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ARTICLE I
THE TOWN GOVERNMENT

(ATM - March 20, 1939 - Art. 12)

RULES OF ORDER FOR TOWN MEETING

(ATM - March 20, 1939 - Art. 12)
(STM – Oct. 27, 2003 – Art. 2)
(ATM – May 1, 2006 – Art. 7)
(STM – November 2, 2015 – Art. 5)
(STM – November 14, 2016 – Article 13)

1. CONSENT CALENDAR. At least five business days prior to the opening of the first session of the Annual Town Meeting or any Special Town Meeting, the moderator shall propose to all members a "Consent Calendar" listing all articles and budget areas which, based on the records of recent town meetings, the moderator deems to be non-controversial. At the first session of the meeting, at the request of any five members present, any article or budget area shall be removed from the Consent Calendar so that it can be debated and voted upon in accordance with the provisions of these Rules of Order. All items remaining in the Consent Calendar shall then be voted upon by a single vote without debate.

2. Any motions shall be in writing if requested by the moderator.

3. Any question may be divided on call of a member when the sense will admit of such division.

4. GREEN, RED, AND WHITE CARDS DURING DEBATE. To assist the moderator in shaping an orderly and equitable debate, green and red cards shall be used by members to indicate a desire to speak for or against the current motion on the floor. A desire to speak without advocacy or to ask a question shall be indicated with a white card.

5. When a question is under debate, the moderator shall receive no motion but to adjourn, to dismiss, for the previous question, to postpone for a day certain, to commit, or to amend, which several motions shall have precedence in the order herein mentioned. The meeting shall not vote to dismiss an article without having heard a voter speak in its favor, unless no one seeks to do so.

6. Following a motion under any article, the Moderator shall first recognize the proponent thereof to speak for up to five (5) minutes in favor of the motion, or with leave of Town Meeting, for additional time. Thereafter, and in the absence of leave of Town Meeting granting additional time, each subsequent speaker shall be limited to three (3) minutes. No person shall speak more than twice on the same subject, without leave of the meeting, except to raise a point of order or to answer a question.

7. When two or more motions are made with regard to the same subject relating to sums of money, numbers or times, the question shall first be put upon the largest sum or number, and the longest time.

8. VOICE VOTES, ELECTRONIC VOTES, TALLIED VOTES, AND STANDING VOTES. All votes unless otherwise provided for by law shall in the first instance be taken by 'ayes' and 'noes' voice vote.

If any member questions the voice vote, or if a four-fifths or nine-tenths vote is required by statute and the vote is not unanimous, or if the Moderator is in doubt, the procedure in either 8.a. or 8.b. shall be followed.

8.a. Procedure if Electronic Voting is available: An Electronic Tally shall be taken. For an Electronic Tally, the Clerk will record the name and vote of each member, along with the total received ayes noes and abstentions. This vote shall be determinative of the question. Each member shall cast his/her own vote only.

8.b. Procedure if Electronic Voting is not available: The vote shall be taken by a counted standing vote unless, within a short but reasonable period of time following the voice vote, which period of time shall be fixed by the moderator, any member requests a tally vote and if 14 members manifest their concurrence with that member, in which case the vote of each member shall be tallied by the use of a color-coded (green for aye, red for no) card. Each such card shall bear the member's name and indicate his/her vote. Each member shall cast his/her own vote only. Such cards shall be collected and counted by the tellers, which count shall be determinative of the question.

9. A vote may be reconsidered only on motion of a member who did not vote with the minority. When a motion for reconsideration is decided that decision shall not be reconsidered, and no question shall be twice reconsidered.

10. A motion to dissolve shall be debatable, but a motion to adjourn to a day certain shall not be debatable.

11. No motion to dissolve a town meeting shall be in order until every article in the warrant therefor has been acted upon.

12. A registered voter of the town who ceased to be an elected town meeting member upon election as chair of the finance committee and who subsequently ceases to be a town meeting member at large upon ceasing to be chair of the finance committee shall be a town meeting member at large for a period ending on the date of the next annual town election.

13. After 10:00 PM, and in the absence of a majority vote of Town Meeting so permitting, no motion under any article other than the article then under debate may be made.

THE FINANCE COMMITTEE

(ATM - March 20, 1939 - Art. 12)

1. There shall be a finance committee consisting of seven members to be appointed by the moderator. The members shall hold office for three years and their terms of office shall be so arranged that the terms of two members shall expire at the end of one year, and the terms of two

members at the end of the next year, and the terms of three members at the end of the third year, the terms of such members to expire on June 30 of the third year following their appointment. After each June 30 the moderator shall appoint as many members to said committee as are necessary to replace members whose terms expired on that June 30 date. The moderator shall fill by appointment any vacancy in the membership of the committee.

2. The committee shall annually elect its own chairman, secretary, and other necessary officers.

3. It shall be the duty of this committee to investigate all proposals in the articles of the warrant for any town meeting that shall in any way affect the finances of the town and to recommend to the town at the time of said meeting a course of action thereon, and in general to make recommendations to the town in regard to any financial business of the town.

4. It shall have control of the Reserve Fund of the town, and make appropriations there from, in accordance with the provisions of Chapter 347 of the Acts of 1912, and of Chapter 645 of the Acts of 1913.

TOWN MEETING COORDINATING COMMITTEE

(STM – November 2, 2005 – Art. 16)

(a) The Town Meeting Coordinating Committee. Duties of the Committee

There shall be a Town Meeting Coordinating Committee consisting of seven members who shall be elected, as required by Section (b) "Committee Elections," by the members of Town Meeting at the Annual Town Meeting.

Duties of the Committee. The first duty of this Committee shall be to provide continuing leadership and organization to Town Meeting and to extend outreach to the community on behalf of Town Meeting. The duties the Committee shall undertake shall include, but not be limited to the following: (1) organizing warrant forums prior to Town Meeting open to the public, (2) communicating to the public about Town Meeting through various means, (3) taking responsibility for the education and orientation for new Members. The Committee shall perform such other duties as Town Meeting shall determine from time to time.

(b) Committee Elections; Term of Office; Termination of Membership; Committee Vacancies

Committee Elections. The members shall hold office for two years. Four members shall be elected in even-numbered years and three in odd-numbered years. Nominations to the Committee shall be made in writing and delivered to the Town Clerk, with the consent of the nominee recorded on the nomination paper. Nominations shall be accepted at a session of each Annual Town Meeting to be determined by the Moderator after consultation with the Town Clerk or at the Town Clerk's Office prior to that session. The Town Clerk shall prepare a ballot of those nominated, which ballot shall be presented to each Town Meeting Member at a subsequent session of the Annual Town Meeting to be determined by the Moderator after consultation with the Town Clerk. Each

Town Meeting Member shall cast a number of votes less than or equal to the number of seats available.

Term of Office. Committee members' terms shall begin upon the dissolution of the Town Meeting at which they were elected and expire upon the dissolution of the Annual Town Meeting of the second year following their election. Members shall be sworn in by the Town Clerk.

Termination of Membership. Membership on the Committee shall terminate when the member submits a letter of resignation to the Town Clerk or ceases to be a Town Meeting member.

Committee Vacancies. When a position on the Committee becomes vacant for any reason other than expiration of a term, the Moderator shall appoint, from among those unelected candidates of the most recent Committee election who are still Town Meeting members and still willing to serve, the candidate who received the highest number of votes in said election, ties to be resolved by a coin toss. If no unsuccessful candidate from the most recent election meets these qualifications, the Moderator shall appoint a Committee member from among the current Town Meeting members. Appointed Committee members shall serve the remainder of the uncompleted term.

(c) Committee Internal Organization and Procedures: Officers, Subcommittees, Minutes

Officers. Upon dissolution of each Annual Town Meeting, the Committee shall elect from their membership a chairperson, vice-chairperson, a clerk, and a stacker, to serve until the dissolution of the next Annual Town Meeting.

Subcommittees. The Committee may, from time to time, constitute subcommittees as it deems appropriate. Subcommittees may include Town Meeting members who are not members of the Coordinating Committee. Each subcommittee shall be chaired by a member of the Coordinating Committee and appointed by the Chair of the Coordinating Committee.

Minutes. The Committee shall keep minutes of its proceedings and shall file these minutes with the Town Clerk. The proceedings of the subcommittees shall be rendered as reports to be included in the Committee's minutes.

STREET NAMES AND NUMBERS

(ATM - March 20, 1939 - Art. 12)

1. Numbers of houses constructed hereafter shall be assigned by the planning board in conformity with the uniform system of house numbering adopted by the selectmen in 1938. Names of new streets constructed hereafter must avoid similarity or duplication with names of existing streets and must meet the approval of the planning board before they may be accepted.

CLASSIFICATION OF NEW BY-LAWS

(ATM - March 20, 1939 - Art. 12)

1. As new by-laws are adopted by the town and become effective, the town clerk shall allocate each to an appropriate article in the scheme of town by-laws, giving it a suitable label if necessary, and numbering the sections thereof in continuation of the numbering of the sections of that article, or by affixing letters to a section number if the new by-law seems to belong in the middle of an article; and wherever in the new by-laws a reference is made to a section which will be misleading because of renumbering of the sections or because of incorporation of a new section in the old by-laws, the town clerk shall make such change in the reference as will make it apply to the section originally indicated, and shall cause a footnote to be printed on the same page with the reference, indicating which are the newly adopted sections, how they were originally numbered, and what was the wording in the reference as originally adopted.

SPECIAL BOARD OF APPEALS

(ATM - May 21, 1951 - Art. 3)

1. The board of appeals established under the zoning by-law shall act as the board of appeals under General Laws, Chapter 41, Section 81R, and the provisions of the zoning by-law for associate members of said board shall be applicable when the board acts under said Chapter 41.

HUMAN RIGHTS BYLAW

(STM – November 8, 1999 - Art. 16)
(Amended ATM – May 4, 2009 – Article 11)

1. The Town of Amherst hereby adopts a "Human Rights Policy" pursuant to which it shall be the policy of the Town that no person, public or private, shall be denied any rights guaranteed pursuant to local, state, and/or federal law on the basis of race or color, gender, physical or mental ability, religion, socio-economic status, ethnic or national origin, affectional or sexual preference, gender identity or expression, genetic information, lifestyle, or age.

a. The term "gender identity" shall include a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression whether or not that gender identity, gender-related self image, gender-related appearance, or gender -related expression is different from that traditionally associated with a person's sex at birth.

b. The term "genetic information" shall mean any written or recorded individually identifiable result of a genetic test as defined by this section or explanation of such a result or family history pertaining to the presence, absence, variation, alteration, or modification of a human gene or genes. For the purposes of this By-Law, the term genetic information shall not include information pertaining to the abuse of drugs or alcohol which is derived from tests given for the exclusive purpose of determining the abuse of drugs or alcohol.

2. There shall be a Human Rights Commission ("the Commission") of nine Amherst residents broadly representative of the community, appointed to three-year terms by the Select Board. Four members shall constitute a quorum.

3. There shall be a Human Rights Director ("the Director") appointed pursuant to the Town Manager Act.

4. a) The Commission shall advise the town, provide education and mediation to the community, and review all matters brought to its attention by the Director.

   b) The Commission, in conjunction with the Director, shall act to promote full implementation of the Town's "Human Rights Policy," as set forth in this bylaw, for any and all persons coming within the town of Amherst.

   c) The Commission shall advise and assist the Town Manager and Director in the achievement of affirmative action/equal opportunity objectives.

   d) The Commission shall conduct and participate in educational activities related to its responsibilities.

5. a) The Director shall enforce and carry out the "Human Rights Policy" adopted in this bylaw to its fullest extent.

   b) The Director shall, upon receiving a written complaint from any person or regarding matters pursuant to this bylaw otherwise brought to his/her attention, investigate promptly the circumstances of any situation within the town allegedly denying or threatening to deny in whole or in part to any person within the town, because of race or color, gender, physical or mental ability, religion, socio-economic status, ethnic or national origin, affectional or sexual preference, lifestyle, or age any right to which a person is entitled by law. The Director shall act as he/she deems appropriate to ascertain the facts concerning such alleged denial of rights in accordance with the procedures to be adopted pursuant to section 5 c) of this bylaw. The Director shall coordinate efforts with law enforcement in the investigation, prosecution and prevention of hate crimes. Complaints against the Town Manager shall be referred to the Select Board for appropriate action, and complaints against the Select Board shall be reported to a governmental agency having jurisdiction; the Director shall inform the chair and vice-chair or co-chairs of the Commission of all such complaints.

   c) The Director shall, in writing, establish procedures by which such investigations shall be conducted. In establishing such procedures the Director shall consider the privacy and other rights of the complainant, respondent, and witnesses in light of the Public Record Law, Massachusetts General Laws, Chapter 4, Section 7, Clause 26, and Chapter 66, Section 10, the right against self-incrimination, and the right to due process of law. Any such procedures shall be approved by the Town Manager prior to their implementation.

   d) The Director shall, thereafter, make such efforts (including conciliation conferences) as he/she deems reasonable and appropriate to resolve, by voluntary action on the part of those persons involved, the situation giving rise to the investigation.

e) If such voluntary action is not forthcoming or is deemed by the Director to be inadequate, the Director shall, after notice to all persons involved, report the matter to the Town Manager, the Select Board, local or state police on any matter within their jurisdiction, respectively, the Massachusetts Commission Against Discrimination, the Office of the Attorney General, the United States Department of Justice, or any other governmental agency having jurisdiction of the matter in question.

6. No less than twice per year, the Director, in conjunction with the Town Manager, shall inform the Commission of his/her activities, and the Commission shall provide input on those activities and other matters of concern to the Commission.

7. The Commission, in conjunction with the Director, shall annually prepare and submit a report on "The State of Human Rights in Amherst" with such recommendations as it deems appropriate concerning matters within its charge. The Commission shall furthermore, as part of its review function, submit reports and recommendations to the Select Board and/or Town Meeting and/or civil rights agencies outside of Amherst as it deems necessary. Said reports shall take reasonable precautions to protect the privacy interests of all parties involved.

RESPONSIBLE EMPLOYER BYLAW FOR GENERAL BIDDERS, GENERAL CONTRACTORS AND FILED SUBCONTRACTORS ON PUBLIC CONSTRUCTION PROJECTS IN THE TOWN OF AMHERST

(ATM – April 26, 2000 – Art. 6)

A. All bidders and all subcontractors under the bidder for projects subject to M.G.L. 149, c. 44A(2) shall, as a condition for bidding, agree in writing that they shall comply with the following obligations:

1. The bidder and all subcontractors under the bidder must comply with the obligations established under M.G.L. c. 149 to pay the appropriate lawful prevailing wage rates to their employees.

2. The bidder and all subcontractors under the bidder must maintain and participate in a bona fide apprentice training program as defined by c. 23, 11 H and 11 I for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice Training of the Department of Labor and Industries and must abide by the apprentice to journeymen ratio for each trade prescribed therein the performance of the contract.

3. The bidder and all subcontractors under the bidder must furnish hospitalization and medical benefits for all their employees employed on the project and/or coverage at least comparable in value to the hospitalization and medical benefits provided by the health and welfare plans in the applicable craft recognized by M.G.L. c.149, s.26 in establishing minimum wage rates. The cost of the provision of such benefits shall be treated in accordance with the prevailing wage law.

4. The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage for all the employees employed on the project in accordance with M.G.L. c. 152.

5. The bidder and all subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers'

compensation insurance coverage, unemployment taxes, social security taxes and income tax withholding. M.G. L. c 149, 148B

B. All bidders and subcontractors under the bidder who are awarded or who otherwise obtain contracts on projects subject to M.G.L. c. 149, 44A(2) shall comply with the obligations numbered 1 through 5 as set forth in paragraph A above for the entire duration of their work on the project, and an officer of each such bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.

C. Any bidder or subcontractor under the bidder who fails to comply with any of obligations 1 through 5 as set forth in Paragraph A above for any period of time shall be subject to one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the Town in the amount of 5% of the dollar value of the contract.

D. In addition to the sanctions outlined in Paragraph C above, a general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to M.G.L. c. 149, 44F.

E. The provisions of this Section shall not apply to construction projects for which the low general bid was less than $750,000 or to work performed pursuant to subcontracts that are subject to M.G.L. c.149, s.44F and that were bid for less than $75,000. These thresholds shall be adjusted every 5 years based on changes in the Consumer Price Index, rounded to the nearest $5,000.

F. If any provision of this ordinance, or the application of such provision to any person or circumstances, shall be enjoined or held to be invalid, the remaining provisions of this ordinance, or the application of such provisions to persons or circumstances, other than that which is enjoined or held invalid shall not be affected thereby.

PUBLIC WORKS COMMITTEE

(ATM - May 1, 1989 - Art. 31)

1. There shall be a Public Works Committee of five geographically diverse members appointed by the Board of Selectmen for staggered three year terms. Every effort shall be made to insure that at least one member shall have an engineering background.

2. The purpose of the Public Works Committee shall be:

   a) To evaluate based on recommendations by the Superintendent of Public Works, the Town Engineer and such other sources as they find appropriate, the town's road, sidewalk, drainage and traffic circulation systems, and to recommend priorities for their maintenance, repair, extension and reconstruction, consistent with the recommendations of the Public Transportation Committee and the Committee on Bicycling; and,

   b) To conduct public hearings, after notifying abutters in writing, on the need for and the scope of major projects or projects with significant impact proposed by the town or requested by petitioners; however, the committee shall not pre-empt the Scenic Road jurisdiction of the Planning Board conferred by Chapter 40 of the M.G.L.; and,

c) To make recommendations to the Town Manager, Board of Selectmen, and the Town Meeting on various aspects of public works projects proposed by the town or requested by petition; and,

d) To recommend when it believes necessary the appointment of technical, advisory and/or citizens committees for major projects of which at least one member shall be a member of the Public Works Committee; and,

e) To report annually to the town on its activities and on the expenditure of funds allocated to the committee.

COMMUNITY PRESERVATION COMMITTEE

(ATM – April 25, 2001 - Art. 9)

There shall be a community preservation committee, pursuant to and with the authority granted under Section 5, as now or hereafter amended, of Chapter 44B of the Massachusetts General Laws consisting of nine members. In accordance with Section 5(a) its membership shall include one member of the conservation commission as designated by the commission, one member of the historical commission as designated by the commission, one member of the planning board as designated by the board, one member of the leisure services and supplemental education commission as designated by the commission, and one member of the Amherst Housing Authority as designated by the authority, and four representatives of other town boards or committees or citizens at-large as designated by the Select Board. The Select Board shall make all appointments to the committee. The members of the committee shall be appointed for three year terms except that at the outset three shall be appointed for a one-year term, three for a two-year term and three for a three-year term. Any vacancy shall be filled by the Select Board in accordance with Section 5(a) of Chapter 44B. The members shall serve without compensation. The committee shall elect its own chair and secretary, each for a one-year term. The committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the committee shall constitute a quorum. The committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs. The secretary shall keep minutes of its meetings and attend to its correspondence.

The committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with the conservation commission, the historical commission, the planning board, the Leisure Services and Supplemental Education Commission in its capacity as park commissioners, and the housing authority. The committee shall also consult with and coordinate its recommendations with the Joint Capital Planning Committee. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city or 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 city or town.

The committee shall make recommendations to the Town Meeting annually for the acquisition, creation and preservation of open space, for the acquisition and preservation 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, historic resources, land for recreational use and community housing that is acquired or created as provided in the Community Preservation Act. In determining its recommendation to the Town Meeting, the committee shall consider the requirement of the Community Preservation Act that the Town Meeting spend or set aside for later spending not less than 10% of the annual revenues for open space (not including recreational use), not less than 10% for historic resources, and not less than 10% for community housing, or, upon amendment of the Act, such other requirements as may be contained therein. 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 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 for 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.

AMHERST AFFORDABLE HOUSING TRUST FUND

(ATM April 2014 – Art 14)

1. There shall be a Board of Trustees of the Amherst Affordable Housing Trust Fund, composed of seven members, of whom one shall be a member of the Select Board, one shall be a member of the Housing & Sheltering Committee, and five shall be qualified residents who would bring to the Trust relevant personal and/or professional experience and knowledge in real estate, finance, affordable housing, banking, architecture, social services, or the like. The Select Board shall appoint the Trustees for terms not to exceed two years, except that three of the initial trustee appointments shall be for a term of one year, so as to allow staggered terms. Said Trustees may be re-appointed at the discretion of the Select Board. Vacancies shall be filled by the Select Board for the remainder of the unexpired term. Any member of the Board of Trustees may be removed by the Select Board for cause after the opportunity of a hearing. Nothing in this section shall prevent the Select Board from appointing the Town Manager as an ex-officio eighth member, without the power to vote.

2. The Trustees are hereby authorized to execute a Declaration of Trust and Certificate of Trust for the Amherst Affordable Housing Trust Fund, to be recorded with the Hampshire County Registry of Deeds and filed with the Hampshire Registry District of the Land Court.

3. The powers of the Board of Trustees, all of which shall be carried on in furtherance of the purposes set forth in M.G.L. c. 44, § 55C, shall include the following:

    a. to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property

tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from M.G.L. c. 44B;

b. to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

c. to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the Board deems advisable notwithstanding the length of any such lease or contract;

d. to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;

e. to employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary, notwithstanding administrative and technical support provided through finance, treasurer/collector and accounting departments, and that which may be provided by Town staff in various departments, including but not limited to planning, inspection services and conservation;

f. to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;

g. to apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

h. to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

i. to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;

j. to carry property for accounting purposes other than acquisition date values;

k. to borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral;

l. to make distributions or divisions of principal in kind;

m. to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Board may deem appropriate;

n. to manage or improve real property; and to abandon any property which the Board determined not to be worth retaining;

o. to hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate; and

p. to extend the time for payment of any obligation to the trust.

q. to take any other action relative thereto.

4. These powers shall be subject to the following limitations;

   a. any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property must be approved by five of the seven voting members.

   b. the Trustees may incur debt, borrow money, grant mortgages and pledge Trust assets only in an amount not to exceed 80% of the Trust's total assets.

   c. any debt incurred by the Board shall not constitute a pledge of the full faith and credit of the Town of Amherst and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the Town of Amherst with an acknowledgement of said statement by the holder.

5. The Board of Trustees shall provide for an annual audit of the books and records of the Trust. Such audit shall be performed by an independent auditor in accordance with accepted accounting practices. Upon receipt of the audit by the Board of Trustees, a copy shall be provided forthwith to the Select Board.

LICENSES AND PERMITS
LOCAL LICENSES AND PERMITS
DENIAL, REVOCATION OR SUSPENSION FOR FAILURE TO PAY MUNICIPAL TAXES OR CHARGES

(STM - May 21, 1990 - Art. 7)

a) The Tax Collector shall annually, after the close of the fiscal year, furnish to each department, board, commission or committee ("licensing authority"), that issues licenses or permits

including renewals and transfers, a list of any person, corporation, or business enterprise, ("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.

b) 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 a 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 proceedings at law, except for any appeal from such license denial, revocation or suspension. 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 of the date of issuance of said certificate.

c) Any party shall be given an opportunity to enter into a payment agreement in accordance with applicable Massachusetts General Laws, 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.

d) The Select Board may waive such denial, suspension or revocation if it finds there is not direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his/her immediate family, as defined in Massachusetts General Laws.

This section shall not apply to the following licenses and permits: open burning, bicycle registrations, temporary licenses to sell articles for charitable purposes, hunting and fishing licenses; licenses to organizations to dispense food or beverages to members and guests, animal licenses, marriage licenses, and theatrical exhibitions.

LICENSE FEES

(STM - September 20, 1989 - Art. 6)

Under the authority conferred by Chapter 140, Section 2 of the M.G.L. a fee for licenses granted to innholders at $50.00 each and a fee for licenses granted to common victuallers at $50.00 each; and, under the authority conferred by Section 49, establish a fee for licenses granted to persons operating lunch carts at $100.00 each.

TOWN FEES AND CHARGES

(ATM - May 2, 1983 - Art. 41)

There shall be a fee schedule in which shall be set forth and published all fees collected by the Town, which schedule shall include (1) such fees as are required by statute to be set from time to time by town meeting by ordinance or by-law, and (2) such other fees as the Town is otherwise authorized to establish and amend.

DISPOSITION OF FEES RECEIVED BY TOWN OFFICERS

(ATM - March 20, 1939 - Art. 12)

All town officers are hereby required, in accordance with chapter forty, section twenty-one of the General Laws, to pay into the town treasury all fees received by them by virtue of their office.

PERSONNEL BYLAW

(Amended through September 1, 1995)

Section 1 - Name of Bylaw and Authority

This Bylaw shall be known and cited as "The Personnel Bylaw", and is hereby adopted pursuant to the provisions of the General Laws, Chapter 41, Section 108-C, and amendments thereof.

Section 2 - Coverage

This Bylaw shall be applicable to all persons in the service of the Town except officials elected by popular vote, the Town Manager, and persons under the direction and control of the School Committee. All persons covered hereby shall receive the rate of pay and be subject to the provisions set forth by the Board of Selectmen on recommendation of the Personnel Board, subject to budgetary considerations and appropriation of funds. Nothing in this Bylaw shall be construed to be in conflict with Chapter 31 of the General Laws relating to Civil Service, or with Chapter 1078 of the Acts of 1973 relating to Public Employee Collective Bargaining, which shall prevail if there is any conflict.

> **It shall be the policy of the Town of Amherst to guarantee equal opportunity to all qualified applicants and to all employees with respect to initial appointment, advancement, compensation, and general working conditions without regard to age, race, creed, color, sex, national origin, or physical condition.**

Section 3 - Personnel Board and Town Manager

There shall be a Personnel Board consisting of five members, each member to serve for a three-year term, expiring on June 30 of the third fiscal year after their appointment. No person in the employ of or holding an official position in the Town government, except Town Meeting members, shall be eligible for appointment to the Personnel Board.

The Board of Selectmen shall appoint four members of the Personnel Board. For one member, the Board of Selectmen shall receive a nomination for appointment from the employees covered by this by-law. One member of the Personnel Board shall be appointed by the Library Trustees. Members of the Personnel Board must be residents of the Town of Amherst. The Personnel Board shall elect a Chair.

The Personnel Board has the conclusive authority to interpret this Bylaw and to decide all questions relating to its application. The Personnel Board, upon the recommendation of the Town Manager, or on its own motion, with the advice of the Town Manager, shall promlugate procedures deemed necessary for the administration of this Bylaw. Such procedures shall be delineated in the Personnel Procedures Manual.

Section 4 - Classification of Positions and Pay Scales

The classification of positions in the service of the Town, the establishment of a compensation plan; and its periodic updating, is the responsibility of the Board of Selectmen on the recommendation of the Personnel Board. The classification plan shall be based on similarity of duties performed and the responsibilities assumed so that the same qualifications may be reasonably required for, and the same schedule of pay may be equitably applied to, all positions in the same classification.

The Personnel Board shall recommend changes to the classification plan to the Board of Selectmen for their approval.

A compensation plan shall be established by the Board of Selectmen on the recommendation of the Personnel Board. Such compensation plan shall delineate the levels and steps which employees shall be compensated for their services at. With the exception of appointments made for emergencies, no employee may be appointed to a position not included in the classification plan.

Section 5 - Hours of Work

Procedures regarding the hours of work, compensatory time, and overtime shall be established by the Personnel Board.

Section 6 - Vacations

All employees covered by the Bylaw shall be eligible or vacation according to procedures established by the Personnel Board.

Section 7 - Sick Leave

Sick leave shall be granted to all benefited employees covered by this by-law according to procedures established by the Personnel Board.

Section 8 - Holidays
The Personnel Board shall establish procedures for the granting of holidays to employees covered by this Bylaw. Such procedures shall delineate the process to compensate those employees required to work on holidays.

Section 9 - Other Leave
Procedures for the granting of other leaves shall be established by the Personnel Board in compliance with federal and state regulations. Examples of such leaves include, but are not limited to, leave for jury service, military leave, family and medical issues, injury, religious observance, bereavement, personal, and leave without compensation.

Section 10 - Adoption and Amendment of Classification, Compensation and Personnel Policies
Any member of the Personnel Board, the Town Manager, any employee, or any citizen of Amherst may suggest policies or procedures for consideration by the Personnel Board. The Personnel Board shall post an agenda of each meeting. Any recommendations of policy shall contain the text of the proposal, an explanation of the proposal, and the implications, financial or otherwise, of the proposal.

The Personnel Board shall act on any proposals within sixty (60) days of the meeting of the Personnel Board at which the proposal is first introduced for consideration by the Personnel Board. The Personnel Board shall make recommendations to the Board of Selectmen with regard to policies. Policies shall become effective upon the approval of the Board of Selectmen, unless some other date is specified when the Board of Selectmen approves the policy. The Personnel Board shall take action with regard to procedures. Procedures approved by the Personnel Board shall become effective on the date the Personnel Board votes to amend the Procedures Manual, unless some other date is specified when the Personnel Board approves the procedure.

Section 11 - Annual Report
The Board of Selectmen shall provide a detailed report to the Annual Town Meeting. Such report shall include any approved changes in any of the policies listed above.

Section 12 - Severability
Each provision of this Bylaw shall be construed as separate to the extent that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

ARTICLE II
GENERAL REGULATIONS
(ATM - March 20, 1939 - Art. 12)

CONDUCT IN OR ON PUBLIC WAYS AND PLACES
(ATM - March 20, 1939 - Art. 12)

1. **Bicycle Regulations** (STM - April 8, 1946 - Art. 3)
No person shall operate a bicycle at a speed or in a manner which is inconsistent with public safety or convenience under the conditions then existing.

The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

No person shall ride a bicycle upon any public sidewalk or public pedestrian easement within the downtown general business district or urban renewal project area, except upon those ways where vehicular passage by the public is explicitly allowed. When riding on sidewalks outside the downtown general business district, or urban renewal project area, bicyclists shall yield the right of way to pedestrians, use care at all times and give an audible sign before overtaking and passing any pedestrian. If sidewalks are crowded, bicyclists must dismount, or ride in the streets.

The penalty for violation of this section shall be $20.00 for each violation. This section may be enforced pursuant to the noncriminal disposition method as contained in M.G.L., Chapter 40, Section 21D. Enforcing persons shall be police officers.

2. **Other Non-Motorized Conveyances** (ATM - March 20, 1939 - Art. 12)
In order to protect the public safety, no person shall coast, ride upon or otherwise operate any sleigh, sled, skis, skates, skateboard, roller skates, roller blades or other similar nonmotorized conveyance upon any public sidewalk, public pedestrian easement or street within the downtown general business district or urban renewal project area, except within such areas, at such times or under such conditions as may hereinafter be designated by the select board. All devices used by disabled persons for purposes of personal transportation or used by persons for the transportation of infants and young children are exempted from the provisions of this section.

Persons coasting, coursing, sliding on, riding or otherwise operating any sleigh, sled, skis, skates, skateboard, roller skates, roller blades, or other similar non-motorized conveyance in any of the streets, or upon any sidewalks in this town outside of the downtown general business district and urban renewal project area shall use proper care and shall not travel at a speed or in a manner which is inconsistent with public safety or convenience under the conditions then existing. Persons using such devices on sidewalks shall yield the right-of-way to pedestrians; persons traveling upon streets shall keep as near to the right hand side of the roadway as practicable and shall yield the right-of-way when entering an intersection.

The penalty for violation of this section shall be $20.00 for each violation. This section may be enforced pursuant to the noncriminal disposition method as contained in M.G.L. Chapter 40, Section 21D. Enforcing persons shall be police officers.

3. **Impeding Traffic** (ATM - March 20, 1939 - Art. 12)
No person shall obstruct or impede pedestrian traffic upon any sidewalk or public pedestrian easement, or obstruct or impede vehicular traffic upon any street in the town, unless reservation therefor has been secured in accordance with the provisions of Article III, Parades and Public Meetings of these by-laws.

Whoever violates this section shall pay a fine of not more than $50.00 for each violation.

This section may be enforced pursuant to the non-criminal disposition method as contained in M.G.L., Chapter 40, Section 21D. Under this option, the penalty for violation of this section shall be $50.00 for each violation, enforcing persons shall be police officers.

4. **Parking and Delivery** (STM - April 27, 1992 - Art. 7)
The select board is authorized to promulgate regulations governing the location, time and duration of parking for all purposes, including but not limited to the pickup or delivery of goods, wares and merchandise, repairs, service, waste handling or recycling, within public ways in the town and upon all public rights-of-way, easements and leaseholders used or intended for pedestrian and/or vehicular passage. The select board shall have the authority to amend said regulations from time to time, and to set fines for violations. Prohibitions and restrictions under said regulations shall become effective upon installation of signs giving notice thereof.

Prior to adoption of said regulations and any subsequent amendment thereto, the select board shall conduct a public hearing, notice of the time and place of which, and of the subject matter, sufficient for identification, shall be posted in a conspicuous place in the town hall for not less than fourteen (14) days before the day of such hearing and said notice shall also be published in a newspaper of general circulation in the town once in each of two weeks, the first publication to be not less than fourteen (14) days before the day of the hearing.

Where proposed regulations or amendments to said regulations apply to easements or leaseholds, owners of the encumbered properties shall be notified of the hearing by mail at least fourteen (14) days prior to the day of the hearing. Further, all reasonable and practicable attempts shall be made to notify business or residential tenants of immediately affected or abutting properties.

5. **Activities and Amusements** (ATM - March 20, 1939 - Art. 12)
No person shall play at ball or any similar amusement in any street of this town. No person or group of persons, while playing at ball or engaging in any amusement or activity in any park or common of this town, shall interfere with another event or activity already in progress or previously reserved.

Whoever violates this section shall pay a fine of not more than $200.00 for each violation.

6. **Littering** (ATM - March 20, 1939 - Art. 12)

No person shall place or cause to be placed any waste, refuse, boxes, or any other matter in or on any street, park or common of this town.

Whoever violates this section shall pay a fine of not more than $100.00 for each violation.

7. **Open Containers of Alcohol** **(**STM - February 26, 1986 - Art. 51)
(Amended ATM – May 3, 2010 – Art. 28)

No person shall consume any alcoholic beverage nor possess or transport any open can, bottle or other container containing any alcoholic beverage outdoors on any town street, sidewalk, way and public property including but not limited to parking lots, parks, school playgrounds, recreation areas, or conservation areas.

Whoever violates this section shall pay a fine of $300.00 for each violation.

8. **Transporting Garbage or Rubbish** **(**ATM - March 3, 1947 - Art. 31)

No person shall drive or convey through public ways any vehicle carrying rubbish, garbage, or waste materials of any kind or description, unless said vehicle is so equipped with covering as to prevent the rubbish, garbage or waste materials so carried from falling or being blown from said vehicle.

Whoever violates this section shall pay a fine of not more than $50.00 for each violation.

9. **Residential Parking** (ATM - April 25, 1994 - Art. 5) (ATM – April 28, 1999 – Art. 42)

SECTION 1. The Town of Amherst hereby declares that because of long-term parking on streets in residential neighborhoods and areas within the Town by individuals accessing educational, commercial and other facilities in the Town, residents of affected areas have been unable to find adequate parking for themselves, their invitees and guests, and, in some cases, access for emergency and other municipal vehicles and services has been impeded.

SECTION 2. The Town of Amherst hereby declares that it is in the best interests of the inhabitants of the Town and the residents of affected neighborhoods and areas that parking on certain streets be regulated by rules and regulations to be promulgated by the Board of Selectmen pursuant to Section III, below, so as to alleviate the inability of residents to park and so as to assure access for emergency and municipal vehicles.

SECTION 3. The Board of Selectmen of the Town of Amherst is hereby authorized and empowered to cause studies and investigations to be made, either on its own initiative or upon request of resident(s) of the Town, to determine a) whether a residential neighborhood or area is subject to long-term parking by individuals accessing educational, commercial or other facilities within the Town and b) whether such long-term parking has the effect of depriving residents of such neighborhood or area of adequate parking for themselves or for invitees or guests and/or of impeding access by emergency and/or other municipal vehicles. Upon a finding that a neighborhood is subject to such long-term parking and such long-term parking has the effect of depriving residents of such neighborhood or area from finding adequate parking and/or of impeding access by emergency and/or other municipal vehicles, the Board of Selectmen may define the neighborhood or area so affected, and may impose reasonable regulations for parking

in such neighborhood or area as defined by the Board of Selectmen. Residents of such neighborhood or area shall be notified in writing of such regulations proposed by the Board of Selectmen, and a public hearing on the regulations shall be held. Such regulations may include, but shall not be limited to, issuance of permits to residents of such neighborhood or area for parking by themselves, their invitees or guests, and issuance of permits to residents of such neighborhood or area suspending parking meter fees and/or time limits for all or part of the day at certain specified parking meters. In addition, in promulgating rules and regulations under this section, the Board of Selectmen may designate a neighborhood or area to be regulated as a “tow zone” in which vehicles parked without a permit in violation of this bylaw may be towed pursuant to the provisions of section IV, below.

SECTION 4. In accordance with the authorization and power granted to the board of Selectmen in paragraph III, above, upon the adoption of any rules or regulations in accordance with paragraph III, the board of Selectmen shall establish penalties for violations of any such rules and regulations, which shall not exceed $10.00 for each violation. Enforcement of rules and regulations promulgated by the board of Selectmen under Section III shall be pursuant to the provisions of General Laws, Chapter 90, Section 20A. In addition to enforcement through the provisions of General Laws, Chapter 90, Section 20A as set forth above, in any area designated by the Board of Selectmen as a "tow zone" in accordance with the provisions of section 111, above, any vehicle parked in violation of any rule or regulation adopted by the Board of Selectmen may be towed and stored at the sole cost and expense of the owner of such vehicle.

10. **Handicapped Parking** ATM - April 24, 1995 - Art. 32) (STM – Oct. 28, 2002 – Art. 13) (STM- Nov. 2, 2005 – Art. 15)

SECTION 1. It shall be unlawful for any person to leave any vehicle within parking spaces on public or private property which are required, under any provision of federal, state or local laws or regulations, to be designated and are clearly marked as reserved for vehicles owned and operated by disabled veterans or handicapped persons, except a vehicle transporting a handicapped person and displaying the special identification plate issued by any state or any Canadian province, or to leave a vehicle in such a manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way.

SECTION 2. The penalty for violation of this bylaw shall be two hundred dollars; provided, however, that nothing herein shall be construed as prohibiting the removal, in accordance with the provisions of section one hundred and twenty D of chapter two hundred and sixty-six, of any vehicle which is in violation of this bylaw.

SECTION 3. This bylaw shall be enforced by Town of Amherst Police Officers, Parking Enforcement Officers or the Disabilities Access Coordinator. This bylaw may be enforced through the non-criminal disposition method provided in Section 21D of Chapter 40 of the General Laws of the Commonwealth of Massachusetts. For purposes of non-criminal disposition, the enforcing persons shall be those town officials set forth in this section of the bylaw and the specific penalty shall be as provided in Section 2 of this bylaw.

SECTION 4. This bylaw shall be known and referred to as the "Handicapped Parking Bylaw".

ANIMAL WELFARE

(ATM – April 24, 2002 Art. 7)
(ATM – May 2, 2011 – Art. 34)

Preamble

The animal welfare regulations herein established are for the purpose of promoting the health, safety, and general welfare of the Town of Amherst and its animals. This bylaw contains standards relating to the treatment, confinement and keeping of dogs; cat regulations, and regulations governing the raising or keeping of livestock and poultry on residential properties. The intent of this bylaw is to enhance the quality of life of citizens and animals in the Town of Amherst, and to protect the general public from damage, injury or illness that may be caused by unregulated animals.

1. Validity

This bylaw is not intended to derogate or limit any powers, rights, or obligations set forth in M.G.L. Chapter 140, but is in addition thereto.

2. License Requirement

Any owner/guardian or keeper of a dog six (6) months of age or older shall cause that dog to be licensed as required by M.G.L. Chapter 140, Section 137, commencing on April 1 of each year.

3. License Fee

The fee for every license shall be set by the Town Clerk in accordance with M.G.L. Chapter 40, Section 22F. The fee for a license for any dog that has been neutered or spayed and for which a certificate from a registered veterinarian has been presented to the Town Clerk, shall be set at no more than one-third (1/3) of the fee set by the Town Clerk in accordance with this section. The appropriate license fee, proof of rabies vaccination and neutering/spaying certificate, if any, must be presented to the Town Clerk at the time of application for a license, and, in addition, a stamped self-addressed envelope must accompany an application for a license by mail.

A. A penalty of thirty dollars ($30.00) shall be imposed upon all owners/guardians or keepers of dogs failing to renew licenses before June 1 of each year. This penalty shall take effect on June 1 of each year.

B. No license fee shall be charged for specially trained service animals, provided one of the following: a doctor's prescription, a doctor's letter on office letterhead, a letter from a service animal training program, or a photo ID of said service animal is shown that such an animal is currently being/has been trained to assist an individual with a disability in accordance with M.G.L. Chapter 140, Section 139, the Americans with Disabilities Act and M.G.L. Chapter 272, Section 98a. Application shall be made for a license as provided in this bylaw, and license tags issued by the Town must be worn by any such service dog.

C. In accordance with M.G.L. Chapter140, Section 138, the owner/guardian or keeper of any dog six months old or older who is a new resident of the Town of Amherst shall register said

dog within thirty days of taking up residence, subject to a late fine in accordance with Section 3.A.

D. No license fee will, or part thereof shall, be refunded because of subsequent death, loss, spaying, neutering, removal from the Town of Amherst, or other disposal of the dog for which the license has been issued, nor shall any fee for a license issued to a new resident be prorated.

4. Dog Regulations

A. It shall be a violation of this bylaw for which the owner/guardian or keeper shall be liable for a dog to:
   i. go beyond the confines of the owner/guardian's or keeper's property unless the dog is held firmly on a leash, or is under the control of its owner/guardian or keeper, subject to restrictions of Section 5.A.
   ii. disturb the peace or quiet or endanger the safety of any person or other animal, by biting, barking, howling, or in any other manner
   iii. be unrestrained in violation of any order of the Select Board or of the Animal Welfare Officer
   iv. frighten, kill, maim or otherwise injure another's fowl, livestock or domesticated animal
   v. chase another's vehicle on any way open to public travel
   vi. be unlicensed or untagged in violation of state law or of this bylaw.

   Violation of this subsection may be subject to a penalty of fifty dollars ($50.00) for each such violation.

B. Any person may make a complaint to the Animal Welfare Officer regarding an alleged violation of the preceding subsection. Upon receipt of such complaint, the officer shall investigate, and may issue a written order that the dog be temporarily restrained or muzzled, as the officer deems necessary. Within twenty-one days of the issuance of such a written order, the officer shall file a report requesting a Select Board hearing. On receipt of such report and after examination of the complaint, the Select Board may take actions it deems necessary. The owner/guardian or keeper of a dog subject to such an order of the Select Board may within ten days file an appeal in district court.

C. The Animal Welfare Officer may impound any dog determined by her/him to be involved in a violation of either of the two preceding subsections hereof. If the owner/guardian or keeper can be ascertained by some identification device on the dog, the Animal Welfare Officer shall immediately advise that person of the dog's impoundment, the procedures for reimbursing the animal holding facility, the right to redeem the dog, and licensing procedures if applicable. Any dog so impounded and unredeemed after 10 days may be disposed of as provided in Chapter 140, Section 151A of the Massachusetts General Laws.

5. Dogs Unleashed

A. No dog shall be permitted to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school

recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas. Notwithstanding the prohibitions contained in the preceding sentence, the Conservation Commission, Leisure Service and Supplemental Education Commission, Amherst and Amherst-Pelham Regional School Committees, Select Board or Town Manager may issue regulations which may permit dogs to be unleashed on land controlled by said Commission, Committee, Board or Town Manager.

Violation of this subsection may be subject to a penalty of twenty-five dollars ($25.00) for each such violation.

B. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst, except as allowed in Section 5.A., may be apprehended and confined by the Animal Welfare Officer and/or a Police Officer.

C. Any dog found to be unleashed while in any public park, public playground, public building, or public recreational field or facility, or in any school yard or school recreational field during school hours or after-school hours when an athletic or other event is occurring on school grounds, or in the downtown business areas of the Town of Amherst and not in the presence of its owner/guardian or keeper, except as allowed in Section 5.A., shall be apprehended and confined by the Animal Welfare Officer and/or a Police Officer. Upon impoundment of any dog in accordance with this subsection or the preceding subsection, the Animal Welfare Officer shall notify forthwith the licensed owner/guardian or keeper of said dog, giving the said owner/guardian or keeper a period of ten (10) days within which to recover the dog. For each and every dog picked up by the Animal Welfare Officer or her/his agent there shall be a pickup fee in increasing amounts for each occurrence, not to exceed fifty dollars ($50.00). Fees, including the daily fee for the care of the dog, are payable by the owner/guardian or keeper before retrieval of the dog shall be allowed.

D. It shall be unlawful for any person to fasten, chain or tie a dog to a stationary object for a period of time in the downtown business area so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian, as determined by the Animal Welfare Officer.

Violation of this section may be subject to a penalty of twenty-five dollars ($25.00) for each offense.

E. The Animal Welfare Officer of the Town of Amherst and/or any Police Officer of said town shall enforce the provisions of this section of the bylaw.

6. Prohibits Dog Waste Excretion on Public Ways

A. It shall be unlawful for the owner/guardian or keeper having care of a dog to permit such dog, either willfully or through failure to exercise due care or control of such animal, to excrete any solid waste upon any sidewalk, public street or public park, schoolyard or school recreational field, or public recreational areas, or upon any real property other than the real property owned or controlled by such owner/guardian or keeper. No violation of this section shall be deemed to have occurred if the owner/guardian or keeper of the offending animal promptly and voluntarily removes the animal waste.

B. Violation of this section may be subject to a penalty of fifteen dollars ($15.00) for each offense.

C. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

7. Cat Regulations

A. Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.

B. The Health Director, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.

8. Urban Livestock or Poultry Regulations

The raising or keeping of livestock or poultry for private purposes as an incidental use by the owner(s) of any single-family residential property or on any parcel under one ownership with no more than three dwellings thereon, shall be permitted and regulated under the provisions of this bylaw and other applicable local and state regulations. The provisions of this bylaw shall not apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3.

A. Regulations - All livestock or poultry governed by this by-law shall be raised and kept in a safe and humane manner, consistent with best agricultural practices and as required under all applicable state and local regulations. Best practice regulations for the raising and keeping of livestock or poultry in Amherst under this bylaw may be promulgated by the Health Director, following consultation with the Animal Welfare Officer and the Agricultural Commission. Said regulations shall be published and otherwise made available to members of the public and prospective registrants.

   Best practice regulations shall include, but are not limited to, the following minimum standards:

   1) Enclosure & Shelter. Domesticated fowl or rabbits shall be confined with fencing or other enclosure sufficient to prevent access to the animals by dogs or other predators, which enclosure shall contain a minimum of ten (10) square feet of open area per adult animal. Within or attached to any such enclosure shall be provided a covered, predator-proof shelter or roosting structure (e.g. coop, dovecote, hutch, or shed, as appropriate) that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners, and at least 2

square feet per animal in size. As appropriate to the species, animals may be required to be shut into the shelter coop at night, from sunset to sunrise.

2) Feed Storage. Feed shall be stored in a secure, rodent- and predator-proof container in a manner that will not attract pests.
3) Waste. Accumulated waste shall be stored in a covered container and removed from the property at suitable intervals, or composted on site in a manner that will not attract pests or promote disease. No animal manure may be put into household trash. Applicants must have a compost bin set up at the time of any inspection.
4) Odors & Noise. Odors from domesticated fowl and rabbits, their waste, compost, or other related substances shall not be perceptible at the property boundaries. It shall be a violation of these regulations for the owner, custodian, or keeper of any animal governed under these regulations to allow the animal(s) to be a nuisance to any neighbors, including but not limited to: noxious odors from the animals or their enclosure; and noise of a loud and persistent and habitual nature. Complaint shall be to the Health Director.

The Animal Welfare Officer may interpret these standards and apply stricter standards, as authorized under state law.

B. Registration & Inspections - Prior to acquiring livestock or poultry, the property owner shall register with the Amherst Health Department an application describing fully and accurately their proposal to raise and keep livestock or poultry, and registering the property involved. The Health Director may require that such applications be made on forms provided by the Amherst Health Department. All registration applications shall be reviewed and approved, denied, or approved with conditions by the Health Director after consultation with the Animal Welfare Officer. Any approved registrant shall thereafter abide by the provisions of the best practice regulations established hereunder and any specific conditions imposed under the approval, and shall permit annual inspections and such other inspections of the premises as may be required by the Animal Welfare Officer under the provisions of MGL Ch. 129, Section 7.

C. Fees - Under the provisions of MGL. Ch. 40, Section 22F, the Health Director is authorized to set reasonable fees for registration and such inspections as may be required. There shall be no reimbursement or pro-rating of application or inspection fees.

D. Notice – Except as provided for under Section F., as part of every application made under these regulations, an applicant shall provide a copy of a certified abutter's list obtained from the Assessor and written notice of their intent to raise or keep livestock or poultry, to be sent by the Health Department by standard mail to parties in interest as required under MGL Ch. 40A, Section 11. The notice shall fully and accurately describe the location and the proposed number and type of animals, as well as all associated structures and facilities. The notice shall also indicate that abutters have the right to file with the Health Director written comments in support of or objecting to the application, and shall indicate the deadline for submission of comments.

E. Administrative Hearing - Where no special permit will be required under Amherst's zoning for the keeping or raising of animals for which application is also being made under these

regulations, the Health Director shall not act on said application until more than fourteen (14) working days have passed since the mailing of notice to abutters. If at the end of that period the Health Director has received written comments whereby the owners of a majority of the abutting properties have expressed objection to the application, the Director shall schedule and hold, within thirty (30) days of the deadline for receiving abutter comment, an administrative hearing for the purpose of taking public testimony regarding the proposal. The Director shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the applicant by certified mail, to abutters and parties in interest by mail, by posting with the Town Clerk, and by publication once in a newspaper of local circulation. Failure to hold an administrative hearing within the specified time period shall be considered to constitute a constructive grant of approval of the application.

F. Exception - No certified abutters list, nor any notice to abutters, nor an administrative hearing shall be required in those instances where a special permit will also be required under Amherst's Zoning Bylaw for the keeping or raising of animals subject to an application under this bylaw.

G. Decision – Following the close of an administrative hearing, the Health Director shall within five (5) working days render a decision in writing based upon compliance of the proposal with best practices and such other factors of public health and welfare as the Director may deem appropriate. In approving an application, the Health Director may, following consultation with the Animal Welfare Officer, impose any reasonable conditions, safeguards and limitations including conditions above and beyond those specified in the best practices regulations developed under this section, all as in compliance with existing zoning and other regulations.

H. Violations – Violation of this section may be subject to a penalty of $25.00 for each offense, with each day the violation continues constituting a separate offense.

I. Enforcement – Enforcing persons shall be the Animal Welfare Officer, the Health Director, or the Health Inspector/Sanitarian.

9. Conduct of Persons in Control of Animals Other than Dogs

Cattle and other animals in the public way. A person who owns or is in control of any goat, sheep, swine, horse, cow, other neat cattle, or fowl, shall not permit such animal to go at large in any of the streets, commons or parks of this town, and shall not drive or lead such animal along or upon any of the sidewalks, parks or commons of this town, except in the case of sidewalks for the purpose of immediately crossing the same. Horses used by the police department shall be excluded from this prohibition.

Violation of this subsection may be subject to a penalty of fifty dollars ($50.00) for each violation.

10. Frightening Animals

No person by noise, gesture or other means shall maliciously frighten any horse or other domestic animal in any street or public place in this town.

Violation of this subsection may be subject to a penalty of twenty-five dollars ($25.00) for each violation.

11. Severability Clause

The provisions of this bylaw shall be deemed severable, so that the invalidity of any one provision of the bylaw shall not affect the validity of another provision, and if any part of this bylaw shall be adjudged unconstitutional, inconsistent with state law, or otherwise invalid, such judgment shall not affect any other valid part of this bylaw.

12. Non-Criminal Disposition

Any enforcing person, as set forth below, taking cognizance of a violation of this bylaw, may, as an alternative to initiating criminal proceedings, enforce this bylaw non-criminally pursuant to M.G.L. Chapter 40, Section 21D. For purposes of this section, the following shall be enforcing persons: Animal Welfare Officer, Health Director, and Police Officer. The specific penalty for violation shall be the amount established in this bylaw.

DOG WELFARE

(STM – November 10, 2013 – Art. 13)

In order to enhance the quality of life of citizens and dogs in the Town of Amherst, and to protect the general public from damage and nuisance that may be caused by dogs confined outdoors, this bylaw regulates the confinement and tethering of dogs.

Prolonged Confinement of Dogs Outside

(A) Prolonged Chaining or Tethering of Dogs is Prohibited.

No person owning or keeping a dog in the town shall chain or tether a dog to a stationary object including but not limited to any structure, dog house, pole or tree for longer than eight (8) total hours in any 24-hour period. Any tethering employed shall not allow the dog to leave the owner/guardian's or keeper's property. The tether must be designed for dogs (e.g., logging chains and other lines or devices not for the purpose of tethering dogs may not be used). No chain or tether shall weigh more than one-eighth (1/8) of the dog's body weight. Nothing in this section shall be construed as prohibiting a person from walking a dog on a hand-held leash.

No dog under the age of six (6) months shall be tethered outside for any length of time.

(B) Permissible Outside Confinement.

A person owning or keeping a dog in the town may confine such dog outside, subject to the restrictions stated elsewhere in this by-law, through the use of any of the following three methods:

(1) Inside a pen or secure enclosure, if the following conditions are met:

(a) The pen or secure enclosure has adequate space for exercise with a dimension of at least one hundred (100) square feet. Commercial dog kennels with pens intended for the temporary boarding of dogs are exempt from this requirement.
(b) The pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all four (4) sides enclosed.
(c) The minimum height of the fence is adequate to successfully confine the dog.

(2) A fully fenced, electronically fenced, or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard.

(3) A trolley system or a tether attached to a pulley on a cable run, if the following conditions are met:
(a) Only one dog may be tethered to each cable run.
(b) The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two (2) adult fingers may fit. Choke collars and pinch collars are prohibited for the purposes of tethering a dog to a cable run.
(c) There must be a swivel on at least one end of the tether to minimize tangling of the tether.
(d) The tether and cable run must each be at least ten (10) feet in length. The cable must be mounted at least four (4) feet but not more than seven (7) feet above ground level.
(e) The length of the tether from the cable run to the dog's collar or harness must allow continuous access to clean water and appropriate shelter at all times as described in paragraph (C) of this bylaw. The trolley system or tether must be of appropriate configuration to confine the dog to the owner/guardian's or keeper’s property, to prevent the trolley system or tether from extending over an object or an edge that could result in injury or strangulation of the dog, and to prevent the trolley system or tether from becoming tangled with other objects or animals.

(C) Access to Water and Shelter.
Any person owning or keeping a dog in the town confined outside in accordance with Paragraph (B) of this section must provide the dog with access to clean water and an appropriate dog shelter. The dog shelter must allow the dog to remain dry and protected from the elements. Such shelter shall be fully enclosed on at least three sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down, and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage must be provided so that water, ice, or waste is not standing in or around the shelter.

(D) No Outside Confinement at Night.
No person owning or keeping a dog in the town may leave a dog chained, tethered or confined outside between the hours of 11:00 p.m. and 7:00 a.m.

(E) Exceptions to Outdoor Confinement.
Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively

engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(F) Cruel Conditions and Inhumane Chaining or Tethering are Prohibited.
No person owning or keeping a dog in the town may subject the dog to cruel conditions or inhumane chaining or tethering at any time. Cruel conditions and inhumane chaining or tethering are defined but not limited to the following conditions:

(1) Filthy and dirty confinement conditions, including but not limited to exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill the dog upon contact, or other circumstances that could cause harm to the dog's physical or emotional health.
(2) Taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog.
(3) Subjecting the dog to dangerous conditions, including attack by other animals.

(G) Violations and Penalties
Any person owning or keeping a dog in the town who violates any provisions of this ordinance are subject to the following penalties and enforcement actions:

(1) First violation. Violator will be subject to a warning only unless the town deems conditions warrant a penalty, in which case the violator will be subject to a fine of fifty dollars ($50.00) and must meet remediation requirements set forth by the town no later than ten (10) calendar days after the violation. Failure to satisfy the conditions of the first violation shall immediately subject the violator to a second violation.

(2) Second violation. Violator will be subject to a fine of one hundred dollars ($100.00) and must meet remediation requirements set forth by the town no later than ten (10) calendar days after the violation. Failure to satisfy the conditions of the second violation shall immediately subject the violator to a third violation.

(3) Third violation. Violator will be subject to a fine of three hundred dollars ($300.00), impoundment of the dog in the town's shelter at the owner/guardian's expense pending compliance with the by-law, and potential loss of ownership of the dog.

PROHIBITIONS

1. **Discharging of Firearms** (STM - March 30, 1981 - Art. 8)
No person shall fire or discharge any gun, fowling piece or other firearm in the Town of Amherst; but to the extent not otherwise prohibited by law, the provisions of this section shall not apply to (A) the discharge of shotguns or air-guns, or (B) the discharge of firearms

1. in the lawful defense of the person, or

2. for the humane dispatch of injured animals, or

3. by any person lawfully on a target, trap or skeet range established for such purposes, or

4. by any duly authorized peace officer acting in the proper performance of duty, or

5. by any duly authorized military personnel participating in scheduled military exercises, or

6. by any person using blank cartridges in theatrical performances or sporting events, or

7. by an owner or tenant of land (or if authorized by either, any member of the immediate family or person permanently employed by such owner of tenant) but only upon such land and for the limited purposes of
   a) shooting a bird or other animal found to be damaging or posing the imminent threat of damage to the property of such person or persons, and
   b) shooting domestic animals raised as livestock.

Notwithstanding the provisions of Sections (A) and (B) above, no person shall discharge any gun, fowling piece, shotgun, air-gun, or other firearm or bow-and-arrow otherwise permitted under Sections (A) or (B) within one hundred fifty feet (150') of or in the direction of: (1) the paved surface of the State Rail Trail, or (2) the paved parking areas or entrance/exit ramps associated with the Rail Trail. Loaded guns, fowling pieces, shotguns, air-guns or other firearms or bows and arrows shall not be carried on or within 150' of the Rail Trail.

There shall be a penalty for breach hereof not exceeding $200 for each offense.

2. **Entering Property to Commit Certain Acts** (STM - October 24, 1983 - Art. 3)
Except as otherwise permitted by law, any person upon the property of another who shall intentionally peep or peer into the place of habitation of another shall be punished by a fine of up to $300.00.

3. **Unlawful Noise** **(**ATM - April 27, 1987 - Art. 50) (Amended ATM – May 3, 2010 – Art. 29)
Section 1. **Unlawful Noise Prohibited**. It shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any excessive, unnecessary, or unusually loud noise which either annoys, disturbs, injures, or endangers the reasonable quiet, comfort, repose, or the health or safety of others within the town of Amherst. The following acts are declared to be loud, disturbing, injurious, unnecessary and unlawful noises in violation of this section, but this enumeration shall not be exclusive, namely:

a) Radio, Phonograph, Musical Instruments and Television. The playing of any radio, phonograph, television set, amplified or musical instruments, loudspeakers, tape recorder, or other electronic sound producing devices, in such a manner or with volume at any time or place so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office or of any persons in the vicinity.

b) Shouting and Whistling. Yelling, shouting, hooting, whistling, singing, or the making of any other loud noises on the public streets, between the hours of 11: 00 p.m. and 7:00 a.m., or the making of any such noise at any time or place so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office or of any persons in the vicinity.

c) Animal Noises. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the reasonable comfort or repose of any person.

d) Devices to Attract Attention. The use of any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise. This section shall not apply to any person who is a participant in a school band or duly licensed parade or who has been otherwise authorized to engage in such activity.

Section 2. **Exemptions**. None of the terms or prohibitions of the previous section shall apply or be enforced against:

a) Emergency Vehicles. Any police or fire vehicle or any ambulance while engaged in necessary emergency business.

b) Highway and Utility Maintenance and Construction. Necessary excavation in or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the Town, or any public utility or any agency of the State of Massachusetts.

c) Public Address. The reasonable use of amplifiers or loud speakers for public addresses which are non-commercial in nature.

d) Noise caused by agricultural, farm-related, or forestry-related activities as defined by M.G.L. Chapter 128, Section 1A, as amended from time to time, including but not limited to the operation of farm equipment, sawmills, harvesting equipment, noises from farm animals, and the like.

Section 3. **Penalties.** Any person who violates this by-law shall be punished by a fine of $300 for each violation. Each such act which either continues or is repeated more than one-half (1/2) hour after issuance of a written notice of violation of this by-law shall be a separate offense and shall be prosecuted as a separate offense. If the violation occurs on the premises of rental property which is a non-resident owner, then the owner must also be notified in writing that the violation has occurred.

Section 4. **Other Remedies**.

a) If the person or persons responsible for an activity which violates Section 1 cannot be determined, the person in lawful custody and/or control of the premises, including but not limited to the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation.

b) If the person or persons responsible for an activity which violates Section 1 can be determined, any person or persons who violate Section 1 of this by-law may be arrested without a warrant, provided that the violation occurs in the presence or view of any officer authorized to serve criminal process.

Section 5. **Severability**. If any provision of this by-law is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the by-law shall not be invalidated.

4. **Advertising of Tobacco Products** **(**ATM - April 27, 1987 - Art. 53)
No person shall display on or in any bus, taxicab, or any other vehicle used for public transportation within the town of Amherst an advertisement for cigarettes, cigars, pipe tobacco, smokeless tobacco, or other tobacco product.

Whoever violates this section shall pay a fine of $25.00 per day per vehicle.

5. **Distribution of Free Cigarettes** (ATM - April 27, 1987 - Art. 52)
No person shall, except at full retail price, in or upon any part of the streets, parks, public grounds, public buildings, or other public places within the town of Amherst distribute any products containing tobacco or non-tobacco cigarette products for any commercial purpose.

Whoever violates this section shall pay a fine of not more than $100.00 for each violation.

6. **Keg Licensing** **(**STM - May 20, 1991 - Art. 24)

SECTION 1. **Purpose** To protect the health, safety and welfare of its inhabitants, this by-law shall permit the Town of Amherst to regulate the possession of kegs containing malt beverages, and the dispensing of malt beverages from kegs.

SECTION 2. **Definitions**
1. Licensee: any person, club, partnership, corporation or other entity licensed under the provisions of M.G.L. c. 138 to sell alcoholic beverages, including malt beverages.

2. Licensed Establishment: a retail establishment holding a license pursuant to M.G.L. c. 138 section 15 which sells alcoholic beverages for consumption off of the premises; and an establishment licensed pursuant to M.G.L. c. 138 section 12 which sells alcoholic beverages to be consumed on the premises.

3. Licensed Activity: an indoor or outdoor activity or enterprise for which a special license has been issued to a responsible manager, pursuant to M.G.L. c. 138 section 14.

4. Alcoholic Beverages: all liquids intended for human consumption as a beverage which contain one half of one per cent or more of alcohol by volume at sixty degrees Fahrenheit, including malt beverages.

5. Malt Beverages: all alcoholic beverages manufactured or produced by the process of brewing or fermentation of a malt, with or without cereal grains of fermentable sugars, or of hops, and containing not more than twelve per cent of alcohol by weight, including beer.

6. Keg: any metal, wooden, plastic, paper or other container designed to hold five and one-half (5.5) or more gallons of liquid and actually containing any amount of a malt beverage.

7. Person: an individual, firm, association, partnership, corporation or other combination of persons, and their agents, servants, employees, stockholders, officers or other person or any subsidiary whatsoever.

8. Sale: any transfer or exchange of alcoholic beverages in any manner or by any means whatsoever for direct or indirect consideration.

9. Dispense: to transfer or exchange alcoholic beverages, including pouring and the providing of access to such beverages, whether or not for monetary consideration.

10. Keg License: a special license issued by the Board of Selectmen of the Town of Amherst to permit the possession of malt beverage in a keg, and the dispensing of malt beverages from kegs, within the Town of Amherst.

SECTION 3. **Requirement of License for Keg Possession**

1. The Board of Selectmen of the Town of Amherst is authorized to issue keg licenses for the possession and dispensing of malt beverages in kegs within the Town of Amherst. The terms and conditions and fees for licenses granted under this section shall be determined by the Board of Selectmen, as the licensing authority pursuant to this by-law.

2. A keg license shall be required for the possession of a keg containing a malt beverage, and for the dispensing of a malt beverage from a keg, at any place other than a licensed establishment of a licensed activity.

3. A separate keg license shall not be required if the establishment or activity at which malt beverages will be dispensed is licensed pursuant to M.G.L. c. 138.

SECTION 4. **Prohibition** Within the Town of Amherst, it shall be unlawful for any person other than a licensee at a licensed establishment or activity to sell or dispense a malt beverage from a keg, or to otherwise possess a keg, unless such person has been issued a valid keg license.

SECTION 5. **Enforcement** This by-law shall be enforced by criminal complaint in the District Court. In the alternative, it may be enforced by the noncriminal disposition process of M.G.L. c. 40 section 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be police officers of the Town of Amherst.

SECTION 6. **Penalties** Any person who violates Section 4 shall be fined in the amount of $300 for each violation.

SECTION 7. **Severability** If any section, paragraph or provision of this by-law is held to be invalid or unenforceable, such invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this by-law, which shall remain in full force or effect.

NUISANCE HOUSE

(ATM - April 28, 2008 – Art. 40)
(Amended STM – November 19, 2012 – Art. 19)

Purpose

In accordance with the Town of Amherst's Home Rule Authority, and to protect the health, safety, and welfare of the inhabitants of the Town, this bylaw shall permit the Town to impose liability on owners, rental property managers and other responsible persons for the nuisances and harm caused by loud and unruly gatherings on private property and shall discourage the consumption of alcoholic beverages by underage persons at such gatherings.

§1. Definitions

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

Alcoholic beverage means all liquids intended for human consumption as a beverage which contain one half of one percent or more of alcohol by volume at sixty degree Fahrenheit, including malt beverages.

Eviction means actively trying to evict a tenant from a premise by delivery of a notice to quit and subsequent court proceedings, if a tenant fails to vacate the premises.

Gathering is a party, gathering, or event, where a group of persons have assembled or are assembling for a social occasion or social activity.

Legal Guardian means (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

Underage Person means any person under twenty-one years of age.

Parent means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.

Premises means any residence or other private property, place, or location, including any commercial or business property.

Property owner means the legal owner of record as listed by the tax assessors records.

Public Nuisance means a gathering of persons on any premises in a manner which constitutes a violation of law or creates a substantial disturbance of the quiet enjoyment of private or

public property in a significant segment of a neighborhood. Unlawful conduct includes, but is not limited to excessive noise, excessive pedestrian and vehicular traffic, obstruction of public streets by crowds or vehicles, illegal parking, public urination, the service of alcohol to underage persons, fights, disturbances of the peace, and litter.

Response costs are the costs associated with responses by law enforcement, fire, and other emergency response providers to a gathering as set forth in a schedule of costs established by the Board of Selectmen.

§2. Consumption of Alcohol by Underage Persons Prohibited in Public Place, Place Open to Public, or Place Not Open to Public

Except as permitted by state law, it is unlawful for any underage person to:

(a) consume at any public place or any place open to the public any alcoholic beverage; or

(b) consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverage the underage person is being supervised by his or her parent or legal guardian.

§3. Hosting, Permitting, or Allowing a Public Nuisance or Party, Gathering, or Event Where Underage Persons Consuming Alcoholic Beverages Prohibited

(a) It is the duty of any person having control of any premises who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any underage person at the gathering. Reasonable steps include, but are not limited to, controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic beverages present at the gathering; verifying the age of persons attending the gathering by inspecting driver's licenses or other government-issued identification cards to ensure that underage persons do not consume alcoholic beverages while at the gathering; and supervising the activities of underage persons at the gathering.

(b) A gathering constituting a public nuisance may be abated by all reasonable means including, but not limited to, an order by the Police requiring the gathering to be disbanded and citation and/or arrest of any persons under any applicable provision of local or state law.

(c) It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one underage person consumes an alcoholic beverage, provided that the person having control of the premises either knows an underage person has consumed an alcoholic beverage or reasonably should have known that an underage person consumed an alcoholic beverage and the person having control of said premises failed to take all reasonable steps to prevent the consumption of an alcoholic beverage by an underage person.

(d) This Section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between an underage person and his or her parent or legal guardian as set forth in G.L. c.138, §34.

(e) This Section shall not apply to any Massachusetts Alcoholic Beverages Control Commission licensee at any premises regulated by the Massachusetts Alcoholic Beverage Control Commission.

§4. Mailing of Notice to Property Owner.

Notice of response by police or other local officials to a gathering shall be mailed by the Amherst Police Department to any property owner listed on the Town of Amherst property tax assessment records and the rental housing manager or management organization, advising them that the third such response on the same premises within a one year period, as measured from the date of the first notice, shall result in liability of the property owner and rental housing manager or management organization for all penalties associated with such response as more particularly described below.

§5. Persons Liable for a First and Second Response to a Gathering Constituting a Public Nuisance.

If the police department is required to respond to a gathering constituting a public nuisance on the premises, the following persons shall be jointly and severally liable for fines as set forth below. Response costs shall also be assessed.

(a) The person or persons residing on or otherwise in control of the property where such gathering took place.

(b) The person or persons who organized or sponsored such gathering.

(c) All persons attending such gatherings who engage in any activity resulting in the public nuisance.

§6. Persons Liable for a Third and Subsequent Response to a Gathering Constituting a Public Nuisance.

If the police department is required to respond to a gathering constituting a public nuisance on the premises more than twice in any one year period, as measured from the date of the first response, the following persons shall be jointly and severally liable for fines as set forth below. Response costs shall also be assessed.

(a) The person or persons who own and/or manage the property where the gathering constituting the public nuisance took place, provided that notice of the first and second responses has been mailed to the owner of the property as set forth herein and the gathering occurs at least fourteen (14) days after the mailing the second such notice. The owner of the property shall not be held responsible for any violation and penalties if they are actively trying to evict a tenant from the

property. The one year time period for violations for a property shall pertain only to the same residents occupying the property who have had the prior violation(s). New residents shall start a new time cycle of one year should they violate the bylaw.

(b) The person or persons residing on or otherwise in control of the property where such gathering took place.

(c) The person or persons who organized or sponsored such gathering.

(d) All persons attending such gatherings who engage in any activity resulting in the public nuisance.

§7. Enforcement

This bylaw shall be enforced by criminal complaint in the District Court. Violations shall be punishable by a fine of $300.00. In the alternative it may be enforced by the noncriminal disposition process of M.G.L. c.40 Section 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be any police officer of the Town of Amherst. If enforced pursuant to noncriminal disposition, the following fines shall apply:

First offense: $300
Second offense**:** $300
Third and subsequent offense: $300

The Town of Amherst shall additionally seek administrative costs and response costs associated with enforcement of Sections 2 and 3, through all remedies or procedures provided by state or local law.

Sections 2 and 3 shall not limit the authority of police officers to make arrests for any criminal offense arising out of conduct regulated by Sections 2 and 3, nor shall they limit the Town of Amherst or the Commonwealth of Massachusetts' ability to initiate and prosecute any criminal offense arising out of the same circumstances necessitating the application of Sections 2 and 3.

§8. Local Authority and Severability

No provision of this bylaw shall apply where prohibited or preempted by state or federal law.

If any provision of this ordinance, or the application thereof to any person or circumstances, is declared invalid, that invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or application, to this end the provisions of this ordinance are severable.

BAN OF EPS FOAM IN FOOD ESTABLISHMENTS
AND TOWN FACILITIES
(STM – November 19, 2012 - Art. 9)

SECTION 1 PURPOSE
This bylaw is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the Town.

SECTION 2 EFFECTIVE DATE
This bylaw shall take effect on January 1, 2014.

SECTION 3 FINDINGS
Expanded polystyrene food containers form a significant portion of the solid waste stream going into our landfills. Local landfills are running out of room; our future solid waste may have to be transported hundreds of miles to a landfill at considerable cost.

Expanded polystyrene food containers are not recyclable, nor are they biodegradable.
Once buried in our landfills, they will persist for centuries.

Styrene, the key ingredient in expanded polystyrene, was recently added to the National Toxicology Program's list of carcinogens (U.S. Department of Health and Human Services). Styrene can leach from polystyrene containers into food and beverages.

Many communities in the United States have banned expanded polystyrene food containers, including Seattle WA, Freeport Maine, Great Barrington MA and Nantucket MA.

Approximately 60% of Amherst food establishments have already stopped using expanded polystyrene food containers.

University of Massachusetts/Amherst, Amherst College, and Hampshire College food services have eliminated single-use expanded polystyrene food containers from their dining halls.

Appropriate alternative products are readily available from the vendors used by local food establishments; cooperative bulk buying arrangements are possible.

Thus, elimination of expanded polystyrene food containers is in the best interest of the health and welfare of Town inhabitants.

SECTION 4 DEFINITIONS
"Disposable Food Service Container" means single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition does not include single-use disposable items such as straws, cup lids, or utensils, nor does it include single-use disposable packaging for unprepared foods.

“Food Establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a Food Establishment for purposes of this bylaw.

“Expanded Polystyrene” (EPS) means polystyrene that has been expanded or “blown” using a gaseous blowing agent into a solid foam.

“Polystyrene” means expanded polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term “polystyrene” also includes clear or solid polystyrene which is known as “oriented polystyrene”.

“Prepared Food” means any food or beverage prepared for consumption on the Food Establishment’s premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation.

“Town Facility” means any building, structure, land or park owned or operated by the Town of Amherst, its agents and departments.

“Town Facility Users” means all persons, societies, associations, organizations or special event promoters who require a permission to use a Town Facility. Town Facility Users also includes concession contracts with the Town, Town-managed concessions, Town-sponsored events and food services provided at the Town’s expense.

SECTION 5 PROHIBITION

A. Except as provided herein, Food Establishments are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers made from Expanded Polystyrene.

B. Town Facility Users are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers made from Expanded Polystyrene.

SECTION 6 DEFERMENTS

A. Upon written application, the Board of Health, after a public hearing, may defer application of this Bylaw for a Food Establishment for a one year period, upon a showing by the Food Establishment that the conditions of this Bylaw would cause undue hardship. For purposes of this Bylaw, an “undue hardship” is a situation unique to the Food Establishment where there are no reasonable alternatives to the use of expanded polystyrene disposable food service containers and compliance with this provision would cause significant economic hardship to that Food Establishment.

B. A Food Establishment granted a deferment by the Town must reapply prior to the end of the one year exemption period and demonstrate continued undue hardship, if it wishes to have the deferment extended. Deferments may only be granted for intervals not to exceed one year.

C. A deferment granted in accordance with this Section may be extended for no more than one additional one year period, upon written application to the Board of Health at least two months prior to the expiration of the first deferment period and upon a showing that the circumstances justifying the deferment continue to exist.

D. A deferment application shall include all information necessary for the Town to make its decision, including, but not limited to, documentation showing the factual support for the claimed deferment. The Board of Health may require the applicant to provide additional information to permit it to determine facts regarding the deferment application.

E. The Board of Health may approve the deferment application, in whole or in part, with or without conditions that it deems necessary to protect the public health and further the interests of this Bylaw.

F. Deferment decisions are effective immediately and final.

SECTION 7 ENFORCEMENT

A. The Health Department or its designee shall inquire on an annual basis regarding any food establishment's compliance with this bylaw as a condition for renewal of the establishment's food service permit.

B. The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 105 CMR 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this bylaw.

C. The Health Department or its designee shall have primary responsibility for enforcement of this provision and shall have authority to issue citations for violation(s). The Health Department or its designee is authorized to establish regulations or administrative procedures and to take any and all actions reasonable and necessary to further the purposes of this chapter or to obtain compliance with this chapter, including, but not limited to, inspecting any vendor's premises to verify compliance in accordance with applicable law.

D. The Health Department may enforce this by-law or enjoin violations thereof through any lawful process, and the election of one remedy by the Health Department shall not preclude enforcement through any other lawful means.

E. <u>Penalties and Fines for Violations</u>

Violations of this ordinance may be enforced as follows:

1. This bylaw shall be enforced by the Health Department or its designee, including the Department of Public Works. Whoever violates any provision of this bylaw may be penalized by

a non-criminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition bylaw. If non-criminal disposition is elected, then any person who violates any provision of this bylaw shall be subject to the following penalties:

For the first violation, the Health Department or its designee, upon determination that a violation has occurred, shall issue a written warning notice to the food establishment which will specify the violation and the appropriate penalties in the event of future violations.

Thereafter, the following penalties shall apply:

(a). A fine of one hundred dollars ($100.00) for the first violation following the issuance of a warning notice.

(b). A fine of two hundred and fifty dollars ($250.00) for the second and any other violation that occurs following the issuance of a warning notice.

2. Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

3. Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars.

SINGLE USE PLASTIC BAG PROHIBITION
(ATM – May 2, 2016 – Art. 36)

SECTION 1 PURPOSE:
This bylaw is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the town.

SECTION 2 EFFECTIVE DATE: :
This bylaw shall take effect on January 1st, 2017.

SECTION 3 FINDINGS: :
According to the World Economics Report, at least 8 million metric tons of plastics contaminate the world's oceans each year, resulting in disastrous environmental effects on wildlife. With an estimated 1 trillion plastic bags used annually, these single-use bags are certainly contributing to this large amount of plastic contamination in our oceans and our landfills. Many other municipalities in the Commonwealth of Massachusetts have enacted single-use plastic bag prohibitions, and have seen positive results.

The Massachusetts Solid Waste Master Plan calls for a reduction of single-use plastic bags and for the increased usage of reusable, recyclable, and/or biodegradable bags. Additionally, the recycling market for plastic bags is limited and they cannot be recycled in standard recycling streams. The primary purpose of this bylaw is to reduce the negative effects on single-use plastic bags on the environment, reduce contamination of plastic bags in residential recycling streams, and, most importantly, to encourage consumers to bring reusable bags while shopping, eliminating the environmental impacts of any single-use bags.

SECTION 4 DEFINITIONS:
4.1 "Thin-film single-use plastic bags", typically with plastic handles, are bags with a thickness of 3 mils (thousandths of an inch) or less and are intended for single-use transport of purchased products.

4.2 "ASTM D6400 standard" a testing standard developed by the American Society for Testing and Materials used to determine the ability of a material to be composted.

4.3 "Biodegradable bag" means a bag that: 1) contains no polymers derived from fossil fuels and 2) is intended for single use and will decompose in a natural setting at a rate comparable to other biodegradable materials such as paper, leaves, and food waste.

4.4 "Reusable bag" means a bag that is specifically designed for multiple use and is made of thick plastic, cloth, fabric or other durable materials.

4.5 "Compostable bag" means a bag that 1) Meets the ASTM D6400 standard for compostable plastic and 2) is able to be municipally or industrially composted

4.6 "Recyclable Paper Bag" means a bag that: 1) is 100% recyclable overall 2) contains a minimum of 30% post-consumer recycled content and 3) displays the words "Recyclable" or

"Please Recycle" on the outside of the bag.

SECTION 5 USE REGULATIONS:

5.1 Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at retail, retail food, or service retail establishments within the Town of Amherst.

5.2 Customers are encouraged to bring their own reusable or biodegradable shopping bags to stores. Retail establishments may provide biodegradable bags, reusable bags, compostable bags, or recyclable paper bags for free or for a fee, as they so desire. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.

5.3 Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, cheese, bulk foods, wet items and other similar merchandise, typically without handles, are permissible.

SECTION 6 ENFORCEMENT:

6.1 The Board of Health or its designee may inquire on an annual basis regarding an establishment's compliance with this bylaw.

6.2 Citizens of the Town of Amherst who may observe potential violations of this bylaw shall be able to file a complaint with the Board of Health or its designee who shall investigate whether there is a violation of this bylaw.

6.3 Penalties and fines for violation of this bylaw may be enforced as follows:

6.4 For the first violation, the Board of Health or its designee, upon determination that a violation has occurred, shall issue a written warning notice to the establishment, which will specify the violation and the appropriate penalties in the event of future violations. The warning should also state that the retail establishment might be closed if it fails to comply.

6.5 Any violation of the provisions of this bylaw may be enforced by non-criminal complaint pursuant to the provisions of G.L. c.40, s.21D. The fine for any violation shall be one hundred dollars ($100.00) for each offense. Each day such violation continues shall be deemed as a separate offense.

6.6 Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

SECTION 7 DEFERMENTS:

Upon written application from a retail establishment, the Board of Health, after a public hearing, may temporarily defer application of this bylaw for a retail establishment for a one year period, upon a showing by the retail establishment that the conditions of this bylaw would cause undue hardship. The Board of Health will hold the deciding power as to whether the hardship of the establishment is cause for a deferment. The establishment must reapply prior to the end of the one year exemption period and demonstrate continued undue hardship if it wished to have the deferment extended. Deferments may only be granted for intervals not to exceed one year.

PUBLIC WORKS

1. **Disturbing Highway Surface or Curbing** (STM - November 3, 1969 - Art. 17)
No person shall make any excavation in any public way, disturb its curbing or pavement, pave any unpaved portion thereof, or remove earth or gravel therefrom, without first obtaining a written permit therefor from the town manager, and no person who has received such a permit shall violate any restrictions or conditions contained therein.

2. **Driveway Entrance Permits** STM - November 3, 1969 - Art. 17)
No person shall construct or alter that portion of any driveway lying within a way in town over which the public has a right to travel without first securing a permit therefor from the town manager who shall issue the permit if the proposal conforms generally to the standards of the Massachusetts Department of Public Works as to driveways connecting with state highways; and no person having secured such a permit shall depart from such standards in constructing or altering such driveway entrance.

Whoever violates section 1 and 2 of the foregoing shall pay a fine of not more than $200.00 for each violation.

FINES AND LIMITATIONS

(ATM - March 20, 1939 - Art. 12)

1. No prosecution for violations pertaining to Article II (except Dog Regulations) shall be commenced after sixty (60) days from the commission thereof.

WETLANDS PROTECTION

(ATM - April 27, 1987 - Art. 54)
(ATM - April 28, 1999 - Art. 30)
(ATM – May 2, 2011 – Art. 26)

I. Purpose

The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land areas in the Town of Amherst by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public and private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution prevention, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the "resource area values protected by this bylaw"). This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. c. 131 Sec. 40) and Regulations thereunder (310 CMR 10.00 et seq.).

II. Jurisdiction

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetland; marsh; wet meadow; bog; swamp; isolated wetland; vernal pool; bank; reservoir; pond; river; perennial stream; intermittent stream; watercourse; water within water bodies; land under water bodies; land subject to flooding or inundation by groundwater, surface water, or storm flowage; and land abutting any of the aforesaid resource areas as set out in VII.4 below (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

III. Conditional Exceptions

The application and permit required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, telephone, telegraph, or other telecommunication services, or sanitary or storm sewers, provided that written notice has been given to the Commission prior to the commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use at the time the work takes place.

The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission, prior to commencement of the work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

The application and permit required by this bylaw shall not be required for exemptions under the Rivers Act (310 CMR 10.58).

Other than stated in this section, the exceptions provided in the Wetlands Protection Act (G.L. c. 131 Sec. 40) and Regulations (310 CMR 10.00 et seq.) shall not apply under this bylaw.

IV. Applications for Permits (Notice of Intent or NOI) and Requests for Determination (RFD)

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

The Commission in an appropriate case may accept as the permit application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act (G.L. c. 131 Sec. 40) and Regulations (310 CMR 10.00 et seq.).

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may request in writing a determination from the Commission. Such a Request for Determination (hereafter RFD) shall include information and plans as are deemed necessary by the Commission.

At the time of a permit (NOI) or RFD Application, the applicant shall pay a filing fee specified in the Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act (G.L. c. 131 Sec. 40) and Regulations (310 CMR 10.00 et seq.). The filing fee shall be commensurate with the reasonable expenses incident to the licensing.

Upon receipt of a permit application or RFD, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing, or verifying the accuracy of, resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. Any unused portion of the consultant fee shall be returned to the applicant unless the Commission decides at a public meeting that additional services will be required.

The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit application or RFD filed by a government agency.

V. Notice and Hearings

Any person filing a permit application or a RFD with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested), or certificates of mailing, or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water.
The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person

providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the Town of Amherst.

The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. c. 131 Sec. 40) and Regulations (310 CMR 10.00 et seq.).

The Commission shall have the authority to continue the hearing to a certain date announced at the hearing or to an unspecified date, for reasons stated at the hearing, which may include the anticipated or requested receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in VI below. If the hearing is postponed to an unspecified date, the applicant is responsible for the expense of advertising the rescheduled hearing, such notice to appear five business days prior to the hearing, in a newspaper of general circulation in the Town of Amherst. In addition, the applicant must send written notice of the rescheduled hearing to any person who has requested it.

VI. Coordination with Other Boards

Any person filing a permit application or RFD with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested), or certificates of mailing, or hand delivery, to the zoning board, planning board, health inspections, town engineer and building commissioner.

A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or RFD pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing, prior to final action.

VII. Permits and Conditions

The Commission shall have the authority, after a public hearing, to determine whether a specific parcel of land contains or does not contain resource areas protected under this bylaw. If the Commission finds that no such resource areas are present, it shall issue a negative determination.

If the Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; 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 resource area values protected by this bylaw; 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 200 feet of rivers and within 100 feet of other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, 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, without limitation, 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, or in some instances up to the full extent of the 200-foot or 100-foot buffer area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands on a two-to-one basis as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission at its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission prior to such work. Any permit may be renewed once for an

additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after public notice to the holder of the permit or determination, notice to the public and town boards, pursuant to V and VI above, and a public hearing.

The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act (G.L. c. 131 Sec. 40) and Regulations (310 CMR 10.00 et seq.).

No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

VIII. Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw effective when voted and filed with the town clerk. The Commission may amend the rules and regulations after public notice and public hearing. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. Unless otherwise stated in this bylaw or in the rules and regulations promulgated under this bylaw, the definitions, procedures, and performance standards of the Wetlands Protection Act (G.L. c. 131 Sec. 40) and Regulations (310 CMR 10.00 et seq.) as most recently promulgated shall apply.

IX. Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw. (For additional definitions, see Regulations II.)

The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representative, agents, or assigns.

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

A. Removal, excavation, or dredging of soil, sand, gravel, clay, minerals, or aggregate materials of any kind

B. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics

C. Drainage, or other disturbance of water level or water table

D. Dumping, discharging, or filling with any material which may degrade water quality

E. Placing of fill, or removal of material, which would alter elevation

F. Driving of piles, erection or repair of buildings or structures of any kind

G. Placing of obstructions or objects in water

H. Destruction of plant life including cutting of trees

I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters

J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater

K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

X. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

XI. Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

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

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the board of selectmen and the town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

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

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, or has failed to obtain the necessary Commission approval, shall be punished by a fine of not more than $300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

XII. Burden of Proof

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

XIII. Appeals

A decision of the Commission shall be reviewable in accordance with G.L. c. 249 Sec. 4.

XIV. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. c. 131 Sec. 40) and Regulations (310 CMR 10.00 et seq.) thereunder.

XV. Severability

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

XVI. Effective Date

This revised bylaw goes into effect when approved by the Attorney General and published by the town clerk as set forth in G.L. c. 40 Sec. 32. A project for which the permit was filed or final Order of Conditions was issued prior to that date is subject to the previous bylaw.

ARTICLE III
REGULATION OF PARTICULAR ACTIVITIES AND DEVICES

(ATM - March 20, 1939 - Art. 12)

COLLECTING AND DEALING IN USED ARTICLES

(ATM - March 20, 1939 - Art. 12)

1. No person shall engage in the business of, or go about, picking up or collecting by purchase or otherwise, rags, paper, junk, old metals, or other waste matter, within the limits of the town of Amherst unless he is duly licensed by the selectmen.

2. No personal shall engage in the business of buying or selling second-hand articles within the limits of the town of Amherst unless he is duly licensed by the selectmen.

3. The selectmen may from time to time make such rules and regulations regarding the issuing of such licenses, the fees to be paid therefor and the manner in which the business is to be conducted, as may seem advisable to them, and in accordance with the laws of the Commonwealth.

4. Any person violating the provisions of any of the three foregoing sections shall be punished by a fine of not more than twenty dollars each offense.

REFUSE COLLECTION AND RECYCLABLE MATERIALS

(ATM - May 5, 1986 - Art. 50; Amended STM - Apr. 23, 1990, Art. 3)
(Amended STM - October, 1990, Art. 25)

1. Authorized agents of the town's recycling program, so designated by the Town Manager, may pick up material left at curbside in front of any residence in the town in connection with the recycling program. No other person, except for the owner of the residence or a person designated by the owner, may pick up such materials.

2. Any person violating the provisions of the foregoing paragraph shall be punished by a fine of not more than fifty dollars for each offense. In the alternative, the Town may utilize the provisions of General Laws Chapter 40, Section 21D for noncriminal disposition of any violations of the provisions of the foregoing paragraph. For the purposes of noncriminal disposition the penalty for each violation shall be fifty dollars and the enforcing persons shall be Police Officers, the Superintendent of Public Works, and the Sanitary Landfill Crew Supervisor.

3. The Board of Health shall promulgate regulations requiring the provision of refuse collection service and the separation of recyclable materials for every residential, commercial, and institutional structure in the Town. In addition, the Board of Health shall adopt the noncriminal disposition method pursuant to General Laws Chapter 40, Section 21D for any violations of the regulations promulgated pursuant to this paragraph.

4. All municipal solid waste (including but not limited to residential and commercial refuse and construction/demolition waste materials) collected within the corporate limits of the Town of Amherst shall be disposed of at the Town of Amherst Sanitary Landfill; provided that waste materials which are not acceptable for disposal at such landfill shall not be disposed of within the Town of Amherst except at places designated in writing by the Board of Health. All commercial haulers collecting or removing municipal solid waste accumulating within the Town or using the streets and roads of the Town for the purpose of collecting or transporting the same shall be licensed by the Amherst Board of Health. All licenses granted to such private haulers and all contracts of other forms of authorization of duly authorized collectors shall require that all municipal solid waste collected and transported under such authorization shall be disposed of at the Town of Amherst Sanitary Landfill.

DISPOSAL OF REFUSE, RUBBISH, ETC., ON HIGHWAYS OR ANY PUBLIC LAND, PRIVATE PROPERTY, OR IN COASTAL OR INLAND WATERS

(STM - September 12, 1994 - Art. 2)

Any violation of any provision of M.G.L. Chapter 270, Section 16, may be enforced under the noncriminal disposition procedures as set forth in M.G.L. Chapter 40, Section 21D. Enforcing persons shall be Town of Amherst police officers, superintendent of public works, public health agents, health officers, and health directors. The penalty for violation of Section 16 shall be $250.00 for each offense. Each day in which the offense shall continue shall constitute a separate offense.

If any provision(s) of this bylaw shall be invalid for any reason said provision(s) shall be deleted and the remainder of the bylaw shall continue in full force and effect.

REGULATION OF SIGNS

(ATM - March 20, 1939 - Art. 12)

1. No person shall erect, maintain or display any sign or other advertising device any part of which extends six inches or more into or over the limits of a public way in this town without a permit in writing therefor from the selectmen. This section does not apply to signs or advertising devices existing at the time of its adoption. Persons violating this section shall be subject to the penalties imposed by the regulations of the selectmen made in accordance with sections eight and nine of chapter eighty-five of the General Laws.

2. Special advertising displays, banners or signs, visible from any highway, public park or reservation, by churches, civic or charitable organizations or for community drives or celebrations may be displayed only on permit from the selectmen, such permits to be good for ten days and to be renewable for not over ten days more at the discretion of the selectmen.

3. Political signs may be displayed only on town-owned public property in the town, subject to the following restrictions:

a. A political sign may be displayed only on permit from the selectmen; said permit to be good for a maximum of thirty days; except that, upon application to the selectmen, primary or caucus winners may leave their signs in place until the general election, provided the general election occurs within 45 days of the primary or caucus.

b. All signs must be removed not later than 7 days after the election the permit was granted for or at the expiration date of the permit, whichever comes first.

c. No sign may be larger than 9 square feet in an educational or residential zoning district nor larger than 24 square feet in any other zoning district.

d. The issuing of permits for temporary political signs shall be limited as follows:
   i. In town elections, the selectmen shall issue a permit for not more than 2 signs for each candidate for town meeting membership; the signs may be for the applicant's candidacy only and may be placed only within the precinct in which he is a candidate.
   ii. For any town-wide office seeker, the selectmen may issue a permit for not more than 10 signs; signs must be for the permittee's candidacy and not more than 3 such signs may be placed in any one precinct.
   iii. No permit shall be issued by the selectmen without written permission of the immediate resident abutter or, if none, then the abutting property owner.
   iv. When referendum questions appear on the town election ballot, the selectmen may issue a permit for not more than 1 sign per precinct for each referendum question to any local civic, church, charitable, or political organization that might want to make known its position on said referendum.
   v. In county, state or national elections, the selectmen may issue a permit to any local political organization for not more than 7 political signs. On referendum questions, the selectmen may issue a permit for not more than 1 sign per precinct for each referendum question to any local civic, church, charitable, or political organization that might want to make known its position on said referendum.

e. No permit may be issued for, and no political signs may be placed upon, any town common, park, recreation, conservation, or watershed area; nor shall any partisan political sign be allowed to extend into or over the traveled portion of any public street or highway; nor shall any sign be attached to any tree, or to any pole, building, or structure that has been placed on public property for the use of the general public.

f. Permit applicants shall be responsible for any injury or damage sustained by anyone as a result of sign placement

g. Before issuing any portent under this section, the selectmen shall be satisfied that construction and placement of signs will not constitute a danger to the public safety.

h. After issuing any permit under this section, the selectmen may rescind it if the sign, after being placed is not kept in good repair, and, as such, the selectmen are of the opinion that the sign is, or may be dangerous or a potential hazard. If, after notification to the permit

recipient, the condition of the sign is not immediately corrected the selectmen may order removal of the sign and take any action necessary to correct the situation.

i. The selectmen may delegate any or all authority under this section to the building inspector or any other person.

In regard to the issuance of any such permits and the location and character of the matter displayed, the discretion of the selectmen shall be final. Persons erecting or maintaining a display, banner or sign in violation of this section shall pay a fine of not over one hundred dollars. The selectmen may enjoin in any court of competent jurisdiction the erection and maintenance of any display, banner or sign in violation of this section.

PARADES AND PUBLIC MEETINGS

(ATM - March 11, 1970 - Art. 25)

1. A public meeting, parade or other event may be held on any town common or town way on reservation therefor first being secured from the town manager who shall issue it unless the meeting, parade or other event would conflict with another already so reserved, or unless the parade would so interfere with the vehicular traffic as to present a safety hazard. In the latter event, the town manager shall design an alternative parade route which shall adequately achieve the purposes of the paraders. Nothing shall prevent a nominee for elective governmental office speaking to any group, or an informal, spontaneous gathering of less than 75 persons, on any town common, without such reservation, if such activity does not interfere with another event already in progress or previously so reserved. Failure to obtain a reservation for a parade shall be punishable by a fine of not over $50.00.

SOLICITING

(STM - November 4, 1974 - Art. 2)

1. **Definitions** For the purpose of this by-law, the following words are defined thus:

a. "Soliciting" shall mean seeking to sell or obtain orders door-to-door for the purchase of goods, wares, merchandise, foodstuffs, and services of any kind for consideration; also seeking to sell or obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication, but shall not include the weekly or daily house delivery of newspapers.

b. "Residence" shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

c. "Registered Solicitor" shall mean and include any person who has obtained a valid certificate of registration as provided for in this by-law which certificate is in the possession of the solicitor (on his or her person) while engaged in soliciting.

2. **Certificate of Registration** Every person desiring to engage in soliciting as herein defined, from persons in residences in Amherst, is required to make written application to the police department for a certificate of registration. Such certificate shall be carried by the solicitor while engaged in soliciting and must be presented upon request by a police officer or persons being solicited except as hereinafter provided. See Section 6.

3. **Application for Certificate of Registration** Application for a certificate of registration shall be made upon a form provided by the town of Amherst and filed with the police department at least ten days prior to soliciting. The chief of police shall keep in his office an accurate record of every application received and acted upon together with all other information and date pertaining thereto and all certificates of registration issued under the provision of this by-law. The certificate of registration will require the following information:

a. Name and physical description of applicants
b. Home and present business address.
c. Vehicle license number and description.
d. Employer's name and address.
e. Description of matter being solicited.
f. Length of present employment

4. **Fee** Each non-resident registrant shall pay to the collector, town of Amherst, a registration fee of five dollars for the period expiring sixty days after the date of registration. Residents have the option of registering on annual basis for a fee of ten dollars.

5. **Revocation of Certificate** Any certificate of registration issued under this by-law may be removed by the chief of police for cause. Immediately upon revocation, written notice thereof shall be sent by the chief of police to the holder of the certificate by certified U.S. Mail, addressed to the holder's residence address as shown on the application. A record of the date of the revocation will be made upon the original application.

6. **Exceptions** Organizations soliciting funds for charitable purposes from other than their own members must register with the police department ten (10) days prior to the start of any fund raising campaign. Such organizations are required to provide identification for each solicitor. All solicitors thirteen (13) years of age or younger will be required to register with the police department ten(10) days prior to soliciting. Registration fees will not be required in these cases.

7. **Time Regulation** Soliciting as regulated in this by-law will be permitted only between the hours of 9:00 a.m. and 6:00 p.m.

8. **Laws of the Commonwealth to be Paramount** Nothing in this by-law shall be construed as conflicting with any license issued under the authority of the Commonwealth of Massachusetts.

9. **Penalty** Any person violating any of the provisions of this by-law shall, upon conviction in the District Court, be subject to a fine of not more than fifty dollars for each offense.

PAWNBROKERS

(STM - October 27, 1975 - Art. 7)

1. The business of a pawnbroker may be conducted in the town of Amherst subject to Chapter 140, Sections 70 through 85 inclusive of the General Laws of the Commonwealth of Massachusetts as amended and further subject to the following regulations:

a. The selectmen shall have the discretion to issue a pawnbroker's license after public notice and hearing to any person eighteen years of age or older who satisfies the board of financial integrity, personal moral character, and a good business reputation;

b. Each license granted shall state on the face thereof the rate and interest schedule authorized by the selectmen pursuant to Section 72 of Chapter 140 aforesaid and each application shall contain a full and complete statement of the schedule of rates and charges proposed by the applicant;

c. Any failure of an applicant or licensee to comply with this by-law or the applicable General Laws of the Commonwealth shall be grounds for immediate revocation of any license granted hereunder upon proof of the violation and no excuse of neglect or other reason shall operate to restore any license except by the express written approval of the selectmen.

d. The selectmen are authorized to establish minimum hours of operation and times of operation as a condition of a pawnbroker's license or any renewal thereof;

e. All employees of a pawnbroker shall be at least eighteen years of age and must receive an identification permit from the chief of the Amherst police department who may, but is not required to, refuse to grant such an identification permit to any person convicted of a crime within the preceding five years.

OPEN BURNING BYLAW

(STM – October 30, 2006 – Art. 16)

SECTION 1 PURPOSE

This by-law, which regulates open burning within the Town of Amherst, is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the town.

SECTION 2 PROHIBITION

No person shall set, maintain or increase a fire in the open at any time, except pursuant to a permit issued under Mass. Gen. Laws, Ch. 48, sec. 13, and in full compliance with the provisions of 310 CMR 7.07.

SECTION 3 ENFORCEMENT

This by-law shall be enforced by criminal complaint in the District Court. In the alternative, it may be enforced by the non-criminal disposition process as set forth in Mass. Gen. Laws, Ch. 40, sec. 21D. For the purpose of non-criminal disposition, the enforcing persons shall be full time fire fighters of the Amherst Fire Department, police officers and the building commissioner.

SECTION 4 PENALTY

Whoever violates any provision of section 2 shall be punished by a fine of not more than $300 plus the cost of suppression. For the purpose of non-criminal disposition, the fine shall be $300 for each offense.

SECTION 5 RESPONSIBILITY

If the person or persons responsible for an activity which violates Section 2 cannot be determined, the person in lawful custody and/or control of the premises, including but not limited to the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation.

SECTION 6 SEVERABILITY

If any section, paragraph or provision of this by-law is held to be invalid or unenforceable, such invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this by-law, which shall remain in full force or effect.

ARTICLE IV
REGULATIONS RELATING TO
REAL ESTATE AND REAL ESTATE USERS

(ATM - March 20, 1939 - Art. 12)

STREET NUMBERING OF HOUSES

(ATM - March 20, 1939 - Art. 12)

1. Every owner of a house shall indicate the street number of such house by figures at least two and one-half inches high and so located as to be easily seen from the street. In case any owner refuses or neglects so to indicate the number of his house after a number therefor has been assigned, the selectmen may apply to any court of competent jurisdiction for enforcement of this section.

REMOVAL OF SNOW AND ICE FROM SIDEWALKS

(ATM - March 20, 1939 - Art. 12)
(Replaced - ATM - April 29, 1996 - Art. 29)
(ATM – May 1, 2006 – Art. 8)

1. The owner of any real property that abuts any sidewalk shall remove any and all accumulation, whether natural or otherwise, of snow and/or ice within 24 hours of the end of the precipitation which caused the accumulation. If the snow and/or ice has accumulated other than by precipitation, it shall be removed within 24 hours of its accumulation on such sidewalk. In order to comply with this bylaw, all sidewalks shall be cleared to the surface of the sidewalk, or, where it is impracticable to do so, the sidewalk shall be treated with sand or otherwise. It is the express intent of this bylaw to assure safe and convenient access on sidewalks to all travelers, including those with disabilities and/or mobility impairments, including people who use wheelchairs.

2. Any owner of real property who violates section 1, above, of this bylaw, shall pay a fine of $10. Each 24-hour period in which snow and/or ice is not removed or treated as provided in section 1, above, shall constitute a separate offense. No prosecution or other proceeding hereunder shall be commenced more than 60 days from the violation. The provisions of this bylaw may be enforced through the non-criminal disposition method as provided in M.G.L. c. 40, § 21D. For the purpose of non-criminal disposition, the following shall be enforcing persons: Police Officers.

3. In addition to the remedies provided in section 2, above, the Select Board in its discretion, may after due notice to the owner of the real property, and an opportunity to be heard, perform or otherwise cause the clearing or treating of snow and/or ice to be performed and recover from said owner the expense therefore which shall not exceed $500.00. Such expense shall constitute a municipal charge lien against the real property as provided in M.G.L. c. 40, § 58.

DEPOSITING SNOW ON HIGHWAYS

(STM - November 3, 1969 - Art. 19)

1. No person shall remove or cause to be removed snow or ice from any privately owned premises and deposit it on any way, sidewalk or public parking place. Violation of this by-law shall be punished by a fine of not over fifty dollars.

GAS INSPECTOR

(STM - November 16, 1964 - Art. 1)

1. There shall be an inspector of gas piping and gas appliances in buildings who shall be appointed by the town-manager and whose duty shall be the enforcement of the rules and regulations adopted by the board established under Section 12H of Chapter 25 of the General Laws as amended, and any amendments to such rules and regulations that may be adopted from time to time by said board.

2. No person shall engage in gas fitting in buildings in the town without obtaining a permit authorizing such work from the inspector of gas piping and gas appliances in buildings. The said inspector shall require applicants for permits hereunder to furnish such description and information as he deems necessary concerning the proposed work, and he shall require said applicants to pay such fees as the selectmen from time to time may establish.

3. As used in this by-law the words "gas fitting" shall be construed to include the installation, alteration and replacement of a system beyond the gas meter outlet or regulator through which is conveyed or intended to be conveyed fuel gas of any kind, except undiluted liquefied petroleum gas, for power, refrigeration, heating or illuminating purposes including the connection therewith and testing of gas fixtures, ranges, refrigerators, stoves, water heaters, house heating boilers, and any other gas using appliances and all attachments and appurtenances, and the maintenance in good and safe condition of said systems, and the making of necessary repairs and changes.

Whoever violates any provision of this by-law shall, upon conviction thereof, be punished by a fine not exceeding twenty dollars for each offense.

GASOLINE STORAGE

(ATM - May 2, 1977 - Art. 35)

1. The fee for all licenses issued under General Laws, Chapter 148, Section 13 shall be $10.00, and the fee for any renewal or certificate of registration shall be one-half the amount of the fee for said license. These fees may be changed from time to time by a majority vote of the selectmen.

JUNKED VEHICLES

(ATM - March 4, 1966 - Art. 3)

1. No one in control of real property in town, other than a commercial junkyard or a commercial garage, shall tolerate the remaining thereon for more than ten days of a junked, abandoned, disassembled or inoperable motor vehicle, nor shall anyone allow such a motor vehicle to remain on any place or road available for public travel for more than forty-eight hours. Any such motor vehicle remaining for the period indicated shall de deemed abandoned an may be removed by the police department and disposed of under the provisions of Chapter 135 of the General Laws relating to unclaimed and abandoned property.

Whoever violates any provision of this by-law shall pay a fine of not more than fifty dollars. Each failure to remove the vehicle after written notice from the selectmen to do so to the one in control of real property affected or the registered owner of the vehicle on such place or road, within ten days of the receipt of said notice if on private land, or within forty-eight hours of its receipt if on such a place or road, shall be a separate offense and punishable by a fine of not over fifty dollars. Nothing herein shall prohibit the maintenance on private land in an enclosed building of disassembled or inoperable motor vehicles.

USE OF RECREATIONAL VEHICLES NEAR RESIDENCES

(STM - October 15**,** 1973 - Art. 15)

1. No person shall operate a snow vehicle or recreational vehicle (including motorcycles in off-highway operation) within three hundred feet of an occupied residence without the permission of the owner or tenant, except in cases of emergency or except directly to depart from or return to such residence. Permission may be given in advance and may be given to an individual or to a club, or by the posting of appropriate permission signs by the owner or a person authorized by him.

Whoever violates this by-law shall pay a fine of not more than fifty dollars.

GUIDEBOOK FOR LANDLORDS/TENANTS

(ATM - April 28, 1980 - Art. 55)

The town shall, during the month of September of every year, mail to each and every rental household and landlord known to the town a single copy of the town publication: A Guide to Understanding Your Rights and Responsibilities as a Landlord or Tenant in the Town of Amherst.

It shall be the responsibility of the Housing Partnership/Fair Housing Committee annually to revise and update, if necessary, the accuracy of the information contained within the guide, and to print sufficient copies of the guide to insure compliance with this by-law.

CONDOMINIUM AND COOPERATIVE CONVERSION

(STM - March 29, 1984 - Art. 1)

There currently is a severe shortage of rental housing in the Town of Amherst, which shortage has been caused in part by the rapid increase in the population of the town since 1970 resulting from its desirability as a place to live, in part by prolonged high interest rates which have retarded new housing construction, in part by the rapid inflation in the costs of new housing construction, in part by increases in residential mortgage rates, which have made home ownership more difficult or impossible, especially for low and moderate income families or the elderly on fixed incomes.

This severe shortage of rental housing has led to a serious public emergency with respect to the rental housing available to a substantial number of citizens of the Town, which emergency is causing a serious threat to the public health, safety and general welfare of the citizens of the town.

Federal tax laws and other considerations encourage the conversion of rental housing units to condominiums or cooperative conversion in the town would seriously worsen the severe shortage of rental housing in the town, by decreasing the stock of available rental housing, and would worsen the current serious public emergency with respect to rental housing in the Town.

In order to protect the public health, safety and general welfare of the citizens of the town, and to prevent the worsening of the current severe shortage of rental housing in the town, and the public emergency resulting therefrom, it is necessary to regulate and control the conversion of rental housing to condominium or cooperative housing.

The town enacts this by-law pursuant to the powers and authority possessed by the town under article 2 of the Articles of Amendment to the Constitution of the Commonwealth, as amended by article 89 of said Articles of Amendment, for the purpose of regulating and controlling such conversion.

SECTION 2. **Definitions** As used in this by-law the following terms shall have the following meanings:

a) "Board": The Board of Selectmen

b) “condominium unit”: a unit of a condominium, as defined in Chapter 183A of the General Laws.

c) “cooperative unit": a residential dwelling space in a building owned by a corporation, the shareholders of which have organized on a cooperative basis for the purpose of leasing such dwelling space to themselves.

d) "condominium conversion": the sale, of a condominium unit in a building, by the owner of said building.

e) “cooperative conversions": the execution of a lease, of a cooperative unit in a building, with an owner of shares of stock in the corporation which owns the building.

SECTION 3. **Applicability** This by-law shall apply to all buildings located within the town which contain two or more units of rental housing, whether or not said units are occupied. However, no unit once lawfully converted to a condominium or cooperative, and lawfully occupied by its owner, thereafter shall be governed by this by-law. Notwithstanding section 4(a) hereof, this by-law shall not apply to units as to which master deeds have been filed prior to the effective date of this by-law.

SECTION 4. **Regulation**

a) No condominium or cooperative conversion is permitted in the town, except pursuant to a conversion permit granted under subsections 4(b) and 4(c) hereof. No owner of a condominium unit shall occupy a unit in a building owned by said corporation, unless a conversion permit covering said unit has been granted.

b) When the vacancy rate for rental units in the town exceeds 5 %, a building owner may apply to the Board for a permit to convert said building to condominiums or cooperatives. When the vacancy rate is equal to or lower than 5%, a building owner may not apply for a permit unless the financial or other circumstances are such a prohibition of conversion would constitute unconstitutional confiscation of the owner's property. When such an application is made, the Board before granting a permit shall be required to make an explicit finding that denial of a permit would constitute such confiscation.

c) The Board shall consider at least the following factors in determining whether to grant or deny a conversion permit for a building.

1) the impact of the proposed conversion upon the tenants sought to be protected by this by-law, upon the availability of rental housing of comparable type, quality and cost in the town and upon the overall availability of rental housing in the town;

2) the ease or difficulty with which the affected tenants could find alternative rental housing in the town of comparable type, quality and cost;

3) any efforts to mitigate the impact of the proposed conversion upon the affected tenants, including but not limited to, guaranteed rights to remain as tenants for a fixed period, full or partial reimbursement of moving expenses and other costs of finding alternative rental housing, and the procurement by the building owner for the tenants of alternative rental housing in the town of comparable type, quality and cost:

4) the physical condition of the housing involved, and the financial viability of the building maintained as rental housing;

5) whether, for how long, and why a unit or units in the building have been vacant; and

6) the age, financial status, and health of the affected tenants, and the length of their tenancies.

d) This by-law shall not apply to any property exempted by Chapter 527 of the Acts of 1983.

e) The Board shall have the power to issue such orders and enact such regulations as it may deem necessary to effectuate the purposes of this by-law, and to prescribe the procedure for filing applications for conversion permits, giving notice of applications, holding public hearings upon applications, and rendering decisions upon applications. The Board may impose a reasonable filing fee for applications.

f) The Board shall determine the vacancy rate for rental units in the Town, using what source or sources of statistical data it determines to be appropriate.

g) Tenants of units converted, or to be converted, or proposed to be converted, may not be evicted, for the purpose of permitting renovation or rehabilitation of said units, or for the purpose of permitting occupancy of said units by purchasers, for nine months after the date of application for a conversion permit, or six months after the date of granting of a conversion permit, whichever is longer. It shall be unlawful to commit any acts of harassment against tenants, to fail to make necessary repairs or provide required services, or to seek unreasonable increases in rents, for or during said period for the purpose of seeking to induce tenants to vacate units.

h) A tenant shall have the right to first refusal to purchase the unit in which he or she lives.

i) An application for a conversion permit shall be accompanied by a written plan setting forth an orderly process for the conversion, and a description of the governing process by which the owners' association or cooperative corporation shall exercise its responsibilities during and after the conversion.

j) An application for a conversion permit shall cover all units in a building; however, the Board may in the exercise of its discretion under subsection 4(c) hereof condition the grant of the conversion permit upon the building owner making special provisions for certain units and the tenants thereof.

k) No conversion permit shall be granted unless the building has been certified by an independent licensed engineer or architect to meet all applicable building and health codes of the town and commonwealth.

SECTION 5. **Severability** Should any provision hereof, or its application to any person or circumstance, be determined to be invalid, that invalidity shall not affect the validity of any other provision or application hereof.

SECTION 6. **Penalties and Enforcement** Any person who violates this by-law shall be punished by a fine of fifty dollars per offense. Each day during which a unit is illegally converted or occupied and each day after which an illegal conversion takes place, shall constitute a separate offense, and the conversion of multiple units in a building shall constitute multiple offenses. The Board may enforce this by-law in a court of competent jurisdiction, and may obtain appropriate injunctive relief to enforce the by-law in a civil action. Any person aggrieved by a failure to comply with the by-law may enforce its provisions in a civil action for injunctive relief.

SECTION 7. **Effective Date** This by-law shall take effect upon any act by the General Court which shall enable the town to regulate condominium and cooperative conversions and, after review by the Attorney General, to ascertain compliance with that enabling act.

TAX INCREMENT FINANCING

(STM – October 27, 2003 – Art. 19)

The Amherst Select Board is authorized to enter into Tax Increment Financing Agreements, and any modifications thereof, in a form acceptable to the Select Board, in accordance with and subject to the requirements of M.G.L. c. 23A and M.G.L. c.40, s.59, and any regulations promulgated thereunder, as those requirements may, from time to time, be amended.

EMERGENCY ACCESS BYLAW

(STM – October 30, 2006)

AMHERST FIRE DEPARTMENT
Emergency Access Bylaw

1. Name of Bylaw and Authority.
   1.1. This bylaw shall be known as the Emergency Access Bylaw. It is enacted pursuant to the police powers of the town of Amherst in order to increase the safety and security of the inhabitants of the town and their property by lessening the response time to alarms in buildings with supervised fire protection systems.

2. Prohibition.
   2.1. No person shall install or maintain on any new or renovated building a supervised fire protection system unless such system is in full compliance with this bylaw or an exception has been obtained in accordance with this bylaw.

3. Installation.
   3.1. A key vault to provide emergency access for Fire Department units shall be installed on any building, (except single family dwellings) provided with supervised fire protection systems.
      3.1.1. The Fire Chief or his designee may grant an exception if the facility has on duty security or staff and the Fire Chief or his designee, in his sole discretion, is satisfied that such security or staff is able to arrive at the building with access

keys in less than five minutes.

3.1.2. The Fire Chief or his designee may approve an alternate entry method of emergency access. An application describing the alternative method shall be made to the Fire Chief who may grant an exception if he is satisfied, in his sole discretion, that the alternative entry method provides an equivalent fire response time as contemplated under this bylaw.

3.2. The type and style of key vault shall be approved by the Fire Chief or his designee.

3.3. The key vault shall be installed at the front door or other Fire Department approved access point into the building.

3.4. The location of the key vault shall be approved by the Fire Department.Keys or access codes shall be secured in the key vault including keys or codes for all outside doors, for interior doors and mechanical rooms and fire alarm control panels. Owner and occupant identification and 24-hour contact information shall be maintained in the key box.

4. Operation.

4.1. The Fire Department may use the keys secured in the key vault to gain access to the protected property for any emergency response.

4.2. The Fire Department shall notify the owner or tenant each time the keys secured in the key vault are used.

4.3. The owner shall file with the Dispatch Center a list of persons who will respond to the building within 15 minutes whenever a fire alarm is activated.

4.4. The owner, tenant or designated person shall respond to restore fire protection systems to service and to secure the building.

4.5. The owner shall ensure the keys are secured in the key vault after termination of the incident.

5. Maintenance.

5.1. The keys, codes, identification, and contact information secured in the key vault shall be updated upon change of owner or tenant or upon change of locks, codes, or contacts.

5.2. Annual inspection and maintenance

5.2.1. The keys secured in the key vault shall be removed annually and tested for proper operation.

5.2.2. Contact information for the owner and occupants shall be updated annually.

5.2.3. The key box lock shall be cleaned and lubricated annually.

5.2.4. The owner shall contact the Fire Department and make an appointment for annual inspection and maintenance of the key vault

5.2.5. The owner shall make such repairs and replace the lock box or any portion thereof as may be ordered by the Fire Chief or his designee.

FALSE ALARM FEES

(Adopted April 28, 2008 Annual Town Meeting, Article 47)

Any residence, school, municipal building or place of business which has an alarm system connected directly to the Police Department or connected indirectly to said Department through a

private alarm company (each of which will be hereinafter referred to as a "monitored system"), shall be charged a fine for all responses by the Department to such buildings when the response is caused by: (1) the activation of the monitored system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or his employees or agents; or (2) the activation of the monitored system requesting, requiring or resulting in a response on the part of the Police Department when, in fact, there has been no unauthorized intrusion, robbery or burglary, or attempted threat. For the purposes of this bylaw, activation of a monitored system for the purposes of testing with prior approval by the 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. A fine for violation of this bylaw may be assessed against the owner or tenant of the residence or place of business.

Penalties for violation of this bylaw shall be as follows, successive responses to be counted within any twelve month period:

First three responses	Warning
Fourth response	$ 50.00
Fifth response	$ 75.00
Sixth response	$100.00
Seventh response	$150.00
Eighth and subsequent responses	$200.00

This section may be enforced pursuant to the noncriminal disposition method as contained in M.G.L. Chapter 40, Section 21D. Enforcing persons shall be police officers.

RIGHT TO FARM

(ATM - April 28, 2008 – Art. 46)

Section 1. Legislative Purpose and Intent

The purpose and intent of this Bylaw is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Articles of Amendment of the Massachusetts Constitution and all state statutes and regulations thereunder, including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9; Chapter 111, Section 125A; and Chapter 128, Section 1A. We the citizens of Amherst restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment"). This General Bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Amherst by allowing agricultural uses and related activities and promoting efficient conflict resolution with abutters and Town agencies.

Section 2. Definitions

The word “farm” shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of agriculture. The words “farming” or “agriculture” or their derivatives shall include, but not be 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;
- growing and harvesting of forest products upon forest land, and any other forestry, lumbering, or tree-growing operations;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise;
- keeping and raising of poultry, swine, cattle, sheep, cavies (such as rabbits) ratites (such as emus, ostriches, and rheas) and camelids (such as llamas, alpacas, and camels), and other domesticated animals for food and other purposes, including bees and fur-bearing animals;
- production and processing of crops for biofuels for the purpose of generating alternative energy;
- operation and transportation of all farm equipment over roads within the town;
- harvest of crops according to generally accepted agricultural practices
- control of pests including, but not limited to, insects, weeds, predators, and disease organisms of plants and animals;
- tillage, cultivation, and application of manure, fertilizers, and pesticides;
- conducting agriculture-related educational activities;
- conducting farm-based recreational activities, 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, land management activities, or sale of the agricultural products;
- on-farm relocation of earth, and the clearing of ground for farming operation including burning brush in accordance with Massachusetts agricultural fire permit regulations (310 CMR 7.07); and
- construction and use of farm structures and facilities for the purpose of: storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products; housing of livestock; processing of animal wastes and agricultural products; season extension or hydroponic production of agricultural products; sale of agricultural products; or use by farm labor; construction and maintenance of fences; all as permitted by local and state building codes and regulations.

Section 3. Right to Farm Declaration

The Right to Farm is hereby recognized to exist with the Town of Amherst, in recognition of the benefits of farming to the neighborhood, community and society in general. 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. The benefits and protections of this Bylaw are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land, or imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning bylaw. This Bylaw does not supersede local, state or federal laws or regulations or private covenants.

Section 4. Effective Date

This Bylaw shall be effective upon approval by the Massachusetts Attorney General and the publication and posting as required by law.

Section 5. Disclosure Notification to Real Estate Buyers

In order to allow prospective purchasers to make informed decisions prior to a real estate transaction and to promote harmony between farmers and their new neighbors after a transaction, the Town of Amherst requests selling landholders and/or their agents (and assigns) provide written notice to prospective purchasers substantially as follows:

"It is the policy of the Town of Amherst 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 that the property they are about to acquire lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Purchasing, and henceforth occupying land within Amherst means that one should expect and accept such conditions as a normal and necessary aspect of living in Amherst."

Written notification may occur in one of several ways including but not limited to a disclosure form, addendum to a Purchase and Sale Agreement and should include an acknowledgement by the buyer that they have received notification.

Within 30 days after this Bylaw becomes effective the Select Board shall make available for use by selling landowners or their agents (and assigns) copies of example written notifications.

Within 30 days after this Bylaw becomes effective the Select Board shall prominently place in the town hall the above disclosure.

Section 6. Resolution of Disputes

Any person having a complaint about a farm or farming activity or practice is encouraged to seek an amicable solution through resolution directly with the owner or operator of the farm

at issue. Such person may also, notwithstanding the pursuit of other available remedies, file such complaint with the Town Manager. The Town Manager will forward the complaint to the Agricultural Commission, and other board or officer deemed appropriate. The Agricultural Commission will seek an amicable resolution through facilitating discussion between the parties, and will report back to the Town Manager on the outcome within a reasonable time frame.

Section 7. Severability Clause

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

STRETCH ENERGY CODE

(ATM – May 2, 2011 – Art. 27)

1. Adoption. The Town of Amherst has adopted the provisions of 780 CMR 120.AA (i.e., Appendix 120.AA of the State Building Code or the "Stretch Energy Code"), as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00, 34.00, 61.00 and 93.00.

2. Purpose. The purpose of the Stretch Energy Code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.

AMHERST LOCAL HISTORIC DISTRICT BYLAW

(ATM – April 30, 2012 – Art. 27)

The Town of Amherst hereby establishes a Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws Chapter 40C.

1. PURPOSE

The purpose of this bylaw is to aid property owners and the Town of Amherst in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Amherst, including the maintenance and improvement of their settings and to encourage and support new and innovative building designs and techniques compatible with the existing architecture.

2. DEFINITIONS

The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:

ALTERATION, TO ALTER
The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

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

CERTIFICATE
A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Bylaw.

COMMISSION
The Historic District Commission as established in this Bylaw.

CONSTRUCTION, TO CONSTRUCT
The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.

DISPLAY AREA
The total surface area of a sign, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the sign. The Display Area of an individual letter sign or irregular shaped sign shall be the area of the smallest rectangle into which the letters or shape will fit. Where sign faces are placed back to back and face in opposite directions, the Display Area shall be defined as the area of one face of the sign.

DISTRICT
A Local Historic District as established in this Bylaw consisting of one or more District areas.

EXTERIOR ARCHITECTURAL FEATURE
Such portion of the exterior of a building or structure as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

PERSON AGGRIEVED
The applicant; an owner of adjoining property; an owner of property within the same District area; an owner of property within 100 feet of said District area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, buildings or districts.

SIGNS
Any symbol, design or device used to identify or advertise any place of business, product, activity or person.

STRUCTURE
A combination of materials other than a building, including but not limited to a sign, fence, wall, terrace, walk or driveway.

TEMPORARY STRUCTURE or BUILDING
A building not to be in existence for a period of more than two years. A structure not to be in existence for a period of more than one year. The Commission may further limit the time periods set forth herein as it deems appropriate.

3. DISTRICT
Each DISTRICT shall consist of one or more District areas as listed in the Appendices of this Bylaw.

4. COMMISSION

4.1 Each District shall be overseen by the Commission consisting of seven members, to be appointed by the Select Board, two members initially to be appointed for one year, two for two years, and three for three years, and each successive appointment to be made for three years.

4.2 The Commission shall include, if possible, one member from two nominees solicited from the Amherst Historical Society, one member from two nominees solicited from the chapter of the American Institute of Architects covering Amherst; one member from two nominees of the Board of Realtors covering Amherst; and one property owner from within a District area. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Select Board may proceed to make appointments as it desires.

4.3 The Select Board may appoint up to four alternate members to the Commission. Each alternate member shall have the right to act and vote in the place of one regular

member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three year terms thereafter.

4.4 Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

4.5 Meetings of the Commission shall be held at the call of the Chair, at the request of two members and in such other manner as the Commission shall determine in its Rules and Regulations.

4.6 Four members of the Commission shall constitute a quorum.

5. COMMISS1ON POWERS AND DUTIES

5.1 The Commission shall exercise its powers in administering and regulating the construction and alteration of any structures or buildings within the District as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the Commission shall pay due regard to the distinctive characteristics of each building, structure and District area.

5.2 The Commission may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for Certificates, fees, hearing procedures and other matters. The Commission shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

5.3 The Commission, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation, may adopt and from time to time amend guidelines which set forth the designs for certain exterior architectural features which are, in general, suitable for the issuance of a Certificate. No such design guidelines shall limit the right of an applicant for a Certificate to present other designs to the Commission for approval.

5.4 The Commission shall at the beginning of each fiscal year hold an organizational meeting and elect a Chair, a Vice Chair and Secretary, and file notice of such election with the office of the Town Clerk.

5.5 The Commission shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

5.6 The Commission shall undertake educational efforts to explain to the public and property owners the merits and functions of a District.

6. ALTERATIONS AND CONSTRUCTION PROHIBITED WITHOUT A

CERTIFICATE

6.1 Except as this Bylaw provides and when a building permit is required, no building or structure or part thereof within a District shall be constructed or altered in any way that affects the exterior architectural features as visible from a public way, unless the Commission shall first have issued a Certificate with respect to such construction and alteration, except that a Certificate shall be required in all cases when the construction or alteration involves a removal of an exterior architectural feature as visible from a public way.

6.2 No building permit for construction of a building or structure or for alteration of an exterior architectural feature as visible from a public way within a District and no demolition permit for demolition or removal of a building or structure within a District shall be issued by the Town or any department thereof until a Certificate as required under this Bylaw has been issued by the Commission.

7. PROCEDURES FOR REVIEW OF APPLICATIONS

7.1 Any person who desires to obtain a Certificate from the Commission shall file with the Commission an application for a Certificate of Appropriateness, of Non- Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

7.2 The Commission shall determine within fourteen (14) days of the filing of an application for a Certificate whether said application involves any exterior architectural features which are within the jurisdiction of the Commission.

7.3 If the Commission determines that an application for a Certificate does not involve any exterior architectural features, or involves an exterior architectural feature which is not subject to review by the Commission under the provisions of this Bylaw, the Commission shall forthwith issue a Certificate of Non-Applicability.

7.4 If the Commission determines that such application involves any exterior architectural feature subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The Commission shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Amherst. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the Commission to be materially affected thereby all as they appear on the most recent real estate tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice.

7.4.1 A public hearing on an application for a Certificate need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a Certificate may be waived by the Commission if the Commission determines that the exterior architectural feature involved, or its category, is so insubstantial in its effect on the District that it may be reviewed by the Commission without a public hearing. If the Commission dispenses with a public hearing on an application for a Certificate, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the Commission to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the Commission may act upon such application.

7.5 Within sixty (60) days after the filing of an application for a Certificate, or within such further time as the applicant may allow in writing, the Commission shall issue a Certificate or a disapproval. In the case of a disapproval of an application for a Certificate, the Commission shall set forth in its disapproval the reasons for such disapproval. The Commission may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the Commission in a subsequent application, would make the application acceptable to the Commission.

7.6 The concurring vote of a majority of the members shall be required to issue a Certificate.

7.7 In issuing Certificates, the Commission may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose if this Bylaw.

7.8 If the Commission determines that the construction or alteration for which an application for a Certificate of Appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the District, the Commission shall issue a Certificate of Appropriateness.

7.9 If the construction or alteration for which an application for a Certificate of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the District generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare or to the district and without substantial derogation from the intent and purposes of this Bylaw. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment

or derogation, the Commission shall issue a Certificate of Hardship.

7.10 The Commission shall send a copy of its Certificates and disapprovals to the applicant and shall file a copy of its Certificates and disapprovals with the office of the Town Clerk and the Building Commissioner. The date of issuance of a Certificate or disapproval shall be the date of the filing of a copy of such Certificate or disapproval with the office of the Town Clerk.

7.11 If the Commission should fail to issue a Certificate or a disapproval within sixty (60) days of the filing of the application for a Certificate, or within such further time as the applicant may allow in writing, the Commission shall thereupon issue a Certificate of Hardship Due to Failure to Act.

7.12 Each Certificate issued by the Commission shall be dated and signed by its Chair or such other person designated by the Commission to sign such Certificates on its behalf.

7.13 A person aggrieved by a determination of the Commission may, within twenty (20) days of the issuance of a Certificate or disapproval, file a written request with the Commission for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the Pioneer Valley Planning Commission (PVPC). The finding of the person or persons making such review shall be filed with the Town Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the Commission, unless a further appeal is sought in the Superior Court as provided in Chapter 4OC, Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the Town Clerk.

8. CRITERIA FOR DETERMINATIONS

8.1 In deliberating on applications for Certificates, the Commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure; the general design, proportions, detailing, mass, arrangement, texture, and material of the exterior architectural features involved; and the relation of such exterior architectural features to similar features of buildings and structures in the surrounding area. The Commission shall be guided by the purpose of this Bylaw to preserve and protect exterior architectural features of the buildings and structures in the District as they exist at the time of the Bylaw's adoption.

8.2 In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the scale, shape and proportions of the building or structure both in relation to the land area upon which the building or structure is situated and in relation to buildings and structures in the vicinity. The Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw.

8.3 When ruling on applications for Certificates on solar energy systems as defined in

Section IA of Chapter 40A, the Commission shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

8.4 The Commission shall not consider interior arrangements or architectural features not subject to public view from a public way.

9. EXCLUSIONS

9.1 The Commission shall exclude from its purview the following:

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

9.1.2 Terraces, walks, driveways, sidewalks and similar structures, provided that any such structure is substantially at grade level.

9.1.3 Storm windows and doors, screen windows and doors, and window air conditioners.

9.1.4 The color of paint.

9.1.5 The color of materials used on roofs.

9.1.6 Signs of not more than two (2) square feet in display area in-connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each building or structure which is not more than six (6) square feet in display area, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.

9.1.7 The reconstruction, substantially similar in exterior design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

9.2 Upon request the Commission shall issue a Certificate of Non-Applicability with respect to construction or alteration in any category not subject to review by the Commission in accordance with the above provisions.

9.3 Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within a District which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public

safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of this Bylaw.

10. CATEGORICAL APPROVAL

The Commission may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Amherst, that certain categories of exterior architectural features, structures or buildings under certain conditions may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purpose of this Bylaw.

11. ENFORCEMENT AND PENALTIES

11.1 The Commission shall determine whether a particular activity is in violation of this Bylaw or not, and the Commission shall be charged with the enforcement of this Bylaw.

11.2 The Commission, upon a written complaint of any resident of Amherst, or owner of property within Amherst, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the Town of Amherst to prevent, correct, restrain or abate violation of this Bylaw. In the case where the Commission is requested in writing to enforce this Bylaw against any person allegedly in violation of same and the Commission declines to act, the Commission shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty one (21) days of receipt of such request.

11.3 Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of up to $300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

11.4 The Commission may designate the Building Commissioner or other qualified staff of the Town of Amherst to act on its behalf and to enforce this Bylaw under the direction of the Commission.

12. VALIDITY AND SEPARABILITY

The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.

13. APPENDICES

Appendix 1: Dickinson Local Historic District

The Dickinson Local Historic District shall be a District area under this Bylaw. The location and boundaries of the Dickinson Local Historic District are defined and shown on the Local Historic District Map of the Town of Amherst, Sheet 2010-1, dated 2/17/2012, which is a part of this Bylaw. Sheet 1 is based on the current land records used by the Town Assessor. The delineation

of the District area boundaries is based on the parcel boundaries shown therein, except as otherwise apparent on Sheet 1.

RESIDENTIAL RENTAL PROPERTY
(ATM - May 6, 2013 – Art. 29)

1. **Purpose.** This bylaw is adopted in accordance with the Town of Amherst's Home Rule Authority and the Amherst Master Plan, in furtherance of the following public purposes:

   a. To protect the health, safety, and welfare of tenants and other citizens of the Town of Amherst by monitoring and enhancing compliance with basic life safety and sanitary codes through the registration and permitting of residential rental properties.

   b. To ensure safe and sanitary conditions in Amherst's rental housing stock, preventing degradation and helping to promote preservation of important historic residential buildings and neighborhoods.

   c. To provide clear and accessible guidelines for the operation of rental properties for tenants, owners, landlords, and neighbors, and to extend awareness of related Town bylaws and health regulations related to operation of a rental property and those regulations related to noise, alcohol and nuisance behaviors.

   d. To establish and assign responsibility for different aspects of rental housing management.

   e. To establish and expand awareness of the requirements for use and maintenance of rental housing exteriors and grounds, including parking requirements.

   f. To ensure awareness of and responsibility for occupancy limits in rental units on the part of property owners, managers, tenants, and neighbors.

   g. To help to stabilize, protect, and enhance the essential characteristics of and quality of life within existing diverse, multi-generational residential neighborhoods for all residents, including families and students, consistent with Amherst's long history as a college community.

2. **Registration & Permit Required.** Except as provided in Section 4 below, no person, firm, trust, partnership, corporation or other legal entity may rent, or offer to rent, to individuals or households any dwelling unit nor any rooming unit in a lodging or boarding house being operated as a principal zoning use in the Town of Amherst until the property has been registered and a rental permit therefor has been issued by the Principal Code Official.

3. **Enabling Legislation & Regulations.** All rental units and rooming units regulated hereunder shall comply with all applicable local bylaws and regulations, as well as all state laws and health, building and fire codes. All inspections, enforcement, and other actions taken under these regulations are authorized under those applicable local and state laws and

regulations, as amended.

4. **Applicability & Exemptions**. Registration and rental permits shall be required of all residential properties containing rented dwelling units or rooming units, or offered for that purpose, except for the following:

   a. **Lodging Facilities**. Hotels, motels, inns, hostels, or bed and breakfasts.

   b. **Halfway Houses & Group Homes**. Residential facilities authorized and operated under state and federal law, congregate or similar group housing for the elderly or disabled, half-way houses for persons with substance abuse problems, congregate living arrangements for persons with disabilities, or other similar housing facilities operated under license by the Commonwealth of Massachusetts. Notwithstanding, such facilities shall comply with Section 7. a. 1) b) below.

5. **Definitions. Definitions of terms used in the regulations.**

Under these regulations, the following terms have the meanings indicated:

Code Official – means the Building Commissioner/Zoning Enforcement Officer of the Town of Amherst, the Health Director, the Police Chief, Fire Chief, or their designees and/or any of the inspectors or officers authorized to enforce the law, regulations and codes listed under Section 3 of this bylaw. The specific Code Official in each instance will be the official duly designated under the relevant statute, bylaw, or regulation.

Principal Code Official – the Code Official designated by the Town Manager to oversee and administer the rental program under this bylaw.

Dwelling Unit – means the room or group of rooms within a dwelling used or intended for use by one family, as defined by the Amherst Zoning Bylaw, or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

Emergency – Events or conditions involving natural disasters, fire, or other threats to the health and safety of the residents of a rental property.

Hazard - means a condition likely to expose persons to injury, or property to damage, loss, or destruction.

Occupant – means a person who occupies real property with the consent of the owner as a lessee, tenant at will, licensee or otherwise. The singular use of the term includes the plural when the context so indicates.

Owner – means every person who alone or jointly or severally with others:

a. has legal title to any building, structure, or property subject to this bylaw, or;

b. has care, charge, or control of any such building, structure, or property in any capacity including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or

c. is a lessor under written agreement; or

d. is the mortgagee in possession; or

e. is the recognized agent, trustee or other person with care, charge, or control appointed by the courts.

Owner-Occupant(s) – One or more natural persons who, in their individual capacity as distinct from any representative capacity, own(s) a whole or undivided interest in fee simple of certain real property and at least one of whom occupies a dwelling unit thereon as his or her principal residence (see definition).

Person – means an individual, corporation, trust, partnership (including general partnership, limited partnership, and limited liability partnership), and a limited liability company. In addition, any similar entity permitted by law to hold title to real estate shall for the purpose of this by-law be deemed a "person."

Premises – means any real estate used for residential premises, including but not limited to apartments, dwellings, dwelling units, lodging houses, lodging units, rooming houses, and rooming units.

Principal Residence - means the primary residence of an individual, family (as defined in the Zoning Bylaw), or property owner, i.e., the home where an owner, and the owner's family if applicable, resides as their primary dwelling; provided however, that no person shall hold concurrent rights in more than one (1) principal residence, as set forth under MGL Ch. 188, Section 1, as amended. Regular or periodic interruptions in residency shall not be considered to change the status of principal residency where such interruptions are the result of illness, catastrophe, professional or academic scheduling, or other temporary reasons for absence which do not affect basic indices of residency. For the purposes of this Bylaw, principal residency shall be determined by the Code Official based upon a preponderance of evidence, including but not limited to the following indicia of residency and address, as applicable: declaration of homestead, filing of state and federal income taxes, voter registration, annual street list, driver's license, motor vehicle registration, mortgage, mailing address, and telephone listing (if any).

Responsible Person – means an Owner, Occupant, Tenant, Local Agent, Property Manager or other natural person authorized to act as an Owner's agent.

Responsible Party – means the person or persons responsible for a violation under this Bylaw, whether an Owner, Occupant, Tenant, Local Agent, or Property Manager.

Rooming Unit – means the room or group of rooms let to an individual or household for use as living and sleeping quarters but not for cooking, whether or not common facilities for cooking are made available; provided, that cooking facilities shall not be deemed common if they can be reached only by passing through any part of the dwelling unit or rooming unit of another.

6. Registration & Permitting.

a. **Application Process and Requirements.** Registration and rental permit applications shall be made on forms approved by the Town, and shall provide such information as the Principal Code Official shall deem reasonable and appropriate. Completed applications shall be submitted to the appropriate Town office. Complete rental permit applications shall be reviewed and permits shall be issued within fourteen (14) working days from the date of submission. Except as may otherwise be permitted by the Code Official, a rental permit application shall identify the total number of rental units on the property.

Information required as part of a rental permit application shall include:

1) Contact Information & Responsible Persons. Name(s) and current contact information, including but not limited to mailing address, telephone number and email address, for all owners and any responsible rental property management entity or person(s). Where the rental property owner(s) or agent does not have their principal residence or principal place of business in the town of Amherst or within 20 miles of an Amherst town line, and in order to ensure contact in circumstances when the owner cannot be reached, the owner shall appoint one or more person(s) who are residents of Amherst to serve as Local Agent(s) for the owner, authorized to act on the owner's behalf with regard to the property, but in particular in all matters in response to an emergency which endangers the property or threatens the welfare of any person living on the premises. Notices given to a Local Agent shall be sufficient to satisfy any requirement of notice to the owner or the operator. The owner shall notify the Code Official in writing of any change of Local Agent within five days of any such change.

2) Compliance Through Self-Certification. Evidence of current compliance with all applicable local zoning and regulations, as well as state health, fire and building codes, shall be provided through submission of an Owner's Self-Inspection and Certification Checklist provided by the Town as set forth in Section 7 below. An owner or property manager may provide the Town with a single Self-Inspection and Certification Checklist for multiple units provided that said units are on a single property. Where said units represent a portion of the total rental units on the property, the applicant shall propose a schedule of Self-Inspection and Certification for the remaining units for the review and approval of the Code Official.

3) Complete & Accurate Information Required. No incomplete application will be accepted. It shall be a violation of this Bylaw for anyone to knowingly provide false

or misleading information on an application, and may constitute grounds for fines and other penalties hereunder. See Sections 12 and 13 below.

b. **Renewal.** Rental permits shall be valid for a period to begin on July 1 and shall end on June 30, regardless of when a permit is applied for or approved and issued. Completed applications for permit renewals shall be submitted and received by June 15th of each calendar year.

c. **Permit Posted**. A rental permit shall be conspicuously posted and maintained within the premises in a common area or area as is necessary to be visible to tenants and inspectors.

d. **Transferability.** Rental permits shall be transferable upon a change of ownership, providing that operation of the continued rental use shall be subject to the provisions of the permit and management plan. The new owner or designated operator of the rental property is required to promptly notify the Code Official of their acquisition of the property and to submit for review and approval any proposed changes in the provisions of the permit.

7. <u>Inspections & Complaints</u>.

a. Self-Certification Program. Owners of rental property governed by this bylaw shall self-inspect and certify their properties as required under this section. Nothing in the Self-Certification program shall limit the Town's authority or the authority and/or discretion of the Code Official to investigate and inspect a property in response to a complaint or for other good cause, or to compel abatement of any violation under this bylaw in a manner consistent with or required by the laws of the Commonwealth.

1) Annual Owner Self-Inspections & Checklist.

a. Owner Self-Inspection & Certification. An owner or their local agent shall conduct an annual inspection of the property, using a Self-Certification Checklist provided by the Town. The owner or their agent shall sign the Checklist indicating, that the information contained therein is complete and accurate as of the date of said annual inspection, and shall submit the Checklist and any required materials along with their application for annual renewal of the rental permit for the property and unit(s) in question. Any false statements or information provided on the Checklist shall constitute a violation of this bylaw.

b. Subsidized Housing. Where residential rental units are regularly inspected under requirements of the state or federal government, no Self-Inspection and Certification shall be required. Annual certification by the owner that a rental unit has been inspected in accordance with state or federal law shall be provided to the Town and shall be accepted by the Town as evidence of Self-Inspection as part of any permit application or renewal.

c. Self- Inspections & Access. An owner shall not be found in violation of the Self-Certification program if they have been refused access for an inspection by a

tenant/occupant. However, in such instances the owner shall either provide the Town with a signed statement from the tenant/occupant indicating that the inspection was refused, or the owner shall provide proof, that a request for access was served to the tenant/occupant and the request was thereafter refused.

d. Lease Terms. Subject to and as limited by the laws of the Commonwealth, a provision requiring tenants to agree to provide reasonable access to the owner(s) or management company shall be a feature of any lease for a rental unit or property permitted under this bylaw. Where no lease is used, the owner(s) or their lawful representatives shall provide documentation demonstrating that they have made all tenants aware of the Town of Amherst rental bylaw and inspection system. All leases shall provide an acknowledgment that all tenants have been made aware of these requirements.

e. Leases Available. Copies of all current, active leases for the subject property or units shall be kept on file with the owner or manager, and shall be made available to the Code Official within 48 hours of any request.

b. Self-Inspection for Different Circumstances

1) Short-Term Rentals. Dwelling units on owner-occupied properties serving as the owner's principal residence, and which contain no more than two (2) units may be rented under simple registration with the Town without the requirement for a rental permit for a period not to exceed one (1) calendar year under the following circumstances:

   a. During a pending sale of the property by the owner-occupant, or

   b. In response to regular or periodic interruptions in residency by the owner-occupant, where such interruptions are the result of illness, catastrophe, professional or academic scheduling, or other temporary reasons for absence which do not affect basic indicia of residency.

   At the end of the one (1) year rental period, as calculated from the initial date of the lease or occupancy of the unit(s) by persons other than the owner(s), any such units shall be registered and a rental permit obtained in compliance with this bylaw.

2) Long-Term Tenancies & Periodic Self-Inspections. Rental units which have been leased and occupied continuously by the same tenant(s) for a period of not less than three (3) years shall require a Self-Inspection & Certification upon initial registration and thereafter at three (3) year intervals. Exceptions shall be that Self-Inspection & Certification will be required upon any change in tenants, or may be required at more frequent intervals at the discretion of the Code Official in response to complaints or other circumstances requiring a Town inspection.

c. Complaints & Response Process.

Upon receipt of a complaint or notice from any person alleging that the condition of a rental unit or property is in violation of any law or State or local requirement, or of any violation

of this Bylaw, the Code Official shall conduct an inspection of a premise within a reasonable amount of time. Inspections shall be as scheduled by the Code Official.

Inspections of rental properties, buildings, grounds, and rented dwelling or rooming units shall be conducted in accordance with all applicable local and state laws, regulations and codes, in a manner consistent with the laws of the Commonwealth.

Subject to the above limitation, all rental units are subject to inspection upon complaint or request by a tenant. Issuance of a rental permit to an owner does not preclude tenants' right to file a complaint with the Town, to which the Town must respond with an inspection in compliance with the provisions of state law and regulations.

d. Access to Properties. In accordance with Section 7. a. 1) d), the permit holder shall make a good faith effort to arrange access by authorized Town personnel to any permitted rental property for the purpose of conducting inspections within twenty-four (24) hours of receiving a request.

8. <u>Tenant Information</u>. The owner shall be required to distribute to tenants annually, and to each new tenant, an information sheet provided by the Town describing key local regulations; bylaws, including those pertaining to noise, alcohol and nuisance houses; and state laws and codes applying to rental properties. As part of the Registration and Self-Certification process, the owner shall attest to understanding the provided information and the necessity of compliance with the rules and laws described, as well as distributing it to tenants.

9. <u>Occupancy Limits and Zoning</u>. The maximum number of adult persons who may occupy a dwelling unit or rooming unit shall be as determined by the requirements of the Amherst Zoning Bylaw and State standards for fitness for habitation. The fact that a structure or use may be permitted or authorized under the Amherst Zoning Bylaw shall not exempt said structure or use from application of this bylaw or relieve or excuse compliance herewith in any way.

10. <u>Parking</u>. All existing parking and any new or expanded parking on residential rental properties within the town of Amherst shall comply with the General Requirements and Design Standards and Landscape Standards of the Parking & Access Regulations of the Amherst Zoning Bylaw.

a. **Parking Site Plan.** A Basic Parking Site Plan, as described below, meeting the requirements of this section shall be developed and submitted as part of any rental permit application. Submission of an existing site plan approved under a land use (zoning) permit and which accurately represents current on-site parking shall meet the requirements of this section.

1) Basic Parking Site Plan Requirements. The parking site plan shall be drawn to scale (1"=20' preferred), as appropriate to the site. Except as may otherwise be required by the Code Official or under the provisions of Amherst's Zoning Bylaw, Town of Amherst GIS mapping may be used as the base for a site plan developed under this section.

a) The Basic Parking Site Plan shall accurately depict the area within which parking is proposed, including:

i. Property boundaries
ii. Existing driveways and pedestrian walks
iii. Dwellings and structures
iv. All existing and proposed on-site parking spaces
v. Existing and proposed landscaped areas
vi. Fencing or other barriers or screening
vii. Site features such as trees over 12 inches in diameter (as measured five feet above grade), bedrock outcroppings, steep slopes, and such other site features as may affect parking locations.

2) Any provision of this section with regard to Basic Parking Site Plan Requirements may be waived or modified by the Code Official for compelling reasons of safety or design.

b) Review. Existing on-site parking and circulation shall be reviewed by the Code Official for conformance with existing zoning requirements, including but not limited to parking layout and circulation, paving, parking space dimensions, screening, and, in consultation with the Fire Chief, the sufficiency of circulation and vehicular access for public safety and emergency vehicles.

11. <u>Fees</u>. The Select Board or its designee may set and periodically revise a schedule of fees for registration, permit application, and inspections of rental properties.

12. <u>Enforcement</u>.

a. Enforcement Personnel. The Town Manager is hereby authorized to designate the Principal Code Official and other Town officials empowered to enforce or otherwise take actions under this Bylaw.

b. Enforcement Options. This Bylaw shall be enforced by criminal complaint through a court of competent jurisdiction. In addition, any person committing a violation under this section may be issued a citation under the noncriminal disposition process of M.G.L. c. 40 section 21D. Furthermore, in appropriate circumstances, a civil action may be initiated to compel compliance herewith.

c. Violations. Non-compliance with any requirement of this Bylaw shall constitute a violation subject to penalty. Every day in which a violation continues shall be considered to be a separate offence. If more than one violation has occurred, each condition of the Bylaw which has been violated shall be considered a separate offense.

d. Enforcement Procedures. Except for cases where conditions exist which may endanger or impair the health, or safety and well-being of a person or persons occupying the premises or as may otherwise be provided for by the Massachusetts Sanitary Code,

Building Code, Fire Regulations or any other state or local law or regulation, the response of Code Officials to potential violations of this Bylaw shall include one or more of the actions as deemed necessary by the Code Official. Nothing herein shall supersede, alter, or vary the requirements of those codes or the responsibilities of the officials that administer them.

1) Complaint Filed. Any person may file a complaint regarding one or more violations of this Bylaw.

2) Property Research. The Code Official shall perform a limited initial research of the property to confirm permit history, assessor's information, and other pertinent information. The Code Official may contact the alleged violator, occupant or responsible party to gather additional information. When appropriate the Code Official shall notify the Owner that a complaint has been filed against the property and that an initial site inspection is anticipated.

3) Site Inspection. The Code Official shall conduct a site inspection to determine the validity of the complaint and collect any relevant facts of the case.

4) Notice of Violation/Enforcement Order. After inspecting the site and upon confirming that a violation exists, the Code Official shall inform the responsible party or parties in writing of the violation and specify a time period within which to correct the violation. Violations may be cited pursuant to the applicable state or local code or regulation.

5) Follow up Inspection. Shall be conducted upon the expiration of the time specified to correct the violation.

6) Fines. The Code Official may elect to impose fines in instances where: 1) compliance has not been achieved after the responsible party or parties have been made aware of the violation and given a reasonable opportunity to come into compliance, or 2) for repeat offenses.

7) Suspension of Rental Permit. In instances of egregious violations and when all reasonable and practical efforts have been made by the Code Official to gain compliance at a property without result, the Principal Code Official may suspend a rental permit based upon the specific criteria provided in Section 13 of this Bylaw. The permit holder shall have the opportunity to be heard and appeal any decision of the Principal Code Official to impose a suspension in accordance with Section 14 of this Bylaw.

8) Court Relief. If a violator fails to comply with an Enforcement Order, the Code Official may seek a court order to remedy the violation.

13. <u>Penalties</u>

a. Fines. Any violation of the provisions of this Bylaw may be enforced by non-criminal complaint pursuant to the provisions of G.L. c.40, §21D. The fine for any violation shall be one hundred dollars ($100.00) for each offense. Each day such violation continues shall be deemed a separate offense. Fines for other applicable local and state laws, regulations and codes, shall be set and assessed in a manner consistent with those laws, regulations, and codes, and the laws of the Commonwealth.

b. **Suspension.** Based on the standard of proof and criteria specified herein the Principal Code Official is authorized to suspend a rental permit. A suspension shall take effect immediately upon the day following the end of the current lease, or upon any termination of the lease prior to that date. The suspension of a rental permit shall be imposed to affect only those units which are the subject of the violation(s) and enforcement action(s). Permits may be suspended if:

1) An Owner or their Agent has knowingly allowed or assisted in allowing violations of this Bylaw. The Code Official must collect compelling documentation through his or her investigation to substantiate this violation and support the recommendation to suspend a permit.

2) An Owner or their Agent repeatedly refuses or neglects to comply with an order of the Code Official. The Code Official must find that the Owner or their Agent have not taken action to achieve compliance of the property and that at least 90 days have expired without compliance since the date of receipt of the Enforcement Order. During this time the Code Official shall inform the Owner or their Agent in writing that the permit is subject to suspension.

Suspensions shall be as follows:
First Offense – 90 days
Second Offense in a twelve month period – 180 days
Third Offense in a twelve month period – 3 years

c. Immediate Suspension. In those instances where a rental unit has been condemned or deemed an unsafe structure pursuant to health, building and fire regulations, the rental permit shall be immediately suspended and shall remain suspended until as such time the property is found to be habitable and in compliance by the appropriate Code Official.

14. <u>Appeals of the Code Official.</u>

The Select Board is hereby authorized to establish and appoint a Rental Appeals Board (RAB), and to promulgate regulations for its membership and the conduct of its business.

Any decision by the Code Official to suspend a permit may be challenged by the permit holder by filing an appeal to the Rental Appeals Board (RAB). All appeals must be filed within 14 days of the decision and shall be heard within 30 days of filing. All appeals shall be heard at a duly noticed public hearing and any party filing such an appeal shall have the right to be represented by counsel.

A decision of the Rental Appeals Board shall be final. Further relief of a decision by the RAB made under this Bylaw shall be reviewable in a court of competent jurisdiction.

ARTICLE V

COUNCIL ON AGING

(STM - January 23, 1967 - Art. 1)
(STM – November 2, 2005 – Art. 14)

1. There shall be a council on aging consisting of nine members**,** some members of which shall represent those age 60 and over**,** appointed by the town manager for three year terms unless they are completing an unexpired term. Any vacancy shall be filled by the town manager, who will take into consideration the recommendation of the Nominating Committee of the Council on Aging. The members shall serve without compensation. The council shall elect its own chair for a one-year term. A secretary shall record all the proceedings of the meetings and attend to its correspondence. A Senior Center staff member may serve as secretary instead, if needed. Regular meetings of the Council may be held monthly, the date, time and place to be designated by the chair. It shall have the authority granted to it by Section 8B, as now or hereafter amended, of Chapter 40 of the General Laws, and shall coordinate or carry out programs designed to meet the problems of the aging in coordination with programs of the Department of Elder Affairs.

ARTICLE VI

NON-CRIMINAL DISPOSITION OF VIOLATIONS

(ATM - May 2, 1988 - Art. 66)

SECTION l (a). **Criminal Complaint** Whoever violates any provisions of Articles II through IV inclusive, of the by-laws of the Town of Amherst may be penalized by indictment or criminal complaint brought in the District Court. The penalty shall be that fixed by by-law; provided, however, that in no case shall the maximum penalty for each violation, or offense, brought in such manner, be in excess of three hundred dollars ($300.00) unless otherwise allowed by law.

SECTION l (b). **Non-Criminal Disposition** Whoever violates any provisions of the Articles II through IV of the by-laws of the Town of Amherst listed below, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in the General Laws, Chapter 40, Section 21D. The non-criminal method for disposition may also be used pursuant to this article for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty provided that the Board of Selectmen first approve, by majority vote, each such rule or regulation to be enforced by this procedure.

The municipal personnel listed for each section shall be enforcing persons for such sections. Each day on which any violation exists shall be deemed to be a separate offense.

ARTICLE II - GENERAL REGULATIONS

CONDUCT IN OR ON PUBLIC WAYS AND PLACES

1. **Bicycle Regulations**
   Fine: $20. 00
   Enforcing Person(s): Police Officers

2. **Regulations of Other Non-Motorized Conveyances**
   Fine: $20. 00
   Enforcing Person(s): Police Officers

3. **Impeding Traffic**
   Fine: $50.00
   Enforcing Person(s): Police Officers

5. **Activities and Amusements**
   Fine: $200.00
   Enforcing Person(s):

6. **Littering**
   Fine: $100.00
   Enforcing Person(s): Police Officers and Superintendent of Public Works

7. **Open Containers of Alcohol**
   Fine: $300.00
   Enforcing Person(s): Police Officers

8. **Transporting Garbage or Rubbish**
   Fine: $50.00
   Enforcing Person(s): Police Officers and Superintendent of Public Works

10. **Handicapped Parking**
    Fine: $200.00
    Enforcing Person(s): Police Officers and Disabilities Access Coordinator

PROHIBITIONS

1. **Discharging of Firearms**
   Fine: $200. 00
   Enforcing Person(s): Police Officers

3. **Unlawful Noise**
   Fine: $300.00
   Enforcing Person(s): Police Officers

4. **Advertising of Tobacco Products**
   Fine: $25.00
   Enforcing Person(s): Police Officers

5. **Distribution of Free Cigarettes**
   Fine: $100.00
   Enforcing Person(s): Police Officers

6. **Keg Licensing**
   Fine: $300
   Enforcing Person(s): Police Officers

7. **Nuisance House**
   Fine: $300
   Enforcing Person(s): Police Officers

8. **Ban of EPS Foam In Food Establishments and Town Facilities**
   Fine $100 – First Offense
   Fine $250 – Second and any subsequent violation
   Enforcing Person: Health Department or its Designee

9. **Single Use Plastic Bag Prohibition** :
   Fine $100
   Enforcing Person: Board of Health or its designee

PUBLIC WORKS

1. **Disturbing Highway Surface or Curbing**
   Fine: $200.00
   Enforcing Person(s): Police Officers and Superintendent of Public Works

2. **Driveway Entrance Permits**
   Fine: $200.00
   Enforcing Person(s): Police Officers and Superintendent of Public Works

ARTICLE III - REGULATION OF PARTICULAR ACTIVITIES AND DEVICES

Regulation of Signs

Section 1 through 3, inclusive
Fine: $100.00
Enforcing Person(s): Police Officers and Building Commissioner

Parades and Public Meetings

Section 1
Fine: $50.00
Enforcing Person(s): Police Officers

Soliciting

Sections I through 8, inclusive
Fine: $50.00
Enforcing Person(s): Police Officers

Open Burning By-Law

Sections 1 through 6, inclusive
Fine: $300.00
Enforcing Persons: Full-time Firefighters, Police Officers, and Building Commissioner

ARTICLE IV - REGULATIONS RELATING TO REAL ESTATE AND REAL ESTATE USERS

(ATM – May 1, 2006 – Art. 8)

Removal of Snow and Ice from Sidewalks

Section 1
Fine: $10.00
Enforcing Person(s): Police Officers and Superintendent of Public Works

Depositing- Snow on Highways

Section 1
Fine: $100.00
Enforcing Person(s): Police Officers and Superintendent of Public Works

Gas Inspector

Section 2
Fine: $20. 00
Enforcing Person(s): Police Officers and Building Commissioner

Junked Vehicles

Section 1
Fine: $50.00

Enforcing Person(s): Police Officers and Building Commissioner

Use of Recreational Vehicles Near Residences

Section 1
Fine: $50.00
Enforcing Person(s): Police Officers

False Alarm Fees

Fine Schedule:

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

Enforcing Persons: Police Officers

Any violation of any provision of M.G.L. Chapter 270, Section 16, may be enforced under the non-criminal disposition procedures as set forth in M.G.L. Chapter 40, Section 21D. Enforcing persons shall be Town of Amherst police officers, superintendent of public works, public health agents, health officers, and health directors. The penalty for violation of Section 16 shall be $250.00 for each offense. Each day in which the offense shall continue shall constitute a separate offense.

If any provision(s) of this bylaw shall be invalid for any reason said provision(s) shall be deleted and the remainder of the bylaw shall continue in full force and effect.

Local Historic District

Section 11
Fine: $300
Enforcing Person(s): Historic District Commission or its designee

Residential Rental Property

Sections 12 & 13
Fine $100
Suspension:
First Offense – 90 days
Second Offense in a twelve month period – 180 days
Third Offense in a twelve month period – 3 years

STATE STATUTES ACCEPTED OR AVAILED OF BY THE TOWN

1881 G.S. Ch. 45, §7 & 8 (See G.L. Ch. 83, §5, 25 & 26): establishing and grading sidewalks.
Ch. 114, Acts 1863 (See G.L. Ch. 85, §5): removal of snow and ice from sidewalks. Ch. 302, Acts 1872; Ch. 107, Acts, 1874.

1886 P.S. Ch. 27, §64-68 (Ch. 255, Acts 1878, §1-5): manner of electing selectmen and assessors.

1891 P.S. Ch. 58: slaughtering inspector. P.S. Ch. 36, Sec. 29 (Ch. 178, Acts 1863, now G.L. Ch. 49, §28): pounds, pound keepers, impounding cattle.

1895 *Ch. 186, Acts 1895 (See G.L. Ch. 40, §16-18): street sprinkling.

1896 Ch. 417, Acts 1893, §267 & 268 (See G.L. Ch. 41, §2): election of selectmen and assessors.

1897 *Ch. 423, Acts 1893, §25 (See G.L. Ch. 41, Sec. 64): fixing compensation of superintendent of streets.

1898 Ch. 374, Acts 1895 (See G.L. Ch. 41, §62): a single highway surveyor in exclusive control of repairs; rescinded 1917.

1900 Ch. 264, Acts 1890 (See G.L. Ch. 114, §22-26): election of cemetery commissioners.

1904 Ch. 40, Acts 1902, §l & 2 (Now G. L. Ch. 40, Sec. 7): removal of snow and ice from sidewalks.

1909 R.L. Ch. 103 (See G.L. 142, §1-6, 11-16): plumbing inspection.

1912 Ch. 624, Acts 1910 (See G.L. Ch. 41, §55): town accountant.

1913 Ch. 484, Acts 1912: special act for Amherst sewer system construction.
*Ch. 347, Acts 1912 (See G.L. Ch. 40, §63): establishment of a reserve fund.

1914 *Ch. 130, Acts 1910 (See G.L. Ch. 39, §16): establishment of finance committee and reserve fund under Ch. 347, Acts 1912 and Ch. 645, Acts 1913 (Now G.L. Ch. 40, §6).
Ch. 807, Acts 1913 (See G.L. Ch. 152, Sec. 69): workmen's compensation.

1915 *Ch. 283, Acts 1914 (See G.L. Ch. 41, §70): establishment of planning board.

1916 Ch. 284, Acts 1915 (See G.L. Ch. 39, §23): town election on different date from town meeting. Rescinded 1919; see also vote, Art. 11, town meeting March 20, 1939; Rescinded 10/28/68; See also §l & 5 of Town Meeting Act.

1917 *Ch. 835, Acts 1913, §397 (See G.L. Ch. 39, §14): election of moderator.
*G.L. Ch. 41, §21: selectmen put in charge of highways, sidewalks and bridges.

1918 R.L. Ch. 28, §1-14 (See G.L. Ch. 45, §2-10): laying out of public parks.

1921 *G.L. Ch. 41, §45: establishment of board of trust fund commissioners.
G.L. Ch. 136, §21-25: permitting sports on the Lord's Day.

1925 G.L. Ch. 136, §6 & 7: licensing sale of certain items on the Lord's Day.
Ch. 496, Acts 1924, §2 (See G.L. Ch. 94, §120A): additional fees paid by slaughter house licensees.

1928 G.L. Ch. 48, §42-44: appointment and duties of chief of fire department.
*G.L. Ch. 143, §6-13: building inspector.

1929 Ch. 153, Acts 1929: Amherst Water Company Act amended.

1938 Ch. 10, Acts 1936: representative town meeting.

1939 G.L. Ch. 243, §3: regulating construction of buildings; rescinded 11/16/64.

1941 *G.L. Ch. 41, §91A: selectmen to appoint constables.
G.L. Ch. 40, §42R-42F: segregation of water revenues.
*G.L. Ch. 91, §29 and Ch. 513, Acts 1939: assumption of liability for damages by acts of state department of public works on rivers and streams.

1943 G.L. Ch. 41, §38A: tax collector to collect accounts due town. Rescinded April 6, 1943; resumed 1955.

1944 G.L. Ch. 54, §103A: absentee voting at town elections.

1946 Ch. 723, Acts 1945: establishment of department to aid veterans.

1947 *G.L. Ch. 53, §121: town caucus; superseded 1956 on acceptance of Ch. 149, Acts 1955.

1949 G.L. Ch. 136, §4B: licensing bowling alleys to operate on the Lord's Day.
*G.L. Ch. 40, §22A: parking meters.

1950 Ch. 529, Acts 1949 (G.L. Ch. 166, §32): inspector of wires.

1951 G.L. Ch. 41, §81A-81Y: planning board with power over land subdivision.
Ch. 820, Acts 1950: increase of pensions.
*G.L. Ch. 41, §108A: job classification and pay scales.

1952 Ch. 781, Acts 1951: increase of pensions.

1953 Ch. 537, Acts 1951 (G.L. Ch. 31, §47E): step pay increases for welfare personnel; superseded 1968 by State assumption of welfare.
G.L. Ch. 71, §16-161: regional school district with Pelham.
Ch. 11, Acts 195 1: town manager government.

1955 G.L. Ch. 40, §6B: appropriations for police and fire uniforms.
G.L. 40, §38A: tax collector to collect amounts due town.

1956 Ch. 149, Acts 1955: nominations procedure in town elections.
*G.L. Ch. 32B: contributory group insurance for town employees.
G.L. Ch. 40, §42G-42I: assessments for laying water pipes; rescinded 1957.
G.L. Ch. 40, §13A: workmen's compensation for town employees.

1958 Ch. 427, Acts 1957: increase of pensions for retired policemen.
G.L. Ch. 41, §100A: indemnification of operators of town vehicles.
Ch. 40 1, Acts 1956: indemnification of Civil Defense volunteers operating town vehicles.

1959 *G.L. Ch. 121, §26K: housing for elderly persons.

1960 Ch. 49, Acts 1959: limiting size of town meeting.

1960 G.L. Ch. 40, §8A: establishment of Development and Industrial Commission.
G.L. Ch. 147, §17A: paid holidays for policemen.

1961 G.L. Ch. 48, §57A: paid holidays for firemen.
*G.L. Ch. 78, §19A-19C: library aid.

1962 G.L. Ch. 40, §22D: tow-away authority.
G.L. Ch. 40, §8C: establishment of conservation commission.

1963 G.L. Ch. 90, §18A: regulating pedestrians.
Ch. 403, Acts 1936 (See G.L. Ch. 152, §69): extending workmen's compensation.
*G.L. Ch. 40, §4: appraisal of real estate (revaluation).

1964 Ch. 54, Acts 1963: nominations for town offices.
Ch. 478, Acts 1963: increasing certain pensions.
Ch. 48, Acts 1964: special sewer charges.
G.L. Ch. 25, §12H: gas inspector.

1966 G.L. Ch. 4OB: Lower Pioneer Valley Regional Planning District.

1968 G.L. Ch. 40, §42A-42F: water liens on real estate. (Rate change voted 3/4/68).
G.L. Ch. 90, §20C: parking fines.
G.L. Ch. 32B, §9A, 9D, 11B: contributory group insurance (extending benefits).
1969 G.L. Ch. 32B, §7A(d), 9E: contributory group insurance (extending benefits).
1971 G.L. Ch. 121B: redevelopment authority.
1972 G.L. Ch. 32B, §llc: retired teachers group insurance transferred to State.
Ch. 512, Acts 1972: Jones Library.
G.L. Ch. 40, §8D: historical commission.
1973 G.L. Ch. 44, §53C: payment of police officers for off-duty work detail.
Ch. 631, Acts 1973: amends §10, Ch. 53 G.L. requiring incumbent town meeting members to file nomination papers.
Ch. 814, Acts 1973: public works, land acquisition for highways.
1974 G.L. Ch. 41, §108A: Establish Classification/Compensation Plan
1975 G.L. Ch. 40, §8G: police department, mutual aid programs with other municipalities.
1978 G.L. Ch. 44, §53: revolving fund for recreation.
G.L. Ch. 83, 16A-16F: unpaid sewer charges to become lien on real property.
G.L. Ch. 40, §5E: establish & maintain unemployment compensation fund.
G.L. Ch. 148, §26C (as amended by Ch. 962, Acts of 1977): smoke detectors, apartment houses.
1979 G.L. Ch. 48, §59A: firefighting aid to other municipalities.
1980 Ch. 117, Acts 1980: filling vacancies in Town Meeting membership.
G.L. Ch. 71, §71E: to allow deposit of receipts from Adult Education to revolving account for school use.
G.L. Ch. 40, §4G: increase bid ceiling to $4,000 for town contracts.
1981 G.L. Ch. 90, §20A, 20C, 20D, 20E, and Ch. 351, §121, Acts 1981: parking tickets.
1982 Ch. 743, Acts 1981: real estate tax exemptions for elderly.
Ch. 40, §5D: establishment of retirement fund.
1983 G.L. Ch. 59, §5(37A): property tax exemption - blind.
G.L. Ch. 59, §5(41B): increased limit, property tax exemption, elderly.
G.L. Ch. 60A (as amended by Ch. 597, Acts 1982): motor vehicle excise tax exemption, ex prisoners of war.
G.L. Ch. 71, §71E: revolving fund, adult & continuing education programs.
G.L. Ch. 59, §5, Clause 37A: increase to $500.00 the property tax exemption for the blind.
G.L. Ch. 59, §5, Clause 41B: increase minimum income tax assets limits for a $500.00 property tax exemption for the elderly.
G. L. Ch. 60A (amended by Ch. 597 of the Acts of 1982): exempt motor vehicle tax to former prisoners of war.
G.L. Ch. 71, §71E: establish a revolving fund for adult education and continuing education programs.
Petition General Court/Special Act: establishment of a revolving fund for adult education and continuing education programs.
G.L. Ch. 41, §108L: Police career incentive pay program.
1985 G.L. Ch. 188, §13: Professional development grant program.
G.L. Ch. 71, §40: Minimum teacher salary.
1986 G.L. Ch. 900, Acts of 1977, §3A, amending Ch.32B: Establish a claims trust fund.

G.L. Ch. 59, §5, Clauses 17D & 41C: Personal Exemption.
G.L. Ch. 41, §41B: Authorize payment of public employees by direct bank credits.

1987 G.L. Ch. 40, §39K: Establish enterprise funds for Town's water, sewer & solid waste facilities and operations

1988 G.L. Ch. 64G, §3A: Local room occupancy excise 4%.
G.L. Ch. 140, §147A: Allow town to enact by-laws for the regulation of dogs.
G.L. Ch. 40, §58: Municipal charges lien on real estate for unpaid refuse fees.

1989 G.L. Ch. 40, §39K: Establish Municipal Golf Course service enterprise fund.
G.L. Ch. 140, §2 also 49d; fee for licenses granted to innholders, common victuallers and lunch carts.
G.L. Ch. 262, §34, Clauses 1-79: Changes to Town Clerk fees.

1990 G.L. Ch.653 §40, Acts of 1989: Assessment date change from Jan. 1 to July 1 for inclusion of new growth in the levy.
G.L. Ch. 148, §26E, 26G, 26H, 26I: Smoke detectors, automatic sprinkles.
G.L. Ch. 40, §57: Denial, revocation or suspension of local licenses or permits for failure to pay municipal taxes or charges.

1991 G.L. Ch. 59, §57C: Assessment of property taxes on a quarterly basis.
G.L. Ch. 291, Acts of 1990: Enhanced 911 service.

1992 G.L. Ch. 40, §22F: Empower the town to fix and retain fees for permits and services.
G.L. Ch. 59, §57B: To bill and collect tax bill for $50 or less.
G.L. Ch. 59, §17D, 22, 37A, 41C: Maximum exemption increase of 40%.

1993 G.L. Ch. 59, § 17D, 22, 37A, 41C: Maximum exemption of 100%.
G.L. Ch. 59, §5, Clauses 22, 22A, 22B, 22C, 22D, 22E (Ch. 110, §110 of FY94 State Budget): Reduces from 5 to 1 the number of years a person must have been a Mass. resident to qualify for veteran exemption.

1994 Chapter 71, §83, Acts of 1993: Mass. Early Retirement Incentive Program for public school employees belonging to Mass. Teachers' Retirement System.
G.L. Ch. 40, §21D: G.L. Ch. 270, §16: Non-criminal disposition of violations.
G.L. Ch 44, §53F: Authorize the Treasurer to enter into written agreements with banking institutions. Agree to maintain funds on deposit in exchange for banking services.

1995 G.L. Ch. 59, §5, Cl. 50: Property tax exemption for residential improvements to provide elderly housing.

1996 G.L. Ch 44, §53F: Authorize the Treasurer to enter into written agreements with banking institutions. Agree to maintain funds on deposit in exchange for banking services.
G.L. Ch. 138, §12: Issuing of Cordial and Liqueurs licenses.

1997 Ch. 448, Sec. 2, Acts of 1996. Allow voice vote to stand unless questioned in matters requiring a 2/3 vote by statute.

1998 G. L. Ch. 41, Sec. 110A and Ch.4. Sec. 9. Saturday shall be considered legal holidays for the purpose of transacting business with municipal offices.

1999 G.L. Ch 44, §53F: Authorize the Treasurer to enter into written agreements with banking institutions. Agree to maintain funds on deposit in exchange for banking services.

2000 G.L. Ch 44, §53F: Authorize the Treasurer to enter into written agreements with banking institutions. Agree to maintain funds on deposit in exchange for banking services.
G.L. Ch 44, §53F1/2: Establish a Transportation Enterprise Fund.

2001 G.L. Ch. 44B, Sections 3-7: Community Preservation Act which establishes a special "Community Preservation Fund".

2001 G.L. Ch. 44B, §5: Establish a Community Preservation Committee.

2001 G.L. Ch 44, §53F: Authorize the Treasurer to enter into written agreements with banking institutions. Agree to maintain funds on deposit in exchange for banking services.

2001 G.L. Ch. 59, Sec. 17D, 22, 37A, and 41C: Maximum exemption of 100 percent.

2002 G.L. Ch. 44, §53F: Authorize the Treasurer to enter into written agreements with banking institutions pursuant to which the Treasurer agrees to maintain funds on deposit in exchange for banking services.

2002 Ch. 73, §4, Acts of 1986: Authorize a maximum additional exemption of up to 100 percent for qualifying taxpayers.

2002 G.L. Ch. 59, §5K: Reduction in property tax liability in exchange for volunteer services by persons over age 60.

2002 Ch. 184, §51, Acts of 2002: Amend G.L. Ch. 59, §5 (41C), for Fiscal Year 2003, by decreasing the eligibility age for senior tax exemptions and by increasing the exemption amount, the gross receipts limit, the whole estate limit, and the whole estate exclusion.

2002 G.L. Ch. 40, §21D: Authorize the non-criminal disposition method of enforcing Town Bylaw, Article II, Handicapped Parking.

2003 G.L. Ch. 184, §31: Accept a permanent Affordable Housing Restriction on lots 1 and 7 of Parcels 4 and 7 on Assessor's Map 21B.

2003 G.L. Ch. 40, §8C, Ch. 132A, §11, and Ch. 184: Simmons Property Conservation Restriction.

2003 G.L. Ch. 44, §53F: Authorize the Treasurer to enter into written agreements with banking institutions pursuant to which the Treasurer agrees to maintain funds on deposit in exchange for banking services.

2003 G.L. Ch. 59, §5, Clauses 17D, 22, 37A, and 41C: Authorize a maximum additional exemption of 100 percent.

2003 G.L. Ch. 23A, §3A-3H: Designate Economic Opportunity Area ("Atkins Corner EOA") and Tax Increment Financing Zone for a term of not more than twenty years.

2003 G.L. Ch. 23A and Ch. 40, §59: Authorize the Select Board to enter into Tax Increment Financing Agreements.

2004 G.L. Ch. 59, §5, Clauses 17D, 22, 37A, or 41C: Authorize a maximum additional exemption of up to 100 percent for qualifying taxpayers.

2004 G.L. Ch. 44, §53F: Authorize the Treasurer to enter into written agreements with banking institutions pursuant to which the Treasurer agrees to maintain funds on deposit in exchange for banking services.

2004 G.L. Ch. 44, §7(5): Authorize the Treasurer to borrow $250,000 for Town Center Improvements.

2004 G.L. Title XIV, Ch. 90, §16A: Resolution to enforce law pertaining to unnecessary vehicle idling.

2004 G.L. Ch. 59, §5 (added by statute 1995, Ch. 181, §1), final paragraph: Increase property tax exemption allowed to certain senior citizens, surviving spouses and minors by amount of the annual cost of living adjustment (COLA).

2004 G.L. Ch. 59, §5, Clause 41D: Allow the income and assets certain senior citizens may have to qualify for an exemption to increase by the COLA amount.

2007 G.L. Ch. 59, §5, Clause 5B: Exempt from taxation the real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in

which the United States has been engaged, to the extent of $700,000 if used and occupied by such association.

2009 G.L. Ch. 39, §23D. Provides for a member of the Planning Board, Conservation Commission, Historical Commission and Select Board not be disqualified from voting in the matter of an adjudicatory hearing providing that certain conditions as established by statute are met.

2009 G.L. Ch. 32B, §18A. Allows the town to enroll eligible municipal retires into Medicare without penalty.

2009 G.L. Ch. 64L, §2(a): To impose a local meals excise.

2010 G.L. Ch. 32B, §20. Allows the town to establish a separate fund, to be known as an Other Post Employment Benefits Liability Trust Fund.

2011 G.L. Ch. 59, §5K: Adjust exemption by allowing an approved representative, for persons physically unable, to provide services to the Town.

2013 G.L. Ch. 59, §5N: To allow a reduction of a veterans property tax obligation in exchange for volunteer services.

2014 G.L. Ch. 44, §55C: To establish a Municipal Affordable Housing Trust Fund to be known as the Amherst Affordable Housing Trust Fund.

*Statutes not accepted but availed of by the town: town meeting vote not required.

I. SPECIAL ACT

ACT #	DATE	CH.	ACTS	DESCRIPTION
I - 1	MAY 12, 1931	296	1931	TO USE CERTAIN LAND FOR PARK PURPOSES
I - 2	JANUARY 30, 1936	10	1936	REPRESENTATIVE TOWN MEETING ACT (repealed 12/29/01)
I - 3	FEBRUARY 24, 1949	9	1949	BORROW MONEY FOR SCHOOL
I - 4	FEBRUARY 16, 1951	65	1951	COMPOSITION OF REPRESENTATIVE TOWN MEETING (repealed 12/29/01)
I - 5	JUNE 7, 1951	369	1951	HOURS OF DUTY FOR PERMANENT FIRE DEPARTMENT MEMBERS
I - 6	MARCH 8, 1955	149	1955	CAUCUS ACT
I - 7	OCTOBER 10, 1956	734	1956	VALIDATING ACTS AND PROCEEDINGS AT ANNUAL TOWN MEETING
I - 8	FEBRUARY 13, 1959	49	1959	COMPOSITION OF REPRESENTATIVE TOWN MEETINGS
I - 9	MAY 23, 1961	502	1961	ACQUISITION OF BELCHERTOWN WATER SUPPLY
I - 10	FEBRUARY 23, 1963	54	1963	NOMINATIONS FOR MUNICIPAL OFFICES
I - 11	FEBRUARY 10, 1964	48	1964	ESTABLISH A METHOD OF SEWER ASSESMENT
I - 12	JUNE 10, 1970	418	1970	CHAIR OF SELECT BOARD BE AN EX OFICCIO MEMBER OF TRUSTEES OF UMASS
I - 13	JULY 5, 1972	512	1972	THE JONES LIBRARY (Sections 6, 7, 8 & 9 repealed 12/29/01)
I - 14	JULY 25, 1972	726	1972	DIRECTING UMASS TO CONVEY LAND IN HADLEY FOR SEWER
I - 15	JULY 25, 1972	735	1972	DIVISION OF THE COMMONWEALTH INTO REPRESENTATIVE, SENATOR & COUNCILLOR DISTRICTS
I - 16	AUGUST 27, 1973	631	1973	REQUIRING INCUMBENT TOWN METING MEMBERS TO FILE NOMINATION PAPERS
I - 17	OCTOBER 1, 1973	814	1973	TO ACQUIRE LANDS FOR HIGHWAY PURPOSES
I - 18	NOV 30, 1973	1087	1973	DATES FOR FILING OF NOMINATION PAPERS FOR CERTAIN TOWN OFFICES
I - 19	NOVEMBER 30, 1999	1088	1973	FILING OF NOMINATION PAPERS FOR THE OFFICE OF TOWN MEETING MEMBER (repealed 12/29/01)
I - 19.5				AMENDMENT TO TOWN MEETING ACT (200 TO 5%)
I - 20	AUGUST 6, 1974	83	1975	PROVIDING FOR AN INVESTIGATION RELATIVE TO EXISTING AND POTENTIAL WATER SUPPLIES
I - 21	MARCH 14, 1975	56	1975	LISTING OF NAMES ON TOWN ELECTION BALLOTS
I - 22	JULY 3, 1975	403	1975	DIRECTING OPENING OF MILL RIVER RECREATION AREA SWIMMING POOL
I - 23	MAY 16, 1980	117	1980	ELECTION OF PERSONS TO VACANCIES TO THE TOWN MEETING MEMBERSHIP
I - 24	NOVEMBER 2, 1983	455	1983	LICENSING AND KEEPING OF DOGS
I - 25	DEC. 19, 1985	706	1985	ESTABLISH HOUSING REVIEW BOARD
I - 26	JULY 18, 1985	157	1985	CONVEY LAND FOR WEST CEMETERY

I - 27	JULY 7, 1986	274	1986	VALIDATING ACTS AND PROCEEDINGS OF 1983 ANNUAL TOWN ELECTION
I - 28	JUNE 6, 1986	72	1986	ESTABLISH HOUSING REVIEW BOARD
I - 29	NOVEMBER 17, 1987	492	1987	CONVEYANCE OF LAND (LARCH HILL TO HITCHCOCK CTR)
I - 30	DEC. 1, 1987	536	1987	CONVEY CONSERVATION LAND TO AMHERST HOUSING AUTHORITY (KEET PROPERTY)
I - 31	JULY 26, 1988	195	1988	CONVEY CERTAIN CONSERVATION LAND
I - 32	MAY 4, 1989	61	1989	RELATIVE TO HOUSING REVIEW BOARD
I - 33	MAY 31, 1990	42	1990	VALIDATING ACTS AND PROCEEDINGS OF 1990 ANNUAL TOWN ELECTION
I - 34	JUNE 25, 1990	81	1990	AUTHORIZING CONVEYANCE OF LAND TO JAY GARFIELD AND ELAINE CARSON
I - 35	AUGUST 2, 1990	157	1990	INCREASE AMHERST POLICE RELIEF ASSOCIATION DEATH BENEFITS
I - 36	AUGUST 7, 1990	176	1990	AUTHORIZE LEASE AND CONVEYANCE OF CERTAIN LANDS TO HOUSING AUTHORITY
I - 38	MAY 13, 1996	83	1996	RELATIVE TO ZONING OF CERTAIN LAND
I - 39	APRIL 25, 1997	9	1997	ISSUANCE OF A LICENSE TO SELL ALCOHOLIC BEVERAGES IN AMHERST
I - 40	DECEMBER 9, 1998	404	1998	RELATIVE TO TM MEMBERS IN AMHERST (repealed 12/29/01)
I - 41	DECEMBER 29, 2001	216	2001	AMHERST TOWN GOVERNMENT ACT
I - 42	MAY 22, 2002	120	2002	ACQUIRE EASEMENTS FOR CONSTRUCTION SEWERAGE PUMPING STATION AND RELATED FACILITIES
I - 43	JULY 31, 2002	185	2002	VALIDATING ACTIONS TAKEN AT THE 2000 ANNUAL TOWN MEETING
I - 44	MAY 6, 2004	91	2004	AUTHORIZING USE OF PRECINCT LINES APPROVED BY THE SELECT BOARD IN 2003
I - 45	AUGUST 16, 2006	263	2006	REGULATING VOTING HOURS
I-46	JULY 22, 2014	199	2014	AUTHORIZING THE LATE FILING OF A TAX ABATEMENT FOR THE AMHERST COMMITTEE FOR A BETTER CHANCE, INC.

AN ACT RELATIVE TO THE AMHERST TOWN GOVERNMENT

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 10 of the acts of 1936 is hereby repealed.
SECTION 2. Chapter 11 of the acts of 1951 is hereby repealed.
SECTION 3. Chapter 65 of the acts of 1951 is hereby repealed.
SECTION 4. Sections 6, 7, 8 and 9 of chapter 512 of the acts of 1972 are hereby repealed.
SECTION 5. Chapter 1088 of the acts of 1973 is hereby repealed.
SECTION 6. Chapter 404 of the acts of 1998 is hereby repealed.
SECTION 7. The following shall constitute the charter of the town of Amherst:

AMHERST TOWN GOVERNMENT ACT
As amended by Chapter 263 of the Acts of 2006

1. Election Provisions

1.1 Town government positions to be filled by election

The town shall elect town meeting members, a moderator, members of the select board and school committee, and trustees of the town library. The town shall also elect, on the same ballot, town representatives to the following state or regional authorities: Oliver Smith Will Electors, Redevelopment Authority, Housing Authority and Hampshire Council of Governments. All are subject to any applicable provision of the law. The terms of office of such officers or boards shall not be interrupted.

1.2 Districting

1.21 Advisory board

Every ten (10) years, upon receipt of the final results of the decennial federal census, the select board shall appoint a districting advisory board composed of nine (9) members from diverse geographical areas of the town, plus the town clerk or the town clerk's designee as a non-voting member ex officio.

1.22 Process and reporting

The districting advisory board shall recommend to the select board a division of the territory of the town into not less than five (5) precincts, each of which shall be plainly designated. They shall be so established as to consist of compact and contiguous territory with numbers of inhabitants as nearly equal as feasible, and be bounded as far as possible by the center line of known streets and ways or by other well defined limits.

The districting advisory board shall include in its recommendations to the select board a map or maps of the precincts as established or revised from time to time, with the numbers of inhabitants therein. The select board shall report its decisions on said recommendations to the town clerk, who shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts, the number of inhabitants of each precinct and such other information as shall be required by law. Any revision of such precincts shall take effect upon receipt of the approval of the state secretary in writing, after which the town clerk shall notify each household of registered voters of said revisions, and shall also cause to be posted in at least one (1) public place in each precinct a map or description of that precinct, with the names and residences of the registered voters therein.

1.3 Conduct of elections

Meetings of the registered voters of the several precincts for elections, for primaries, and for voting upon any question to be submitted to all registered voters of the town, shall be held on the same day and at the same places within this town as the select board shall in the warrant for such election direct, and the polls shall open at 7:00 a.m. and shall close at 8:00 p.m. The General Laws relating to precinct voting at elections shall apply to all elections and primaries in the town.

1.4 Election of select board members

At each annual election there shall be elected in place of those select board members whose terms are about to expire an equal number of members, each to serve for three (3) years. The select board members shall serve until their successors are elected and qualified. If, for any reason, a vacancy or vacancies occur in the membership of the select board, the remaining members shall call a special town election to fill the vacancy or vacancies for the unexpired term or terms, except if such vacancy or vacancies occur less than ninety (90) days before the annual election and no fewer than three (3) select board members remain in office, the vacancy or vacancies shall remain until such annual election.

1.5 Election of representative town meeting member

1.51 Number of members

The number of elected town meeting members in all precincts shall be equal among the precincts and in each precinct shall be the largest number divisible by three (3) which will cause the total elected membership to be as near two hundred forty (240) as possible.

1.52 Nominations

Nomination of candidates for town meeting member to be elected under this act shall be made by nomination papers which shall bear no political designation; to the name of a candidate for re-election shall be added the words "Candidate for Re-election." Nomination papers shall be signed by at least one (1) registered voter of the precinct in which the candidate resides, and shall be filed with the town clerk at least forty-nine (49) days before the election. No nomination paper shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

1.53 Elections

1.531 Balloting

The registered voters in any precinct affected by any revision of precincts, at the first annual town election following such revision, and conformable to the laws relative to elections not inconsistent with this act, shall elect by ballot the number of registered voters from said revised precinct, other than the officers designated herein as town meeting members ex officio, to be town meeting members of the town.

1.532 Term of office

The first third, in the order of votes received, of members so elected in each precinct shall serve a three(3)-year term, the second third in such order shall serve a two(2)-year term, and the remaining third in such order shall serve a one(1)-year term from the day of the annual town election; and thereafter, except as provided herein, at each annual town election the registered voters of each precinct shall, in like manner, elect for the term of three (3) years, one third (1/3) of the number of elected town meeting members to which such precinct is entitled, and shall at each such election fill for the unexpired term or terms any vacancy or vacancies then existing in the number of elected town meeting members in such precinct.

In case of a tie vote affecting the division into thirds, as aforesaid, the members elected from the precinct at the same election, other than those whose terms of office are affected by such tie vote, shall by ballot

determine which members receiving such tie vote shall serve for the longer and which for the shorter term. In the case of a tie vote affecting the election of town meeting members in any precinct otherwise than as to term of office, the members elected from such precinct at the same election shall by ballot determine which of the candidates receiving such tie vote shall serve as town meeting member from such precinct. The terms of office of all elected town meeting members from every precinct revised as aforesaid shall cease upon the election of their successors as hereinbefore provided.

1.533 Notification

The town clerk shall, after the election of town meeting members, forthwith notify such members by mail of their election.

1.534 Members assuming ex officio status

Any elected town meeting member who becomes by appointment or election one (1) of the officers designated as town meeting members ex officio shall, upon such appointment or election, cease to be an elected town meeting member.

1.54 Term of office of members filling vacancies

Town meeting members elected to fill vacancies between town elections shall serve until the next annual town election.

1.541 Vacancies between election and annual meeting

In the event of a vacancy in the full membership of town meeting following the annual town election, and prior to the annual town meeting of the same year, such vacancy shall be filled by the losing candidate at the same election with the largest number of votes in that precinct who shall serve only until the next annual town election. If there is a tie vote among two (2) or more such candidates, the remaining elected members of the same precinct shall, by ballot, choose from among those tied and the winner shall serve until the next annual town election. In such cases, the town clerk shall call a special meeting of the remaining elected members of such precinct to be held within thirty (30) days following the annual town election, and shall cause to be mailed to every such member a notice specifying the purpose, time and place of the meeting, not less than five (5) days preceding the date scheduled. In the event there are no candidates available to fill the vacancy, the procedures outlined in Section 1.542 shall be followed.

1.542 Vacancies occurring after annual meeting

1.5421 Filled by precinct member elections

In the event of any vacancy in the full number of elected town meeting members from any precinct, the town clerk shall, not less than thirty (30) days prior to the first special town meeting after October l but before December 31, mail written notice of such vacancy to the remaining elected members of the precinct and shall publish said notice in a newspaper of general circulation in the town. Nomination papers to fill any vacant seat may be filed by any registered voter of the precinct with the town clerk until the close of business on the eighth (8th) day following the date of publication. The town clerk shall on or before the close of business on the seventh (7th) day thereafter certify the qualified candidates, mailing to the remaining town meeting members in the precinct a copy of such certification together with a written ballot identifying the qualified candidates and the number of vacancies to be filled. The remaining elected town meeting members of the precinct shall, on or before the seventh (7th) day following said mailing, cause their ballots to be delivered to the town clerk in a sealed envelope. On the first business day following said seventh (7th) day the town clerk shall open the envelopes at a duly noticed public meeting and shall certify the election of those with the largest number of votes, ties to be resolved by the town clerk by lot.

1.5422 Filled by precinct member meetings

In the event of any vacancy in the full number of elected town meeting members from any precinct which cannot be filled by means of the above-mentioned procedure, the remaining elected members of the precinct

may choose a successor from among the registered voters thereof. Upon petition therefor, signed by no fewer than ten (10) elected town meeting members from the precinct, or if the entire number of elected town meeting members from said precinct is fewer than eighteen (18), by a majority thereof, notice of any vacancy shall be made promptly to the remaining elected town meeting members from the precinct wherein the vacancy or vacancies exist by the town clerk, who shall call a special meeting of such members for the purpose of filling a vacancy. The town clerk shall cause to be mailed to every such member, not less than five (5) days before the time set for the meeting, a notice specifying the object, time and place of the meeting. At the meeting, a majority of the elected town meeting members from such precinct shall constitute a quorum, and they shall elect from their own number a chair and a clerk. The election to fill such vacancy shall be by ballot and a majority of the votes cast shall be required for a choice. The chair and the clerk shall count the ballots and shall make a certificate of such election and forthwith file the same with the town clerk, together with a written acceptance by the member or members so elected, who shall thereupon be deemed elected and qualified as a town meeting member or members.

1.543 Resignations and removals

A town meeting member may resign by filing a written resignation with the town clerk, and such resignation shall take effect on the date of such filing. A town meeting member ex officio or elected town meeting member who removes from the town shall cease to be a town meeting member, and an elected town meeting member who removes from one (1) precinct to another may serve only until the next annual town election.

2. Representative Town Meeting

2.1 Powers and limits of town meeting

2.11 Powers

The town of Amherst shall have the capacity to act through and be bound by its town meeting members, who shall, when convened from time to time, as herein provided, constitute representative town meetings; the representative town meetings shall exercise exclusively, so far as will conform to the provisions of this act, all powers vested in the municipal corporation.

Action in conformity with all the provisions of law now or hereafter applicable to the transaction of town affairs in town meeting, shall, when taken by a representative town meeting in accordance with the provisions of this act, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as organized and conducted before the establishment of representative town government.

2.12 Limits

This act shall not abridge the right of the inhabitants of Amherst to hold general meetings, as that right is secured to them by the constitution of this commonwealth; nor shall this act confer upon any representative town meeting in Amherst the power finally to commit the town to any measure affecting its municipal existence or changing its form of government, without action thereon by the voters of the town at large at an annual town election, using the ballot and voter check list therefor in accordance with the applicable provisions of the General Laws.

2.2 Organization

2.21 Membership

2.211 Members

Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the town meeting members elected by precinct, together with the following

members ex officio: the moderator, the members of the select board, the members of the school committee, the president of the town library trustees, the chair of the finance committee, the town manager, and such other town meeting members ex officio as may be provided for in the bylaws of the town without being subject to section 32 of chapter 40 of the General Laws. Any elected town meeting member who becomes by appointment or election one (1) of the officers designated as town meeting members ex officio shall, upon such appointment or election, cease to be an elected town meeting member.

2.212 No compensation

Town meeting members elected by precinct shall receive no compensation.

2.22 The moderator

The moderator shall be elected by ballot at each annual town election and shall serve as the moderator of all town meetings, except as otherwise provided by law, until a successor is elected and qualified. Nomination for and election of the moderator shall be as in the case of all other elective town officers, and any vacancy in the office of moderator shall be filled by the town meeting members as the first order of business at the next town meeting following the occurrence of the vacancy. If the moderator is absent or must step down due to conflict of interest, a moderator pro tempore shall be elected by the town meeting members.

2.23 Finance committee

There shall be a finance committee consisting of seven (7) members to be appointed by the moderator. It shall be the duty of this committee to investigate all proposals in the articles of the warrant for any town meeting that shall in any way affect the finances of the town and to recommend to the town at the time of said meeting a course of action thereon, and in general to make recommendations to the town in regard to any financial business of the town. It shall have control of the reserve fund of the town and make appropriations therefrom.

2.3 Operations of town meeting

2.31 Notification

The town clerk shall notify the town meeting members of the time and place at which representative town meetings are to be held and the notices shall be sent by mail at least ten (10) days before the meeting.

2.32 Rules and procedures

A majority of the town meeting members shall constitute a quorum for doing business, but a lesser number may organize temporarily and may take a recess or adjourn from time to time, but no town meeting shall adjourn to a date that falls after the next election of town meeting members.

2.33 Public participation

All town meetings shall be public. Subject to such conditions as apply to the members of the representative town meeting, any registered voter of the town who is not a town meeting member may speak at any representative town meeting, but shall not vote. Persons who are not registered voters of the town may, subject to the same conditions, speak at any representative town meeting if the town meeting votes that they may do so.

2.34 Action on the warrant

All articles in the warrant for any town meeting shall be acted on and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the select board in the warrant for the meeting, subject to the referendum herein provided for. No article in the warrant of any

representative town meeting shall be finally disposed of by a vote to lay upon the table, indefinitely to postpone or to take no action thereunder.

2.4 Referendum

A final vote of any representative town meeting passing or rejecting a measure under any article in the warrant shall not be operative until after the expiration of five (5) days, exclusive of Saturdays, Sundays and legal holidays, from the dissolution of the meeting. If, within said five (5) days, a petition, signed by registered voters of the town totaling not fewer than five (5) percent of the total number of registered voters of the town which number shall not include the number of inactive voters, containing their names and addresses substantially as they appear on the list of registered voters, is filed with the select board, asking that the question or questions involved in such vote be submitted to the registered voters of the town at large, then the operation of such vote shall be further suspended pending the determination as hereinafter provided. If such petition is not filed within said period of five (5) days, the vote of the representative town meeting shall become effective and operative upon the expiration of said period.

2.41 Excluded measures

The following measures shall not be the subject of a referendum called under the provisions of this section: votes to adjourn; votes authorizing the expenditure of less than twenty thousand dollars; votes appropriating money for the payment of notes or bonds of the town and interest becoming due in the then current financial year; votes for the temporary borrowing of money in anticipation of revenue; votes rejecting proposed zoning bylaw amendments; votes declared by preamble by a two-thirds (2/3) vote of the town meeting members present and voting thereon to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town.

2.42 Election procedure

The select board, upon the filing of a petition under this section, shall submit said petition to the registrars of voters who shall within ten (10) days certify the signatures thereon. Within ten (10) days of receipt of written notice of certification of a sufficient number of signatures, the select board shall call a special town election, which shall be held as soon as practicable in accordance with law after the issuing of the call, for the sole purpose of presenting to the registered voters at large the question or questions so involved. The polls shall open at 7:00 a.m. and shall close at 8:00 p.m. All votes upon any question so submitted shall be taken by ballot, and the voter check list shall be used in the several polling places in the same manner as in the election of town officers. No ballots shall be removed or counted before the closing of the polls. The question or questions to be submitted to be voted on at said special town election shall be stated on the ballot in substantially the same language and form in which they were stated when finally presented to the representative town meeting by the moderator, as appears from the records of such town meeting.

2.43 Determination of result

A question put to the voters at large under the provisions of this section shall be determined by a vote of the same proportion of voters voting thereon as would have been required by law had the question been finally determined at a representative town meeting. No action of the representative town meeting shall be reversed unless a number of registered voters equal to at least eighteen (18) percent of all the active registered voters shall so vote. Otherwise the action shall take effect immediately upon the certification by the town clerk of the vote upon the referendum.

2.44 Calculations

To determine the total number of active voters of the town in making calculations required by this section, the town clerk shall use the number of active voters as of the dissolution of the town meeting at which the question proposed to be submitted to voters of the town at large was voted upon by town meeting members. The number of inactive voters at the dissolution of said town meeting shall be excluded from the calculations.

3. The Select Board

3.1 Organization

The five members of the select board shall be elected at large as the town's chief elected officials.

3.2 Powers and duties

The select board shall exercise such powers as are provided to municipalities or to boards of selectmen in the General Laws which have not been superseded by the provisions of this act. It shall be responsible for the general governance of the town. Other powers and duties shall include, but not be limited to those listed below.

3.21 Policy making

The select board shall initiate policy proposals as well as consider and make decisions on policy recommendations brought to it. It shall make guidelines for the manager in preparation of the annual budget proposal. It shall review and make recommendations on the proposed annual budget.

3.22 Appointive

3.221 Town manager

The select board shall appoint the town manager on merit and fitness and shall supervise the manager as provided in section 4.1 of this act.

3.222 Other select board appointments

The select board shall appoint on merit and fitness and may remove for cause, members of the board of appeals, personnel board, election officers, the registrar of voters, except the town clerk, and such members of boards, committees and commissions as are needed or as provided by town bylaws, town meeting action or acts of the general court, with the exception of the finance committee and such regulatory boards, committees and commissions listed in Section 3.223.

3.223 Select board confirmation of appointments

The select board shall confirm appointments by the town manager to the following regulatory boards and commissions: the conservation commission, the board of health, the planning board, and the historical commission.

3.224 Supervision of committees

The select board shall supervise the boards, committees and commissions that they appoint to ensure that the charge is carried out in a timely manner and that meetings are held in conformance with the laws regarding open meetings of governmental bodies.

3.23 Legislative

3.231 Town meeting warrant

The select board shall call and issue warrants for town meeting.

3.232 Recommendations to town meeting

The select board shall make recommendations to town meeting.

3.233 Town meeting actions

The select board shall implement appropriately the actions of town meeting.

3.234 Referendum ballots

The select board shall approve the placement of items on the town's ballot for referendum vote. The select board shall determine by majority vote whether to allow a debt exclusion from or an override of the levy limit. The select board shall frame the question for an override or a debt exclusion.

3.24 Regulatory

3.241 Licenses and permits

The select board shall issue certain licenses and permits as provided by state law and town bylaw.

3.242 Bylaw enforcement

The select board shall oversee appropriately the enforcement of sections of the town bylaws.

3.243 Water and sewer duties

The select board shall serve as the water commission and as the sewer commission.

3.244 Regulation of public ways

The select board shall control and regulate the public ways.

3.25 Financial

3.251 Budget

The select board shall make recommendations to the town on the annual operating budget and the capital program.

3.252 Signing bonds and notes

The select board shall sign all bonds and notes for the borrowing of money.

3.253 Reviewing grants and contracts

The select board shall review all contracts of over one million dollars ($1,000,000) and all grants with implication of future financial decisions beyond the current fiscal year.

3.254 Encouraging joint financial planning

The select board shall encourage joint financial planning among town, school and library officials.

3.26 Investigative

The select board may, subject to appropriation, employ experts, counsel and other assistants and incur other expenses.

4. The Town Manager

4.1 Appointment of town manager

The select board shall appoint a town manager who shall be a person especially fitted by training and experience to perform the duties of the office and who shall be appointed without regard to political affiliation and in accordance with state and federal anti-discrimination laws and regulations.

The town manager need not be a resident of the town or of this commonwealth when appointed, but shall become a resident of the town within six months or within such time as stipulated in the contract at the time of appointment and remain such while in office. The town manager shall devote full time to the duties of the office and shall therefore not hold any other elective or appointive paid governmental office, nor shall the town manager engage in any other business, unless such actions are approved by the select board. This does not exclude the manager’s participation in related professional organizations.

Before entering upon the duties of the office, the town manager shall be sworn to the faithful and impartial performance thereof by the chair of the select board, or by the town clerk, or by a justice of the peace.

4.2 Appointment of a temporary manager

Any vacancy in the office of town manager shall be filled as soon as possible by the select board. Pending the appointment of a town manager or the filling of any vacancy, the select board may appoint a suitable person as temporary town manager to perform all duties of the office.

4.3 Acting town manager

The town manager may designate by letter filed with the select board a qualified officer of the town to perform the duties of manager during the manager's temporary absence. If the manager fails to make such designation, the select board may designate an officer of the town to perform the manager's duties until the manager returns.

4.4 Compensation of the town manager and employment contract

4.41 Compensation of the manager

The town manager shall receive such compensation for services rendered as the select board shall determine.

4.42 Employment contract

The town manager shall enter into a written employment contract with the town for a period not to exceed five years which may be renewed for additional terms. The manager serving when this act takes effect shall continue to be employed under a contract that contains no time limitations.

4.5 The manager's powers of appointment

4.51 Appointment and removal of officers and employees

Except as otherwise provided in this act the town manager shall appoint on merit and fitness and may remove all town officers and employees for whom no other method of selection or removal is provided, except employees of the school department and town library. All appointments and removal of personnel shall be subject to the provisions of state and federal anti-discrimination laws, collective bargaining agreements, the limitations of existing appropriations and the town's personnel policies.

4.52 Initial compensation of employees

The town manager shall fix, subject to collective bargaining agreements, the limitations of existing appropriations and the town's personnel policies, the initial compensation of all appointed town officers and employees, except employees of the school department and the town library in accordance with all applicable provisions of section one hundred and eight A (108A) of chapter forty-one (41) of the General Laws if adopted.

4.53 Appointment of town counsel

The town manager shall have the authority to employ and discharge town counsel.

4.54 Other appointments

The town manager shall appoint, with approval of the select board, members of the planning board, conservation commission, historical commission, and board of health. The town manager shall appoint the assessors and members of boards, committees and commissions as are needed or as provided by town bylaws, town meeting action, or acts of the general court. All appointments to boards, committees and commissions shall be made on merit and fitness. The manager may remove for cause the appointees mentioned in this section.

4.55 Supervision of committees

The town manager shall supervise the boards, committees and commissions that the manager appoints to ensure that the charge is carried out in a timely manner and meetings are held in conformance with the laws regarding open meetings of governmental bodies.

4.6 Administrative powers and duties

The town manager shall be the chief administrative and fiscal officer of all town agencies, other than the schools and the library. In addition to specific powers and duties provided in this act the town manager shall have the general powers and duties enumerated below.

4.61 Administration and reorganization of departments and offices

4.611 Supervision

The town manager shall supervise and direct the efficient and responsible administration of all officers and employees appointed by the town manager and their respective offices and departments, and of all functions for which the town manager is given responsibility by the select board, or under the laws of the commonwealth, this act, and bylaws passed by town meeting.

4.612 Examination of town records

The town manager may without notice examine the records of any office or department under the manager's control and have access to all town books, papers, and electronic records for information necessary for the proper performance of the manager's duties.

4.613 Reorganization

The town manager may, in accordance with the provisions of this act and except as otherwise expressly prohibited by the General Laws reorganize, consolidate or abolish such departments or offices as are under the manager's authority, in whole or in part; establish such new departments or offices as the manager deems necessary; and transfer the duties, powers, and appropriation when incidental to the reorganization of one (1) department or office to another.

4.62 Information and advice to the select board

4.621 Attendance at select board meetings

The town manager shall attend regular meetings of the select board except meetings at which the board considers the manager's salary, formulation of the manager's employment contract, and the manager's removal.

4 .622 Ensure records available to select board

The town manager shall ensure that all town offices keep full and complete records which shall be available to the select board, and upon request to others as required by law.

4.623 Advice about needs of the town

The town manager shall keep the select board fully advised as to the needs of the town and shall recommend to the select board for adoption such measures requiring action by them or by the town as deemed necessary or expedient.

4.63 Supervision of town properties

The town manager shall have jurisdiction over the rental, use, maintenance, and repair of all town property except school property and property under the control of the town library trustees. The town manager shall be responsible for the preparation of plans and the supervision of work on existing buildings or on the construction of new buildings other than school buildings and buildings under the control of the library

trustees. The town manager shall maintain and repair school buildings if and to the extent that the school committee requests, and the town manager shall maintain and repair buildings under the control of the library trustees if and to the extent that they so request.

4.64 Supplies, contracts and approval of warrants

4.641 Purchase of supplies

The town manager shall purchase all supplies, materials and equipment and shall award all contracts for all departments of the town except the schools and the town library unless, and to the extent that, the school committee or the trustees of the town library may request by signed requisition.

4.642 Approval of warrants

The town manager shall receive all warrants for the payment of town funds in accordance with section fifty-six (56) of chapter forty-one (41) of the General Laws. The approval of any such warrant by the town manager shall be sufficient authority to authorize payment by the town treasurer, but the select board shall approve all warrants in the event of a vacancy in the office of town manager.

4.65 Prosecution of litigation

The town manager shall have authority to prosecute, defend and compromise all litigation to which the town is a party and to employ special counsel whenever in the judgment of the select board it may be necessary.

4.66 Other administrative duties

4.661 Administer provisions of general and special laws

The town manager shall administer either directly or through a person or persons appointed in accordance with this act, all provisions of general and special laws applicable to the town, all bylaws voted by town meeting and all regulations established by the select board.

4.662 Other duties

The town manager shall perform such other duties, consistent with the office, as may be required by state law, the bylaws of the town, or by vote of the select board or of the town meeting.

4.7 Annual review of the town manager

The select board shall conduct an annual review for the purpose of assessing the strengths and weaknesses of the manager's performance.

The review shall be based on a written list of performance criteria developed by the select board. Copies of the criteria with an invitation to submit written comments shall be available to the public in the select board office. After due consideration the select board shall prepare a written report of its evaluation. The report shall be placed in the manager's personnel file and a written summary may be released to the public.

4.8 Review at the end of the contract period

The select board shall conduct an employment review at the end of the contract period to determine if the manager's employment contract should be renewed. In the event of the non-renewal of the manager's employment contract the provisions of Section 4.9 shall apply.

4.9 Removal of the town manager

The select board, by a vote of three (3) or more members of the board, may remove the town manager by the following procedures: At least thirty (30) days before such proposed removal shall become effective, the

select board shall file a preliminary written resolution with the town clerk setting forth in detail the specific reasons for the manager's proposed removal, a copy of which resolution shall be delivered to the town manager.

The manager may reply in writing to the resolution and may request a public hearing. If the manager so requests, the select board shall hold a public hearing not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request.

After the public hearing, if any, otherwise at the expiration of thirty (30) days following the filing of the preliminary resolution, and after full consideration, the select board by a vote of three (3) or more members of the board may adopt a final resolution of removal.

In the preliminary resolution, the select board may suspend the manager from duty, but shall in any case cause to be paid to the manager forthwith any unpaid balance of salary due in terms of the contract or salary for the next three (3) calendar months following the filing of the preliminary resolution, whichever is greater.

5. Budgetary Process and Fiscal Management

5.1 Annual operating budget

On or before January 16 of each year, the town manager shall submit to each member of the select board and finance committee a recommendation in writing of the appropriations for the town government for the ensuing fiscal year, showing specifically the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount recommended to be provided for each fund and department, together with a statement of the expenditures of the town for the same purpose in at least the two (2) preceding years and an estimate of the expenditures for the current year.

The manager shall also submit a statement showing all revenue received by the town in at least the two (2) preceding fiscal years together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year and shall report the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town. For the purpose of enabling the town manager to make up the annual estimate of expenditures, all boards, officers and committees of the town shall, upon the manager's written request, furnish all information in their possession, and before November 16 submit to the manager in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

5.2 Capital improvement program

The town manager, with the advice of a joint capital planning committee comprised of representatives from the select board, finance committee, school committee and library trustees, shall develop a capital improvement program to be presented to the select board, finance committee, school committee and library trustees in time to be included in the finance committee report to the next annual town meeting.

SECTION 8. Any reference to the Amherst Representative Town Meeting Act, chapter 10 of the acts of 1936, chapter 65 of the acts of 1951, chapter 1088 of the acts of 1973, and chapter 404 of the acts of 1998, or to the Amherst Town Manager Act, chapter 11 of the acts of 1951, in any statute, law, bylaw, regulation, agreement, contract or other instrument, shall be deemed to refer to the Amherst Town Government Act.

Approved by Acting Governor Jane Swift on December 29, 2001.