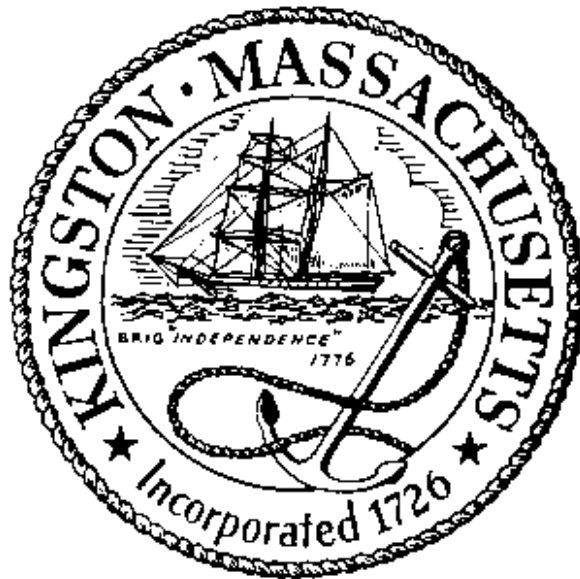


# TOWN OF KINGSTON

## Massachusetts



## General By-Laws

Codified April 2, 1994

Revised Thru April 4, 2009

# TOWN OF KINGSTON GENERAL BY-LAWS

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**TOWN OF KINGSTON  
GENERAL BY-LAWS**

**Chapter 1**

**GENERAL BYLAWS**

**Article 1. Repeal of Previous Inconsistent Bylaws**

All By-laws or parts of By-laws heretofore adopted, which are inconsistent with the provisions of the foregoing By-Laws, are hereby repealed and annulled; but the provisions of the foregoing By-Laws, so far as they are the same as the provisions of By-laws heretofore adopted, shall be construed as a continuation of said By-Laws, and not as new enactments.

**Article 2. Amendment**

These By-laws may be modified or amended at any annual town meeting by a majority vote of those present and voting, any article or articles for the purpose having been inserted in the warrant for such meeting.

**Chapter 2**

**TOWN MEETING**

**Article 1. Annual Town Meeting**

(Amended 1996 ATM, Art. 28; 1997 ATM, Art. 31; 2001 STM, Art. 13; 2002 ATM Art 23)

2-1-1. Date The annual town meeting shall be held on the first Saturday in April for the transaction of municipal business except for the election of such officers and the determination of such matters as by law are required to be elected or determined by ballot, or on such later date in the months of April or May as the Board of Selectmen may vote to hold the meeting.

2-1-2. Business All business of the annual town meeting, other than the election of town officers and the determination of such matter as by law are required to be elected or determined by ballot, shall be considered at an adjournment thereof to another day, which shall be determined by the Selectmen and the time and place of the adjournment stated in the warrant for the annual town meeting.

2-1-3. Notice The Board of Selectmen shall ensure that notice of every town meeting be given to the public. Attested copies of the warrant calling the meeting shall be posted at the following locations: main entrance to the Town House, at the Kingston Public Library, at the Reed Community Building, and the polling place of the precincts in Town. In accordance with Massachusetts General Laws, Chapter 39, Section 10, notice of every annual town meeting shall be posted at least seven (7) days before such annual town meeting. Additionally, notice of any special town meeting shall be posted at least fourteen (14) days before such special town meeting. Upon completion of posting, the constable or other officer shall make written return to the Town Clerk by indicating on a copy of the warrant the manner of notice posting.

**Article 2. Procedure at Town Meeting**

(Amended 1996 ATM, Art. 27; 1997 STM, Art. 7; 2007 ATM, Art. 27)

2-2-1. Vote Admittance The check list shall be used in admitting voters to a town meeting, except that non-voters may be admitted to a defined and separate portion thereof, and non-voters may address the meeting if the meeting so votes. Not less than 100 voters shall be required as a quorum to pass upon appropriations, to act on the transfer of monies between accounts and on transfers from available funds in the treasury, to act on all zoning matters, and to increase the bonded indebtedness of the Town.

2-2-2. Order of Business All articles in the warrant shall be acted upon in the order of their arrangement, unless the meeting by vote otherwise determines.

2-2-3. Reports, Motions and Resolutions All reports, motions and resolutions submitted for the consideration of the meeting involving the expenditure of money shall be in writing. Any other report, resolution or motion shall be reduced to writing, if the Moderator so directs.

2-2-4. Conduct of Speakers Every person speaking shall address the Moderator, and after recognition shall confine himself to the question under debate and avoid personalities.

2-2-5. Attorneys Any person who is employed as an attorney by another interested in any matter under discussion at a town meeting shall disclose the fact of his employment before speaking thereon.

2-2-6. Committees All committees shall be appointed by the Moderator, unless the town otherwise directs, and shall report as directed by the town. If a committee does not report as directed, or at the next annual town meeting held thereafter, it shall be deemed discharged, unless an extension of time be granted by the town.

2-2-7. Committee Reports at Special Town Meeting No reports of committees shall be in order at any special town meeting unless made under an article in the warrant which indicates the subject to be reported upon.

2-2-8. Committee Reports When a report of a committee is placed in the hands of the Moderator, it shall be deemed to be properly before the meeting for its action thereof, and a vote to accept the same shall discharge the committee; for the adoption of the recommendations of the committee, however, a specific vote shall be required. No appropriation shall be made under the report of any committee of the town unless the matter has been considered and reported upon by the Finance Committee.

2-2-9. Conduct Governed by Robert's Manual of Parliamentary Practice The conduct of the meeting, not specially provided by law or these by-laws, shall be determined by the rules of practice contained in the Robert's Manual of Parliamentary Practice, so far as the same is applicable to a town meeting.

2-2-10. Points of Order The presiding officer may speak to points of order in preference to all other persons.

2-2-11. Motion to Reconsider To reconsider any vote, a motion must be made before the final adjournment of the session at which the article was voted by:

- (a) oral motion at the session wherein the article was voted; or
- (b) written notice to the Town Clerk for any adjourned session. Said notice to be received by 10:00 a.m., on the next regular business day following the session at which the vote was taken.

A vote shall not be reconsidered a second time or after a motion to reconsider has failed to pass.

2-2-12. Votes Requiring a Two-Thirds Majority The Moderator may take all votes requiring a two-thirds majority in the same manner in which he or she conducts the taking of a vote when a majority vote is required.

**Article 3. Annual Town Election**  
(Amended 1995 ATM, Art. 40; 1996 ATM, Art. 28; 2002 ATM, Art 23)

The annual election of such officers and the determination of matters of law as are required to be elected or determined by ballot shall be held on the fourth Saturday of April. At this election the polls shall open at 8:00 a.m. and remain open until 6:00 p.m.

**Chapter 3**

**FINANCE COMMITTEE AND BUDGET PROCESS**

**Article 1. Finance Committee**  
(Amended 10/22/07 STM, Art. 7)

3-1-1. Composition There shall be seven members constituting the Finance Committee. The members shall be appointed by the Moderator. When the committee is first constituted, three shall be appointed for three years each, three shall be appointed for two years each, and three shall be appointed for one year each. At each annual meeting thereafter the Moderator shall appoint three members for a term of three years each. The members shall serve without compensation.

3-1-2. Vacancies Whenever any vacancy shall occur in said committee by resignation, removal from town, death, failing to qualify, or otherwise, said vacancy shall be filled by the manner of the original appointment, and if any member is absent from five (5) consecutive meetings of said committee, except in case of illness, the Moderator shall consider said member's position vacant, and shall proceed to fill the same.

3-1-3. Term of Office The term of office of all persons chosen as aforesaid to fill vacancies shall expire at the close of final adjournment of the annual town meeting next succeeding such vacancy, and at said annual town meeting the Moderator thereof shall appoint a successor to fill out the unexpired term of each member whose office has been so vacated in the same manner as the original appointment.

3-1-4. Duties The duties of the Finance Committee will be to consider and report upon all requests for appropriations made by the different departments of the town, and make such recommendation for action at the town meetings as they deem to be in the best interests of the town.

They also shall consider all matters which involve municipal questions or policies and make recommendations as to these to the Town Meetings.

3-1-5. Town Warrant The Selectmen after drawing any warrant for a town meeting shall transmit immediately a copy thereof to each member of the Finance Committee and said Committee shall consider all such articles.

**Article 2. Budget Process**  
(Amended 1995 ATM, Art. 43)

3-2-1. Budget Advisory Board By October 1 of each fiscal year, the Board of Selectmen, Kingston Elementary School Committee, and other elected officials shall discuss and delineate their budget policy priorities for the coming year.

Based upon these priorities, as well as revenue, fixed expenditure, and assessment projections prepared by the Town Administrator, a Budget Advisory Board shall be made up of the chairmen of the Board of Selectmen, Kingston Elementary School Committee, a Kingston representative to the Silver Lake Regional School District Committee, the Capital Planning Committee, and the Finance Committee, as well as the Town Administrator.

3-2-2. Budget Forms Based upon these parameters, the Town Administrator and Superintendent of Schools shall send out budget forms to department heads by October 15. These forms should be designed to include three kinds of information to accompany budget requests:

narrative - a statement of the major activities of the department, the major accomplishments of the current year, and plans for the coming year.

justification of requests - recurring, necessary line-item amount should be grouped together into meaningful categories and accompanied by a paragraph or more explaining exactly what is paid for from these categories.

new and/or discretionary requests - any request that is new from the prior years and any capital outlay requests should be proposed and justified separately from the previous category.

Completed budget forms shall be returned by all non-school departments to the Town Accountant by November 10. He shall compile and submit these budget requests to the Town Administrator for submission to the Board of Selectmen.

3-2-3. Budget Submission By Town Administrator and Superintendent of Schools On or before November 15, the Town Administrator and Superintendent of Schools shall submit to their respective Boards the proposed budgets for the ensuing fiscal year with appropriate and sufficient supporting documents as described above. These budget documents shall provide a complete financial plan of all town funds and activities as described above.

The budget shall also show in detail all estimated income from the tax levy, state aid, local receipts of all kinds, and all other revenue sources and all proposed expenditures, including debt service and other fixed charges, for the following year.

3-2-4. Budget Submission to Finance Committee The Board of Selectmen and Kingston Elementary School Committee shall review the proposed budgets and recommend such changes they consider necessary to reflect their stated policies. These Boards shall then transmit their proposed budgets to the Finance Committee by December 15 for review in accordance with Chapter 3, Article 1.

## Chapter 4

### TOWN OFFICERS, BOARDS AND COMMITTEES

#### **Article 1. Selectmen**

(Amended 11/4/97 STM, Art. 21)

4-1-1. The Selectmen shall have the power to institute or defend suits and to employ Counsel at any time if in their judgment the interests of the town so require.

4-1-2. The Selectmen are authorized to accept in the name of the Town easements and interests in land for storm drainage, including above-ground and below-ground drainage purposes, water and sewer purposes, and slope maintenance purposes.

#### **Article 2. Collector of Taxes**

(Amended 2003 ATM, Art. 7)

4-2-1. The Collector of Taxes shall collect all accounts due the Town committed to him by the Assessors, as well as all those which become due and payable through any other Department of the Town. The Town of Kingston at the Annual Town Meeting of March 3, 1928 accepted Section 38A, Chapter 41 of the General Laws as amended by Chapter 269 Acts of 1926, which provides that the Collector of Taxes shall collect all accounts due the town.

4-2-2. He shall have stated hours for the transaction of business and shall give public notice thereof.

4-2-3. The Collector of Taxes shall be required to pay all fees received by the Collector by virtue of the office into the Town Treasury.

#### **Article 3. Accountant and Auditing**

4-3-1. There shall be an annual audit of the Town's accounts, before February first of each year, under the supervision of the Director of Accounts in the Department of Corporations and Taxation, in accordance with the provisions of Section 35, Chapter 44 of the General Laws, or any acts in addition thereto or in amendment thereof.

#### **Article 4. Town Clerk**

(Amended 1991 ATM, Art.6)

4-4-1. The Town Clerk shall, immediately after every town meeting, notify or cause to be notified, any person elected, chosen or appointed to any town office, or to serve upon any board or committee of the town, of his election, choice or appointment and that all such officers must be duly sworn within seven days after election, or appointment; and shall also furnish the various town officers, committees, boards or departments with a copy of all votes affecting their respective offices or department.

4-4-2. The Town Clerk shall keep and cause to be permanently bound one or more files of the town reports.

4-4-3. He shall not allow original papers or documents of the town to be taken from his office, except as they remain in his custody, or by authority of law.

4-4-4. He shall have stated hours for the transaction of business, and give public notice thereof.

4-4-5. The Town Clerk shall be required to pay all fees received by him or her by virtue of his or her office into the Town Treasury.

#### **Article 5. Chief Procurement Officer**

The provisions of Massachusetts General Laws, Chapter 41, section 103, as amended, are accepted and unless otherwise provided by a vote of Town Meeting, the Board of Selectmen or Procurement Officer designated pursuant to Massachusetts General laws Chapter 30B is authorized to enter into any contract for the exercise of the Town's Corporate Powers, on such terms and conditions as are deemed appropriate. Notwithstanding the foregoing, the Board of Selectmen or Procurement

Officer shall not contract for any purpose on any terms, or under any conditions inconsistent with any applicable provisions of any general or special law.

**Article 6. Sealer of Weights and Measures**

(1991 ATM, Art. 8; Amended 1993 ATM, Art. 17; 1998 ATM, Art. 36; 2000 STM Art. 4; 2005 ATM, Art. 23)

4-6-1. Schedule of Fees The Schedule of fees for weighing and measuring devices shall be as determined from time to time by the Board of Selectmen in accordance with the provision of Massachusetts General Laws Chapter 40, Section 22F, as amended by Section 123 of Chapter 138 of the Acts of 1991.

4-6-2. Fees Paid to Town Treasury All fees collected by the Sealer of Weights and Measures in the performance of his or her duties shall be paid into the treasury of the Town.

**Article 7. Wage and Personnel Board**

4-7-1. Composition and Term of Office A board to be known as the Wage and Personnel Board shall be established, composed of three (3) unpaid members who shall not be employees or elected officials of the town, responsible for the administration and maintenance of classification and compensation plans. One member of the Board shall be appointed by the Moderator, one member by the Finance Committee and one member by the Board of Selectmen. The three members of the Board shall be appointed for terms of one year, two and three years respectively and upon the normal expiration of these terms their successors shall be appointed by the same appointing authorities for terms of three years. Original appointments to Wage and Personnel Board under this by-law shall be made not later than thirty days following the effective date of the by-law; and subsequent appointments shall be made within thirty days following the expiration of the term of the board member who is to be replaced.

4-7-2. Purpose The Board shall draw up and recommend to the town a proposal for classification and compensation plans for consideration as a town by-law, and shall from time to time recommend to the town any action deemed necessary to maintain a fair and equitable pay level.

4-7-3. Annual Report The Board shall make an annual report in writing to the Finance Committee and the Board of Selectmen on or before October first of each year.

**Article 8. Capital Planning Committee (1988 ATM, Art 44, amended 1993 ATM Art 13)**

4-8-1. Composition and Term of Office There shall be a Capital Planning Committee comprised of five (5) members two of whom shall be appointed by the Board of Selectmen, two by the Finance Committee and one by the Moderator. When first constituted, the Selectmen and the Finance Committee shall each appoint one member for a three year term and a two year term. The Moderator shall appoint a member for a one-year term. Thereafter, following the Annual Town Meeting, appointments to the Committee shall be made by the same appointing authorities so as to provide for overlapping three-year terms. The Town Administrator and the Treasurer shall be non-voting ex-officio members. The Committee shall elect its own officers.

4-8-2. Purpose The Committee shall study proposed capital projects and improvements involving major non-recurring tangible assets and projects which 1) are purchased or undertaken at intervals of not less than five (5) years; 2) have a useful life of at least five (5) years, and; 3) cost over ten thousand (\$10,000.00) dollars. All officers, boards and committees, including the Kingston Elementary School Committee, shall, by October 1 of each year, give to the Committee, on forms furnished by the Capital Planning Committee, information concerning all anticipated projects requiring town meeting appropriation during the ensuing five (5) years. Using the revenue and expenditure projections prepared by the Town Administrator, the Committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the Town. No appropriation shall be voted for a capital improvement requested by a department, board or committee unless the proposed capital improvement is considered in the Committee's report or the Committee shall first have submitted a report to the Town Meeting explaining the omission.

4-8-3. Annual Report The Committee shall prepare an annual report recommending a capital improvement budget for the next fiscal year and a capital improvement program including recommended capital improvements for the following four fiscal years. The report shall be submitted to the Board of Selectmen for review and recommendations.

After review by the Board of Selectmen, the capital budget and program shall be transmitted to the Finance Committee for their review before presentation at Town Meeting.

The Committee's report and the Selectmen's recommended capital improvement budget shall be published and made available in a manner consistent with the distribution of the operating budget. The capital improvement budget shall be presented in a single article separately listing the projects to be undertaken. The capital improvement program shall be presented as a resolution which, after discussion and possible amendment, shall be voted.

**Article 9. Permanent Building Committee**  
(1990 ATM, Art. 23)

4-9-1. Composition and Term of Office The Town shall establish a Permanent Building Committee composed of five members, appointed by the Board of Selectmen, one member for one year, two members for two years and two members for three years. The initial terms will expire on June 30 of each year, thereafter appointments will be for three years.

4-9-2. Purpose Said Committee will be created for the purpose of reporting to the Town Meeting annually with its recommendation for renovations, repairs and/or recommendation for any new site and/or new construction or land uses on property of the Town of Kingston, unless otherwise provided by Town Meeting action.

**Article 10. Council on Aging**

4-10-1. Composition and Term of Office There shall be a Council on Aging composed of no fewer than three members and not more than seven members appointed by the Selectmen for terms of one, two and three years respectively, with successive appointments to be made for three years.

4-10-2. Purpose Said Council shall be established for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in coordination with programs of the commission on aging established under Section 73 of Chapter 6 of the General Laws.

**Article 11. General Provisions Governing Officers, Boards and Committees**

4-11-1. Organization All officers, boards and committees shall notify the Town Clerk of their organization, and of their office hours or time of stated meetings.

4-11-2. Contracting on Behalf of the Town No officer or board of the town shall make any contract on behalf of the town in which such officer or any member of such board is directly or indirectly financially interested, except competitive contracts.

4-11-3. Purchase Orders Every officer, board or committee of the town charged with the expenditure of money shall furnish the Town Accountant with a copy of all orders for the purchase of equipment, supplies or materials and all requisitions for personal services-- except services, payment for which is to be made on the regular payroll of the department, board or committee contracting for the same,-- at the time such purchases or requisitions are made.

4-11-4. Accounts Payable All bills or any money due or payable to the Town shall be rendered and committed to the Collector through the Town Accountant. This section shall not apply to bills, or demands for taxes or other Municipal Assessments.

4-11-5. Disposition of Surplus Property Any officer or board in charge of a department may, upon the approval of the Selectmen, sell any personal property lawfully in the custody of such department not required for its use and not exceeding two hundred dollars in value, and any property of value in excess of two hundred dollars shall be advertised and sold at public auction unless the town votes otherwise.

4-11-6. Departmental Report Every officer in charge of a department shall annually on or before the fifteenth day of December, transmit to the Selectmen, in writing, a report containing a statement of the acts and doings of his department for the past financial year, to be printed in the annual report as the Selectmen may deem expedient.

**Article 12. Audit Committee**

(1994 ATM, Art. 15; Amended 1995 ATM, Art. 30; 2001 ATM, Art. 28)

4-12-1. Composition and Term of Office There shall be an Audit Committee consisting of three (3) members to serve for a term of three (3) years, one of whom shall be appointed by the Board of Selectmen, one by the Finance Committee, and one by the Moderator. The Audit Committee should be composed of individuals having financial expertise and independence from the day-to-day operations of the town. The Committee shall elect a chairperson annually from their membership.

The initial terms of appointment, commencing on 1 July 1994, shall be three years for the Moderator's appointment, two years for the Selectmen's appointment, and one year for the Finance Committee's appointment. No member shall serve more than three consecutive three year terms. Any vacancy occurring in the Committee shall be filled by the appropriate appointing body for the balance of the unexpired term.

In addition to the three (3) voting members, the Town Accountant and the Town Administrator or her/his designee, shall serve as nonvoting members of the Committee.

4-12-2. Purpose The Committee shall serve as advisor to the Town with respect to the Town's financial condition, financial management systems and controls, annual financial audit and special audits or reviews. The Committee shall report annually to town meetings its recommendations.

4-12-3 Duties Specific duties shall include, but not be limited to:

- Making recommendations to the Board of Selectmen on the selection of and scope of services for an independent auditor.
- Reviewing the annual financial statements and reports prepared by the independent auditor and responding thereto.
- Making recommendations for areas of operations where expanded scope audits or reviews may be appropriate.
- Reporting to town meeting on findings and recommendations of the independent auditor and on any corrective action taken during the preceding twelve months.
- Ensuring independence of the auditor and of the Audit Committee, while enhancing accountability and proper stewardship over public funds.

**Article 13. Community Preservation Committee**

(2005 STM, Art. 9; Amended 2006 STM, Art. 3)

4-13-1. Composition and Term of Office A committee to be known as the Community Preservation Committee shall be established, composed of nine (9) members pursuant to MGL Chapter 44B. The appointment authority and the term of office shall be: One (1) member of the Conservation Commission as designated by the Conservation Commission for a term of three (3) years; one (1) member of the Historical Commission as designated by the Historical Commission for three (3) years; one (1) member of the Planning Board as designated by the Planning Board for three (3) years; one (1) member of the Housing Authority as designated by the Housing Authority for an initial term of two (2) years and thereafter for a term of three (3) years; one (1) member of the Open Space Committee as designated by the Open Space Committee for an initial term of two (2) years and thereafter for a term of three (3) years; one (1) member of the Recreation Commission as designated by the Recreation Commission for an initial term of one (1) year and thereafter for a term of three (3) years; one (1) member of the Finance Committee as designated by the Finance Committee for an initial term of one (1) year and thereafter for a term of three (3) years; and two (2) members to be appointed by the Board of Selectmen, one (1) member for a term of one (1) year and thereafter for a term of three (3) years; and one (1) member for a term of two (2) years and thereafter for a term of three (3) years.

Each member of the committee shall serve for the term stated, or where applicable, until the person no longer serves in the position or on the board, committee or commission as set forth above, whichever is earlier.

Should any of the Commissions, Boards, Committees or Authority who have appointment authority under this bylaw be no longer in existence for whatever reason, and provided that no successor commission, board or committee is created in which case the appointment power shall remain with the successor, the appointing authority for that entity shall become the responsibility of the Board of Selectmen.

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

4-13-2. Purpose The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with the existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Open Space Committee, the Recreation Commission, and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

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

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

In every fiscal year, the Community Preservation Committee must recommend that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of the following purposes: (a) open space (not including land for recreational use); (b) historic resources; and (c) community housing.

4-13-3. Requirement for a quorum and cost estimates The Community Preservation Committee shall comply with the provisions of the Open Meeting Law, G.L. c. 39, Section 23B.

The committee will not meet or conduct business without the presence of a majority of the members of the Community Preservation Committee, except to postpone a meeting until a later date certain. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the Committee's anticipated costs.

4-13-4. Amendments This bylaw may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of G.L. c.44B.

4-13-5. Severability In case any section, paragraph or part of this article for any reason be declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

4-13-6. Exemptions Applications for exemption from the Community Preservation Act surcharge must be filed with the Office of the Board of Assessors no later than thirty (30) days after the issuance of the actual real estate tax bill.

**Article 14. Agricultural Commission**  
(2006 STM, Art. 2)

4-14-1. Composition and Term of Office A committee to be known as the Agricultural Commission shall be established and composed of five (5) members who are engaged in farming. The appointing authority shall be the Board of Selectmen and the terms of office shall be: Two (2) members for an initial term of three (3) years and thereafter for a term of three (3) years; Two (2) members for an initial term of two (2) years and thereafter for a term of three (3) years; One (1) member for an initial term of one (1) year and thereafter for a term of three (3) years.

In addition, the Board of Selectmen may appoint up to three (3) non-voting associate members for terms of one (1) year, one of whom shall be a Selectman. The other two (2) non-voting associate members shall be engaged in farming or have a farming interest.

Any member of the Commission may be removed for cause after a hearing. A vacancy in the Commission shall be filled by the Board of Selectmen for the remainder of the unexpired term after receiving recommendations from the Agricultural Commission as to the farming interests of the persons so making application.

4-14-2. Purpose The Commission shall develop a work plan to guide its activities. Such activities shall include but not be limited to the following: serve as facilitators for encouraging the pursuit of agriculture in the Town; promote agricultural-based economic opportunities in the Town; act as mediators, advocates, educators and/or negotiators on farming issues; act in an advisory capacity on farming issues for established town departments, boards and commissions; pursue all initiatives appropriate to create a sustainable agricultural community and to encourage the pursuit of agriculture as a career opportunity and lifestyle.

4-14-3. Requirements for a quorum The Agricultural Commission shall not meet or conduct business without the presence of a majority of the members of the Agricultural Commission, except to postpone a meeting to a later date certain. The non-voting associate members of the Agricultural Commission, if any, shall not count towards the quorum requirement. The Agricultural Commission shall comply with the provisions of the Open Meeting Law, G.L. c.39 § 23B.

## Chapter 5

### LICENSING AND REGULATION OF BUSINESS

#### Article 1. Hawkers, Peddlers and Transient Vendors

5-1-1. Definitions For the purpose of this by-law the definition of hawkers, peddlers, and transient vendors shall be the same definitions as those contained in Chapter 101 of the Massachusetts General Laws.

5-1-2. License Requirement No person shall hawk, peddle, or barter any goods or merchandise within the limits of the Town of Kingston, except as authorized by law, without first obtaining a license to do so from the Board of Selectmen upon payment of a license fee, said fee to be in conformity with Chapter 101 of Massachusetts General Laws. This license requirement shall not apply to any resident of the Town who sells fruits or vegetables or flowers raised or produced by himself or his family.

#### 5-1-3. Standards For Operation

- A) Any person licensed under this by-law shall keep said license in his/her possession which shall be readily available for display. The license shall indicate the license number, and shall include the Licensee's signature and date of the license expiration. The Licensee shall display such license when requested to do so by any officer of the Police Department of the Town of Kingston, the Health Agent of the Kingston Board of Health, or the Sealer of Weights and Measures of the Town of Kingston.
- B) No person licensed under this by-law shall conduct business in such a manner as would impede foot or vehicular traffic along or to a public way or public street or public sidewalk or access road or driveway.
- C) No hawker or peddler, while engaged in such activities, shall remain stopped or standing in any one place or within three hundred (300) feet thereof for more than fifteen (15) minutes unless continuously engaged in transactions.
- D) No hawker or peddler shall sell or offer for sale any goods, wares or merchandise on any street of the Town within five hundred (500) feet of any public school or the grounds thereof on days when the public schools are in session, nor on any day between May 1 and November 1 within five hundred (500) feet of the beach concession located on Grays Beach. In addition, the Chief of Police or his agents may restrict sales in any location within the Town that is determined to be a safety hazard to pedestrians or vehicular traffic.
- E) No hawker or peddler shall expose for sale any foods, beverages, fruits, vegetables, fish, meats, dairy products, ice cream, frozen desserts or confections until the vehicle or receptacle has been inspected and approved by the Health Agent of the Board of Health of the Town of Kingston. Vehicles utilized for the selling of frozen desserts or confections must have installed on said vehicle an amber flashing light visible from the front and rear of the vehicle and such light must be flashing when the vehicle is stopped for the purpose of transacting business.

F) People doing business as transient vendors may conduct their trade only on property that is business zoned. Prior to commencing business, the transient vendor shall submit to the Selectmen of the Town of Kingston a signed and notarized statement from the property owner granting permission to the vendor to so use the property.

5-1-4. Enforcement Failure to comply with this by-law may result in suspension or revocation of licenses and or permits granted hereunder. Any persons committing an unlawful act in violation of Massachusetts General Laws Chapter 101, or in the case of this by-law, Massachusetts General Laws Chapter 272, Section 59, may, after notice, be subject to arrest.

5-1-5. Rules and Regulations The Board of Selectmen may adopt, and from time to time amend and modify rules and regulations governing the aforementioned activities which are not inconsistent with the by-law, federal laws, or the laws of the Commonwealth of Massachusetts.

## **Article 2. Junk Collectors and Dealers**

5-2-1. License Requirement The Selectmen may license suitable persons to be collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals, or second-hand articles; and no such person shall be a dealer in or keeper of a shop as aforesaid without such license.

5-2-2. Examination of Goods The Selectmen may require that any place, vehicle or receptacle used for the collecting or keeping of the articles aforesaid may be examined at all times by the Selectmen or by any person by them authorized to make such examination.

## **Article 3. Dealers in Precious Metals**

5-3-1. Definition of Precious Metals For the purpose of this by-law, the term "precious metals" shall include any precious metal such as gold, silver, or platinum, without regard to the form or amount of such precious metal, or whether or not such precious metal is an incidental or minor component or some other article such as jewelry, bric-a-brac, statuary, or the like.

5-3-2. License Requirement No person shall collect, deal in or keep a shop for the purchase, sale or barter of precious metals in any building or place within the limits of the town without a license from the Board of Selectmen.

The Board of Selectmen may license suitable persons to be dealers in and keepers of shops for the purchase, sale or barter of precious metals at such places within the town as may be designated in such licenses under such conditions and restrictions as are prescribed in this article, which shall be incorporated in every such license. The fee for the granting of such license shall be fifty (\$50) dollars.

5-3-3. Transactions with Minors Prohibited No dealer or keeper of a shop as described in this section shall directly or indirectly make any purchase or receive by way of barter or exchange from a minor knowing or having reason to believe him to be such.

5-3-4. Waiting Period for Sale or Alteration No item, described in this section purchased or received shall be sold or altered in appearance, form, or substance until a period of at least fifteen (15) days from the date of its purchase except when such period is waived by the Chief of Police or his designee.

5-3-5. Daily Report of Purchases to Police Every licensee shall make out and deliver to the Chief of Police each day a legible and correct list containing an accurate description of all precious metals purchased during the preceding business day, name and address from whom purchased, the prices paid therefor, the time when such articles were purchased and the respective number of such items.

5-3-6. Log of Purchases Every keeper of a shop licensed as provided in this article shall put in some suitable and conspicuous place on his shop a sign having his name and occupation legibly described there on and shall keep a book in which shall be written in English, at the time of every purchase, a description of the precious metal so purchased, the name, age, and residence of the person from whom purchased and the day and hour when such purchase was made. Such book and all articles purchased shall at all times be available for the inspection of the Chief of Police or his designee.

5-3-7. Scale Every dealer in precious metals shall have suitable scale approved by the Town Sealer of Weights and Measures. Said scales shall be annually tested and sealed.

5-3-8. Enforcement Whoever, not being licensed as required by this Article, deals in, keeps a shop for the purchase, sale or barter of precious metals or whoever being licensed is a dealer in any place or manner other than that designated in his license or whomever, after notice to him that his license has been revoked or whomever violates any rule, regulation or restriction contained in his license shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), and each day of such violation shall constitute a separate offense.

**Article 4. Local Licenses and Permits; Denial, Revocation or Suspension for Failure to Pay Municipal Taxes or Charges**  
(1988 Nov. 3 STM, Art. 15; Amended 1995 ATM, Art. 41)

5-4-1. Report of Tax Delinquents to Licensing Authority In accordance with Massachusetts General Laws Chapter 40, Section 57, as amended, the tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

5-4-2. Notice and Hearing The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension.

5-4-3. Certificate of Good Standing Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

5-4-4. Payment Agreement Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

5-4-5. Waiver The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of Chapter 268A in the business or activity conducted in or on said property.

5-4-6. Exceptions The section shall not apply to the following licenses and permits: open burning, M.G.L. Chapter 48, Section 13; bicycle permits, M.G.L. Chapter 85, Section 11A; sales of articles for charitable purposes, M.G. L. Chapter 101, Section 33; children work permits, M.G.L. Chapter 149, Section 69; clubs, associations dispensing food or beverage licenses, M.G.L. Chapter 140, Section 21E; dog licenses, Chapter 140, Section 137; fishing, hunting, trapping license, M.G.L. Chapter 131, Section 12; marriage licenses, M.G.L. Chapter 207, Section 28; and theatrical events, public exhibition permits, M.G.L. Chapter 140, Section 181.

## Chapter 6

### PUBLIC PEACE AND SAFETY

#### **Article 1. Disorderly Behavior** (Amended 1984 ATM, Art. 12)

6-1-1. Disorderly Conduct and Indecent Language No person shall behave in a disorderly manner nor use any indecent, profane or insulting language, in any public way or place in town.

6-1-2. Disapproved by Attorney General on July 26, 1994. Section deleted.

6-1-3. Enforcement Whoever violates any of the provisions of this by-law shall be punished with a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

#### **Article 2. Public Drinking**

No person shall drink any alcoholic beverages, as defined in Chapter 138, Section 1 of the General Laws, while in or upon any public way or any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, any park or playground, or while in or upon private land, building, structure or place without consent of the owner or person in control thereof. Any person violating this by-law shall upon conviction be fined not more than fifty dollars (\$50.00) for each offense.

#### **Article 3. Excessive Music and Other Noise**

6-3-1. Noise Permitted by Person in Charge It shall be unlawful for any person or persons occupying or having charge of any building or premises or any part thereof in the town, other than that section of any establishment licensed under Chapter 138 of the General Laws, to cause or suffer or allow any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise, where the noise is plainly audible at a distance of four hundred feet from the building, structure, vehicle, or premises in which or from which it is produced. The fact that the noise is plainly audible at a distance of four hundred feet from the vehicle or premises from which it originates shall constitute Prima Facie evidence of a violation of this by-law.

6-3-2. Noise caused or suffered by Person on Premises It shall be unlawful for any person or persons being present in or about any building, dwelling premises, shelter, boat, or conveyance or any part thereof, other than that section of any establishment license under Chapter 138 of the General Laws, who shall cause or suffer or countenance any loud, unnecessary, excessive or unusual noises, including any loud, unnecessary, excessive or unusual noises in the operation of any radio, phonograph, or other mechanical sound making device, or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician, or group of musicians, or the making of loud outcries, exclamations, or other loud or boisterous noises or loud and boisterous singing by any person or group of persons, or in the use of any device to amplify the aforesaid noise, where the aforesaid noise is plainly audible at a distance of four hundred feet from the building, dwelling, premises, shelter, boat, or conveyance in which it is produced. The fact that the noise is plainly audible at a distance of four hundred feet from the premises from which it originates shall constitute Prima Facie evidence of a violation of this by-law. Any person shall be deemed in violation of this by-law, who shall make, or aid, or cause, or suffer, or countenance, or assist in the making of the aforesaid and described improper noises, disturbance, breach of the peace, and the presence of any person or persons in or about the building, dwelling, premises, shelter, boat, or conveyance or any part thereof during a violation of this by-law shall constitute Prima Facie evidence that they are countenance to such violation.

6-3-3. Enforcement Any person violating the provisions of this Article shall be punished by a fine not to exceed two hundred dollars (\$200.00) for each offense.

#### **Article 4. Regulation of School Buses** (1992 STM, Art. 3)

6-4-1. Capacity Notwithstanding the provisions of clause (2) of Section seven B of Chapter 90 of the Massachusetts General Laws, the operator of a school bus shall not allow the number of school children riding in the bus at any one time

to exceed by more than two children the number of seats for which the bus is rated pursuant to the Registry of Motor Vehicles Rules and Regulations, nor shall he or she drive said bus until each child is seated.

6-4-2. Enforcement Whoever violates the provisions of this by-law shall be subject to a fine of two hundred dollars (\$200.00) for each violation pursuant to the provisions of MGL Chapter 40 Section 21D, as amended. This by-law may be enforced by any police officer of the Town.

**Article 5.        Numbering of Buildings**  
(1993 ATM, Art. 27; Amended 2007 ATM, Art. 44)

6-5-1. Numbers Every building on a public way or private way within the Town of Kingston shall be provided by the property owner with a clear and legible street number placed in such a manner as to be clearly visible from such ways.

6-5-2. Assignment of Numbers The Building Inspector shall determine the street numbers to be assigned to all buildings located on public or private ways.

6-5-3. Affixation All street numbers shall be affixed to the front of the buildings within one (1) year of the effective date of this by-law. In cases where the building is not visible from the street, the number shall be affixed to a sturdy permanent sign, post or mailbox, a minimum of thirty-six (36) inches high, located at the street line proximate to the access way into the building portion of the lot. All new buildings erected or located in the Town must have street numbers affixed by the date of occupancy and no occupancy permit shall be issued unless an approved street number has been affixed.

6-5-4. Failure to Comply Any person who fails to comply with the provisions of this article or who unlawfully removes, defaces or changes a number affixed to a building under this article shall be punished by a fine of fifty dollars (\$50.00). This by-law may be enforced pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D by any police officer and/or the Building Inspector or his designee.

6-5-5. Identification of Service Entrances In all commercial buildings, every business or tenant service entrance exterior doorway or emergency exit used as an access doorway shall be clearly identified. Identification shall include the name of the business or tenant and the words "Service Entrance". The exterior doors shall be clearly marked in block style letters at least three (3) inches in height. Letters shall be of a color that contrasts with the color of the door.

**Article 6.        Door-to-Door Solicitation and Canvassing**  
(2008 STM, Art. 4)

6.6.1. Purpose

This article, adopted pursuant to G.L. c. 43B, § 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for persons intending to engage in door-to-door canvassing or solicitation in the Town of Kingston in order to protect its citizens from disruption of the peaceful enjoyment of their residences and from the perpetration of fraud or other crimes; and, to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

6.6.2. Definitions

For the purpose of this By-Law, the following definitions shall apply:

6.6.2.1. "Soliciting" shall mean and include any one or more of the following door-to-door activities:

- (a) selling, or seeking to obtain orders for the purchase of goods or services, including advertising in any type of publication, for any kind of consideration whatsoever;
- (b) selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind;
- (c) selling, or seeking to sell subscriptions to books, magazines, periodicals, newspapers or any other type of publication;
- (d) seeking to obtain gifts or contributions of money, or any valuable thing for the support or benefit of any association, organization, corporation or project wholly or in part for commercial purposes or by a professional solicitor or commercial co-venturer for a charitable or other non-commercial organization;

(e) seeking to obtain information on the background, occupation, economic status, political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly, or in part, for commercial purposes.

6.6.2.2. “Canvassing” shall mean and include any one or more of the following door-to-door activities:

- (a) person-to-person distribution of literature, periodicals, or other printed materials for commercial purposes, but shall not include placing or dropping off printed materials on the premises;
- (b) seeking to enlist membership in any organization for commercial purposes;
- (c) seeking to present, in person, organizational information for commercial purposes.

6.6.2.3. “Residence” shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

6.6.2.4. “Registered solicitor” shall mean any person who has obtained a valid certificate of registration from the Town as required by this By-Law.

6.6.2.5. “Charitable organization,” “Professional solicitor” and “commercial co-venturer” shall be defined as set forth in G.L. c. 68, § 18.

### 6.6.3. Registration

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of Kingston must apply for a permit with the Chief of Police at least fourteen (14) business days in advance by filing a registration application form with the Chief of Police.

6.6.3.1. Organization application forms shall include the following information:

(a) The name and address of the organization applying for registration, and the names and addresses of the organizations’ principal officers. If the organization is a charitable organization, a copy of the Annual Registration Statement filed with the Attorney General’s Division of Public Charities must be provided with this application. Failure to include a copy of the Annual Registration Statement under such circumstances will render the application incomplete and no action will be taken thereon.

If the organization is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon.

(b) The name, title and phone number, IRS or Social Security number (optional) and photo identification of the persons filing the application form.

(c) The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Kingston.

(d) A list of the names, addresses, dates of birth of all individuals who will be employed in solicitation or canvassing by the applicant.

(e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).

(f) Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation, complete with the date issued and date expired.

(g) Insurance information and license, if applicable.

6.6.3.2. Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under Section 6.6.3.1. hereof. Individual registration forms shall contain the following information:

- (a) Name and address of the present place of residence and length of residence at that address; if less than three years residence at present address, the address of residence(s) during the past three years.
- (b) Date of birth.
- (c) Name, address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization. If the individual is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract, if any, with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon.
- (d) Name and address of employer during the past three years if other than listed in Section 6.6.3.1. hereof.
- (e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).
- (f) Name of the last three communities (if any) in which the applicant has solicited or canvassed door-to-door, complete with the date of issue and expiration date.
- (g) Social Security number. (Optional).
- (h) Photo identification and recent passport-sized photograph of the applicant to be affixed to registration card.
- (i) Make, model and registration number of any vehicle to be used by the applicant while soliciting or canvassing.

#### 6.6.4. Registration Fee

Each applicant for registration or re-registration shall pay to the Town an application fee of \$ 50.00 and a fee of \$ 15.00 for the cost of a registration card.

#### 6.6.5. Registration Cards

6.6.5.1. The Police Chief, after a review, but in no event more than fourteen (14) business days after receipt of a fully-completed application, shall furnish each person with a registration card which shall contain the following information:

- (a) The name of the person.
- (b) A recent photograph of the person.
- (c) The name of the organization (if any) which the person represents.
- (d) A statement that the individual has been registered with the Town of Kingston Police Department but that registration is not an endorsement of any individual or organization.
- (e) Specific dates or period of time covered by the registration.

6.6.5.2. Persons engaged in solicitation or canvassing as defined in this By-Law must carry the registration card at all times and present the card to any person solicited or upon the request of any police officer.

6.6.5.3. Registration cards are valid only for the specific dates or time period specified thereon and in no case for longer than 90 days.

6.6.5.4. The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this By-Law within the previous two year period, or who has been convicted of murder/manslaughter, rape,

robbery, arson, burglary/breaking and entering, assault, larceny, as such persons pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief shall also refuse to register a person who is a sex offender required to register with the Sex Offenders Registry Board and who is finally classified as Level 2 or Level 3 Sex Offender, as such persons have been found to have a moderate to high risk of re-offense and pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of sex crimes.

#### 6.6.6. Exceptions

6.6.6.1. Registration shall not be required for officers or employees of the Town, County, State or Federal governments when on official business.

6.6.6.2. Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.

#### 6.6.7. Duties of Persons Going Door-to-Door

6.6.7.1. Upon going into any residential premises in the Town of Kingston, every solicitor, canvasser or other person must first examine any notice that may be posted prohibiting solicitation or other activities. If such a notice is posted, the solicitor, canvasser or other person shall immediately and peacefully depart from the premises.

6.6.7.2. Any solicitor, canvasser or other person who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

6.6.7.3. Immediately upon gaining entrance to any residence, each solicitor or canvasser as defined in this By-Law must do the following:

- (a) Present his registration card for inspection by the occupant.
- (b) Request that the occupant read the registration card.
- (c) Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of that organization.
- (d) It shall be the duty of every organization employing solicitors or canvassers within the definition of this By-Law to notify the Police Department daily as to what area(s) of the Town they will be operating in.

#### 6.6.8. Restrictions on Methods of Solicitation, Canvassing, or Other Door-to-Door Activities

It shall be unlawful for a solicitor, canvasser or other person to do any of the following:

- (a) Falsely represent, directly or by implication that the solicitation, canvassing or other activity is being done on behalf of a governmental organization, or on behalf of any municipal employee or elected official.
- (b) Solicit, canvass or conduct any other activity at any residence where there is a posted sign prohibiting the same, without express prior permission of an occupant.
- (c) Solicit, canvass or conduct any other activity at any residence without express prior permission of an occupant, before 9:00 a.m. or after 9:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation or such other activities.
- (d) To utilize any form of endorsement from any department head currently employed or serving the Town of Kingston.
- (e) Solicit, canvass or conduct any other activity at any residence in a threatening, abusive, or illegal fashion.

6.6.9. Penalty

6.6.9.1. Any person or organization who shall violate any of the provisions of this By-Law or any applicable state or federal laws governing soliciting or canvassing, including, but not limited to, Mass. G.L. c. 68, shall be subject to a fine not to exceed \$300.00 for each offense.

6.6.9.2. Any person or organization who for himself, itself, or through its agents, servants or employees shall violate any provision of sections 6.6.7. or 6.6.8. of this By-Law, or any applicable state or federal laws governing soliciting or canvassing, including but not limited to M.G.L. c. 68, or who knowingly provides false information on the registration application, or who is found, after investigation by a police officer, to have conducted himself or itself in a threatening, abusive or illegal fashion, shall have his, her, or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

6.6.10. Appeals

Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Board of Selectmen. Such appeal must be filed within 5 days after receipt of the notice of denial or revocation. The Board of Selectmen shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Board of Selectmen fails to make a determination within 30 days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

6.6.11. Severability

Invalidity of any individual provision of this section shall not affect the validity of the by-law as a whole.

## Chapter 7

### PUBLIC WAYS AND PLACES

#### Article 1. Streets and Sidewalks

7-1-1. Digging Up or Obstruction of Public Way No person shall break or dig up any public sidewalk, street or highway of the town, or place thereon any staging or other temporary structure, without a written permit from the Board of Selectmen or the Board having charge of the streets in such cases. Any person having such a permit shall, before the expiration of the same, restore such sidewalk, street or highway to its original condition or to a condition satisfactory to such Board. Any permit issued under the provisions of this section shall be in force for such time as the Board may specify and shall be subject to such other conditions as the Board may prescribe, and especially in every case upon condition that during the whole of every night from sunset to sunrise, lighted lanterns and proper barriers shall be so placed as to secure travelers from danger. No person having obtained such permit shall fail to comply with the conditions thereof. The Board granting such permit shall have the right to revoke the same at any time, and may require a bond either before or after the commencement of work or during its progress to secure its proper performance.

7-1-2. Placement of Certain Articles on Public Way

- (A) Sharp Objects No person shall throw or place or cause to be thrown or placed upon any public street or highway of the town, any nails, spikes, screws, glass, tin cans, or other similar articles.
- (B) Grates and Platforms No person shall suffer a platform or grate of an entrance or opening to a cellar or basement in any public street or sidewalk to rise above the surface of any such street or sidewalk, and every such entrance, or opening shall at all times be covered by a suitable platform or grate, and in case of a coal hole, by a suitable covering. Such entrances or openings, when in use, shall be properly guarded.
- (C) Slippery Substances No person shall throw or place upon any public sidewalk or street crossing, any banana skin, orange skin, or other slippery substance.

(D) Ashes, Rubbish No person shall place ashes, rubbish, or merchandise of any kind in a public street or upon any sidewalk so as to obstruct the free passage thereon.

7-1-3. Permit For Placement of Certain Obstructions No person shall place or cause to be placed in any of the town ways or squares, or upon any Town sidewalk, without first obtaining a written permit from the Selectmen therefor, any wood, lumber, coal, barrel, or other obstruction.

7-1-4. Snow and Ice From Roofs No owner or person having the care of a building, abutting upon any brick, concrete or other curbed or finished sidewalk, the roof of which building slants toward such sidewalk, shall permit such building to be without barrier, snow-guard or other device to prevent the falling of snow or ice from such roof to the sidewalk.

7-1-5. Coasting on Public Way No person shall coast on or across any public sidewalk or street of the town, except at such times and in such places as may from time to time be designated by the Board of Selectmen.

7-1-6. Discharge of Firearms on Public Way No person shall fire or discharge any gun, pistol or other firearms in or across any of the streets or public places within the town; but this section shall not apply to the use of such weapons in the lawful defense of one's person, family or property, or in performance of any duty required or authorized by law, nor upon such days as may be designated by the Board of Selectmen.

7-1-7. Vehicle Obstruction of Sidewalks and Private Driveways No person shall drive or park any motor vehicle upon any sidewalk of the town, or obstruct any private driveway; unless necessary for the delivery of merchandise.

7-1-8. Permit for Placing Building Material on Public Way Any person who intends to erect, alter, take down any building or part thereof on land within the town, shall give notice thereof to the Selectmen. Thereupon the Selectmen may grant a permit for such erection, alteration, or razing as in their judgement the necessity of the case demands and the security of the public allows. No person shall use any portion of a town way, without receiving permission in writing from the Selectmen, for the placing thereon building materials or rubbish. Such permission, shall, in no case, be in effect longer than ninety days and be on such condition, and by furnishing such security, by bond or otherwise, for the observance and performance of the conditions and for the protection of the town, as the Selectmen may require.

7-1-9. Removal of Vehicles During Snow Whenever, for the purpose of removing or plowing snow or removing ice, from any way, it becomes necessary to remove, or cause to be removed, to some convenient place, including in such term a public garage, any vehicle interfering with such work, the superintendent of streets, or other officer having charge of ways, is hereby authorized to remove, or cause to be removed, the said vehicle and liability for the cost of such removal, and of the storage charges, if any, resulting therefrom, shall be imposed upon the owner of such vehicle.

7-1-10. Animals No horse or other grazing cattle, or swine shall be suffered to run at large within the principal inhabited parts of this town, or to remain or loiter by the roadside, or the roadside of any railroad corporation, or to feed upon or to root up the herbage therein, either with or without a keeper; and no person shall voluntarily permit the same to go upon any sidewalk, harnessed or unharnessed.

7-1-11. Protection of Trees No person shall tie or fasten any horse to, or have the same standing by, any ornamental or shade tree, in or near the streets, lanes, or places of this town, so near as to injure any unprotected tree, or wrongfully injure or abuse such tree in any other manner.

7-1-12. Discharge of Substance Onto Public Way or Place No person shall pipe or otherwise deposit in or upon any public street or public place, any water or other substance, which may create a hazardous condition, without a permit from the Selectmen.

## **Article 2.       Parades and Public Gatherings**

No person shall form or conduct any parade in any public street, public sidewalk or public way within the town, or form or conduct for the purpose of display or demonstration, any procession or assembly of people, except a military or funeral parade or procession, within such public street, sidewalk or way, without first obtaining a written permit from the Selectmen, and no person shall take part in any such parade, procession or assembly which is not authorized by such a permit.

## Chapter 8

### PUBLIC HEALTH AND SANITATION

**Article 1. Mandatory Recycling**  
(1992 ATM, Art 15)

8-1-1. Disposal of Recyclable Materials All residents of the Town using the Cranberry Road Municipal Landfill and Transfer Station shall be required to recycle those materials as may be required by the Regulation of the Board of Selectmen, which materials may include, but not be limited to, paper, glass, metal, rubber, plastics, used tires and compostable waste, as provided in Massachusetts General Laws, Chapter 40, Section 8H.

8-1-2. Rules and Regulations After a public hearing the Board of Selectmen shall, upon recommendation of the Recycling Committee and the Superintendent of Streets, adopt rules and regulations in connection with the management and administration of the mandatory recycling program.

**Article 2. Water Emergency**  
(1989 ATM, Art 29)

The Water Commissioners may declare a Water Emergency due to reasons which may endanger the public health, safety and welfare of the citizens served by the public water system. After a Water Emergency has been declared, restrictions on the use of hoses, fountains and sprinklers attached to the public water supply may be imposed, and the Board of Water Commissioners may impose fines for violations of those restrictions.

## Chapter 9

### FIRE PREVENTION AND SAFETY

**Article 1. Violations of Fire Codes**  
(1993 ATM, Art. 28)

9-1-1. Incorporation of Regulations In order to protect and enhance public safety by reducing the risk of fire hazard, the provisions of the Code of Massachusetts Regulations 527 C.M.R. 1.00 to 50.00 as from time to time amended, are hereby incorporated in and made part of this by-law and any violation of any provision thereof shall constitute a violation of this section.

9-1-2. Violations and Penalties Whoever violates any provision of this by-law shall be punished by a fine of fifty dollars (\$50.00) for each offense. In the case of any continuing violation, each day said violation continues shall constitute a separate offense. This by-law may be enforced pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D by the head of the Fire Department or his authorized designee as well as by town officers having police powers.

9-1-3. Abatement of Fire Hazards

- A. Investigation of Conditions The Fire Chief or his authorized designee, upon complaint of a person having an interest in any building or premises or property adjacent thereto, shall at any reasonable hour, enter into said buildings and upon said premises, or adjacent property, with the jurisdiction of said Town and make an investigation as to the existence of conditions likely to cause fire.
- B. Order of Compliance He shall, in writing, order such conditions to be remedied, and whenever such officers or persons find in any building or upon any premises any accumulation of combustible rubbish, including, but not limited to, wastepaper, rags, cardboard, string, packing material, sawdust, shavings, sticks, waste leather, or rubber products, broken boxes or barrels or any refuse or unusable material that is or may become dangerous as a fire hazard or as an obstacle to easy ingress into or egress from such buildings or premises, they shall, in writing, order the same to be removed or such conditions to be remedied.

- C. Notice Notice of such order shall be served upon the owner, occupant or his authorized agent by a member of the Fire or Police Department.
- D. Non-compliance If said order is not complied with within twenty-four (24) hours or such additional time as the enforcing person determines reasonable as stated in said notice, the person making such order, or any person designated so to do, may enter into such building or upon such premises and remove such refuse, or any unusable materials or abate such conditions and the owner or occupant of said premises shall be liable for reasonable expenses incurred in doing so.
- E. Abatement of Condition after Non-compliance Any expense so incurred shall be a lien upon such building or premises, effective upon the filing in the appropriate Registry of Deeds a statement of claim therefor signed by the enforcing person and setting forth the amount of said lien. The lien shall be enforced within the time and in the manner provided for the collection of taxes upon real estate.
- F. Penalty Any such owner or occupant who fails or refuses to comply with said order shall be punished by a fine of fifty dollars (\$50.00). Each day non-compliance continues shall constitute a separate offense.

**Article 2. Alarm Systems**

(1988 ATM, Art 17; Amended 1992 ATM, Art. 21; 1993 ATM, Art. 29)

9-2-1. Definitions

- A. The term "alarm system" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line arranged to signal the presence of a hazard requiring urgent attention and to which police and/or fire personnel are expected to respond. The provisions of Section C of this by-law shall apply to all users. Alarm systems which monitor temperature, smoke, humidity and any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery or a fire at a premises are specifically excluded from the provisions of this by-law.
- B. The term "false alarm" means (a) the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or his employees or agents; (b) any signal or automatic dialing device transmitted to the Fire or Police Department requesting or requiring or resulting in a response on the part of the Fire or Police Department when in fact there has been no unauthorized intrusion, robbery or burglary, attempted threat, or fire, smoke, heat or health emergency. For the purposes of this definition activation of alarm systems for the purposes of testing with prior approval by the Fire or Police Department, or by an act of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes, and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.
- C. The term "automatic dialing device" refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designated to detect.

9-2-2. Control and Curtailment of Signals Emitted by Alarm Systems

- A. Every alarm user shall submit to the Police Chief and/or Fire Chief his name, address and telephone number, and the names and telephone numbers of at least two other persons who are authorized to respond, after notification by the Police or Fire Department, to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of said premises to immediately notify the Kingston Police Department and Fire Department of any change in the list of employees or other persons authorized to respond to alarms.
- B. All alarm systems installed after the effective date of this by-law which use an audible horn or bell shall be equipped with a device that will shut off such bell or horn within fifteen (15) minutes after activation of the alarm system. All existing alarms within the Town of Kingston must have a shut-off device installed within six (6) months of passage of this by-law.
- C. Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes between 7 p.m. and 6 a.m. which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (1) of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located,

shall constitute a public nuisance. Upon receiving complaints regarding such a continued and uninterrupted signal, the Police Department shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (1) of this section in an effort to abate the nuisance. The Police Chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made.

- D. No alarm system which is designated to transmit emergency messages or signals to the Police or Fire Department will be tested until the Police or Fire Department has been notified.
- E. The provisions of this by-law shall not apply to premises owned or controlled by the Town, nor to alarm devices installed in a motor vehicle or trailer.

9-2-3. Penalties The user shall be assessed fifty (\$50) dollars as a false alarm service fee for each false alarm in excess of three (3) occurring within a calendar year. The Police Chief or Fire Chief shall notify the alarm user pursuant to the provisions contained in MGL Chapter 40, Section 21D, as amended. Said user shall submit payment within twenty-one (21) days of the date of said notice to the Town Clerk for deposit to the General Fund.

## Chapter 10

### ANIMAL CONTROL

#### **Article 1. Leash Law**

(1984 ATM, Art 21; Amended 1998 ATM, Art. 37; 2005 ATM, Art. 24)

10-1-1. Restraint of Dogs No dog in the Town of Kingston shall be allowed to run at large in any of the ways or public places in the Town, nor upon the property of someone not his owner or keeper without the written permission of the owner or occupant. No dog shall be allowed in any public place or any land or way within the Town without effective restraint by a chain or leash; or fenced within the bounds of the property of the owner or keeper, and under control of its owner/keeper; or unless it is confined within a motor vehicle.

10-1-2. Impounding of Dogs The violations of the dogs in the Town are as follows:

1. If any dog is found without a license as required by the Commonwealth of Massachusetts; General Laws, Chapter 140, Section 137;
2. If any dog is found without the necessary vaccination of Rabies, which is required by the Commonwealth of Massachusetts; General Laws, Chapter 140, Section 145B;
3. If any dog has bitten, injured or physically molested any person or domestic animal;
4. If any dog is found running at large within the Town, whether or not it may be chasing any vehicle, bicycle, or person walking or running on a public way or way open to public traffic;
5. If any dog has caused damage to the property of other persons.

All dogs found in any violation as stated above will be apprehended and impounded at the Town Pound or other boarding facility, approved by the Animal Control Officer, or subject to the fine in accordance with Section 10-1-5.

An impounded dog shall be released to its owner/keeper upon payment of the pound fees and on any additional conditions if applicable.

1. Owner/keeper will agree to the necessary licensing of an unlicensed dog, or an expired license;
2. Owner/keeper will agree to the necessary vaccination for Rabies;
3. Owner/keeper will abide by the Commonwealth of Massachusetts: General Laws, Chapter 140, Section 155, which were set in the event of a dog causing injury.

10-1-3. Procedure Following Impounding When the Dog Officer apprehends a dog in violation he/she must make a complete registry of the dog, including the breed, if discernible, color, sex and identification tags or marks, if the dog is licensed, he shall note the name and address of the owner and shall notify that owner by mail or telephone that his/her dog

has been impounded. If the owner does not respond to said notice within two (2) days, written notice will be posted at Town Hall and contain the description of the dog and place apprehended. Dogs impounded and unclaimed by the owner/keeper after a ten (10) day period shall be disposed of as deemed necessary.

10-1-4. Exceptions The provisions of this by-law including the provisions regarding kennels shall not prohibit the use of hunting dogs for hunting purposes during hunting seasons. It shall not prohibit the training of hunting dogs or working dogs and shall not prohibit field trials for hunting and working dogs, when conducted by a responsible person.

10-1-5. Penalties The penalty for the violation of this By-Law shall be twenty-five dollars (\$25.00) for each offense. The penalty for each ensuing offense shall be as follows: 2<sup>nd</sup> offense – fifty dollars (\$50.00) and fifty dollars (\$50.00) for each and every subsequent offense per calendar day.

The Animal Control Officer shall enforce the provisions of this Chapter and, in addition, the Zoning Enforcement Officer may be the enforcing officer regarding Article 3, Regulation of Kennels.

## **Article 2. Regulation of Dogs**

10-2-1. Incorporation of G.L. c.140, §136A-174D The provisions of Chapter 140, Section 136A through 174D inclusive, except as modified herein, are incorporated into this By-law relating to the regulation of dogs including but not limited to: dog licensing, establishing dog fees, disposition of fees, appointment of dog officers, kennel licensing and kennel regulations, procedures for the investigation of and reimbursement for damage caused by dogs, restraining of dogs and establishing penalties for a breach thereof.

10-2-2. Authority of Town to Enforce Authority vested in the County, the County Commissioners, and the County Treasurer under the provisions of Section 137 to Section 174D inclusive shall vest in the Town, its Board of Selectmen and Town Treasurer upon approval of this By-Law.

10-2-3. License Fees  
(Amended 1998 ATM, Art. 37; 2006 ATM, Art. 22; 2008 ATM, Art. 18)

A. Dog License Notwithstanding the provisions of Sections 139 and 173 of Chapter 140, the fees for dog licenses shall be ten dollars (\$10.00) for altered males and spayed females and twenty dollars (\$20.00) for unaltered males and unspayed females to become effective April 1, 2007.

10-2-4. Monies for Licensing All money received from licenses or recovered as fines under this By-Law shall be deposited in the general fund. Money paid out for damages, license blanks or books, record books, anti-rabies vaccine or other purpose required under this By-Law shall be subject to appropriation at Town Meeting.

10-2-5. License Required All dogs six months of age or older shall be licensed with the Town Clerk on January 1 of each year. By March 15 of each year, the Town Clerk shall cause a notice to be sent to the owner or keeper of record of any unlicensed dog. In addition to the license fee established by this by-law, said owner or keeper shall be subject to an additional charge of \$20.00 for each dog licensed after March 15. Whoever keeps an unlicensed dog in violation of this by-law after April 1 shall be subject to a fine of \$25. This by-law may be enforced by the animal control officer or any police officer of the Town.

## **Article 3. Regulation of Kennels** (1998 ATM, Art. 37)

10-3-1. Kennel Definition The word "kennel" shall be one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes, including more than three dogs three months old or older provided, however, that a veterinary hospital shall not be considered a kennel unless it contains an area for the selling of dogs, or for the boarding of dogs for other than medical or surgical purposes.

10-3-2. Kennel License Required A kennel license shall be required for all kennels and shall be classified as a Grade One License for the keeping of four to five dogs; a Grade Two License for the keeping of six to nine dogs; and a Grade Three License for the keeping of ten to twenty-five dogs. A kennel in excess of twenty-five dogs shall not be permitted. Kennels existing on July 1, 1998, shall not be required to have a kennel license until April 1, 1999, and shall not be subject to the provisions of section 10-3-4.A.2. and 10-3-4.A.3. and 10-3-4.B.1.

10-3-3. Application and Issuance of License and Fees

- A. A kennel license shall be issued by the Town Clerk upon the written application by an owner or keeper of dogs and after inspection and determination by the Animal Control Officer that the proposed kennel meets the conditions set forth in section 10-3-4.A. below and inspection and determination by the Zoning Enforcement Officer that the proposed kennel meets the conditions set forth in section 10-3-4.B. below, as well as all applicable requirements of the Zoning Bylaw including, where required, a special permit.
- B. Annual fees for kennel licenses shall be for Grade One: thirty-five dollars (\$35); for Grade Two: sixty dollars (\$60); and for Grade Three: one hundred dollars (\$100). Kennel licenses must be renewed annually by April 1 of each year and are subject to continued compliance with the conditions in sections 10-3-4. and 10-3-5. below, except for kennels in existence on July 1, 1998, which are not subject to the provisions of section 10-3-4.A.2. and 10-3-4.A.3. and 10-3-4.B.1.

10-3-4. Conditions Which Must Be Met For The Issuance of a Kennel License

A. The Animal Control Officer shall determine that:

- 1. The proposed licensed premises contain sufficient and suitable space for the keeping of the dogs, including both indoor and outdoor areas.
- 2. The proposed licensed premises for Grades One and Two are a minimum of five hundred (500) feet from the nearest residential dwelling and for Grade Three, a minimum of thirteen hundred (1300) feet from the nearest residential dwelling.
- 3. The proposed licensed premises contain a suitable shelter for the dogs, which for a Grade Three license includes adequate running water and an impervious floor suitable for sanitary maintenance.

B. The Zoning Enforcement Officer shall determine that:

- 1. For Grades One and Two the licensed premises contain at least 20,000 square feet for each dog and for Grade Three the licensed premises contain no less than five acres.
- 2. The licensed premises comply with all aspects of the Zoning Bylaw, including regulation for fencing, setbacks, and location of kennels.

10-3-5. Kennel License Conditions All kennel licenses shall be subject to the following conditions:

- A. The licensee shall maintain a certificate of health signed by a licensed veterinarian for each dog in the kennel. The certificate of health shall be updated at least annually upon the renewal of the kennel license and payment of the annual kennel license fee.
- B. The licensee shall maintain a certificate signed by a licensed veterinarian that each dog in the kennel six months of age or older has a current rabies vaccination.
- C. The licensee shall comply with the Town of Kingston Leash Law, Article 1 of this Chapter.
- D. The licensee shall maintain compliance with the bylaws relating to noise under the Zoning Bylaw section 6.7.3., to odor under the Zoning Bylaw section 6.7.4. and to all other provisions of the Zoning Bylaw, including fencing, screening, enclosures, setbacks, and location of kennels.
- E. The licensed premises shall be subject to periodic inspection by the Animal Control Officer, the zoning Enforcement Officer, the Health Agent or their designees regarding compliance with the conditions of the kennel license.

10-3-6. Penalties and Enforcement The operation of a kennel without a license shall be a violation of this Article and the General By-Laws of the Town of Kingston. In addition to the penalties provided for in section 10-1-5. of this Chapter, violation of any of the conditions of a kennel license as set forth in this article, section 10-3-4. and 10-3-5. shall be grounds for nonrenewal of the kennel license. The provisions of this Article shall be enforced by the Animal Control Officer and/or the Zoning Enforcement Officer.

10-3-7. Appeal and Waiver  
(1999 ATM, Art. 28)

- A. Should a kennel license be denied because of the applicant's inability to meet the dimensional requirements set forth in Section 10-3-4.A.2. and/or Section 10-3-4.B.1., the applicant may appeal the Town's Clerk's denial to the Board of Selectmen.
- B. The Board of Selectmen shall hold a hearing on said appeal within forty-five (45) days of receipt of the written notice of the appeal.
- C. Notice of the hearing shall be given by postage prepaid first class mail to the abutters of the proposed licensed premises, as appearing in the Board of Assessors most recent list, and also shall be published in a newspaper of general circulation in the Town at least fourteen (14) days prior to the date of the Board of Selectmen's hearing. The applicant shall pay the expenses of giving said notice.
- D. After hearing, the Board of Selectmen may waive strict compliance with the provisions of Section 10-3-4.A.2. and/or Section 10-3-4.B.1. and order the Town Clerk to issue the license if:
  - i. The Animal Control Officer and the Zoning Enforcement Officer recommend a waiver.
  - ii. The Board of Selectmen determines that the distance between the proposed licensed premises and the nearest residential dwelling are less than that required by Section 10-3-4.A.2., but that there is sufficient distance between the proposed licensed premises and the nearest residential dwelling to provide suitable space for the keeping of the dogs and that the health and safety of the public is protected.
  - iii. The Board of Selectmen determines that the area of the proposed licensed premises is less than the area required by Section 10-3-4.B.1., but that there is sufficient area for the keeping of the dogs and that the health and safety of the public is protected.
- E. In granting a waiver under this section, the Board of Selectmen may impose conditions on the waiver such that the health and safety of the public are protected.

## Chapter 11

### RECREATION

(Amended 2003 STM, Art. 22)

#### **Article 1. Operation of Motor Boats in Kingston Yacht Basin**

The speed and operation of motor boats through and within the Kingston Yacht Basin located at the mouth of Jones River shall be reasonable and proper so that the lives, safety, and property of the public shall not be endangered.

#### **Article 2. Regulation of Auto-Trailer, Tourist Camp and Park Sites**

11-2-1. Definitions For the purpose of this ordinance, certain words and phrases are defined, and certain provisions shall be construed, as herein set out, unless it shall be apparent from the context that a different meaning is intended.

- A. A "tourist camp or park site" is any place where two or more overnight cabins, tents or trailers are located, or any premises designed or intended for the purpose of supplying to the public a location for overnight cabins, so-called, tents or trailers.
- B. An "over-night cabin, tent and trailer" under this ordinance are construed to mean any building, tent, or structure, house car, or automobile trailer, used for, or adaptable to use for, living quarters.
- C. A "unit" is a section of ground in any tourist camp used or designed for use, as a location for a single over-night cabin, house car, tent, or trailer.

11-2-2. Restricted Areas No tourist camp or trailer parking site shall be permitted to be located upon any land, park or beach land owned or controlled by the Town of Kingston, except on such spaces as shall be especially provided for the same.

11-2-3. Over-night Cabin, Tent and Trailer Regulation No unit shall contain less than six hundred (600) square feet in area, and no unit shall be permitted to accommodate more than one (1) over-night cabin, tent or trailer.

The provisions of this section shall not, however, be construed to prohibit any property owner, residing upon his land, from accommodating auto trailers of non-paying guests; nor shall they be construed as abrogating the right of any property owner to erect over-night cabins, as they are commonly known, under the above unit rules and under such sanitary restrictions as the town may establish. In such cases permits must be obtained. (See section 11-2-4).

11-2-4. Tourist Camp Permit It shall be unlawful for any person to establish, or maintain, or to permit to be established or maintained, upon any property owned or controlled by him, a tourist camp in the Town of Kingston, unless there exists a valid permit therefor granted by the Board of Selectmen and existing in compliance with the provisions of this ordinance. The application for such a permit shall be accompanied by plans of the proposed or existing tourist camp, showing the location of all buildings, driveways, toilet facilities, baths, laundry facilities, slop sinks and other improvements, and such permit may be granted to anyone meeting the requirements as outlined, a minimum annual permit fee of ten (10) dollars per ten (10) units or fraction thereof in any tourist camp shall be paid before such permit shall be issued.

11-2-5. Plumbing and Sanitary Requirements All tourist camp units shall be provided with a minimum for each sex of one (1) toilet, one (1) bath tub or shower, for every ten (10) units or fraction thereof; a two-compartment laundry tub, a slop sink and a wash basin with running water, for every ten (10) units or fraction thereof. No dry or chemical toilet closets shall be installed or used within the limits of any tourist camp sites and all such closets shall be sealed while within the limits of the Town of Kingston.

11-2-6. Garbage A sufficient number of tightly covered cans for garbage disposal shall be installed. Proper disposal of garbage so collected shall be made twice weekly by the manager in accordance with the regulations of the Board of Health.

11-2-7. Limitation of Residence It shall be unlawful to remain or live in any tourist camp for more than ninety days in any six month period, or in any other tourist camp in the town within the six month period, excepting, of course, bona fide employees.

11-2-8. Record of Guest The manager of every tourist camp shall require all persons using the same to register his name, home address and car license number. Such record shall be available at all times for inspection by the Police Department.

11-2-9. Lighting Every tourist camp shall be adequately lighted and by electricity where available.

11-2-10. Rules and Regulations The Board of Selectmen and/or the Board of Health of the Town of Kingston shall have the power to promulgate rules and regulations for the enforcement of the provisions of this ordinance.

### **Article 3. Motor Vehicle Access to Open Space and Conservation Properties**

11-3-1. Regulation No person may operate or park a motor vehicle on Open Space or Conservation properties in the Town except in areas designated by the Conservation Commission as parking areas, with the following exceptions:

- a. Vehicles authorized to repair or replace an existing and lawfully placed structure or facility used in the service of the public to provide electric, gas, water, sanitary sewer, storm drain, public roadway, telephone, telegraph or other communication services, solely as necessary to accomplish such repair or replacement, and operation and parking of a vehicle under this section must be undertaken so as to create the least amount of damage to the Conservation or Open Space property.
- b. Vehicles authorized for emergency work necessary for the protection of the health or safety of the public provided that the work performed has been ordered to be performed by an agency of the Commonwealth of Massachusetts or political subdivision thereof, solely as necessary to accomplish such emergency work and operation and parking of a vehicle under this section must be undertaken, to the extent possible, so as to create the least amount of damage to the Conservation or Open Space Land.

- c. Vehicles authorized to appropriate town officials, committees or boards having joint jurisdiction over the property shall have authority to enter upon Kingston Conservation property or Kingston Open Space property in a motorized vehicle solely, as necessary and, for the purpose of performing their duties under federal, state and town by-law.
- d. Vehicles authorized to members of the Open Space Committee and the Kingston Conservation Commission, the Conservation Agent, or other duly authorized personnel shall have the authority to enter upon Kingston Conservation property or Kingston Open Space property in a motorized vehicle to areas other than designated parking areas, solely for the purposes of performing their duties under federal law, state law or town by-law.

11-3-2. Notification The Kingston Conservation Commission shall be notified prior to the commencement of emergency work or within twenty-four (24) hours after commencement, if prior notice is not practicable given the nature of the emergency. This is to certify that the work is an emergency project and that the work performed only for the time and place certified by the Kingston Conservation Commission to the limited purpose to abate the emergency, and to assist the Commission in minimizing detrimental impacts.

11-3-3. Enforcement The Kingston Conservation Commission, its designee, and the Kingston Police shall have the authority to enforce this By-Law in any manner provided by law, including under G.L. chapter 40, section 21D. Any person who violates this By-Law shall be subject to a fine of \$100.00 for the first offense, \$200.00 for the second offense, and \$300.00 for the third and subsequent offenses. Each day on which a violation exists shall be deemed to be a separate offense.

11-3-4. Definition For the purpose of this By-Law, the term “motor vehicle” is defined as motorized transport, including but not limited to, the vehicles defined in G.L. C. 90, S. 1 and G.L C. 90B, S. 1, as well as those vehicles commonly known as automobiles, snow mobiles, all-terrain vehicles, off-road vehicles, powerboats, heavy equipment, construction machinery, mopeds, recreational vehicles, motorcycles and trucks.

## Chapter 12

### EARTH REMOVAL BY-LAW

(Amended 1989 ATM, Arts. 34 and 41; 1989 STM, Art. 13; 1992 STM, Art. 2; 1999 ATM, Art. 29)

#### **Article 1. Definitions**

- A. Board -- The Kingston Board of Selectmen
- B. Earth -- Includes stone, sand, clay, gravel, and rock and other earth material.
- C. Earth Removal Permit -- Permit issued by Board pursuant to this By-Law allowing earth removal subject to conditions.
- D. Incidental -- subordinate to, customarily associated with and reasonably required by a lawful use of a premises.
- E. Removal -- Excavation of earth, whether such excavated earth is removed from the premises or placed in another location on the premises.
- F. Premises -- One lot or all abutting lots or parcels which are, or are proposed to be, in the same ownership or use, together with all buildings and structures thereon.
- G. Town -- Town of Kingston

#### **Article 2. Prohibited Earth Removal**

No person, firm, corporation, or other entity shall excavate and/or remove in any twelve-month period more than 1,000 cubic yards of earth from any land in the Town unless pursuant to a permit issued in conformity with Article 3 or exempted pursuant to Article 4 of this bylaw. No person, firm, corporation, or other entity shall excavate and/or remove in any twelve-month period any earth materials within ten (10) feet of the water table on any land in the Town except for installation of utilities and other exemptions granted under Article 4 (a) of the Earth Removal By-Law.

**Article 3. Permitted Earth Removal**

The Board of Selectmen may issue an earth-removal permit when it determines that such earth removal is incidental to the following purposes:

- (a) construction of an approved building(s) or structure(s) and uses incidental thereto;
- (b) construction or operation of customary agricultural use;
- (c) specific requirements of an approved, definitive subdivision plan.

**Article 4. Exemptions**

A permit shall not be required under this by-law for the following type of excavation:

- (a) excavation not in excess of 1,000 cubic yards and incidental to the construction of buildings for which all permits required by law have been issued, or the installation of walks, driveways, septic systems, swimming pools, provided the quantity of material removed shall not exceed that displaced by the portion of the building or accessory use below finished grade;
- (b) excavation not in excess of 1,000 cubic yards incidental to customary agricultural use of land for agriculture;
- (c) excavation not in excess of 1,000 cubic yards in compliance with the specific requirements of an approved, definitive subdivision plan;
- (d) excavation on land owned or operated by the Town of Kingston;
- (e) excavation incidental to and reasonably required for the legal operation of a cemetery

**Article 5. Enforcement**

Penalties for violation of this by-law shall be: \$50 for the first offense, \$100 for the second offense, \$200 for every further offense. Each day in which a violation occurs shall constitute a separate offense. This by-law may be enforced by the Board of Selectmen, its designee(s) and Kingston police officers.

**Article 6. Application**

An application for an earth-removal permit shall be in writing. The application shall contain an accurate description of the portion of land on which the excavation will take place, shall state fully the purpose of the excavation, shall include payment of fees established by the Board, and shall include plans drawn by a registered surveyor or engineer. The application shall contain the following information:

- (a) the precise location of the proposed excavation as part of the total land area of the subject property;
- (b) the legal name and address of each owner of the property for which the permit is requested;
- (c) the name and address of the applicant and the address which shall be sufficient for any notice required under the by-law;
- (d) the property lines, names and addresses of all abutters, including those across any way, from the most recent tax list as certified by the Board of Assessors;
- (e) existing contours at two-foot intervals in the area from which material is to be excavated and in surrounding areas, together with the contours at two-foot intervals below which no excavation shall take place;
- (f) natural features such as wetlands, the 100-year floodplain, ground cover, surface water and groundwater. Water table elevation shall be determined by test pits and soil borings satisfactory to the Board of Selectmen. A log of soil borings shall be included, taken to the depth of the proposed excavation, congruent with the size and geological make up of the site;
- (g) a topographical map showing drainage facilities, final grades, and proposed vegetation and trees;

- (h) dust, erosion, and sediment-control plan for the site and trucks removing earth;
- (i) the amount and cost of proposed restoration materials, and the source from which the applicant intends to obtain them;
- (j) estimated quantity of material to be removed and topsoil to be replaced and the method to be used, verified by a registered surveyor or professional engineer;
- (k) the proposed form of bond and the name and address of the bond issuer;
- (l) an estimate of the number of truck trips, location of truck routes and hours of truck traffic;
- (m) designation on the required plan of any and all proposed phases and the number of cubic yards to be excavated in each, none to exceed five acres or 200,000 cubic yards, whichever is less; and
- (n) any other information which the Board may require.

**Article 7. Hearing and Decision**

A permit shall be granted only by an affirmative vote of a majority of the Board. Following receipt of an application for a permit for removal of earth from any land and determination by the Board or its designated agent that the application is complete, the Board shall appoint a time and place for a public hearing, not later than 45 days after the receipt of the completed application, notice of which shall be given to the applicant. The Board's decision shall be issued within 45 days of the close of the hearing.

**Article 8. Surety**

The Board shall require as a condition to the granting of the permit that the applicant furnish a performance bond, or other security, satisfactory to the Board. The minimum amount of the bond shall be \$1,000 for every 10,000 cubic yards over 20,000 cubic yards. The security shall not be released until the Board-approved surveyor or engineer has filed with the Board an "as built" plan and has also certified that the restoration has been completed in compliance with the permit and the plans.

**Article 9. Board's Review**

The Board shall exercise its powers with due regard to:

- (a) the health, safety and general welfare of the inhabitants of the town;
- (b) protection from detriment to the neighborhood;
- (c) protection of natural resources, including but not limited to the recharge of the water table or condition of the surface water.

**Article 10. Conditions**

The Board may impose on any permit conditions which it deems appropriate, including but not limited to conditions upon methods of removal, type and location of structures, fencing, hours of operation, area, location and depth of excavation, steepness of slopes, drainage, disposition of boulders and stumps, control of noise, dust and erosion and site restoration and planting requirements.

**Article 11. Inspection**

Every permit shall contain the condition that inspection of the operation may be made at reasonable hours by an agent of the Board to determine compliance with the conditions of the permit and this By-law.

**Article 12. Standards of Operation**

The following standards of operation shall apply to every permitted operation, in addition to conditions imposed under Article 8:

- (a) No area shall be excavated so as to cause accumulation of freestanding water unless the Board shall expressly permit. Permanent drainage shall be provided in accordance with accepted engineering and conservation practices. Drainage shall not lead directly into streams or ponds.
- (b) No excavation shall be made within 10 feet above annual high-water table, as established from test pits and soil borings satisfactory to the Board of Selectmen. Observation well(s) shall be monitored as ordered by the Board of Selectmen. The locations of the pits, borings, and wells shall show on the topographic plan and on a permanent monument erected upon the property. The establishment of the test pits and soil borings and monitoring thereof shall be at the applicant's expense.
- (c) All topsoil and subsoil stripped from operating areas shall be stock piled, seeded with an erosion-control seed mixture and used in restoring the area.
- (d) Any shelters or buildings erected on the premises for use by personnel or storage or equipment shall be screened from view if so ordered by the Board of Selectmen and shall be removed from the premises within 60 days after they are no longer needed for permitted excavation or restoration work upon that site.
- (e) The active excavation operation area shall not exceed a total of five acres at any one time. Natural vegetation shall be left and maintained on undisturbed land for screening and noise-reduction purposes.
- (f) Hours of operation including loading and transportation, shall be set by the Board. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load.
- (g) Trucking routes and methods shall be approved by the Board and shall also be subject to approval of the Chief of Police.
- (h) Access roads shall be constructed as approved by the Board of Selectmen, and if possible, at an angle to the public way or with a curve so as to help screen the operation from public view.

**Article 13. Restoration**

Restoration shall be carried out according to the plans submitted, all conditions of the permit, and the following minimum conditions:

- (a) Restoration shall be carried on simultaneously with excavation, so that when any three-acre operation area has been excavated, at least two acres shall be restored before work commences (including construction of haul roads) on the next contiguous three acres. Final restoration work shall be completed within sixty days after expiration or withdrawal of a permit or upon cessation of operations.
- (b) No slope shall be steeper than 2:1 (50%), slopes less than 4:1 are preferred for erosion control, and shall be required in sensitive areas as determined by the Board.
- (c) All debris, stumps, boulders, etc., shall be removed from the site and disposed of in an approved location.
- (d) Retained subsoil and topsoil shall be spread over the disturbed area to minimum depth of four inches and treated with three tons of lime per acre, fertilized as approved by the Board, and seeded with the grass or legume mixture prescribed by the Conservation District or Massachusetts Department of Public Works for slope-erosion control. Trees or shrubs of prescribed number, species and size will be planted to provide screening and reduce erosion during the establishment period.
- (e) Unless the permit conditions expressly require alteration of existing drainage patterns, the land shall be left so that natural storm drainage shall leave the property at the original natural points and so that the total discharge at peak flow, and the area of drainage to any one point, is not increased; and so that the hydrograph of any post-development stream is the same as that of the pre-development stream.
- (f) All equipment, buildings and structures shall be removed from the area.

**Article 14. Term**

A permit shall be issued for a period of one year. The Board may in its discretion grant a further permit extension for each additional year beyond the initial period, but no such permit shall be issued unless the applicant has conformed to all requirements of the original or extended permit.

**Article 15. Revocation**

The Board may revoke any permit which it has issued for good cause, provided that it shall in writing offer to the permit holder an opportunity for a hearing within seven days after the revocation.

**Article 16. Rules and Regulations**

The Board may establish rules and regulations to implement this by-law, including but not limited to a schedule of fees and schedule of security.

**Chapter 13**

**WETLANDS PROTECTION BY-LAW**

(Amended 1991 ATM, Art. 50, Art. 51; 1993 ATM, Art. 20; 2004 ATM, Art. 22, Art. 23, Art. 24)

**Article 1. Purpose**

The purpose of this by-law is to protect the wetlands of the Town of Kingston by controlling activities deemed to have a significant effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution, fisheries, shellfish, wildlife (collectively, the "interests protected by this By-law").

**Article 2. Definitions**

The following definitions shall apply in the interpretation and implementation of this By-Law.

- A. The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organizations, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town by-laws, administrative agencies, public or quasi-public corporations of bodies, the Town of Kingston, and any other legal entity, its legal representatives, agents or assigns.
- B. The term "alter" shall include, without limitation, the following actions when undertaken in areas subject to this By-law:
  - (a) Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
  - (b) Changing drainage characteristics, flushing characteristics, salinity distributions, sedimentation patterns, flow patterns and flood retention characteristics;
  - (c) Drainage or other disturbances of water level or water table;
  - (d) Dumping, discharging or filing with any material which may degrade water quality;
  - (e) Driving of piles, erection of buildings or structures of any kind;
  - (f) Placing of obstructions whether or not they interfere with the flow of water;
  - (g) Destruction of plant life, including cutting of trees;
  - (h) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water;
  - (i) Placement of a Title V sub-surface disposal system for new construction within 100 feet of any area subject to protection under the By-law.
- C. The term "banks" shall mean that part of land adjoining any body of water which confines the water.

- D. The term “vernal pool” shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be 100 feet outward from the mean annual high-water line defining the depression, but shall not include existing lawns, gardens, landscaped or developed areas.
- E. The Commission may adopt additional definitions not inconsistent with this Article 2 in its regulations promulgated pursuant to Article 12 of this By-Law.

### **Article 3. Application For Permit and Request For Determination**

13-3-1. Application for Permit No person shall remove, fill dredge, alter or build upon or within one hundred (100) feet of any bank, fresh water wetland, coastal wetland, beach, dune flat, marsh, meadow, bog, swamp, or upon or within one hundred (100) feet of any estuary, creek, river, stream, pond or lake, or upon or within one hundred (100) feet of any land under said waters or upon or within one hundred (100) feet of any land subject to tidal action, coastal storm flowage, flooding or inundation, or within one hundred (100) feet of the 100-year storm line, other than in the course of 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 and used to provide electric, gas, water, telephone, telegraph and other telecommunication services, without filing written application for a permit so to remove, fill dredge, alter or build upon, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a permit issued pursuant to this by-law.

13-3-2. Form of Application Such application may be identical in form to a Notice of Intention filed pursuant to Mass. Gen. Laws, Chapter 131, Section 40, shall be sent by certified mail to the Kingston Conservation Commission (the "Commission"), and must be filed concurrently with or after applications for all other variances and approvals required by the Zoning By-Law, the Subdivision Control Law or any other by-law or regulation have been obtained.

13-3-3. Request for Determination Upon written request of any person, the Commission shall, within twenty-one (21) days, make a written determination as to whether this By-Law is applicable to any land or work thereon. When the person requesting a determination is other than the owner, notice of the determination shall be sent to the owner as well as to the requesting person.

13-3-4. Filing Fee The Commission shall set a filing fee by regulation, but no filing fee is required when the Town of Kingston files an application for a permit.

13-3-5. Exceptions The provisions of this section shall not apply to work performed for normal maintenance or improvement of land in agricultural use.

### **Article 4. Notice and Hearing**

The commission shall hold a public hearing on the application within twenty-one (21) days of its receipt. Notice of the time and place of the hearing shall be given by the Commission at the expense of the applicant, not less than five (5) days prior to the hearing, by publication in a newspaper of general circulation in Kingston and by mailing a notice to the applicant, the Board of Health, Board of Selectmen, Planning Board and to such other persons as the Commission may by regulation determine. The applicant at his expense shall mail notice of the time and place of hearing to all abutters of the land on which the proposed work is to be done by certified mail, at least 7 days prior to the hearing and shall present to the Commission proof in the form of receipts of such mailing at the time of the hearing. The Commission, its agents, officers, and employees, may enter upon privately owned land for the purpose of performing their duties under this by-law. The Commission is authorized to establish a schedule of fees and costs as may be reasonably required to process applications.

### **Article 5. Permit and Conditions**

- A. If after the public hearing, the Commission determines that the area which is the subject of the application is significant to the interest protected by this By-law, the Commission shall, within twenty-one (21) days of such hearing, issue or deny a permit for the work requested. If it issues a permit after making such determination, the Commission shall

impose such conditions as it determines are necessary or desirable for protection of those interests, and all work shall be done in accordance with those conditions.

- B. The Commission is empowered to deny a permit for failure to meet the requirements of this chapter; 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 wetland values protected by this chapter and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

Lands within 100 feet of the specified resource areas, and within 200 feet of rivers, streams, and creeks, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse effect upon them either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, but not be limited to, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within the aforementioned one-hundred-foot or two-hundred-foot area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by this chapter. In the case of areas within 200 feet of rivers, streams, and creeks, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of the chapter, has proved by a preponderance of the evidence that there is no practicable alternative to the proposed project with less adverse effects, and should there be no practicable alternative, that such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this chapter. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purposes, logistics, existing technology, costs of the alternatives and overall project cost.

- C. Permits shall expire three (3) years from the date of issuance, unless renewed prior to expiration, and all work shall be completed prior to expiration. No proposal which has been unfavorably acted upon by the Commission shall be considered within two years after the date of such unfavorable action unless by a 4/5 vote of the Commission.

**Article 6. Emergency Projects**

This By-Law shall not apply to any emergency project as defined in Mass. General Laws, Chapter 131, Section 40.

**Article 7. Pre-Acquisition Violation**

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this By-Law or in violation of any permit issued pursuant to this By-Law shall forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless commenced within three (3) years following date of acquisition of the real estate by such person.

**Article 8. Security**

The Commission may require, as a permit condition, that the performance and observance of other conditions be secured by one or both of the following methods:

- (a) By a bond or deposit of money or negotiable securities in an amount determined by the Commission to be sufficient and payable to the Town of Kingston;
- (b) By a conservation restriction, easement or other covenant running with the land, executed and properly recorded (or registered, in the case of registered land).

**Article 9. Burden of Proof**

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this By-Law. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not harm the interest protected by this bylaw shall be sufficient

cause for the Commission to deny a permit or grant a permit with conditions, or in the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

**Article 10. Relationship to Wetlands Protection Act**

The Commission shall not impose additional or more stringent conditions pursuant to Massachusetts General Laws, Chapter 131, Section 40 than it imposes pursuant to this By-Law, nor shall it require a Notice of Intention pursuant to Section 40 to provide materials or data in addition to those required pursuant to this By-Law.

**Article 11. Enforcement**

Any person who violates any provision of this By-Law or of any condition or a permit issued pursuant to it shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This By-Law may be enforced pursuant to Mass. General Laws, Chapter 40, Section 21D, by a Town police officer or other officer having police powers.

Upon request of the Commission, the Board of Selectmen and Town Counsel shall take such legal action as may be necessary to enforce this By-Law and permits issued pursuant to it.

**Article 12. Rules and Regulations**

After due notice and public hearing, the Commission may promulgate rules and regulations of effectuate the purposes of this By-Law. 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 By-Law.

**Chapter 14**

**CONSULTANT REVIEW**

**Article 1. Consultant By-Law**  
(1990 Sept. 15, STM, Art. 7)

14-1-1. Consultant Review Requirement The Town of Kingston may charge any applicant or proponent of any project which requires the approval of a local board, official, or agency of the Town of Kingston pursuant to federal, state or local laws or regulations, and which involves the construction, replacement, reconstruction, conversion, expansion or demolition of structures or facilities and which said final project:

- (1) will generate more then 100 additional vehicle trips per day in the Town of Kingston, i.e., either the trips start in the Town of Kingston or end in the Town of Kingston; or
- (2) will constitute a residential development of more than 15 dwelling units; or
- (3) will constitute a non-residential structure having greater than 10,000 square feet or more gross interior space or having more than 100 parking spaces; or
- (4) will constitute a non-residential structure having greater than 100,000 cubic feet interior space; or
- (5) will have a total project cost of Five Hundred Thousand (\$500,000) Dollars or greater. A single family house shall be exempt from this subsection; or
- (6) will result in 1,000 cubic yards of earth removal as defined in Chapter 12 of these By-Laws;

a sum equal to the amount deemed by the town to be desirable or necessary to engage consultants, including but not limited to attorneys, engineers, or to other consultants to review applications, plans or other documents, whether technical or not, to ensure compliance with any laws or regulations, and to provide the Town or Boards with sufficient information to fully evaluate the project for the purpose of making a determination as to approval, modification or disapproval.

14-1-2. Payment of Fee The payment shall not be made into a revolving account but may either be paid directly to an independent consultant or into the general fund directly, at the option of the Board of Selectmen of the Town of Kingston.

The fees shall be for various services rendered on behalf of the Town for consultants, engineers, or attorneys in the review of the application process or any other technical data, regulation, or law necessary to review the proposal before the Town of Kingston or any of its boards, officers, elected officials, planning officials or any other individuals who must render any decision on an application or petition. The foregoing shall not impair the right of any person to make a gift to the Town for consultant fees if accepted by the Board of Selectmen.

14-1-3. Examples Examples of the various services to be rendered will be as follows: (a) for engineers to review applications, plans and technical data for subdivisions; (b) environmental consultants to review wetland law applicability; (c) attorneys, including Town Counsel, to review contractual obligations between the Town of Kingston or its officials, boards, or agencies and applicants. These examples are inserted merely for guidance and not to limit this by-law as to the types of petition or applications that said by-law would apply thereto. The fee shall not apply to facilities and utilities defined as a public work in Massachusetts General Laws, Chapter 30, Section 39M and Massachusetts General Laws, Chapter 149, Section 44A.

14-1-4. Request by Board, Agency or Commission for Consultant Review The specific board, agency, commission or public official who has an application or petition before him or it for review that is governed by this consultant by-law shall make a request to the Board of Selectmen to the Town of Kingston to retain an independent consultant.

14-1-5. Selection of Consultant by Selectmen The Board of Selectmen of the Town of Kingston shall have the final decision as to the choice of any independent consultants, attorneys, or engineers, following recommendation by the applicant or petitioner from a list of independent consultants, attorneys, or engineers compiled by the Town of Kingston. Said list shall be compiled subject to the requirements of any applicable law including the Town's public bidding by-law.

14-1-6. Special Account For Consultant Fees This By-Law shall not impair the right of any board or official to maintain a special account for consultant fees under State law or local by-law or regulation.

**Article 2. Plan Review By Town Appointed Engineering Firm**  
(1990 ATM, Art 30; Amended 1991 ATM, Art. 54; 1997 ATM, Art. 28)

14-2-1. Review of Plans by Engineering Firm A Town-appointed engineering firm shall be required to review all plans associated with the construction of buildings or building projects as defined in Chapter 3 and Chapter 4 of the Commonwealth of Massachusetts State Building Code where the provisions of Chapter 9 of the Commonwealth of Massachusetts State Building Code are required.

14-2-2. Exemptions Buildings classified as R-3, R-4, and Use Group T as defined in the Commonwealth of Massachusetts Building Code shall be exempt from this By-law.

14-2-3. Payment of Consultant Fee The cost of the review by the Town-appointed engineering firm shall be paid by the developer, applicant, or owner.

**Chapter 15**

**PENALTY AND ENFORCEMENT**

**Article 1. Penalty**

Whoever violates any of the provisions of these by-laws unless otherwise specifically provided therein, or otherwise provided by law, shall be punished with a fine of not more than twenty dollars.

**Article 2. Enforcement of Town ByLaws By Non-Criminal Disposition**  
(Amended 10/10/95 STM, Art. 7; 1997 ATM, Art. 34; 1998 ATM, Art. 37; 2001 STM, Art. 19; 2003 STM, Art. 7; 2005 STM, Art. 14, 15; 2006 ATM, Art. 22; 2007 ATM, Art. 20; 2008 ATM, Art. 21)

15-2-1. Application Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in General Laws, Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

15-2-2. By-laws Enforceable by Non-criminal Disposition Without intending to limit the generality of the foregoing, it is the intention of this provision that the following by-laws and sections of by-laws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections; each day on which any violation exists shall be deemed to be a separate offense.

Chapter 13 - WETLANDS PROTECTION BY-LAW; Conservation Officer

Fine Schedule

Each Offense	\$300.00
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Chapter 12 - EARTH REMOVAL; Board of Selectmen

Fine Schedule

First Offense	\$ 50.00
Second Offense	\$100.00
Each Subsequent Offense	\$200.00

Chapter 10 - KINGSTON LEASH LAW; Animal Control Officer, or his/her designee

Fine Schedule

Each Offense	\$25.00
Second Offense	\$50.00
Each subsequent offense per calendar day	\$50.00
Vicious Dog--Each Offense	\$50.00
Unlicensed Dog--Each Penalty increased by	\$25.00

Chapter 10 - ANIMAL CONTROL

Zoning Enforcement Officer, Animal Control Officer, or his/her designee

Fine Schedule

First Offense	\$25.00
Each Subsequent Offense	\$50.00
Each day of the violation shall constitute a separate offense.	

Chapter 9, Article 2 - ALARMS SYSTEMS

Fine Schedule

Each Violation after three (3) within same calendar year	\$50.00
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Chapter 8, Article 2 - WATER EMERGENCY; Board of Water Commissioners or its designee

Fine Schedule

First Offense	Warning
Second Offense	Warning
Each Subsequent Offense	\$50.00

WATER DEPARTMENT RULES AND REGULATIONS;  
Board of Water Commissioners or its designee

Fine Schedule

Unauthorized Turning of Water	
Department Curb Stops or Gates	\$200.00
Unauthorized Attachment to a Hydrant	\$200.00
Installation of Device to By-Pass Meter	\$300.00
Tampering with Metering Device	\$100.00
Failure to Repair Service Pipe Leak	\$20 per day

ZONING BY-LAW; Section 7.2.3 Building Inspector or his/her designee.

Fine Schedule

First Offense	\$ 50.00
Second Offense	\$ 50.00
Third and subsequent offense	\$100.00

BOARD OF HEALTH – All regulations enacted by the Board of Health may be enforced through non-criminal disposition:  
Board of Health Members or its designee

Fine Schedule

First Offense	Written Warning
Second Offense of the same infraction	\$ 25.00
Third Offense of the same infraction	\$ 50.00
Fourth Offense and each subsequent offense of the same infraction	\$100.00

Chapter 19 - HARBOR REGULATIONS; Harbormaster and Assistant Harbormasters

Fine Schedule

Each Offense	\$ 50.00
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Chapter 7 - PUBLIC WAYS AND PLACES; Superintendent of Streets

Fine Schedule

Each Offense	\$ 20.00
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Chapter 20 – SEWER BY-LAW: Board of Sewer Commissioners or its designee.

Fine Schedule

Failure to complete connection - \$100.00 per month per equivalent unit beginning July 1, 2002.

**Article 3. Enforcement of Mass General Laws Chapter 270 Section 16 and Section 16A; Conservation Officer as Natural Resource Officer, Board of Health Agent, Building Inspector or their designee. (5/6/00 ATM, Art. 44)**

Fine Schedule – As listed in G.L.c.270, Section 16 and 16A, and also:

First Offense	\$200
Subsequent Offenses	\$300

**Chapter 16**

**SCENIC ROUTE**  
(1995 ATM, Art. 50)

**Article 1. Definitions**

The following definitions shall apply in the interpretation and implementation of this By-Law:

- A. Road - Shall mean a vehicular traveled way plus its necessary appurtenances within the right of way including bridge structures, drainage system, retaining walls, traffic control devices, and sidewalks but not intersecting streets or driveways.
- B. Cutting or Removal of Trees - Shall mean the destruction of more than one tree trunk of diameter four (4) inches or more measured one (1) foot from the ground. Also trimming major branches or roots.
- C. Repair, Maintenance, Reconstruction, or Paving Work - Shall mean any work done within the right of way by any person or agency, public or private. Within this definition is any work on any portion of the right of way which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways or alteration of existing ones is also included in so far as it takes place within the right of way.
- D. Tearing Down or Destruction of Stone Walls - Shall mean the destruction of more than fifteen (15) linear feet of stone wall involving more than two (2) cubic feet of wall material per linear foot, but shall not be construed to include temporary removal and replacement at the same location with the same materials.

**Article 2. Scenic Roads Criteria**

16-2-1. Characteristics In determining which roads should be recommended for designation as scenic roads, the Planning Board, Conservation Commission or Historical Commission shall consider whether the road contains or is characterized by any of the following:

- A. Meets the guidelines of Chapter 40, Section 15, of the Massachusetts General Laws.
- B. Bordering trees of exceptional quality in terms of type, age, specimen, size, or spread, density of stand, or related flora.
- C. Bordering trees which themselves constitute, or are a significant part of, natural or man-made features of aesthetic value, including by way of illustration, trees having spring flowering or high fall color potential; trees which are part of vistas paralleling roadways or which create a frame of reference for more distant views; and trees whose presence contribute substantially to the rural or woodland character of a roadway, particularly in comparison to more developed or urbanized adjacent areas.
- D. Bordering stone walls.
- E. Any other natural or manmade features of aesthetic value which would be adversely affected by any alteration of the road.
- F. Roads for which any alteration would lessen the aesthetic value of natural or manmade features bordering them.

**Article 3. Scenic Roads Purpose**

These regulations are intended to insure that:

- A. Roads will be recommended for designation as scenic roads on stated criteria.
- B. Ways so designated will not be altered without following proper procedures and without adherence to proper considerations.
- C. Ways so designated will not be altered by the decision of any person, organization, or agency other than the planning board.

**Article 4. Scenic Road Considerations**

In acting on Scenic Roads, the Planning Board shall take into consideration the following:

- A. Preservation of natural resources.
- B. Environmental and historical values.
- C. Scenic and aesthetic characteristics.
- D. Public safety.
- E. Traffic volume and congestion.
- F. Relationship of road design to the standards of the Planning Board's subdivision regulations and of the Massachusetts Highway Department.
- G. Compensatory actions proposed, such as replacement trees or walls.
- H. Functional urgency of the repair, maintenance, reconstruction, or paving.
- I. Financial and other consequences of design revision to avoid or reduce damage to trees or stone walls.
- J. Evidence contributed by abutters, town agencies, and other interested parties.
- K. Other sound planning considerations.

**Article 5. Scenic Route Procedures**

16-5-1. Filing Procedure Any person or organization seeking the consent of the Planning Board under Section 15C of Chapter 40 of the Massachusetts General Laws regarding the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, shall file a request with the Planning Board together with the following:

- A. The text of a legal notice identifying the location of the proposed action in terms enabling readers to reasonably locate it on the ground without need for additional plats or references and describing the proposed changes to trees and stone walls.
- B. A list of owners of properties located in whole or in part within 100 feet of the proposed action.
- C. A statement of the purpose for the changes proposed.
- D. Except in the case of town agencies, a deposit sufficient for the cost of advertising and notification.
- E. Whatever explanatory material the applicant deems suitable to inform the Planning Board prior to the public hearing.

16-5-2. Notice The Planning Board shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area. The Board shall also send copies of that notice to the Board of Selectmen, Conservation Commission, Historical Commission, Superintendent of Streets, Tree Warden, and owners of property within 100 feet of the proposed action.

16-5-3. Timing The Planning Board shall hold a hearing within thirty days of the Planning Board's meeting at which a properly filed request is received and shall make a decision within forty-five days of that receipt unless a longer time is agreed to by the applicant.

16-5-4. Tree Warden Whenever feasible, Planning Board hearings shall be held in conjunction with those to be held by the Tree Warden acting under Chapter 87 of the Massachusetts General Laws. The consent of the Planning Board to a proposed action shall not be regarded as inferring consent by the Tree Warden or vice versa. The Planning Board's decision shall contain a condition that no work should be done until all applicable provisions of the Public Shade Tree Law, M. G. L., C 87, have been complied with.

## **Chapter 17**

### **FLOOR DRAINS** (1996 ATM, Art. 29)

#### **Article 1. Floor Drains**

The following land use is prohibited within the Zone II of Trackle Pond:

Any floor drainage system in existing facilities, in industrial or commercial process areas, or hazardous material and/or hazardous waste storage areas which discharges to the ground without a permit or authorization from the Massachusetts Department of Environmental Engineering. Any existing facility with such a drainage system shall be required either to seal the floor drain in accordance with the state plumbing code, 248 CMR 2.00, connect the drain to a municipal sewer system (with all appropriate permits and pretreatment), or connect the drain to a holding tank meeting the requirements of all appropriate Department of Environmental Protection regulations and policies.

## **Chapter 18**

### **OPEN SPACE COMMITTEE** (11/21/96 STM, Art. 18; Amended 11/4/97 STM, Art. 24; 5/6/00 ATM, Art. 38)

#### **Article 1. Open Space Committee**

18-1-1. Composition There shall be an Open Space Committee consisting of nine members appointed by the Moderator for three (3) – year staggered terms. The composition of the Committee shall be gradually reduced from twelve (12) members by the appointment of only three (3) members for each new three (3) – year term.

18-1-2. Purpose of Committee The Committee shall be authorized to implement the Open Space Plan, by acquiring land including incurring legal and engineering costs associated with such acquisitions, and to investigate sources of funding for any such land acquisitions. Final approval of all land acquisitions must be made by town meeting.

18-1-3. Reporting Requirements The Committee shall report annually to the town meeting on its activities.

## **CHAPTER 19**

### **HARBOR REGULATIONS** (5/3/97 ATM, Art. 33; Amended 4/4/09 ATM, Art. 15)

#### **Article 1. Rules and Regulations**

19-1-1. Adoption After a public hearing, the Board of Selectmen may, upon recommendation of the Harbormaster and/or Waterfront Committee, adopt rules and regulations governing the waters of the Commonwealth that lie within the Town of Kingston and such activities that take place thereon.

19-1-2. Enforcement The Harbormaster and Assistant Harbormasters shall have powers of enforcement of rules and regulations governing the waters of the Commonwealth that lie within the Town of Kingston and such activities that take place thereon pursuant to Massachusetts General Laws Chapter 90B and 102.

19-1-3. Penalties Whoever violates any section or provision of this By-Law shall be liable for a penalty of fifty (50) dollars for each violation.

## **Article 2. Demarcation of Kingston Bay Waterways**

The Town of Kingston shall demarcate without prejudice all Kingston Bay water, waterways or channels suitable for navigation, with at least 5 foot of depth at mean low water, with aids to navigation approved for use by, and in accordance with, United States Coast Guard regulations. Aids to navigation shall be in place seasonally from May 1<sup>st</sup> to October 15<sup>th</sup> annually at a minimum.

## **CHAPTER 20**

### **SEWER BY-LAW**

(2001 STM Art 19; Amended 10/18/04 STM, Art. 14; 4/4/09 ATM, Art. 17)

#### **Article 1. Service Connection**

Property owners shall be required to connect their buildings to the Town's sewer system within six (6) months of sewer service becoming available for such connection, or in such manner as provided by Board of Health regulations relating to the connection of buildings to the Town sewer system. Said connection to be in accordance with any and all regulations promulgated by the Board of Sewer Commissioners.

#### **Article 2. Enforcement**

This By-Law may be enforced pursuant to Massachusetts General Laws, chapter 40, section 21D, by the Board of Sewer Commissioners, or its designee. When so enforced, any person who violates any provision of this By-Law, or of any condition of a permit issued pursuant to it, shall be punished by a fine as listed in Chapter 15 of this By-Law.

#### **Article 3. Connection Fee Apportionment**

The Board of Sewer Commissioners shall, at the request of the owner of the land so charged, apportion the sewer connection fee or unpaid balances thereof charged under said Board's Connection Fee Policy, adopted on September 9, 2003, and as may be amended from time to time, into such number of equal portions to be paid annually with interest thereon, not exceeding thirty, as is determined by said Board or as is requested by the owner, as the case may be.

All of the sewer connection fee or the first portion of the sewer connection fee, plus one year's interest on the amount of the sewer connection fee remaining unpaid, shall be due and payable prior to the issuance of the sewer connection fee permit. If the sewer connection fee is apportioned in accordance with this by-law, the Board of Sewer Commissioners shall add to the annual sewer charges for each year thereafter one of said portions and one year's interest on the amount of the sewer connection fee remaining unpaid until all such portions shall have been so added. Interest charged pursuant to this by-law shall be equal to the rate of interest assessed for betterments under chapter 180 of the Acts of 1999. Notwithstanding a prior apportionment, the owner of the land so charged may pay the entire unpaid balance plus interest accrued thereon at any time before it is due and payable.

All charges under the Connection Fee Policy shall constitute a charge for the use of common sewers pursuant to G.L. c.83, §16, and a lien shall be established by operation of law on any overdue charges in accordance with G.L.c. 83, § 16A-16F and may be collected as set forth therein.

The Board of Sewer Commissioners may adopt regulations, as it deems necessary, for the purpose of implementing this by-law.

## CHAPTER 21

### DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS OR STRUCTURES

(5/6/00 ATM, Art. 42)

#### **Article 1. Intent and Purpose**

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

#### **Article 2. Definition**

(Amended 2003 ATM, Art. 33)

21.2.1. For the purposes of this section, the following words and phrases have the following meanings:

- (a) Building - A structure having a roof or cover for the shelter, housing or enclosure of persons, animals or property.
- (b) Commission - the Kingston Historical Commission.
- (c) Demolition - Any act of destroying, eliminating, pulling down, moving, razing or removing a building or any portion thereof, or starting the work of any such act with the intention of completing the same.
- (d) Inspector - the Kingston Building Inspector.
- (e) Demolition Permit - the permit issued by the Inspector as required by the state building code for the demolition, partial demolition or removal of a building or structure.
- (f) Historically Significant Building or Structure - any building or structure which is: (1) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth or Massachusetts or the Unites States of America; or (2) is historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.
- (g) Structure – Any combination of materials assembled, constructed, erected or maintained at a fixed location and placed permanently or temporarily in or on the ground, including but not limited to: framework, retaining wall, tent, viewing stand, bin, platform, swimming pool, fence, stonewall, well, sign, flagpole, mast for radio antenna, satellite antenna or the like.

#### **Article 3. Regulated Buildings and Structures**

(Amended 2003 ATM, Art. 33)

21.3.1. The provisions of this by-law shall apply only to the following buildings or structures: (1) a building or structure listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listing on either of said Registers, or any building eligible for listing on either of said Registers; (2) a building or structure located within 200 feet of the boundary line of any historic district; or (3) any building or structure 80 years old or older; or (4) any building or structure on the Town of Kingston historical survey. If a building or structure is of unknown age, it shall be assumed that the building is over 80 years old for the purposes of this by-law.

#### **Article 4. Procedure**

(Amended 2001 ATM, Art. 27; 2003 ATM, Art 33)

21.4.1. Demolition Permits Generally – no permit for the demolition of a building shall be issued other than in conformity with the provision of this by-law; or if for a vacant lot use, until plans have been filed with the Building Inspector showing the vacant lot use and detailing the plans to remove or fill any foundation or other subsurface structure, including sanitary septic system components, wells, and dry wells, and including proper regrading of the site. The applicant must submit with the application for demolition, a check for \$50.00 payable to the Town of Kingston.

21.4.2. The Inspector shall forward a copy of each demolition permit application for a building or structure identified in Article 3 of this bylaw to the Commission within seven (7) days after the filing of such application.

21.4.3. Within forty-five (45) days after its receipt of such application, the Commission shall determine whether the building or structure is historically significant. The applicant for the permit shall be notified by Certified Mail of their right to make a presentation to the Commission. The applicant may waive his/her right to a presentation in writing to the Commission. Failure to notify the Commission within thirty (30) days will constitute waiving the right to a presentation.

21.4.4. If the Commission determines that the building or structure is not historically significant, it shall so notify the Inspector and the applicant in writing, and the Inspector may issue a demolition permit. If the Commission determines that the building or structure is historically significant, it shall notify the Inspector and the applicant in writing that a demolition plan review must be made prior to the issuance of a demolition permit. If the Commission fails to notify the Inspector and the applicant of its determination within forty-five (45) days after its receipt of the application, then the building or structure shall be deemed not historically significant, and the Inspector may issue a demolition permit.

21.4.5. Within sixty (60) days after the applicant is notified that the Commission has determined that a building or structure is historically significant, the applicant for the permit shall submit to the Commission six (6) copies of a demolition plan which shall include the following information: (i) the Kingston assessors map showing the lot and number of the building or structure to be demolished with reference to lot lines and to neighboring buildings and structures, the owners address and phone number and the date the building was built; (ii) photographs of all street facade elevations; (iii) a description of the building or structure, or part thereof, to be demolished; (iv) the reason for the proposed demolition and data supporting said reason including where applicable data sufficient to establish any economic justification for demolition; and (v) a brief description of the proposed reuse of the parcel on which the building or structure to be demolished is located.

21.4.6. The Commission shall hold a public hearing with respect to the application for a demolition permit, and shall give public notice of the time, place and purposes thereof at least fourteen (14) days before said hearing in such manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property, to owners of all property within 500 feet of said property lines and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the board of assessors, to the planning board, to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice. The Applicant will be responsible for all costs incurred for advertisements and mailings. Within sixty (60) days after its receipt of the demolition plan, the Commission shall file a written report with the Inspector on the demolition plan which shall include the following: (i) a description of the age, architectural style, historic association and importance of the building or structure to be demolished; (ii) a determination as to whether or not the building or structure should preferably be preserved. The Commission shall determine that a building or structure should preferably be preserved only if it finds that the building or structure is a historically significant building or structure which, because of the importance made by such building or structure to the Town's historical and/or architectural resources, it is in the public interest to preserve, rehabilitate or restore.

21.4.7. If, following the demolition plan review, the commission does not determine that the building or structure should preferably be preserved, or if the Commission fails to file a report with the Inspector within the time limit set out in Section 21.4.5 above, then the Inspector may issue a demolition permit.

21.4.8. Demolition permits granted after Historical Commission review are valid for 6 months from the date of issuance, and only for the applicant of record.

21.4.9. If, following the demolition plan review, the commission determines that the building or structure should preferably be preserved, the Inspector shall not issue a demolition permit for a period of six (6) months from the date of the filing of the Commission's report unless the Commission informs the Inspector prior to the expiration of such six (6) month period that it is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure, or has agreed to accept a demolition permit on specified conditions approved by the Commission.

21.4.10. No permit for demolition of a building determined to be a "preferably preserved significant building" under Section 21.4.9. shall be granted until plans for use or development of the site after demolition have been filed with the Building Inspector and found to comply with all laws pertaining to the issuance of a building permit, or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such a building permit or certificate of

occupancy including without limitation any necessary zoning variances or special permit, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this subsection.

#### **Article 5. Emergency Demolition**

21.5.1. If the condition of a building or structure poses a serious and imminent threat to the public health or safety due to its deteriorated condition, the owner of such building or structure may request the issuance of an emergency demolition permit from the Inspector. As soon as practicable after the receipt of such a request, the Inspector shall arrange to have the property inspected by a board consisting of himself, the Chairman of the Commission and the Board of Health, and the Chief of the Fire Department, or their respective designees. After the inspection of the building or structure and consultation with this board, the Inspector shall determine whether the condition of the building or structure represents a serious and imminent threat to public health or safety and whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect the public health and safety. If the Inspector finds that the condition of the building or structure poses a serious and imminent threat to public health or safety, and that there is no reasonable alternative to the immediate demolition thereof, he may issue an emergency demolition permit to the owner of the building or structure. Whenever the Inspector issues an emergency demolition permit under the provisions of this Article 5, he shall prepare a written report describing the condition of the building or structure and the basis for his decision to issue an emergency demolition permit with the Commission. Nothing in this Article 5 shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by Chapter 143, Sections 6-10, of the Massachusetts General Laws. In the event that a Board of Survey is convened under the provisions of Section 8 of said Chapter 143 with regards to any building or structure identified in Article 3 of this bylaw, the Inspector shall request the Chairman of the Commission or his designee to accompany that Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the Commission.

#### **Article 6. Non-compliance** (Amended 2003 ATM, Art. 33)

21.6.1. (a) Anyone who demolishes a building or structure identified in Article 3 of this bylaw without first obtaining, and complying fully with the provisions of a demolition permit, shall be subject to a fine of not more than three hundred (\$300) dollars for each day, not to exceed sixty (60) days, in which such person was not in compliance with the provisions of a demolition permit. Upon a determination by the Kingston Historical Commission that a building or structure is a preferably preserved significant building or structure, the owner shall be responsible for properly securing the building or structure, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to secure the building or structure, the loss of such building or structure through fire or other cause shall be considered demolition. In addition, unless a demolition permit was obtained for such demolition, and unless such permit was fully complied with, the Building Inspector shall not issue a building permit pertaining to any parcel on which a building or structure identified in Article 3. of this chapter has been demolished for a period of three (3) years after the date of demolition. Non-compliances to be enforced by the Building Inspector.

21.6.1. (b) Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of a landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this by-law better serves the intent and purpose of this by-law, it may, prior to the expiration of said period of three years, but not sooner than six months from the date of completion of any demolition in violation of this by-law, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this by-law, and may so notify the Building Inspector.

#### **Article 7. Appeals to Superior Court**

21.7.1. Any person aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the Inspector, appeal to the superior court for Plymouth County. The court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the decision of the Commission to be unsupported by the evidence or to exceed the authority of the Commission or may remand the case for further action by the Commission or make such other decree as justice and equity shall require.

#### **Article 8. Severability**

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

## Chapter 22

### RENT CONTROL

(10/7/2002 STM, Art. 14)

#### Article 1. Manufactured Housing Community Rent Control

22-1-1. Purpose The purpose of this By-Law is to establish and administer rent regulation and the control of evictions in manufactured housing communities in the Town of Kingston as provided for in Chapter 100 of the Acts of 2002.

22-1-2. Rent Control Board There shall be a Rent Control Board comprised of five (5) members who shall be appointed by the Board of Selectmen. The initial terms shall be one member for one (1), two (2), three (3), four (4) and five (5) years respectively, and to be determined by the Selectmen. Upon the expiration of each initial term, the term of appointment for each successive member shall be for five (5) years. No owner or resident of a manufactured housing community shall be appointed to the Rent Control Board.

22-1-3. Powers and Duties The Rent Control Board shall have the powers provided for in Chapter 100 of the Acts of 2002 and shall be guided by the Commonwealth of Massachusetts Attorney General's Guide to Manufactured Housing Community Law, or other successor guide. A copy of said guide is on file with the Kingston Public Library and the Office of the Town Clerk. The Rent Control Board shall be subject to all pertinent Town By-Laws and other applicable rules consistent with Chapter 100 of the Acts of 2002.

22-1-4. Meetings and Hearings The Rent Control Board shall meet at least once a year, no later than sixty (60) days before the Annual Town Meeting. The Rent Control Board shall hold a public hearing no later than twenty-one (21) days following the filing with the Town Clerk of any petition under Chapter 100 of the Acts of 2002. The Rent Control Board shall take action on any such petition within sixty (60) days of the opening of the public hearing.

## Chapter 23

### RIGHT TO FARM

(2008 ATM, Art. 31)

#### Article 1. Purpose and Intent

23-1-1. Purpose and Intent The purpose and intent of this By-Law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth of Massachusetts under Article 97 of the Constitution of the Commonwealth of Massachusetts, and all state statutes and regulations thereunder including but not limited to General Laws Chapter 40A, § 3 (1); Chapter 90, § 9, Chapter 111, § 125A and Chapter 128, § 1A. We, the citizens of Kingston, restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

23-1-2. Pursuit of Agriculture This General By-Law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmland within the Town of Kingston by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-Law shall apply to all jurisdictional areas within the Town.

#### Article 2. Definitions

23-2-1. Farm The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agricultural, or accessory thereto.

23-2-2. Farming or Agriculture The words "farming" or "agriculture" or their derivatives shall include, but not limited to the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities but not water;
- growing and harvesting of forest products upon forest land, and any other forest or lumbering operations;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and keeping and raising of poultry, swine, cattle, ratties (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food or other agricultural purposes, including bees and fur-bearing animals.

23-2-3. Farming “Farming” shall encompass activities including, but not limited to the following:

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

### **Article 3. Right to Farm Declaration**

23-3-1. Declaration The Right to Farm is hereby recognized to exist within the Town of Kingston. The above described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-Law are intended to apply exclusively to those commercial agricultural practices. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

### **Article 4. Disclosure Notification**

23-4-1. Notification by Board of Selectmen Within thirty days after this By-Law becomes effective, the Board of Selectmen shall prominently post in the Town House and make available for distribution the following disclosure:

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

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

**Article 5. Resolution of Disputes**

23-5-1. Dispute Resolution Process Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Zoning Enforcement Officer, or the Board of Health, depending on the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Board of Selectmen shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

23-5-2. Board of Health The Board of Health, except in cases of imminent danger or public health risk, shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

**Article 6. Severability Clause**

23-6-1. Severability If any part of this By-Law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-Law.

Codified 4/2/94  
Revised thru 4/4/09