

TOWN OF CHILMARK

GENERAL BYLAWS

October 5, 2019



TOWN OF CHILMARK

GENERAL BYLAWS

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SECTION I

1. ELECTION OF TOWN OFFICIALS

Notwithstanding any action previously taken at any town meeting, the election of town officials and other matters to be determined by ballot shall take place on a day in the month of April two days after the annual meeting held for the transaction of other business.

Adopted Annual Town Meeting March 29, 1976

Adopted Annual Town Meeting April 27, 1987

2. DUAL OFFICE HOLDING

No person shall, after April 29, 1987, hold membership on more than one of the following municipal boards and committees at the same time: Board of Selectmen, Board of Assessors, Board of Health, Planning Board, Board of Appeals, Finance Committee and School Committee. If after April 29, 1987 a person holding membership on one of the aforementioned boards or committees is appointed or elected to membership on another town board or committee listed herein, the office to which such person was formerly appointed or elected shall thereupon become vacant and a qualified person shall be appointed or elected in the manner prescribed for the filling of vacancies on said committee or board.

Adopted Annual Town Meeting April 27, 1987

3. SELECTMEN TERM OF OFFICE

A term of three years was established for members of the Board of Selectmen.

Adopted Annual Town Meeting January 15, 1937

4. FINANCE COMMITTEE

Section 1. The Selectmen shall, before the first day of May, 1959, appoint a Finance Committee, consisting of seven registered voters of the Town, no one of whom shall be an elected official of the Town, nor an employee of the Town who is responsible for the compilation and presentation of a departmental budget, two members of which original committee shall be appointed for a term of three years, two for a term of two years and three for a term of one year. Subsequent appointments to this Committee to replace members whose terms have elapsed shall be for a term of three years. Interim appointments to fill vacancies caused by death or resignations of members shall be to fill the unexpired term.

Section 2. The Finance Committee shall have the powers and duties set forth in Section 16 of Chapter 39 of the General Laws, and shall consider and act upon all municipal questions to be included as Articles in the Warrants for Annual and Special Town Meetings, including the Annual Budgets. Articles involving the appropriation of money and to come before the Annual Town Meeting shall be presented to the Finance Committee by February 1st of that year. Other Articles, whether for the Annual Town Meeting or a Special Town Meeting shall be presented to the Finance Committee at least twenty-one (21) days before that meeting. With respect to any particular Annual or Special Town Meeting, the Finance Committee, by two-thirds (2/3) vote, and by written notice to the Selectmen, may reduce the number of days set forth in the preceding two sentences for the presentation to it of the warrant articles. The Committee shall make its report, and recommendations if so voted by the Committee, a part of the posted warrant, printed by and at the expense of the Town.

Adopted ATM February 24, 1959

Amended February 25, 1963, April 4 1977

Amended ATM April 27, 1992

Amended ATM April 24, 1995

FINANCE COMMITTEE Membership changed from an appointive to an elective position.

Adopted ATM March 31, 1975

SECTION II

1. TOWN MEETING

1. DATE: To rescind all action taken at previous town meetings in regard to the date of the annual town meeting, and to instruct the selectmen to fix the date of the annual town meeting for a Monday evening in the month of April.

Adopted ATM March 29, 1976

2. NOTICE: Notice of a town meeting shall be given and advertised in at least one newspaper having general circulation in the town at least seven days before the Annual Town Meeting, or an Annual or Special Election and at least fourteen days before a special town meeting.

Adopted ATM April 26, 1999

3. QUORUM: Twenty-five (25) voters shall be necessary to constitute a quorum at town meeting; provided that a number less than a quorum may from time to time adjourn the meeting. This bylaw shall not apply to such parts of town meetings as are devoted to the election of officers.

Adopted ATM January 9, 1979

2. PROPOSITION 2 ½ OVERRIDE

No question shall be submitted to the voters of Chilmark seeking approval to assess taxes in excess of the amount allowed by Chapter 59, Section 21C of M.G.L known as Proposition 2 ½ , unless:

- 1.** In addition to published notices otherwise required, written notice in the same form as the published notices shall be mailed to each registered voter at her or his registered address not less than fourteen days prior to the voting.
- 2.** A hearing called by the selectmen is held 5 to 15 days before any override election to discuss the override question.
- 3.** No solicitation for a vote for or against the override question shall be sent to any voter by any town official using public facilities or supplies.

Adopted ATM April 22, 1985

Amended June 25, 1985

Amended ATM April 27, 1992, Approval A.G. June 15, 1992

SECTION III

1. DE-CRIMINALIZATION OF OFFENSES

Any person taking cognizance of a violation of a specific bylaw, rule or regulation which he is empowered to enforce, the violation of which is subject to a specific penalty, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof at any time during the office hours, not later than twenty-one days after the date of such notice to allow for the non-criminal disposition of such offenses in accordance with the provisions of Chapter 40, Section 21D of the Massachusetts General Laws.

Adopted ATM April 25, 1988

2. DISCHARGE OF FIREARMS

No person shall fire or discharge any firearm or explosives of any kind or release any arrow within the limits of any highway, park or other public property except with the written permission of the Board of Selectman; or on any private property, except with the written consent of the owner or legal occupant thereof, provided however, that this bylaw shall not apply to the lawful defense of life or property nor to any law enforcement officer acting in the discharge of his duties; it is further provided that any person violating any provision of this bylaw shall be punished by a fine of not more than \$50.00 for each offense.

Adopted ATM Feb.28, 1966

Amended ATM April 25, 1988

3. ILLEGAL DUMPING

Whoever disposes of household or commercial refuse by placing, throwing, depositing or causes it to be placed, thrown, deposited or discharged on a public highway or within twenty yards of public highway, or on any public land, or in or upon coastal or inland waters, or in a trash receptacle placed on public property by the Town of Chilmark or any of its departments or agencies for the convenience of the traveling and maritime public, or on or in private property shall be assessed a fine of fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense and criminal complaint proceedings for any third or subsequent offenses.

Adopted STM October 16, 1990

4. LEASH LAW

All dogs owned or kept within the limits of the Town shall be restrained from running at large or shall be kept within the immediate control of their owners and keepers. The Dog Officer may apprehend all dogs which are not so restrained and controlled and may prosecute all violations of this bylaw as provided in Chapter 140, Section 173A, General Laws.

Upon apprehension of any dog found in violation of this bylaw, the Dog Officer may impound such dog and shall make a record upon which shall be recorded the breed color and sex of said dog and whether or not it is licensed. If licensed, he shall enter the name and address of the owner and the number of the license tag. The owner of any dog so impounded may reclaim such dog upon payment of the license fee, if unpaid, and all costs and charges incurred by the town for apprehending, impounding and maintenance of said dog.

Furthermore, any person violating any provision of this bylaw shall be punished by a warning for the first offense, a \$5.00 fine for the second offense, a \$10.00 fine for the third offense and a \$25.00 fine for the fourth and subsequent offenses.

Adopted ATM April 27, 1987

5. LEGHOLD TRAPS

No person shall use, set, place or maintain any type of jawed leghold trap, padded or unpadded, modified or unmodified, including but not limited to the softcatch trapping system or any type of Conibear trap within the limits of any highway, park, schoolground or other public property or on any private property. Any person violating any provision of this bylaw shall be punished by a fine of not more than \$300.00 for each offense.

Adopted ATM April 23, 1990

6. OBSTRUCTING OR SLEEPING IN PUBLIC PLACES

No person shall obstruct a street, sidewalk or other public place if his presence thereon interferes with the normal flow of traffic. No person shall remain at or near the doors of a place of business if his presence on said street, sidewalk or other public place results in the blocking of access to said place of business if he is requested by the owners or occupants of said places or the police to depart therefrom. Any person violating this bylaw shall be fined not less than \$25 and not more than \$50.

(Continued on next page)

SECTION III, continued

No person shall be allowed to sleep in any town parks except with the permission of the Board of Selectmen, or in any town building. No persons shall be allowed to sleep on any beaches within the town limits of Chilmark between the hours of 9p.m. and 7a.m. This bylaw shall not apply to any person who sleeps on a beach which is not owned by the town, county, or state with the permission of person or persons who are lawfully in possession of said beach. Any person violating this bylaw shall be fined not less than \$25 and not more than \$50.

No person or persons shall sleep in any motor vehicle on private property unless they have permission to do so by the person or persons lawfully in possession of said property. Whoever violates this bylaw shall be fined not less than \$25, or more than \$50.

Adopted ATM February 27, 1967

Amended February 23, 1971

7. TROUBLE ALARMS

Whoever owns a residence or building and has a burglar alarm shall not have more than two false alarms per calendar year, per building. The Town of Chilmark defines a false alarm as "an alarm signal resulting in a response by the police or fire department when an emergency does not exist". An alarm shall be presumed false if the responding officer(s) do not locate any evidence of an intrusion or of the commission of an unlawful act, a fire or emergency on the premises, which might have caused the alarm to sound. Alarms caused by thunder storms, hurricanes, other "violent acts" of nature, certain power outages and other valid situations, as determined by the Police Chief or Fire Chief, shall be exempt from this bylaw. The Chief will notify the owner by mail at his/her place of residence for each offense. Whoever violates this bylaw shall be punished by a fine of \$100.00 for the first offense, and \$150.00 for each subsequent offense. Municipally owned buildings shall be exempt from this bylaw.

Adopted ATM April 24, 2006

8. WOOD CUTTING

The cutting of wood on private property without the written permission of the landowner is prohibited.

Adopted ATM February 14, 1978

9. DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS

Section 1. INTENT AND PURPOSE

This by-law is adopted for the purpose of protecting the historic and aesthetic qualities of the Town of Chilmark by preserving, rehabilitating or restoring whenever possible, buildings, and structures which constitute or reflect distinctive features of the architectural and/or historic resource of the Town, thereby promoting the public welfare and preserving the cultural heritage and character of the Town of Chilmark.

Section 2. DEFINITIONS

A. “Application”

An application for a permit for the demolition or razing of a structure.

B. “Building Inspector”

The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

C. “Commission”

The Chilmark Historical Commission.

D. “Demolition”

The act of pulling down, destroying, removing or razing an entire building or commencing or carrying out the work of total or substantially total destruction of an entire building with the intent of completing the same.

E. “Historically Significant Building or Structure”

A structure which is:

1. listed on , or is within an area listed on, the National Register of Historic Places or is the subject of a pending application for listing on said National Register;
2. included in the Comprehensive Survey of Historic Structures prepared by the Commission including those buildings listed for which complete surveys may be pending;
3. is listed in the Chilmark Master Plan, Historic Resources Section; has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or
4. association with a famous architect or builder provided that, after a public hearing, the owner of such a building and the Building Inspector have been notified, in hand or by certified mail, of such vote.

SECTION III, continued

F. “Premises”

The parcel of land on which an historically significant structure is located.

G. “Demolition Permit”

Any demolition permit issued by the Building Inspector under the State Building Code which authorizes the destruction, demolition, razing or removal of an entire building or substantially an entire building.

Section 3. PROCEDURE

3.A) Upon receipt of an application for a demolition permit the Building Inspector shall within five (5) working days forward a copy to the chairman of the Historical Commission or his/her designee and the Executive Secretary. No demolition permit shall be issued at this time.

3.B) Within twenty (20) days from its receipt of a demolition permit application, the Commission shall determine whether the structure in question is an Historically Significant Structure. The applicant for said permit may within this time frame make a presentation to the Commission if he or she chooses to do so. If the Commission determines that the structure is not an Historically Significant Structure, the Commission shall so notify the Building Inspector and/or owner(s) of the structure(s) in writing within five (5) days of such determination and at this time a Demolition Permit may be issued.

3.C) If the Commission finds that the structure is an Historically Significant Structure, the Commission, in cooperation with the applicant, shall fix the date for a public hearing and shall give public notice thereof by publishing notice of the time, place and purpose of said hearing in a local newspaper, and also at the Town Hall at least 14 calendar days prior to said hearing. In addition to this, notice shall be mailed to the applicant(s) within seven (7) days of said hearing, and to the abutters of said premises in question within a radius of not more than one hundred (100) feet, as they appear on the most recent tax list. The hearing shall be held no later than forty (40) days from the determination under Section 3.B that a structure is an Historically Significant Structure.

3.D) The Commission shall make a determination under Section 2.E of Section 3.F (below) no more than fourteen (14) days after completion of a public hearing under Section 3.C.

3.E) If, after such hearing, the Commission determines that the demolition of the Historically Significant Structure would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector within ten (10) calendar days of such determination. Upon receipt of such notification, or after fifteen (15) calendar days from the date of conduct of the hearing, if the Building Inspector has not received notification from the Commission, he/she may, subject to the requirements of the State Building Code and any other applicable laws, by-laws, or rules and regulations, issue the demolition permit.

3.F) If the Commission determines that the demolition of the Historically Significant Structure would be detrimental to the historical or architectural heritage resources of the Town, such structure shall be considered a “Preferable Preserved Structure.” At this time the Commission shall give a written statement to the owner(s) of said structure and all concerned parties, as well as the Building Inspector and any other Town offices that the Commission deems necessary to notify, outlining and defining the reason(s) for such determination. In order to allow the applicant(s) of a Preferably Preserved Structure the time to find alternative methods as opposed to demolition, no demolition permit shall be issued for the structure in question for a period of not more than six (6) months from the date of such determination by the Commission.

3.G) Notwithstanding the preceding sentence, the Building Inspector may issue a demolition permit for a Preferably Preserved Structure at any time after receipt of written notice from the Commission to the effect that either:

1. the Commission is satisfied that there is no reasonable likelihood that either the owner(s), applicant(s) or some other person(s) or group is willing to purchase, preserve, rehabilitate, restore or remove such structure in question, or;

2. the Commission is satisfied that the owner has made a continuing, bona fide and reasonable effort to locate a purchaser to preserve, rehabilitate, restore or remove the subject structure, and that such efforts have been unsuccessful.

Section 4. RESPONSIBILITY OF OWNER

4.A) The owner(s) of a Preferably Preserved Structure shall be responsible for participating in the investigation of options and for facilitating the process by providing any necessary information, allowing access to the property, securing the premises, and being actively cooperative in seeking alternatives with the Commission and any interested parties.

SECTION III, continued

Section 5. ENFORCEMENT AND REMEDIES

5.A) The Commission and the Building Inspector are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a violation thereof.

5.B) Anyone who demolishes a structure, in whole or in part, as defined within the section of this by-law without notifying or receiving prior consent from the Commission and Building Inspector, shall be subject to a fine or not more than Three Hundred Dollars (\$300.00). If the Commission subsequently determines that the building that has been demolished was an Historically Significant Structure, a building permit for said premises shall not be issued for a period of five (5) years from the date of such demolition.

Section 6. SEVERABILITY

6.A) If any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

Adopted at Annual Town Meeting April 24, 2000

10. PLASTIC CHECKOUT BAGS

1.1 No Store in the Town shall provide to any customer a Plastic Checkout Bag.

1.2 If a Store provides Checkout Bags, they may only provide Recyclable Paper Bags or Reusable Bags.

1.3 This bylaw does not apply to the clear or opaque plastic bags without handles provided to a customer:

a. to transport loose produce, prepared food, bulk food, or small unpackaged products (e.g. beads and nails or other small hardware items) to the point of sale; or

b. to contain or wrap foods to retain moisture or to segregate foods (like meat or ice cream) or other items to prevent contamination or damage when the items are placed together in a Recyclable Paper Bag or Reusable Bag.

- 1.4** Stores may charge and retain a fee for any Recyclable Paper Bag or Reusable Bag that they provide. The fee could be used to recover the costs of the bag and/or as an incentive to customers to bring their own Reusable Bags. Customers are encouraged to bring their own Reusable Bags when they shop, and Stores may offer a credit to customers who bring their own bags.

2. Definitions

“Checkout Bag” means a bag with or without handles provided by a Store to a customer at the point of sale that is intended for the purpose of transporting food or merchandise out of the Store.

“Plastic Checkout Bag” means a plastic Checkout Bag that is less than 4 mils thick (and, for the avoidance of doubt, includes such plastic bags that are marketed as ‘biodegradable’ or ‘compostable’).

“Recyclable Paper Bag” means a paper bag with or without handles that is 100 percent recyclable and contains at least 40% post-consumer recycled content (except that an eight pound or smaller paper bag shall contain a minimum of 20% post-consumer recycled content) and visibly displays both the word "recyclable" and the percentage of post-consumer recycled content.

“Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of polyester, polypropylene, washable fabric, or other durable material and, in the case of plastic bags, is at least 4.0 mils in thickness.

“Store” means any commercial enterprise selling goods, food or services directly to the public, whether for or not for profit, including, but not limited to, convenience and grocery stores, markets, restaurants, pharmacies, liquor stores, take-out food purveyors, and merchandise retailers.

3. Administration and Enforcement

- 3.1** This bylaw may be enforced by any agent of the Board of Health.

SECTION III, continued

3.2 A person, individually or by his servant or agent, who violates any provision of this bylaw may be penalized by a non-criminal disposition pursuant to G.L. Chapter 40, Section 21D and the Town's non-criminal disposition bylaw. The following penalties apply:

- first violation: a written warning.
- second violation: \$50 fine.
- third and subsequent violations: \$100 fine.

Each day the violation continues constitutes a separate violation.

4. Effective Date: This bylaw takes effect on January 1, 2017.

Adopted at Annual Town Meeting April 25, 2016

11. Release of Balloons

- (1) No person, nonprofit organization, association, firm or corporation, shall knowingly release, organize the release of or intentionally cause to be released into the atmosphere any helium or other lighter-than-air gas balloons in the town of Chilmark. Any violation of this bylaw shall result in a fine of \$100.
- (2) The provisions of section (1) shall not apply to balloons which are used for the purpose of carrying scientific instrumentation during the performance of an experiment or testing procedure or by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes.

Adopted ATM April 22, 2019

Approved by MA Attorney General August 2, 2019

12. Plastic Water and Soft Drink Bottle Bylaw

Section 1: Findings and Purpose

Water and soda bottles made of plastic are hazardous to health, economy, and the environment. The purpose of this bylaw is to restrict the sale and distribution of such bottles.

For example:

1. Plastic bottle waste is overwhelming society's ability to manage it. Americans discard an estimated 30 million tons of plastic annually, with only 8 percent recycled.
2. Chemical components of plastic are detected in biological systems, including human beings. Exposure comes through food, water, and clothing, and has been associated with a range of health effects.
3. More than 8 million tons of plastic flows into our oceans annually, impacting wildlife and breaking down into smaller and smaller pieces, called micro-plastics.
4. Micro-plastics are found in the fish and shellfish we eat, and in the bottled water we drink.
5. Action is occurring worldwide to address this problem. Regionally, Nantucket and several MA towns have banned plastic water bottles.
6. Action on Martha's Vineyard includes placement of water bottle refill stations in every school and in public places. More are planned.
7. This Island community has an opportunity to provide leadership to reduce reliance on plastic. It is the right thing to do for the sake of our food, our water, our health, and our planet.

Section 2: Regulated Conduct

- 2.1 It shall be unlawful to sell or distribute (a) non-carbonated, unflavored water, and (b) soft drinks in plastic (including polyethylene terephthalate – PET) bottles of less than 34 ounces in the Town of Chilmark. For the purposes of this bylaw, 'soft drink' means any beverage containing carbonated water, a sweetener (including fruit juice) and/or a flavoring.
- 2.2 Sales or distribution of drinking water in plastic bottles occurring subsequent to a declaration (by the Emergency Management Director or other duly authorized Town, County, Commonwealth or Federal official) of an emergency affecting

SECTION III, continued

the availability and/ or quality of drinking water to residents of the Town shall be exempt from this bylaw until seven days after the declaration has ended.

3.1 Enforcement of this bylaw shall be the responsibility of the Board of Selectmen or its designee(s). The Board of Selectmen shall determine the inspection process and shall incorporate the process into other Town duties as appropriate.

3.2 Any person, individually or by his servant or agent, who violates any provision of this bylaw may be penalized by a non-criminal disposition pursuant to G.L. Chapter 40, Section 21D and the Town's non-criminal disposition bylaw. The following penalties apply:

first violation:	Written warning
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second violation: \$50 fine

third and subsequent violations: \$100 fine

Each day the violation continues constitutes a separate violation.

Section 4. Suspension of the Bylaw

4.1 If the Board of Selectmen determines that the cost of implementing and enforcing this bylaw has become unreasonable, the Board of Selectmen shall conduct a Public Hearing to inform the citizens of such costs. Subsequent to the Public Hearing, the Board of Selectmen may continue this bylaw in force or may suspend it permanently or for such length of time as they may determine.

Section 5: Effective Date

5.1 This bylaw takes effect on May 1, 2020.

Adopted ATM April 22, 2019

Approved by Attorney General on October 4, 2019

SECTION IV

1. WETLANDS PROTECTION BYLAW (NON- ZONING)

Section 1: Purpose

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

Section 2: Jurisdiction

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

Section 3: Exceptions

The permit and application required by this bylaw shall not be required for maintaining Chilmark's salt ponds for the culture of fish and shellfish, or for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, or for replacing pilings or repairing but not changing or expanding existing and lawfully located docks and moorings, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards in regulations adopted by Commission.

The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the

Commonwealth or a political subdivision thereof, provided that the advance notice, oral or written, has been given to the Commission prior to the commencement of work or within 24 hours after commencement, provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purpose necessary to abate the emergency project a permit application shall be filed with the Commission for review as provided in this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

The permit and application required by this bylaw shall not apply to maintenance of drainage and flooding systems of cranberry bogs, to work performed for normal maintenance or improvements of land in agricultural use or in aquacultural use. Other than stated in this section the exception provided in the Wetlands Protection Act shall not apply.

Section 4: Applications for Permits and Requests for Determination

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

The Commission may accept as the application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act, G.L.,c.131 ,Sec.40.

Any person desiring to know whether or not proposed activities or an area is subject to this bylaw may request in writing a Determination of Applicability (Request for a Determination). Such a request for determination shall contain data and plans specified by regulations of the Commission. The applicant shall pay a filing fee specified in the regulations of the Commission. The Commission may waive the filing fee and costs and expenses for an application or request filed by a person having no financial connection with the property which is the subject of the request.

In addition to the filing fee, the Commission is authorized to require any applicant to pay the reasonable costs and expenses borne by the

Commission for specific expert engineering and consultant services deemed necessary by the Commission to review a Notice of Intent and/or Request for Determination up to a maximum of two thousand and five hundred dollars (\$2,500.00). Said payment can be required at any point in the deliberations prior to a final decision rendered. Said services may include but are not necessarily limited to wetlands survey and delineation, wetland resource area reports, hydrogeologic and drainage analysis, wildlife evaluation, shellfish surveys and environmental/land use law. The Commission is hereby authorized to charge for said fee when a Notice of Intent and/or Request for determination proposes any of the following: 250 square feet or greater of alteration of fresh water or coastal wetland; 25 linear feet or greater of alteration of a bank or waterway; 250 square feet or greater of alteration of the 100 foot buffer zone of the resource area; alteration of greater than 250 square feet of land under a water body; discharge of any pollutants into or contributing to surface or groundwaters of resource areas; or the construction of a detention or retention basin. Any unused portion of said fee shall be returned by the Commission to the applicant within forty-five calendar days of written request for same by the applicant unless the Commission decides in a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of the fee, or any act related thereto, may appeal according to the provisions of Massachusetts General Laws.

Adopted ATM April 24, 1989 and Amended ATM April 23, 1990

Section 5: Notice and Hearings

Any person filing an application or a Request for Determination with the Commission at the same time shall give written notice thereof to all abutter according to the most recent records of the assessors, including those across a travelled way and those within 300 feet across a body of water. The notice to abutter shall enclose a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutter free of charge. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as the person making the request.

The Commission shall conduct a public hearing on any application and a public meeting on the Determination of Applicability, with

SECTION IV, continued

notice given at the expense of the applicant, five working days prior to the hearing, in a newspaper of general circulation in Chilmark.

The Commission shall have authority to continue the hearing to a date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information and plans required of the applicant deemed necessary by the Commission in its discretion. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon.

Section 6: Permits, Determinations, and Conditions

Determinations: If, in response to a Request for a Determination, the Commission determines that the activities which are the subject of the application are within the area described in section two and that such activities will alter the resource area, the applicant must then apply for a permit for such activities.

If the Commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant adverse impact or significant cumulative effect upon the wetland values protected by this bylaw, the Commission within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or

desirable to protect those values, and all activities shall be done in accordance with those conditions.

The Commission is empowered to deny a permit for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetlands values protected by this bylaw; and where no conditions are adequate to protect those values. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that the annual

notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for renewal is received in writing by the Commission prior to expiration or is renewed by the Commission prior to its expiration.

For good cause the Commission may revoke or modify a permit issued under this bylaw after public notice and public hearing, and notice to the holder of the permit.

The Commission may combine the permit or other action on an application issued under this bylaw with the Order of Conditions issued under the Wetlands Protection Act.

If the applicant is denied a permit for the activity he proposes, he may appeal to a special meeting of a joint committee of the majority of each of the following permitting boards: Board of Selectmen, Board of Health, Planning Board. The meeting shall be called by the chairman of the Board of Selectmen and written notice shall be made to the applicant and to all members of the boards concerned. After hearing all the evidence provided by the applicant and the Conservation Commission, said committee shall, by majority vote, decide if the proposed activity is likely to have a significant or cumulative effect upon the value of Chilmark resources protected by this law.

Section 7: Regulations

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

Section 8: Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw. Otherwise the definitions adopted in the Regulations governing the Massachusetts Wetland Protection Act (Chapter 131, Section 40) compiled and in full force and effect 6/30/83, shall apply.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business

SECTION IV, continued

organization, trust, estate, the United States Government, the Commonwealth and all political subdivisions thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, Chilmack, and any other legal entity, its legal representatives, agents or assigns.

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- a) Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- b) Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- c) Drainage or other disturbance of water level or water table;
- d) Dumping, discharging or filling with any material which may degrade water quality;
- e) Placing of fill, or removal of material, which would alter elevation;
- f) Driving of piles in new locations;
- g) Destruction of wetland vegetation. Mowing of lawns and normal maintenance of trees and shrubs and the non-commercial cutting of firewood for personal use shall not be considered destruction.
- h) Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- i) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.

Section 9: Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and

observance of the conditions imposed hereunder be secured wholly or in part by proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the commission.

Section 10: Enforcement

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

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Upon request of the Commission, Board of Selectmen and Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission the Chief of Police shall take legal action for enforcement under criminal law.

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

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

In the alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in G.L. c.40, Section 21D.

Section 11: Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 12: Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rules Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, G.L.c.131, Section 40, and regulations thereunder and independent of the Zoning Act, Massachusetts General Laws, Chapter 40A.

Section 13: Severability

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

Adopted ATM April 28, 1986

2. FIRE FIGHTING WATER SOURCE

Any individual(s) who subdivide(s) land into eight (8) lots or more must indicate water source(s); and, if not sufficient for firefighting, establish a water source for this purpose; said source to be approved by the Fire Chief after plans are presented to the Planning Board for their consideration. Any artificial water source shall not be visible from a public way.

Adopted ATM April 25, 1988

3. Stretch Energy Code

for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 115.AA of the Massachusetts Building Code, 780 CMR, the Stretch Energy Code, including future editions, amendments or modifications thereto, with an effective date of January 1, 2020

Adopted ATM April 22, 2019

Approved by the MA Attorney General on August 2, 2019

SECTION V

HUMAN RESOURCES

Section 1.0 General Provisions

Section 2.0 Recruitment and Hiring

Section 3.0 Initial Evaluation Period

Section 4.0 Classification and Compensation Plans

Section 5.0 Employee Development and Training

Section 6.0 Authorized Leaves

Section 7.0 Family and Medical Leave

Section 8.0 Civic Leave

Section 9.0 Holidays

Section 10.0 Travel Reimbursement

Section 11.0 Performance Evaluations

Section 12.0 Disciplinary Action

Section 13.0 Grievance Procedure

Section 14.0 Longevity

Section 15.0 Group Health and Life Insurance

Section 16.0 Retirement

Section 17.0 Enactment

Section 1.0 GENERAL PROVISIONS

1.1 Purpose

The purpose of this Bylaw is to establish a system of human resources administration based on merit principles including, but not limited to:

- (a) recruitment, selection and classification of employees under fair and open competition on the basis of abilities, knowledge, education and skills for the position;
- (b) fair and equitable treatment of all applicants and employees in all aspects of the human resources system, without regard to age, race, religion, color, creed, gender, sexual orientation, national origin, political affiliation, or disability and with proper regard for privacy and constitutional rights;
- (c) retention, where possible, and advancement of employees based on performance, work history, cooperative attitude, service to the public and the Town's fiscal stability; and
- (d) ongoing review of employee goals and objectives with reasonable efforts to assist employees to enhance skills and performance.

1.2 Application

All Town Departments and personnel shall be subject to the provisions of this Bylaw and the policies and procedures adopted pursuant to this Bylaw, except elected officers, employees of the School Department, Temporary Employees and Seasonal Employees.

Whenever a provision of this Bylaw conflicts with any provision of a collective bargaining agreement or an employment agreement, the terms of the collective bargaining agreement or employment agreement shall apply pursuant to Massachusetts General Laws, as amended from time to time.

All remaining provisions of the Bylaw shall remain effective.

Where the work of employees paid by the Town of Chilmark is supervised by persons, Boards, Committees or Commissions that are not subject to this Bylaw, the provisions of the Bylaw and accompanying Human Resources Procedures Manual (HRPM) remain applicable to those employees.

Under authority granted in the General Laws of the Commonwealth of Massachusetts, non-elected paid Chilmark employees, unless otherwise stipulated in their appointment letters, are subject to annual reappointment by the Board of Selectmen. In exercising this authority, the Board of Selectmen shall be guided by the Purpose of this Bylaw as set forth in Section 1.1 above.

1.3 Definitions

The following definitions shall apply to this Bylaw:

Appointing Authority: The Board of Selectmen of Chilmark is the Appointing Authority for all Town Employees unless another Appointing Authority is specified by applicable Massachusetts General Law (MGL).

Benefits-eligible Employee: A Year-round employee whose weekly annual average number of hours worked is equal to or greater than 20 hours in a normal work week.

Classification Plan: The Classification Plan, as administered by the Human Resources Board of Chilmark (HRBC), has two components: The first is a uniform system for job classification of all positions as exempt, non-exempt or seasonal. The second component is the job grade classification of all positions to establish proper relationships between positions, based on the level of responsibilities and the minimum qualifications required to perform the job.

Compensation Plan: The regular paid wage schedule that is assigned to a position's grade and step level, administered by the HRBC.

Department Head: An elected official, appointed employee or the Chairman of a Town Board, Committee or Commission responsible for supervising a Department's operations or activities.

Exempt Employee: An employee whose position is exempt from the overtime provisions of the Fair Labor Standards Act, as amended from time to time.

Full-time Employee: A full-time employee is one who works 40 hours per work week.

General Laws: The General Laws of the Commonwealth of Massachusetts.

HRBC: The Human Resources Board of Chilmark.

Human Resources Procedure Manual (HRPM): The Manual prepared by the HRBC that defines the procedures for implementing the human resource management functions as set forth in the Town's Human Resources Bylaw. Changes to the Procedures Manual require a majority vote of approval by the HRBC and final approval by the Board of Selectmen.

Immediate Family: An employee's spouse, spousal equivalent, children, stepchildren, grandchildren, parents, parents of spouse, siblings, and those others for whom recognized legal responsibility exists.

Initial Evaluation Period: The first six (6) months of employment for all new Year-round Employees or existing Year-round Employees who assume a position within a different Department or with a job description with duties that are different from the old position. Notwithstanding the foregoing, police officers are subject to a one-year "probationary period" pursuant to MGL Chapter 41, Section 133, which includes the following:

(a) The initial appointment shall be for a period of one year during which a person shall actually perform the duties of such position on a full-time basis. The initial appointment shall be a probationary period during which police officers shall be deemed employees at will whose removal or dismissal shall be without recourse at any time during such initial appointment.

The probationary period for a police officer starts upon commencement of full-time year-round work following successful graduation from a recruit academy unless a waiver for such attendance based on equivalent academy and police work in another state or jurisdiction has been secured from the state.

Non-exempt Employee: An employee whose position is subject to the overtime provisions of the Fair Labor Standards Act, as amended from time to time.

Personal Pay Rate: A rate of pay that is above the maximum rate for the job as set forth in the Compensation Plan.

Project Employee: An employee who is hired to work on a specific project for a limited period of time that shall not exceed Twelve (12) consecutive months. A Project Employee is not subject to, or have the benefits of the Bylaw, except for those provisions relating to the Classification and Compensation Plans promulgated by the HRBC. A Project Employee may be considered for re-hiring, but a project employee who wishes to return is not guaranteed a position of employment the following year or term.

Seasonal Employee: An employee who works for a limited period of time related to a particular season, as listed in the HRPM. While Seasonal Employees are subject to and are the beneficiaries of the General Laws of Massachusetts, they are not subject to the overtime provisions of the Fair Labor Standards Act nor are they subject to, or have the benefits of, this Bylaw, except for those provisions relating to the Classification and Compensation Plans promulgated by the HRBC for Seasonal Employees. Seasonal Employees may be considered for re-hiring but, seasonal employees who wish to return are not guaranteed a position of employment the following season.

Supervisor: As specified in each job description, the Board of Selectmen, an employee, Town Board, Committee or Commission Chairman who directs the activities of another employee or group of employees.

Temporary Employee: An employee who is hired on an interim basis to fill a position which is vacant temporarily or an employee who is hired for emergency purposes usually for a period of 30 days or fewer, but may be extended one additional 30-day period with the prior approval of the Appointing Authority.

Town: The Town of Chilmark.

Year-round Employee: An employee who has successfully completed the Initial Evaluation Period.

1.4 Human Resources Board of Chilmark (HRBC)

The HRBC shall consist of five voting members of the Town appointed by the Board of Selectmen for staggered terms of three years each. The HRBC shall serve without compensation.

No person employed by the Town shall be eligible to serve on the HRBC. However, there shall be an employee of the Town who is selected annually by the employees to represent them on the HRBC as a non-voting member. This employee shall bring

issues to the HRBC that are of concern to all Town employees and shall report back to the employees as needed.

The mission of the HRBC is to help ensure that the Town is in compliance with all applicable employment statutes, that its employees are treated fairly and uniformly in a transparent, merit-based human resources system, and that the service delivery to Town residents and taxpayers is enhanced through a performance-driven, efficient and motivated work force.

The powers and duties of the HRBC shall include:

- Formulating policies, procedures and regulations as necessary to ensure proper human resources administration;
- Interpreting the Human Resources Bylaw and serving, advising and assisting the Board of Selectmen on its implementation;
- Developing and maintaining a Classification Plan and a Compensation Plan;
- Developing and maintaining job descriptions for positions included in the Classification and Compensation Plans;
- Periodically reviewing the wage rates of all positions subject to the Compensation Plan;
- Administering the Classification and Compensation Plans, including the placement of positions within the Classification and Compensation Plans, and recommending initial compensation, where appropriate, at step levels higher than the entry level of step 1, and making other decisions necessary for the proper management of the Classification and Compensation Plans. The HRBC may recommend a change in classification for a Year-round Employee to the Appointing Authority after receiving a request from the supervisor.
- Keeping informed of trends in compensation, human resource procedures, State and Federal employment laws and recommending to the Town any action deemed necessary;
- Advising and assisting Town Boards, Committees, Commissions and Department Heads on matters of human resources administration, as needed;
- Determining which human resource records are to be maintained and the procedures for their administration and access;
- Conducting grievance hearings, as necessary;
- Participating as an observer in human resource matters, as requested;
- Encouraging and, where practicable, requiring training programs for employees.

1.5 Human Resource Records

The HRBC shall be responsible for the preparation and maintenance of job descriptions for all positions including the determination of a position's exempt or non-exempt status.

The HRBC shall be responsible for the confidential maintenance of all human resources records and files as set forth in the HRP. An employee is entitled to examine the contents of his or her individual human resource file(s) at a pre-arranged time and with the custodian of the files present.

Section 2.0 RECRUITMENT AND HIRING

Recruitment and hiring of prospective employees shall be conducted in a non-discriminatory manner in accordance with the procedures set forth in the HRP and shall be consistent with the provisions of Section 1.1 above.

Section 3.0 INITIAL EVALUATION PERIOD

3.1 During the Initial Evaluation Period, or in the case of a police officer the probationary period, an employee will be observed and evaluated on his or her conduct, performance against specified goals and objectives, and work habits.

An employee shall accrue authorized leave benefits as outlined in the Bylaw during this period, but may not use these accrued benefits as paid leave until successfully completing the first six months of the Initial Evaluation Period, or, in the case of a police officer, the first six months of the probationary period.

During the Initial Evaluation Period the employee does not have access to the Bylaw's Grievance Procedure, and may be terminated with or without cause at any time by the Appointing Authority, upon the recommendation of the Department Head or Supervisor.

3.2 Upon completion of the Initial Evaluation Period, the Appointing Authority shall notify the employee in writing of the decision that the employee has or has not attained Year-round Employee status. This decision shall be based upon a performance appraisal and recommendation made by the employee's Department Head or Supervisor. Such notification shall be placed in the employee's human resources file as referenced in the HRP.

3.3 The Initial Evaluation Period may be extended for no more than three (3) months at the request of the Supervisor with the approval of the Board of Selectmen.

Section 4.0 CLASSIFICATION AND COMPENSATION PLANS

4.1 Classification and Compensation Plans

The HRBC shall develop a Classification Plan and a salary Compensation Plan to promote the recruitment of qualified applicants and to reward and retain employees based on a satisfactory job performance and evaluation. The Compensation Plan may take into consideration the relative responsibilities of positions as set forth in the job descriptions, wage rates paid for comparable positions in comparable communities, as well as in the private sector, wage rates paid under collective bargaining agreements, economic conditions in the general labor market and the Town's fiscal condition. The plan, after approval by Town Meeting vote, shall be reviewed and revised as needed from time to time in order to maintain a fair and equitable compensation system for the Town.

4.2 Step Increases

Progression through the rate ranges normally will be one step annually, unless otherwise requested by the Department Head and approved by the HRBC and Appointing Authority. Step increases may be given only on the basis of satisfactory work performance as certified annually by the Appointing Authority.

4.3 Promotions and Transfers

When an employee is promoted to a higher-rated job, the employee shall enter the position at the minimum rate of the job range or at the employee's present rate, whichever is higher. The employee may also receive a step increase at that time if the Department Head feels that the employee's qualifications and performance warrant it and with Human Resources Board and Appointing Authority approvals.

If an employee is transferred and reclassified to a lower-rated job, the employee shall enter the position at the employee's present rate or at the maximum rate of the position, whichever is lower.

When rate ranges are affected by a wage increase voted by the Town, either by a fixed percentage or a fixed amount, an employee covered by the Compensation Plan and in the classifications specified, except those holding personal rates, shall benefit. An employee holding a personal rate shall not receive an increase until the maximum rate from the Classification Plan exceeds the personal rate.

No pay shall be reduced as a result of a rate range revision of the plan. If an employee receives a pay rate above the maximum rate for the job, this rate becomes a personal rate and applies only to the present employee.

Any earned, unused compensatory time shall follow the employee to his or her new position and shall be paid at the new pay rate when the time is used.

4.4 Temporary Employee Compensation

A Temporary Employee shall be paid at the entry level step 1 of a position's grade as outlined in the Compensation Plan or at a higher step as recommended by the HRBC and approved by the Board of Selectmen.

4.5 Overtime

Year-round non-exempt employees, or other employees as required by the Fair Labor Standards Act, as amended from time to time, will be paid one and one-half (1 1/2) times their regular hourly rate for all hours worked in excess of 40 hours per week within the Department where the employee is regularly employed. Overtime work must be approved by the employee's Department Head before working the extra hours.

Where overtime is performed for a Department other than the employee's regular Department, the overtime rate will be one and one-half (1 1/2) times the appropriate rate schedule for the work performed. Overtime paid to an employee working for a Department other than the employee's regular Department shall only be approved with a prior written recommendation from the Department Head for whom the work

is to be performed. Leave or holiday hours utilized during a work week will not be credited as "hours worked" for purposes of calculating overtime.

4.6 Compensatory Time

There are occasions where the Town may grant Compensatory Time (Comp. Time) to non-exempt employees as set forth in the H RPM.

4.7 Police Department On-Call Compensation

Members of the Police Department shall receive on-call compensation, the amount to be determined annually by the Board of Selectmen.

Section 5.0 EMPLOYEE DEVELOPMENT AND TRAINING

To improve the quality of services provided by the Town and to help employees develop skills needed for their position, the Department Head and/or Appointing Authority shall identify effective sources of training and provide resources, where practicable, to allow designated employees to pursue training opportunities provided they are in the Town's interest.

Section 6.0 AUTHORIZED LEAVES

6.1 Vacation

6.1.1 Year-round, Benefits-eligible employees working twenty (20) or more hours per week shall be entitled to vacation leave with pay pro-rated based on their regularly scheduled hours of work per five-day work week.

6.1.2 Vacation leave shall be granted annually to Year-round, benefits-eligible employees in accordance with the following schedule:

Employees who have completed at least six (6) months, but less than one year, of continuous service: regular, budgeted paid leave. Leave shall be credited upon completion of six (6) months of employment.

Employees who have completed at least one (1) year, but fewer than five (5) years, of continuous service: 10 days/2 weeks paid leave. Leave shall be earned at the rate of 0.83 days per month.

Employees who have completed at least five (5) years, but fewer than ten (10) years, of continuous service: fifteen (15) days/three weeks paid leave. Leave shall be earned at the rate of 1.25 days per month.

Employees who have completed at least ten (10) years or more of continuous service: 20 days/4 weeks paid leave. Leave shall be earned at the rate of 1.66 days per month. At the discretion of the Board of Selectmen, a greater accrual rate may be granted based on exceptional qualifications.

6.1.3 Requests for vacation leave must be approved by the Supervisor, Department Head or Appointing Authority. Vacation leave shall be taken by the end of the fiscal year following the fiscal year in which it was earned. Vacation time not so utilized shall expire unless extended for a specified period of time by the Appointing Authority.

6.1.4 Employees who terminate their employment or retire will be eligible for payment for unused vacation time as allowed in Section 6.1.3. In the event of the death of an employee, the payment will be made to the employee's estate.

6.2 Sick Leave

6.2.1 Year-round, Benefits-eligible employees shall accrue sick leave at the rate of twelve (12) days per year. Leave shall be earned at the rate of one (1) day per month. Unused sick leave may accumulate from year to year to a maximum accumulation of sixty (60) days. A day of earned sick leave shall be equal to an employee's current average daily number of hours worked in a work week.

6.2.2 Sick leave may be granted for a medical appointment, an employee's illness or injury. For the care required for the employee's immediate family, sick leave may be used by an employee when time off is allowed as provided in Section 7.0 of this Bylaw.

6.2.3 If an employee who chooses to resign or retire has accumulated sick leave; has worked for the Town for at least five (5) years; and is in good standing, he or she shall be compensated for up to 60 days of accrued sick leave at the following rates:

5 - 10 years of continuous employment	25%.
More than 10 years of continuous employment	50%.

6.3 Injury Leave

In addition to the rights an employee has under the General Laws, as amended from time to time, an employee who is incapacitated from working due to injuries arising outside of work, and not in the course of employment for the Town, may apply sick leave to supplement disability benefits received because of such injuries. In no event shall an employee be allowed to apply sick leave which would result in his/her receiving more than his/her regular full salary.

6.4 Bereavement Leave

Bereavement Leave with pay may be granted by the Department Head to any employee to enable him/her to take care of matters caused by the death of a person with whom the employee maintained an immediate family relationship.

Bereavement Leave shall be limited to no more than five (5) sequential work days. Compensation for a Benefits-eligible Employee shall be based on the employee's regular compensation for scheduled hours for which he/she is absent.

6.5 Military Leave

The regulations as outlined in the Uniformed Services Employment and Reemployment Rights Act (USERRA), as amended from time to time, shall apply to Military Leave.

6.5.1 Leave for Military Training

In order to receive military training, a Year-round Employee who is a member of the ready reserve of the armed forces shall be granted leave not exceeding seventeen (17) days per calendar year (Reserve Duty). An employee on Reserve Duty is eligible to receive the difference between his/her regular wages or salary and military pay for no more than ten (10) working days per calendar year.

An employee shall provide notice of the date of departure and date of return on the next working day after receipt of notification, along with a copy of written military orders, and shall provide confirmation of the completion of such training upon his or her return to work.

Absence from work for Reserve Duty as provided in this section shall not affect the employee's right to receive normal vacation leave, sick leave, family medical benefits or other employment benefits to which the employee is otherwise entitled.

Absence from work for military training as provided in this section shall not affect the employee's right to receive normal vacation leave, sick leave or other employment benefits.

6.5.2 Leave for Active Military Duty

The regulations outlined in the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, shall apply to an employee who is absent from work for active military duty. In addition to the benefits set forth in such regulations, while the employee is on active duty, the medical benefits to which the employee otherwise would have been entitled shall not be diminished on account of said service.

6.6 Parental Leave

Any leave taken under this section shall be deemed leave taken under the provisions of the Family and Medical Leave Act (FMLA).

6.6.1 Maternity/ Paternity Leave

In addition to the rights an employee has under the Massachusetts General Laws or the Federal Family and Medical Leave Act, as amended from time to time, a Year-round, benefits-eligible employee shall be entitled to maternity/paternity leave for a period not exceeding eight (8) weeks for the birth of a child or for adopting a child under the age of 18, or under 23 if the child is mentally or physically handicapped. Leave under this section shall be unpaid, unless the employee is eligible to apply for other leave, such as sick or vacation leave to which he or she is entitled, pursuant to the applicable provisions of this Bylaw. If feasible, at least two weeks advance notice shall be given prior to the commencement of Maternity/Paternity Leave.

6.6.2 Same-Sex Marriage

The Town shall be guided by applicable Massachusetts law in determining parental leave to be granted to an employee who is a spouse in a same-sex marriage.

6.7 Jury Duty Leave

An employee shall be granted leave when called for jury duty and shall be paid his or her regular wages for the first three (3) days, or part thereof, of jury service. An employee shall continue to be paid his or her regular wage if he or she continues serving on jury duty after the first three days. The employee must provide proof of such service to the Department Head prior to receiving any compensation pursuant to this Section. Upon completion of jury duty service and after the employee receives all jury duty compensation from the court, a copy of all jury duty compensation payments shall be given to the Town Accountant. The total amount paid by the court for serving on jury duty will be deducted from the employee's next pay check. An employee is required to report for work while on jury service if released before the

end of the regular work day and if the time of release will allow for at least two hours of work. When an employee is called for jury duty, the employee must notify his or her direct Supervisor the next working day.

6.8 Leave of Absence

6.8.1 Religious Observance

A Department Head may grant a leave of absence to an employee whose sincerely held religious beliefs mandate such observance, where practicable, for the observance of religious obligations and holidays to an employee that qualifies for such religious accommodation under applicable law. An employee must provide a reasonable amount of advance notice, which shall normally be ten (10) days, to the Supervisor or Board of Selectmen. An employee may take such leave as unpaid leave, charge the time to vacation, or with the approval of the Department Head or Board of Selectmen, schedule additional hours of work to compensate for the time lost.

6.8.2 Unpaid Leave of Absence

Upon the recommendation of the Department Head, the Board of Selectmen may grant an unpaid leave of absence at the request of an employee. An unpaid leave of absence may be granted to allow an employee to pursue educational opportunities, to deal with personal matters, or for such other reason as the Board of Selectmen deems reasonable and appropriate. In determining whether an unpaid leave of absence should be granted, the Board of Selectmen may consider the employee's performance, the impact of the employee's absence on the work in the Department, and/or other factors that the Board of Selectmen deems relevant.

An unpaid leave of absence may be for a period of time not to exceed one (1) year. An employee must give notice of his or her intention to return or not return to work at least one month before the authorized period for unpaid leave expires. The Board of Selectmen may at their discretion grant an extension beyond one year upon receipt of a written request from the employee at least one month in advance of the one-year expiration date.

No seniority will accrue during a leave of absence, and the employee will not be eligible for benefits during the leave period. An employee who fails to return to work upon the expiration of the approved unpaid leave will be deemed to have voluntarily terminated his or her employment. When the employee returns from a leave of absence, the employee is eligible for, but not guaranteed, reinstatement to the same or equivalent position, if such a position exists at the time of the employee's return.

6.9 Personal Leave

Year-round, Benefits-eligible employees will be granted two (2) days of leave with pay each fiscal year for the purpose of attending to personal business which unavoidably conflicts with the employee's work schedule. Whenever possible, an employee must provide a reasonable amount of advance notice, which shall normally be ten (10) days, to the Department Head or Supervisor, with a copy of such notification to the Executive Secretary.

Section 7.0 FAMILY AND MEDICAL LEAVE

7.1 Family and Medical Leave Act (FMLA)

Year-round, Benefits-eligible Employees that actually worked at least 1,250 hours during the prior year are entitled to medical leave benefits in accordance with the provisions of the Family Medical Leave Act.

7.2 Family Necessity Leave

In accordance with General Laws, as amended from time to time, a Benefits-eligible Employee is entitled to a total of twenty-four (24) hours of Family Necessity Leave during a fiscal year, twelve (12) month period. For purposes of this Bylaw Family is defined as "Immediate Family".

In addition to other leave under this section, Family Necessity includes participation in school activities directly related to the educational advancement of the employee's child, accompanying the employee's child to routine medical or dental appointments, and accompanying an elderly relative to routine medical or dental appointments or other professional services related to the elder's care. Leave under this provision is in addition to the twelve (12) week FMLA leave provision, and may be taken on an intermittent or reduced leave schedule. Family Necessity Leave will be unpaid but the employee may apply any available paid leave to this period, pursuant to the applicable provisions of this Bylaw.

Section 8.0 CIVIC LEAVE

Any employee of the Town who serves as a volunteer emergency medical technician or firefighter may serve as an emergency responder during the employee's regular working hours. Leave under this section is unpaid unless approved by the Department Head or Supervisor.

Section 9.0 HOLIDAYS

The following holidays shall be observed on the days on which they are designated by the Commonwealth of Massachusetts and as referenced in the HRPM. A Year-round Employee who does not have an established Monday-Friday work schedule or whose regular work schedule does not include the day upon which a Holiday falls or upon which it is observed, shall be granted a paid day off on a day that is approved by his or her Supervisor. This paid day off shall be taken within the fiscal year of the observed paid Holiday. Employees shall be entitled to half days before New Year's Day, Thanksgiving Day and Christmas Day in addition to the holiday provided these half days fall on working days and the employee is not necessary to maintain essential Town services.

- New Year's Day
- Martin Luther King, Jr. Birthday
- Presidents' Day
- Patriots' Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans' Day
- Thanksgiving Day
- Christmas Day

Under the provisions of M.G.L. Chapter 4, Section 7, Clause Eighteen, legal holidays that fall on a Saturday shall be observed on that day. Employees assigned to work shall be given an additional day off as the law and applicable collective bargaining agreements allow. Whenever possible, the following Monday shall be used as the alternative day off. A legal holiday shall be observed on the day following when said holiday should occur on Sunday.

A Year-round, Non-Exempt Employee who is required by his or her Supervisor to work on a holiday will be compensated for the hours worked at a rate of pay equal to one and one-half (1 1/2) times his/her regular hourly rate, in addition to his or her regular pay for the day.

Section 10.0 TRAVEL REIMBURSEMENT

For approved travel, an employee and/or elected official shall be reimbursed for mileage, meals and lodging expenses incurred while engaged in Town business in accordance with the procedures set forth in the HRP.M.

Section 11.0 ANNUAL PERFORMANCE EVALUATIONS

11.1 Performance evaluations of all non-elected Year-round Employees shall be conducted annually on or about the employee's anniversary date. The employee's Supervisor, Department Head and/or Chair(s) of any Town Boards, Committees or Commissions served by the employee shall prepare a performance evaluation based on the employee's job description, the goals and objectives that were agreed to at the start of the evaluation period, and a summary of the job performance of the employee since the last evaluation. Supervisors of Seasonal Employees are encouraged to prepare performance evaluations for their employees, but are not required to do so.

11.2. The Executive Secretary shall facilitate the annual evaluations of all non-elected, Year-round Employees by their respective Supervisors, Department Heads and Chairs of Town Boards, Committees and Commissions. The Executive Secretary also shall prepare performance evaluations for all non-elected Year-round Employees who are under the Executive Secretary's direct staff oversight or under collaborative oversight of the Board of Selectmen and Departments, Boards, Committees or Commissions as indicated in the Town's Services Operation and Organization Employee & Administrative Supervision chart (Appendix Exhibit II).

11.3 Failure of a non-elected Supervisor to complete an employee's evaluation shall be included in the review of this Supervisor. This Supervisor shall not receive any pay increase or longevity credit until such time as the evaluation is completed.

11.4 The Board of Selectmen, upon the annual nomination of its Chair, shall designate one of its members to oversee the performance evaluation process and to ensure that it is completed in full within each fiscal year.

11.5 Within each fiscal year, copies of all performance evaluations shall be submitted to the Chair of the HRBC for review.

Section 12.0 DISCIPLINARY ACTION

12.1 In a circumstance where a Supervisor or Department Head believes a Disciplinary Action will lead to an employee being placed on disciplinary probation

or termination, the following steps must be taken before initiating any Disciplinary Action:

- The Supervisor or Department Head discusses the situation with the Chairman of the HRBC.
- The Chairman of the HRBC and the Supervisor or Department Head shall agree upon the proper method for gathering the facts of the issues for review.
- If after reviewing the facts with the Chairman of the HRBC it is determined formal disciplinary actions must be taken, the disciplinary plan shall be reviewed with the Chairman of the HRBC, a member of the Board of Selectmen and Town Counsel before Disciplinary Action is initiated.

12.2 Disciplinary actions, including but not limited to, an oral or written warning, suspension without pay, demotion, and/or termination shall not be imposed upon an employee arbitrarily or capriciously. It is expected that the Department Head shall identify problems with an employee's conduct and discuss remedial actions with the employee well before the time when formal disciplinary action is initiated. An employee receiving a Disciplinary Action has the right to discuss the Disciplinary Action in an executive session or as a public discussion in accordance with open meeting laws.

12.3 The degree of discipline imposed shall be commensurate in the judgment of the Appointing Authority with the severity of the offense and prior work and disciplinary history of the employee.

12.4 Employee Use of Outside Counsel

An employee facing disciplinary action that may involve probation, suspension, demotion or discharge may bring in outside counsel, at his/her own expense, to assist him or her at any stage of the process. However, the employee must give prior notice to the Executive Secretary or Appointing Authority in writing, with a copy to the Chair of the HRBC, that he/she is taking such action.

Section 13.0 GRIEVANCE PROCEDURE

Any Year-round Employee who believes that he or she has not received equitable treatment concerning some condition of employment, including a hostile workplace environment or administration of this Bylaw, may seek review of his or her complaint in accordance with the procedures as set forth in the HRPM.

Section 14.0 LONGEVITY

14.1 Year-round, Benefits-eligible Town employees are to receive longevity increments as follows:

- a. Upon completion of ten (10) years of continuous employment to the Town, an employee shall be paid a bonus payment of One Percent (1 %) of his/her current annual base salary.
- b. Upon completion of fifteen (15) years of continuous employment to the Town, an employee shall be paid a bonus payment of Two Percent (2%) of his/her current annual base salary.
- c. Upon completion of twenty (20) years of continuous employment to the Town, an employee shall be paid a bonus payment of Three Percent (3%) of his/her current annual base salary.

d. Upon completion of twenty-five (25) years of continuous employment to the Town, an employee shall be paid a bonus payment of Four Percent (4%) of his/her current annual base salary.

14.2 Upon approval of the Department Head or Appointing Authority, longevity payments shall be paid to an employee on his or her anniversary date with approval of the HRBC.

14.3 Continuous employment shall mean employment uninterrupted except by authorized leave. Unpaid leave periods shall not be included in the calculation of years of employment.

Section 15.0 GROUP HEALTH AND LIFE INSURANCE

A benefits-eligible, Year-round Employee is eligible for group insurance including health and life insurance and other insurance approved by the Town Meeting in accordance with the provisions of the General Laws, as amended from time to time.

Section 16.0 RETIREMENT

The retired employee is eligible for group health and life insurance approved by the Town Meeting in accordance with the provisions of the General Laws, as amended from time to time. Medicare eligible retirees shall enroll in Medicare Parts A & B at 65 years of age. Thereafter the retiree will be eligible for a Medicare supplement plan through the Town. Retirees not eligible for Medicare will be allowed to continue their existing health plan through the Town.

Section 17.0 ENACTMENT

This Bylaw is effective upon approval at Town Meeting and subsequent approval by the Massachusetts Attorney General. All prior Personnel Bylaws are invalid upon Town Meeting and Attorney General approval of this Bylaw.

Adopted ATM April 25, 2011