

**CITY OF WOBURN
OCTOBER 17, 2006 - 7:30 P.M.
REGULAR MEETING OF THE CITY COUNCIL**

Roll Call

| | |
|----------|--------------|
| Ciriello | Gately |
| Denaro | Galvin |
| Drapeau | Gonsalves |
| Dwyer | Mercer-Bruen |
| Doherty | |

VOTED to dispense with the reading of the previous meeting's Journal and to APPROVE, all in favor, 9-0.

MAYOR'S COMMUNICATIONS:

A communication dated October 2, 2006 was received from His Honor the Mayor as follows:

Re: Ribbon Cutting – Woburn's Restored First Burial Ground, Park Street, off Woburn Square – Saturday, October 28, 2006 at 3:30 p.m.

Dear President Doherty and Members of the City Council:

On behalf of the City of Woburn and Woburn Cemetery Commission, you are cordially invited to attend a ribbon-cutting ceremony for the newly-restored First Burial Ground in Woburn on Saturday, October 28, at 3:30 pm.

The restoration was made possible through the funding from the Massachusetts Preservation Projects Fund. The City of Woburn is grateful for the MPPF grant award, and we are pleased to showcase the restoration of one of the oldest cemeteries in the Commonwealth with this ceremony.

Immediately following the ceremony, the Woburn Historical Society, along with the Woburn Redevelopment Authority and Woburn Historical Commission, will host the first Narrated Tours of the Burial Ground from 4:00-6:00 pm for the public. The Narrated Tour, which promises to become an annual event, will run each half hour until sunset and feature biographical sketches of five individuals or families laid to rest in the Burial Ground.

Sincerely, s/Thomas L. McLaughlin, Mayor

Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated September 29, 2006 with attachment was received from his Honor the Mayor as follows:

Dear President Doherty and Members of the City Council:

As you may already be aware, the 11th Annual National Brownfields Conference will be held in Boston this November 13-15 at the Boston Convention and Exhibition Center.

Enclosed for your information is a copy of the conference brochure, in which Woburn will be featured (see page 8) as one of the mobile workshops. This workshop entitled "Two Approaches to Large Sites: Industri-Plex in Woburn and Jordan's Furniture in Reading."

Sincerely, s/Thomas L. McLaughlin

Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated October 16, 2006 was received from His Honor the Mayor as follows:

Re: Open Meeting Law Investigation – Personnel Committee

Dear President Doherty and Members of the City Council:

Enclosed please find a copy of a letter dated September 29, 2006, from Attorney Mark Reich of Kopelman and Paige, P.C., indicating that the Middlesex District Attorney's Office concluded there was no violation of the open meeting law in a complaint filed by former Mayor John C. Curran.

Please note that Attorney Reich also indicates that Assistant District Attorney Kilcoyne recommends that the minutes of this session be released since the matter has concluded.

Sincerely, s/Thomas L. McLaughlin, Mayor

Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

Motion made and 2nd to suspend the rules for the purposes of taking a matter out of order, all in favor, 9-0.

A communication dated October 17, 2006 with attachments was received from Carl R. Batchelder, Ed.D., Superintendent of Public Works as follows:

Dear President Doherty:

The Massachusetts School Building Authority (MSBA) will consider applications for school construction and renovation in accordance with priorities listed below:

1. Replacement or renovation of a building which is structurally unsound or otherwise in a condition seriously jeopardizing the health and safety of schoolchildren, where no alternative exists;
2. Elimination of existing overcrowding;
3. Prevention of loss of accreditation;
4. Prevention of severe overcrowding expected to result from increased enrollments, which must be substantiated;
5. Replacement, renovation or modernization of the heating system in any schoolhouse to increase energy conservation and decrease energy related costs in the schoolhouse;
6. Short-term enrollment growth;
7. replacement or addition to obsolete buildings in order to provide a full range of programs consistent with state and approved local requirements; and
8. Transition for court-ordered and board approved racial balance school districts to walk-to, so-called, or other school districts.

The ability of a school district to file an application rests with the MSBA. Based on the content of the Statements of Interest submitted, the MSBA will determine whether or not a district will be invited to make application for assistance. However, the MSBA is very clear that the Statement of Interest “is not intended to obtain information about any plans or designs of construction or renovation project that a city, town or regional school district may be considering, and no such information should be included with this Statement of Interest.”

The purpose of the Statement of Interest process is to ascertain from cities, towns and regional school districts the following:

1. Whether they believe they have any deficiencies in their respective school facilities.
2. Whether their stated deficiencies meet one or more of the statutory priorities identified above.
3. Whether they are interested in filing an application for funding.

The MSBA is very specific about its requirement that both the School Committee as well as City Council vote to authorize the Superintendent of Schools to submit Statements of Interest for each school which may be considered for some form of construction

assistance in the future. So the attached motion is worded precisely in accordance with MSBA instructions. The School Committee has already unanimously approved the Statements of Interest submittal. Please note that submission of this Statements of Interest in no way commits the school district/City to any financial obligation. However, if we do not submit this Statement of Interest, we will not even have the opportunity to apply for funding.

I respectfully request that the City Council approval the attached suggested motion.

Sincerely, s/Carl R. Batchelder, Ed.D., Superintendent of Schools

Suggested Motion to be Made by the City Council of Woburn

Having convened in an open meeting on October 17, 2006 the City Council of Woburn, in accordance with its ordinances, has voted to authorized the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest dated October 10, 2006 for the:

| <u>School Name</u> | <u>School Location</u> |
|-----------------------------|--|
| Goodyear Elementary School | 41 Orange Street, Woburn, MA 01801 |
| Wyman Elementary School | 679 Main Street, Woburn, MA 01801 |
| Clapp Elementary School | 40 Hudson St./Arlington Road, Woburn, MA 01801 |
| Altavesta Elementary School | 990 Main Street, Woburn, MA 01801 |
| Linscott Elementary School | 86 Elm Street, Woburn, MA 01801 |
| Hurld Elementary School | 75 Bedford Road, Woburn, MA 01801 |

which describes and explains the following deficiencies and the priority categories for which the City of Woburn's School District may be invited to apply to the Massachusetts School Building Authority in the future:

- Goodyear Elementary School – Priority #1, #2, #5, #7
- Wyman Elementary School - Priority #1, #5, #7
- Clapp Elementary School – Priority #1, #5, #7
- Altavesta Eementary School – Priority #1, #5, #7
- Linscott Elementary School – Priority #1, #2, #4
- Hurld Elementary School – Priority #1, #5, #7

Justification for suggesting deficiencies related to priorities #1, #5 and #7 are identified by the MSBA Need Survey conducted this past January (please see attached). Justification for suggesting deficiencies related to priority #2 is as follows:

Linscott Elementary School:

- Enrollments: 04-5 enrollments 247, 05-06 enrollments 266, Projected 06-07 enrollment 305
- Space: Special subject space, i.e. health/art, has been eliminated, Two larger classroom have been divided into four classrooms

Goodyear Elementary School:

- a. Had we not redistricted three years ago, lack of space would have been critical. Had we not built larger elementary schools for the Shamrock and Malcolm White, we would have had a more far reaching redistrict problem.
- b. Also, portable classrooms are not a long-term solution to achieve parity at the Goodyear

and hereby further specifically acknowledges that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant of any other funding commitment from the Massachusetts Building Authority, or commits the City/Town/Regional School District to filing an application for funding with the Massachusetts School Building Authority.

Appearing was Superintendent of Schools Carl Batchelder and he stated that the Statement of Interest is an important first step in that it expresses to the Massachusetts School Building Authority (MSBA) that the city would like to consider doing something with the school district buildings, that the State noted the deficiencies in some of the school buildings in its report which will be used as an exhibit to the Statement of Interest, that the MSBA requires a certified copy of a vote of the City Council, that two of the buildings were rated "F" which is the worst rating and indicates that the building requires work, that the suggested motion is based on the model motion of the MSBA, that the deadline for submission is June 2007, that the applications will begin to be reviewed beginning on July 1, 2007, that this motion expresses the city's interest to do something, that if this action is not taken the city will not be invited to submit an application, that the sooner this is submitted to the State the less competition there will be for the funds, that this is not a commitment by the city, that this just begins the process, that if a specific project moved forward there would be a public hearing, that the MSBA is not seeking a specific plan now but rather wants to see what deficiencies are present and it wants to be a part of the process of meeting those deficiencies, that it is not certain what reimbursement will be available or whether priority will be on new construction or renovation, that in terms of formulating a plan such as action is too far ahead, that the MSBA does not want money spent by the community at this time, that invitations to participate is the next step and is expected before next July, that with a new Governor taking office in January will not likely change this program as it is a legislative program, that it could take as long as four or five years to complete the school rebuilding process, and that he recognized the efforts of the Mayor's Task Force for bringing this issue forward. Alderman Galvin stated that he is in support of expressing an interest however public opinion by way of a public hearing should be obtained. Alderman Drapeau stated that unless the city gets in line with other communities who have already expressed an interest in the program then the city will be shortchanged because the money will be limited. Alderman Denaro stated that it will take a significant amount of time to get the ideas on the school building process together as well as to get the funding, that it is safe to say that if a child is in elementary school now it is not likely that the child will be in a new elementary school building before he or she finishes elementary school, that this is

likely a four to five year process, and that there are other municipal building projects that need to be addressed such as the fire stations, and that the city needs to balance school building needs as well as other building needs. Motion made and 2nd to adopt the motion suggested by the Superintendent of Public Works relative to a Statement of Interest in the school building program, all in favor, 9-0.

Presented to the Mayor: October 20, 2006 s/Thomas L. McLaughlin Oct. 23, 2006

Motion made and 2nd to take Citizen's Participation and a resolve out of order, all in favor, 9-0.

CITIZEN'S PARTICIPATION:

Petition by Massachusetts Package Store Association, Inc. requesting citizen's participation time to speak concerning Question 1 which will be on the State ballot on November 7, 2006. Alderman Galvin stated that he would abstained from this matter and left the Council Chamber. Appearing for the petitioner was Tom Williams and he stated that he is the Vice President of the Massachusetts Package Store Association, Inc., that there are currently eight alcoholic beverage store licenses in the city, that adopting Question 1 will allow an additional twelve licenses in the city, that there will be seventy new licenses in the surrounding area, that the ballot question allows stores that carry some food items to obtain a license such as convenience stores, gasoline stations and pharmacies, that two-thirds of the licenses will be non-grocery type stores, that it will be difficult to police that many licenses, that often sixteen or eighteen olds work in convenience stores and monitoring alcohol in those stores will be difficult, that this does not provide additional funding for policing, that 2,800 new licenses will be allowed in Massachusetts where currently there are 2,100 licenses, that in Woburn the package stores try to employ older people, and that there will be a much larger percentage of sales to minors and access to minors in areas where these licenses are currently allowed. Alderman Dwyer stated that young people will be handling alcohol and scanning alcohol at the registers with these new types of licenses, that as an Assistant Chief of Juvenile Probation Officers and as an Alderman he worries about this ballot question moving forward, that he worked in a package store for twenty years, that these businesses support the communities in many ways, that 90% of the children who come through the courts have some alcohol related impact on their lives, and that he is opposed to Ballot Question 1.

RESOLVED Whereas, Ballot Question 1 on the State ballot on November 7, 2006 will create a new liquor license that will allow the sale of alcoholic beverages in grocery stores, convenience stores, drugs stores and gasoline stations;
and

Whereas, increased availability of alcohol can lead to a decrease in public safety; and

Whereas, the safety of motorists and pedestrians should be a higher priority than convenience in making purchases of alcohol; and

Whereas, the Great and General Court of the Commonwealth of Massachusetts adopted Chapter 49 of the Acts of 1997 “An Act Relative to the Sale of Certain Alcoholic Beverages in the City of Woburn”; and

Whereas, that Chapter 49 of the Acts of 1997 was a Special Act approved on July 11, 1997 which prohibits the license commission in Woburn from issuing licenses for the sale of wine and malt beverages not to be drunk on the premises in the city of Woburn; and

Whereas, adoption of Ballot Question 1 would be inconsistent with the prior policy of the city as expressed in Chapter 49 of the Acts of 1997;

Now, Therefore, Be It Resolved by the City Council of the City of Woburn that the City Council oppose Ballot Question 1 on November 7, 2006 and urges the residents of the city of Woburn to join them in voting No on Ballot Question 1.

s/Alderman Dwyer

Motion made and 2nd that the RESOLVED be ADOPTED, all in favor, 8 in favor, 0 opposed, 1 abstained (Galvin abstained).

Presented to the Mayor: October 20, 2006 s/Thomas L. McLaughlin Oct. 23, 2006

Alderman Galvin returned to the Council Chamber.

Petition by Cherylann Silva, 10 Church Court, Woburn, Massachusetts 01801 requesting citizen’s participation time to discuss an issue with housing. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON LIAISON, all in favor, 9-0.

Motion made and 2nd to return to the regular order of business, all in favor, 9-0

PUBLIC HEARINGS:

On the petition concerning the building or buildings located in the City of Woburn, County of Middlesex, Commonwealth of Massachusetts known and numbered as 434 Main Street, Woburn, Massachusetts for the purposes of determining whether said building or buildings are a public nuisance, a nuisance to the neighborhood, a dilapidated or dangerous building or other structure, as said terms are used in Massachusetts General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the

neighborhood, or dangerous, and prescribing its disposition, alteration or regulation. PUBLIC HEARING OPENED. A communication dated October 17, 2006 was received from Attorney Mark J. Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 as follows:

Re: 434 Main Street – Nuisance Petition

Dear President Doherty and Councilors:

Please be advised that I represent Mr. Capelo regarding the property at 434 Main Street. Due to scheduling conflicts, my client and I are not available to attend the hearing, but would like to assure the Council we are taking the matter seriously and are making every effort to bring it to a resolution.

Although this property has been vacant for some time, Mr. Capelo has been actively pursuing various possibilities to either sell or lease the property. He has had three potential buyers sign purchase and sale agreements only to have the deals fall through.

In an attempt to lease the property, Mr. Capelo has now retained an architect to design a new storefront which will hopefully be installed within the next two months. Based on the current schedule, request is made to table this matter until your second meeting in November to either review or, if appropriate, withdraw the petition.

Thank you for your cooperation and please call with any questions.

Very truly yours, s/Mark J. Salvati

Motion made and 2nd that the communication be received and made part of the record, all in favor, 9-0. Alderman Galvin stated that Chief Mahoney has contacted various city officials concerning the building, that the owner has not been cooperative although he was given time to act on this in the past, that this will be the owner's last opportunity to address this issue, and that he recommends continuing this matter until a Regular Meeting in November. IN FAVOR: None. OPPOSED: None. Motion made and 2nd to continue the public hearing to the Regular Meeting of the City Council on November 21, 2006, all in favor, 9-0.

On the petition relative to the installation of traffic control signal lights at the intersection of Salem Street and Wildwood Road and the intersection of Salem Street and Wood Street. PUBLIC HEARING OPENED. John Corey, City Engineer stated that the project to install these traffic signals commenced about ten years ago, that the design was completed with development mitigation funds, that the Mayor and City Council has moved this project forward, that VHB has done further work to complete the project, that there will be design completion next month followed by a bid process and then construction in the Spring 2007, that there could be significant impacts on private parcels and they have attempted to minimize that, that there will be some land takings, that they

are in negotiations with the neighbors, that the VHB design requires minimized land takings, that they spoke to all affected landowners, that they are looking to minimize impacts, and that the trucking ordinances will remain in effect to the extent that they are in effect today. Don Cooke, VHB Associates stated that this is an offset intersection and not a standard four-way intersection, that this area does not lend itself to creating a four-way intersection, that approximately 17,000 cars per day travel Salem Street and approximately 4,000 cars per day travel Wood Street and Wildwood Road, that there are approximately 800 to 900 cars per hour on Salem Street during the morning and afternoon peak hours, that this amount of traffic is getting to the point of maximum capacity for a single lane travel road, that the vast majority of the traffic comes from Wood Street and Wildwood Road which adds to the complexity of the intersection, that there were 24 reported accidents from 2002 to 2004, that this is a high number, that the crash rate is the number of accidents per vehicles coming through the intersection, that the crash rate at the location is .9 with the state average for an unsignalized intersection of .6, that it is difficult to get out of the side streets at the intersection, that the operations for Wildwood Road and Wood Street during the morning and afternoon peak hours is level "F", that the state holds jurisdiction over the installation of traffic signals, that the city has to satisfy eight warrants, that the data exceeds the warrants that justifies signalization, that this data does not mean that the intersection has to be signalized but that it can be signalized, that the city has started discussions with direct abutters and neighbors, that there will be some widening required for three to four feet on each side of the streets, that this will be a mast arm mounted signal over the road, that they will use the hard steel fix mount as opposed to fixing the signal to a wire across the road, that the signal will be camera controlled to operate as traffic conditions warrant, that they will have a different phase on Wood Street and Wildwood Road to allow the traffic to clear the intersection on a green signal, that they will have a pedestrian signalization phase, that there will be a combination of roadway reconstruction including cold-planing, that some areas might need full reconstruction, that there will be granite curb and sidewalks, that crosswalks will be installed, that they will the private driveways in the intersection into the phase or will be working with landowners to relocate the driveways to make them work better, that the signalization will help move traffic through the intersection and improve safety, that although this will improve operations there may be some additional delay with a red light when traveling on Salem Street where currently traffic does not have to stop, that this is a municipal project that can progress as anticipated, that the intersection will be designed as WB50 which is a wheelbase measurement that will accommodate trucks without having to cross lanes, that knowing what type of traffic this intersection serves it was important to build this into the design, that the driveway to the commercial property on the south side of Salem Street will be closed and moved to be in alignment with the signals, that the signals are not supposed to be used to slow traffic down but there may be some residual benefit, that Pine Street is far enough away that it will not be impacted, that the average cars during most traffic will be 200 to 300 feet back, that he cannot speak to the integrity of the Salem Street bridge, that there will be a protected left turn onto Wood Street, that coming from Wood Street or Wildwood Road will be a protected move through the intersection, that there will be a marking for a right turn lane on Wood Street, and that countdown pedestrian controls will be installed. Mr. Cooke offered a plan to the City Council for review. Motion made and 2nd that the plan

be received and made part of the record, all in favor, 9-0. Alderman Mercer-Bruen stated that the cost of construction increases as time passes, that she wants to see the project completed in a timely manner, that she would like trees planted along the sidewalks, and that the city has to move to improve safety at the intersection. Alderman Drapeau stated that this project may impact Pine Street favorably also. Alderman Gately stated that the project must be done and is well overdue, that he is concerned about the ability of tractor trailers to make the turns, and that the trucks should be able to make the turn without encroaching on other lanes. Alderman Ciriello stated that this will be a huge improvement in the area. IN FAVOR: Albert Audette, 279 Washington Street stated that he uses Wildwood road often, that it is difficult to enter Salem Street, that the proposal makes sense, and that he supports the proposal. Paul Meaney, Executive Director, Woburn Business Association, Ten Tower Office Park, Woburn stated that landowners in the area contributed mitigation money to these improvements many years ago, that this is well overdue work, that this proposal seems to have less land takings, and that he is in favor of the proposal. Jacqueline Duffy, 197 Salem Street stated that this is a long time in coming, that she has witnessed many accidents at the intersection, that she hopes the trucking ban stays in effect and that this does not open up to more trucking, and that she wants the project done right, fairly and in a timely manner. David Chesler, 3 Wood Street stated that this project has been a long time in coming and that he is in support of the project. Mayor Thomas McLaughlin stated that this is a critical public safety project, that the Wood Street and Montvale Avenue intersection has similar traffic and is signalized, and that this project is a priority of the Ward Alderman and the Mayor's office. John Beauchamp, 2 Ryan Road stated that good road improvements means good business and improved safety, that he would like to see the digitized crosswalk with timers rather than the flashing hands, that there is a dedicated right turn on Wood Street and there should also be a dedicated left turn on Wood Street, that the lane should be marked with the appropriate arrow, that they should look at the intersection of Pine Street and Salem Street to take the hard corner off that intersection, that this is 25% design and that he would like another public hearing on the 75% design phase, and that he wants to know if all left turns are dedicated lefts. Colin Carney, 2 Walnut Hill Park stated that he is concerned that the traffic will back up on Salem Street from the lights to Pine Street, that the bridge is also in need of improvement, and that he is concerned whether cars backed up from the intersection can be supported by the bridge. OPPOSED: None. Motion made and 2nd that the public hearing be closed, all in favor, 9-0. PUBLIC HEARING CLOSED.

On the petition by Monster Paintball, LLC, 139 Nichols Street, Wilmington, Massachusetts 01887 for a special permit pursuant to Section 5.1.17b of the 1985 Woburn Zoning Ordinances, as amended, to operate an indoor commercial playground, sports facility for indoor paintball and associated pro shop, all in an area containing approximately 25,000 square feet at 5 Crescent Avenue. PUBLIC HEARING OPENED. A report was received from the Committee on Special Permits as follows: "ought to pass, as amended with the amendments as follows: 1. That the Planning Board recommendations, as further amended, be adopted as conditions, 2. That Planning Board condition #11 be amended to read '11. That the hours of operation shall not exceed 8:00 a.m. to 10:00 p.m. Monday through Saturday and 12:00 noon to 6:00 p.m. Sunday', and

3. To add a new condition #14 to read ‘14. That the hours to empty the dumpster shall be limited to between 7:00 a.m. and 6:00 p.m. and that the dumpster shall be emptied at least once each week.’” Appearing for the petitioner was Anthony Brown and he stated that a noise test was held with Alderman Mercer-Bruen in attendance, that they obtained independent confirmation of the noise generated by a paintball marker, that there has been no build-out of the facility and the noise was not a factor, and that they do not have control over the landscaping as only the landlord does. Alderman Mercer-Bruen stated that she does not want any of the trees or brush taken down as it acts as a screen. IN FAVOR: Tim Tolman, Watertown stated that he works for a paintball manufacturer, that that petitioner has a thorough business plan, and that he is in support of the petition. John Gomes, Reading stated that this will be a good business and successful, and that he supports the petition. OPPOSED: None. Motion made and 2nd to close the public hearing, all in favor, 9-0. PUBLIC HEARING CLOSED. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

COMMITTEE REPORTS:

POLICE AND LICENSE:

On the review of the Second Class Motor Vehicle Sales License of William R. Garvey dba Garvey’s Auto Repair, 289 Salem Street, committee report was received “ought to pass with an additional six (6) cars on the license” meaning and intending to increase the vehicle limit to twelve (12). Motion made and 2nd that the COMMITTEE REPORT be ADOPTED with prior conditions eliminated, all in favor, 9-0.

Presented to the Mayor: October 20, 2006 s/Thomas L. McLaughlin Oct. 23, 2006

FINANCE:

On the Order for an appropriation in the sum of \$127,000.00 from Free Cash Account to Board of Health Account for Phase IV Remediation Plan, 50 Sturgis Street, committee report was received “ought to pass”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: October 20, 2006 s/Thomas L. McLaughlin Oct. 23, 2006

ORDINANCES:

On the Order to amend Title 3, Article V, Section 3-25 of the 1989 Woburn Municipal Code, as amended, relative to the Senior Citizen Property Work-Off Program, committee report was received “ought to pass”. Motion made and 2nd that the COMMITTEE REPORT be ADOPTED, all in favor, 9-0.

Presented to the Mayor: October 20, 2006 s/Thomas L. McLaughlin Oct. 23, 2006

NEW PETITIONS:

Petition by Jeffrey Pollock dba Exclusive Automobiles, 7 Independence Drive for renewal of Second Class Motor Vehicle Sales License. Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON POLICE AND LICENSES, all in favor, 9-0.

Petition by Prestige Motor Sales, 600 Broadway, Malden, Massachusetts 02148 for a special permit to allow alteration of a non-conforming use pursuant to Section 7.3 of the 1989 Woburn Municipal Code, as Amended, to allow for used car sales at 546 Main Street. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

Petition by Mishawum Properties, LLC, 215 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant all applicable sections of the 1985 Woburn Zoning Ordinances, as Amended, including with out limitation Section 12 and Section 21, to allow for 210 elevator apartments, associated parking and access at Lot A, Mishawum Road. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

Petition by Mishawum Properties, LLC, 215 Lexington Street, Woburn, Massachusetts 01801 for a special permit pursuant to all applicable sections of the 1985 Woburn Zoning Ordinances, as Amended, including without limitation Section 11, Section 12 and Section 5.30b to allow for a business, professional and general office over 15,000 square feet, associated parking and access at Lot B, Mishawum Road. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

Petition by Richard O’Neil dba Masterwork Painting, Inc., 15 Temple Terrace. Bedford, Massachusetts 01730 for a special permit pursuant to Section 5.1.57b of the 1985 Woburn Zoning Ordinances, as Amended, for the accessory outside parking of commercial motor vehicles, in conjunction with the petitioner’s painting business and office in Unit 1 at 5 Crescent Avenue. Motion made and 2nd that the MATTER be REFERRED TO PUBLIC HEARING, all in favor, 9-0.

COMMUNICATIONS AND REPORTS:

A communication dated October 16, 2006 was received from Andrew Creen, Chief Appraiser, Assessors Department advising that the property tax exemptions under Chapter 260 of the Acts of 2006 “Edward G. Connolly Massachusetts Military Enhancement Relief individual Tax (MERIT)” as amended by Chapter 310, §§8, 33 and

34 of the Acts of 2006 are effective beginning in fiscal year 2007. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE with a copy to Committee on Finance, all in favor, 9-0.

A communication dated October 13, 2006 was received from Paul McLaughlin, General Manager, Woburn Golf & Ski Authority as follows:

Dear Mr. Campbell:

At the request of the City Council the Golf & Ski Authority has appointed Charles Culhane, Vice Chairman, and Jeffery Power, Superintendent, to the Ad Hoc Committee on Wildlife Control.

Sincerely yours, s/Paul McLaughlin, General Manager

Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated October 6, 2006 was received from David F. Epps, United Veterans Council of Woburn inviting the City Council to participate in the Annual Veteran's Day Parade honoring all Veterans on Saturday, November 11, 2006 forming at Cross Street at 10:00 a.m. and stepping off at 10:15 a.m., as well as to the dedication of memorial squares in honor of USMC Lance Corporal Joseph L. Drew and USMC Sgt. Donald K. Kerrigan. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated September 21, 2006 was received from Michael F. McCall, Chairman, Board of Selectmen, Chelmsford, Massachusetts advising that their Board of Selectmen "voted unanimously to recommend rejection of the Wine in Food Stores ballot measure (Question 1) on the November ballot." Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication was received from Frank Anzalotti, Chairman, Wine Merchants and Concerned Citizens for Safety, 1 Beacon Street, Suite 1320, Boston, Massachusetts 02108 relative to their opposition to Ballot Question 1 on the November 7, 2006 State ballot. Motion made and 2nd that the MATTER be RECEIVED AND PLACED ON FILE, all in favor, 9-0.

A communication dated October 10, 2006 with attachment was received from David N. Bernstein, East Shore LLC, 10 Overlook Drive, Bedford, Massachusetts 01801 as follows:

Re: Revised parking Layout & Refuse Location, 37 Kilby Street, Woburn, MA

Dear Mr. Campbell:

I am writing to you per the recommendation of Mr. Edward Tarallo of the planning board. During the final site review of 37 Kilby Street, Mr. Tarallo expressed concern regarding two modification that were made during the development process that he would like the City Council to review. I have attached an amended sketch to show the adjustments being considered.

1. Along the North side of the property, the edge of asphalt is approximately 7 feet greater than on the approved plan. While laying our parking spaced 9-13 to be painted, we discovered it made more sense to increase the angle of entry to sports 10-13 to provide easier access for vehicles. The parking spaces overall width are still 10 feet wide.
2. Initially, we planned on locating the refuse collection area adjacent to parking space #16. While reviewing the location of the refuse collection area with the waste disposal contractor, he strongly recommended we relocate the collection area adjacent to parking space #13. His equipment would have easier access while not locating the collection area in a highly visible location. He expressed concern about the potential risk of his equipment accidentally damaging either buildings 37A or 37R especially in the winter time. There is a small incline between the two buildings which could make the collection more difficult if there is any precipitation on the ground.

I have enclosed 10 copies of the "Amended Plan" dated 10/9/06 for the council to review. I am asking if this brief issue could be considered by the City council during the October 17, 2006 meeting. Please advise if this will be possible.

Sincerely, s/David N. Bernstein, East Shore LLC

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON SPECIAL PERMITS REVIEW, all in favor, 9-0.

UNFINISHED BUSINESS OF PRECEDING MEETING:

On the Notice of Intent to File for Reconsideration filed by President Doherty on October 4, 2006 of his vote in favor of a special permit to amend a special permit issued on April 7, 2005 to AvalonBay Communities, Inc. President Doherty made a motion which was duly 2nd to reconsider his vote, all in favor, 9-0. President Doherty stated that the Planning Board recommendation needed to be added to the decision. Motion made and 2nd that SPECIAL PERMIT be GRANTED, AS AMENDED, with the amendment as follows: 1. That the recommendation of the Planning Board dated October 3, 2006 be adopted as a condition of the special permit, all in favor, 9-0.

On the Notice of Intent to File for Reconsideration filed by Alderman Gonsalves on October 4, 2006 of her vote in favor of allowing His Honor the Mayor “to put out to bid an outside consultant to provide the Council with a job description for all department heads.” Alderman Gonsalves made a motion which was duly 2nd to reconsider her vote, all in favor, 9-0. Alderman Gonsalves stated that she is concerned about the timing of this matter in view of the labor relations petition, that the petition is moving forward, and that the City Council needs to deny this motion while that matter progresses. President Doherty stated that it would be prudent to keep the matter in committee. Alderman Drapeau stated that it is not the intention of the ad hoc committee to interfere with the right to organize, that this is not part of the discussion, that he is in favor of the effort to not appear to have an influence on the proceeding, that the City Council can keep the matter at the ad hoc level and move forward with the consultant until it is clear what is going on with the situation. Alderman Galvin stated that the best approach is to deny the motion and revive it after the matter is taken care of at the labor board, and that the City Council can start fresh after hearing back from the labor board. Alderman Drapeau stated that the City Council should cease the activities of the ad hoc committee until a decision of the labor board is rendered. Alderman Drapeau stated that he does not see how one has anything to do with another, that the ad hoc committee was created to see how department heads perform with the city not to interfere with their rights to organize, that it is responsible to act to get defined job descriptions so every department head understands their role in the city, that he does not want to see the ad hoc committee cease, that he wants it to go forward without a vote of the full City Council to eventually work on job descriptions, that the City Council can wait for the labor board decision, and that it is not prudent at this time to cease the ad hoc committee. Alderman Denaro stated that all of the effort may be a waste of time if the petitioners are permitted to organize, that if the petitioners are successful then the matter will go to bargaining outside the realm of the City Council, and that he will not interfere with the labor relations matter until that is settled. Alderman Drapeau stated that it was not his intention to interfere with the right to organize, and that the committee has not reached the level of interfering with the ability to organize. Alderman Denaro stated that any information gathered will have no value if the petitioners are given the right to organize. President Doherty stated that there is no interference with the committee collecting job descriptions from other communities and it is information gathering. Alderman Denaro stated that there should be no impression that the City Council is involved in the labor relations matter. Alderman Gately stated that the ad hoc committee is to find job descriptions, that the department heads decision to organize has nothing to do with that, and that this process is to have a merit system. Alderman Denaro stated that the whole intent is to form a merit system and that if the City Council is talking about a merit system then they are discussing future compensation. Alderman Gately stated that they are trying to establish job descriptions for department heads and that if the process takes two years then the City Council should not have to sit and wait for two years. Alderman Galvin stated that the City Council has to be careful in these situations, that the city attorney said that it is very clear that the City Council should not be involved while this is an open matter, and that there is no benefit in doing so while they are trying to be a union. Motion made and 2nd to deny the motion to

allow His Honor the Mayor to put out a bid for an outside consultant to provide the City Council a job description for all department heads, ROLL CALL: Ciriello – Yes, Denaro – Yes, Drapeau – No, Dwyer – Yes, Gately – No, Galvin – Yes, Gonsalves – Yes, Mercer-Bruen – Yes, Doherty – No, MOTION PASSES. President Doherty stated that this was not a vote against moving forward, that he wants to continue moving forward to get job descriptions, that it has been ten years that the department heads have been without job descriptions, and that the Human Resources Director needs to get the job descriptions. Alderman Galvin stated that the union if formed with have the descriptions bargained by the Mayor. President Doherty stated that the Human Resources Director is an appendage of the Mayor and the she has to develop the job descriptions.

APPOINTMENTS AND ELECTIONS:

A communication dated October 16, 2006 was received from His Honor the Mayor as follows:

Re: Reappointment of Arthur L. Duffy – Historic District Commission

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby reappoint Arthur L. Duffy of 38 Alfred Street as a member of the Historic District Commission for a period of three years.

Mr. Duffy's original appointment expired on February 25, 2006.

Mr. Duffy's reappointment will be effective on the date of confirmation by the City Council, and his year term will expire three years from that date.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PERSONNEL, all in favor, 9-0.

A communication dated October 16, 2006 was received from His Honor the Mayor as follows:

Re: Gregory R. Dubell – Historic District Commission

Dear Mr. Campbell:

By the power vested in me as Mayor of the City of Woburn, I hereby appoint Gregory R. Dubell of 4 Water Street as a member of the Historic District Commission for a period of three years.

Mr. Dubell's appointment will be effective on the date of confirmation by the City Council, and his year term will expire three years from that date.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PERSONNEL, all in favor, 9-0.

MOTIONS, ORDERS AND RESOLUTIONS:

RESOLVED WHEREAS, there presently exists a structure or structures located in the City of Woburn, Massachusetts known and numbered as 21 Plympton Street; and

WHEREAS, the condition of said building or buildings has been allowed to deteriorate and the property is generally not being maintained;

NOW, THEREFORE, BE IT ORDERED be the City Council of the City of Woburn that the City Clerk and Clerk of the City Council schedule a public hearing pursuant to Mass. General Laws Ch. 139, Sec. 1, et. seq., and give notice thereof to the owner of said building or buildings, said hearing to be conducted for the purposes of determining whether said building or buildings are a nuisance, a nuisance to the neighborhood, dilapidated or dangerous building or buildings or other structure or structures, as said terms are used in Mass. General Laws Ch. 139, Sec. 1, and if so, enter an order adjudging it to be a nuisance to the neighborhood, or dangerous, and prescribing its disposition, alteration or regulation.

s/Alderman Galvin

Motion made and 2nd that the ORDER be ADOPTED and that the matter be set up for public hearing, all in favor, 9-0.

Presented to the Mayor: October 20, 2006 s/Thomas L. McLaughlin Oct. 23, 2006

ORDERED That in accordance with Massachusetts General Laws Chapter 54, as amended, the City Clerk is hereby authorized and directed to notify and to warn such of the inhabitants of the City of Woburn as are qualified to vote in the State Election to assemble at the polling places in their respective wards as designated herein, on TUESDAY, the SEVENTH DAY OF

NOVEMBER, 2006 from 7:00 a.m. to 8:00 p.m., then and their to cast their votes in the State Election for the candidates of political parties for the following offices and for the following ballot questions:

| | |
|-------------------------------------|--|
| SENATOR IN CONGRESS..... | FOR THIS COMMONWEALTH |
| GOVERNOR/LT. GOVERNOR..... | FOR THIS COMMONWEALTH |
| ATTORNEY GENERAL..... | FOR THIS COMMONWEALTH |
| SECRETARY OF STATE | FOR THIS COMMONWEALTH |
| TREASURER..... | FOR THIS COMMONWEALTH |
| AUDITOR | FOR THIS COMMONWEALTH |
| REPRESENTATIVE IN CONGRESS..... | SEVENTH DISTRICT |
| COUNCILLOR | SIXTH DISTRICT |
| SENATOR IN GENERAL COURT | 2 ND MIDDLESEX DISTRICT (Ward 2) |
| SENATOR IN GENERAL COURT | 4 th MIDDLESEX DISTRICT (Wards 1, 3, 4, 5, 6, 7) |
| REPRESENTATIVE IN GENERAL COURT ... | 15 th MIDDLESEX DISTRICT (Wards 1,7) |
| REPRESENTATIVE IN GENERAL COURT ... | 30 th MIDDLESEX DISTRICT (Wards 2, 3, 4, 5, 6) |
| DISTRICT ATTORNEY..... | NORTHERN DISTRICT |
| CLERK OF COURTS | MIDDLESEX COUNTY |
| REGISTER OF DEEDS..... | MIDDLESEX SOUTHERN DISTRICT |

QUESTION 1: Law Proposed by Initiative Petition

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives before May 3, 2006?

SUMMARY

This proposed law would allow local licensing authorities to issue licenses for food stores to sell wine. The proposed law defines a “food store” as a retail vendor, such as a grocery store, supermarket, shop, club, outlet, or warehouse-type seller, that sells food to consumers to be eaten elsewhere (which must include meat, poultry, dairy products, eggs, fresh fruit and produce, and other specified items), and that may sell other items usually found in grocery stores. Holders of licenses to sell wine at food stores could sell wine either on its own or together with any other items they sell.

The licensing authorities in any city or town of up to 5000 residents could issue up to 5 licenses for food stores to sell wine. In cities or towns of over 5000 residents, one additional license could be issued for each additional 5000 residents (or fraction of 5000). No person or business could hold more than 10% of the total number of the licenses that could be issued under the proposed law. Such licenses would not be counted when applying the laws that limit the number of other kinds of alcoholic beverage licenses that may be issued or held. Any applicant for a license would have to be approved by the state Alcoholic Beverages Control Commission, and any individual applicant would have to be at least 21 years old and not have been convicted of a felony.

In issuing any licenses for food stores to sell wine, local licensing authorities would have to use the same procedures that apply to other licenses for the retail sale of alcoholic beverages. Except where the proposed law has different terms, the same laws that apply to issuance, renewal, suspension and termination of licenses for retail sales of alcoholic

beverages which are not to be consumed on the seller's premises, and that apply to the operations of holders of such licenses, would govern licenses to sell wine at food stores, and the operation of holders of such licenses. Local authorities could set fees for issuing and renewing such licenses.

A YES VOTE would create a new category of licenses for food stores to sell wine, and it would allow local licensing authorities to issue such licenses.

A NO VOTE would make no change in the laws concerning the sale of wine.

QUESTION 2: Law Proposed by Initiative Petition

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives before May 3, 2006?

SUMMARY

This proposed law would allow candidates for public office to be nominated by more than one political party or political designation, to have their names appear on the ballot once for each nomination, and to have their votes counted separately for each nomination but then added together to determine the winner of the election.

The proposed law would repeal an existing requirement that in order to appear on the state primary ballot as a candidate for a political party's nomination for certain offices, a person cannot have been enrolled in any other party during the preceding year. The requirement applies to candidates for nomination for statewide office, representative in Congress, governor's councillor, member of the state Legislature, district attorney, clerk of court, register of probate, register of deeds, county commissioner, sheriff, and county treasurer. The proposed law would also allow any person to appear on the primary ballot as a candidate for a party's nomination for those offices if the party's state committee gave its written consent. The proposed law would also repeal the existing requirement that in order to be nominated to appear as an unenrolled candidate on the state election ballot, or on any city or town ballot following a primary, a person cannot have been enrolled in any political party during the 90 days before the deadline for filing nomination papers.

The proposed law would provide that if a candidate were nominated by more than one party or political designation, instead of the candidate's name being printed on the ballot once, with the candidate allowed to choose the order in which the party or political designation names appear after the candidate's name, the candidate's name would appear multiple times, once for each nomination received. The candidate would decide the order in which the party or political designation nominations would appear, except that all parties would be listed before all political designations. The ballot would allow voters who vote for a candidate nominated by multiple parties or political designations to vote for that candidate under the party or political designation line of their choice.

If a voter voted for the same candidate for the same office on multiple party or political designation lines, the ballot would remain valid but would be counted as a single vote for the candidate on a line without a party or political designation. If voting technology allowed, voting machines would be required to prevent a voter from voting more than the number of times permitted for any one office.

The proposed law would provide that if a candidate received votes under more than one party or political designation, the votes would be combined for purposes of determining whether the candidate had won the election. The total number of votes each

candidate received under each party or political designation would be recorded. Election officials would announce and record both the aggregate totals and the total by party or political designation.

The proposed law would allow a political party to obtain official recognition if its candidate had obtained at least 3% of the vote for any statewide office at either of the two most recent state elections, instead of at only the most recent state election as under current law.

The proposed law would allow a person nominated as a candidate for any state, city or town office to withdraw his name from nomination within six days after any party's primary election for that office, whether or not the person sought nomination or was nominated in that primary. Any candidate who withdrew from an election could not be listed on the ballot for that election, regardless of whether the candidate received multiple nominations.

The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

A YES VOTE would allow a candidate for public office to be nominated for the same office by more than one political party or political designation at the same election.

A NO VOTE would make no change in the laws concerning nomination of candidates for public office.

QUESTION 3: Law Proposed by Initiative Petition

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives before May 3, 2006?

SUMMARY

This proposed law would allow licensed and other authorized providers of child care in private homes under the state's subsidized child care system to bargain collectively with the relevant state agencies about all terms and conditions of the provision of child care services under the state's child care assistance program and its regulations.

Under the proposed law, these family child care providers who provide state-subsidized child care would not be considered public employees, but if 30% of the providers gave written authorization for an employee organization to be their exclusive representative in collective bargaining, the state Labor Relations Commission would hold a secret mail ballot election on whether to certify that organization as the exclusive representative. Parts of the state's public employee labor relations law and regulations would apply to the election and collective bargaining processes. The proposed law would not authorize providers to engage in a strike or other refusal to deliver child care services.

An exclusive representative, if certified, could then communicate with providers to develop and present a proposal to the state agencies concerning the terms and conditions of child care provider services. The proposed law would then require the parties to negotiate in good faith to try to reach a binding agreement. If the agreed-upon terms and conditions required changes in existing regulations, the state agencies could not finally agree to the terms until they completed the required procedures for changing regulations and any cost items agreed to by the parties had been approved by the state Legislature. If any actions taken under the proposed law required spending state funds, that spending would be subject to appropriation by the Legislature. Any complaint that one of the parties was refusing to negotiate in good faith could be filed with and ruled upon by the

Labor Relations Commission. An exclusive representative could collect a fee from providers for the costs of representing them.

An exclusive representative could be de-certified under Commission regulations and procedures if certain conditions were met. The Commission could not accept a decertification petition for at least 2 years after the first exclusive representative was certified, and any such petition would have to be supported by 50% or more of the total number of providers. The Commission would then hold a secret mail ballot election for the providers to vote on whether to decertify the exclusive representative.

The proposed law states that activities carried out under it would be exempt from federal anti-trust laws. The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

A YES VOTE would allow licensed and other authorized providers of child care in private homes under the state's subsidized child care system to bargain collectively with the state.

A NO VOTE would make no change in the laws concerning licensed and other authorized family child care providers

QUESTION 4 (Wards 1 and 7 only): This Question is Not Binding

Shall the state representative from this district be instructed to vote in favor of a resolution calling upon the President and Congress of the United States to end the war in Iraq immediately and bring all United States military forces home from Iraq?

| <u>Ward-Precinct</u> | <u>Polling Place Location</u> |
|----------------------|---|
| 1-1 | Joyce Middle School Library 55 Locust Street |
| 1-2 | Clapp Elementary School Cafeteria Hudson Street and Arlington Road |
| 2-1 | Shamrock Elementary School Gymnasium 60 Green Street |
| 2-2 | Shamrock Elementary School Gymnasium 60 Green Street |
| 3-1 | Hurld Elementary School Gymnasium 75 Bedford Road |
| 3-2 | Hurld Elementary School Gymnasium 75 Bedford Road |
| 4-1 | Wyman Elementary School Auditorium Main Street and Eaton Avenue |
| 4-2 | White Elementary School |

- 36 Bow Street
- 5-1 Goodyear Elementary School Gymnasium
41 Orange Street
- 5-2 Goodyear Elementary School Gymnasium
41 Orange Street
- 6-1 Altavesta Elementary School Gymnasium
990 Main Street
- 6-2 Altavesta Elementary School Gymnasium
990 Main Street
- 7-1 New Reeves Elementary School Gymnasium
240 Lexington Street
- 7-2 New Reeves Elementary School Gymnasium
240 Lexington Street

s/President Doherty

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0.

Presented to the Mayor: October 20, 2006 s/Thomas L. McLaughlin Oct. 23, 2006

ORDERED Be It Ordained by the City Council of the City of Woburn that the Woburn Municipal Code, as amended, be hereby further amended by the addition of new Title 20 as follows:

TITLE 20

SEALER OF WEIGHTS & MEASURES

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 or 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:

| | |
|----------------------------------|------------|
| 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:

Balances & Scales

| | |
|--------------------|----------|
| over 10,000 Lbs | \$250.00 |
| 5,000 - 10,000 Lbs | \$200.00 |
| 1,000 - 5,000 Lbs | \$175.00 |
| 100 - 1,000 Lbs | \$150.00 |
| 10 - 100 Lbs | \$150.00 |
| under 10 Lbs | \$85.00 |

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 |

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 | \$50.00 |
| 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 |

s/President Doherty

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON ORDINANCES, all in favor, 9-0.

ORDERED That the Chair of the Committee on Transportation/Traffic provide an update on the status of the I-93/I-95 Interchange project to the City Council.

s/Alderman Mercer-Bruen

Motion made and 2nd that the ORDER be ADOPTED, all in favor, 9-0. Alderman Mercer-Bruen stated that there will be a public hearing on October 25, 2006 concerning this matter, that this will be the second of three public hearings on this issue, that none of the proposals have been formally endorsed, that a plan with the least amount of impact is the goals, that they will be seeking public input at this hearing, that in December 2006 or January 2007 the third hearing will be held on a set a plans to move forward, and that there will be no residences or businesses taken with any of the plans.

Motion made and 2nd to suspend the rules for the purposes of adding the following matters as late filed matters, all in favor, 9-0.

ORDERED Be it ordained by the City Council of the City of Woburn that Title 13 of the 1989 Woburn Municipal Code, as amended, be further amended by deleting it in its entirety and replacing it with the following:

TITLE 13

Public Services

Articles and Sections

I. GENERAL

- 13.1.1 Definitions.
- 13.1.2 Administration.
- 13.1.3 Construction Standards.
- 13.1.4 Water/Sewer Application/Connection Fees.
- 13.1.5 Water/Sewer Charges to Constitute Lien upon Real Estate.
- 13.1.6 Emergency Repair Costs.
- 13.1.7 Protection from Damages.
- 13.1.8 Powers and Authority of Inspectors.
- 13.1.9 Validity.
- 13.1.10 Appeals.
- 13.1.11 Assessments.
- 13.1.12 Changes in these Regulations.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.
- 13.2.9 No Liability for Consumer’s Pipe.
- 13.2.10 No Liability for Collapsed Boilers, Etc.
- 13.2.11 No Liability for Shutting Off Water Without Notice.
- 13.2.12 Application for Service
- 13.2.13 Service for Fire Protection.
- 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.
- 13.2.28 Water for Cooling Purposes.
- 13.2.29 Water Waste.
- 13.2.30 Water Meter Tampering.
- 13.2.31 Water Shut Offs .
- 13.2.32 Addition to Regulations.
- 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 Pools to be Filled by May 15th.

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.
- 13.3.10 I/I Mitigation Fee.

IV. DRAIN

- 13.4.1 Purpose
 - 13.4.2 Applicability
 - 13.4.3 Authority
 - 13.4.4 Regulations
 - 13.4.5 Prohibited Activities
 - 13.4.6 Exemptions
 - 13.4.7 Emergency Suspension of Storm Drainage System Access
 - 13.4.8 Notification of Spills
 - 13.4.9 Enforcement
 - 13.4.10 Transitional Provisions
 - 13.4.11 Connection to main drain or common sewer
 - 13.4.12 Drainlayer's license
-

I. GENERAL

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, caused 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°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 devices 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.

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.

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).

Water/Sewer Application/Connection Fees

| | |
|------------------|---|
| Residential | \$500 per equivalent unit per utility (\$600 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 15.00, 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.

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).

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.

| <u>LABOR</u> | <u>STANDARD</u> | <u>OVERTIME</u> |
|--------------------|-----------------------|-----------------------|
| 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 |
| <u>EQUIPMENT</u> | | |
| Loader | _____ @ \$ 70.00/hour | |
| Backhoe | _____ @ \$ 60.00/hour | |
| DumpTruck | _____ @ \$ 50.00/hour | |

(Added 5/21/96; amended 12/3/96; amended 6/17/04)

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.

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 invalidity shall not affect the other provisions or application of this municipal code.

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.

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.

Assessments.

The superintendent shall determine the method of assessment of the cost of construction of public water mains, sewers and drains to users.

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 by him or her or authorized by the board of aldermen. Upon the completion of work approved or authorized as aforesaid a final plan shall be filed with the city engineer, 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 engineer, or the city engineer may cause the same to be removed.

II. WATER SYSTEM

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).

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, and shall bear interest at the rate of 10% per annum, from said date, if they are not paid within 30 days after issuance.

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.

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.

Right of Entry

Owners or 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 without a warrant 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.

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.

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.

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.

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.

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.

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.

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.

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.

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 reading devices, as the Superintendent of Public Works shall direct. All meters will be purchased by and remain the property of the City, but the whole cost of installing the meter, reading device and service shall be paid by the water taker. 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. The minimum meter size for all new

connections shall be 1-inch.

Multi-family residential properties shall be equipped with such meter and reading devices, as the Superintendent of Public Works shall direct. In addition, a separate water meter and reading device shall be installed on all services lines for non-residential use, irrigation lines, pool houses, etc. as the Superintendent shall direct. The owner shall be billed at a commercial rate for the non-residential water use.

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.

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.

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.

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.

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, at the expense of the Owner, 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.

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.

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 15th 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

Water 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.

Additions to Regulations.

The Superintendent of Public Works may establish such regulations from time to time as he may deem expedient for the introduction and use of the water, and may establish charges for any use of water not described in this part. Water will not be supplied to any building unless the pipes and fixtures shall be made conformable to such regulations. All such regulations and charges shall not become effective until approved by the Mayor in writing. (Prior Ch. 29 sec. 3).

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 properly 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 City of Woburn 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 properly 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 backflow 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)

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

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 eight 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)
2. For the purpose of this section, "residential units" means single-family or multifamily units, where one or more persons reside.

3. The base rate as specified in Subsection 1 herein shall be increased on an annual basis beginning in July 1, 2006 and ending on June 30, 2008 to reflect any increases in MWRA water assessments to the City and any water system capital improvement costs incurred by the City, said annual increases to be cumulative inclusive of any increases imposed in prior fiscal years. Notwithstanding the above, in the event that MWRA water assessments to the city are decreased, such decrease shall be reflected in the base rate. (added 6/14/2006)

B. Metered Services.

1. All water services, other than those defined above as residential, shall be charged a base rate of three dollars and twenty-five cents for every one hundred cubic feet of water used. 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. (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).
2. Meters and reading devices shall be supplied, installed and owned by the Department. The cost of meters and reading devices shall be charged to the user based on the cost of the water meter and reading devices and over a 5-year period. All meter charges will be put in an escrow account under the Water and Sewer Enterprise account to be used for water meter replacement and maintenance.
3. Water for building purposes shall be supplied by meter, and be charged at the current commercial rate for the total amount of water used.
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 ten dollars.
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 eighty dollars 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)

9. The above rate 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).

NOTE: Elderly and Widows who are entitled to an exemption under Property Tax Statutory Exemption, Chapter 59, Sec. 5 Cl 17C and also Cl 41, will 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)

10. Request for abatements and exemptions must be filed within thirty (30) days of billing date recorded on water and sewer bill. (Ord. dated 05/04/89).
11. 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).
12. The base rate as specified in Subsection 1 herein shall be increased on an annual basis beginning in July 1, 2006 and ending on June 30, 2008 to reflect any increases in MWRA water assessments to the City and any water system capital improvement costs incurred by the City, said annual increases to be cumulative inclusive of any increases imposed in prior fiscal years. Notwithstanding the above, in the event that MWRA water assessments to the city are decreased, such decrease shall be reflected in the base rate. (added 6/14/2006)

Water Inspection Fees.

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.

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.

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).

Pools to be Filled by May 15th.

All existing pools in the City shall be filled on or before May 15th in any given year. (Prior Ch. 29 sec. 6).

III. SEWER SYSTEM

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)

Sewer Charges – Payable.

Such sewer charges shall be payable semi-annually on August 1, and February 1, and shall bear interest at the rate of 12% per annum, from said date, if they are not paid within 30 days after issuance. (Prior ch. 23 sec. 20); (Ord. Dated 04/05/85)

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.

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.

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, whichever 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.

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

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.

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.

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 \$137.00 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)
 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. 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)
 5. 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).

6. The base rates as specified herein shall be increased on an annual basis beginning in July 1, 2006 and ending on June 30, 2008 to reflect any increases in MWRA sewer assessments to the City and any sewer system capital improvement costs incurred by the City, said annual increases to be cumulative inclusive of any increases imposed in prior fiscal years. Notwithstanding the above, in the event that MWRA sewer assessments to the city are decreased, such decrease shall be reflected in the base rate. (added 6/14/2006)
- 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. 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).
- D. 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).
- 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.

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:

| <u>Use</u> | <u>Required Fee</u> |
|-------------|-----------------------------|
| 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)

III. DRAINAGE SYSTEM

13.4.1 Purpose

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

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

The objectives of this ordinance are:

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

13.4.2 Applicability

This ordinance shall apply to flows entering the municipally owned storm drainage system.

13.4.3 Authority

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

13.4.4 Regulations

The Superintendent of Public Works may promulgate rules and regulations to effectuate the purposes of this ordinance. Failure by the Superintendent to promulgate such rules and regulations shall not have the effect of suspending or invalidating this ordinance.

13.4.5 Prohibited Activities

Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from Superintendent of Public Works.

13.4.6 Exemptions

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- (1) Waterline flushing;
- (2) Flow from potable water sources;

- (3) Springs;
- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Rising groundwater;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (9) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;
- (11) Discharge from de-chlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (12) Discharge from street sweeping;
- (13) Dye testing, provided verbal notification is given to the Superintendent prior to the time of the test;
- (14) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (15) Discharge for which advanced written approval is received from the Superintendent as necessary to protect public health, safety, welfare or the environment.
- (16) Discharge or flow resulting from fire fighting activities

13.4.7 Emergency Suspension of Storm Drainage System Access

The Superintendent of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

13.4.8 Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and [insert other appropriate departments]. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

13.4.9 Enforcement

The Superintendent of Public Works or an authorized agent of Superintendent shall enforce this ordinance, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

Civil Relief. If a person violates the provisions of this ordinance, regulations, permit, notice, or order issued thereunder, the Superintendent may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Orders. The Superintendent of Public Works or an authorized agent of the Superintendent may issue a written order to enforce the provisions of this ordinance or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring,

analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the City may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the City of Woburn, including administrative costs. The violators or property owner may file a written protest objecting to the amount or basis of costs with the Department within thirty (30) days of receipt of notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Department affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch.59, &57 after the thirty-first day at which the costs first became due.

Criminal Penalty. Any person violating any of the provisions of this ordinance shall be subject to a fine of two hundred and fifty dollars for the first violation, five hundred dollars for the second 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 Article 13-10. Violations may result in the revocation of City licenses. This provision may be enforced through non-criminal disposition. Each day, or part thereof, a violation shall continue 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 II, Sewer System, of Title 13 shall be collected as described in Section 13-10 of this Article, Charges to Constitute Lien Upon Real Estate.

13.4.10 Transitional Provisions

Residential property owners shall have 90 days from the effective date of the municipal code to comply with its provisions provided good cause is shown for the failure to comply with the municipal code during that period.

13.4.11 Connection to public storm drain

No person(s) shall uncover (excavate), connect or cause to be connected to, or make any opening into, use, alter, or disturb any building storm drain, public drain, 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 storm drain or a substantial change in the volume or character of pollutants that are being discharged into the public drain 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 storm drain 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 storm installation by the Superintendent or his representative, shall be paid to the City at the time the application is filed. Permit application fees shall be established from time to time by the Superintendent with City Council approval. Applications for building storm 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.

13.4.12 Drainlayer's license

(a) *Generally.* No person shall make or cause to be made any entrance into any main drain, common sewer or water main unless he shall have been licensed to do so by the city council and shall have given a bond in the sum of not less than \$25,000.00 for the faithful performance of his work and to indemnify the city against any loss or damage from negligence or defective

work. An acceptable certificate of insurance in accordance with the provisions of sections 66-371 and 66-372 shall be filed with the required bond. Each such license shall be granted for one year from May 1 until April 30 of the following year, and the required bond and certificate of insurance shall be co-terminus with the license. Such license may be suspended for cause by the sewer commission or city engineer, which shall report the suspension to the city council at its next meeting. Every application for a drainlayer's license shall first be submitted to the city engineer, who shall endorse thereon his recommendation for approval or disapproval and his reason therefore. The required fee for said license will be as set forth in the fee schedule in Article 3-19 of this Code.

(b) *Corporations.* Every corporation shall submit with its application a copy of its current annual certificate of condition and a copy of any subsequent certificate of change of corporate officers on file with the secretary of state as required by M.G.L.A. c. 156, §§ 24 and 47.

(c) *Fee.* The fee for a drainlayer's license shall be as provided in the fee schedule in Article 3-19.

s/President Doherty

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON ORDINANCES, all in favor, 9-0.

A communication dated October 17, 2006 was received from His Honor the Mayor as follows:

Dear Mr. Campbell:

By the power vested in my as Mayor of the City of Woburn, I hereby appoint Heather Harvey, as student member of the Woburn Memorial High School's Gay-Straight Alliance, as a Member of the Human Rights Commission as required in the City of Woburn Municipal Code Title 2-236. Please be advised that the term will expire on October 31, 2007. The effective date of this appointment will be the date of confirmation by the City Council.

If you have any questions, please feel free to contact me.

Sincerely, s/Thomas L. McLaughlin, Mayor

Motion made and 2nd that the MATTER be REFERRED TO COMMITTEE ON PERSONNEL, all in favor, 9-0

Motion made and 2nd to return to the regular order of business, all in favor, 9-0.

Motion made and 2nd to ADJOURN, all in favor, 9-0. Meeting adjourned at 9:22 p.m.

A TRUE RECORD ATTEST:

William C. Campbell
City Clerk and Clerk of the City Council