic tanks and cesspools.

Service – Refer to “service pipe.”

Service Connection – refer to “service pipe.”

Service Pipe – shall mean the water pipe running from the main in the street including a curb stop and curb box at the property line, a shut-off valve, and meter and meter connection usually inside the cellar wall.

Sewage - is the used water of a community. The preferred term is “wastewater”, (see “wastewater”).

Sewer - shall mean a pipe or conduit that carries wastewater.

Shall - is mandatory (see “May”).

Sludge - shall mean solid and semi-solid residuals and concentrated contaminants removed by treatment of wastewater.

Slug - shall mean any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds five (5) times the average twenty-four (24) hour concentration of normal operating flow for more than fifteen (15) minutes and adversely affects the collection system and/or the performance of the wastewater treatment works.

State of Water Supply Conservation - shall mean a State of Water Supply Conservation declared by the City pursuant to Section 13.2.34 of this regulation.

State of Water Supply Emergency - shall mean a State of Water Supply Emergency declared by the DEP under M.G.L. c.21G, s.15-17.

Storm Drain - (sometimes termed “storm sewer” or “building storm drain” or “public storm drain) shall mean a conduit for conveying stormwater, groundwater, subsurface water, or unpolluted water from any source.

Stormwater - Storm water runoff, snow melt runoff, and surface water runoff and drainage.

Superintendent - shall mean the Superintendent of Public Works, who has jurisdiction over, and is the governing authority for, the water, wastewater and drain collection system in the City of Woburn. In the absence of the Superintendent, the Superintendent's designee shall be authorized to perform the Superintendent's duties and responsibilities.

Surface Water Discharge Permit - A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

Suspended Solids - shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.

Toxic or Hazardous Material or Waste - Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Unpolluted Water - is water of quality equal to or better than the treated effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sewers and wastewater treatment facilities provided.

Users - shall include all persons connected to the City of Woburn Sewer System whether resident within the City, or not, and all users of MWRA (see "MWRA").

Wastewater - shall mean the used water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any groundwater, surface water, and stormwater that are not admitted intentionally.

Wastewater Facilities - shall mean the structures, equipment, and processes required to collect, transport, and treat domestic and industrial wastes and dispose of the effluent.

Wastewater Treatment Works - shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with “waste treatment facility” or “wastewater treatment facility” or “water pollution control facility”.

Watercourse - shall mean a natural or artificial (man-made) channel for the passage of water either continuously or intermittently, including a river, brook, stream, or underground stream.

Water-Non-Potable - Water, which is not safe for human consumption or which is of questionable quality.

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.

Water Service Connection - refer to “service pipe.”

Water-Potable - Water from a source, which has been approved by the Massachusetts DEP for human consumption.

Water System - The water system shall be considered as made up of two parts: the utility system and the private system.

The utility system shall consist of the source facilities and the distribution system; it shall include all those components of the water system under the complete control of the Department of Public Works, up to the curb stop where the private system begins.

The source facilities shall include all components of the water system utilized in the production, treatment, storage and delivery of water to the distribution system.

The distribution system shall include the network of conduits used for the delivery of water from the source facility to the customer's system, generally terminating at the curb stop located at the property line.

The private system shall include those parts of the facilities beyond the curb stop through which the public potable water is delivered to points of use.

Water-Used - Any water supplied by the Department of Public Works or any other water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the water purveyor.

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

13.1.2 Administration.

The public services systems functions and services, including maintenance of the public systems shall be performed by the DPW in accordance with the rules and regulations of the City of Woburn; the MWRA; the Massachusetts DEP including, but not limited to, the requirements of 360 CMR 10.000, 310 CMR 22.00 and regulations and amendments thereof.
These regulations are hereby established, and shall together with such other regulations as the Superintendent of Public Works with the approval of the City Council may at any time hereafter establish not inconsistent herewith be considered a part of the contract with every person who uses the water, sewer and storm drain facilities, and shall be considered to express his consent to be bound thereto.

13.1.3 Construction Standards.

Construction of all water, sewer, and storm drainage facilities shall be in accordance with the *City of Woburn Utility Construction Specifications* available at the Engineering office for a fee. Installation of plumbing shall be in accordance with these regulations and Uniform State Plumbing Code, 248 CMR 10.00. All construction shall be in accordance with applicable regulations and codes including, but not limited to, DEP regulations, MWRA regulations and Title V. All persons or businesses who neglect to conform to this section shall be subject to a fine of twenty-five dollars per day until the violation is abated. (Prior Ch.29 sec. 7).

13.1.4 Water/Sewer Application/Connection Fees

| | |
|---|---|
| Residential | $500 per equivalent unit per utility ($500 minimum) |
| Non –Residential | $1,000 per equivalent unit per utility ($1,000 minimum) |
| Re-connect | $250 per equivalent unit per utility ($250 minimum) |

The "Re-connect" fee will only be applicable to a single "single-family" home and will be used in the case where an existing structure, which is connected to the public water/sewer system, is completely re-built or substantially renovated in the opinion of the Superintendent. Residential and Non-Residential fees will apply to all new connections to the public water and sewer systems and to re-built or substantially renovated Non-Residential properties.

The Water/Sewer Application/Connection fee shall be calculated using "Unit Equivalencies" which are based on the sanitary sewer flow rates described in the Massachusetts Title V Regulations, 310 CMR l5.00, and described as follows:

- One (1) unit is equal to three (3) bedrooms is equal to 330 gpd is equal to 4,400 square feet.
- Residential Equivalency units shall be calculated in thirds with a minimum unit equivalency of one (1). For example, a four-bedroom house would pay an application/connection fee of $700 per utility (one and one third (1 1/3) unit equivalencies times $500 rounded up to the nearest $100). All dollar values shall be rounded up to the nearest one hundred dollars.
- Non-Residential (Commercial/Industrial) Equivalency Units shall be calculated as whole units (all decimals shall be rounded up to the nearest whole number) with a minimum application or connection fee of $1,000 per utility. For example, a 40,000 square foot office building would pay a $5,000 application/connection fee per utility (10 unit equivalencies times $500).
- Unit equivalencies for all facilities connected to the City's Water and Wastewater Systems shall be determined using Title V flows and the equivalencies stated above.

(amended 12/26/2007)

13.1.5 Water/Sewer Charges to Constitute Lien upon Real Estate.

Such charges shall constitute a lien upon the real estate and may be recovered in an action of contract in the name of the City. It shall be the duty of the City Collector to collect such charges immediately when they become due, and all such charges remaining unpaid thirty days after they are due, shall be collected forthwith by the City Collector, by sale of real estate serviced thereby in the same manner as unpaid taxes upon real estate. (Prior Ch. 29 sec. 2 and Ch. 23 sec. 21).

13.1.6 Emergency Repair Costs.

The following rates apply to emergency work performed by the City forces on private property. The attached rates are current as of May 27, 2004 and will be adjusted automatically each year on July 1st to reflect changes in Labor and equipment rates. Labor rates are the actual regular and overtime rates paid to City workers and equipment charges are based on current "Blue Book" rates.

| LABOR | STANDARD | OVERTIME |
|---|---|---|
| Supervisor/Foreman | _____ @ $ 23.67/hour | _____ @ $ 35.50/hour |
| Craftsman | _____ @ $ 19.90/hour | _____ @ $ 29.85/hour |
| Equipment Operator | _____ @ $ 19.65/hour | _____ @ $ 29.48/hour |
| Truck Driver | _____ @ $ 17.75/hour | _____ @ $ 26.63/hour |
| Laborer | _____ @ $ 16.29/hour | _____ @ $ 24.44/hour |
| EQUIPMENT | | |
| Loader | _____ @ $ 70.00/hour | |
| Backhoe | _____ @ $ 60.00/hour | |
| DumpTruck | _____ @ $ 50.00/hour | |

(Added 5/21/96; amended 12/3/96; amended 6/17/04)

13.1.7 Protection from Damages.

No person(s) shall maliciously, willfully, wantonly, intentionally, or negligently break, damage, destroy, uncover, deface, or tamper with the structures, mains, or other appurtenances or equipment which is a part of the water and sewage system or wastewater facilities or public storm drain. Any person(s) violating this provision shall be subject to all civil or criminal penalties as provided by Massachusetts General Laws or these regulations.

13.1.8 Powers and Authority of Inspectors.

The Superintendent and other duly authorized employees or agents of the City bearing proper credentials and identification shall be permitted to enter upon, at reasonable times, all private properties connected with public utilities for the purpose of performing their duties under this municipal code and regulations and may make, or cause to be made, such examination, surveys, or sampling as the Department deems reasonably necessary, including inspection, observation, measurement, sampling, and testing pertinent to connections to water system, discharge to the wastewater facilities in accordance with the provisions of these regulations, and the application of the municipal code to the storm drain system.

The Superintendent or other duly authorized employees or agents are authorized to obtain information concerning industrial processes, which have a direct bearing on the kind and source of discharge to the wastewater facilities and withdrawals from water facilities.

While performing the necessary work on private properties the Superintendent or duly authorized employees or agents of the City shall observe all safety rules applicable to the premises established by the companies.

The Superintendent and other duly authorized employees or agents of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the water facilities, the wastewater facilities or storm drain facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

13.1.9 Severability

The provisions of this municipal code are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this municipal code or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidly shall not affect the other provisions or application of this municipal code.

13.1.9 Validity.

The invalidity of any section, clause, sentence, or provisions of these regulations shall not affect the validity of any other part of these regulations, which can be given effect without such invalid part or parts.

13.1.10 Appeals.

The Mayor or his designee shall receive, and decide, appeals for arbitration of differences between the Superintendent and public utility users on matters concerning interpretation and execution of the provisions of these regulations.

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

13.1.11 Assessments.

The superintendent shall determine the method of assessment of the cost of construction of public water mains, sewers and drains to users.

13.1.12 Changes in these Regulations.

These regulations may be rescinded or modified or added to by the Superintendent with approval of the City Council, at any time when, in their opinion, such action is in the best interests of the City of Woburn, provided all provisions of the Massachusetts General Laws, as amended, have been complied with. This shall include publishing a list of proposed changes and holding a public hearing when appropriate.

13.1.13 Pipes, sewer, conduit, poles or other structures on, above, or under streets

(1) No gas pipe, sewer, conduit, street railway tract, pole, or any other structure, except wires, whether belonging to the city or to any individual or corporation, shall be placed upon, beneath or above any street, unless a plan showing the proposed location thereof shall have first been deposited with the city engineer, and such location approved the board of aldermen. Prior to approval as aforesaid a final plan shall be filed with the city engineer and the superintendent of public works, showing the accurate location and manner of construction.

(2) Any person violating the foregoing provision shall be subject to a penalty as provided herein and shall remove such structure if required so to do by the city council

## II. WATER SYSTEM

13.2.1 Billing for Water Service.

The Superintendent of Public Works shall cause to be made out and placed in the hands of the collector for collection on or before the first day of July and the thirty-first day of December of each year and at such other times as there is occasion therefore all bills for water becoming due at such time and also all other bills payable to the City on account of the water works.

Bills shall be rendered monthly to any nonresidential water taker consuming large quantities of water. Said Superintendent shall at the same time cause to be sent to the persons from whom the rates are due a notice stating the amount due and demanding the payment thereof. Said Superintendent shall make abatements in the water rates of all proper cases. Said Superintendent shall cause to be kept suitable records of the names of all persons who take the water, the kind of building, the name and number of the street, the nature of the use, the account charged, and amounts of abatements, which shall be open to the inspection of the City Council. (Prior Ch. 29 sec.1).

13.2.2 Water Charges – Payable

All bills for metered water services shall contain the actual meter readings or an estimated reading. Such water charges shall be payable semi-annually, or monthly for non-residential water takers consuming large quantities of water. A $10.00 late fee will be added and interest shall begin to accrue on any balance which remains unpaid after the 31st day at the statutory rate provided in M.G.L. c.59, §57. A $25.00 lien fee will be added when unpaid charges and interest are liened to the real estate bills. Only one late fee and lien fee will be imposed

when the bill is a combination water/sewer bill. Effective July 1, 2015. (Amended 1/22/2015)

13.2.3 Use of Public Water System Required.

The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located near a public water main of the City, are hereby required at their expense to install water service lines to supply water to the houses, building or properties in accordance with the provisions of these regulations. The owner shall be responsible for maintaining the service line from the curb stop and appurtenances in accordance with these regulations and the State Plumbing Code.

13.2.4 Private Water Supply.

Where a public water main is unavailable under provisions of 13.2.3, the building shall be supplied by a private water supply complying with the requirements of the Board of Health of the City of Woburn acting under the provision 310 CMR 22.00 and/or the DEP.

13.2.5 Right of Entry

Owners and occupants of any commercial, industrial or residential premises served by the City of Woburn water system shall upon presentation by the Department, authorize entry to their premises for the purpose of inspecting and surveying their water system for new installation, cross connections, or to remove, repair, or replace any water meter at any time the Department deems necessary. When such access is refused, the water shall be shut off and shall not be turned on until such access has been allowed and fees have been paid for shutting off and letting on of water. The city shall provide written notice to the owners and occupants of property at least twenty-four (24) hours prior to shutting off service to the property.

13.2.6 Conditions Under Which Service is Furnished.

The Department does not guarantee constant pressure nor uninterrupted service, nor does it assure the consumer either a full volume of water or the required pressure necessary to effectively operate hydraulic elevators, sprinkler systems or other appliances, the same being subject to all the variable conditions that occur in the supply of water for the City’s water system.

13.2.7 No Liability for Interruption of Service.

No consumer shall be entitled to damages or to have payment refunded for any interruption of supply occasioned by accident to any portion of the public water system, by shutting off for the purpose of additions or repairs to the public water system or by the stoppage or shortage of supply due to causes beyond the control of the Department, such as excessive drought, excessive use of and waste of water by other consumers or by leaks or defects in the pipes or appliances owned by him or other consumers.

13.2.8 No Liability for Dirty Water.

The Department shall not be responsible for damages caused by dirty water resulting from the opening or closing of any gate for repairs, the use of any hydrant or the breaking of any pipe.

13.2.9 No Liability for Consumer's Pipes.

The City assumes no liability for conditions which exist in consumer's pipes and cause trouble coincident with or following the repairs of any main, service pipe, meter or other appliances belonging to the Department.

13.2.10 No Liability for Collapsed Boilers, Etc.

The Department reserves the right at any time and without notice to shut off the water in the mains for purposes of making repairs, extensions or for other necessary purposes. Consumers having boilers or other appliances on their premises depending on the pressure in the pipes to keep them supplied with water are hereby CAUTIONED against danger from these sources and are required to provide, at their own expense, suitable safety appliances to protect themselves against such danger. In any event, it is expressly stipulated that the Department will not be liable for any damage, resulting from water having been shut off, either through accident or necessity.

13.2.11 No Liability for Shutting Off Water Without Notice.

When it becomes necessary to shut off the water from any section of the City because of an accident or for the purpose of making changes or repairs, the Department shall endeavor to give timely notice to as many of the consumers affected thereby, as time and the character of the repairs or the accident will permit, and shall, so far as practical, use its best efforts to prevent inconvenience and damage arising from any such cause. However, failure to give such notice shall not render the Department responsible or liable for any damages that may result from the shutting off of the water of any coincident conditions.

13.2.12 Application for Service.

All applications for water service must be made in writing to the Superintendent of Public Works by the owner of the premises to be served and the said applicant shall be responsible for all proper charges for service until said service is discontinued by his written order. The application must state fully and truly all purposes for which water is to be used and shall not be used for any other purpose without the assent of the Superintendent of Public Works. The superintendent shall be the sole judge as to the size of the service to be granted and his decision shall be final.

13.2.13 Service for Fire Protection.

If the service is for fire protection only, the whole cost of installing the service and any additional cost for repairs of service pipe or valve which may be necessary from time to time shall be paid by the water taker, and no such service shall be installed until a deposit has been made in the office of the Superintendent of Public Works sufficient to pay the entire cost of the installation and no abatement or refunding of the cost of the installation shall be made. The City shall not be required to make connections at its expense. There shall be no charge made for water used for extinguishing fires, and no meters need be put on pipes that are used for fire protection only.

13.2.14 Water Meters.

On all water service installations other than those solely for the purpose of fire protection, the pipe shall be equipped with such meters and meter reading devices, as the Superintendent of Public Works shall direct. All meters and meter reading devices shall be purchased by and remain the property of the Department of Public Works. For all residential units in existence as of January 1, 2013, all meters and meter reading devices shall be installed and remain the property of the Department of Public Works at no charge. All meter reading devices shall be purchased by, installed and remain the property of the Department of Public Works at no charge to all commercial units in existence as of January 1, 2013.

For all new construction of residential and commercial units after January 1, 2013, the builder shall make payment with the Department of Public Works for the full cost of furnishing the water meter and meter reading unit. No such service shall be installed until payment has been received by the Department of Public Works. No abatement or refunding of the cost of the installation shall be made. The City shall not be required to make connections at its expense. The minimum meter size for all new connections shall be 1-inch.

Multi-family dwelling with six (6) or more units, including condominiums and townhouses, shall be equipped with such meter and meter reading devices, in the manner as the Superintendent of Public Works shall direct. In addition, a separate water meter and meter reading device shall be installed on all services lines for outdoor water use such as irrigation lines, pool houses, etc. in the manner as the Superintendent shall direct. “Multi-family dwelling units with six (6) or more units, including condominiums and townhouses, shall be billed at the commercial water and sewer rates for outdoor water use. Multi-family dwelling units with five (5) or less units, including condominiums and townhouses, that have a separate service line for outdoor water use, shall be billed at the residential water and sewer rates for such use. Townhouse and condominium associations with more than one building on a lot for dwelling purposes shall be billed at the commercial water and sewer rates for outdoor water use.

(amended 11/27/2013; amended 8/29/2017)

13.2.15 Unauthorized Connections.

No person other than an authorized employee of the Superintendent of Public Works shall tap any main or connect any service pipe therewith, nor shall any plumber or other person turn on or shut off the water from any pipe or hydrant where the stopcock is not located on his own premises.

13.2.16 Alterations to Fixtures.

Any persons making additions or alterations to the water fixtures shall immediately report the same to the Superintendent of Public Works. No plumber or other person shall make any alterations or additions to the water fixtures in any house on the premises without first obtaining a permit in writing from the Superintendent of Public Works. Said permit shall be returned within ten days after the completion of the work endorsed with a statement of all fixtures added or removed and the water will not be turned on until such return is made.

13.2.17 Alterations to Pipes.

No alteration shall be made in any of the pipes or fixtures connected with the service except by the authority of the Superintendent of Public Works or his authorized agent. The agents of said superintendent shall have free access to the premises supplied, to examine all pipes and fixtures, to ascertain the quantity of water used, its manner of use and to determine whether or not there is an improper use or a waste of water. If any fixtures are found not to be in good order or to allow waste of water, the Superintendent shall direct the owner

to make all necessary repairs and if such repairs are not made within three days, he shall shut off the supply and not let it on again until such repairs are made and the sum of two hundred and fifty dollars is paid by the owner for shutting off and letting on of water.

13.2.18 Protection of Pipes, Fixtures, and Meters.

All water takers must keep their water pipes, fixtures and meters protected from frost and from heat at their own expense and shall be liable for any damage to the service, shutoff, or meter resulting from their failure to do so. They shall also provide a safe and convenient location for the meter and be responsible for its safekeeping.

13.2.19 Installation of Meters.

A shut-off valve at the meter inlet shall be the first fitting inside a serviced building and shall be approved by the Department. A stop valve shall be installed near the outlet of the meter to permit removal of the meter without backflow from internal water system. Users must provide an accessible space, per building and plumbing codes, for water meters that are protected from vandalism. Water meters shall not be placed in confined spaces. (amended 11/27/2013)

13.2.20 Small Meter Testing.

Any water meter 2-inches and smaller may be removed and tested for accuracy upon the complaint of the water taker, and after said water taker pays a fee of fifty dollars for such testing. If the meter is not found to be at least ninety-seven percent accurate, it shall be repaired or replaced, and the fifty dollars fee refunded to the water taker.

13.2.21 Large Meter Testing.

Water meters 3-inch and larger shall be calibrated every other year at the sole expense of the property owner. The results of the calibration shall be forwarded to the Department of Public Works on or before February 15$^{th}$ of the calibration year. Properties with even numbered street addresses shall have their water meters calibrated in even numbered years and properties with odd numbered street addresses shall be calibrated in odd numbered years, beginning in 2006.

13.2.22 Stopped Meters.

On services subject to metered water, meters, which have stopped, must be replaced within sixty days. If due to various and unforeseen circumstances this

is not possible, charges for water usage will be estimated on usage for the previous six months.

13.2.23 Owner's Responsibility.

Owners shall be responsible for all water supplied to their premises. When water shall be supplied to more than one owner through a single service, in case of nonpayment or regulation violations by any taker of the service the water may be shut off and shall not be let on again, except on payment of two hundred and fifty dollars and all chargeable rates, notwithstanding one or more takers may have paid their bills. The superintendent may declare any payment made for the water by the person committing a violation to be forfeited and it shall be forfeited.

13.2.24 Transferring Water.

No person supplied with water shall allow another to take water from the fixtures without the written permission of the Superintendent of Public Works or his authorized agent.

13.2.25 Water for Construction.

All persons using water for building or construction purposes are required before taking water from any faucet or fixtures connected with the water supply to obtain a permit in writing from the Superintendent of Public Works or his authorized agent. All water takers are prohibited from allowing any person to take water from their premises until they show such a permit. Any person furnishing water in violation of this section will be subject to a fine of five hundred dollars and if the same when levied is not paid within three days from the time when notice thereof is given, the water shall be shut off from the premises and will not be let on again until such fine is paid, together with the sum of two hundred and fifty dollars for shutting off and letting on the water.

13.2.26 Operation of Fire Hydrants.

No person or persons shall in any case be allowed to open any fire hydrant, except by a written permit from the Superintendent of Public Works. The Superintendent is responsible for the proper operation and mechanical maintenance of all hydrants; however, the chief engineer of the fire department shall in all cases have control of hydrants at fires and at practices. He shall notify the Superintendent when hydrants have been opened and which hydrants are found to be defective.

13.2.27 Water for Power Purposes.

All elevators, motors, or other hydraulic power plants shall be supplied by meter and paid for by meter rates. The Superintendent of Public Works shall have the right to refuse to supply water for power purposes when, in his opinion, the interest of the City demands such action.

13.2.28 Water for Cooling Purposes.

The potable water supply of the City shall not be used for cooling or air-conditioning or like use but can only be used as makeup supply for these systems. (C.23.1973). Any unit requiring water for cooling, refrigerating or air-conditioning purposes shall be equipped with a recirculation system. All persons or businesses who neglect to conform to this regulation shall be subject to a fine of 100 dollars per day until the violation is abated.

13.2.29 Water Waste.

Water takers shall prevent all unnecessary waste of water and shall prevent freezing of water. Any and all persons guilty of water abuse shall be liable for a fine of two hundred and fifty dollars.

13.2.30 Water Meter Tampering.

No person other than an authorized employee of the Superintendent of Public Works shall in any manner disturb or tamper with a water meter or disconnect the same from the service pipe without first obtaining a permit in writing from the Superintendent of Public Works. Any person who does disturb, tamper with or disconnect a water meter shall be liable to a fine of five hundred dollars.

12.2.31Water Shut Offs.

The Superintendent of Public Works may shut off water for the purpose of making alterations or necessary repairs to the mains or services and he shall shut off water from any person who shall disregard the above rules or neglect to pay the water rates when due as hereinbefore provided. The Superintendent and his agents and the City shall not be liable for any damage to such shutting off.

13.2.32 Reserved.

13.2.33 Cross Connection Control.

A. Cross Connection Control Authority. Under Public Law 93-523, the Safe

Drinking Water Act of 1974, and Massachusetts Regulation 310 CMR, Section 22.22: Cross Connections, a water purveyor has the primary responsibility for preventing water from unapproved sources from entering the public water system.

B. Cross Connection Control – General Policy.

1. Purpose

The purpose of this regulation is:

To protect the public potable water supply in the area served by the City of Woburn from the possibility of contamination or pollution by isolating within its customer's internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the public water supply system; and

To promote the elimination or control of existing cross connections between the City's potable water system and non-potable systems, plumbing fixtures or industrial piping; and

To provide a continuing program of cross connection control which will systematically and effectively prevent cross connection contamination through survey, inspection and testing.

2. Responsibility

The Woburn Department of Public Works shall have the authority to oversee and enforce the Cross Connection Control Program.

The Department of Public Works shall be responsible for the protection of the public distribution system from contamination or pollution due to the backflow or back siphonage of contaminants through water service connections. If, in the judgment of the Department of Public Works a backflow prevention device is needed for the safety of the water system, the Department or its designated agent shall give notice in writing to the appropriate Owner to install an approved backflow prevention device at each service connection to his premises and/or on a particular process within the facility.

The Owner shall be responsible for maintaining his water system in a manner which will not cause a hazard to other users of the potable water system by either eliminating cross connections or properly installing a backflow prevention device in conformance with this bylaw. Once directed, the Owner shall install such approved device at his own expense, and failure,

refusal or inability on the part of the Owner to install said device within the allowable time, shall constitute a ground for disconnecting water service to the premises until such device has been property installed. The maximum time allowed for the installation of a required device is outlined in Section C of this bylaw.

All administrative costs associated with the operation of the City of Woburn Cross Connection Control Program will be supported by a fee for submittals on survey results, plan approvals, testing results, and permitting of testable devices. The Woburn City Council reserves the right to set ALL fees require for the implementation and operation of a successful cross connection control program.

All costs associated with the mandated cross connection control survey are the direct responsibility of the Owner of the premises being surveyed and/or the individual(s) leasing or renting such property. In the absence of clearly assigned responsibility the Owner of the premises shall be held responsible.

C. Requirements

1. Survey

The Department of Public Works shall perform a system wide cross connection survey of all industrial, commercial and institutional facilities who receive potable water from the City of Woburn. The Department may also inspect any residential housing units, which the Department deems suitable for survey for possible cross connections. Fee for the facility survey shall be paid by the Owner.

For system wide survey conditions, the Department will send written notice to the Owner stating the specific day and time of the site visit. If the specified time is not acceptable to the Owner, he must immediately call the Department of Public Works to schedule another time within five (5) working days of the first notice. The Owner must be available and ready at the agreed time or a fee may be charged to the Owner for every missed appointment.

The Owner must have a representative available at the specified time to remain with the surveyor throughout the site visit. This representative must be familiar with the layout and operation of the facility as well as being knowledgeable of the internal private water system.

During the survey, authorized representatives of the Department of Public Works will determine whether cross connections or sanitary hazards exist.

When such a condition becomes known, the Department shall send written notice to the Owner within five (5) days of the determination. Such notice will direct the Owner to install an approved backflow prevention device commensurate with the degree of hazard. The Owner will be directed to install the device at the location where it will provide the greatest protection to other potable water users; these users being either at the same facility or throughout the distribution system. All expenses relating to the design, purchase and installation shall be borne by the Owner.

All decisions relating to determination of backflow will be made by the Department of Public Works or its designated representative. Failure to comply with any directive from this office will result in termination of water service.

Once directed, the Owner shall install such approved device at his own expense, and failure, refusal or inability on the part of the Owner to install said device within the following time schedule, shall constitute a ground for disconnecting water service to the premises until such device has been property installed.

For backflow prevention devices up to two (2) inches, the maximum time for approved installation is thirty (30) calendar days.

For backflow prevention devices two (2) inches and larger, the maximum time for approved installation is sixty (60) days or as designated by the Department of Public Works.

In the event that an extension of time is required to plan and install the device, the customer shall file a written request to the Department for an extension of time. The Department will consider the degree of hazard, population served and the reason for delay when deciding whether to grant the extension.

2. Immediate Termination of Water Service

If, during a survey of the premises, a condition is found which could pose a critical health risk, the Department may immediately terminate water service to the facility, until such condition is corrected or the hazard eliminated. The Department may terminate service by shutting off the service at the curb stop or by removing the facility water meter. The service shall remain off until the Owner properly provides backflow protection at the source in conformance with this bylaw and all State and local plumbing regulations.

3. Device Installation

An approved backflow prevention device may be required by the Department of Public Works to be installed by the Owner on each line of his water system wherever the following conditions exist:

a. In the case of premises having an auxiliary water supply which is not or may not be safe bacteriological or chemical quality and which is not acceptable is an addition source by the Department, the public water system shall be protected against backflow from the auxiliary supply by installing a backflow prevention device in the service line appropriate to the degree of hazard.

b. In the case of premises on which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected against backflow from the premises by installing a backflow prevention device in the service line appropriate to the degree of hazard.

c. In the case of premises having (1) internal cross connection that cannot be permanently corrected and controlled, or (2) intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impractical or impossible to ascertain whether or not dangerous cross connections exist, the public water system shall be protected against back flow from the premises by installing backflow prevention device in the service line.

d. Containment Protection. If the Owner is directed to install the backflow preventer for complete facility containment, the device shall be installed on the service line immediately inside the building after the water meter and before the first branch leading off the service.

e. In-Plant Protection. If the backflow prevention is required to control a specific process the approved device shall be installed ahead of the outlet or connection but behind any unrelated branch service that may be tapped off the same service.

f. Aquifer Protection. The Department of Public Works may require an approved backflow prevention device to be installed on private wells from which water is used for non-potable systems including, but not limited to, cooling waters, spray wash and irrigation networks. These devices shall be installed to prevent backflow of the used water to the underground

aquifer. Such device, if required, will be in addition to any single check valve which may be in line on the well pump.

4. Device Requirements

All commercial, industrial and institutional customers using water from the City of Woburn, Department of Public Works, must have installed at the point of connection (i.e. immediately downstream of the water meter) a State approved reduced pressure backflow device or State approved double check valve assembly.

The type of protection device required under this section shall depend upon the degree of hazard, which exists as follows:

In the case of any premises where there is an auxiliary water supply; or where there is any material dangerous to health which is handled in a fashion as to create an actual or potential hazard to the public water system; or where there are "uncontrolled" cross connections, either actual or potential, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention device at the service connection.

In the case of any premises where there is water or substance that would be objectionable but not hazardous to health if introduced into the public water system, the public water system shall be protected by an approved double check valve assembly at the service connection.

In the case of any premises where, because of security requirements or other prohibitions or restrictions it is impossible or impractical to make a complete in-plant cross connection survey, the public water system shall be protected against backflow or back siphonage from the premises by the installation of a backflow prevention device in the service line. In this case, maximum protection will be required; that is, an approved air-gap separation or an approved reduced pressure principle backflow prevention device shall be installed in each service to the premises.

Any back-flow prevention device required herein shall be a model and size approved by the Department of Public Works. The term "approved back-flow prevention device" shall mean a device that is on the Commonwealth of Massachusetts' Department of Environmental Protection "approved list of backflow preventers and double check valves". Said approval list has been adopted by the City of Woburn. Final approval rests with the Department of Public Works.

Service of water to any premises shall be discontinued by the Department if backflow prevention device required by this bylaw is not installed, tested and maintained, or if it is found that a backflow device has been removed, by-passed, or if an unprotected cross connection exists on the premises.

Service will not be restored until such conditions or defects are corrected.

D. Testing

It shall be the duty of the Owner of any premises where backflow prevention devices are installed to have certified inspections and operational tests made at least once per year as required under Massachusetts Department of Environmental Protection Regulations. The Department of Public Works will conduct testing on these devices twice per calendar year as required or modified by Massachusetts Department of Environmental Protection Regulations.

It shall be the duty of the Department to schedule the semi-annual tests, and the responsibility of the Owner to obtain a private certified tester to schedule his annual test. The Department of Public Works may have these tests performed by their designated representative.

In those instances where the Department deems the hazard to be of considerable concern, it may require certified inspections and tests at more frequent intervals. All inspections and tests shall be at the expense of the Owner.

The Department of Public Works shall notify the Owner in advance when the tests are to be undertaken so that he or his representative may witness the test if so desired. These devices shall be repaired, overhauled or replaced by a licensed plumber at the expense of the Owner whenever said devices are found to be defective. Re-testing of repaired devices must be made within two weeks of the initial test as required by State Regulations. Records of such tests shall be kept by the Department of Public Works who will send proper notification to the Department of Environmental Protection.

All presently installed backflow prevention devices which do not meet the requirements of this section but where approved devices for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements, be excluded from the requirements of these rules so long as the Department of Public Works gives its approval in writing and is assured that the devices will satisfactorily protect the public water system.

Whenever the existing device is moved from the present location or requires more than minimum maintenance or the Department finds that the maintenance constitutes hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this bylaw.

Repair kits for all devices are required to be on hand and in the proximity of the device, in the event that maintenance is required.

All testing performed on backflow devices by the City of Woburn Department of Public Works, or its agents, will be charged to the Owner of the backflow device.

No backflow device may be removed without the written consent of the Department of Public Works.

All plumbing modifications must be approved by the Woburn Plumbing Inspector and follow the rules and regulations of the Massachusetts Plumbing Code. (Added 9/7/93)

13.2.34 Water Use Restrictions.

Water Use Restriction Authority.

This section is adopted by the City under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and its powers under M.G.L. c.40, s.21 et seq. and implements the City's authority to regulate water use pursuant to M.G.L. c. 41, s.69B. This regulation also implements the City's authority under M.G.L. c. 40, s.41A, conditioned upon a declaration of water supply emergency issued by the Massachusetts DEP.

Purpose.

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

Declaration of State of Water Supply Conservation.

The City, through the Department of Public Works, may declare a State of Water Supply Conservation upon a determination by a majority vote of the City Council that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers.

Public notice of a State of Water Supply Conservation shall be given under Section 13.2.34 E of this regulation before it may be enforced.

Restricted Water Uses.

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 13.2.34 E.

Odd/Even Day Outdoor Water Use – Outdoor water use by water users with odd numbered addresses is restricted to odd numbered days. Outdoor water use by water users with even numbered addresses is restricted to even numbered days.

Outdoor Watering Method Restriction – Outdoor watering is restricted to bucket, can or hand held hose watering with automatic shutoff nozzle.

Outdoor Watering Hours – Outdoor water use is permitted only during daily periods of low demand, at night or early morning, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.

Automatic Lawn Irrigation Systems – The use and operation of automatic lawn irrigation systems is prohibited.

Filling Swimming Pools – Filling of swimming pools is prohibited.

Outdoor Water Use Ban – Outdoor water use is prohibited.

E. Public Notification of State of Water Supply Conservation and State of Water Supply Emergency; Notification of DEP.

Notification of any provision, restriction, requirement or condition imposed by the City as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the City, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Notification of a State of Water Supply Emergency declared by the DEP shall be provided by furnishing a copy of the Notice to radio and television stations serving the area served by the public water system as soon as possible, but no later than 48 hours after the public water system receives notice of the DEP's declaration. Any restriction imposed under Section 13.2.34 D or in the DEP declaration of emergency or Order shall not be effective

until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the DEP at the same time that notification is given.

F. Termination of State of Water Supply Conservation: Notice.

A State of Water Supply Conservation may be terminated by a majority vote of the City Council, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 13.2.34 E.

G. State of Water Supply Emergency; Compliance with DEP Orders.

Upon notification to the public that the DEP has issued a State of Water Supply Emergency, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the DEP intended to bring about an end to the State of Emergency. The notice prescribed by this section shall be in writing and shall be published once in a newspaper of general circulation within the City. The notice shall summarize the provisions of the Declaration of Water Supply Emergency and the requirements and conditions thereof. Notice as prescribed by this section shall be sufficient for enforcement of the requirements of such a Declaration on and after the date following the newspaper publication.

H. Violations and Penalties.

Any person violating this section shall be liable to the City in the amount of two hundred and fifty dollars for the first violation and five hundred dollars for each subsequent violation which shall inure to the City for such uses as the Department of Public Works may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of chapter 40 of the general laws. For purpose of non-criminal disposition, the enforcing person(s) shall be any police officer of the City of Woburn. Each day of violation shall constitute a separate offense.

I. Exemptions.

The water use restrictions under this regulation shall not apply to the specific uses outlined below provided that the user meets any applicable eligibility criteria. The Department of Public Works may grant exemptions for the following uses:

1. Water to sustain animal life;

2. Swimming pools used as primary means of exercise, therapy or rehabilitation located at a medical or rehabilitation facility;
3. Commercial car or vehicle washing facilities

13.2.35 Rates for Various Types of Services.

A. Residential Units.

1. All residential units, metered and non-metered, shall be billed at a base rate charge of $102.50 dollars semiannually. Multi-residential units shall be billed by the number of units times the flat rate, semiannually. (Amended 6/16/92; 8/20/96; 5/22/2001; 10/29/2001; 12/15/2004; 6/27/2005; 6/14/2006; 1/22/2007; 8/24/2007; 10/9/2008; 7/8/2010)

2. For the purpose of this section, "residential units" means Single Family Dwelling, Two Family Dwelling or Multi-Family Dwelling, where one or more persons reside. Multifamily units consist of 3 or more residential units in one building. (amended 11/27/2013)

3. Any increase in the rates in Subsection 1 herein shall require a majority vote of the City Council for approval. (added 6/14/2006; amended 1/22/2007)

B. Mixed Use Buildings

1. Qualifying Mixed Use Buildings with one residential unit shall be billed for their Residential water use at the base rate set forth in the preceding Section A(1) semi-annually provided that the water supplied to the individual residential unit or units is segregated and metered separately and so long as the requirements of 13.2.35, Section B(7) are satisfied. Qualifying Mixed Use Buildings with multi-residential units shall be billed for their Residential water use by the number of units times the flat rate, semiannually provided that the water supplied to the individual residential unit or units is segregated and metered separately and so long as the requirements of 13.2.35, Section B(7) are satisfied.

2. All other water services provide to a Mixed-Use Building, other than those that qualify for the base rate as set forth in the preceding Section B(1), shall be charged a base rate of $4.60 for every one hundred cubic feet of water used. Separate meters will be required where water is supplied to a building with both a residential unit/units and a commercial unit.

3. For the purpose of this section, "Mixed Use Building" means a use that includes a residential use and a commercial use within the same building.

4. For all newly constructed Mixed Use Buildings separate meters will be required where water is supplied to both a residential unit/units and a commercial unit(s).

5. The owner of any existing Mixed Use Building or newly constructed Mixed Use Building may request that the City bill separately for Commercial and Residential water uses provided that the Mixed Use Building complies with all other requirements set forth in Section 13.2.35 including the specific requirements of 13.2.35, Section B(7). Said request shall be made to the Department of Public Works.

6. Upon request by the owner of either an existing Mixed Use Building or newly constructed Mixed Use Building to be billed separately for Commercial and Residential water uses, the Superintendent of the Department of Public Works shall review and respond to such request within 60 days and, if granted, shall be effective as of the date of approval. No such request shall be granted unless the Department of Public Works:

   a. Determines that the water being supplied to the residential unit(s) and the commercial unit(s) are separately metered;
   b. Receives confirmation from Inspectional Services that there is a residential component to the mixed use building, confirmation of the number of residential units, confirmation that there are no known or visible violations of the then current Woburn Zoning Code, Woburn Municipal Code and Massachusetts State Building Code. Inspectional Services shall be granted access to the premises to conduct the inspection within 30 days of the initial request. If Inspectional Services are denied access to inspect the premises then the request for separate billing rates shall be denied;
   c. Receives confirmation from the Treasurer's office that the owner is not in default of any real estate tax bill; and
   d. Determines that all outstanding water and sewer bills relative to the premises are paid in full.

7. Any Appeal of the Superintendent's disposition of a request to be billed separately for Commercial and Residential water uses shall be as set forth in Section 13.1.0.

C. Metered Services.

1. All water services, other than those defined above as residential or mixed use, shall be charged a base rate of $4.60 for every one hundred cubic feet of water used. Separate meters shall be required where water is supplied to both a residential unit/units and a commercial unit. Where water is supplied to both a residential unit and a commercial unit through a single service, the rate charged shall be determined by the principal use of said water. The principal use shall be

determined by the Superintendent of Public Works. Water for building purposes shall be supplied by meter, and be charged at the current commercial rate for the total amount of water used. (Amended 08/15/90; 6/16/92, 8/20/96; 5/22/2001; 10/29/2001; 12/15/2004; 6/27/2005; 6/14/2006; 8/24/2007; 10/9/2008; 7/8/2010; 11/27/2013).

2. Meters and reading devices shall be the property of the Department of Public Works. The Department of Public Works shall furnish and install a water meter and meter reading unit at no charge for all residential and units in existence as of January 1, 2013 and meter reading unit at no charge for all commercial units in existence as of January 1, 2013.

3. For all new construction of residential and commercial units after January 1, 2013, the builder shall make payment with the Department of Public Works for the full cost of furnishing the water meter and meter reading unit. The builder shall be responsible for installing the water and meter reading unit in accordance with Massachusetts Plumbing Code and the requirements of the department of Public Works.

4. All meter payments shall be placed into a revolving account within the Water and Sewer Enterprise account to be used for water meter and meter reading device replacement. (*numbered as adopted*)

4. Builders who are not owners of premises where water is supplied may be given service if upon application they make a cash deposit to pay all costs of installation and to guarantee the safety of the meter.

5. The minimum charge for shutting off and turning on water shall be twenty five dollars during normal operating hours of the DPW. This fee is increased to two hundred dollars if requested during non-business hours.

6. No charge for water shall be made to city-owned buildings.

7. All active services not in regular use shall be known as "standby" services and shall be charged at the rate of thirteen dollars semiannually for each such service.

8. On services subject to metered water there shall be a minimum charge of $113.21 paid semi-annually July 1st and December 31st. (Amended 08/15/90; 6/16/92; 8/20/96; 5/22/2001; 10/29/2001; 12/15/2004; 8/24/2007; 10/9/2008; 7/8/2010)

9. The above rates schedule must be reviewed one year from the day of passage,

and every five years thereafter. (Ord. dated 05/18/88; Ord. of 4/18/86; 4/5/85; prior code Ch. 29 4; ord. 07/01/91).

(amended 11/27/2013)

D. Abatements and Exemptions

1. Request for abatements and exemptions must be filed with the Superintendent of Public Works within thirty (30) days of billing date recorded on water and sewer bill. (Ord. dated 05/04/89).

2. An application for abatement will not be considered unless all prior bills on the account are paid and a payment is made on the bill in dispute in an amount equal to the bill issued for the same period in the prior year

3. Out-of-City customers connected to the water distribution system shall be billed the applicable water rate of the city they reside in, plus a 25% service fee. (Ord. dated 05/04/89; 08/15/90; 07/01/91).

4. Business involved in farming or in horticulture activity shall be entitled to ten percent (10%) of annual water bill charges. (Eff. July 1, 1986. Ord. Dated 04/10/87).

5. Any Appeal of the Superintendent's disposition of a request for an abatement or exemption shall be as set forth in Section 13.1.0.

6. Elderly and Widows /Widowers who are entitled to an exemption under Property Tax Statutory Exemption, M.G.L. c. 59, Sec. 5 Cl. 17C and Cl. 41, shall be entitled to a 20% reduction in water charges for the unit/dwelling occupied by the eligible person. Proof of entitlement shall be presented with the water bill. (Ord. dated 05/18/88).

(amended 7/3/2012)

13.2.36 <u>Water Inspection Fees.</u>

A one time water inspection fee shall be assessed to new subdivisions, multi-family complexes and commercial facilities where water mains of 8-inches or larger are installed. Water inspection fees shall be as follows:

For each foot of new water main installed, a fee of $0.05 per inch diameter per foot shall be paid. For example, the fee for 1,000 feet of 8-inch main would be: 1,000 feet x 8 inches x $0.05 = $400.00

Water inspection fees shall not be charged for water mains installed in conjunction with mitigation required under Section 18 of the Zoning By Law.

13.2.37 Water Supplied through Emergency Connections.

All water supplied to another community or municipality through an existing emergency connection shall be sold by meter, located at the connection and shall be charged at a rate equal to the current MWRA municipal rate plus a 20% surcharge.

13.2.38 Hydrants – Semi-annual Inspection and Flushing.

The water department shall conduct a semiannual (spring and fall) inspection and flushing of all fire hydrants in the City, to insure maximum protection of all residents.

If the fire hydrant is found to be inoperable, its locus shall be recorded, and copies of records of locations of inoperable hydrants and dates of renovation of same shall be sent to the head of the department of water, chief of the fire department, and City Council at the last regular meetings of the City Council in May and October. (Prior Ch. 29 sec. 5).

13.2.39 Reserved. (Prior Ch. 29 sec. 6; deleted 1/22/2007).

**III. SEWER SYSTEM**

13.3.1 Billing for Sewer Service.

The Superintendent of Public Works shall cause to be made out and placed in the hands of the City Collector, bills for such charges in each year, and at the same time shall cause to be sent to the persons from whom such sewer charges are due a notice stating the amount due and demand for payment thereof. The Superintendent of Public Works shall also cause to be kept in suitable books the names of all persons from whom such sewer charges are payable, the name and number of the street, the amount charged, and the amount of discount allowed, and said books shall be open to the Mayor and City Council. (Prior ch. 23 sec. 19)

13.3.2 Sewer Charges – Payable.

Such sewer charges shall be payable semi-annually on August 1 and February 1. A $10.00 late fee will be added and interest shall begin to accrue on any balance which remains unpaid after the 31st day at the statutory rate provided in M.G.L. c.59, §57. A $25.00 lien fee will be added when unpaid charges and

interest are liened to the real estate bills. Only one late fee and lien fee will be imposed when the bill is a combination water/sewer bill. Effective July 1, 2015. (Prior ch. 23 sec. 20; amended 4/05/85; amended 1/22/2015)

13.3.3 Use of Public Sewers Required.

It shall be unlawful to discharge any polluted water without the applicable state and federal discharge permits.

Except as hereinafter provided, it shall be unlawful for property owners to construct or repair any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater where a public sewer is within five hundred (500) feet of the property line and where permission to enter such sewer can be obtained from the authority having jurisdiction over it.

The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sewer of the City, are hereby required at their expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of these regulations within ninety (90) days after date of receipt of official notice from the Board of Health of the City of Woburn acting under the provisions of Title 5 of the "State Environmental Code for the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage" or regulations relative thereto, provided that the public sewer is within five hundred (500) feet of the property line. Said connections shall be made without exception, unless for reasons as determined by the City of Woburn Board of Health.

13.3.4 Private Sewage Disposal.

Where a public sewer is not available under the provisions of 13.3.1, the building sewer shall be connected to a private wastewater disposal system complying with the requirements of the Board of Health of the City of Woburn acting under the provisions of Title 5 of the "State Environmental Code for the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage" or regulations relative thereto, and/or the DEP.

13.3.5 Building Sewers and Installation.

No person(s) shall uncover (excavate), connect or cause to be connected to, or make any opening into, use, alter, or disturb any building sewer, public sewer, or appurtenances thereof except by written permit from the Superintendent of

Public Works. The permit shall be obtained in accordance with the current regulations. Any person proposing a new discharge into the public sewer or a substantial change in the volume or character of pollutants that are being discharged into the public sewer shall submit plans and calculations for the connection, stamped by a Massachusetts Registered Professional Engineer in compliance with 250 CMR 4.00, in accordance with these regulations. A permit must also be obtained for any repair work to existing building sewers.

There shall be two (2) classes of building sewer connection permits: (a) for residential service and (b) for non-residential service. In either case, the owner(s) or his agent shall complete a permit application in writing to the Superintendent. The permit application shall be supplemented by plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit application/connection fee, which shall include the routine costs associated with the inspection of the building sewer installation by the Superintendent or his representative, shall be paid to the City at the time the application is filed. A separate “I/I” fee is also required in accordance with Section 13.3.10. Permit application fees shall be established from time to time by the Superintendent with City Council approval. Applications for building sewer installation or repair permits, signed by the owner(s) of the premises to be benefited, or by his/their agent, must be made at the office of the Department of Public Works.

Permits are not transferable and are valid for ninety (90) days from the date of issue. If no work commences within said ninety day period, a new permit must be obtained as described above.

The Mayor, in conjunction with the Superintendent of Public Works, shall establish, amend and promulgate local limits and regulations consistent with MWRA regulations and guidelines for the City’s sewer connections to the Authority Sewerage System.

The Mayor, in conjunction with the Superintendent of Public Works, shall establish by regulation limits and conditions on the issuance of sewer connection permits including but not limited to:

Limits on rate, time and characteristics of discharge or requirements for flow regulation and equalization.

Installation of inspection, flow measurement and sampling facilities, including access to such facilities.

Specifications for monitoring programs which may include flow measurement,

sampling, chemical and biological testing, recording of data and a reporting schedule.

Other conditions as deemed appropriate by the City to ensure compliance with these regulations and with applicable requirements of federal or state law.

All new sewer connection permits shall be subject to a permit and fees as described in Section 13.1.4.

The Superintendent may require an evaluation of a proposed sewer connection, performed by a Massachusetts Registered Professional Engineer, to assess the impact the additional flow would have on the public sewer. The cost of said evaluation shall be borne by the applicant. A permit application may be denied if the additional flow is determined to have an adverse effect on the public sewer.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can in any way be constructed to the rear building. In this case, the front building sewer may be extended to the rear building and the whole considered as one building sewer. No such connection shall be made without authorization from the Superintendent. Any connection made without such a permit shall be discontinued and any sewer use fees paid shall be forfeited. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

Under no circumstances will one building sewer be allowed to connect and serve more than one house or dwelling unit under separate ownership except in the case of condominiums.

Existing (old) building sewers shall not be used in connection with new building sewer construction, except by written permission of the Superintendent. New building sewers shall include a watertight connection to the public sewer.

Building sewers shall be of such size and material as the Department shall determine on each application. The building sewer shall be furnished and installed by a competent contractor who has been approved by the Superintendent. The connection of the building sewer to the public sewer shall conform to the requirements of these Regulations: *The City of Woburn Utility Construction Specifications* and the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures as set forth in appropriate specifications of the American Society of Testing Materials (ASTM),

the Water Pollution Control Federation (WPCF) Manual of Practice No. 7 “Operation and Maintenance of Wastewater Collection Systems,” WPCF Manual of Practice No. FD-5, the American Society of Civil Engineers (ASCE) Manuals and Reports in Engineering Practice No. 60 “Gravity Sanitary Sewer Design and Construction”, and WPCF Manual of Practice No. FD-4 “Design of Wastewater and Stormwater Pumping Stations” shall apply. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation. Non-approved material will be required to be removed and replaced at the expense of the applicant.

Whenever possible, the building sewer shall be installed to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, the wastewater carried by such building drain shall be pumped by an approved means and discharged to the building sewer or public sewer. Shop drawings of proposed pumping equipment must be submitted for approval by the Superintendent.

A manhole must be installed at any change in the line or grade of a building sewer. The manhole shall conform with Department construction standards.

If the City is required to perform emergency maintenance or repair work on private property, said work shall be paid for by the property owner on a time and materials basis and be subject to the city’s direct labor burden and equipment overhead costs which are described in Section 13.1.6.

The applicant for the building sewer permit shall notify the Superintendent when the sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent, and no backfilling shall be permitted until all appropriate inspections are made. If the appropriate inspections are not completed, the superintendent may require an internal television inspection of the service connection. Any defects in the service shall be repaired prior to receiving a permit. The repairs may require re-excavation of the building sewer.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Any person, who during the installation of a sewer connection, shall excavate or otherwise disturb the roadway and/or sidewalk shall obtain a street opening permit from the Department prior to the commencement of the work. A performance bond of $5,000 or the cost of restoring said roadway and/or sidewalk to its prior condition, which ever is greater, shall be required before a permit is granted. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored to its original condition in a manner satisfactory to

the Superintendent. The bond amount shall be determined by the Superintendent.

The DPW reserves the right to shut off the public sewer for the purpose of making alterations or repairs.

No person(s) shall make connection of roof downspouts, foundation drains, sump pumps, area drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn, is connected directly or indirectly to the public sewer. Any persons found discharging said sources shall be subject to penalties as set forth in Section 13.3.8 of these Regulations. The removal and rerouting of any of these types of sources shall be completed in accordance with the Department of Public Works' "Private Inflow Removal Program".

Building Sewers shall be internally inspected at the time of transfer of title in accordance with Department of Public Works Policy and under the direction of the Superintendent. Inspection shall be performed to ensure the building sewer is in compliance with City Ordinance and that illegal connections to the sewer system do not exist. Any defects in the building sewer shall be repaired at the owner's sole expense. Any repairs made to building sewers shall be done in accordance with Section 13.3.5.

Internal inspection of privately owned sewer system infrastructure connected to the municipal collection system shall be performed in accordance with Department of Public Works Policy once every five (5) years. Private systems require inspection if they meet any of the following conditions.

- the connection to the public sewer system is eight inches or larger
- any manholes or similar structures are associated with the system
- the connection to the public sewer system is not made by gravity

If the system is found to be in violation of this Ordinance it shall be repaired at the owner's sole expense. The Superintendent shall inspect and approve all repair methods and repairs in accordance with Department of Public Works policy.

The Superintendent or his representative reserves the right to inspect any property to confirm that there are none of the aforementioned unauthorized connections to the public sewer.

Any person(s) found discharging non-contact cooling waters to the public sewer shall be subject to penalties as set forth in Section 13.3.8 of these Regulations.

Mainline sewer extensions shall be authorized by City Council Vote or by Subdivision approval of the Planning Board and shall be installed in accordance with current Department of Public Works construction standards.

13.3.6 Sewer Line Construction and Maintenance.

The cost of the construction hereafter of any sewer or extension of any existing mainline sewer or the doing of any other work in connection therewith, except building sewers, shall be assessed upon the estates especially benefited thereby, and such cost shall be the average cost, to be determined by the Superintendent in each year, of such construction and other work in connection therewith in a period of three years preceding the year in which such average cost is to be determined.

The full cost of construction of the building sewer connection from the public sewer to the dwelling unit or estate benefited, shall be paid for directly by the persons or owners of the estates benefited.

The maintenance and cleaning of a building sewer shall be the responsibility of the owner of the dwelling unit or estate benefited by such building sewer

13.3.7 Use of the Public Sewers.

No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, groundwater, roof or surface runoff, tidewater, subsurface drainage, uncontaminated cooling water, unpolluted industrial process waters, non-contact cooling water, or non-contact industrial process waters to any public sanitary sewer. In general, only sanitary sewage shall be discharged to the common sewer.

No person shall discharge or cause to be discharged substances, materials, waters, or wastes if it appears likely, in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance.
Unless otherwise stated herein the provisions of 360 CMR 10 and any supplementary revisions shall govern all discharges to the sanitary sewer system.

Oil water separators must be cleaned prior to annual renewal of a Class 1 permit. Documentation must be provided to the Superintendent of Public Works prior to renewal.

A grease interceptor shall be installed in the waste line leading from sinks,

drains or other fixtures in the following establishments: Restaurant, cafeteria, hotel, hospital, institutional, factory, club, and other commercial kitchens; food and meat packing and processing establishments; supermarkets, bakeries, and other establishments where grease can be introduced into the sewer system in quantities that can cause line stoppage or hinder sewage disposal, or when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable oil in excessive amounts.

Grease interceptors shall be installed in accordance with the Massachusetts State Plumbing Regulations unless otherwise stated herein.

Such interceptors shall not be required for private living quarters or dwelling units.

All interceptors shall be installed on the exterior of the building and shall be located as to be readily and easily accessible for cleaning and inspection. Grease interceptors shall not be installed unless tested, rated and bear the seal of acceptance of State Plumbing Board or approved by the Superintendent.

Installed grease interceptors shall have a minimum capacity of 1,500 gallons and have a grease retention capacity of not less than two (2) pounds for each gallon per minute of flow. Flow rates from the State Environmental Code, Title V, 310 CMR 15, shall be used to determine the size of a grease trap. Other alternative and innovative approved methods of grease removal and disposal may be used if approved by the Health Department, Plumbing Inspector, and Department of Public Works. All newly constructed facilities must install industrial type grease traps.

A manhole shall be installed on the discharge line of the grease trap for sampling of the grease trap effluent. Sampling shall be performed to ensure compliance with the regulations.

Grease interceptors shall be equipped with devices to control the rate of water flow through the interceptors so that the flow rate does not exceed the rated design flow of the interceptors.

The waste from food and waste grinders shall not discharge to the sewer system through a grease interceptor.

The use of water-cooled grease interceptors is prohibited.

In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal, by appropriate means, of the captured material and shall maintain records of the dates, and means of disposal. These

records shall be submitted to the Superintendent annually. Licensed waste disposal firms must perform any removal and handling of the collected materials.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in these regulations shall be determined in accordance with the latest edition of “Standard Methods for the Examination of Water and Wastewater”, published by the American Public Health Association, and shall be determined at the control structure provided, or upon suitable samples taken at said control structure. In the event that no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property.

All industries discharging into a public sewer shall perform such monitoring of their discharges as the Superintendent and/or other duly authorized employees of the City may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent. Such records shall be made available, upon request by the Superintendent, to other agencies having jurisdiction over discharges to the receiving waters.

13.3.8 Penalties.

Whenever, on the basis of information available to it, the City determines any person to be violating any provision of this ordinance, the City may take any or all of the following actions:

Issue an order to cease and desist any such violation;

Issue an implementation schedule ordering specific actions to be taken together with time and schedule requirements;

Bring a civil or criminal action as provided by law;

Take any action available to it under federal, state, or local laws or regulations.

Any person violating any of the provisions of this ordinance shall be subject to a fine of $50.00 for the first violation, $100.00 for the second violation, and $300.00 for the third and subsequent violations. Fines shall be included with water and sewer bills and, if not paid, will result in a lien on the property in accordance with Section 13.1.5. Violations may result in the revocation of City

licenses. This provision may be enforced through non-criminal disposition. Each day a violation shall be deemed a separate offense.

In addition, and not in lieu of a fine, any person violating any of the provisions of this ordinance shall be subject to a civil penalty up to $5,000.00 for each violation, as provided by G.L. c.83, §10. Each day a violation shall continue shall be deemed a separate offense.

Any person violating the provisions of these regulations shall become liable to the City for any expense, loss, or damage incurred by the City by reason of such violation, including but not limited to any fines, charges, or assessments made or imposed on the City by any federal, state, or local agency.

All penalties, fines, or fees related to Article III, Sewer System, of Title 13 shall be collected as described in Section 13.1.5, Water/Sewer Charges to Constitute Lien Upon Real Estate.

A system of sewer use charges, together with suitable procedures for monitoring and enforcing compliance with the sewer use ordinance, shall be set after a public hearing.

Users resident in the City of Woburn, and non-resident users metered to the Department shall be assessed user charges in accordance with water usage as measured by the Department.

Users not metered by the City of Woburn shall be assessed user fees as measured by water usage provided by the public water system which provides their service, if applicable, or if not connected to any public water system, then such measurement shall be made by estimation of the average of five comparable users.

All City Departments and all county, state, federal, and municipal buildings shall be responsible for payment of users fees assessed in accordance with water usage.

Users of City property, including tenants and lessees, shall be responsible for payment of users fees assessed in accordance with water usage.

13.3.9 Rates for Use of Common Sewer.

A. Every person or owner of an estate who has entered or who may hereafter enter his particular sewer into a common sewer shall pay for the use of such sewer as follows:

1. For Domestic Use: base rate of $164.00 for billing cycle. (Ords. 04/05/85; 05/18/88; 05/04/89; 08/15/90; 07/01/91; 6/16/92; 8/20/96; 12/15/2004; 6/27/2005; 6/14/2006; 8/24/2007; 10/9/2008)

2. For Manufacturing Use: The base rates shall be 304% of the Annual Water Bill Charges or ten (10%) percent above the annual MWRA charge for the sewer discharge whichever is highest. (Ords. 04/05/85; 05/18/88; 05/04/89; 08/15/90; 07/01/91; 06/16/92; 6/14/2006)

3. For Small Business Use: The base rates shall be 304% of the Annual Water Bill Charges. (Ords. 04/05/85; 05/18/88; 08/15/90; 07/01/91; 06/16/92; 6/14/2006)

4. For Mixed Use Buildings: The base rates shall be $164.00 per billing cycle for each Domestic Use and 304% of the Annual Water Bill Charges for each separately metered Commercial or Manufacturing Use. Mixed Use Buildings with multi-residential units shall be billed by the number of units times the flat rate, semiannually.

   a. For the purpose of this section, "Mixed Use Building" means a use that includes a residential use and a commercial use within the same building.

5. Properties not connected to the Common Sewer where sewer service is available on street, shall be assessed a semi-annual fee of $5.00 per unit dwelling. (Prior ch. 23 sec. 18). (Amended 9/4/92)

6. Senior citizens connected to the Common Sewer who are entitled to an exemption under Property Tax Statutory Exemption, Chapter 59 Sec. 5 Cl. 17C and Chapter 59 Sec. 41 will be entitled to a 66% reduction in sewer charges for the unit dwelling occupied by the eligible person. Proof of entitlement shall be presented with the sewer bill. (Ords. Dated 05/18/88, 05/05/89).

7. Any change in the base rates specified herein shall require a majority vote of the City Council for approval. (added 6/14/2006, amended 1/22/2007)

B. The quantity of sewerage delivered to a public sewer from a building sewer shall be determined by water meter readings of the appropriate public water system, and said readings are to be taken and recorded under the direction of the Superintendent of Public Works.

C. Request for abatements and exemptions must be filed, in writing, with the Superintendent of Public Works within thirty (30) days of the billing date recorded on the water and sewer bill except those who have paid sewer charges without being connected to City sewer system. In the latter situation, none of these abatements shall exceed six (6) years. (Ord. Dated 05/04/89 – 3/15/94).

D. Any Appeal of the Superintendent's disposition of a request for an abatement or exemption shall be as set forth in Section 13.1.0.

E. Out-of-city customers connected to the Woburn Sewer System shall be billed the applicable sewer rate plus 25% sewer charge fee. (Ord. Dated 05/04/89).

F. The rate schedule may be amended from time to time after a public hearing, held in accordance with applicable law.

(amended 7/3/2012)

13.3.9 I/I Mitigation Fee.

All new connections to the municipal sanitary system shall be charged a one-time I/I fee in accordance with the following fee schedule:

| Use | Required Fee |
|---|---|
| Residential | $1,000.00/unit equivalency |
| Non-residential | Applicant must remove 10 gallons of I/I from the sewer system for each 1 gallon of wastewater flow requested in the permit (Title 5 (310 CMR 15) shall be used to determine flow rates) |

If there are not sources of I/I, which in the opinion of the Superintendent, are appropriate for removal at the time of the permit, a monetary fee may be required. The fee shall be calculated based on Title 5 flows, a 10 to 1 removal factor, and a cost of $0.70 per gallon of flow per day. For example, a 10,000 square foot office building has an associated Title 5 flow of 750 gpd, therefore the fee for this connection is $5,250 (750gpd x 10 x $0.70). A combination of I/I removal and monetary fees may also be requested by the Superintendent.

Unit equivalencies shall be determined as described in Section 13.1.4.

Any I/I removed from the sewer system as part of the I/I Mitigation Fee shall be

the property of the City of Woburn and may not be applied to future removal requirements without the written authorization of the Superintendent.

The Mayor or his designee will have the authority to waive such fee for any existing residence. (Added 5/21/96; amended 12/3/96)

## IV. STORMWATER, ILLICIT DISCHARGE/CONNECTION AND CONSTRUCTION SITE MANAGEMENT

13.4.1 Purpose

A. The purpose of this Ordinance is to protect the surface water bodies, wetlands, natural resources, and public and private property within the City of Woburn from the negative impacts caused by polluted and unmanaged stormwater runoff and activities related to development, construction and land surface alteration and work not otherwise subject to regulation by the Planning Board and/or the Conservation Commission. In response to the mandates set forth under the amendments to the Federal Clean Water Act, this Ordinance partially fulfills the requirement of the Phase II National Pollution Discharge Elimination System (NPDES) Permit in order to achieve compliance with the U.S. Environmental Protection Agency's stormwater regulations.

B. Because stormwater discharges from a variety of sources, including storm sewers, construction, waste disposal, earth disturbance and resource extraction, are major causes of impairment to the water quality of natural coastal and inland water bodies and wetland resource areas; this Ordinance is designed to regulate a myriad of aspects relating to the development or redevelopment of land as well as to detect and eliminate illicit discharges into the City's storm drainage system.

C. This Ordinance and the regulations promulgated hereunder serve to establish minimum standards, design criteria, implementation, guidance and enforcement to achieve the following objectives:

1. Establish, regulate and enforce stormwater management standards for development and redevelopment projects by adopting and enforcing the ten (10) Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy as of the date of adoption of this amendment, and set forth in Section 13.4.3.B;
2. Detect and eliminate illegal discharges to the municipal storm drain system including but not limited to sewage, process wastewater, wash water, indoor drains, floor drains and sinks from residential, commercial or industrial sources;

3. Guide, regulate and manage construction activities that render soil exposed and vulnerable to erosion by wind and water as well as contain and properly manage potential on-site pollutants including but not limited to oils, gasoline, pesticides, paints, garbage and sanitary wastes;
4. Regulate the alteration of grades/elevations of the land surface by more than two (2) feet to protect against damage to abutting properties and adjacent wetland resource areas resulting from altered drainage patterns.
5. Authorize the City's Engineering Department to establish and evaluate rules and regulations to further clarify and implement this Ordinance.

13.4.2 Applicability

This Ordinance applies to all construction, development, and redevelopment activities that involve and/or impact stormwater discharge, soil disturbance, altering of grades or drainage patterns except as otherwise expressly exempted herein.

13.4.3 Stormwater Management of New Development & Redevelopment

A. Regulation of discharges to the municipal storm drainage system, surface waters and wetlands is necessary for the protection of the City of Woburn's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface is a major cause of impairment of: water quality and flow in the ocean, lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; erosion of stream channels; alteration or destruction of aquatic and wildlife habitat; and flooding.

B. This Ordinance establishes stormwater management standards for development and redevelopment projects that disturb twenty thousand (20,000) sq. ft. or more of land, in order to minimize adverse impacts offsite and downstream which would be borne by abutters, residents and/or the general public, by requiring compliance with all state and federal statutes and regulations relating to stormwater discharges and by adopting the following Standards of the Massachusetts Stormwater Policy. Note that any future amendments to the Massachusetts Stormwater Policy that may be made subsequent to the date of adoption of this amendment shall not be incorporated into this Ordinance except by majority vote of the Woburn City Council:

1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.
2. Storm water management systems shall be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates;

3. Loss of annual recharge to groundwater shall be eliminated or minimized through the use of infiltration measures to the maximum extent practicable, including environmentally sensitive site design, low impact development techniques, stormwater best management practices and good operation and maintenance. At a minimum, the annual recharge from a site post-development shall approximate the annual recharge from pre-development conditions, based on soil type. This standard is met when the stormwater management system is designed to infiltrate the required recharge volume as determined in accordance with the State's Stormwater Handbook;
4. Stormwater management systems shall be designed to remove eighty percent (80%) of all Total Suspended Solids (TSS). This standard is met when:

    a. Suitable practices for source control and pollution prevention are identified in a long-term pollution prevention plan, and thereafter are implemented and maintained;
    b. Structural stormwater best management practices are sized to capture the required water quality volume determined in accordance with the Massachusetts Stormwater Handbook; and
    c. Pretreatment is provided in accordance with the Massachusetts Stormwater Handbook.

5. For land uses with higher potential pollutant loads, source control and pollution prevention shall be implemented in accordance with the Massachusetts Stormwater Handbook to eliminate or reduce the discharge of stormwater runoff from such land uses to the maximum extent practicable. If through source control and/or pollution prevention all land uses with higher potential pollutant loads cannot be completely protected from exposure to rain, snow, snow melt, and stormwater runoff, the proponent shall use the specific structural stormwater BMPs determined by the Department to be suitable for such uses as provided in the Massachusetts Stormwater Handbook. Stormwater discharges from land uses with higher potential pollutant loads shall also comply with the requirements of the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53 and the regulations promulgated thereunder at 314 CMR 3.00, 314 CMR 4.00 and 314 CMR 5.00.
6. Stormwater discharges within the Zone II or Interim Wellhead Protection Area of a public water supply, and stormwater discharges near or to any other critical area, require the use of the specific source control and pollution prevention measures and the specific structural stormwater best management practices determined by the Department to be suitable for managing discharges to such areas, as provided in the Massachusetts Stormwater Handbook. A discharge is near a critical area if there is a strong

likelihood of a significant impact occurring to said area, taking into account site-specific factors. Stormwater discharges to Outstanding Resource Waters and Special Resource Waters shall be removed and set back from the receiving water or wetland and receive the highest and best practical method of treatment. A “storm water discharge” as defined in 314 CMR 3.04(2)(a)1 or (b) to an Outstanding Resource Water or Special Resource Water shall comply with 314 CMR 3.00 and 314 CMR 4.00. Stormwater discharges to a Zone I or Zone A are prohibited unless essential to the operation of a public water supply.

7. A redevelopment project is required to meet the following Stormwater Management Standards only to the maximum extent practicable: Standard 2, Standard 3, and the pretreatment and structural best management practice requirements of Standards 4, 5, and 6. Existing stormwater discharges shall comply with Standard 1 only to the maximum extent practicable. A redevelopment project shall also comply with all other requirements of the Stormwater Management Standards and improve existing conditions.
8. A plan to control construction-related impacts including erosion, sedimentation and other pollutant sources during construction and land disturbance activities (construction period erosion, sedimentation, and pollution prevention plan) shall be developed and implemented.
9. A long-term operation and maintenance plan shall be developed and implemented to ensure that stormwater management systems function as designed.
10. All illicit discharges to the stormwater management system are prohibited.

C. The following activities and uses are exempt from the Stormwater Management Ordinance:

1. Detached single-family dwelling;
2. Detached two-family dwelling;
3. Additions to detached single-family and two-family dwellings;
4. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
5. Maintenance of existing landscaping, gardens or lawn areas provided such maintenance does not include the addition of soil material or alteration of existing grades and provided the project involves less than one hundred (100 cubic) yards of fill (see Section 13.5.3.G., below);
6. The construction of any walls and fencing that will not alter existing terrain or drainage patterns;
7. Construction of utilities other than drainage (gas, water, sanitary sewer, electric, telephone, etc.) which will not alter terrain, ground cover, or drainage patterns;
8. Projects within the jurisdiction of the Conservation Commission requiring an Order of Conditions;

9. Projects under the jurisdiction of the Woburn Planning Board by virtue of the Subdivision Control Law; and
10. Emergency repairs to roads or utility systems.

D. For phased projects, the determination of whether the Stormwater Management Standards apply is made on the entire project as a whole including all phases. When proposing a development or redevelopment project subject to the Stormwater Management standards, proponents shall consider environmentally sensitive site design that incorporates low impact development techniques in addition to stormwater best management practices.

E. Project proponents seeking to demonstrate compliance with some or all of the Stormwater Management Standards to the maximum extent practicable shall demonstrate that:

1. They have made all reasonable efforts to meet each of the Standards;
2. They have made a complete evaluation of possible stormwater management measures, including environmentally sensitive site design, low impact development techniques that minimize land disturbance and impervious surfaces, structural stormwater best management practices, pollution prevention, erosion and sedimentation control, and proper operation and maintenance of stormwater best management practices; and
3. If full compliance with the Standards cannot be achieved, they are implementing the highest practicable level of stormwater management.

F. Projects involving one hundred (100) cubic yards of fill or more must obtain a Special Permit from the Woburn City Council, in accordance with Section 5.5 of the City's zoning ordinance.

13.4.4 Illicit Connections

A. This Ordinance also provides for the health, safety, and general welfare of the citizens of Woburn by regulating storm water discharge into the City's storm drain system and waterways in accordance with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

B. The City's storm drainage system includes storm water pipes and drainage waterways and conveys surface water runoff to receiving waters. Generally runoff enters the storm water drainage system piping through catch basins on streets and on public and private property and from drainage swales and ditches. No sewage discharge is allowed into this system.

The City also has a separate piped municipal sanitary sewerage system. In

order to reduce and eliminate infiltration and inflow into this system, no storm drainage discharge is allowed into the municipal sanitary sewer system from any source including, but not limited to, sump pumps and roof drainage. The sewerage system conveys wastewater from residences and commercial and industrial establishments to the wastewater treatment plant. The City's sewerage system is regulated by Title 13, Article III, Sewer System, of the Woburn Municipal Code.

C. The objectives of this section are to:

1. Minimize the contribution of pollutants to the municipal storm drainage system;
2. Minimize the negative impact of illicit connections and discharges upon the City's natural resources;
3. Prohibit illicit connections and discharges to the municipal storm drainage system; and
4. Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance.

13.4.5 Erosion/Sedimentation and Materials Management

A. During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by degrading water quality and causing the siltation of terrestrial and aquatic habitat for fish and other desirable species. Eroded soil also necessitates extraordinary maintenance and repair of storm drains and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

B. Many potential pollutants other than sediment are associated with construction activities. These pollutants include pesticides, fertilizers used for vegetative stabilization; petrochemicals (oils, gasoline, and asphalt degreasers); construction chemicals (such as concrete products, sealers, and paints, wash water associated with these products); paper; wood; garbage; and sanitary wastes.

C. As a result, the purpose of this section is to safeguard persons, protect property, and prevent damage to the environment in the City of Woburn. This Ordinance also promotes the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of certain development or other activity that disturbs the topsoil or results in the movement of earth within the City of Woburn.

D. Stormwater discharges from construction activities (such as clearing, grading,

excavating, and stockpiling) that disturb one (1) acre or more are regulated under the National Pollutant Discharge Elimination System (NPDES) stormwater program. Prior to discharging stormwater, construction operators must obtain coverage under an NPDES permit, which is administered by Mass DEP and the EPA. An applicant is required to file a Stormwater Pollution Prevention Plan (SWPPP) when seeking a NPDES permit.

1. No person shall undertake a land-disturbing activity that would require the uncovering of one (1) acre (43,560 square feet) or more without the review and approval of the applicant's SWPPP by the City Engineering Department. Such projects shall be required to also submit an Erosion/Sediment Control and Materials Management Plan with the application when, in the opinion of the City Engineer or his designee, the submission of such a plan is needed to further the purpose and intent of this Ordinance and/or to safeguard surrounding property and public infrastructure systems.

E. No person shall be granted a site development permit for land-disturbing activity that would require disturbing less than one (1) acre (43,560 sq. ft.) but more than twenty thousand (20,000) sq. ft. without the approval of an Abbreviated Erosion/Sediment Control & Materials Management Application by the Engineering Department.

F. The following activities and uses are exempt from the Erosion/Sedimentation and Materials Management Ordinance:

1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources, as determined by the City's Director of Inspectional Services or Director of the Board of Health;
2. Repairs to any roadway or utility system deemed necessary by the City of Woburn Engineering Department or its designee;
3. Existing nursery and agricultural operations conducted as a permitted use; or
4. Projects disturbing less than twenty thousand (20,000) sq. ft. of land.

13.4.6 Drainage Pattern Alterations

A. Changing the grading of the land surface can have an impact on drainage characteristics of even relatively small watershed areas. Therefore, regulating proposed grading for all projects, including minor ones is necessary for the protection of the City of Woburn's natural resources, and to safeguard public and private property from the potential negative impacts due to increased peak rate run off, increase in volume, and flooding.

B. A permit required by this Ordinance will be issued by the Director to the owner

or the owner's duly authorized agent after the Director has reviewed a plan submitted showing the nature of the grade change proposed. Said permit shall only be issued on such conditions, which shall be determined by the City Engineer, that will ensure that the proposed grade changes will not adversely affect existing drainage and groundwater conditions that could affect the public health, safety and welfare of any public way or adjoining real estate.

C. It shall be unlawful for any person or other legal owner of real property in the City to disturb the existing grade of land by more than two (2) feet without first obtaining the approval of the City Engineer, and where applicable, the Conservation Commission (if the activity is subject to the Wetlands Protection Act or the Woburn Wetland Ordinance (Title VII) and the Rules and Regulations adopted pursuant to that Ordinance) and the Planning Board (if the property is being altered pursuant to a plan subject to the Subdivision Control Law).

E. In addition, any project involving the removal or filling of more than one hundred (100) cubic yards of earth must obtain a Special Permit from the Woburn City Council, in accordance with Section 5-5 of the Zoning Ordinance.

F. The following activities and uses are exempt from the Drainage Pattern Alterations Ordinance:

1. Emergency work as declared or determined by the City Engineer or his designee.

13.4.7 Responsibility For Administration

The City Engineer shall administer, implement, and enforce the provisions of these Stormwater and Construction Management Ordinances. Any powers granted or duties imposed upon the City Engineer by this Ordinance may be delegated in writing by the Director to persons or entities acting in the beneficial interest of or in the employ of the City.

13.4.8 Enforcement

A. The Building Commissioner and the Police Department ("Enforcing Authority") are authorized to enforce this ordinance and resulting regulations, orders, violation notices, and enforcement orders, and may pursue all criminal and civil remedies, including injunctive relief and monetary damages and costs of litigation and attorney fees, for such violations and for abatement and mitigation and compliance actions taken by the Enforcing Authority. Any person violating the provisions of these regulations shall become liable to the City for any expense, loss, or damage incurred by the City by reason of such violation, including but not limited to any fines, charges, or assessments made or

imposed on the City by any federal state, or local agency. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Enforcing Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this ordinance and may make or cause to be made such examinations, surveys or sampling as it deems reasonably necessary to determine compliance with a permit issued under this ordinance. Enforcement shall be further defined and included as part of the regulations promulgated under this ordinance.

B. Violations of any of the provisions of this ordinance shall be subject to a fine of two hundred fifty dollars ($250.00) for the first violation and five hundred dollars ($500.00) for the second and subsequent violations.

C. Each day, or part thereof that a violation continues shall be deemed a separate offense.

D. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Enforcing Authority may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c.40, §21D and Section 1.18 of the Woburn Municipal Code,

E. Remedies are not exclusive. The remedies set forth in this article are not exclusive of any other remedies available under any applicable federal, state or local law.

F. Appeals. The decisions or orders of the Enforcing Authority shall be final. Further relief of a decision by the Enforcing Authority made under this Article shall be reviewable in the Superior Court in accordance with M.G.L. c.249, §4.

13.4.9 Rules & Regulations

The City Engineer shall be empowered to establish Rules and Regulations to govern the permitting process, including but not limited to fees, application procedures, definitions, use of consultants, security to assure performance, performance standards for work, and such other information the Department deems necessary to discharge its responsibilities. The Department may promulgate such rules and regulations to effectuate the purposes of this Ordinance. Failure by the Department to promulgate such rules and regulations, or a legal declaration of their validity by a court of law, shall not act to suspend or invalidate the effect of this Ordinance.

13.4.10 Severability

If any provision of this ordinance shall be held invalid, the remainder of the ordinance shall not be affected thereby, nor shall it invalidate any permit, order or decision which had

previously been issued and become final.

(Added 5/21/96; amended 12/3/96; amended 6/17/2004; amended 8/14/2014; Title 13 in its entirety amended 1/22/2007)

# TITLE 14

# RECYCLING AND MUNICIPAL SOLID WASTE

**Articles and Sections**:

**I. RECYCLABLE MATERIALS**

14-1 Recyclable Materials.
14-2 Definitions.
14-3 Municipal Program.
14-4 Placement of Bins.
14-5 Enforcement.
14-6 Recycled Paper Product Procurement Policy.
14-7 Trash Removal and Recycling – Condominium Associations.

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**Articles and Sections:**

**I. RECYCLABLE MATERIALS**

14-1 Recyclable Materials.

Clean and uncontaminated newspaper, glass, and cans, either aluminum or other metal.

14-2 Definitions.

When used in this ordinance, A. "Paper" shall mean any non-soiled paper, including, but not limited to newspaper and mixed paper; B. "Glass" shall mean any bottle, jar or container composed of glass; C. "Aluminum" shall mean any can container, foil wrapping or product composed of aluminum; D. "Metal" shall mean any container composed of metal, including but not limited to containers commonly used for food and beverages;

14-3 Municipal Program.

The City of Woburn will supply to each household, subject to this ordinance, and any regulations made under it, a bin for recyclable materials. Every household may be required to place in the bin for collection all recyclable materials as follows:

A. newspaper bagged in brown paper bags or tied in bundles with string;
B. glass, unbroken, but excluding ceramics, light bulbs and plate glass. All glass must have metal rings and caps removed.
C. aluminum or other metal cans with labels removed.

14-4 Placement of Bins. (to be enacted)

14-5 Enforcement. (to be enacted)

14-6 Recycled Paper Product Procurement Policy

A. Preference Mechanism -When the price for recycled products is within 10% of the lowest responsive virgin material bid and is of a quality adequate for the purposes intended, the City will make an award for the recycled products. Bidder must be bidding recycled products as defined in Subsection C and have the minimum recycled content as set forth in Subsection D.

B. Certification - Bidders must provide certification documents for recycled paper from the manufacturer showing that the product meets or exceeds recycled content and specifications as listed in Subsection D. Recycled products will be competing directly with virgin products.

C. Recycled Paper Definitions

Post consumer recovered material – products generated by a business or consumer which have served their intended end uses and which have been separated or diverted from solid waste for the purpose of collection, recycling and disposition.

Recovered material – materials and by-products which have been recovered or diverted from solid waste but such term does not include those materials and by-products generated from and commonly reused within an original manufacturing process, e.g., mill broke and hoe scrap.

Recovered paper material – paper waste generated after completion of a paper making process, such as post consumer material envelope cuttings, bindery trimmings, printing waste, cutting and other converting waste, butt rolls and mill wrapper, obsolete inventories and rejected unused stock. Recovered paper material shall not, however, include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls (mill broke) or fibrous by-products f harvesting, extrative process or forest residues such as bark.

D. Recycled Material Content Specifications

Minimum 25% recovered Material: Cotton Fiber Paper.
Minimum 40% post consumer material: newsprint.
Minimum 10% post consumer material and 50% recovered paper material: high grade bleached printing and writing paper, offset printing paper, mimeo and duplicating paper, writing paper (stationery), office paper and note pads, envelopes, book paper, bond paper, ledger stock, cover stock, computer paper (carbon interleave and no carbon required).

(added 4/10/98)

14-7 Trash Removal and Recycling – Condominium Associations

A. The Board of Health shall provide for the collection and disposal of recyclable material and garbage from residential condominiums in the same fashion as the City provides those services to single family residences. The Board of Health may establish reasonable regulations in relation to the manner of collection provided same are not more burdensome on the condominium association or unit owners than those imposed on similarly situated single family residences or other facilities to which public trash removal is provided in the City of Woburn. Condominiums shall be required to pay to the City of Woburn the cost of any insurance riders required by the City of Woburn. No collections of any refuse will be made at any time, or services in connection with disposal rendered to any commercial enterprise or apartment house where the number of apartments exceed three (3).

B. Condominium Association Responsibilities.

1. To keep the area around the trash containers free of litter and refuse.
2. Associations must keep clean access for the contractor to collect containers. If the contractor is unable to collect the containers due to vehicles or other impediments (such as snow or ice), it will be the association's responsibility to have the containers disposed of at their expense.
3. Failure to comply with any of the above shall be cause for suspension.

C. Recycling.

1. Any condominium units/associations who according to this ordinance may have their refuse/trash collected must participate fully in the City of Woburn recycling program in order to do so.

2. No recyclable material shall be included in rubbish or garbage collected pursuant to 1989 Woburn  Municipal Code, as amended.
3. Any dumpster or containers that may be required in order to recycle will be provided at the expense of the association.

(added February 1, 1999)

# TITLE 15

# BUILDINGS AND CONSTRUCTION

**Articles and Sections**:


## I. BUILDING AND OCCUPANCY PERMITS

15-1 Building permit issuance--Report to City Council.
15-2 Publication of weekly list of building permits.
15-3 Occupancy permit--Submittal of copy to fire department.
15-4 Building permit--Removal of gravel or loam fill.
15-5 Building permit fees.

## II. ELECTRICAL PERMITS

15-6 Electrical permit fees.

## III. MOVING OF BUILDINGS

15-7 Permit issuance--Notice to railroad.
15-8 Violation--Penalty.

## IV. MISCELLANEOUS BUILDING REQUIREMENTS

15-9 Plan of gas line installation.
15-10 Alarm systems--Control of signals.
15-11 Air conditioning systems to have water recirculation system.
15-12 Installation and use of exhaust system components.
15-13 Plumbing and gas permit fees.
15-14 Security gates, grilles and shutters on storefronts, office buildings and other buildings and/or structures used for commercial purposes

## V. DEMOLITION DELAY – THE PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS

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15-51 Lien

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## I. BUILDING AND OCCUPANCY PERMITS

15-1 Building permit issuance--Report to City Council.

A. The Woburn building commissioner shall submit to the City Council by one p.m. on the third Tuesday of every month, the building permits issued by that department during the elapsed time cycle.

B. The following information should be included as a minimum in this report:
   1. Applicant, and address of applicant;
   2. Owner of property, and address of owner;
   3. Planned end use of construction;
   4. Summary of approved construction.
   (Prior Ch. 4, sec.1).

15-2 Publication of weekly list of building permits.

The Woburn building commissioner shall cause to be published in the local newspaper of general circulation a list of building permits issued or denied by that department every week. Said list shall be submitted by ten a.m. on each and every Monday at the newspaper office. (Ord. dated 8/20/84: prior Ch. 4, sec. 1A).

15-3 Occupancy permit--Submittal of copy to fire department.

The building commissioner shall submit a copy to the Woburn fire department, of all occupancy permits issued to industrial, commercial, or mercantile buildings. (Prior Ch. 4, sec. 2).

15-4 Building permit--Removal of gravel or loam fill.

Every application for a building permit shall state thereon the amount of gravel, loam, fill or other earthy material to be removed from the site of the proposed construction. No such permit shall be granted if in the judgment of the building commissioner the amount of gravel, loam, fill or other earthy material to be removed from said site would be excessive and inconsistent with the size of the area upon which the building is to be constructed or excessive and inconsistent with the extent of the related site development and landscaping. (Prior Ch.4, sec. 3).

15-5 Building permit fees.

Building permit fees shall be as follows:

RESIDENTIAL

For construction regulated by 780 CMR – present edition of Massachusetts State Building Code:

$13 per $1000 of estimated Construction Value
Minimum Fee: $30.00

Other: Re-Roof, Siding, Open Decks, Above Ground Pools, Solid Fuel Appliances

$13 per $1000 of estimated Construction Value
Minimum Fee: $30.00

COMMERCIAL

For construction regulated by 780 CMR – present edition of Massachusetts State Building Code:

$13 per $1000 of estimated Construction Value
Minimum Fee: $100.00

ADDITIONAL FEES

| | |
|---|---|
| Demolition: Commercial | $13 per $1000 of Demo Costs<br>Minimum Fee: $100.00 |
| Demolition: Residential | $13 per $1000 of Demo Costs<br>Minimum Fee: $30.00 |
| Fences: | $13 per $1000 of Material & Installation Costs<br>Minimum Fee: $30.00 |
| Signs: | $4.00 per square foot of signage<br>Minimum Fee: $50.00 |
| Storage Sheds up to 200 sq. ft.: | $13 per $1000 of Construction Value<br>Minimum Fee: $30.00 |
| Tents: | $13 per $1000<br>Minimum Fee: $30.00 |

Temporary Certificate of Occupancy:

| | |
|---|---|
| Residential: | $30.00 for 30 days |
| Commercial: | $100.00 for 30 days |

Certificate of Inspection Fee: $100.00

Mobile Home, as a temporary residence
Per Section 5.1(7), Note 2, Table of Use Regulations,
Woburn Zoning Ordinance: $100.00

MISCELLANEOUS

1) Building Permit Fees are non-refundable once the permit has issued.
2) Estimated Construction Value: Final determination to be based on Means Cost Data and/or Building Commissioner/Inspector.
3) Any activity commenced without a permit: Applicant/Owner will be subject to

actions allowed per 780 CMR/State Building Code and other remedies at law or equity.

4) When re-inspection is necessary due to violations or work not ready on scheduled inspection date, an additional fee of $50.00 will be paid in advance of inspection.
5) Re-issuance of lost inspection record permit card: $50.00
6) Permit Renewal/Extension: $50.00 per six (6) month extension
7) Inspections that take place outside normal hours: cost per hour, based on minimum established by union contract.

(Ords. dated 9/5/86; 6/19/86: 7/22/83; 5/24/96: Prior Ch. 4, sec. 9; amended 2/11/2009; amended 4/29/2014)

## II. ELECTRICAL PERMITS

15-6 Electrical permit fees.

Electrical permit fees shall be as follows:

RESIDENTIAL:

| | |
|---|---|
| New dwellings - Complete (Including single family, two-family and multi-family) | $150.00 per unit |
| Complete remodeling | $150.00 per unit |
| Partial remodeling (additions, etc.) | $50.00 |
| Heating and/or Air Conditioning System | $25.00 |
| Fire Alarm/Security System | $25.00 |
| Pools | $25.00 |
| Service Work: Upgrade or replacement | |
| for each 100 AMP | $25.00 |
| for each Meter | $25.00 |
| Minimum Fee: | $25.00 |

COMMERCIAL:

| | |
|---|---|
| Lighting 120 volts 277 volts | $ 2.00 each |
| Each 115 volt outlet | $ 2.00 each |
| Horsepower, K.V.A. or K.W. Ratings as follows: | |
| 1st horsepower or fraction of each add'l. horsepower | $ 2.00 each |
| K.V.A. or K.W. Rating | $ 2.00 each |
| Transformers | $ 2.00 per KVA |
| Generators | $ 2.00 per KW |
| 100 AMP Service | $ 50.00 |
| Each add'l. 100 AMP or portion thereof | $ 25.00 |

Distribution Centers including:
Motor Control Center, Buss Ducts Sub panels.....$ 25.00
Each Meter.....$ 50.00
Heating/A.C. Systems.....$ 25.00
Signs.....$ 30.00
Temporary Service.....$100.00
Fire Alarm System: Main Panel.....$ 10.00
Municipal Box.....$ 10.00
Devices: Including horns, strobes, bells,
pull stations, heat and smoke detectors,
flow switches, tamper switches .....$ 2.00 each
Telephone Systems (per device) .....$ 1.00
Communication, Computer Data Systems (per device) .....$ 1.00
Security Systems .....$ 50.00
Lighting Retrofit System (per fixture).....$ 1.00
Fixed Appliances Equipment and Machinery will be calculated by
Name Plate Ratings .....$ 2.00 A.K.W.
Demolition Work.....$ 50.00
Office Partitions (portable) (per cube) .....$ 2.00
Minimum Fee: .....$ 30.00

MISCELLANEOUS

1) Permit fees are non-refundable once the permit issues.
2) Permits shall be obtained prior to the start of work.
3) Where the amount of work installed is greater than the amount paid, additional fees will be paid in advance of inspection.
4) When re-inspection is made necessary because of violations of the Mass. Electrical Code, a fee of $50.00 shall be paid for such re-inspection prior to said inspection and approval.
5) Maintenance Permit - $200.00 annual fee required per building for Residential, Commercial & Industrial complexes that employs an electrician to do electrical maintenance. Companies with multiple buildings shall pay a $400.00 annual fee.
6) Any activity commenced without a permit – Applicant/Owner will be subject to actions allowed per 527 CMR/State Electrical Code and other remedies at law or equity.
7) Inspections outside of normal business hours - cost per hour, based on minimum established by Union Contract Agreements.
8) Temporary occupancy $100.00 per 30 days (non-residential)
   Temporary occupancy $30.00 per 30 days (residential)

(Ord. dated 7/22/83: prior Ch. 4, sec. 10: Ord. dated 3/14/89: Ord. dated 5/24/96; amended 10/6/2000; amended 4/29/2014)

## III. MOVING OF BUILDINGS

15-7 Permit issuance--Notice to railroad.

A. The superintendent of public works, upon application of a building-mover actually engaged in the business, for a permit to occupy and use portions of the street for the purpose of moving a building, describing the locations from and to which and the route over which the building is to be moved, the length, width and height of the building, and the principal material of its exterior and roof, may issue the permit applied for on a condition, the terms of which shall be those stated in Section 12-16. After notification in writing, by the superintendent of public works to the police chief, conservation commission, the ward alderman, and the aldermen-at-large and if a period of twenty days have passed with no written objections received, the superintendent may issue the requested permit.

B. Whenever it appears that the moving of a building under the provisions of this section, will encumber the tracks of any railroad, said railroad shall be given a written notice of the pendency of such application 48 hours before such permit is issued. (Prior Ch.22, sec. 14(A)).

15-8 Violation--Penalty.

No person shall move, or cause to be moved any building in a public street, in the City, without first having obtained a written permit from the superintendent of public works; and any person who fails to comply with such terms as are set forth in such permit, shall forfeit and pay for every such offense a sum of money, not exceeding two hundred dollars; provided, that in no case shall a permit be granted for the removal of any building whatsoever which in the course of its removal, will be likely to destroy or damage any trees or shrubs, the property of individuals, whether standing in the roads or in the fields, unless the consent of such individuals is first had and obtained. (Prior Ch. 22, sec. 14(B)).

## IV. MISCELLANEOUS BUILDING REQUIREMENTS

15-9 Plan of gas line installation.

A. On all installation of gas into buildings used for recreation, public assembly, or multifamily dwellings, the gas company shall show such installation on a plan. This plan shall show the place of entrance into the dwelling and/or structure and the tie-ins by feet and inches shall be recorded on said plan.

B. Also, the turnoff of such gas installation shall be shown on said plan and the tie-ins of said shutoff shall also be so recorded on said plan.

C. A copy of this plan shall be recorded with the fire department, and kept in a book solely for such purpose.

D. It shall be the responsibility of the gas inspector to enforce this section. (Prior Ch. 4, sec. 4)

15-10 Alarm systems--Control of signals.

Alarm systems which emit signals shall be subject to the following regulations:

A. For the purposes of this part, the term "alarm system" means an assembly of equipment and devices or a single device, arranged to signal the presence or detection of an unauthorized intrusion into a premises. The term "alarm user" means any person on whose premises an alarm system is maintained except for alarm systems on motor vehicles.

B. Every alarm user shall submit to the police chief the names and telephone numbers of at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal by an alarm system and who can open the premises wherein the alarm system is installed.

C. Within 6 months from the effective date of the ordinance codified in this part, all present alarm systems which use an audible horn or bell shall be equipped with a device which will shut off the horn or bell within 15 minutes after the activation of the alarm system. All alarm systems installed after the effective date of the ordinance codified in this part shall be equipped with such a device.

D. Any alarm system emitting a continuous and uninterrupted signal for more than 30 minutes and which disturbs the peace, comfort or repose of a neighborhood shall constitute a public nuisance. In the event that the police chief is unable to contact the alarm user or members of the alarm user's family or those persons designated in subsection B of this section, or if the aforesaid persons cannot or will not curtail the signal, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the house or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

E. Failure to abide by the provisions of either subsections B or C shall be punishable by a fine of 50 dollars, with each subsection constituting a separate offense. Maintenance of a public nuisance as defined in subsection D of this section shall be punishable by a fine of one hundred dollars. (Prior Ch. 4, sec. 6).

15-11 Air conditioning systems to have water recirculation system.

All air conditioning units that are of a water-cooled compressor design shall have a water recirculation system. (Prior Ch. 4, sec. 7).

15-12 Installation and use of exhaust system components.

The basic requirements for the design, installation and use of exhaust system components including (1) hoods, (2) grease removal devices, (3) exhaust ducts, (4) dampers, (5) air-moving devices, (6) auxiliary equipment, (7) fire extinguishing equipment for the exhaust system and the cooking equipment used therewith in commercial, industrial, institutional and similar cooking applications shall be as follows:

A. All such installations made in the City shall, upon adoption of the ordinance codified in this part, be made in compliance with the National Fire Protection Association Standard 96, "Standard for the Installation of Equipment for the removal of smoke and grease-laden vapors from Commercial Cooking Equipment."

B. All in-line gas valves shall be of the mechanical type only as referred to in Massachusetts Fuel Gas Code Established under Chapter 737, Acts of 1960, effective February 1, 1975, sec. 4.21. (Prior Ch. 4, sec. 8).

15-13 Plumbing and gas permit fees.

The fees for plumbing and gas permits issued under Chapter 358 of the Massachusetts State Plumbing Code shall be amended to be as follows:

RESIDENTIAL PLUMBING:
$50.00 first fixture; $10.00 each additional fixture

RESIDENTIAL GAS:
$50.00 first fixture; $10.00 each additional fixture

COMMERCIAL PLUMBING:
$100.00 first fixture; $10.00 each additional fixture

COMMERCIAL GAS
$100.00 first fixture; $10.00 each additional fixture

MISCELLANEOUS
1) Permit fees are non-refundable once the permit issues.
2) Permits shall be obtained prior to the start of work.
3) Any activity commenced without a permit – Applicant/Owner will be subject to actions allowed per 248 CMR/State Plumbing Code and other remedies at law or equity.

4) When re-inspection is made necessary a fee of $50.00 shall be paid in advance of such inspection.
5) Inspections outside of normal business hours - cost per hour, based on minimum established by Union Contract Agreements.

(Ord. dated 2/5/85; 01/22/87; 5/24/96; 10/23/98; amended 4/29/2014)

15-14 Security gates, grilles and shutters on storefronts, office buildings and other buildings and/or structures used for commercial purposes

A. Security devices involving gates, grilles or solid shutters designed to limit or block access to the front or sides of storefronts, office buildings or of buildings or structures used for commercial purposes, are prohibited throughout the downtown area of the city of Woburn as identified on the Woburn Zoning Map of the City of Woburn in the Business-Downtown (B-D) zoning district.

B. All security devices involving gates, grilles or solid shutters lawfully in existence on the effective date of this ordinance, shall be maintained in good repair, painted a uniform color and be free from graffiti. Any security device involving gates, grilles or solid shutters exhibiting substantial conditions of deterioration including either rusted finishes, peeling paint, accumulated grime, graffiti, bent, broken or distorted surfaces, if not repaired within ten (10) days after written notice from the City, shall be considered beyond repair, and shall be removed by the owner of the property at his or her own expense upon direction by the City. For purposes of this section, "substantial conditions" shall be considered to be twenty (20%) percent or more of the surface material of the security gate, grille or solid shutter.

C. Nothing in this ordinance shall be construed to prohibit the usage of security gates, grilles or solid shutters in the interior spaces of any shopping mall, storefronts, office buildings or of buildings or structures used for commercial purposes provided that said security gates, grilles or solid shutters are not visible from the exterior of said premises.

D. Each day that a condition exists contrary to the terms of this ordinance shall be considered a separate violation.

(added 7/10/2008)

## V. DEMOLITION DELAY – THE PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS

15-15 Intent and Purpose

This Ordinance is enacted for the purpose of preserving and protecting Significant

Buildings within the City which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the City and to limit the detrimental effect of demolition on the character of the City. Through this Ordinance, owners of Preferably Preserved Buildings or Structures are encouraged to seek out alternative options that will preserve, rehabilitate or restore such Buildings or Structures, and residents of the City are alerted to impending demolitions of Significant Buildings. By preserving and protecting Significant Buildings, streetscapes and neighborhoods, this Ordinance promotes the public welfare by making the City 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 Ordinance.

15-16 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: A combination of materials assembled, constructed, erected or maintained at a fixed location and placed permanently in or on the ground 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.

BUSINESS DAY: A day which is not a legal municipal holiday, Saturday or Sunday.

COMMISSION: The Woburn Historical Commission.

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

DEMOLITION BY NEGLECT - A process of ongoing damage to the fabric, viability and/or functionality of a Building or Structure leading towards and/or causing its eventual demolition due to decay and/or structural failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the Building or Structure from pests or

vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice, and wind through the roof, walls, or apertures.

DEMOLITION PERMIT: The Building permit issued by the Building Commissioner for a demolition of a Building or Structure, excluding a Building Permit issued solely for the demolition of the interior of a Building or Structure.

PREFERABLY PRESERVED: Any significant Building or Structure which the Commission determines, following a public hearing, is in the public interest to be preserved rather than demolished. A preferably preserved Building or Structure is subject to the twelve month demolition delay period of this Ordinance.

SIGNIFICANT BUILDING or STRUCTURE: Any Building or Structure within the City which is in whole or in part seventy-five (75) 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:

- is listed on, or is within an area listed on, the National Register of Historic Places; or
- has been found eligible for the National Register of Historic Places; or
- is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the City or the Commonwealth; or
- 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 or Structures.

STRUCTURE: A fixed combination of materials assembled, constructed, erected or maintained at a fixed location and placed permanently in or on the ground for a purpose other than creating shelter for persons, animals or property.

15-17 Procedure

No permit for the demolition of a Building or Structure which is in whole or in part more than seventy-five (75) years old shall be issued without following the provisions of this Ordinance. For the purposes of this Ordinance, if a Building or Structure is of unknown age, it shall be assumed to be older than seventy-five (75) years.

1. An Applicant proposing to demolish a Building or Structure subject to this Ordinance shall file with the Building Commissioner an application containing the following information:

    - The address of the Building or Structure to be demolished.

- The owner's name, address and telephone number.
- A description of the Building or Structure.
- The reason for requesting a Demolition Permit.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph or photograph(s) of the Building or Structure.

An application will be considered “complete” only when accompanied by all of the aforementioned materials/information, together with the filing fee.

2. The Building Commissioner shall forward a copy of the completed application to the Commission within seven (7) business days of his/her receipt thereof. The Commission shall within fifteen (15) business days after its receipt of the completed application, make a written determination of whether the Building or Structure is significant.

3. If the Commission determines that the Building or Structure is not significant, the Commission shall so notify the Building Commissioner and Applicant in writing. The Building Commissioner may then issue the Demolition Permit.

4. If the Commission determines that the Building or Structure 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 (15) business days of its receipt of the completed application, the Building Commissioner may proceed to issue the Demolition Permit.

5. If the Commission finds that the Building or Structure is significant, it shall hold a public hearing within forty-five (45) days after the filing of the completed application with the Building Commissioner. The Commission shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper one time at least seven (7) business days before said hearing. A copy of said notice shall be mailed to the Applicant, to the owners of all abutting property as they appear on the most recent tax list, to the Building Commissioner, Planning Board and if applicable, the Conservation Commission.

6. The Applicant shall bear all costs for the publication of notice.

7. If, after such hearing, the Commission determines that the demolition of the Significant Building or Structure would not be detrimental to the historical or architectural heritage or resources of the City, or where less than a complete demolition is being proposed such that the work to be done will not materially diminish its historical significance, the Commission shall so notify the Applicant and the Building Commissioner within ten (10) business days of such

determination. The Building Commissioner may then proceed to issue the Demolition Permit in accordance with applicable law.

8. If the Commission fails to hold a public hearing within forty-five (45) days of the day the completed Application was filed with the Building Commissioner or, if the Commission fails to make a decision within ten (10) business days following said hearing, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, rules and regulations, issue the Demolition Permit.

9. If agreed to in writing by the Applicant, the determination of the Commission may be postponed.

10. If the Commission determines that the Building or Structure should be Preferably Preserved, the Commission shall notify the Building Commissioner and Applicant in writing. No Demolition Permit may then be issued for a period of twelve (12) 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 (21) days of the public hearing, the Building Commissioner may issue the Demolition Permit.

11. Notwithstanding the preceding sentence, the Building Commissioner may issue a Demolition Permit for a "Preferably Preserved Significant Building or Structure" at any time after receipt of written advice from the Commission to the effect that the Commission is satisfied that bona fide and reasonable efforts have been made to locate a purchaser willing to preserve, rehabilitate and restore the subject Building or Structure, and that such efforts have been unsuccessful or, if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this Ordinance is served even with the issuance of the Demolition Permit or the Building Permit.

15-18 Alternatives to Demolition

A. If the Commission imposes a demolition delay as set forth in Section 15-17 and/or if alternatives to demolition are developed in the public hearing which are acceptable to the Applicant and/or owner, then the Commission is hereby empowered, in its discretion, to enter into an agreement with such Applicant and/or owner providing for such alternatives and a time period for implementation of same.

B. A copy of said agreement shall be filed with the Building Commissioner and any other applicable City agency, and thereafter no work shall be done on the Building or Structure except in accordance with the terms of said agreement

unless and until a new Demolition Permit application is filed and processed hereunder.

15-19 Minimum Maintenance of Significant Buildings/Demolition by Neglect

A. Significant Building or Structure shall be maintained in a weather tight condition so as to prevent water intrusion into any portion of the Building or Structure and to prevent Demolition by Neglect, including but not limited to maintenance of the roofing, siding, windows, doors, trim and other architectural features. Maintenance shall also include the replacement or repair of any structural element or exterior architectural feature that if left unattended would result in further damage or degradation to any element thereof**.**

B. If the Commission has reason to believe, through visual inspection or other means that a Significant Building or Structure may be undergoing Demolition by Neglect then the Commission shall notify the Building Commissioner and the owner. The Commission shall hold a public hearing to determine whether or not the Significant Building or Structure is undergoing Demolition by Neglect. In furtherance of determining its condition, the Commission may, at any time, request an inspection of the Building or Structure by the Building Commissioner. If the Commission determines that the Significant Building or Structure is undergoing Demolition by Neglect, the Commission shall attempt to negotiate a voluntary agreement with the owner for appropriate and timely repairs sufficient to structurally stabilize the Significant Building or Structure and/or prevent further deterioration.

C. In the event that the Commission is unable to negotiate such an agreement with the owner, or the owner has agreed to undertake but has failed satisfactorily to complete such repairs in a timely manner, the Commission shall state in writing the findings of fact in support of such determination of violation of this Section and shall issue and cause to be served upon the owner and/or other parties in interest therein an order to repair within a time to be specified in the written decision those features of the Building or Structure that do not comply with Section 15-19(A)

D. The Commission's determination may be appealed to the Woburn Board of Appeals by, a written application filed by the aggrieved party with the City Clerk within ten (10) business days following receipt of the Commission's order. A hearing on the appeal shall be held within sixty (60) days of the written application.

E. If, after the allotted time period has expired and after the hearing of an appeal, if any, the owner or person with an interest in property has failed to meet the requirements of Section 15-19(A), the City may enter the property, subject to

applicable law, to correct the violations of this Ordinance. The City shall charge the expenses incurred in doing such work or having work done or improvements made to the owner of record of such property. If such work is done or improvement made at the expense of the City then such expenses shall be assessed as a lien on the real estate upon which such expense was incurred. Subject to applicable law, the City is authorized to enter upon private property at all reasonable hours for the purpose of completing the work necessary for correcting the violations of this section. The Commission may forbear from commencing an action in court for any reason.

F. Upon completion of all repairs that have been agreed upon between the owner and the Commission, that have been ordered by the Commission, or that have been ordered by the court, and upon certification by the Building Commissioner that said repairs have been completed, the Commission shall certify that the Structure is no longer undergoing Demolition by Neglect.

G. The Commission may grant a waiver from the requirements of this Section upon a showing of impossibility, or financial hardship, or the occurrence of events beyond the owner's control, or such other circumstances as the Commission may determine.

H. Nothing in this Ordinance shall be construed to require a property to be renovated or restored to original conditions.

15-20 Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this Ordinance.

The Commission is authorized to adopt a schedule of reasonable fees to be borne by an Applicant to cover the costs associated with the administration of this Ordinance.

15-21 Emergency Demolition

Nothing in this Ordinance shall be construed to prevent the demolition of any Building or Structure or portion thereof which the Building Commissioner shall certify is required by public safety because of an unsafe or dangerous condition. However, the Building Commissioner shall endeavor to notify the Commission of his intention to cause or permit such demolition as early as possible.

15-22 Enforcement and Remedies

The provisions of this Section may be enforced by the Commission or the Building

Commissioner, by noncriminal disposition pursuant to M.G.L. c.40, § 21D. Any owner of a Building subject to this Ordinance that demolishes the Building without first obtaining a demolition permit in accordance with the provisions of this Ordinance shall be subject to a fine of Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until the demolished Building is re-created, restored, rebuilt or otherwise agreed to by the Commission.

The Commission and/or the Building Commissioner are each specifically authorized to institute any and all other actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this Ordinance or to prevent a threatened violation thereof.

If a Building subject to this Ordinance 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.

15-23 Historic District Act

Nothing in this Ordinance shall be deemed to conflict with the provisions of the Historic Districts Act, M.G.L. c.40C, with respect to requirements as to notice, a hearing and issuance by a Historic District Commission of a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship prior to demolition of any Building in an historic district, provided, however, that any temporary Building erected or maintained in an historic district pursuant to a certificate issued by the Historic District Commission may be demolished in a manner not inconsistent with the terms of said certificate.

15-24 Severability

In the event that any section, paragraph or part of this Ordinance is for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

(added 1/1/2013)

## VI. MAINTENANCE OF VACANT PROPERTY

15-25 Intent and purpose

It is the intent of this section to protect and preserve public safety, security, and quiet enjoyment of occupants , abutters and neighborhoods by (1.) requiring all Mortgagee's that have initiated the foreclosure process, to properly maintain vacant , foreclosing or foreclosed property (2.) regulating the maintenance of

vacant, foreclosing and foreclosed residential properties to prevent blighted and unsecured residences.

15-26 Definitions

Mortgagee - the creditor, including but not limited to service companies, lenders in a mortgage agreement, and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

Initiation of the Foreclosure process - taking any of the following actions (1.) taking possession of residential property pursuant to MGL c. 244 (2) delivering the mortgagee's notice of intention to foreclose to the borrowers pursuant to MGL c. 244 or (3) commencing a foreclosure action on a property in either the Land Court or Suffolk Superior Court.

Residential Property - any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

15-27 Registration

All Mortgagee's must register vacant, foreclosing and foreclosed residential property with the Building Commissioner on forms provided by The Commissioner. All Registrations must state the Mortgagee's( or their agents) phone number and mailing address located within The Commonwealth as required by MA General Laws 59 sec. 57D and 156D sec 5.02. The Registration must designate and retain a local individual or local property management company responsible for maintenance of the property.

An annual registration fee of $100.00 must be paid until property is sold to third party and no longer vacant.

15-28 Maintenance and Inspections

Properties subject to this section must be maintained in accordance with the relevant sanitary codes, building codes, MA General Laws and local regulations concerning external and or visible maintenance. The Building Commissioner shall have the authority to inspect properties subject to this section and issue citations for any violations. This ordinance shall not prevent the Woburn City Council from Scheduling a nuisance hearing under Ma General Laws c. 139.

15-29 Penalties

Failure to Register with the building commissioner is punishable by a fine of

$300.00. Failure to maintain property is punishable by a fine of $300.00 for each week the property is not maintained.

15-30 Notice

A copy of this ordinance will be mailed to all lenders licensed to do business in the Commonwealth of Massachusetts.

15-31 Severability

If any provision of this ordinance is held to be invalid or unconstitutional by any court, every other section shall continue in full force and effect

[Added 10/3/2008]

**VII. STRETCH ENERGY CODE**

15-32 Definitions

International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building 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. Commencing July 1, 2010, the baseline energy conservation requirements of the Massachusetts State Building Code will default to IECC 2009 and Massachusetts amendments.

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

15-33 Purpose

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

15-34 Applicability

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

15-35 Authority

The City of Woburn, seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR, hereby mandates adherence to this appendix. The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Woburn Municipal Code, as amended.

15-36 Enforcement

The Stretch Code is enforceable by the building commissioner.

(added 3/17/2011)

**VIII - NUISANCE CONTROL**

I. CONDITION OF PROPERTY

15-37 Purpose

Inadequately maintained residential or commercial/business buildings are at an increased risk for fire, unlawful entry, or other public health and safety hazards. This Ordinance is adopted to protect the health, safety, and welfare of the citizens of Woburn by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring the safety and sanitary maintenance of all buildings and structure by requiring all property owners, including lenders, trustees and service companies and the like, to properly maintain their respective properties in good repair and in a safe and sanitary condition, and to impose penalties on and collect from property owners and other responsible persons for the nuisances and harm caused by conduct that rises to the level of nuisance activity as provided herein. Nothing herein shall prevent the City from using the authority and procedures in any other provision of the charter, City Ordinance or Massachusetts General Laws.

15-38 Definitions

Blight: Any condition constituting a nuisance as described in Section 15-37 below that seriously impairs the value, condition, strength, durability or appearance of real property, including real property owned or occupied by an Interested Party as defined below.

Building: A structure, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, of a combination of any materials, to form shelter for

persons, animals, or property. See “structure” below.

Premises: Any residence or other private property, place, or location, including commercial or business property.

Dilapidated: A condition of decay or partial ruin by reason of neglect, misuse, or deterioration. The term includes, but is not limited to: Property having deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or inadequately secured windows or doors; Property having defective weather protection (such as paint, stain, siding or tarpaulin) for exterior wall covering; deleterious weathering due to lack of such weather protection or other protective covering; Personal property that is broken, rusted, worn, partially or wholly dismantled or otherwise due to deterioration and is unsuitable for the purpose for which designed.

Hazard: A condition likely to expose persons to injury, or property to damage, loss or destruction.

Interested Parties: In connection with the notification requirements of this Ordinance, the Building Commissioner; owner(s) and/or occupants of property which is the subject of a hearing; any known agent of an owner, lessee, or tenant; any known person holding an unrecorded contract for deed, being a mortgagee or vendee in physical possession of the building; owners and/or occupants of property directly opposite the subject property on any public or private street or way, owners and/or occupants of property abutting the subject property, and owners and/or occupants of property abutting such abutting property within 300 feet. Other persons who own or occupy property and who demonstrate to the satisfaction of the Building Commissioner that they are affected by the condition of the property or building that is the subject of a hearing may be regarded as Interested Parties for purposes of this Ordinance.

Nuisance: See Section 15-37 below.

Nuisance Event or Condition: See Section 15-44 below.

Chronic Nuisance Property: Property on which a combination of three or more nuisance events or activities occur or exist during any period of time not to exceed six (6) months;

Occupant: A person who occupies real property with the consent of the owner as a lessee, tenant at will, licensee or otherwise. The singular use of the term includes the plural when the context so indicates.

Owner: Every person entity, service company, or property manager, who

alone or severally with others:

a. has legal or equitable title to any building, structure or property or parcel of land vacant or otherwise;
b. control of any such building, structure or property or parcel of land vacant or otherwise in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee, guardian or conservator of the estate of the holder of legal title; or as life tenant;
c. is a lessee under a written lease agreement;
d. is a mortgagee in possession;
e. is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property;
f. is an officer or trustee of the association of unit owners of a condominium;
g. the operator of a lodging house;
h. is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.

Structure: A combination of materials, whether wholly or partially level with, above or below, the surface of the ground, whether permanent or temporary, assembled at a fixed location to give support, shelter or enclosure such as a building, (see above), framework, retaining wall, stand, platform, bin, fence (having a height at any point of six feet or greater above grade), parking area sign, flagpole, or mast for an antenna or the like.

Vacant Property: Any property that is unoccupied for a period greater than one hundred eighty (180) consecutive days by the person or persons with legal right to occupancy thereof, except for bona fide temporary absences.

Personal service: Service of any Notice required by this Ordinance shall be made:

a. To an Individual: Service by personally handing a copy of the Notice to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion, or by leaving at the intended recipient’s last and usual place of abode together with mailing to the same address via first class mail.
b. Upon a domestic corporation (public or private), a foreign corporation subject to suit within the Commonwealth, or an unincorporated association subject to suit within the Commonwealth under a common name: by delivering a copy of Notice, to a managing or general agent, or to the person in charge of the business at the principal place of business thereof within the Commonwealth, if any; or by delivering such Notice to any other agent authorized by appointment or by law to receive service of process, provided that any further notice required by law be given.
c. In the event that the Notice cannot be served as set forth in subparagraphs (b) or (c), Service may be made to an Owner by mailing, first class mail, postage prepaid, to the mailing address on record with the City Assessor’s Office.

Last known address: the address shown on the records of the City Assessor's Office or a more recent address known to the police department. In the case of parties not listed in these records, the last known address shall be that address obtained by the police department after a reasonable search. If no address can be found, such address shall be that of the building in which the nuisance occurred, or was maintained or permitted.

15-39 Nuisances Prohibited

It shall be a violation of this Ordinance to maintain, cause or create a nuisance which substantially interferes with the common interest of the general public in the maintenance of decent, safe, and sanitary buildings or structures that are not dilapidated, and neighborhoods, when such interference results from the hazardous or blighted condition of private property, land or buildings. The fact that a particular structure or use may be permitted under the zoning Ordinance does not create an exemption from the application of this Ordinance. The existence of a nuisance may be demonstrated by any of the following conditions:

a. burned buildings or structures not otherwise lawfully habitable or usable;
b. dilapidated real or personal property;
c. dangerous or unsafe buildings or structures or personal property;
d. overgrown vegetation which may harbor rats and vermin, conceal pools of stagnant water or other nuisances, or which is otherwise detrimental to neighboring properties or property values;
e. dead, decayed, diseased or hazardous trees, shrubs or any vegetation that pose a hazard to the health and safety of any person in the vicinity of the property or which is otherwise detrimental to neighboring properties or property values;
f. vehicles, machinery or mechanical equipment or parts thereof that are located on soil, grass or other porous surfaces that may result in the destruction of vegetation or contamination of soil.
g. accumulation of litter, rubbish, debris or trash;
h. personal property which has been placed for collection as rubbish or refuse in violation of any rule or regulation of the Board of Health, or left in public view for more than three (3) days.
i. the exterior storage or accumulation of junk, trash, litter, bottles, cans, rubbish, or refuse of any kind, except for domestic refuse stored in such a manner as not to create a nuisance for a period not to exceed fifteen (15) days. The term "junk" shall include parts of machinery or motor vehicles, used stoves, refrigerators, or other cast off material of any kind whether or not the same could be put to any reasonable use.
j. the storage of building materials upon residential property unless there is in force a valid building permit issued for construction upon said property and said materials are intended for use in connection with said construction. Building materials shall include but shall not be limited to lumber, bricks, concrete or

cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, nails, screws, steel, or any other materials commonly used in constructing any structure.

k. gravel, rocks, and dirt piles stored by the owner for purposes of construction and/or landscaping and said item(s) remain stored for more than twelve months upon the owner's premises.

15-40 Maintenance of Vacant Properties - Requirements

Owners of vacant properties must fulfill the following minimum adequate maintenance requirements for any such property they own:

a. maintain vacant properties in accordance with the relevant sanitary, building, and fire codes;
b. secure vacant properties so as to prevent unauthorized entry and exposure to the elements;
c. maintain vacant properties in a manner that ensures their external/visible maintenance, including but not limited to the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery, and other landscape features;
d. repair or replace broken windows or doors. The boarding up any doors or windows is prohibited except as a temporary measure for no longer than thirty (30) days; and
e. for properties vacant for six months or more, the utilities must be shut off, removed or cut and capped to prevent accidents.

Compliance with this Section shall not relieve the owner of any applicable obligations set forth in any other code, regulation, covenant condition or restriction, and/or homeowner or condominium association rules and regulations.

15-41 Enforcement

a. The Building Commissioner shall be charged with the enforcement of this Ordinance. If the Building Commissioner shall be informed or have reason to believe that any provision of this Ordinance has been, is being, or is likely to be violated, he shall make or cause to be made an investigation of the facts, including an investigation of the property where the violation may exist. If he finds any violation he shall give immediate notice in writing to the Owner and to the occupant of the premises to immediately cease such violation.
b. In conducting investigations, the Building Commissioner shall coordinate inspections by and among the Board of Health, the Police Chief and the Fire Chief, or their designees, as the Building Commissioner deems appropriate to ensure that this Ordinance is enforced.
c. In making such inspection, the Building Commissioner, and/or the Board of Health, the Police Chief and the Fire Chief, shall have such right of access to

premises that may be lawfully exercised by him under the laws and constitution of the Commonwealth or of the United States.

d. If the Building Commissioner determines that the condition is subject to the jurisdiction of the Board of Health or is a violation of the State Sanitary Code or any health regulation, in addition to enforcing this Ordinance, he shall refer the matter to the Board of Health of the City or any other appropriate state or City officials for action.

e. If, after such notice and order, such violation continues, or if any Owner or Occupant fails to obey an order of the Building Commissioner with respect to any violation of this Ordinance, the Building Commissioner may make complaint to the Superior Court or any court of competent jurisdiction seeking an injunction or order restraining any further use of the premises and the continuation of the violation, and shall take such other action as is necessary to enforce the provisions of this Ordinance. In addition to the foregoing remedy, whoever violates any provision of this Ordinance or fails to obey any lawful order issued by the Building Commissioner in enforcing this Ordinance shall be liable to a fine of three hundred ($300.00) for each violation. Each violation of this Ordinance shall constitute a separate offense. Each day that any such violation continues shall constitute a separate offense.

f. The Building Commissioner may require disclosure to him/her of the identity of the person bringing a complaint of nuisance. The Building Commissioner may require that such complaint be made under oath or subject to the penalties of perjury. If the Building Commissioner determines that a reported condition may warrant immediate action, constitute a substantial violation of this Ordinance, or adversely affect protected interests of others than the complainant, the Building Commissioner may commence action under this Ordinance without requiring the disclosure of the identity of the complainant. During his investigation of the matter, the Building Commissioner may consult, but is not required to do so, with any Interested Party in an attempt to obtain voluntary compliance with this Ordinance without the need to issue a notice of violation.

15-42 Notice to Complainant

In any matter in which a complaint has been made by a person other than the Building Commissioner, the Building Commissioner shall promptly notify the complainant in advance of all conferences or proceedings concerning resolution of the nuisance complaint or of any enforcement action and the complainant shall be allowed to be present and to be heard.

15-43 Other Action

a. The remedies provided herein are in addition to, and not in lieu of, any other remedies that may be available to the City including, but not limited to those remedies available to the City Council as provided in M.G.L. c.139. The City

Council may pursue those remedies before, during, or after any enforcement action pursued by the Building Commissioner. The disposition by the City Council pursuant to M.G.L. c.139 shall not relieve the complainant of any action or fees otherwise imposed or assessed pursuant to this Ordinance.

b. If the Building Commissioner determines the Property to be unsafe, he may act immediately in accordance with the State Building Code to protect public safety.
c. Nothing in this Ordinance shall pre-empt or abrogate the powers and/or duties pursuant to any general statutory authority including, without limitation, M.G.L. c.139, §1 et seq., M.G.L. c.143, §6 et seq., M.G.L. c.148 and the Massachusetts Comprehensive Fire Safety Code as provided in 527 C.M.R.

15-44 Reports by Building Commissioner

The Building Commissioner shall file quarterly with the City Council, (on or before January 15, April 15, July 15 and October 15) a report that shall include all complaints of nuisance made to him during the prior quarter; all proceedings begun by him under this Ordinance; all pending complaints and all investigations and enforcement actions taken by him or referred to the Board of Health. The report shall state the location of the premises, a summary of the nature of the complaint, the name of the Responsible Party(ies), and the disposition or the status of the matter.

II. NUISANCE ACTIVITY

15-45 Nuisance Event or Condition

Nuisance Event or Condition means one or more of the following behavioral incidents occurring or committed within a building or upon premises:

a. Maintaining or permitting a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public;
b. Actions which result in the arrest for a Crime Against the Person as provided in Massachusetts General Laws Chapter 265, Crimes Against Property as provided in Massachusetts General Laws Chapter 266 and Crimes Against Chastity, Morality, Decency and Good Order as provided in Massachusetts General Laws Chapter 272;
c. Actions which result in arrest for Prostitution or prostitution-related activity committed within the building;
d. Actions which result in arrest for gambling or gambling-related activity committed within the building.
e. Actions which result in arrest for unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the building;

f. Actions which result in arrest for unlicensed sales of alcoholic beverages committed within the building;
g. Actions which result in arrest for unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building or unlawful consumption or possession within the building by persons under the age of 21 years in;
h. Actions which result in arrest for unlawful use or possession of a firearm;
i. Activity that creates a substantial disturbance of the quiet enjoyment of private or public property in a neighborhood including, but not limited to, any one or a combination of the activity set forth in Paragraphs a-h, excessive noise and excessive pedestrian and vehicular traffic related thereto, obstruction of public ways or sidewalks by crowds, vehicles, trash or refuse, illegal parking, public urination, the service of alcohol to underage persons, public consumption of alcohol, fighting, disturbances of the peace, and littering.

15-46 Violation

Any property within the city which is a chronic nuisance property is in violation of this section and subject to its remedies

15-47 Notice of Nuisance Event or Condition

In the event the Chief of Police or his designee have determined that a Nuisance Event or Condition exists, has occurred, or is maintained or permitted in a building, or on a property, and that the property constitutes a chronic nuisance property, then he shall provide a written notice, by personal service as provided herein, to the owner and each interested party known to him or her. A copy of the written notice shall be provided to the Building Commissioner. The written notice shall:

a. State that a nuisance event or condition as defined in this ordinance has occurred, or is maintained or permitted in the building, and specify the kind or kinds of nuisance event or condition which has occurred, or is being maintained or permitted;
b. Summarize the evidence that a nuisance event or condition has occurred, or is maintained or permitted in the building, including the date or dates on which nuisance event or condition related activities have occurred or were maintained or permitted, provided, however, that one or more police reports can be used to satisfy this requirement; and
c. State the grounds for the determination that the property constitutes a chronic nuisance including the events or conditions or activities that constitute the three or more nuisance events or activities that occurred during any period of time not exceeding six (6) months;
d. Inform the recipient of the notice that: (i) he or she has thirty (30) days to abate the conduct constituting the nuisance event or condition, and to take steps to make sure that actions constituting a nuisance event or condition will not re-occur; (ii) if, after thirty (30) days from the date of service of the notice, the

nuisance event or condition re-occurs, or actions or conduct constituting a nuisance event or condition take place that the City may assess against the owner and interested parties that were served with the written notice a fine of three hundred ($300.00) for each violation.

15-48 Applicability

a. The property owner shall not be held responsible for any violation and penalties if the property owner is actively pursuing eviction from the premises of a tenant who controlled, organized, sponsored or is/or was otherwise responsible for the nuisance event or condition.
b. Nothing in this Ordinance shall be construed to require or prevent the arrest and/or citation of any person or persons for violations of federal, state or local laws or Ordinances.
c. The provisions of this section are enforceable independent of any provisions of the Woburn Municipal Code.

15-49 Penalty and Enforcement

Violations of this Ordinance shall be subject to a fine of three hundred ($300.00) for each violation. Each violation of this Ordinance shall constitute a separate offense, and each day that any such violation continues shall constitute a separate offense. The Police Chief and his designee, and any Woburn Police Officer shall have authority to enforce the provisions of this title. Any alleged violation of this Ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c.40, §21D.

15-50 Reports by Police Chief

The Police Chief shall file quarterly with the City Council, (on or before January 15, April 15, July 15 and October 15) a report that shall disclose all Nuisance Event or Condition proceedings begun by him under this Ordinance. The report shall state the location of the premises, a summary of the nature of the Nuisance Event or Condition, the name of the Responsible Party(ies), and the disposition or the status of the matter.

15-51 Lien

The provisions of Title 3, Municipal Lien Charges, of the Woburn Municipal Code shall apply to unpaid fees assessed pursuant to this article.

(added 12/20/2012)
[Note: Title 8 numbering amended 5/19/2016]

# TITLE 16

# SEXUAL HARASSMENT POLICY AND PROCEDURE

**Articles and Sections**: (numbered and titled as passed)

**I. POLICY STATEMENT**

**II. DEFINITION OF SEXUAL HARASSMENT**

**III. EXAMPLES OF SEXUAL HARASSMENT**

**IV. SEXUAL HARASSMENT INVESTIGATION**

**V. SEXUAL HARASSMENT INVESTIGATION**

**VI. DISCIPLINARY ACTION**

**VII. STATE AND FEDERAL REMEDIES**

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## I. POLICY STATEMENT

Sexual harassment creates an unpleasant work environment and hinders good job performance. Not only are the victims of sexual harassment affected by this type of conduct, sexual harassment adversely affects all other employees of the City of Woburn. Sexual harassment undermines the integrity of the workplace and can result in excessive absenteeism, loss of morale, and polarization of staff. It is imperative, therefore, that all employees be sensitive to the effects of their actions.

It is the goal of the City of Woburn to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated. Further, any retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with if encountered by employees.

Because the City of Woburn takes allegations of sexual harassment seriously, it will

respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, it will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth the City of Woburn's goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial actions for workplace conduct which it deems unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

## II. DEFINITION OF SEXUAL HARASSMENT

For purposes of this policy and consistent with applicable law, sexual harassment is defined as follows:

Unwelcome sexual advances, request for sexual favors, and other verbal and/or physical conduct of a sexual nature constitute sexual harassment when:

a. submission to such advances, requests, or conduct is made either explicitly or implicitly a term or condition of an individual's employment;
b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
c. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

## III. EXAMPLES OF SEXUAL HARASSMENT

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

Unwelcome sexual advances – whether they involve physical touching or not;
Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comment on an individual's body, comment about an individual's sexual activity, deficiencies or prowess;
Displaying sexually suggestive objects, pictures, cartoons;

Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
Inquiries into one's sexual experiences; and,
Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

## IV. SEXUAL HARASSMENT INVESTIGATION

If any city employee believes that he or she has been subjected to sexual harassment, the employee has the right to file a complaint. This may be done in writing or orally. If you would like to file a complaint you may do so by contacting the Mayor, or his designee, City Hall, 10 Common Street, Woburn, MA 01801, (617) 932-4501, who is available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

## V. SEXUAL HARASSMENT INVESTIGATION

The Mayor or his designee will promptly investigate the allegation in a fair and expeditious manner. The investigation will include a private interview with the person filing the complaint and with witnesses. The investigation will also include an interview with the person alleged to have committed sexual harassment. When the investigation is completed the Mayor or his designee to the extent appropriate, will inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, prompt action will be taken to eliminate the offending conduct, and where it is appropriate, disciplinary action will be taken.

## VI. DISCIPLINARY ACTION

If it is determined that inappropriate conduct has been committed by a city employee, the Mayor or his designee will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as is deemed appropriate under the circumstances.

## VII. STATE AND FEDERAL REMEDIES

In addition to the above, if you believe you may have been subject to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth

below. Using the City of Woburn's complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC – 180 days; MCAD – 6 months).

The United States Equal Employment Opportunity Commission ("EEOC")
10 Congress Street – 10th Floor
Boston, MA 02114

The Massachusetts Commission Against Discrimination ("MCAD")
Boston Office: One Ashburton Place, Suite 601, Boston, MA 02108 (617) 727-3990
Springfield Office: 424 Dwight Street – Room 220, Springfield, MA 01103 (413) 739-2145

(added 2/7/97)

# TITLE 17

## [Reserved]

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# TITLE 18

# AMERICANS WITH DISABILITIES ACT POLICIES AND PROCEDURES

**Articles and Sections**:

18-1 Public Notice of Americans with Disabilities Act (ADA) Compliance.
18-2 Equal Employment Opportunity And Reasonable Accommodation Policies.
18-3 ADA Coordinator.
18-4 ADA Grievance Procedure.
18-5 Equal Opportunity Policy.
18-6 Reasonable Modification Policy.
18-7 Eligibility And Safety Requirements Assurance.
18-8 Surcharges Prohibition Policy.
18-9 Integrated Services Policy.
18-10 Significant Assistance Policy.
18-11 Accessible Transportation Policy.
18-12 Contracted Services Provider Policy.
18-13 Effective Communication Policy.
18-14 Alternative Format Assurance And Procedures.
18-15 Interpreter Services Policy.
18-16 Assistive Listening Device Assurance.
18-17 Effective Communication Training Assurance.

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18-1 Public Notice Of Americans With Disabilities Act (ADA) Compliance

A. The City of Woburn hereby adopts the following Public Notice of Americans with Disabilities Act (ADA) Compliance:

CITY OF WOBURN
AMERICANS WITH DISABILITIES ACT

The City of Woburn does not discriminate on the basis of disability and is committed to the full participation of persons with disabilities in our programs, services, and activities and in our work force.

The person named below is responsible for coordinating the City's compliance with the Americans with Disabilities Act.

Inquiries, complaints, requests for communication aids, and other accommodations and assistance should be directed to:

{Name of Director}
Human Resources Director
City of Woburn
City Hall
10 Common Street
Woburn, MA 01801
Phone: (781) 897-5955 Fax: (781) 897-5959

Copies of this notice are available in large print, audiotape, Braille, and on computer disk upon request. The City's ADA grievance procedure, Self-Evaluation, and policies and procedures are also available on request.

Signed: {Signature of Human Resources Director}

(amended 9/22/2016)

B. In compliance with the provisions of the Americans with Disabilities Act, the above Public Notice shall be posted in prominent locations in public buildings and also in short form on all brochures and public information materials.

18-2 Equal Employment Opportunity And Reasonable Accommodation Policies

1. The City of Woburn does not discriminate against qualified applicants and employees on the basis of disability in any terms, conditions or privileges of employment. A qualified applicant or employee is one who can perform essential functions of a job with or without reasonable accommodation.

   A. Upon request, the City will provide reasonable accommodation to employees and applicants with disabilities when doing so does not pose an undue financial or administrative hardship.

   B. Job applicants are not required to provide information about disabilities or accommodations required until a conditional job offer is made. Interviewing managers are prohibited from requesting information about any disabilities or accommodations required until making a conditional job offer. However, a job applicant who chooses to do so, may submit written requests for reasonable accommodation to the ADA Coordinator prior to the conditional job offer. Or, after the job offer is made to the applicant, he or she should submit a written request to the supervisor offering the job or to the ADA Coordinator. Employees who require accommodations should submit written requests for reasonable accommodation to his or her immediate supervisor. Requests for reasonable accommodation should contain a description of the

nature and purpose of the accommodation being requested. If an applicant or employee is unsure of the type of accommodation required, that individual, the ADA Coordinator and the individual's immediate supervisor and/or Department Head shall work collaboratively to design an accommodation. The request for reasonable accommodation should be accompanied by supporting documentation from a health care professional. This documentation should state that the employee in question has a disability that substantially limits one or more major life activities and requires reasonable accommodation. Copies of requests for reasonable accommodation together with supporting documentation should be forwarded to the ADA Coordinator by the employee's supervisor.

C. Supervisors/Department Heads may grant requests for reasonable accommodation, but may not deny them. Only the ADA Coordinator in concert with the Mayor and/or City Council may determine that a proposed accommodation constitutes an undue hardship. Qualified applicants and employees have the right to file a grievance upon denial of reasonable accommodation, using the City's ADA grievance procedure.

D. It is the policy of the City of Woburn to segregate medical and personnel records. Medical records shall be stored in a separate location from personnel records. Medical records include but are not limited to: documentation of illness, injury, short or long-term disability, reasonable accommodation requests, doctor's letters and certificates, Family and Medical Leave Act documentation and insurance information. Access to medical records shall be provided on a "needs to know basis" with authorization from the Director of Human Resources or the ADA Coordinator or from the individual employee by written, signed release.

## 18-3 ADA Coordinator

As designated in Title 2, Article VII, Section 41(15), the City of Woburn Director of Human Resources shall be the City's ADA Coordinator. The ADA Coordinator will direct the City's compliance with the Americans with Disabilities Act. The ADA Coordinator shall receive and investigate grievances and requests for accommodations and assistance under said Act and as detailed in this Title.

## 18-4 ADA Grievance Procedure

A. This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act. Disabled individuals or their authorized representatives, who believe that they have been discriminated against on the basis of disability in employment, or the provision of services, activities,

programs, or benefits, are requested to use it to bring their complaints to the attention of the City.

B. The complaint should be submitted in writing or on audiotape to the ADA Coordinator. It should include a description of the alleged discriminatory incident or action, the place and date of its occurrence, and the name of any employee or representative of the City involved. The complaint should also include the name, address, and phone number of the person(s) bringing the complaint or their authorized representative(s). If assistance is needed to file or pursue the complaint, the ADA Coordinator upon request will provide it. The complaint should be submitted as soon as possible but no later than sixty (60) calendar days after the alleged discriminatory incident to the Director of Human Resources, City of Woburn, City Hall, Ten Common Street, Woburn, MA 01801.

C. Within fifteen (15) calendar days of its receipt, the ADA Coordinator will meet with the complainant to clarify the facts of the incident and discuss possible resolutions. Within fifteen (15) calendar days after the meeting, the ADA Coordinator will respond in writing, or if needed for Effective Communication, in an alternate format preferred by the complainant, such as large print, Braille, or audiotape. The response will explain the position of the City and present options for substantive resolution of the complaint.

D. If the ADA Coordinator's response does not satisfactorily resolve the issue, the complainant may appeal the Coordinator's decision within fifteen (15) calendar days of its receipt to the Mayor, or his or her designee. Within fifteen (15) calendar days of the receipt of the appeal, the Mayor, or his or her designee, will meet with the complainant to further clarify the complaint and discuss possible resolutions. Within fifteen (15) calendar days of the meeting the Mayor, or his or her designee, will respond in writing or alternate format with a final resolution of the complaint.

E. Records of all complaints received by the ADA Coordinator and appeals to the Mayor will be kept on file for at least three (3) years.

18-5 Equal Opportunity Policy

No qualified person with a disability shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any of the City's programs or activities. In providing its services, programs, and activities, the City will not:

1. Deny a qualified individual with a disability the opportunity to participate in, or benefit from, an offered benefit, service, or activity.

2. Deny a qualified individual with a disability the opportunity to participate in, or benefit from, any aid, benefit, or service that is not equal to that afforded to others.

3. Otherwise limit a qualified individual with a disability the enjoyment of any right, privilege, advantage, or opportunity enjoyed by other qualified individuals receiving the aid, benefit, or service.

18-6 Reasonable Modification Policy

A. The City will make reasonable modifications to policies and procedures necessary to accommodate the needs of a person with a disability whenever an otherwise qualified person with a disability requests such modification, unless it can be demonstrated that the requested modification would impose an undue burden or fundamental alteration to the program.

B. Requests for reasonable modifications should be made to program staff or the ADA Coordinator and can be presented verbally or in writing. It is the responsibility of the ADA Coordinator to ensure that requests are responded to appropriately and in a timely fashion.

C. Final decisions regarding requests for reasonable modifications, that in the opinion of the ADA Coordinator may represent an undue burden or fundamental alteration, will be made by the Mayor in a timely fashion and no longer than ten (10) working days. Individuals seeking to contest a denial of a request for reasonable modification will be given the grievance procedure in format appropriate to their needs.

18-7 Eligibility And Safety Requirements Assurance

A. It is the policy of the City that prohibitions or limitations to the eligibility of qualified individuals with disabilities to receive services or participate in programs are not allowed unless they are essential to the operation of the program or service. Eligibility requirements have been reviewed by the ADA Coordinator and program managers and updated to comply with the requirements of the Americans with Disabilities Act. Whenever programs formulate new eligibility policies or new programs are developed, policies will be reviewed by the ADA Coordinator to ensure compliance.

B. Safety requirements have also been reviewed to ensure that they are necessary to the safe operation of programs, and that any decisions to limit the participation of a person with a disability related to safety concerns will be reviewed on a case basis to ensure that the decision is based on facts, not myths or stereotypes, and that all appropriate mitigating measures are taken to

provide for maximum participation. Staff will be informed of, and trained in any changes in eligibility and/or safety requirements that may arise.

18-8 Surcharges Prohibition Policy

It is the policy of the City that surcharges will not be charged to persons with disabilities, their family members, or organizations representing them for the provision of reasonable accommodations, reasonable modifications to policies and procedures, auxiliary aids and services, or any other costs related to the participation of persons with disabilities.

18-9 Integrated Services Policy

It is the policy of the City that all services, programs, and activities are provided in the most integrated setting appropriate to the needs of participants with disabilities. Persons with disabilities are not required to participate in separate programs even if separate programs specifically designed to meet their needs are offered.

18-10 Significant Assistance Policy

It is the policy of the City that programs receiving significant assistance, either financial or in-kind from the City, may not discriminate against persons with disabilities. It is the responsibility of the ADA Coordinator and other personnel representing the City to inform organizations receiving assistance of this policy and to respond to any questions or, as appropriate, to refer questions to the ADA Coordinator regarding its meaning and application. It is also the Coordinator's responsibility to investigate any situation in which discrimination towards persons with disabilities may have occurred, and to take appropriate action either to correct the discriminatory situation or to recommend to the Mayor termination of assistance.

18-11 Accessible Transportation Policy

It is the policy of the City that transportation services are accessible to and usable by participants in City programs regardless of disability. Individuals requiring accessible transportation should make their requests in writing or verbally to the program directors or alternatively to the ADA Coordinator. Requests should be made at least three (3) days in advance. Effort will be made to respond to requests made on shorter notice. When a request cannot be met, notice will be given as soon as possible and at least one (1) day before the date of the requested trip.

18-12 Contracted Services Provider Policy

It is the policy of the City that if services are provided under contracts, the City will

set forth in the terms of the contract the obligations of the provider agency or agencies to operate in a manner consistent with the requirements of Title II of the ADA, and, furthermore, that the City will monitor the performance of the contractor in fulfilling this contractual obligation.

18-13 Effective Communication Policy

A. It is the policy of the City that auxiliary aids and services will be provided when necessary to ensure effective communication with persons whose disabilities affect communication. Persons with communications disabilities will be given the opportunity to request the aid or service that they prefer and the requested aid or service will be given primary consideration. The preferred means of communication will be provided unless doing so would impose an undue burden or an effective alternative means of communication is available.

B. Requests for auxiliary aids or services should be made verbally or in writing to program directors or to the ADA Coordinator. Unless otherwise specified, the City urges that requests be made at least ten (10) days in advance of the occasion on which the communications support will be needed. Reasonable effort will be made to respond on shorter notice.

C. The person requesting the service will be notified as soon as possible if the City is unable to meet their request. In some circumstances, an appropriate alternative will be offered such as rescheduling. It will be the responsibility of the ADA Coordinator to train staff and oversee implementation of effective communications procedures. The Mayor will be responsible for making final decisions related to undue burden or fundamental alteration.

18-14 Alternative Format Assurance And Procedures

A. All documents, publications, and materials used in City programs will be made available to persons with disabilities who need them in alternate formats. Procedures have been established to respond to requests for alternate formats including large print, audiotape, Braille, and computer diskettes in a timely fashion. Three (3) weeks notice is generally required for the preparation of Braille materials. Reasonable efforts will be made to respond on shorter notice.

B. Large print, short audio tapes, and computer diskettes will be prepared by staff persons who have been identified by the ADA Coordinator and trained in the necessary skills and procedures. Preparation of long audiotapes will be purchased from a professional provider.

C. The procedure for requesting alternate formats is:

1. The person making the request should identify the materials desired and specify his/her preferred alternate format to the program director or the ADA Coordinator, either verbally or in writing ten (10) working days in advance of the event or activity for which the material is needed. Reasonable effort will be made to meet requests made less than ten (10) days before an event or activity.

2. The materials will be provided in the requested format at no additional charge.

3. Primary consideration will be given to the format preferred by the person making the request, and the City will decide whether to provide the preferred format or an effective alternate format.

4. If a request cannot be met the person making the request will be informed as soon as possible but at least one (1) day in advance of the event or activity.

5. The Mayor will make the final decision regarding any request that may represent an undue financial or administrative burden.

18-15 Interpreter Services Policy

A. It is the policy of the City that sign language interpreters, will be provided upon request to any person needing interpreter services in order to participate in any meeting, program, or activity of the City. Requests should be generally made at least twenty (20) working days in advance of the scheduled event or meeting, but reasonable effort will be made to meet requests made on shorter notice. Requests should be made either verbally, by TTY, or in writing to a program director or the ADA Coordinator. Within one (1) day of receipt of the request, the ADA Coordinator or other responsible employee will contact the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) to schedule the interpreter service.

B. In addition to using the MCDHH, the City maintains a list of names and phone numbers of at least three qualified freelance sign language interpreters working in the region. If informed that MCDHH has not been successful in scheduling interpreters as requested, staff of the City will immediately attempt to contact and schedule a freelance interpreter.

C. If an interpreter cannot be obtained, the ADA Coordinator or other member of the staff will offer the option of an alternative effective form of communication or the opportunity to postpone the meeting until such time as an interpreter can be scheduled.

18-16 Assistive Listening Device Assurance

A. Assistive listening devices will be provided upon request to persons needing such devices to participate in programs, services, and activities of the City.

B. The procedure for requesting an assistive listening device is for the person needing the device, or his or her representative, to make the request verbally or in writing to the ADA Coordinator or other program director at least ten (10) days before the scheduled event or activity will take place. The ADA Coordinator or Program Director, or other responsible member of the staff will arrange for the listening device's use and will provide any necessary training or orientation to program staff. Reasonable effort will be made to meet requests made with less than ten (10) days notice.

18-17 Effective Communication Training Assurance

It is the policy of the City that staff training and other staff development activities provided by City personnel and volunteers include training on the use of a TTY, the operator relay service, and other equipment necessary to assure effective communication. Personnel also receive training in procedures and policies on receiving and handling requests for auxiliary aids and services and for ensuring that primary consideration is given to the type of service or format preferred by the person with disability. Training on effective communication is given during orientation and at in-service programs.

(added 5/24/2004)

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# TITLE 19

# HISTORIC DISTRICT COMMISSION

**Articles and Sections**:

19-1 Purpose.
19-2 Definitions.
19-3 District.
19-4 Commission.
19-5 Commission Powers and Duties.
19-6 Alterations and Construction Prohibited Without a Certificate.
19-7 Procedures for Review of Applications.
19-8 Criteria for Determinations.
19-9 Exclusions.
19-10 Categorical Approval.
19-11 Enforcement and Penalties.
19-12 Validity and Separability.
19-13 Appendices.

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## 19-1 Purpose

The purpose of this Title is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the City of Woburn, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the existing architecture. The City of Woburn may, under the provision of the Historic Districts Act, Chapter 40C of the Massachusetts General Laws, establish historic districts to be administered by a Historic District Commission as provided in this Title.

## 19-2 Definitions

The terms defined in this section shall be capitalized throughout this Title. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Title the following terms shall have the following meaning:

ALTERATION, TO ALTER: The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

BUILDING: A combination of materials forming a shelter for persons, animals or property.

CERTIFICATE: A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Title.

COMMISSION: The Historic District Commission as established in this Title.

CONSTRUCTION, TO CONSTRUCT: The act or the fact of building, erecting. installing, enlarging, moving and other similar activities.

DISPLAY AREA: The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an individual letter SIGN or irregular shaped SIGN shall be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.

DISTRICT: A Local Historic District as established by Chapter 40C and this Title consisting of one or more DISTRICT areas.

EXTERIOR ARCHITECTURAL FEATURE: Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

PERSON AGGRIEVED: The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; an owner of property within 100 feet of said DISTRICT area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, BUILDINGS or districts.

SIGNS: Any symbol, design or device used to identify or advertise any place of business, product, activity or person

STRUCTURE: A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.

TEMPORARY STRUCTURE or BUILDING: A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year. The COMMISSION may further limit the time periods set forth herein as it deems appropriate.

19-3 District

The DISTRICT shall consist of one or more DISTRICT areas as listed in Section 9-13 (Appendices) of this Title.

19-4 Commission

1. The DISTRICT(S) shall be overseen by a COMMISSION consisting of seven members, to be appointed by the Mayor, subject to City Council confirmation, two members initially to be appointed for one year, two for two years, and three for three years, and each successive appointment to be made for three years.

2. The COMMISSION shall include, if possible, one member from two nominees solicited from the Woburn Historical Commission; one member from two nominees solicited from the chapter of the American Institute of Architects covering Woburn; one member from two nominees of the Board of Realtors covering Woburn; and one property owner from within one of the DISTRICT areas. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Mayor may proceed to make appointments as he/she desires.

3. The Mayor, subject to City Council confirmation, may appoint up to two alternate members to the COMMISSION. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable due to conflict of interest to act or vote. Said alternate member(s) shall be appointed for terms of three years.

4. Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed and qualified.

5. Meetings of the COMMISSION shall be held at the call of the Chairman, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.

6. Four members of the COMMISSION shall constitute a quorum.

19-5 Commission Powers and Duties

1. The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this Title. In exercising its powers and duties hereunder, the COMMISSION

shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.

2. The COMMISSION may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Title or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the City Clerk.

3. The COMMISSION, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in City Hall and in a newspaper of general circulation, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which are, in general, suitable for the issuance of a CERTIFICATE. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.

4. The COMMISSION shall at the beginning of each calendar year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the City Clerk.

5. The COMMISSION shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

6. The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.

19-6 <u>Alterations and Construction Prohibited Without a Certificate</u>

1. Except as this Title provides, no BUILDING or STRUCTURE or part thereof within a DISTRICT shall be CONSTRUCTED or ALTERED in any way that affects the EXTERIOR ARCHITECTURAL FEATURES as visible from a public way, unless the COMMISSION shall first have issued a CERTIFICATE with respect to such CONSTRUCTION or ALTERATION.

2. No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of an EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a BUILDING or STRUCTURE within a DISTRICT shall be issued by the City of Woburn or any

department thereof until a CERTIFICATE as required under this Title has been issued by the COMMISSION.

19-7 Procedures for Review of Applications

1. Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the COMMISSION an application for a CERTIFICATE of Appropriateness, of Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the COMMISSION to enable it to make a determination on the application.

2. The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.

3. If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the COMMISSION under the provisions of this Title, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.

4. If the COMMISSION determines that such application involves any EXTERIOR ARCHITECTURAL FEATURE subject to review under this Title, it shall hold a public hearing on the application, except as may otherwise be provided in this Title. The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in City Hall and in a newspaper of general circulation in Woburn. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the COMMISSION shall deem entitled to notice.

   A. A public hearing on an application for a CERTIFICATE need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a CERTIFICATE may be

waived by the COMMISSION if the COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE involved, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses with a public hearing on an application for a CERTIFICATE, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the COMMISSION to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the COMMISSION may act upon such application.

5. Within sixty *(60)* days after the filing of an application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall issue a CERTIFICATE or a disapproval. In the case of a disapproval of an application for a CERTIFICATE, the COMMISSION shall set forth in its disapproval the reasons for such disapproval. The COMMISSION may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the COMMISSION in a subsequent application, would make the application acceptable to the COMMISSION.

6. The concurring vote of a majority of the members present shall be required to issue a CERTIFICATE.

7. In issuing CERTIFICATES, the COMMISSION may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose if this Title.

8. If the COMMISSION determines that the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the DISTRICT, the COMMISSION shall issue a CERTIFICATE of Appropriateness.

9. If the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owing to conditions especially affecting the BUILDING or STRUCTURE involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Title. If the COMMISSION determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant

and approval thereof may be made without such substantial detriment or derogation, the COMMISSION shall issue a CERTIFICATE of Hardship.

10. The COMMISSION shall send a copy of its CERTIFICATES and disapprovals to the applicant and shall file a copy of its CERTIFICATES and disapprovals with the office of the City Clerk and the Building Commissioner. The date of issuance of a CERTIFICATE or disapproval shall be the date of the filing of a copy of such CERTIFICATE or disapproval with the office of the City Clerk.

11. If the COMMISSION should fail to issue a CERTIFICATE or a disapproval within sixty (60) days of the filing of the application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall thereupon issue a CERTIFICATE of Hardship Due to Failure to Act.

12. Each CERTIFICATE issued by the COMMISSION shall be dated and signed by its chairman or such other person designated by the COMMISSION to sign such CERTIFICATES on its behalf.

13. A PERSON AGGRIEVED by a determination of the COMMISSION may, within twenty (20) days of the issuance of a CERTIFICATE or disapproval, file a written request with the COMMISSION for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the regional planning agency. The finding of the person or persons making such review shall be filed with the City Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the COMMISSION, unless a further appeal is sought in the Superior Court as provided in Chapter 4OC, Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the City Clerk.

19-8 <u>Criteria for Determinations</u>

1. In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.

2. In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportions of the BUILDING or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in

relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or ordinance.

3. When ruling on applications for CERTIFICATES on solar energy systems as defined in Section IA of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

4. The COMMISSION shall not consider interior arrangements or architectural features not subject to public view from a public way.

19-9 Exclusions

The COMMISSION shall exclude from its purview the following:

1. A. Temporary BUILDINGS, STRUCTURES or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify

   B. Terraces, walks, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level.

   C. Storm windows and doors, screen windows and doors, and window air conditioners.

   D. The color of paint.

   E. The color of materials used on roofs.

   F. Signs of not more than two (2) square feet in DISPLAY AREA in-connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in DISPLAY AREA, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.

   G. The reconstruction, substantially similar in exterior design, of a BUILDING, STRUCTURE or EXTERIOR ARCHITECTURAL FEATURE damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

2. Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions.

3. Nothing in this Title shall be construed to prevent the ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any CONSTRUCTION or ALTERATION under a permit duly issued prior to the effective date of this Title.

19-10 Categorical Approval

The COMMISSION may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in City Hall and in a newspaper of general circulation in Woburn, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be CONSTRUCTED or ALTERED without review by the COMMISSION without causing substantial derogation from the intent and purpose of this Title.

19-11 Enforcement and Penalties

1. The COMMISSION shall determine whether a particular activity is in violation of this Title or not, and the COMMISSION shall be charged with the enforcement of this Title.

2. The COMMISSION, upon a written complaint of any resident of Woburn, or owner of property within Woburn, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the City of Woburn to prevent, correct, restrain or abate violation of this Title. In the case where the COMMISSION is requested in writing to enforce this Title against any person allegedly in violation of same and the COMMISSION declines to act, the COMMISSION shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty one (21) days of receipt of such request.

3. Whoever violates any of the provisions of this Title shall be punishable by a fine of up to $300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

4. The COMMISSION may designate the Building Commissioner of the City of Woburn to act on its behalf and to enforce this Title under the direction of the COMMISSION.

19-12 Validity and Separability

The provisions of this Title shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Title shall continue to be in full force and effect.

19-13 Appendices

There are hereby established under the provisions of Massachusetts General Law, Chapter 40C, as amended, the following Historic Districts bounded as shown on the maps as cited in each appendix, which are attached to and made part of this ordinance.

Appendix 1:

Baldwin Homestead Historic District

The Baldwin Homestead District shall be a DISTRICT area under this Title. The location and boundaries of the Baldwin Homestead Historic District are defined and shown on the Baldwin Homestead Historic District Map of the City of Woburn, Sheet 1, which is a part of this Title. Sheet 1 is based on the 2004 City Map database created by the City of Woburn's Engineering Department. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Appendix 2:

Expanded Baldwin Homestead Historic District

The Expanded Baldwin Homestead District shall be a DISTRICT area under this Title. The location and boundaries of the Expanded Baldwin Homestead Historic District are defined and shown on the Expanded Baldwin Homestead Historic District Map of the City of Woburn, Sheet 1 and Sheet 2, which is a part of this Title. Sheet 1 and Sheet 2 are based on the 2009 City Map database created by the City of Woburn's Engineering Department. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1 and Sheet 2. (added 5/1/2009)

(Title added 9/27/2004)

# TITLE 20

# SEALER OF WEIGHTS AND MEASURES

**Articles and Sections**:

20-1 Purpose
20-2 Appointment
20-3 Qualifications
20-4 Duties and Responsibilities
20-5 Sealer Standards
20-6 Enforcement and Penalties
20-7 Fees of Sealers

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## 20-1 Purpose

In every commercial transaction involving the weighing or measuring of a commodity, accurate weighing and measuring devices and proper practices protect both the buyer and seller. The buyer has a right to equity; the seller has a right to fair value. The livelihoods of those who produce, transport or purchase products and materials depend on accurate measurement of the weights and volumes of those goods. The Sealer of Weights & Measures is responsible for seeing that scales, meters and other measuring devices in commercial use perform properly, and that business practices protect the interests of all parties, thereby promoting an atmosphere conducive to equity in the marketplace and fair business competition.

In accordance with Chapter 98, section 34 of the General Laws of the Commonwealth of Massachusetts, the City of Woburn does establish the position of Sealer of Weights and Measures.

## 20-2 Appointment

The Sealer of Weights & Measures shall be appointed by the Mayor for a term of two years, during which time the appointee shall enforce the laws pertaining to weighing and measuring devices and shall have the power to issue fines and warnings, under MGL Ch.98, Section 29A, for the giving of false or insufficient measure.

The Sealer of Weights and Measures shall be a part of the Engineering Department and report to the City Engineer.

The sealer shall receive a salary as determined by the City Council and shall also receive an additional allowance for transportation and other necessary expenses. The sealer shall account for and pay into the City Treasurer monthly all fees received and shall make an annual report to the City Council.

20-3 Qualifications

The sealer shall be certified by the Commonwealth within one year of assuming the powers and duties of office. Failure to become certified within one year shall be cause for termination. A sealer who has passed a Civil Service examination for the position of sealer of weights and measures shall be exempt from certification requirements. Notwithstanding any certification exemption, the sealer appointee shall participate in continuing training and education programs, the cost of which shall be paid by the City.

- Must be certified by the Commonwealth of Massachusetts within one year of initial appointment as a weights and measures official, unless appointed under Civil Service.

- Must attain thirty hours of approved continuing education every two years after receiving initial certification as a weights and measures official.

- Must have considerable knowledge of the State laws, rules and regulations governing established standards pertaining to weights and measures.

- Must have a working knowledge of the methods, procedures and legal metrology requirements pertaining to the testing, inspection, certification and accuracy requirements of commercial devices.

- Must have a working knowledge of the principles, methods of construction and operation of all types of commercial weighing and measuring devices.

- Must have the ability to advise businesses, government agencies and consumers concerning applicable laws, rules and regulations pertaining to the office of Sealer.

- Must have the ability to deal effectively with others, retaining their support and cooperation whenever necessary.

- Must have the ability to write clear and concise reports regarding inspections and investigations.

- Must have a working knowledge of all safety requirements pertaining to the testing of devices, as well as the proper and safe handling of all volatile materials, chemicals and petroleum products, including propane and natural gas.

20-4 Duties and Responsibilities

The Sealer of Weights and Measures shall undertake the following duties and responsibilities:

- Inspect all commercial weighing and measuring devices designated as “legal for trade” to assure that they are maintained within acceptable tolerances as defined by State and federal law. These devices include: mechanical and electronic weighing devices found

  in supermarkets, delicatessens, bakeries, groceries and eating places, computerized retail scanning devices, reverse vending machines (can & bottle returns), apothecary scales, balances and weights, taximeters, retail fuel pumps dispensing gasoline and diesel, oil truck meters, wire, rope, cordage, linear measures such as yardsticks and tape.

- Perform routine price verification in retail establishments having computerized scanning devices.

- Collect all appropriate fees due the City and deposits receipts with the City Treasurer.

- Serve as a consumer advocate by investigating any concerns or complaints relative to questionable selling practices.

- Maintain accurate and detailed records for all of the above, and reports annually to the City Council.

- Perform other related duties as required by the City and the Commonwealth.

20-5 Sealer Standards

The City shall keep the following standard weights, measures and balances:

- A set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, two and one pounds, and eight, four, two, one, one half, one quarter, one eighth and one sixteenth ounces.

- A set of dry measures consisting of one half-bushel, one eight-quart, one four-quart, one two-quart, one one-quart, one pint and one half-pint.

- A set of liquid measures consisting of one gallon, one half-gallon, one quart, one pint, one half-pint and one gill.

- One balance and one yard measure

The City shall be furnished by the Commonwealth with a set of the above referenced standards and shall keep the meter and kilogram and the standard troy weights designated by the Commonwealth. The City shall provide accessible places for the safe and suitable keeping and preservation of the standards supplied by the Commonwealth, which shall be used only as standards. The sealer of weights and measures shall have the care and oversight of said standards, shall see that they are kept in good order and repair and, if any are lost, destroyed or damaged beyond repair, shall see that they are replaced, at the City's expense.

The sealer of weights and measures may, upon request to the State Director of Standards, obtain a duplicate set of apothecaries' weights and apothecaries' liquid measures to be used as standards. Such duplicate set will be obtained at the expense of the City.

The sealer of weights and measures shall receive from the City a set of standards and a seal, and shall give a receipt therefore, stating their condition when received and shall be accountable for the preservation in like condition.

20-6 Enforcement and Penalties

The sealer of weights and measures shall annually give public notice, by advertisement or by posting notices in one or more public places in the City, to all inhabitants or persons having usual places of business in the City, using weighing or measuring devices for the purpose of buying or selling goods, wares or merchandise, for public weighing, to bring those devices in to be tested, adjusted and sealed.

After giving said notice, the sealer of weights and measures shall go to the houses, shops, stores, vehicles or other commercial premises, during normal business hours, of a person not complying therewith, and shall test and adjust, seal or condemn in accordance with the results of such tests, the weighing and measuring devices of such person. No person shall use for weighing and/or measuring any device which has not been so tested and sealed. Devices used for the measuring of leather shall be tested semi-annually. When a vehicle tank used in the sale of

commodities by liquid measure has once been sealed, it shall not be necessary to seal that tank again while it remains in the same condition as when first sealed.

Any person who hinders, obstructs or in any way interferes with the sealer of weights and measures in the performance of duty shall be punished by a fine of not more than five hundred dollars for the first offence and a fine of not more than one thousand dollars for each subsequent offence, or shall be subject to a civil citation or order.

The sealer of weights and measures shall test all weighing or measuring devices having a device for indicating or registering the price as well as the weight or measure of a commodity offered for sale as to the correctness of both weights or measures and values indicated by such devices.

All devices used upon vehicles for determining the cost of transportation shall be tested as to the correctness of measures and values indicated by them. Any owner or operator of a taxicab or other vehicle who refuses or neglects to comply with any rule or regulation so made shall be punished by a fine of one hundred dollars or shall be subject to a civil citation.

Apothecaries and other persons dealing in or dispensing drugs, medicines or merchandise sold, dispensed or given away by apothecaries' liquid measure, shall, at least annually, cause the weights and measures so used to be tested by the sealer of weights and measures. A graduated glass measure, once sealed by the sealer of weights and measures or manufacturer, need not be again sealed while remaining in the same condition as when first sealed. Whoever sells or dispenses drugs, medicines or merchandise requiring the use of apothecaries' weights or apothecaries' liquid measures or in the sale of which they are commonly used, and does not have such weights and measures tested and sealed shall be punished by a fine of not more than fifty dollars or shall be subject to a civil citation.

The sealer of weights and measures shall go at least once a year to each hay and coal scale and other weighing or measuring device in the City that is not easily or conveniently removed, and shall test, adjust and seal or condemn them.

The sealer of weights and measures shall, in every 24-month period, examine and test the operation of all automated retail checkout systems, in all establishments with three or more cash registers, and shall upon complaint examine and test the operation of any automated retail checkout system to determine whether the price for which an item is offered or advertised for sale, including any advertised special price offered to a customer with a store-issued discount card, conforms to the unit and/or net prices displayed to the customer on the visual display and conforms to the price for which a purchaser is charged by such automated retail checkout

system to determine whether the total price for items purchased is correctly represented. If such examination and test reveals that there is evidence of price misrepresentation, or misleading or deception of the purchaser of items, the owner, manager or designee of the owner or manager of the retail establishment using such automatic checkout system shall be punished for the first offense by a fine of one hundred dollars, for the second offense by a fine of two hundred fifty dollars, and for a subsequent offense by a fine of five hundred dollars. Notwithstanding the method for determining the amount of civil fines, a civil citation may be issued for one hundred dollars for each violation, up to a maximum of two thousand five hundred dollars per inspection. An automated retail checkout system shall mean a cash register, computer, terminal, or other device capable of interpreting the universal product code, or any other code which is on an item offered for sale to consumers used to determine the price of the item being purchased, regardless of whether the code entry is accomplished manually or automatically by a machine.

Whoever uses any weighing or measuring devices may have them tested by the sealer of weights and measures at any time upon request and the sealer of weights and measures shall seal or condemn the same in accordance with the results of said tests.

If a person informs the sealer that he has reasonable cause to believe, or if the sealer has reasonable cause to believe, that any weighing or measuring device used in the sale of a commodity in the City is incorrect, the sealer shall go where it is and shall test and mark it according to the result of the test. If the device is incorrect and cannot be adjusted, the sealer shall attach thereto a notice of that fact forbidding its use until it conforms to the authorized standard. If the sealer has reasonable cause to believe that any weighing or measuring device has been altered since last adjusted and sealed, he shall enter the premises where the device is kept or used and examine it. Whoever uses a weighing or measuring device after refusing permission to the sealer to test it or who has in his possession any weighing or measuring device that has been altered for fraudulent purposes since last adjusted and sealed shall be punished by a fine of not less than five hundred nor more than one thousand dollars.
If the sealer of weights and measures cannot seal any weighing or measuring device in the usual manner, he may mark it with a stencil or by other suitable means, showing that it has been inspected. If a weighing or measuring device is so small as to render it impracticable to seal it in the usual manner, he shall give a certificate in a form approved by the commonwealth, specifying each weighing or measuring device so tested. He shall in no case seal or mark as correct any weighing or measuring device not conforming to the standards. If such a weighing or measuring device can be readily adjusted by means at hand, the sealer may adjust and seal it; but if not, he shall affix thereto a notice forbidding its use until he is satisfied that it conforms to the standards. Whoever removes said notice without

the consent of the sealer of weights and measures shall be liable to a fine of not more than five hundred dollars.

The sealer of weights and measures may seize without a warrant any weighing or measuring devices necessary to be used as evidence in cases of violation of the ordinances relative to the sealing thereof, and they shall be returned to the owners or forfeited, as the court directs.

The sealer of weights and measures may seize weighing or measuring devices not conforming to legal standards or not sealed as required by law. A person having in his possession such weighing or measuring devices, with intent to use them in violation of law, shall be punished by a fine of not more than five hundred dollars or shall be subject to a civil citation, and such devices, upon order of the court, shall be destroyed. Possession thereof shall be prima facie evidence of intention to use them in violation of law.

The City shall annually, between January 1 and January 31, submit to the commonwealth a written report that describes the City's weights and measures program, including, but not limited to, an inventory of all weighing and measuring devices and equipment and the date of the most recent certification for each device or piece of equipment, inspection results by category, results of tests performed, total number of citations issued by category, the net loss restore to merchants and consumers as a result if the enforcement program, and any other information required by the state director.

Whoever places a scale or weighing device when used in weighing food sold at retail by weight in the presence of the purchaser so that the weight indicator may not be read and the weighing operations be observed by the purchaser shall be punished by a fine of fifty dollars or be subject to a civil citation.

Whoever being engaged in the business of selling prepackaged meat, poultry or edible fish at retail refuses or neglects to provide each outlet where said products are sold with a computing scale or refuses to reweigh a prepackaged item of meat, poultry or edible fish in the presence of a prospective purchaser, when so requested, shall be punished by a fine of not less than one hundred dollars and shall be subject to a civil citation. A computing scale shall be deemed one that indicates the money values of a commodity weighed at predetermined unit prices throughout all or part of the weighing range of the scale. Prepackage meat, poultry of edible fish shall not include canned meat, poultry or edible fish, prepackaged cold cuts or other processed meats, or poultry or fish packaged off the premises and labeled with the net quantity of contents.

Whoever maintains a cash register or other mechanical device at a counter for totaling the monetary value of customer purchases at retail which is so hidden or in

such a position that the total cannot be observed by the customer shall be punished by a fine of fifty dollars or be subject to a civil citation.

Violations of this ordinance may be enforced by the Sealer of Weights and Measures and the City Engineer of the City of Woburn, by any available means in law or equity, including but not limited to enforcement by non-criminal disposition pursuant to G.L. c. 40, §21D and Sections 1-17 and 1-18 of the City Ordinances. Each day a violation exists shall constitute a separate violation.

When enforced through non-criminal disposition, the penalties shall be as follows:

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| First violation: | $100.00 |
| Second violation: | $500.00 |
| Third and subsequent violations: | $1,000.00 |

20-7 Fees of Sealers:

The City Council shall periodically review and adopt fees for the various items required to be performed by the Sealer of Weights and Measures. The fees established by the City Council are as follows:

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| . | **Balances & Scales** | |
| | over 10,000 Lbs | $125.00 |
| | 5,000 - 10,000 Lbs | $100.00 |
| | 1,000 - 5,000 Lbs | $100.00 |
| | 100 - 1,000 Lbs | $ 75.00 |
| | 10 - 100 Lbs | $ 75.00 |
| | under 10 Lbs | $ 25.00 |
| | **Weight** | |
| | Avoirdupois (each) | $2.00 |
| | Metric (each) | $2.00 |
| | Apothecary (each) | $2.00 |
| | Troy (each) | $2.00 |
| | **Capacity Measures** | |
| | Vehicle tanks (each indicator) | $15.00 |
| | " (each 100 gal. of fraction) | $10.00 |
| | Liquid (1 gallon or less) | $5.00 |
| | " (over 1 gallon) | $10.00 |

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| **Liquid Measuring Meters** | |
| **Except water meters** | |
| Meter (1/2" or less) | $15.00 |
| Meter (1/2" - 1") | $25.00 |
| Meter (over 1") vehicle tank - pump | $100.00 |
| Meter (over 1") vehicle tank - gravity | $100.00 |
| Bulk Storage | $125.00 |
| Bulk Storage with prover cert. | $100.00 |
| Gasoline pumps - each grade | $ 25.00 |
| Oil Truck | $ 20.00 |
| **Linear or Area** | |
| Each device | $15.00 |
| Yard Sticks | $10.00 |
| Tapes | $10.00 |
| **Scanners** | |
| 1-3 registers/terminals | $75.00 |
| 4-11 registers/terminals | $150.00 |
| More than 11 registers/terminals | $250.00 |
| **Other Devices** | |
| Taximeter | $65.00 |
| Reverse vending machines | $45.00 |
| Odometer/Hubometer | $35.00 |
| Wire/Rope/Cordage | $40.00 |
| Fabric measuring | $40.00 |
| Leather measuring (semi-annual) | $40.00 |
| Timing devices | $40.00 |
| Mass flow meter - gaseous | $100.00 |

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Amended 10/19/2007

Title added 11/27/2006

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